



**OFFICIAL REPORT**

**OF THE**

**STATES OF DELIBERATION**

**OF THE**

**ISLAND OF GUERNSEY**

**HANSARD**

**Royal Court House, Guernsey, Thursday, 28th February 2019**

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**Present:**

**Sir Richard J. Collas, Kt, Bailiff and Presiding Officer**

**Law Officers**

Miss M. M. E. Pullum, Q.C. (H.M. Procureur),

**People's Deputies**

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Deputies P. T. R. Ferbrache, J. Kuttelwascher, D. A. Tindall,  
B. L. Brehaut, R. H. Tooley

**St Peter Port North**

Deputies J. A. B. Gollop, C. N. K. Parkinson, L. C. Queripel, M. K. Le Clerc,  
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Deputies M. M. Lowe, L. B. Queripel,  
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**The Castel**

Deputies R. Graham L.V.O, M. B. E, B. J. E. Paint, M. H. Dorey

**The West**

Deputies A. H. Brouard, A. C. Dudley-Owen, E. A. Yerby,  
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

**Representatives of the Island of Alderney**

Alderney Representatives S. Roberts and A. Snowdon

**The Clerk to the States of Deliberation**

J. Torode, Esq. (H.M. Greffier)

**Absent at the Evocation**

R. M. Titterington, Q.C. (H.M. Comptroller);  
Deputy M. P. Leadbeater (*relevé à 11h 34*); Deputy P. R. Le Pelley (*indisposé*);  
Deputy M. J. Fallaize (*relevé à 10h 01*); Deputy N. R. Inder (*relevé à 10h 01*);  
Deputy C. J. Green (*indisposé*); J. P. Le Tocq (*relevé à 10h 01*)

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# States of Deliberation

*The States met at 9.30 a.m.*

[THE BAILIFF *in the Chair*]

## **PRAYERS**

*The Greffier*

## **EVOCATION**

# Billet d'État III

## **COMMITTEE FOR HEALTH & SOCIAL CARE**

### **V. Health and Care Regulation in the Bailiwick – Propositions carried**

*Article V.*

*The States are asked to decide:*

*Whether, after consideration of the Policy Letter entitled 'Health and Care Regulation in the Bailiwick', dated 7th January 2019, they are of the opinion:*

*1. To agree that there should be a phased establishment of a structured, independent and proportionate statutory regulatory regime of health and care for the Bailiwick of Guernsey, which includes the following elements:*

*a) a regulatory regime overseen by an independent Commission;*

*b) provisions of the existing Regulation of Health Professions (Enabling Provisions) (Guernsey) Law, 2012 (which would be repealed and replaced); and appropriate provisions to save the effect of Ordinances and subordinate legislation made under or referred to in that Law or otherwise relating to the medical and health professions;*

*c) Ordinances and other subordinate legislation to regulate persons, premises and systems involved in providing health and care services within the Bailiwick; and*

*d) consultation with the relevant committees of the States of Alderney and the Chief Pleas of Sark, as appropriate;*

*2. To agree that the regulatory regime of health and care for the Bailiwick of Guernsey shall be implemented by and under a Bailiwick-wide enabling Law;*

*3. To direct the Committee for Health & Social Care to begin work on a prioritised programme to develop regulatory standards and/or identify designated accreditation schemes for health and care services as appropriate, in consultation with providers, service users and other relevant stakeholders;*

*4. To agree that the Committee is to report back to the States in due course with proposals to direct the preparation of Ordinances made under a general enabling Law to give effect to regulatory standards and designated accreditation schemes in respect of particular services, and to otherwise regulate these services (persons, premises and systems as appropriate);*

5. *To agree that all reasonable opportunities should be pursued to achieve a joint Commission with Jersey;*
6. *To agree that the Commission should be established by the Committee for Health & Social Care on a 'shadow' basis until it is fully constituted in law, and to direct the Policy & Resources Committee to take account of the costs of operating the Commission when recommending Cash Limits for the Committee for Health & Social Care for 2020 and subsequent years;*
7. *To rescind the resolutions from Article XI of Billet d'État XX 2007 in respect of Residential and Nursing Homes and to direct the Committee for Health & Social Care to establish suitable and effective regulatory standards for care homes and care agencies under the Law described in Proposition 1 pursuant to its prioritised programme of work; and*
8. *To direct the preparation of such legislation as may be necessary to give effect to the above Propositions.*

**The Greffier:** Article V, Committee for Health & Social Care – Health & Care Regulation in the Bailiwick.

**The Bailiff:** Deputy Soulsby will open debate.

5 **Deputy Soulsby:** Sir, as Members will know, a key aim of the Partnership of Purpose is proportionate governance ensuring clear boundaries exist between commissioning, provision and regulation. In the policy letter setting out the new model of health and care the Committee for Health & Social Care stated that it is likely there will always be some overlap between those who  
10 decide what kinds of services should be provided and how they should be paid for, those who provide these services, and those who regulate the services to ensure safety. However, there needs to be, in particular between commissioning and regulation, a framework which is proportionate to the size, resources and requirements of the Bailiwick to ensure appropriate separation.

15 This Assembly supported that policy letter and the proposals in front of Members today support that key aim, as well as being a priority of the Policy & Resource Plan. The current system of regulation is fragmented and has evolved over many years. What we are seeking to do is not destroy it and put in a huge great regulatory structure in its place, but build on it and develop a more robust independent regime.

20 There are areas where there is a lack of professional regulation, such as in the domiciliary care; lack of systems regulations such as the majority of States' services; a lack of flexibility to respond to evolutions in health care provision; insufficient emphasis on safeguarding; and a lack of regulatory independence. These are what we are seeking to address.

25 As Professor Dickon Weir-Hughes states in his report for the Committee, the subject of regulation in any sector often gives rise to concerns about cost and proportionality, especially amongst taxpayers. However, as he says, one of the key benefits of providing health and social care in a relatively contained Island community that is not burdened by bureaucracy of larger jurisdictions is the opportunity to develop regulatory approaches that are both world-leading and proportionate. Now when we say world-leading we do not mean gold or platinum plated, it is not  
30 about how much money you throw at it and how complex you make it, but how effective it is. Those are not necessarily the same thing, as the 2008 financial crash showed.

Fundamentally, the Committee must determine that such regulation should be appropriate and proportionate to the size of the Bailiwick; but what does that mean? Well, we did not believe that replicating the regulatory system for the financial services industry would be appropriate, and  
35 neither did we believe that adopting the hugely complex system in the UK would be proportionate. Ultimately, we need to consider proportionality in terms of risk, and in doing so we do not want to reinvent the wheel.

There are a wide range of internationally accredited schemes, such as CHKS for GP practices and Magnet for hospital services, that exist around the world. We will evaluate those that make sense for our community and adopt where necessary.

Where there are no ready-made schemes that seem to be appropriate we will set our own, again taking an appropriate and proportionate approach. We are proposing that regulation will be the responsibility of an independent commission. This is important to ensure there is no political interference and it can equally hold the public and private sector to account, but perhaps more importantly, having that independent function will support continual improvement. We are not proposing that the commission will have a heavy inspection system, but one that ensures compliance with standards and schemes, but it will have the power to step in and inspect or take other action where concerns have been highlighted. Neither are we proposing that it will employ a huge team of people; the complexity of the system would not justify it. Instead there will be a core team that will bring in expertise as and when required.

The aim will be to develop an enabling law to establish a commission and give power to the States by Ordinance to prescribe or authorise adoption of designated accreditation schemes or local standards and other appropriate regulatory measures. After that the individual standards will then be set and approved by the States with the focus on those with the highest priority being the unregulated domiciliary care workforce and acute hospital services.

We have been working closely with Jersey in the development of this policy letter and whilst they wish to adopt a more heavy inspection system and have other priority areas in terms of regulation, we both believe there is an opportunity to share the commissioning function and will continue to work with them if this policy letter is approved to ensure that our enabling law makes a shared commissioning function possible and how we can put it into practice.

Though no one really loves the thought of regulation and I have stood up in this place more than once raising my concerns, most recently on data protection, but it does seem to me that there are some who possibly understandably, given the extent of regulation that has grown over the years, have lost sight of the core purpose (**A Member:** Hear, hear.) to protect people from harm, be it financial, social, environmental, physical or mental.

Surely nowhere is regulation more justified than in matters of life and death. I would ask those who think this is just another piece of unnecessary regulation are they happy that anyone without any Police check or any qualification can enter the home of their frail and vulnerable mother or father to provide very personal care; are they happy that their 14-year-old daughter can get their eyelids lifted or lips botoxed from a hotel room; are they happy that their depressed wife or husband can get self-styled counselling from someone with no recognised qualifications?

There are some who think we do not need it for, and I quote, 'An Island of our size.' Does that mean we do not need finance regulation too, or is money more important than our people? An Island of our size would not have a general hospital the size of the PEH; are those same people saying we ought to close it down? To those who believe our priority should be a sound foundation for health and later life care I would say it is difficult to think of a sounder foundation than ensuring appropriate standards for professional and systems regulation in the health and care sector.

Now we estimate the total cost will be around £368,000 a year, although not all the costs are new. How it will be paid for and how much those who will be licensed will have to pay will be the subject of further engagement. But I would point out to those who believe this is too much to spend on regulation, it pales into comparison with the extra £800,000 Members supported for another regulator only a few months ago, the Data Protection Authority, and represents 0.2% of the total health and care spend.

It should also be looked at in the context of gross value added of human health activities and social residential care activities of nearly £80 million per annum excluding public sector services.

It is also worth pointing out that the lack of an independent regulatory regime was a stated concern of the NMC when they undertook their review in 2014 and with whom our nurses and midwives are registered. They expect their members to be working in a regulated environment.

90 Were it to be decided today that we do not want a proportionate and appropriate system of regulation that we are happy not to protect our workforce then at the very least it will not be looked on favourably, at worst they may consider nurses may not be revalidated whilst working here. Not only that, it could mean that we are no longer able to provide on Island training of our nursing workforce, and these are very real risks.

95 Let us also not forget this is also welcomed by those in the health and care sector with whom we have had extensive engagement. Regulation may be seen to just add to bureaucracy but it can have benefits. One particular area is in the terms of post-Brexit preparedness with the European Commission having recently published a report on the increasingly important role of health care assistants and with it the importance of having an overview of the knowledge skills and competencies they need. As they say, such an overview can help patients' safety while at the same time facilitating professionals' mobility.

100 So, sir, I understand those who say, 'Ugh, not more regulation', but let me ask those naysayers, 'If you had a list of all those areas that are currently regulating would you say care regulation is less important than all of them?' If you do think that this is one piece of regulation too many then is it not better to repeal those pieces of regulation that you believe are unnecessary red tape.

105 Appropriate and proportionate care regulation is about the Bailiwick being a mature credible and economically attractive jurisdiction. It is about people getting the service they need not stifled by bureaucracy or wary of punishment so they do not innovate. It is about people knowing what to expect and what is expected of them. It is about promoting quality, minimising harm and strengthening trust in the health and care service. Our proposals are innovative, cost effective, sustainable, and most importantly have the potential to improve health and care across the Bailiwick.

For all those reasons, I ask Members to support this policy letter.

115 **The Bailiff:** Deputy Gollop.

**Deputy Gollop:** It is unusual for me to want to sit on the fence and just look at the policies, but I am very much on the cusp of this one because I sit on ESS which is one interest; I have been living in Rosaire Court; I use from time to time health and medical services; I trained in the past as a psychotherapist counsellor back in the 1990's with a mixture of City of London practical courses, residential and, to be honest, online kind of correspondence courses; and I have friends and even people I have worked with in the business context who have been in the caring field; and of course my mother enjoys an excellent standard of care in our northern Island.

120 But that still means that I have reservations about this. I mean probably a much greater priority for me obviously would be to get the equality and disability legislation on track, but this has come first. Now in a way we have heard a lot of noise from many members of our community for a decade now on the need to improve human rights for people with disabilities, sexual equality, CEDAW, and all the rest of it. What we have not heard so much is demands for this legislation perhaps outside of certain professions. I cannot disagree with anything Deputy Soulsby said it is quite right – oh.

**The Bailiff:** Give way to Deputy Yerby?

**Deputy Yerby:** I thank Deputy Gollop for giving way.

135 As a former Disability Champion himself and an ongoing champion for disability issues, would he not agree with me that part of the reason why we have not heard strong advocacy for this kind of regulation is that the people who most need its protection are those most likely to be voiceless in that debate?

140 **Several Members:** Hear, hear.



**Deputy Gollop:** Possibly. But I think the voices have very much been calling for attitude changes across society: greater employment opportunities, greater access to public services and affordable services as well. Some admittedly can be voiceless but let me explore the ideas in a bigger context.

You see I agree, Deputy Soulsby is right, what she is putting across is professional best practice, there doubtless is a real risk of the excellent work we do with training health professionals on-Island, including what would in future doubtless be the University College Institute that Deputy Fallaize's Committee are working on, and the work of the Emma Ferbrache Institute has been doing with great success over a number of years.

There could be regulatory issues and comparable standards issues, just as we saw for a while when I think it was difficult for doctors to be re-registered here, and it is a journey that we are on, but let me explore some of these points a little bit deeper.

We have the GDPR regulations that some of us are always a bit wary of – I missed a GDPR seminar yesterday – and it is a burden, as Deputy Inder and others have said, to States' Members amongst many other people in the community, and we do have an onerous but nevertheless very high quality Guernsey Financial Services regulatory context and they were, in different ways, resisted initially, but the difference between them and the health and care sector is this – and there are two differences actually – the first key difference is Guernsey is a global leader in many areas of offshore finance and legal services; we punch above our weight, we have facilities many a small European country would not have, professional advice and we rightly have an international profile there.

GDPR is a necessary evil that we really had to sign up to to continue the transferability of services and professional work. But we are, with respect, a relative minnow in the field of health and social care because we do not have the scale to have university teaching hospitals or facilities that a city or conurbation or a large country can have, therefore there will be a disproportionate cost involved.

There are other problems too. One issue that logically follows from better regulation is an improvement in professional standards. Deputy Soulsby puts the argument out that is hard to resist emotionally – I heard the same arguments at St Peter Port Douzaine where there was an overwhelming majority in favour of going down this approach – that, 'Would you want your loved one to be cared for by an unqualified person who might be doing them harm?' and the answer, frankly, from everybody is going to be, no, but that is the situation at the moment and will probably still be the situation in a year or two's time, because these things have to be introduced –

**The Bailiff:** Deputy Tooley.

**Deputy Tooley:** Thank you, sir.

I thank Deputy Gollop for giving way.

Would Deputy Gollop not agree with me that, as was discussed at St Peter Port Douzaine where the feeling was very much unanimously that this would be a good thing going forward, this is not about having unqualified staff necessarily working with your loved ones, it is about having staff who are unregulated, un-police checked and completely untrained in any way necessarily in dealing with your loved ones needs.

Thank you.

**Deputy Gollop:** Well, I accept that point but the two will to some extent logically follow, because if you are accrediting any or all of these professionals, unless it is an extremely light touch form of regulation, you will have to assess people on their appropriateness to do the task and that will doubtless go beyond criminal checks to many other spheres.

But my point is this, Deputy Tooley's astute point surely applies at the moment and whether we pass this or not today it will still be the case on 1st March, 1st April and 1st May unless

195 something is happening I know not immediately. Therefore it will kick in gradually but and we do  
not know the speed with which the legislation will proceed, but although perhaps you can  
implement police checks sooner rather than later, how will you cope with people who are already  
existing in business and the grandfathering of rights? What is the transition period of these  
measures?

200 But the point I am coming to is this, that when you introduce a new regime, as this will be, at a  
cost, £400,000 perhaps, the figures we were told – the actual cost could be significantly greater  
than that. The reason why I suggest that is when professions and spheres are more appropriately  
regulated there is by definition a compliance and regulatory cost. There is also understandably a  
sorting of, if I can put it like this, sheep from goats, because the implication ... Deputy Tooley's  
point is quite fundamental about not allowing criminals or people with malevolent intent to work  
205 with vulnerable people. But Deputy Soulsby went further than that and spoke of course about the  
actual training and development of people, for example, in complementary therapy or other  
spheres and it follows that the higher the bar you set entry into a profession the more you restrict  
the free market and the more you potentially reduce choice. Now the more areas of professional  
development coming under health regulation will likely lead obviously for professional  
210 development to take place –

Oh, Deputy Oliver.

**The Bailiff:** Deputy Oliver.

215 **Deputy Oliver:** Thank you.

But just commenting on what you have said there, would you not want somebody competent  
to be operating on you rather than somebody that could not do it?

**A Member:** Hear, hear.

220 **Deputy Gollop:** Well, I believe – I could be mistaken here, but I believe – the highest standards  
already occur with doctors and registered nurses and surgeons. But I think that this policy letter  
covers all kinds of things: cosmetic surgery has been identified, psychotherapy, counselling,  
various other kinds of therapy, even dental surgeries.

225 But my point is if the States go down this route – and I am not saying I am going to vote  
against it, but I am going to have my say on this, because – we will rue the day on other levels  
because looking up at the top bench here, Policy & Resources, the obvious conclusion will be that  
the health and social care services, private and public, will require more money because once you  
raise the bar for the care homes, once you ensure that every carer is appropriately qualified, that  
230 people who should not be in the field are not, that they have to have regular updates in their  
skills, professional development, maybe courses off-Island, maybe continued regulation and  
inspection, recruitment could become tighter, especially post-Brexit, and people in those spheres  
would have not done a correspondence course and are, as Deputy Oliver implied, properly trained  
for the position will demand more money, and there could be, I hope there are not, but there  
235 could be currently people who are practising various kinds of therapy who will not pass the  
highest standards and they will not be allowed to practice; if they are not allowed to practice then  
the market constricts, and we have no choice.

Deputy Soulsby mentioned the example of people being unhappy about children being  
inappropriately treated in hotel rooms. I accept actually there should be stricter rules for under  
240 18s but surely the Island has been based upon –

**Deputy Soulsby:** Sir, point of correction.

**The Bailiff:** Deputy Soulsby.

**Deputy Soulsby:** Although I mentioned a 14-year-old, it is anybody, consultants, people can come over and conduct minor operations within hotel rooms to anybody of any age.

250 **Deputy Gollop:** I seem to be a bit of a lone voice today, but I do not think I would have been 10 or 20 years ago, because this is a restriction of freedom of choice. We have seen on the Island some questionable practitioners we have seen arguably in the past –

**The Bailiff:** Deputy Tindall.

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

I would just like to know if Deputy Gollop would agree with me that actually it is not a question of freedom of choice, it is a freedom of knowledge that the people they are dealing with and putting their lives into their hands are actually suitable to do so.

260 **Deputy Gollop:** Well, at the moment we have seen in Guernsey many people who have demanded access to various therapies, cures and so on, which have quite dubious merits in some cases. I mean people can argue about what complementary therapies work and what do not, and what unlicensed vitamins work and what do not. The point is the public sometimes believe things work even when they do not.

265 Deputy Tindall of course is right that every member of the public, whether vulnerable or not, should have full access to information, but my point is that comes at a cost and it comes at a restriction of choice, and it comes at a level of restraint perhaps on general freedoms at the moment.

I mean I have been looking at this subject in a way for 20 or 30 years, because it is fair to say  
270 the United Kingdom, especially England and Wales, have had rather a loose *laissez faire* attitude to a lot of this. You can find higher regulatory standards across much of Western Europe and in some American Federal States. People in Britain have been able to do counselling and other kinds of therapies without too much scrutiny much to the complaint of professionals and people who are keener on protection. Some anecdotally said that was because the House of Lords of course is  
275 a fossil from a bygone age and used to allow these people to practice perhaps because some of the members enjoyed their services, we do not know.

The problem with regulation is it brings to the table inevitably a growth potentially of professional monopolies and monopolies are an issue in Guernsey. Also names are a definition, for example I believe you cannot call yourself a professional dietician if you have not qualified as  
280 such, but maybe you can call yourself a nutritionist. If the word 'counsellor' is banned without appropriate safeguards maybe one could call oneself a psychic communicator or a lifestyle management coach or whatever. These are real issues that need to be addressed.

We are therefore embarking on a situation that may well be in the interests of the patient, especially the voiceless patient, as Deputy Yerby pointed out. That is why I will support it, because  
285 I think the more appropriate measures will be to go in great detail when we come to the legislation and the ordinances and the nature of the management structure that Health & Social Care will create. But we should be very wary of doing a gold or platinum standard of regulation, despite Deputy Soulsby's assurances because what worried me about the Professor's remarks in the Billet was talk that we need a proportionate standard, but then people always say, 'Why  
290 should Guernsey have a lesser standard than elsewhere?' but as I say there are many different kinds of regulatory levels, but also a world beating standard. Now where have we heard that before? We have actually heard that with Guernsey Financial Services Commission that started with four people and ended up with probably 84 and a much bigger budget.

I would rather see efforts being made by this Committee not just to improve the rights of  
295 disabled people but more significantly improve the access and affordability of medical and care services. Now it stands to reason that when we get any possible cowboys out of the sphere and really excellent professionalism for everybody in these fields, including things like surgeries that

for some reason are not regulated and of course everybody in the caring field is appropriately qualified and checked with the highest of standards managing residential homes, care homes, and care in the home, which of course is a void at the moment and needs to be looked at. That will come at a cost, especially at a time when Brexit is potentially restricting, maybe, the immigration of people from across Europe.

So it is a logical consequence that if the States agree to this and it goes ahead we will have to look further at either maximising income through either general revenue or insurance based schemes to Health & Social Care or we will see further rationing and restrictions of choice.

Therefore I think this is probably one of the biggest issues we will tackle this year, because it sets us on a journey that is likely to lead to, on the one hand, improvement of services, but on the other hand, a much more onerous set of issues. I would be the first to say that carers are amongst the worst paid in our society and should be better paid, and should be better qualified, but that is a situation that will come with significant, not just costs but I should also mention recruitment difficulties and providing for what we will probably see an increase in, the need for more people in this sphere.

So I say to all Members do not go into this with your eyes closed, look very carefully at the way of managing a transition as part of the Partnership of Purpose.

**The Bailiff:** Before I call the next speaker three Members have entered the Chamber since we started and I assume you all wish to be relevé? Deputies Inder, Fallaize and Le Tocq.

Deputy Ferbrache next.

**Deputy Ferbrache:** Sir, unlike Deputy Gollop I will not be sitting on the fence, I will be voting against these proposals. That is not because we do not need some rules and regulations; some of these fields clearly do need to have rules and regulations, some of the activities need to be controlled. I understood most of the interruptions proper interruptions made by some States' Members to Deputy Gollop's speech, I did not understand Deputy Oliver's interruption at all about saying, 'Well, would you want somebody who was not qualified operating on you?' We do not have unqualified people operating on anybody; that is already well controlled (*Interjection*) now in connection with that and, yes, Deputy Soulsby says we have got regulations about that, and I am not against regulation. But that is not what this policy letter is really about because what it says, the first proposal after the introductory – I will read the introductory three lines then I will read (a):

To agree that there should be a phased establishment of a structured, independent and proportionate statutory regulatory regime of health and care for the Bailiwick of Guernsey, which includes the following elements:

And this is the one that concerns me most

a) a regulatory regime overseen by an independent Commission.

It is the independent commission part that I do not like and that, in my opinion, is wholly unnecessary. Now I am, and I say this without any degree of irony or sarcasm, a great admirer of the President of the Health & Social Care Committee and the work that she and her Committee do and their staff do, and her speech in opening this topic was truly excellent, but that does not mean to say that I agree with her, because sadly I do not, I cannot. We do have too much regulation.

She makes a valid point she says, 'Look, would your 14-year-old, etc. ...? She gave three or four examples in her speech. Of course none of us would want that, and there should be rules and regulations that preclude that kind of activity, or abuse of that kind of activity, but you can bring in on a phased basis rules dealing with this, regulations dealing with that without having an overarching commission that is going to cost initially £368,000 per annum. I appreciate there are offsets, as has been said, but nobody can get it much below £200,000 per annum.

345 As Deputy Gollop says there tends to be a tendency once these things have been established that they, like Topsy, grow and grow, and once you let the genie out of the bag – goodness me, I am mixing my metaphors! – once you let the genie out of the bag you cannot suppress it, it is gone.

Deputy Soulsby, rightly, said just a few months ago, we approved and I voted for it, with a great degree of reluctance but nonetheless I voted for it, the £800,000 or so for the GDPR stuff.  
350 We had to; I did not like voting for it, we had to because international standards vote and bring in that legislation, because if we had not we would not have a finance industry. I know it is about money. What is it about money? If we did not have money we would not have any schools, we would not have any hospitals, we would not have any pensions. So money is actually quite important, and what regulation – and I am generalising now – tends to do is stifle opportunity,  
355 stifle enterprise and create bureaucracy. Now I do not go to bed with a book, a bureaucratic book, and wrap it round my arms and think, ‘Oh, isn’t this lovely? I really want to give this a cuddle tonight.’ It is not something I want to take and bring forward in any particular way because regulation should always be at a *minima*, it should only be there if you absolutely need it.

As I say, I am differentiating to a degree between regulation and the overarching commission that is talked about. Now I know they have it elsewhere; why should Guernsey people be any worse off than anybody else? Of course I agree that Guernsey people should not be worse off than anywhere else, but at the moment I have not really seen much evidence of abuse in any of these things. I have not really seen a problem. I am not saying it is perfect, and I am not saying there should not – as I emphasise again and again – be a degree of regulation.

365 But it reminds me a bit ... because what we say, I stand up from time to time both inside and outside this room and say we should be looking at small government, and Deputy Le Tocq nodded when I said that a couple of speeches ago on something else; and Deputy Fallaize even said it once, it might have been a quirky reaction but he did nod. I have seen people nod and say we should do that.

370 It reminds me I first opened a land law textbook in October 1969 and land law is completely different from conveyancing, conveyance is easy but land law is difficult, and when I first opened it I thought I was reading the natural language of Botswana or an ancient language from Egypt because I did not understand a single syllable of it. But anyway I knew I had to pass the exams – there were no gap years for me – and so therefore I diligently pursued and read it and read it and  
375 read it until the textbook fell apart in my hands and eventually managed to pass the exam – well I passed the exam quite easily. But in relation to that there was a particular rule dealing with entailed interests, now entailed interests were for the rich people in Victorian years who wanted to pass their property down to their families. We never had that problem in Charroterie because nobody wanted to pass down our outside toilet to the next generation, but in relation to that  
380 there was one rule that had 100 exceptions, so in the end you wondered what the purpose of the rule was but the rule was still there.

So our rule, our principle about trying to have small government – which I think the majority of people would favour – perhaps not in this Assembly but I think in the Island the majority of people would favour – we always have an exception. There is always an exception. ‘Yes, I agree  
385 with that but not this time.’ ‘Yes, you are right but not this time.’ I have, sadly, got to say that we are at this time, because it is an absolute imperative. We talk about us being world leaders, we should be a world leader and I appreciate fully Deputy Soulsby’s point – she is not talking about lavishing money on it, she is not saying we are going to spend millions and millions, she has made that point very clear. But I would much rather that we were a world leader in attracting business to  
390 the Island; I would much rather we were a world leader in cutting down in bureaucracy; I would much rather we were a world leader in common sense; I would much rather that we were a world leader in parsimony when it comes to spending money unnecessarily on regulation or overarching commission that is not really necessary. That is what I would be in favour of and that is where I think we should lead.

395 Now I do not want to be doom and gloom like that gloomy Scotsman in *Dad's Army*, 'We are  
all doomed! We are all doomed!' But we have got to face the fact that, and I do not want to be –  
Sorry, I will give way.

**The Bailiff:** Deputy Soulsby.

400 **Deputy Soulsby:** Thank you.

I do appreciate Deputy Ferbrache for giving way.

Does he not agree with me that one of the selling points we have for our finance industry and  
the reason why it attracts business is because it has a regulatory regime?

405 **Deputy Ferbrache:** Absolutely, it does, and in fact – now it is not Deputy Soulsby's point, but  
she is going to make me go down a side track now because I was talking to a partner from Baker  
& McKenzie in Geneva recently – just recently, just a few weeks ago – and she said we have got an  
excellent regulatory regime, we have got an excellent judicial system, we have got very good  
410 judges, I will concede that, (*Interjections*) we are a good society, but Jersey has got all those, but  
where we fail is because (a) we do not communicate how good we are well enough and (b) we  
have not got good enough connectivity, but anyway that is by the by, (*Interjections*) so of course  
we have got to have regulation in relation to our finance system because that is absolutely  
necessary.

415 Deputy Soulsby with her usual acute intelligent hearing would have heard me say earlier on in  
my speech that I am in favour of regulation in relation to certain of the topics that she mentioned  
today. I am not in favour of a £370,000 a year overarching commission where people will sit down  
in rooms and think up regulations. Look, it is set out in the policy paper just how wide the areas  
that they are going to look at will be. They are massive. Now I have got no idea, knowing the  
420 space and the speed that the States move at, how they are going to get through any of this stuff  
in the next 10 years, any of it materially, because we take one step forward and 15/16ths of a step  
back so it takes us a long time to move forward in relation to anything we do.

425 Anyway, my doom and gloom my Scottish man from *Dad's Army* is on one side of the  
equation and then we have got the Mr Bouncy optimism of Deputy Trott where everything is  
wonderful, the sun is always going to shine and happiness. We are somewhere between. The truth  
is we are somewhere between the two. I want to get to Deputy Trott's because he is right, his  
optimism is right, his *joie de vivre* is right, that is where I want to get. This kind of stuff does not  
take me there, and it does not take the people of Guernsey there. Because paragraph 1.2 of the  
policy letter says this:

Regulation must not stifle service provision by tying it up in bureaucracy nor make practitioners so wary of punishment  
that they are afraid to try anything new or engage positively with those who may be responsible for investigating  
incidents or practices that may be a cause for concern.

430 Well, that is a great statement but when you read the rest of the policy letter it sort of pales  
that into insignificance. In reality you have got to look at how things have worked. In reality  
whatever regulation comes when there is an overarching commission like we have seen, it grows  
like Topsy, it stifles enterprise, it has lots of important people sitting in rooms making decisions  
and passing bits of paper from one side of the room to the other and having another meeting  
435 and another commission and another expert coming in and telling them what to do. It does not  
actually achieve much. It does not cure one patient. It does not make anybody feel any better  
except the bureaucrats and the intellectuals that sit in that particular room.

440 And the cost Deputy St Pier told us yesterday that general revenue was £432 million, a  
£1 million up on thought and an extra surplus of £8.5 million; it was up to £10 million from  
£1.5 million, if I remember those figures correctly. That is fantastic and of course this is only  
another third of a million, only another third of a million.

Deputy Trott in one of his very good speeches of some debates ago, pointed out, I think it was the education debate where he said, look, the average family earnings say husband and wife or partners working were going to bring in say £70,000 and they produce £x of tax and he worked out the figures – I cannot remember the exact figures. He said that is great they make a good contribution to Guernsey. He was being positive but he said all they do if they have got a couple of kids at school is pay for their kids' education through the States' system or whatever. Everything else – the roads, the hospitals, everything else – has got to be paid for by somebody else. So we are saying to the average person on £34,000, £35,000 a year who might pay with direct and indirect taxes £6,000, £7,000 a year, 'Well, we need 70 of you –' no, hang on my arithmetic is not right, 'We need 50 of you every year for this commission. We need 50 of you to bring in a commission because it is going to have this overarching rule and regulation in relation to stuff.'

Now let me just emphasise other people may share my views, but these are my views. These are my views and I want Guernsey to be the best place in the world to live, it is a fantastic place to live, it is not going to be any better by these regulations.

I was going to give you lots of quotes from paragraph 10 of this and paragraph 11 of that – wholly unnecessary because I know that this is a conscientious Assembly and will have read everything.

What I am saying and I appreciate I may well be in a minority of one – if so, so be it – but I cannot bring myself to vote for an overarching commission that will just impose bureaucracy upon bureaucracy.

Finally, we talk about the commission, the GDPR thing that has already, in my personal experience, shown itself to be bureaucratic, heavy handed and unnecessary in certain perspectives. So if we created that let's not create this.

**The Bailiff:** Deputy Inder.

**Deputy Inder:** Sir, thank you very much.

We have had two very good speeches so far, one was actually Deputy Gollop and I think everyone should listen to it and hopefully the next one will be mine.

Instinctively, I am against any form of regulation, much like Deputy Ferbrache. It is a fact, it has been repeated a couple of times that as soon as Government gets involved in anything two things happen, costs go up and choice goes down, the consumer – well three things I suppose – the consumer always loses.

As I was writing on my pieces of paper, there was one name that kept cropping up all the time and that was David Noakes. It is also in my DNA, the belief is that the best government is a quiet government – the less people hear from us is normally the better, the less interventionist government, but then I think of people like David Noakes.

Deputy Soulsby, in her speech, I picked up the same word and I think we spoke about it on the phone. I phoned her about it, she used this 'world leading' and I got into an immediate panic because world leading to me always means far more expense, far more restrictions, trying to prove that we are better than everyone else. But there are other ways of doing world leading and I think Deputy Soulsby sort of gave me some comfort there, because world leading does not always have to be the best and the most expensive, it could be the most efficient. In her speech she effectively said it will be appropriate and proportionate. You can actually be world leading by appropriate and proportionate.

Then on to the regulation and I am just quoting some phrases from her speech again. Regulation – my natural fear of that – it will be independent, it is going to be light touch, it has got power to inspect, it is going to be a small team, a core team, and it will bring in its own expertise when it can. So bringing in expertise means there is probably less FTE so it sounds like a more sensible form of regulation.

Finally, Deputy Soulsby said in terms of regulation, regulation is more justified in health care in matters of life and death and I cannot disagree with that, but naturally I do not like Government involved in absolutely anything at all, but in this case I agree with Deputy Ferbrache inasmuch as the costs are obviously going to go up. I think Deputy Gollop said something similar, you start very small and you end up with something like the GFSC but in the main, sir, and Members, I am going to go against my natural instinct and vote for this policy.

**The Bailiff:** Deputy Stephens and then Deputy Brehaut.

**Deputy Stephens:** Thank you, sir.

I want to pick out five potential benefits of this proposal and begin by stating my agreement with HSC when they say that people who use services need to know what they can expect and providers of services know what is expected of them. Now that statement is about several things, it is about expectations, it is about standards, it is about responsibility, but it is also about visibility.

So my initial interest is in how a new commission will improve visibility for those receiving care, their families and the providers of that care. Now for those who do not support the creation of a commission, I would say that there are matters that I deal with in my parish on a regular basis that suggest to me that this improved visibility is an essential step.

I want to share with Members a few hypothetical scenarios that draw together some of the experiences that I have had when meeting those who receive care in private, and in HSC provisions and at home. Although I am being very careful to say that none of what I say is based on any one particular case. These scenarios are about compliance with standards and schemes and also about visibility, about understanding what the expectation of the person receiving care and the person giving care should be.

First of all, the first scenario I would like to talk about is how would I or other Members know if a resident in a private care home was getting enough to eat? If a resident makes a complaint that they do not get enough to eat, is it that the food is provided but not eaten, or is it forgotten about, or is it that the menus are inadequate. Will a commission reduce the burden of worrying about those difficult questions about the quality of care? Yes, I think it will.

The second scenario is how would I or other Members know if an in-patient in the PEH is receiving adequate post-operative monitoring? I do not know what standards of care should be offered, but will a commission take responsibility in regulating matters that I have no professional knowledge or training in? Yes, I think there is potential that it will.

Thirdly, how will I or other Members know if care plans written for patients in home care situations actually reflect the needs of the patient, particularly when data protection prevents relatives accessing records? Or again is it important that an assessment is signed off by someone who has actually met the patient? Will the commission assist with compliance with standards and reassure those with concerns? I think it will.

The activity of the commission will benefit both patients and formal and informal carers in the home, public and private context and it will be inclusive of all using services, many of whom will have disabilities.

So if my first choice of potential benefit is the potential for greater visibility, my second is about reducing risk. Is the current situation satisfactory? Well, my experience suggests that it is not. So it is important to view the commission as a potential reducer of risk. HSC say in the paper that the lack of independent standards and oversight is a risk. What those who oppose these proposals need to do is clearly articulate how risks can be reduced if not through the commission, or it may be that they do not see any risk at all.

My third interest after visibility and risk reduction is regulatory independence. I am pleased to see that HSC have clearly listed the lack of regulatory independence in their arguments for the commission. I want to link this with Section 8 in the policy paper and the issue of complaints handling and the potential for a services ombudsman function. I have said many times before that



545 I think the providers of services across all the committees should not deal with complaints that cannot be dealt with at a low level. Here HSC say that the regulator would not normally be involved directly in the resolution of individual complaints, this is the role of an ombudsman. They say a health ombudsman might be useful but push this matter into the future, they do not want to deal with it now.

550 Now my view is that the commission will only do part of the job without the independent handling of unresolved complaints to assist in crafting better services. If the work of the commission does not include dealing with complaints, and maybe it should not, then important information will be lost unless someone else with independence does it. My suggestion is that HSC's proposal is weakened without a proposal for a services ombudsman.

555 The fourth benefit of the commission that I see is its role in assisting HSC in its wish to deal with the lack of separation between their commissioning role and their mandate to provide.

My fifth potential benefit is around the better demonstration of value for money through key performance indicators and performance management frameworks. If through the application of frameworks HSC can demonstrate that Islanders are receiving appropriate standards of care in a timely fashion and possibly later that complaints are being used to create a better future framework and that KPIs are met, then the expenditure on the commission is likely to be value for money. But I think HSC are going to have to demonstrate themselves to what degree this happens. The commission's own reporting will not be sufficient to do this.

560 Now HSC say themselves in their report that things go wrong from time to time. Yes, of course they will, it is a high-risk activity. But it is likely that value for money is best served by appropriately providing for service users and I think that a commission will help this happen.

Therefore I am willing to support expenditure as HSC outline.

570 Sir, I have picked out five benefits from a huge selection in a very complex area. The commission should assist in visibility and expectations; it should assist in reducing risk and introduce more independence; it will assist in the separation of HSC functions; and commission activities can be used to demonstrate value for money.

So I thank HSC for bringing this matter forward, but as usual I would like to suggest perhaps that there is more work to do, and I will be very pleased to hear about future progress of the key workstreams and I do hope Members will support HSC in their proposal.

575 Thank you, sir.

**The Bailiff:** Deputy Brehaut.

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

580 Deputy Ferbrache spoke from his own experience and I will speak from my experience, albeit from some time ago in the 1980's or 1990's. At that time many of you would have visited your mother, your sister, your grandmother in the care facility possibly and there they were sat dressed immaculately in a chair and on the locker would be a family photograph.

585 The only issues with that would be of course that the clothes they sat in were not theirs, they had someone else's name in the back, but that is all that could be found at the time so it was what they were dressed in whether it fitted them or otherwise. Perhaps the brooch they were wearing was not theirs, it was lost in the origins of time, it belonged to the ward, it was not their property but there it was attributed to them. The photograph, even the photograph on the locker may not have been of their own family, because of the churn and the turnover of the ward personal possessions got lost and these possessions that had real value to other people were casually put

590 on someone else's locker to further confuse them.

The call bell would be tied up neatly just out of reach so the person could not call for the toilet, because the untrained and low paid staff had little knowledge – sorry to be so graphic – of simple things like urine infections and the constant feel that you need to go to the toilet. So that person would be sat dehydrated, confused and anxious and all they wanted to do was get someone's

attention; they would get up and we all know what happens they slip, they fall, they fracture their femur. That happened then and I have no doubt some of that happens now.

Food and food preferences were set aside, it did not matter, and why would it matter if you are serving pureed food to someone at a stage when it was lukewarm, why would their food preferences matter at that stage? Why put someone at the end of a corridor in a private room when they could be sat in the TV lounge where the staff could have a chat and possibly watch *Neighbours* to boot.

Now I have not exaggerated any of that because that at one time was the standard of care. Does some of that still exist today? I said it earlier I believe it does, and Government sometimes has a duty, don't we, to care, and you get that care through regulation?

So I would, please, implore you to support this because all communities are acutely sensitive to abuses to children, and rightly so, but we do, however, for whatever reason, have something of a disregard to casual abuses in the care of the elderly, and it is something that we need to monitor more closely.

Thank you.

**The Bailiff:** Deputy Roffey.

**Deputy Roffey:** Sir, I thought this was really going to go through without debate but a couple of the comments that have been made this morning have brought me to my feet.

Ever since I first entered politics one of the curses that Guernsey has in trying to be a first world society with a population of 60,000 is diseconomies of scale.

There are diseconomies of scale in providing services, and there are diseconomies of scale in regulation, but we have to make a choice; does that mean we want to say we cannot do any of this because of the diseconomies of scale and become a sort of wild west 'anything goes' society? Or do we say that we have to be as clever as we possibly can to try and minimise the cost but nevertheless make sure that our standards are up with any other first world society? I think we have to do the latter, and I think this policy letter is very good in the way it is trying to balance between containing costs as far as possible but still providing the regulation that any decent first world society would expect, and yes, it will cost us more per head than it would do in a country of 10 million, 20 million or 50 million. I think that is just a burden we have to accept, or not.

But if not, what comes with it is health and social care of all things being unregulated. And for that I absolutely include ... Deputy Gollop was worried it would extend to so-called complementary therapies. I do not understand what is meant by complementary therapies, there are either treatments that work or treatments that do not work. I am not trying to suggest that all complementary do not work and, sadly, I do not think all conventional therapies always do work that well. But nevertheless the standard should be: is that person selling snake oil, is that person doing something they have no ability to do just because they can put a brass plate out and the most vulnerable people in the Island that want to feel better will go with that, or should there be some regulation? To me, it is patently obvious that we do need regulation.

Now Deputy Ferbrache was not disagreeing with that but said do we need a whole highfalutin independent commission? Well, how else would we do it? The alternative would be for us to do it in-house. But a large chunk of health and social care provision in Guernsey is provided by the States, and how would that be perceived as being fair and appropriate regulation if one of the biggest providers was also the regulator? It just does not work.

So I congratulate HSC on this and I understand the point that has been made, whether it has been stimulated by an email we have had from some association whose membership apparently do not agree with any more regulation, I do not know or whether it is just a genuine belief of the people here, what I would say is one of the joys of non-party political representative democracy is that when you are sitting in this place you have to think deeply about the implications of what you decide and what it may lead to. When you just have a survey from some organisation you have paid a couple of quid to join up to it is easier to say, 'Yes, bring back hanging. Do this, do that, do

the other, and darn it if I want any regulation of the person that is going to look after my elderly grandmother.' Well I do and I think we should just get on and pass this.

650

**The Bailiff:** Deputy de Sausmarez.

**Deputy de Sausmarez:** Thank you, sir.

I might just pick up straight from where Deputy Roffey left off actually, because I was  
655 interested in how that survey result came about and so I asked to see the terms in which it has  
been presented. The question was absolutely fair enough, it was: 'If you were voting in the States  
of Deliberation would you vote for the formation of an overarching independent statutory  
commission to regulate the provision of all medical and social care services in Guernsey?'

Then there is a link to some supplementary information – there is not a link to the policy letter  
660 interestingly – and there are a couple of paragraphs, a couple of large paragraphs which do give  
some background, but I think anyone who cares to look those paragraphs up would probably  
come to the conclusion that they are weighted in a particular way. I will not read anything out or  
anything like that but I did some sort of summary analytics, if you like. Cost is mentioned 14 times;  
things like fees get a couple of mentions; bureaucracy is mentioned four times or its derivative  
665 words in those couple of paragraphs. But patients, safety, risk, quality, none of those words get  
any mention at all. Actually I think to me it is kind of summed up in the differences between.

It is absolutely fair enough to have concerns over bureaucracy and all of it, but I think we  
cannot lose sight of what is at the core of this and that is people. I thought actually the speeches  
by Deputy Ferbrache and Deputy Stephens were quite neatly juxtaposed because Deputy  
670 Ferbrache majored on the process and Deputy Stephens majored on the people. I thought that  
was an interesting juxtaposition.

I think it is quite easy, a little bit too easy sometimes, for us to get slightly side-tracked on  
terms of process when we are debating things in this Chamber and we get slightly fixated on the  
vehicle rather than the destination. I think the destination is absolutely all important in this  
675 debate.

Deputy Gollop, a little bit earlier, and actually Deputy Ferbrache also, raised the question of,  
'Well, what problem are we trying to fix?' We have not really heard much of a clamour for this,  
and I would speak from a personal perspective that actually until I read this policy letter I was not  
aware of our current regulatory framework. It was not something that I had any kind of  
680 overarching view of, I did not really understand how it worked. I knew that some aspects were not  
regulated, but I had no idea how the big picture fitted together. I do not think many people in the  
community at large are aware of how our regulatory framework is at the moment.

So I think that is one of the reasons, along with the very valid point that Deputy Yerby made  
with her interjection, why we have not necessarily heard much clamour.

685 So just aside from those general points, sir, I would like to agree with Deputy Gollop on one  
issue and that is the transition. I do totally agree with him that I think it is going to need to be  
very carefully managed. So just one small example, the care industry – where a lot of the debate  
today and the policy letter focuses on, quite rightly, on carers and residential homes and things  
like that – I do know having had some dealings with that sector that recruitment, it is obviously  
690 completely vital particularly in light of our ageing demographic and I know that they have had  
some challenges particularly recently, particularly since the Population Management Law etc. with  
recruitment and retention of staff and I would just like to ask the President of Health & Social Care  
when she sums up to give us an assurance that any transition into new regulatory framework will  
be done sensitively in order to ensure that there is a smooth transition and we can avoid any  
695 disruption to the care that is being provided to people by those care providers.

**The Bailiff:** Deputy Le Tocq.

**Deputy Le Tocq:** Thank you, Mr Bailiff.

700 Sir, I am generally supportive of this policy letter, although I do share the concerns that Deputy Ferbrache and others have expressed with regard to regulation in general.

But I think Deputy Roffey put it very well when he said there are certain things that we have no choice in really, we have to do something to protect our environment, and to protect our community, and that means when it comes to the area of regulation it will be more expensive *per capita* than it would be in a larger jurisdiction, there just are not the economies of scale.

705 However, in the policy letter it mentions on several occasions the opportunities that lie for us working together with Jersey and I am involved in some of those initial discussions, it is not just in this area of regulation but in other areas of regulation.

So whilst I think I am minded that in other aspects of regulation we should not follow this sort of central commission body, that we could deal with such issues more on a case-by-case basis or in-house, as has been mentioned. With the area of peoples' health and their care it is not a risk that I am willing to take. I think that we have to mitigate risks appropriately and with peoples' care most of us in this Assembly, sir, I think will have had some experience of this, in the main it is very good but when issues do occur at the moment we have not got the framework that enables us to make improvements.

710 I am not one of those, sir, that believe that regulation will bring about improvements, I think it will help minimise the issues where there is bad practice occurring, but obviously we will need to work harder and produce policies that will improve care for those in need in our communities, and that is a separate issue. But generally I am supportive of the proposals before us.

720 **The Bailiff:** Deputy Tindall and then Deputy Le Clerc.

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

725 Naturally I support these Propositions and I particularly appreciate the comments that have been made so far in respect to the response, for example, to Deputy Ferbrache's concern about the independent commission. I think Deputy Roffey made it absolutely clear it is so important to understand that we must not regulate ourselves, independence is vital.

Also recruitment has been mentioned. We have obviously got to follow the Hospital modernisation policy letter and it was very clearly articulated in that a fit-for-purpose hospital is an appeal to our newbies and a well-regulated health and care services is also appropriate.

730 As I intervened when Deputy Gollop stood up and Deputy Stephens clearly mentioned, visibility is so important, we need to know. Like Deputy de Sausmarez, I did not know about people in hotel rooms. I spoke to a friend who was recommending we go to see this person and I explained to her the position fully informed and she was horrified, and she did not know. So from my perspective that visibility, that knowledge increases choice, increases the outcomes as well.

735 Also for me it goes back to the fundamental – as I am sure Members would appreciate – is this proportionate and appropriate regulation. Self-accreditation – now that is something I was so pleased that the emphasis is on because to me not only does this make it more cost effective but it also means that the actual service providers are making cost effective choices so they know what they are offering is the right thing and also that they are proving it to their customers. That is of value to those service providers to be able to point to that accreditation.

740 Now personally, in my role as a compliance person in the financial services industry, I found that the cause of negativity is a lack of appreciation of the benefits regulation leads – the reasons why regulation is required in the first place. This is not plucked out of the air, it should and can be beneficial and cost effective if it is applied in the way it is intended. I have spent many hours explaining these benefits and how this compliance with regulation can improve business. However, I have never had the trump card in that conversation that I do today. That is that this regulation is to protect the health and wellbeing of the people of the Bailiwick.

Please support these Propositions.

750 **The Bailiff:** Deputy Le Clerc.

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

I will try to be brief. I am just concerned about when Deputy Ferbrache stood up about the regulation and he said he does support some of the regulation but he was not very clear on who would be overseeing that regulation. He was not specific about that. I would be concerned as I know other Members are that if it is Government overseeing themselves that that is not the right way forward.

But I just want to remind the Assembly that actually we are working, Employment & Social Security together with Health & Social Care, on an outstanding Resolution on the Supported Living & Ageing Well Strategy, and part of that strategy is to deliver more care into the home because our surveys have revealed that people want to remain in their home longer and therefore we are going to be delivering more care packages and personal services in the home. If that is completely unregulated I would be very wary about putting forward proposals increasing that care package into the home environment without any oversight and without any regulation.

It was interesting when we had our Douzaine meeting on Monday – that is the St Peter Port Douzaine, and I think they have had several mentions which will make them very happy – and several members of the Douzaine said that actually some of the cleaning companies have now set up services offering personal care packages into the home. Now I am not saying that that is the wrong thing to do and I welcome enterprise, but again I think we need to ensure that we have regulation and we know what those services are that are going to be delivered.

Just to remind ourselves it will be taxpayers' money that we will be using to provide support for these care packages, so I want to make sure that the money that we are responsible for from the Long-Term Care Fund is being used wisely and there is some oversight.

Deputy Oliver talked about operations. I would say that I am not aware of operations that go on unregulated at the moment, but what does happen is that we get people that come over from the UK that do tattooing, and you may be surprised to know that some of this tattooing is that your eye-liner is tattooed, so you have got tattooists coming over to Guernsey on a Saturday and Sunday performing these services and then leaving the Island. I think that is very dangerous when someone is tattooing. It is not something that I would do personally but I do know that these things happen, and I think we all sit here in ignorance of some of these things that go on and say, 'Oh no, no it does not happen, it does not happen in Guernsey.' Well, it is not quite an operation but there are needles and some form of anaesthetic involved. So I just want to highlight that things like that are already taking place unregulated in the Island.

So I would support these recommendations.

Thank you.

**The Bailiff:** Deputy Tooley.

**Deputy Tooley:** Thank you, sir.

While I listened to Deputy Soulsby's excellent speech opening this debate, I was not sure the rest of us were going to need to say anything at all. I really felt that everything that needed to be said about this had been said during that speech, although I do thank everybody for their contributions thus far.

Two problems that have been raised with regulation during the course of this debate: one that it costs money and it will grow like Topsy; and the other that it will mean that there is less choice in the system. I want to address both of those really, because actually I think there is enough in the policy letter about what this seeks to do and so on that I do not need to cover and go into that, although actually I just want to say one thing.

There have been cases of what I would call operations happening in community centres and in hotel rooms, babies having tongue ties cut is something I would probably class as an operation and that has happened in community centres where somebody has been brought over to perform this service for a group of people. These are things that are happening in the Island at the moment and actually if a dentist came over or somebody calling themselves – a tongue tie is

where the tongue will not lift to the roof of the mouth properly because it is connected by a membrane that runs to the lower palate – and an operation can be done to literally cut that membrane to allow a baby to more successfully feed, and that is an operation which has been carried out in community centres and hotel rooms, certainly within the last five years on Guernsey on a fairly regular basis, and these are the kind of things that actually this would seek to regulate.

If somebody came to me and said I know dentistry is really expensive and you have got five children and I know of a dentist who comes over, perfectly fully qualified, absolutely regulated in their own authority and they are operating out of a hotel room, they bring over a dental nurse with them and it is going to cost you a fraction of what it would cost to go to the dentist, I would find that incredibly tempting. As someone who has to pay dental bills for five children I would find that incredibly tempting. But I would rather that choice was taken away from me if that choice was not safe.

At the moment while that service is there I have reason to believe it is safe because surely Government would not be allowing it to happen if it was not safe. That is what we are seeking to do here. We are seeking to make sure that the things that people might believe are safe, because we would never let them happen if they were not, are looked after and dealt with.

So those are two problems with regulation: one that it costs money and it will grow like Topsy; and the other that it will close down the market. Well I think I have partly dealt with the second of those. The proper regulation is that it means that those who are just not good enough to deliver services will not be allowed to do so in future. Well good.

The second one of those, that regulation costs money and grows like Topsy: in *Uncle Tom's Cabin* by Harriet Beecher Stowe we meet the character of Topsy, a wild and uncivilised slave girl who Miss Ophelia tries to reform and a conversation in chapter 20 goes as follows:

'Tell me where you were born, and who your father and mother were.'  
'Never was born,' reiterated the creature, more emphatically; 'never had no father nor mother, nor nothin'  
'Have you ever heard anything about God, Topsy?'  
The child looked bewildered, but grinned as usual.  
'Do you know who made you?'  
'Nobody, as I knows on,' said the child, with a short laugh.  
The idea appeared to amuse her considerably; for her eyes twinkled, and she added,  
'I spect I grow'd. Don't think nobody never made me.'

And thus the phrase 'grow'd like Topsy' was born, and became a popular figure of speech to describe something that grew or increased by itself without apparent design or divine intervention. Regulation of health and social care is not Topsy. It is born by design, it has taken a long time to make sure that it is proportionate and appropriate for our size of community, and it is incumbent on this Assembly, on these States to ensure that it is not allowed to become ridiculously bureaucratic to grow like Topsy did without control and without restriction. That is our job. Health and social care regulation is not Topsy, it need not grow like Topsy. We are the people who will control that, we as the States of Guernsey will be responsible for ensuring that this remains proportionate and appropriate which is how it is born.

Thank you.

**The Bailiff:** Alderney Representative Roberts.

**Alderney Representative Roberts:** I think that transition is paramount to all of this, and I am talking in regard to Alderney.

A register to show professionals who have already met these standards can choose to register in an opt-in or opt-out basis. Those wanting to meet the standards can gain registration appropriately. Members of the public wanting to go for their care are clearly able to see who has chosen to register this with their attributed standards. Would this not create a win-win situation?

I take Deputy Gollop's comments about how low these carers are paid, I know of one carer who was paid less than £9 an hour for working Christmas Day for intensive care, very intensive

care, somebody totally incapacitated; less than £9 an hour for working Christmas Day is wrong in my view.

850 That is all I have got to say really but I think rather than imposing it it should be an opt-in start. Thank you.

**The Bailiff:** Yes, Deputy Lester Queripel.

855 **Deputy Lester Queripel:** Sir, I support this wholeheartedly but I just want to make a couple of points.

Picking up on Deputy Brehaut's point about the standard of care we provide here in the Bailiwick, he was absolutely right. When I was a trainee carer several years ago, we were told to make sure that those in our care were safe at all times, preferably sat in front of a television with a  
860 drink and a packet of crisps. When I explained to my employers that I was a musician and a poet and I would be more than willing to put on poetry and musical workshops for residents, I was told there is no time for that, there is far too much to do, bedding to wash, carpets to Hoover, meals to prepare and 101 other things, and I felt so sad about that. I tried my best to encourage my employers to change their approach and their attitude and they would not do it so I resigned. I  
865 was absolutely appalled at the approach to residents. Many of those residents actually wanted to take part in poetry and musical workshops and they were denied.

Since then of course care homes have employed activities managers, or many of them have. They realise they need to do a lot more than feed their residents and sit them in front of a television. In my case I worked in a care home in the UK for a while as a trainee but I also worked  
870 in a States of Guernsey care home as a trainee and I believe I am right in saying, I hope this is the case, the States of Guernsey care homes now also have activity managers in place. But as Deputy Brehaut said, how do we know what is actually being done and being provided. So I do agree we need regulation in place.

There has been a little bit of talk about our complementary therapies. I qualified as a  
875 complementary therapist over 20 years ago. In that time I have worked with dozens of fellow local complementary therapists, every one of which is, by their very nature, 100% professional at all times. Having said that, I very much appreciate that there could well be a handful of complementary therapists out in our community who are not 100% professional at all times. So I understand the need for regulation.

880 But I am somewhat confused as to how we are going to regulate – it is referred to in here on page 10 in paragraph 2.14 – bonesetters and why we even need to regulate bonesetters. Because there is no course available to bonesetters to actually qualify. By the way they do not work on your bones, they manipulate your nerves, that is a misconception; they do not work on your bones. I know how to do it because I have studied it – it is not a course you study as such – it is a  
885 simple approach. You realign the nerves. If your sciatic nerve is out of place, for example, a nerve manipulator can put that in place and you walk out after one treatment feeling absolutely fine. So that works. It has worked in my case. When I was a regular participant in sports I visited a nerve manipulator on several occasions and one visit was all that was needed.

Now hundreds of other people who visited and still do, I believe – although I do not anymore –  
890 visit nerve manipulators here in the Island, but it is part of the Guernsey culture, the Guernsey way, as we often hear said. So I am just a bit confused, are we going to then try to find out where all these nerve manipulators work from – I guess they usually work from home. I only visited one who is unfortunately long gone – and then come down hard on them and put a stop to this much needed service? I say 'much needed' because Bowen therapy, physiotherapy, osteopathy, sports  
895 massage, or even a chiropractor does not do the same job as a nerve manipulator, they do not manipulate the nerves. They will realign misplaced discs in your back and treat muscles and damaged ligaments etc. but they do not manipulate your nerves. So my great concern here is an unintended consequence might be that those out in the community that provide this much

needed service of nerve manipulation might be eventually eliminated from the Guernsey way, and that concerns me greatly, because it works.

Deputy Mooney often makes some extremely profound points to me during debate. I wish he wouldn't because it interrupts me and my concentration, and I say to him get up and say it and he never does which is really frustrating (*Interjection*) because he makes some really profound points on occasion and I have to then try and put them in my speech and I do not want to do that, I do not want to speak on his behalf, I want him to get up and speak. He has probably made two speeches in this Chamber in his whole time in here –

**The Bailiff:** Point of correction.

**Deputy Mooney:** Sorry, I would not like to take any credit for Deputy Queripel's speeches, please! (*Laughter*)

**Deputy Lester Queripel:** Too late.

Sir, the point I am making is on – yes, I wish Deputy Mooney would get up and speak more often because he does make some excellent points and this morning he said to me, how do we regulate on official carers who care for members of their family who are completely unknown and are not in the system, and that concerns me and I wish he had got up and said that.

On the issue of regulation, I have actually often been the good Samaritan who got a smack in the face in the past, so I know what that feels like, but we recently all had leaflets in our door – 'Get to know your neighbours' initiative. An excellent initiative on the face of it, but they will not be regulated; anyone who fills a form out and pops it into their neighbour's door offering to cook them a meal or sit with them and have a cup of coffee and whatever and have a chat, they will not be regulated. So that could be open to abuse, which again as I say it is a good Samaritan initiative, and I am not being pessimistic, I am an optimistic realist, as I have said many times in this Chamber, I just fear a little bit for a vulnerable neighbour trusting their own neighbour and then being violated and abused and there is no regulation in place. So I put that out, I put that on record, that is a concern I have about regulation. If you are going to regulate then surely you need to make sure that everything is regulated that needs to be regulated.

So I am wondering if Deputy Soulsby can comment on that point when she responds, please, sir. I will leave it at that, sir.

Thank you.

**The Bailiff:** Deputy Laurie Queripel.

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

I am all for proportionate regulation but it really is a matter of perspective, one person's proportionate regulation might be another one's onerous regulation. I say that because I am just standing to back up the points made by Deputy Lester Queripel. I am a person who suffered with sciatic nerve problems over the years particularly when I played football many year ago. I think I am just trying to point out the difference actually. Many people think that complementary medicine does not have, or complementary practices or therapies do not have much value and the answer lies with mainstream medicine, but actually when I had sciatic nerve problems I went to my doctor and he gave me painkillers and he sent me for physiotherapy treatment but none of that helped me, but I actually went to what is called a bonesetter but actually they are nerve manipulators and that helped me, and having had that treatment within a few days I was playing football again pain free.

So I think we have got to be very careful and what worries me about this commission is, and I want Deputy Soulsby to try and address it if she can, I know this is early days, but who will this commission be peopled by? Will it only be people that come from a mainstream medicine background or will there be representation on this commission for people that represent



complementary therapies? My real concern is that there is going to be a bias against complementary therapies in regard to this regulation and a bias for mainstream medicine. That would be a very sad thing I think.

955 When we read about bone therapy in this policy letter it says that there is no evidence to show, no real evidence to show, I suppose we are talking about some data or analysis, no real evidence to show that it helps, but has anybody ever thought to ask the people that have undergone this therapy to ask them if it has been effective for them, has it helped them, have you spoken to say 100 people who have undergone bone therapy and have 70 told you it actually helps and 30 told you it does not, well on balance then it is clearly an effective treatment? So I am all for this data  
960 sets and all these sort of things are very useful, and this kind of clinical analysis, but I am actually all for asking people as well, 'Has this therapy or this treatment helped you or has it not?' If it has then I do not think we should be that quick to say it is not an effective treatment.

So I think there are a lot of nuances here. I can understand why we are looking to go down this road, and I think actually in regard to care in the home and care homes that is clearly an area that  
965 requires some better regulation, and there are other areas that require better regulation.

But I think when you are talking about proportionate one person's proportionate is another one's onerous or unbalanced regulation. So I really want this point addressed about complementary therapy, complementary treatments, and things of that nature. I do not want to see an inbuilt bias against those things as part of this regulatory regime. So I really would ask  
970 Deputy Soulsby if she could address that, and if her and the Committee could have that as an ongoing thought in their minds as they move forward with developing this regime.

I have always been a great believer, sir, in it is not so much about ... of course ideally you want treatments and therapies to help people regardless of whether they are complementary or what you might call mainstream, but I think it is even more important to ask the question, 'What harm  
975 are these things doing?' and if something is not doing any harm I think you have got to be very careful about how hard you come down on it, and how you perceive it, and how you regulate it.

Because I can tell Members now, and I am sure that all Members will be aware of this situation, I know that in response to Deputy Oliver we are told that clearly the area of surgery is regulated, but that does not stop people undergoing unsatisfactory procedures. I am dealing with cases with  
980 parishioners who have gone through surgery and procedures that have had unsatisfactory results and they are living with the consequences of those things. They are having to use special treatment kits and things like that and the taxpayer is picking up the bill because they cannot go back to work because they are having to claim benefits because they are not fit to work anymore and that is after they have undergone a treatment that was meant to help them.

985 We also know of course about the very unpleasant side effects that people can experience via taking mainstream medicine – an area that is regulated. I will not get into clinical trials because there has been a lot said about clinical trials. I have researched clinical trials and they are not all they are cracked up to be, and if Members want to do the research themselves they can find that out for themselves. So it does not mean because something is part of mainstream medicine or it is  
990 regulated that it is producing good results. The evidence is out there to show that it does not, the evidence is out there to show that people go through operations and end up in a worse condition than they were prior to that because the surgery was not satisfactory. There is evidence to show that people have ghastly reactions to mainstream medicine. Medicine that has been approved by the industry and by regulators.

995 So that is the main point I want addressed really, how will complementary therapies and treatments be addressed as part of this regime, because I do not want to see a bias against it simply because it is not part of mainstream medicine.

Thank you, sir.

1000 **The Bailiff:** Deputy Graham.

**Deputy Graham:** I am brought to my feet by Deputy Laurie Queripel and merely to say that I sympathise entirely with the point he is making, and I would really reiterate the request for Deputy Soulsby when she is responding to debate to cover the view under the new proposed commission towards alternative medicines. In my case my personal or close knowledge is where mainstream medicine has either failed or given up the ghost and again in the area that I am most familiar with where the alternative approach has demonstrably worked. I would really like an assurance that there will be no semblance of antipathy towards alternative medicines under the proposed new regime.

**The Bailiff:** Deputy Prow.

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

I will be extremely brief. I rise to support the excellent opening speech by the President of Health & Social Care, and I support the words of the Vice-President, so I do not need to say anything more about that.

I think Deputy Ferbrache was right in a general sense to warn about regulation. I think the question here is: in the health and social care environment, is regulation needed? I think the policy letter sets out very well that it is, and I think Deputy Roffey in his speech pointed out that it is Government that provides health and social care as well as the private sector and the third sector, so that is the question of independence.

But what I would say ... and Deputy Le Tocq mentioned working with Jersey which I think is a key element in this. Talking of Jersey, if anybody still has any doubts about the need for regulation perhaps I would refer them to the Independent Jersey Care Inquiry which was published on 3rd July 2017. The executive summary alone runs into 62 pages and if you read that executive summary alone I think it answers lots of questions about what can happen and the failings that can happen in an unregulated environment.

Thank you, sir.

**The Bailiff:** Deputy Oliver.

**Deputy Oliver:** Thank you, sir.

I am going to be very brief. It was just something that Deputy Queripel said about complementary medicines. Yes, complementary medicines and natural medicines can be great but they tend not to do any harm and especially with Addison's patients people taking steroids that are dependent on steroids a lot of people are always looking for ways to try and get off the steroids and these complementary medicines come out and just within this year six people alone have died ... to stop taking medicine and stop taking the steroids and tried to take complementary medicine, so it is a balance that is not always very effective.

**The Bailiff:** Deputy Merrett.

**Deputy Merrett:** Thank you, sir.

I will be very brief. I have to be honest, sir, that when I first read this policy paper I had assumed that some regulations were already in place and as a member of our community that certainly would be my expectation. So I am supportive of this policy paper although I do pay heed to mission 'creep' and I would be very concerned if that was to happen. (**A Member:** Hear, hear.)

The only thing I think I need to add also to the debate is that we can regulate many things; what we cannot regulate is empathy, is compassion, those are things we cannot regulate. Even by doing this we still have to be aware of that and try to reassure our community that empathy and compassion we cannot regulate that but what we can do is try to put in place some reassurances, some trust for some of our community who may have to access the areas of health and social care – not only those provided by the Government but also those provides in the private sector.

Thank you, sir.

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**The Bailiff:** Deputy Soulsby will reply.

**Deputy Soulsby:** Thank you, sir.

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I will just go through the various comments. I thank people for their input; it has been very useful.

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Just starting with Deputy Gollop, he effectively said health and care regulation is less important than finance because we are not seeking to be a global leader. I found that quite shocking. He said we have unqualified people in place now so what is the point. Well the point is, yes, it is going to take time but the point is that we do not want that to happen in the future. It is a concern and this is something that is high risk, which we have identified and which we want to plug the hole as it were.

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Regarding costs and this was another theme about mission creep – and I thought that was a good phrase by Deputy Merrett – this growing like Topsy, thank you to Deputy Tooley for her response to that. It is up to the States to make that decision. If we have a huge financial regulatory sector well it was this States – well not this States but previous States – have led to that, so it is very important that this is our responsibility to make sure that what we have set out in our policy letter which will develop over the years is adhered to and listened to and I think that is really important for everybody to appreciate that.

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Yes, we do have a desire to restrict free choice, Deputy Ferbrache, but that is free choice in terms of making sure people are not put at harm.

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Deputy Gollop says HSC will need more money. Yes, I think we all appreciate that, we know that anyway. In terms of training for people who are providing domiciliary care, this is all about being proportionate, we are not saying everybody that goes into a home needs a degree in nursing, we are not saying that they need to have other post-graduate degrees. It might be that certain levels of NVQ qualifications would be sufficient but also that they have a police check and I think a lot of people are surprised that they do not at the moment.

So yes, again, I repeat the comments about freedom of choice but if it is all about health and social care afterwards having to pick up the pieces when things go wrong.

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There was a lot of focus about professional regulation but this is not just about what people do, it is where they do it and how they do it, and I think that is just as important.

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I have been writing everything down, so I will not repeat absolutely everything because it is quite repetitive in areas. Regulation can reduce costs, by making things safer and putting better controls in place it might make things not go wrong in the first place. I have covered off a lot of what Deputy Gollop said, but thank you, I understand I think by the end of all that Deputy Gollop will support our policy letter.

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I think Deputy Tooley covered off a lot of what Deputy Ferbrache said. I think what is important to us, I think we see it probably more than people outside health and care but when things go wrong – and they do, they will always go wrong, we are humans dealing with humans – whatever we do, whatever controls they will go wrong, the difficulty is in such a small community to ensure that we build back assurance that things are fine, and it is really difficult, some things happen and I have to stand here and my Committee and say, 'No, it is fine, we have got the support. This person says this, that person says that. We have looked at it. It is great.' We do not have that independent regulator there that could have that added assurance that that is what the case is and I think we would as a Committee really appreciate having that independent commission to be able to say that, or not and actually say to the public, 'No, what the situation actually is ... and know what we need to put right. Otherwise I think we tend to get lots of social media comments about what the situation may be to them but not what the actual reality is.

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Going back to Deputy Ferbrache about businesses and stifling enterprise, but actually the health and social care sector that ... and we have had a huge extensive engagement which you can see at the back of our policy letter and I remember I signed off goodness knows how many

letters to people about this and everybody has had their input; we have had roadshows and presentations throughout the Bailiwick, including Alderney, where we had a really good attendance and it went down very well. They want this. So yes, we might stifle enterprise but only where it is unsafe and I think that really needs to be borne in mind.

1110 I am going ahead of what I have written down. I thank Deputy Inder for his trust, and in terms of cost up and choice down, well choice will only go down where it is unsafe again.

I thank Deputy Stephens for her comprehensive analysis I do think the idea of an ombudsman should be followed up and that could be considered possibly as part of the Policy & Resource Plan or Future Guernsey Plan or whatever it is called now.

1115 I thank Deputy Brehaut for his considered points which go 'to the heart of the matter,' I think is probably the phrase of this session. Deputy Roffey, again, both Members who have been sat in our seats as it were in terms of Health & Social Care.

1120 I thank Deputy de Sausmarez for her usual thorough analysis. I think the point about disruption is well put, and it is something we are very mindful of and I think it is really important for people to understand we have had considerable engagement up to this point and that will continue. Just like the whole Partnership of Purpose, it is all about engagement.

I thank Deputy Le Tocq for his comments, but I do disagree with him regarding regulation not leading to improvement. I think it will very much, through identifying areas which do need improvement whether things are going right or wrong.

1125 I thank Deputy Le Clerc.

1130 Back to Alderney Representative Roberts, you cannot opt in or opt out of law but I think these concerns come from the belief that costs may grow like Topsy, to use the apposite word – that is not what we are proposing. It is all about being proportionate. As I say, we have had a lot of feedback and engagement in Alderney. We do appreciate the need to handle a transition carefully and especially in Alderney and those discussions have already been had.

1135 Deputy Lester Queripel regarding complementary therapies and Deputy Laurie Queripel. It is a very complex area. The complementary therapies cover a whole range of things from bonesetters to people moving things in front of your face and all manner of different things. We are not saying – we, certainly as a Committee are not saying – whether they work or not, we are just lay people; for some people these things work and for some other people they do not, but really that is not the point here. This is not about stopping services but ensuring people are kept from harm and it is about being proportionate again.

What we will do is develop through formal consultation exercise, we need to have these conversations to understand each area of provision – the barriers and the issues.

1140 Regarding regulatory regime for family, well we have said that voluntary members, people caring for people in the home, that is not covered – if there is abuse of family members and things like that. That is something for the Criminal Justice System and safeguarding, not the point of this policy letter.

1145 In terms of going through further what Deputy Laurie Queripel said, it is not about whether alternative therapies work or do not, it is about ensuring people are safe; and, no, the commission will not be populated by medics. Indeed we are not going to populate it with loads and loads of people. We said experts will be brought in as and when necessary and this will include complementary therapists, very much so. Standards – we will need to address aspects such as informed consent; do people know what is going to be happening to them before they have a particular form of treatment. Also professional competency, possible insurance, CPD and supervision.

1150 I would like to thank Deputy Oliver and Deputy Merrett for their input and support.

1155 I would just like to finish with a few comments. Regulation of health care professionals is nothing new. The earliest reference, I think it is actually somewhere in Professor Dickon Weir-Hughes Report, says:

The earliest reference [dates back to] 1421 when physicians petitioned [the English] parliament to ask that nobody without appropriate qualifications be allowed to practice.

Things have moved on a bit since then but so too have expectations. Now health and care is a rapidly changing world: every day there is a media release often produced for *News Atlas* by public relations firms on behalf of clients claiming a new treatment will cure this, that or the other. At the same time there are those who want to take advantage of those with health concerns and issues, be they minor cosmetic or major long-term conditions. Now it is 600 years since that petition and whilst we have regulation in a range of areas we should all be concerned that we still do not have independent regulation to protect the most vulnerable in our society.

The fact we are late to the game in many ways is to our advantage. We can pick and choose what works and does not and avoid the inherent complexity that has arisen in other jurisdictions that have created regulations often as a result of politically motivated reactions to when things have gone wrong. This policy letter sets out our proposals for an appropriate and proportionate regulatory regime that can evolve in an orderly and manageable way. This is only the start of the journey and it is for this and future States to ensure that happens in an ever changing world.

Thank you, sir.

**The Bailiff:** We vote then on the Propositions.

Can we take all eight Propositions together, or does anybody wish to have a separate vote? We will take all eight together. Those in favour; those against.

*Members voted Pour.*

**The Bailiff:** I declare them carried.

## POLICY & RESOURCES COMMITTEE

### VI. Reform of the Marriage Law – Debate commenced

*Article VI.*

*The States are asked to decide:*

*Whether, after consideration of Policy Letter of the Policy & Resources Committee entitled 'Reform of the Marriage Law', dated 14th January 2019, they are of the opinion:*

- 1. To approve the proposals laid out in section 6 of the Policy Letter to reform the marriage law.*
- 2. To direct the Policy & Resources Committee to oversee the preparation of the legislation and supporting policy guidance to implement the reforms as agreed in Proposition 1.*
- 3. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.*

**The Greffier:** Article VI, Policy & Resources Committee – Reform of the Marriage Law.

**The Bailiff:** Deputy Stephens will open debate on behalf of the Committee.

**Deputy Stephens:** Thank you, sir.

Members may recall the last day of the December 2018 States' Meeting when towards the end of the afternoon I introduced this policy letter and then proposed a motion to withdraw, which action I thank Members for supporting as the additional time for consideration has been in my view beneficial.

For the benefit of Members who were not in the Chamber, and several had left for a variety of reasons including travel home to Alderney, and for those in the community who listen to States'

meetings, I want to briefly explain what the last few weeks have allowed in terms of additional consultation and mention other issues that have been raised.

Now it would not be appropriate for me to talk at any length about an amendment that is now not in play but I want to assure Members that the Policy & Resources Committee have always been and remain committed to the outcome of the revision of the Law being as liberal and as tuned to what people have expressed as their preferences as much as possible and aligned with what legal advice informs is a secure way forward. As I have said before, Government has a responsibility to provide a framework for marriages that is sustainable and recognisably legal against any future challenge.

So in the time between the end of December 2018 and today two matters have been reviewed, the first being the issue of the declarations or vows and that has been revisited and the conclusion of further work and discussion is that the proposals remain the same in the policy letter as they were then and that legal advice has not changed.

For the elimination of any doubt P&R are of the view that the vows or declarations are essential as one of the minimal legal requirements to ensure capacity and consent to marriage are freely given by both persons. The two sentences spoken are short and no issues with the wording have been raised in the consultation when participants were invited to raise any matters that they wished to. Provision will be made for extenuating circumstances as now such as the illness or if a disability or condition prevents an individual from speaking but that would be to ensure inclusivity and it would not be applicable to everyone. The couple can of course add any words to the declaration that they wish to.

The second matter that has been considered in recent weeks is any potential risk to individuals relating to the publication of marriage notices on line. This matter has been and will be given further consideration following this debate, but for Members' information the concerns that have been raised are that by publishing the notice information online some couples or individuals may be put at risk particularly in the marriages of same sex couples who may wish to travel after marriage to, or who work with, certain countries where homosexuality is illegal, or with a broader application to those who may have relocated to the Island to escape domestic abuse and start a new life.

The proposed notice period would make the information publicly available for a minimum of 21 days and up to a maximum of one year if other proposals in the policy letter are approved. The risk is made more likely by the fact that information online can be cached and accessed even once the information has been removed or taken down. There is no solution to addressing the caching of data online, just as there is no way to prevent someone from photographing the marriage notice posted on the notice board at the Greffe, as is current practice, other than not to make the information publicly available.

However, the purpose of the publication is to act as a safeguard and enable a caveat or an objection to be placed should someone know of a legally valid reason for the marriage not to proceed. For example, one party is already married or is being forced into marriage. To reduce the risk, the expectation will be that the information to be published will be minimal but sufficient to enable the parties to be identified such as by their initials, surnames or family names and of course by the date of the ceremony. Couples will not be able to opt out of having the information made public as that is a requirement in Law.

In addition assurances around the approach and any impact on data protection have been sought, the new marriage legislation will set out that this information needs to be published as a safeguard so it will be possible to lawfully process the information in this manner, in line with Schedule II, section 8 of the Data Protection (Bailiwick of Guernsey) Law, 2017.

A similar change to the procedure for the publication of marriage notices to include online notices has recently been introduced in Jersey. So valid concerns have been raised about some potential risks associated with publishing the notices and P&R can confirm that they will give further consideration to this and other detailed aspects of implementation of these proposals to ensure that the risks I have outlined are mitigated.

Now I am aware that for some the next section of my introduction will be familiar but I am also aware that some Members have not heard the points that I will make, so I ask for Members' patience if they experience a sense of *déjà vu* as I just run through some of the points that I made previously.

The reasons that we have sought to revise the Law are these: the 1919 Law based on the previous 1840 Law has been amended over the years but never fully reviewed or reformed. In June 2017 the States prioritised the reform of the Law to simplify modernise and make it more inclusive, while ensuring that the necessary safeguards were in place against illegal, forced and sham marriages.

The Law is also not currently inclusive of those who may wish to have a legally recognised humanist or other non-religious ceremony, for example. Marriage is a solemn undertaking and a legally binding event and should be seen as such and conducted as such. It is the view of P&R that Government's role should only be to the extent that marriage is legally recognised and that any vulnerable people are safeguarded against being forced or coerced into a sham marriage.

The proposals are forward thinking, modern and progressive, and will reform marriage in a way that is strongly supported by the majority of the community confirmed through the public consultation.

The changes will make the process of getting married simpler and more inclusive while ensuring there are sufficient safeguards to protect vulnerable people and meet the bare minimum legal requirements to be binding. Representatives of religious groups, celebrants, industry and others from across the community have been involved or contributed to the proposals to be considered today. This has been a collaborative effort with wide engagement and consultation.

I ask Members to support these proposals.

Thank you, sir.

**The Bailiff:** Well, we have an amendment which has been circulated to be proposed by Deputy Roffey.

Deputy Roffey.

[Amendment](#)

*In Proposition 1, after the words 'laid out in section 6' insert '(other than proposal 6.1 (15))'.*

**Deputy Roffey:** Thank you, sir.

It is a very simple amendment and it is based on a very simple premise, and that premise is that governments really should not go around making anything illegal unless there is a very good reason why it needs to be illegal.

I think I need to draw people's attention to sub paragraph 15 on page 16 of the policy letter which says that:

Civil ceremonies including non-religious belief ceremonies cannot be held in places of worship ...

Now what this amendment is not about is trying to coerce religions or denominations within religions to allow weddings or marriages that they do not want to happen inside their buildings. What it is about is saying that if a religion or a denomination within a religion is perfectly sanguine about allowing that to happen and people want to actually do that, what the heck is it the job of Government to step in and say, 'No, all parties are happy about this but sorry the law says thou shalt not do that'? I really do not understand the rationale of that. Of course we are not just talking about secular ceremonies here, because if you read it, it says:

Civil ceremonies including non-religious belief ceremonies ...

Now one of the other changes being made is that civil ceremonies will in future be able to include religious content. So we are talking about civil ceremonies of a religious nature that will not be allowed to take place in places of worship.

I would also ... I mean maybe the comptroller might be able to help me. It says down at the bottom that this:

... provides clarity around particular locations ...

But I am not sure what the definition of a place of worship is. Now I understand before paragraph 14 above where there were certain designated places that there was clarity, but if we are just going to rely on the term 'places of worship', what is a place of worship? I can see that one of our Anglican churches is or a Catholic church is, but is a Friend's meeting hall, is that a place of worship? I understand there is the occasional ceremony takes place at the Little Chapel or there used to be, is that going to be debarred for civil ceremonies because it is a place of worship? What if we have a small number of people of a faith in Guernsey, Islam, Sikh, Hindu or whatever who want to have collective acts of worship but cannot afford, there is no economies of scale, going back to the last debate, of actually having your own designated building, so once a week they rent a room in one of our community centres or Douzaine rooms, does that become a place of worship? I do not know. But even if it does not, the point is that I do not think Government has got a role to interfere here, it should be with those who own or control those buildings. If they are happy and people want to do it then what is our job doing interfering?

Now some may say, 'Well, why would people want to have a civil wedding in a place of worship?' Well if it is never going to happen then we may as well lose Section 15 because there is no point to it, so either it will happen, in which case why should we stop it, or it will not happen so why do we need to outlaw it? But I can see some circumstances where it might. Where one partner perhaps is religious and therefore a building is of particular importance to them but they are getting married to somebody for whom, because of their secular view point, would feel hypocritical going to a religious ceremony.

Finally, sir, Deputy Lester Queripel said earlier or referred to this initiative about getting to know our neighbours better. Sir, I was delighted when I had an email from one of my neighbours asking me to come round and talk about this amendment. So I walked down the road to the Deanery went in and spoke to the Dean about it and when I walked out not only did he say that he had no concerns about this but he could positively see some of the advantages of this amendment going through.

So on that basis I am not going to make a long impassioned debate because I think it is pretty obvious that it is innocuous and please pass it.

**Deputy Ferbrache:** I second it.

**The Bailiff:** Deputy Ferbrache, you formally second it.

Deputy Stephens, do you wish to – Just before you do speak, Deputy Leadbeater has been back in the Chamber for a while and I wonder – Deputy Leadbeater, do you wish to be relevé?

**Deputy Leadbeater:** Please, sir.

**The Bailiff:** Thank you very much.  
Deputy Stephens.

**Deputy Stephens:** Thank you, sir.

Policy & Resources have no objection to this amendment to proposal 15 if the intention is to leave the decision on whether civil ceremonies could be held in a place of worship to, and I quote:

... those controlling such buildings to decide whether or not they would find such an occurrence acceptable.



The suggested change would allow owners, proprietors to make the decisions themselves, it is not forcing anyone to do anything in any way. It would potentially offer more choice to some couples, and would not change the proposal regarding some religious content in ceremonies.

1330 The Same Sex Marriage Law 2016 would still apply, in that same sex marriages cannot be held in Church of England buildings, with the option remaining to seek consent in other places of worship as now.

Deputy Roffey has clearly advised that his intention behind the amendment is to be permissive not to prevent the owners of religious buildings from allowing civil ceremonies to be conducted in  
1335 places of worship if they themselves do not object. The Law Officers have advised that there are no legal issues that would arise from this amendment if it were successful and there is no evidence to suggest that the amendment would impact on other proposals in the policy letter.

But should the amendment be successful then there is a potential matter that may need to be addressed relating to St Tugual's Chapel in Herm. The chapel is legally owned by the States but  
1340 used by the Church of England for Anglican marriages only with requests made directly to the Dean.

The chapel and all other buildings on Herm are included within the Herm lease, which is managed by the States' Trading Supervisory Board as the landlord for all States' properties. The chapel is listed as a protected building.

1345 The States' archivist has confirmed that there is no definitive confirmation that the chapel is consecrated, and therefore it could be viewed as being non-denominational. However, there is some archaeological evidence to suggest that it might once have been consecrated, but there is no record of either consecration or deconsecration. There is no relevant message of Herm in the Registers of the Ecclesiastical Court and the Church of England is not responsible for maintaining  
1350 the building.

The use of the chapel is not set out in any legislation, so should this amendment be approved then potentially a civil or other non-Anglican couple could seek permission from the States through STSB to hold a civil ceremony at St Tugual's Chapel in Herm.

But as I said when I began to speak, P&R have no objection to this amendment at all.

1355 Thank you, sir.

**The Bailiff:** Deputy Smithies.

**Deputy Smithies:** Thank you very much, sir.

1360 I thank Deputy Roffey for providing me with some reassurance prior to this debate that the intention of the amendment is simply to leave those in control of the places of worship to decide whether they are willing to ever allow those buildings to be used for any sort of civil marriage ceremony rather than the States imposing a blanket ban through legislation.

However, that very freedom then raises the prospect if sufficient pressure is applied that  
1365 alternative marriage or other services may be allowed to be held in places of worship including consecrated places, and we have heard from Deputy Stephens already that there are grey areas about what constitutes a place of worship, or indeed a consecrated place.

Whilst currently – and again the reassurance of the Law Officers is welcome – other safeguards are enshrined in law, it would in my view be a mistake to open a chink in that protection as this  
1370 amendment, I accept inadvertently, might allow, a chink which could allow purchase for the crowbar of secular opinion. I will therefore oppose this well-meant amendment.

**The Bailiff:** Deputy Gollop.

1375 **Deputy Gollop:** Sir, one of the political changes I have seen in my lifetime here has been in a way the abolition of the traditional Douzaine representative, and therefore at least before we have Island-wide Deputies I think even then it is useful for Deputies who have got ties to a certain area to sometimes talk about and represent the views of the Douzaine, as people said earlier.

1380 Curiously enough, despite not having many opinions on the planning matters or the speed limits matters, the Douzaine had a very extensive debate of the two Peters' amendment put by Deputy Roffey and Deputy Ferbrache, and most who spoke seemed very opposed to it for the reasons maybe Deputy Smithies has given and some others. Now inevitably Douzaines consist of people of all religions and none and they had not had the benefit of Deputy Roffey having a meeting with a senior ecclesiastical person.

1385 My personal view is I am willing to give this amendment a try and see what happens. I regret actually that Deputy Yerby's earlier amendment which would have reformed it further did not go through, and that perhaps will come back at a later stage, but I am satisfied with what Deputy Stephens has said, that it will cause no obvious legal difficulties.

1390 Nevertheless what we have heard so far does raise a few questions and I mention them now. The first is yet again we have a situation that is part of the fabric of our society.

**The Bailiff:** Are you now speaking generally or are you speaking just on the –?

1395 **Deputy Gollop:** Well, I am speaking on the amendment because they are interlinked –

**The Bailiff:** Okay, I just thought you were perhaps going into general debate now.

1400 **Deputy Gollop:** Well, the Church of England, we are told, has been protected. The Church of England will not have to make the moral judgement as to whether – let's assume the amendment is passed and the same sex marriage issue is there because two people who love each other want to get married in a civil ceremony but in a place of worship, the problem would therefore exist that the Church of England would not be able to say yes to that request for reasons that it has been protected, but other ecclesiastical denominations would potentially have to make that judgement call, and it would be interesting to see because we have got a spectrum here from  
1405 evangelical to Roman Catholic to all kinds of other faiths. That is a matter for them to do.

I think why the Douzaine were perhaps questioning the amendment was because they thought mistakenly that this would be a demand, a mandatory pressure, on every and any so-called place of worship however we define it, to marry anyone according to demand. That is not the case and I think many religions for all kinds of reasons will say no to some couples and we should not single  
1410 out here actually single sex relationships, although Church of England in one sense does because of course it could apply to persons who for some reason the Church were concerned about, for sake of argument, somebody who had multiple marriages in the past or some other issue.

So I think what we are doing is we are allowing the owners and leaseholders of the places of worship to facilitate marriage according to their judgement and choice. It will probably lead to  
1415 some difficult conversations and some points of conscience for some people.

But of course the point is that these marriages will be civil secular marriages in a place of worship they will not be religious marriages for the reasons Deputy Roffey has outlined, which might include one partner who wants it and one who does not. I can see the attractions of this. It not only widens the market but it enables to enjoy let's say a chapel wedding, or church wedding  
1420 in some cases, and also provide finance to those bodies to continue, and it gives a sense of heritage and place and will help wedding planners, because actually the report distressingly shows there has been a decline in the number of marriages and maybe this amendment on top of the main Propositions will support it.

But nevertheless the devil will be in the detail and I was told anecdotally that you cannot have  
1425 Robbie William's *Angels* at certain civil ceremonies because it is regarded as a religious song. I do not know if that is true, some people would not want it for other musical reasons. (**Several Members:** Hear, hear.) But I think in broad terms I support the amendment.

**The Bailiff:** Deputy Ferbrache the seconder.

**Deputy Ferbrache:** I was not going to speak, but however gently it was said, an element of intolerance was brought into this debate by Deputy Smithies. Because as Deputy Roffey said, this is permissive, it is not going to force anybody to do anything, it is a bit like Church of England Vicars who can say, 'Yes, you can marry in my church even though you have been divorced but no you cannot marry in my church because my conscience is inflicted and you have been divorced.' I accept that through gritted teeth because that is peoples' conscience. I do not want to impose my will on anybody and I completely do not think it is appropriate coming into the end of the second decade of the 21st century for people to impose their will, because of their religious belief on me and other people; that is intolerant, however gently it is expressed.

Deputy Soulsby, in a previous debate, talked about some regulation going back to 1421 complementary therapists. Religion has moved on over the years. Perhaps there were days when if you had, just a few centuries ago a different religious belief to somebody else and they were in power you had a red-hot poker stuck up your backside, so we have moved on from that debate. We have now moved on from that principle and we now allow people to express their own views.

So as I say I did not intend to speak. Deputy Smithies is entirely responsible for provoking me by what I regard as an intolerant comment.

**The Bailiff:** Deputy Tooley.

**Deputy Tooley:** Thank you, sir.

I rise largely because I, like Deputy Gollop, attended the St Peter Port Douzaine meeting and it is right to say there was quite a considerable discussion around this and around this amendment in particular. But my interpretation of the sense of that meeting and the result of that conversation was very different to Deputy Gollop's. There were actually five of us present so I would welcome any of the other three who were present interrupting me if they feel I go wrong.

The discussion largely was around the fact that the amendment is so brief that there was some confusion on exactly what was intended by it and there was a feeling that if this were to be requiring that churches and places of worship could not refuse permission for marriage that would be something that they would not want to support.

There was one or possibly two members of the Douzaine who also were concerned that making something permitted you pass on a sense of responsibility about making a choice about who you say yes to, and who you say no to, to the churches and other places of worship which may not be fair. So those were the two opinions that came out of the Douzaine that I would say were less comfortable with this amendment.

However, over all I would say that given the explanatory background that has been put on this around the intention behind the amendment, and the additional detail that has been given by Deputy Stephens around the effect of the amendment on the general Law, my interpretation of the debate in the Douzaine is that the Douzaine would not have been against – I cannot say they would have been supportive but they would not have been speaking against – this amendment.

I intend to support it, I can well imagine situations where family tradition has long been that the family weddings happen in a particular place at a particular time and that is the way things are done and it is the way we continue those traditions. But it might be that one or another member of a couple who are marrying are uncomfortable with starting marriage with promises which for them do not actually feel like something that they can put their whole heart into because they reference God and so on in a way that they would not personally choose to do so.

So I think if ministers of religion and so on are willing and happy to allow marriages to take place in their premises we should not be barring them.

I also have to echo Deputy Ferbrache's words. I do not think it is appropriate to discuss 'alternative' marriage.

Thank you.

**The Bailiff:** Deputy Le Tocq.

**Deputy Le Tocq:** Sir, as I think the only minister of religion in this Assembly at the moment, I will say I support this amendment.

1485 I think it is complicated by the fact that we are seeking to combine civil ceremonies with religious ceremonies. If they were separated we would not be having this particular debate, (*Interjection*) so yes.

So in those terms I think we just need to accept that people of faith will have different views as to who and what words can be used in certain ceremonies in particular buildings. As far as the tradition that I come from, its concern is nothing to do with buildings, no holy buildings only holy people, so we are fairly liberal when it comes to understanding where and how one might conduct a wedding ceremony.

But I think the import and direction of the amendment is to be commended and I support it.

1495 **The Bailiff:** Deputy Inder.

**Deputy Inder:** Sir, just briefly.

It may surprise most people here that I was actually brought up under the peal of the bells of the Castel Church. I went to Sunday School, I was a choir boy – not that kind of choir boy – I was a server, I was confirmed, and straight after my last confirmation lesson I bought a motorbike and left.

I was fairly good at divinity at school and we spoke about the three main religions of Islam, Judaism, and Christianity and they were all Abrahamic religions, they all come from the same basis, they have just got – I think sometimes God has got a bit of a problem with his advertising agencies on earth, to be perfectly honest, and he may need – and if I was God, I would probably have called for a pitch to have a new [*inaudible*] because they have not really worked quite well.

But we were also told and this is really for those who have got concerns over this, I think this is a very good amendment, the God that I understood must have had a sense of humour, I was built in his image apparently! (*Laughter*)

1510 I think those who have got – and I do not mean it unkindly – a more traditional view of faith is that the world has changed a bit, and I think when you look at the buildings that we have and this is more about the actual buildings, we have some absolutely gorgeous buildings here, our parish churches are absolutely fantastic, and I just want to make mention of St Peter's Church and it is more for comedic effect really. It has got a slope on it and they always say that it is up hill to the altar and downhill after that straight after the marriage. So if I could say anything, I am happy with this amendment and I just wonder if those who have got some concerns talking about the control and those people with faith, I do not think if we are God's children if that actually exists, our God, the God, he would be quite happy, I am quite sure, to have his children married in his churches.

Thank you.

1520 **The Bailiff:** Deputy Tindall.

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

1525 I just want to talk about what the St Peter Port Douzaine and the message they gave to me to a certain extent and one of the queries that I felt that whilst Deputy Tooley and Deputy Gollop mentioned it I am erring on the side of Deputy Tooley's version. But the point being is that one of the concerns that I got from that is about those places of worship who actually turn round and say, 'Look, I am sorry, yes, I know I can say yes but actually I want to say no.' I want to make sure that as with other aspects that opportunity to say no is clear and unambiguous and so that there is a balance between the expectations and there is a fairness about it.

1530 I do believe in liberalising very much where you can have these ceremonies and I do like the idea of it, but I just feel that there has to be this nice mechanism to reassure people that there is the ability to say no if that is what we intend to allow.

Thank you, sir.

1535

**The Bailiff:** Deputy Merrett.

**Deputy Merrett:** I will be brief, sir, which I am coming to quite like actually.

1540 Places of worship, surely it should be for the people to decide who can and cannot get married there, it really should not be for the States, and the opportunity to say no, well that is what brought me to my feet really was Deputy Tindall. Yes, well people deciding to say no, they give a reason to the person in front of them, it should not be hiding behind, 'The States said no so therefore I will say no'. So let them have a discussion, let them explain to the people why they will or will not let them get married in that place.

1545 I was a bit surprised by 'alternative marriage'; we have agreed as a States that marriage will be marriage. I am unsure what is meant by the term alternative marriage because marriage is marriage as far as I am aware, as has been decided by this States.

1550 Just to put it out there that actually future generations, indeed my daughter's generation, do not even know the term alternative marriage, they just see people getting married and they are accepting of that and they do not question or query it, they just see people getting married. We really have to move on and be more progressive in the way we see things. Whilst respecting history, whilst respecting people that have particular views on religious grounds, at the same time respecting people that do not have those views and just accept people for who they are.

Thank you, sir.

1555

**The Bailiff:** Deputy Langlois.

**Deputy Langlois:** Just briefly, sir.

1560 It is just everybody talking about the freedom of people to say no should somebody want to have a secular marriage in a place of worship. It just made me think that one of the grounds for the discrimination legislation that ESS will be bringing will be religion, so the idea that the incumbents in the place of worship will just actually be able to refuse anybody, they do not want to actually have a secular service in their particular place of worship, it might fall foul of any anti-discrimination legislation we bring in on the grounds of religion. That just causes me some slight disquiet we are setting up something here which might fall foul of something were –

1565

**The Bailiff:** Give way to Deputy Tindall.

**Deputy Tindall:** Thank you to Deputy Langlois for giving way.

1570 This is precisely my point. I was going to refer to the equality law as I would like to see it, but for me this is very important that it is clear that there is a mechanism so that both sides of the coin, you can have a discussion as much as you like but we do know of instances where there have been disagreements, and I would just like it to be an easy process and not something that can turn into an argument.

1575

**Deputy Langlois:** Well, I would agree with that. I am not quite sure what that mechanism would be.

1580 As I say I am not quite sure whether it means I am going to vote against this for fear of the future, it does cause me some concerns. It is very easy to say, 'Oh well, we can sort it out in the details,' well I am not sure that is going to be all that easy.

Thank you.

**The Bailiff:** Deputy Roffey will reply.

1585

**Deputy Roffey:** Thank you, sir.

I am delighted I have generated so much debate at the St Peter Port Douzaine. I do not often manage to do that.

1590 Dealing with the specific issues that have been brought up. St Tugual – fascinating character rather lost in the mists of time. I think he was a cousin of St Magloire and also a relation of St Sampson and they all qualified from St *[inaudible]* School of sort of Celtic Christianity in Wales, didn't they? Although it was the dark ages so who knows if any of that is really true.

What I would say is if anybody can sort out the dilemmas around St Tugual's Chapel I have no doubt that the Policy & Resources Committee will be able to do it, and I have total confidence in our top committee being able to do that. *(Interjection)*

1595 Deputy Smithies was worried about a chink in the armour. Armour against what? I think what we have to remember here is we do not pass marriage laws very often, they tend to stay in place for a very long time. The churches of today are very different to what they were 50 years ago. So I do not know how liberal the church will be in 40 years' time. It may swing back the other way and become less liberal than it is now. All I am saying is that I think we should be setting up legislation  
1600 that gives them that freedom.

Now concern has been raised that they will not really have that freedom because of the equality law that is going to come forward. Well as Deputy Langlois well knows, one of the exemptions, one of the special statuses in the equality law relates to religion. Whether it should do, I am a bit through gritted teeth like Deputy Ferbrache is, but it does. So that the Catholic  
1605 Church, for instance, can say, 'Only a practising Catholic can be head of one of our schools,' rather than falling foul of employment legislation which would be discriminatory on any other grounds. So they can say, 'Actually although it says there should be no discrimination on marital status, our priests have to be single rather than married.'

So if the States want to build in that protection they will have the opportunity when the equality law comes forward if they are really worried that without it people will be hounded by cases being brought under it. I really cannot see that that is going to – most people do not want to get married where they are not wanted, to be honest, that would be a fairly ... 'It is my big day and I want to go somewhere where I am really under sufferance.' I cannot really see that happening, but if it is a worry then it is open to Deputies Dawn Tindall and Shane Langlois to make sure that that is absolutely explicit when the legislation comes forward.  
1615

Deputy Ferbrache, thank you for your support. He was worried about red-hot pokers. The only thing I would say now is that having passed the previous Article only those qualified to wield the red-hot pokers *(Laughter)* will be allowed to do it.

1620 Deputy Le Tocq is absolutely right, we are not now just talking about secular weddings, we are talking about civil ceremonies. One of the seminal changes we are making today is that actually civil ceremonies will be able to have religious content. So let's not just talk about why would people want to have secular weddings in a place of worship; they may well be having ones with a heavy religious flavour but they have to be civil rather than under the authority of the Church.

I think that is probably all I have to say apart from I think I would advise Deputy Inder not to suggest that the three monotheistic, Abrahamic religions are the three main religions of the world if he is wandering around India or somewhere where Buddhism is, I think there is actually a number of very large religions that do not fall into that school but I agree with everything else that he said.  
1625

1630 Sir, I do not think there is any reason not to do this, it is simply permissive, it is simply trying to allow in future to avoid the daft situation where a couple wants to get married in a building, the people who own and control that building are very happy for them to get married in there but the States have somehow said, 'No, even if all parties are happy for this to happen we will prevent it through legislation.' I do not think that is the purpose of law.

1635 **The Bailiff:** Deputy Lester Queripel.

**Deputy Lester Queripel:** I rise to ask for a recorded vote please, sir.

1640      **The Bailiff:** We will have a recorded vote on the amendment proposed by Deputy Roffey, seconded by Deputy Ferbrache.

*There was a recorded vote.*

Carried – Pour 35, Contre 3, Ne vote pas 0, Absent 2

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

1645      **The Bailiff:** The voting on the amendment proposed by Deputy Roffey, seconded by Deputy Ferbrache was 36 in favour and 2 against. *(Interjection)* I think there were 3 against. There was Deputy –

1645      **The Greffier:** I beg your pardon, sorry, sir, yes.

1650      **The Bailiff:** Yes. It should be 35-3; 35-3 is the vote.  
Any general debate? Deputy Prow.

1655      **Deputy Prow:** Thank you, sir.

I shall be very brief indeed, mainly because I completely support the policy letter and I thank Policy & Resources for bringing it to the States. I support it on many fronts.

There are just two very brief points that I would like to make around sections 3.19 and 3.20 which actually relates to the hospitality and tourism industries and the changes that more marriages could be conducted here and the opportunities that that might bring to that industry. I

would just ask that perhaps some increasing dialogue with that sector could take place, as I understand that there are already some enquiries and opportunities from people in the United Kingdom.

1660 Just one related, well slightly related, point to that is contained in section 3.8 and I am very pleased to see section 3.8 which protects against sham and in particular forced marriages being formed to gain immigration advantage. I would just flag up the fact that it does mention in 3.8, it talks about non-EEA nationals and in the Brexit environment I would just caution that leave to enter, leave to remain may be extended to EEA nationals as well as the country nationals.

1665 But I am very happy to say the last sentence says:

There is a need to review Guernsey's approach to these safeguards to ensure alignment with other jurisdictions and in particular the UK legislation.

I assume that is a reference to the common travel area. I would just encourage P&R to engage with Home Affairs sooner rather than later because the Brexit piece of work around that is enormous and I think that is a consideration to tease out.

Thank you, sir.

1670

**The Bailiff:** Deputy Tindall.

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

1675 Getting married is a very important time for any couple; having the opportunity of holding the marriage ceremony in the location of choice adds to that special day. Liberalising the ceremony and simplifying the process beforehand will benefit many on this Island and I welcome it, even if I may never have the opportunity of taking advantage of it.

Deputy Prow's speech was opportune because of course a bonus of this liberalisation is a key objective of the current Tourism Strategic Plan.

1680 Earlier we heard the President of Economic Development update the Assembly – earlier yesterday I should update the Assembly on what has been achieved under the Guernsey Tourism Strategic Plan 2015-25. This objective and the work done was not mentioned in that speech, mainly because so much has been achieved and there was insufficient time. One of the action plans it contains was to develop the wedding offering, whilst not as high priority as improving air and sea links it is still a secondary priority. The authors of the plan estimated the change could bring in between 3,000–9,000 visitors a year and £1.1 million–£3.2 million to the Island. Whilst it was hoped this liberalisation would be achieved during 2016-17, better late than never.

1690 I would like to thank the officers of Economic Development and all those on the working group whose responsibility was to put forward these recommendations on reform, and this was based on a lot of discussions with the people that Deputy Prow referred to. Because obviously this can only be a good thing for Islanders and the Island.

1695 I am also pleased that there was a push to fully liberalise the processes where possible, especially with regard to residency requirements, and of course the place and time a wedding ceremony can be held. It is not a step-by-step approach or just following Jersey's lead which is a halfway house. The policy letter includes proposals for full liberalisation which was supported during the consultation process. Therefore I support them and I urge Members to support them too.

Thank you, sir.

1700 **The Bailiff:** Deputy Yerby.

**Deputy Yerby:** I am just rising, sir, to declare the same interests as last time.

**The Bailiff:** Deputy Smithies.

1705



**Deputy Smithies:** Thank you, sir.

Whilst I opposed the amendment, I am supportive of the reform of marriage law and as I am actually far from intolerant, I do firmly believe in freedom of choice. I will support the reform even as amended. *(Interjection)*

1710

**The Bailiff:** No one else is rising. Deputy Stephens will reply.

**Deputy Stephens:** Thank you, sir.

I am grateful to all Members who have participated in the debate on the amendment and subsequently in general debate. I am grateful to hear there is so much support for the proposals.

1715

Picking up one or two comments that individual Deputies have made.

To Deputy Prow I would say that I certainly accept your caution regarding the non-EEA nationals' issue and that, yes, P&R will be very pleased to work with Home Affairs to deal with any issues that we may not see that are there at the moment that you might be able to help us with.

1720

Deputy Prow mentioned the hospitality and tourism industry, as did Deputy Tindall. Certainly there are two sides of that that have been represented in the sense that one is by encouraging tourism and we hope very much, Deputy Tindall, that the wedding offering is successful and clearly I am pleased that the liberalisation of the law will assist that.

1725

But also it is very important certainly if more people are coming in to the Island to get married that we need to be very aware that we offer protection against sham and forced marriages and I thank Deputy Prow for raising that.

So, sir, really I have nothing else to say other than to ask Members to support all the Propositions as amended and thank you for your attention.

1730

**The Bailiff:** I put to you, Members, the three Propositions as amended – except there is a request for a recorded vote.

**Deputy Lester Queripel:** Yes, please, sir.

1735

**The Bailiff:** So we will have a recorded vote on the three Propositions as amended.

*There was a recorded vote.*

**The Bailiff:** Well, it is clearly carried. Shall we move on with the next item while the votes are counted? Greffier, can you call the next Article?

## **POLICY & RESOURCES COMMITTEE**

### **VII. Asian Infrastructure Investment Bank – Articles of Agreement – Debate commenced**

*Article VII.*

*The States are asked to decide:*

*Whether, after consideration of the Policy Letter dated 27th November, 2018, of the Policy & Resources Committee, they are of the opinion:*

*1. To agree that an Ordinance should be enacted under the Privileges and Immunities (Bailiwick of Guernsey) Law, 2004 to implement the required privileges and immunities as set out in Chapter IX of the Asian Infrastructure Investment Bank Articles of Agreement.*

*2. To direct the Law Officers to prepare such legislation as may be required to give effect to the above.*

**The Greffier:** Article VII, Policy & Resources Committee – Asian Infrastructure Investment Bank: Articles of Agreement.

**The Bailiff:** The debate will be opened by the Vice-President, Deputy Trott.

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

The short policy letter before us relates to the extension of the UK's membership of the Asian Infrastructure Investment Bank the AIIB to the Bailiwick of Guernsey.

The Policy & Resources Committee in conjunction with the Committee for Economic Development has considered the merits of extension of the UK's membership of this multilateral bank and based on the potential business development and economic opportunities that extension of AIIB may bring to the Bailiwick, we have contacted the UK to formally request extension.

We are now requesting approval from the Assembly for legislative drafting to implement necessary privileges and immunities for the AIIB to enable this extension to occur. Details of these standard articles are contained within the Appendix to the States' report.

Sir, by way of background, the AIIB is a multilateral development bank that was launched in 2015. Members of this organisation come from across the world, Asia, Africa and Europe, and since this policy letter was written new members have continued to join. There are now 69 members and 24 prospective members around the world, including countries in Latin America. The UK was a founding member of the AIIB joining at its inception in 2015 to support economic growth and drive up living standards in Asia.

Now, sir, while there may not be any tangible immediate direct benefits to Guernsey from extension of the UK's ratification of the AIIB Articles of Agreement there are a number of indirect benefits that could be realised for Guernsey through extension.

Firstly, extending the UK's membership of the AIIB could provide business development and investment opportunities in China and the wider Asian markets for Guernsey-based businesses.

With the potential changes that may come about following the UK's exit from the EU and the opportunities that could arise for Guernsey through extension of the UK's membership of the World Trade Organisation – which we are due to debate later this meeting – improving links with Asia could allow Guernsey to further strengthen its economic links with a rapidly developing region. Membership of the organisation could also provide good promotional value for Guernsey in an area where we are already doing business and could facilitate further economic links moving forward.

Now, sir, secondly, competitiveness is an important factor for Guernsey to take into account because both Jersey and the Isle of Man have introduced the legislation to enable the UK's membership to be extended to them, and by approving the drafting of relevant legislation for Guernsey we will bring ourselves into line with other international finance centres.

At this time of potential opportunities following the UK's exit from the EU, it is important that we put Guernsey in the best possible situation to take advantage of any opportunities that may arise.

Sir, thirdly and lastly, extending the UK's membership would allow us to improve our diplomatic links with China and other nations. This soft diplomacy could lead to an increase in opportunities to develop and strengthen economic links as well as cultural and social links with this area of the world. An area that as I have said is seeing rapid economic expansion.

Sir, I do not think I can empathise enough given the potential opportunities that could arise after the UK's exit from the EU, extending the UK's membership of the AIIB could prove a real chance for economic growth for Guernsey through those improving links.

Thank you, sir.

**Reform of the Marriage Law –  
Vote results –  
Propositions carried as amended**

*Carried – Pour 36, Contre 0, Ne vote pas 0, Absent 4*

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

**The Bailiff:** Just before I call another speaker, I can formally announce the result of the voting on the three Propositions as amended under Article VI. There were 36 in favour and no one against. They were approved unanimously.

**VII. Asian Infrastructure Investment Bank –  
Debate continued –  
Propositions carried**

**The Bailiff:** Deputy Kuttelwascher.

**Deputy Kuttelwascher:** Thank you, sir.

1795 From my limited knowledge of the foundation of this bank, I know that the funding for this bank has been provided by numerous governments of the, not all but a lot of, the members of this bank. So my question is simple, is there any intention at all of providing any funding for this bank from the Guernsey Government?

1800 Secondly, then my question being I would assume the answer is no, but I am not sure; is there any sort of funding that might go towards the bank; will there be some kind of investment funds based in Guernsey who channel the fund money via this bank? So I am very curious about whether or not we are actually going to give them any money, because a lot of other countries have, because that is why it exists.

Thank you, sir.

1805 **The Bailiff:** Deputy Tindall.

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

1810 So on reading a policy letter like this there is the possibility of taking it on face value and again this policy letter, the now infamous St Peter Port Douzaine took particular interest in and asked many sensible and pertinent questions. These revolved around the benefits, the costs and the risk to Guernsey. Of particular concern were reputational risks and how breaches of the Articles would be resolved.

1815 As I was not on the Committee for Economic Development when this was discussed, I am very grateful to officers for not only answering my questions but those of the Douzaine. In particular I want to repeat the reassurance that was given firstly on the reputation risk to Guernsey. I quote:

Although there are some reputational risks in relation to many of the major economies we work with there is no reputational risk in respect of the AIIB. With respect to China there is already significant business ...

– as was referred to by Deputy Trott –

... being done between Guernsey and China and Guernsey Finance has an office in Shanghai.

There is a commonly recognised policy for countries to engage with other nations where there may be concerns around human rights records in order to improve them. This is a principle followed by the UK which is a founding member of the AIIB.

1820 There were concerns also voiced to me about the involvement with China as of course it is based in Beijing, the bank that is, but I see from an article in *Bloomberg* that the bank has gone out of its way to reassure doubters. The AIIB's President says the goal is to be squeaky clean, with competitive bidding for projects and watchdogs to monitor for corruption.

The AIIB has also attracted an international staff of experts and frequently funds projects proposed and co-financed with existing lenders including the World Bank and Asian Development Bank. While China has enough of the bank's voting rights to block decisions that require three quarters approval, so far it has not used that card.

1825 In the light of the last point, regarding breaches becomes more relevant. However, the Articles are akin to an international treaty and the immunities and privileges an accepted necessity of such institutions to ensure its equality between its members safe. In fact we are dealing with that again as Deputy Trott mentioned with regard to the World Trade Organisation.

1830 Although the only part of the Articles we are implementing relates to the immunities and privileges, I am informed we will rely on the Sovereign States to ensure these and other aspects of the Articles were not abused.

Having therefore given this matter probably more consideration than perhaps I would have done thanks to the Douzaine's representations, I am going to support these Propositions.

Thank you, sir.

1835 **The Bailiff:** Deputy Graham.

**Deputy Graham:** Thank you, Mr Bailiff.

1840 I think I am not alone, probably, in feeling a little bit bored with hearing about what the St Peter Port Douzaine had to say about matters before the States. I would rather remain ignorant of them really. *(Laughter)*

Insofar as this policy letter is concerned, I have no problems really with it at all, except that we are as a States asked:

To direct the Law Officers to prepare such legislation as may be required to give effect to the above.

1845 Now given the load on the Law Officers, which is well known to us, and given the indirect effect on the progress of other legislation, I would invite Deputy Trott to comment when he replies to the debate on where this legislative work might stand in terms of priorities.

**The Bailiff:** Deputy Trott can reply to the debate.

1850 **Deputy Trott:** I can, sir, thank you.

Let's start with Deputy Kuttelwascher. He posed I think an entirely legitimate question: are we going to give them any money? Well he will be relieved to know we are not, sir. I anticipated that some Members may have concerns around this and therefore I can confirm that there are no financial liabilities for the States of Guernsey in having the UK's membership of AIIB extended to us.

1855 Now, members of the AIIB are required to pay subscriptions to the paid in capital stock of the bank and the UK has committed to pay and this is a somewhat precise sum, I have to say, sir, US\$3,054,700,000 as its subscription – a little over US\$3 billion. H.M. Treasury has specifically confirmed that Guernsey does not need to make any payments to cover the UK's contribution to the AIIB.

1860 Now Deputy Tindall, notwithstanding the comments of Deputy Graham, felt it was necessary to advise us of the St Peter Port Douzaine's view which she had investigated and the manner in which she posed the question of reputational risks and answered it was identical to the manner in which I would have answered it because my briefing notes were precisely the same.

1865 As regards Deputy Graham, I am not able to answer the question, I know that some resources are going to be required. Quite where it will sit of course is a question for another day for P&R, and ultimately of course for this Assembly. But the resources, I understand, will not be significant and I hope that reassures him accordingly.

Thank you, sir.

1870 **The Bailiff:** We vote then on the two Propositions. Those in favour; those against.

*Members voted Pour.*

**The Bailiff:** I declare them carried.

**POLICY & RESOURCES COMMITTEE**

**VIII. States of Alderney –  
New Single Property Tax –  
Debate commenced**

*Article VIII.*

*The States are asked to decide:*

*Whether, after consideration of the policy letter entitled 'States of Alderney – New Single Property Tax' dated 14th January, 2019 they are of the opinion:*

- 1. To approve the proposals set out in that policy letter for the preparation of the necessary Guernsey legislation to enable the introduction of a single property tax in Alderney, which was included in the Review of the Financial Relationship agreed in 2016, with effect from the 1st January, 2020.*
- 2. To direct the preparation of such legislation as may be necessary to give effect to the above proposition.*

**The Greffier:** Article VIII, Policy & Resources Committee – States of Alderney: New Single Property Tax.

**The Bailiff:** Is this Deputy Brouard?

**Deputy Brouard:** It is, sir.

**The Bailiff:** The Alderney expert on the Policy & Resources Committee. Deputy Brouard.

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

What is this? This is actually a big opportunity for the States of Alderney to take back the levers to help and best manage their economy.

Alderney will take back, or have control over, their TRP which is roughly worth about £800,000, their Fuel Duty about £350,000 a year and Document Duty about £350,000 a year.

Now for everybody except for Deputy Dorey who has already added it all up, that is about £1.5 million, which is collected by Guernsey. This sum makes a sizeable amount of the cash limit of £1.8 million which we set for Alderney to run their services, that is not the transferred services, these are the other services, the roads, the admin, etc.

Now once Alderney have the power to set their own rates it will be up to the Alderney politicians how much they charge for these three areas, TRP, Fuel Duty and Document Duty. If they wish to increase one or decrease another it will be within their gift.

The plan is to put a new arrangement for their cash limit, which at present, as I mentioned earlier, is approximately £1.8 million. This will be reduced as the TRP of £800,000 comes out, the Fuel Duty of £350,000 comes out, Document Duty of £350,000 comes out. So the £1.5 million in effect, should they have those same sort of rates, will go directly to Alderney. The remaining balance, because we give a cash limit to them of about £1.8 million, of about £300,000 will be converted to a grant. It will not be a balancing figure it will be a grant. Guernsey will not make up the gap if they set their rates for TRP, Fuel Duty or Document Duty at a level that does not raise sufficient money to fund their services.

This is not without challenges for the Alderney politicians, they will be setting their own rates and justifying to their population why they are charging more here or less there.

The other challenge that they will have is if they need further funds these rates may rise or, as we highlight in 3.3 of our paper, a reduction in services if that is what they feel is appropriate to charge less.

It is a great opportunity. They will have in their hands the levers to better manage what is appropriate to them. They could have a lower TRP for business and a slightly higher TRP for domestic if that is what they think is suitable for their economy.

1910 I welcome these moves, it is another piece of evidence of how we do actually work together and I applaud the Alderney politicians who wish to rise to these challenges and take these opportunities for their community.

Thank you, sir.

1915 **The Bailiff:** Alderney Representative Roberts.

**Alderney Representative Roberts:** I fully support this merging of TRP and the occupiers' rates and its repatriation to Alderney.

1920 Alderney pays the same rates in an uninhabited Victoria Street as your own bustling shopping centre and that is just an example of the balance going the other way that disadvantages Alderney.

1925 Alderney needs to be fiscally responsible, we see much advantage in being able to adjust our own property taxes in a manner that suits the needs of our own economy. A number of currently applicable TRP rates reflects the situation of some years ago when certain business types were seen as cash cows.

In Alderney the situation has changed and there is little benefit to be gained from punitive charges on dying businesses. The occupiers' rate now brings in some £500,000 and the TRP yields some £800,000 or so I am told. However, that just differs a little bit from ...

1930 I am not a man that likes to dwell on statistics. Some people use statistics like lampposts – rather to lean on than to illuminate. We fully recognise that if we reduce these rates on some property types there will have to be increases on the rates of other property types. Minimal increases on domestic property would ease the burden and encourage business. So we want to adjust our rates to benefit our own economy as the situation is different in Alderney as our economy continues to struggle.

1935 It would be cost neutral for both Islands, and Alderney would reduce the sums being paid back by Guernsey to Alderney. This is only the first step we need to take and the policy letter makes reference to the transfer of Excise Duty on motor fuel imports and Document Duty.

It is also true to say this forms part of the wider issues of the 1948 Agreement which was aired just yesterday in this Assembly.

1940 Sir, there may be some in the Assembly who could be tempted to argue that we delay this decision, perhaps seeking to see if this could be used as leverage in future negotiations. Sir, I do not take this view. This measure takes us forward and is much needed now. It is a very positive step that I welcome and I do support.

Thank you.

1945 **The Bailiff:** It is really now 12.30 p.m. We are not going to conclude all the business this morning, but we should do so fairly soon this afternoon.

I propose we rise now and resume –

Deputy Fallaize.

1950 **Deputy Fallaize:** Is it worth seeing whether we will conclude the business if we sat until say 1 p.m. although we might come back for half an hour after a two-hour –?

1955 **The Bailiff:** How many people are going to speak on this Article? Deputy Tindall was rising earlier ... (*Interjections and laughter*) There are about four or five.

Then we have got the World Trade Organisation to deal with, which I think is something that should not be rushed. So we need to come back at 2.30 p.m.

*The Assembly adjourned at 12.31 p.m.  
and resumed its sitting at 2.30 p.m.*

**States of Alderney –  
New Single Property Tax –  
Debate continued –  
Propositions carried**

1960 **The Greffier:** Policy & Resources Committee, States of Alderney, New Single Property Tax, continuation of debate.

**Deputy Tindall:** Sir, I just wish to declare my interest before the voting in order to say that I have a property in Alderney.

1965 **The Bailiff:** Deputy Gollop.

**Deputy Gollop:** Well, I do not have a property in Alderney but (**A Member:** Yet.) (*Laughter*) I do go over there from time to time.

1970 I know probably quite a few Members and people listening to this debate may have got a bit sick of the St Peter Port Douzaine being mentioned, but I mention it in this context. As a matter of fact, none of them had a particular view on this item of our Agenda, because understandably they considered it predominantly an Alderney matter. But the one person with strong links to Alderney was not there.

1975 But I think that this is quite an important matter before us – I can see Deputy Trott enjoying my witticisms there. But the reason why this is important is it is not a million miles away from the important things that were said in the runway debate last month and the questions Deputy Yerby raised yesterday. I am a veteran of the previous States – I am pleased to see that the latest Alderney Representatives are getting involved with the life of this Chamber, both within it and perhaps on committees as well – but as veteran Members will recall, we go through a phase in the  
1980 last year, that we are gradually approaching now, of a massive amount of work that is done in order to have a legacy that then gets handed on to the next newly elected Assembly.

In the instance of 2016 we are actually moving away from 45 Members, a Policy Council and the traditional ministerial section as well. It was in the final months of that Chamber that there was a new agreement made about the financial relationship between the States, which I think was  
1985 both the Policy Council and Treasury & Resources then, and the States of Alderney. A lot of creditable work was done by the political leaders of the day, which as I recall was the then Deputy Chief Minister, Allister Langlois and Mr McDowell from the States of Alderney on behalf of their respective bodies. They came up with a fascinating set of reports; they had not only consultation with Alderney but I think they consulted outside the Island and had some input from other people  
1990 as well.

It seemed to me at the time, without re-reading every word of it, that it was to some extent a reconstituting of elements of the 1948 Agreement before the issues Deputy Brouard mentioned yesterday and today. Some of the ideas within that report were quite innovative, which include the one before us today. But I remember it also gave a nod to the idea that the States of Alderney  
1995 could actually take more independent and individual responsibility for the collection and apportionment of revenue there, to the satisfaction of both parties, both Islands.

One idea, for example, was excise duties – maybe Customs – and I had this vision which never came to pass unfortunately on Alderney becoming a sort of ??? 14.34.19 or a duty-free Island, so whenever I sailed up there or jetted up that I would be able to come back with lots and lots of  
2000 whiskies and brandies and wines and tobaccos and things. I know Deputy Soulsby at Health &



Social Care might not appreciate all that, but it was a possibility but it has never happened. Maybe if it had happened Alderney would have generated more money and we would have been in a slightly different situation than we are now.

2005 But one thing that did come out of it was the agreement in principle about the restructuring of the rates. Many times in the previous Assembly, Members like Colonel McKinley, Mr Louis Jean and many others, had made the argument very eloquently – and it has been referred to already today by Mr Roberts, the Representative – that Alderney's retail establishments generally do not enjoy even the throughput of St Peter Port, St Sampson's retail establishments, for obvious reasons, that the season is a little bit shorter, the resident population is very small and actually  
2010 Alderney punches above its weight for its retail offer, because it has three or four food shops, numerous other speciality shops and that is for a community which is smaller than a Guernsey parish – with one or two exceptions – and smaller than many a village. So it is obvious that for them to pay rates on the same level as St Peter Port on the same basis was arguably unfair.

2015 We have assurances that the process stalled for a while, for reasons we do not fully appreciate, and there was a misunderstanding about a past vote, but those problems have been ironed out so we have the result today. But I would say though to the people of St Peter Port, including the Douzaine, there is an impact on Guernsey here because if it works, according to my understanding of the report that is before us, the States of Guernsey will no longer be transferring an apportionment to £1.5 million across from the TRP to the services of Alderney, and Alderney will  
2020 be expected to raise that money themselves by perhaps coming up with a more equitable way of raising the revenue. So for example, small shops do not suffer. But there is implicitly behind that a nuance that a property tax in Alderney, a combined one, might well therefore, in order to compensate for the loss of revenue and income from the retail establishments, have to be put upon other kinds of establishments. Whether that will mean residential properties will increase or  
2025 there will be an extra charge put, for example, on non-residents who happen to own property in Alderney which is a much larger percentage of their property stock than is the case in Guernsey, for many historic reasons, will be interesting.

I am not in any way critical of the enormous benefits that the non-resident population give to the Island and our Bailiwick economy, because they do spend money, they take plane rides, they  
2030 invest in services and they are part of the tourism offer, and they bring cultural ambassadorial qualities and they often settle in Alderney eventually – or members of their families do.

But nevertheless, I do suggest and suspect that if they are to retain £1.5 million or equivalent income they will have to rebalance the way in which the ratings are done. The alternative, as some of my colleagues may be thinking privately, is if the States of Alderney for political or economic  
2035 reasons choose not to raise so much money, the problem of their deficit will get worse and difficult conversations will be held because there would then be the issue of whether the States of Alderney is cutting its cloth to meet a reduced amount of income, or whether they would find that they would need additional sources of finance to maintain the same level.

2040 So although in theory the deal the States agreed in 2016 which is being ratified today is a positive story for both Islands, giving Alderney the independence and flexibility it requires and giving the Guernsey-only based taxpayer a slight reduction in commitment. I do see issues ahead and I have to reiterate of course that all Alderney residents are Bailiwick taxpayers in both Income Tax and Social Security, but I feel I would like to know more about the possible unforeseen consequences of what we are going to support today, because I do not think it is the end of a  
2045 debate, it is just the beginning of a new set of issues.

**The Bailiff:** Deputy Lowe.

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

2050 I hope you will not rein me in for something I am about to say because it goes further than the debate and I am sure Members will support me in wishing Deputy Victoria Oliver a very happy birthday today!

**Members:** Hear, hear.

2055 **The Bailiff:** Happy birthday!  
Deputy Dorey, is it your birthday? (*Laughter*) We will have a speech then.

**Deputy Dorey:** Thank you.

2060 It was just a question. As the TRP rates have been increasing by more than inflation each year, I presume that the grant will be adjusted each year by how much the TRP rate at that time would have raised in Alderney with the rates as they increase each year?

That was all, thank you.

**The Bailiff:** Deputy Oliver. Birthday girl.

2065 **Deputy Oliver:** Thank you, sir.

I do not want to assume, rightly or wrongly, but I just want to make sure, if Deputy Brouard could just actually correct me or tell me what it is, but the collection of the TRP and everything, is the responsibility now being handed to Alderney? I know the funds are being handed to Alderney, but the collection of it, will that actually be in Alderney or will that still remain in Guernsey?

Thank you.

**The Bailiff:** Anyone else?

Alderney Representative Snowdon.

2075 **Alderney Representative Snowdon:** Thanks very much.

I think Mr Roberts covered the points quite well. The States of Alderney is fully supportive of this item and it is hoped that it will give us power back to reallocate the rates on TRP with a single property tax. I think Deputy Gollop highlighted quite well that at the moment you have got St Peter Port and the shops and offices in Alderney are paying the same as the shops and offices in St Peter Port, so the balance is not quite right at the moment.

2085 Although the States of Alderney have not actually decided how we want to re-categorise the rates system, it allows us to take into consideration and we do have to find the same amount at the end of the day, so there is not going to be any reduction on the overall figure. I think this work really follows on from the review of the financial relationships that both States took in 2015 and this is basically just coming to the end of the process. I think we have had a really good debate about the 1948 Agreement recently, but we should not be put off because of the 1948 Agreement and we should push ahead with this at the moment.

2090 What it also does is reduce the grant dependency on Guernsey. So I think that Deputies are quite right that Alderney will have to find that money and we will be in a tricky situation if we do not. So I think the States of Alderney will take this very seriously if this motion is passed today.

Thank you.

**The Bailiff:** Deputy Brouard will reply.

2095 **Deputy Brouard:** Thank you, sir, and thank you to the four people who have contributed – five people who have contributed – to the debate.

Alderney Representative Mr Roberts, thank you very much indeed for your support from Alderney.

2100 Deputy Gollop, again, you touched on many of the areas and many of the concerns that we all have and you talk very eloquently about the free lunch situation, because there is not a free lunch here either for Guernsey or for Alderney.

Unfortunately, I cannot tell you of the unforeseen consequences because they are unforeseen! (Laughter) But I am sure as things come to light we will make adjustments and if things need to be changed, they may well need to be changed.

I thank Deputy Dorey because his question goes right to the heart of it. The balancing figure will switch from, at the moment it is about £300,000; it will no longer be a cash allocation to Alderney, it will be a grant to Alderney. That grant, I would suspect, will rise with inflation. It will be for Alderney to use whatever levers they wish on the different elements as to how they charge. So from Guernsey's point of view, we are no longer having that flexibility of how much comes in on TRP or whatever. It will be down to Alderney to fix their rates as what is best for their community; they are closest to their community and they will be able to choose which rates they increase, which ones they decrease, knowing that Guernsey will only fund basically the £300,000 grant, at the end of the day.

That leads me nicely on to Deputy Victoria Oliver's question. Yes, the collection, as I understand it, will be done by Alderney as one collection, as it were. There may be several items on that particular bill that will make it up. I am sure that the cadastre information that we have in Guernsey will be used by them. From our point of view of doing the rates, we will 'zero-ise' all the Alderney customers, so they will have no charge from us as such.

Thank you for your support today and I hope it goes through unanimously at this stage.  
Thank you.

**The Bailiff:** We vote on the two Propositions. Those in favour; those against.

*Members voted Pour.*

**The Bailiff:** I declare them carried.

## Billet d'État IV

### POLICY & RESOURCES

#### **I. Extending the United Kingdom's membership of the World Trade Organization – Propositions carried**

*Article I.*

*The States are asked to decide:*

- 1. To agree that the United Kingdom's membership of the World Trade Organization should extend to Guernsey.*
- 2. To agree that the States commit to meet the UK's World Trade Organization obligations, on an ongoing basis, and to resolve any issues or disputes promptly in a manner which is consistent with the States of Guernsey's extant policy with regard to international standards, the 2008 Framework for developing the International Identity of Guernsey agreed with the UK Government and protecting the Bailiwick of Guernsey's international reputation.*
- 3. To delegate authority to the Policy & Resources Committee to negotiate and agree on behalf of the States, with the States of Alderney and the Chief Pleas of Sark, all such matters as may be necessary to enable a request to be forwarded by the Policy & Resources Committee, on behalf of all three Bailiwick authorities, to the UK government for the extension of the United Kingdom's membership of the World Trade Organisation to the Bailiwick.*

4. To direct the Policy & Resources Committee (following the conclusion of suitable agreements with the States of Alderney and the Chief Pleas of Sark) to send a formal request to the UK Government for the extension.

5. To agree that suitable legislative and administrative measures are implemented and adopted, including statutory privileges and immunities relating to the World Trade Organization and its officials, in order to ensure that the extension may have effect.

6. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

2125      **The Greffier:** Billet d'État IV, Article I, Policy & Resources Committee, Extending the United Kingdom's membership of the World Trade Organization.

**The Bailiff:** Deputy St Pier will open the debate.

2130      **Deputy St Pier:** Sir, I am going to take the policy letter as read and therefore not going to seek to regurgitate the contents here, rather instead I want to focus on the challenges and implications of our being compliant with the World Trade Organization (WTO).

2135      The States of Deliberation recognised that the WTO membership would play an important role in the Brexit process when we set out our high level objectives in June 2016. The WTO, as is set out in the policy letter, is comprised of a series of agreements, not a single agreement. It is also a principles-based organisation that sets the rules of trade between its members. It does not describe how the outcomes are achieved or the exact rules. In that sense it differs very much from the EU's approach in that regard.

2140      The UK is likely to seek to go beyond this in a way that is consistent with WTO rules to get better or more preferential access to global markets through establishing so-called free trade agreements with other countries. Within this, of course, lies opportunity for us that will help businesses in Guernsey to ensure that they can access the same preferential treatment as the UK if, as and when it develops its own trade policy and a new global framework of trade deals.

It is also worth noting that the WTO is open to:

... any state or customs territory having full autonomy in the conduct of its external commercial relations.

2145      Guernsey could theoretically therefore seek WTO membership in its own right and this does remain an option. But if we were to make that choice, rather than simply seeking to extend the UK's membership, we would need to negotiate with all other WTO members, including the UK. This would, I would suggest, sir, be complex and time consuming, and would likely take many years.

2150      We have been working through the issues with the UK since 2016. The WTO agreements are numerous and this is a complex task for which there is no set process to follow and the Propositions as set out before Members will give the mandate to Policy & Resources to conclude this work on behalf of the States. The Committee have established our assessment of compliance to such a level of detail that we are now ready to put the question to the States. This was to ensure that we have explored the implications of maintaining compliance against the UK's WTO commitment and aspirations when it becomes an independent state in respect of trade.

2155      As part of our general approach to Brexit, we have been having strategic discussions with the UK through the Department for Exiting the EU and the Minister responsible for engaging with the Crown Dependencies, Robin Walker, and our senior officials continue to engage with their UK counterparts on a daily basis.

2160      The extension of the UK's membership of the WTO is a matter of ongoing negotiation between the Policy & Resources Committee and the UK government, and it may not be possible to go into some of the details during the debate, in order not to prejudice those discussions, and we will of course update States' Members on progress in the negotiations.

2165 Much of the work to prepare and mitigate the impact of Brexit has taken into account the risk  
of the UK exiting with no deal on 29th March 2019. We have also been taking into account that  
we might want to ask the UK to extend the membership of the WTO to the Bailiwick. For example,  
the customs arrangement agreed between the Committee for Home Affairs and the UK in  
2170 November 2018 comes into effect in the event of a day one no deal. It will provide a foundation  
to ensure we continue to comply with the goods elements of the WTO agreements when the  
Protocol 3 of the UK's Treaty of Accession falls away.

Membership of the WTO will help Bailiwick trade to flow smoothly in the absence of  
Protocol 3. It will place us on a similar footing to the UK and the Isle of Man when businesses  
trade in goods as well as services outside the EU. Being in the WTO is very much part of the norm  
2175 as an out-facing, liberal, open economy, as we are, that relies on an export sector for economic  
growth.

If the States do not agree to ask the UK to extend its membership of the WTO or if the UK  
does not agree to this request, these benefits will be harder to access. We cannot provide the  
assurance to business on how their goods and services will be treated in other markets. The WTO  
2180 does not in itself provide unrestricted trade. You can still trade without the WTO, you just cannot  
rely on the principles underpinned by the various agreements or as importantly, the dispute  
resolution mechanism within the WTO to resolve trade disputes that may arise.

If the UK does not agree to our request by Exit Day we can still have the UK's membership  
extended at a later date. It is simply a timing issue. We would lose the opportunity to do this as  
2185 Protocol 3 falls away and when the UK starts to trade as an independent member of the WTO for  
the first time, but we would not be precluded from this happening later.

If the UK and the EU agree a withdrawal agreement, we all then enter into a phase of the  
transition period or so-called implementation period, and the effects and benefits of Protocol 3  
will be maintained during that time. We will not need to extend the UK's membership of the WTO  
2190 but it would be desirable before the implementation or transition period ends.

If the UK seeks and the EU agrees to extend the Article 50 period then the same outcome will  
apply.

The UK can be assured that Guernsey would approach membership of the WTO in exactly the  
same way as we would with any other international obligation. As Members will know,  
2195 international standards are one of the 22 priorities in our future Guernsey Government Plan, and  
we of course take our international reputation very seriously. It is hard fought and easily lost and  
we can rightly be proud of how we have discharged our other international commitments.  
(A Member: Hear, hear.)

We will need to ensure on an ongoing basis that our policies and legislation comply with the  
2200 WTO principles and, if you like, the UK's offer to the world in its WTO membership and that offer  
to the world is expressed in the so-called WTO schedules which the UK lodged in November last  
year. So we will commit to remaining compliant with those WTO obligations and there is no risk  
whatsoever that the UK's international relations will be damaged by our joining under their  
membership.

2205 This approach will be supported by the 2008 International Identity Framework document and  
the work of the House of Commons Justice Select Committee and the House of Lords EU  
Committee, which outlines the UK's duty to represent our interests even where they differ to their  
own.

These principles have been recognised by the UK Prime Minister in each item of  
2210 correspondence that we have had with the UK in August 2016, March 2017 and October 2018. So  
we will need to behave responsibly and act in good faith in the WTO, just as we do elsewhere on  
the international stage. We will of course look to avoid international trade disputes at the WTO's  
international level and recourse to the dispute resolution mechanisms. So we will work with the  
UK to create the necessary governance arrangements underpinned by a Memorandum of  
2215 Understanding, not dissimilar to that which was created for the customs arrangement, that

recognises our constitutional relationship with the UK and the principles of mutual respect and understanding that go with that.

Naturally, of course many compliance issues are based on differing opinions or ways to achieve compliance and where this is the case we must find ways to resolve any issues on this basis. The MoU will also provide the basis for discussing issues of common interest and mutual concern, and this of course will not differ from how we approach any of our other international obligations, be that the European Convention on Human Rights or the Vienna Convention on Road Transport, as a couple of examples.

Furthermore, it should provide for a forum in which any concerns of WTO members are identified in a timely manner and discussed to enable their prompt resolution well before any dispute might be lodged at the WTO. This of course will minimise the reputational, economic and financial risks to both Guernsey and the United Kingdom.

If we join the UK's WTO membership where we would look to ensure that we discuss and develop trade policy together in partnership in order that our interests are properly represented, we will need to continue the detailed discussions we are currently having about trade with the UK during Brexit. That will need to continue on an ongoing basis as we manage our participation with the WTO in the future, and this will be part and parcel of how we expect to manage our relationship as part of the so-called British Family.

Sir, I met, as Members will know, with the Right Hon. Dr Liam Fox, the Secretary of State for International Trade on 7th February to agree the basis of the future relationship for international trade. The subsequent talks are ongoing. I am confident that these conversations will reach a satisfactory conclusion shortly and, sir, I do urge Members to support the Propositions today.

**A Member:** Hear, hear.

**The Bailiff:** Is there any debate?  
Deputy Fallaize.

**Deputy Fallaize:** Just briefly, sir, Deputy St Pier explained to the States what would happen or what the status would be in the event of the States accepting these Propositions, which I am sure they will, what the status of it would be in the event that the UK withdraws on 29th March of this year or in the event that there is a delay in the presence of withdrawal and presumably, the way he explained it, that would incorporate both deferral to another fixed date or suspension for an indeterminate period of time.

What he did not, however, explain was what the status of this would be in the event of revocation of Article 50, either as the UK Parliament revoking Article 50 or directing the government to revoke Article 50 unilaterally through parliamentary debate or following a second referendum.

I think that because the Isle of Man has had WTO extension status, if that is the right term, that the arrangements would operate in the similar sort of way; but it is not actually clear from the policy letter whether if the States approve the Propositions the extension would apply only once the UK had withdrawn or simultaneously or sometime thereafter, and exactly what would happen in the event of Article 50 being revoked or the UK not withdrawing from the European Union for some other reason.

In other words, would our extension status to the UK WTO terms remain equally valid in the event the UK is in or out of the European Union in the months and years ahead? If he could just provide some clarification on that I would be grateful, sir, because needless to say, if we were doing anything which would not apply in the event of revocation then I certainly would vote against it in the hope that the UK will eventually abandon the madness of Brexit.

Thank you, sir.

**The Bailiff:** Deputy Tindall.

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

2270 I follow on from Deputy Fallaize because my first point was in relation to a plan B, if you like. Mine was slightly different from Deputy Fallaize in that it revolves around our own membership in our own right of the World Trade Organization and I have raised this on several occasions simply because over many years, through my involvement with intellectual property, it has become apparent to me that it is a possibility and there are many advantages of having membership in our own right.

2275 Obviously, we are taking advantage of the extension in what some of us think are circumstances that we personally would not have necessarily voted for, but we are taking advantage of that extension.

For me, I would like reassurance that if the UK decides to invoke Article 50, whether or not we would have a little bit more analysis, please, of whether Guernsey could look at membership in its own right, because even if we do actually do the extension, there are benefits. We have talked about the cost. There is one paragraph which discusses the possibility, but I was pleased to hear Deputy St Pier saying, 'It is not something we have dismissed altogether.' There are cost benefits analysis to this that are needed and I have asked on many occasions for more information on this, because I believe it is certainly worth looking at, basically on the simple premise that there are 164 members of all shapes and sizes. Barbados, for example, is one of them. There are different dates when they join and it is very much something that I do not think we should dismiss too easily. I would just like more information on that.

2285 But that said, the extension of course is something that is very much supported both by business and myself in all regards. Obviously there is going to be a cost of compliance. There is always a cost, but it does highlight to me that the costs and approach that this Assembly in past times has taken, that you read something that is so clear in 10.6 that says:

As a consequence, no significant issues of non-compliance which would prevent extension of the UK's WTO Membership before 29th March 2019 were identified.

This is in respect of the Guernsey policies in relation to the WTO agreements and I think that just enhances the fact that it is quite clear we are a mature jurisdiction and we have done well, we are there, we are out there. (**A Member:** Yes.) I think we should be singing and dancing about this effect. It is fantastic news! A hundred million pounds the UK spent on consultants; we have spent a pittance in comparison.

2295 That really leads me to my final two points, and that is genuinely I have absolute thanks for the officers and P&R in the way they have dealt with this. I think the MoU is an amazing piece of diplomatic achievement. I think it is fantastic news. They were very difficult discussions resulting in a practical and proportionate outcome and I am very grateful for that.

2300 The only thing I would leave as my contribution to this is that I now have another phrase when I hear the initials P&R; I now understand it actually means 'Prohibitions and Restrictions'!

Thank you, sir.

2305 **The Bailiff:** Deputy Gollop.

**Deputy Gollop:** Hopefully we will not hear the prohibitions and restrictions. The idea of having to negotiate with our relatively small and, I will not say cheap, but not overly paid team of international negotiators, with 164 countries is worrying. You could always send me perhaps as the International Ambassador to North Korea representing Guernsey trade –

**The Bailiff:** Perhaps you won't come back!

**Deputy Gollop:** – but I am not sure about the 163 other places.

2315 No, it would be very challenging, those kind of approaches, so we are better to take the measured approach Deputy St Pier has outlined today.

I have a few questions though, and points. Deputy Fallaize has talked about the wider Brexit agenda and at last in Guernsey we are beginning to see political groupings and associations. In the UK we seem to have a breakdown of conventional party politics at the moment, which is why there are no set positions and I quite like the studied ambivalence of people like the Right Hon. Leader of the Opposition. You are never quite sure what policies he supports. I can relate to that.

But my point today about this is three questions I have.

The first is the policy letter, the States' report, refers to our sister islands of Jersey and the Isle of Man. The Isle of Man appears to already be an additional signatory to the UK arrangement, for reasons I do not quite understand although they are involved with VAT and more of a Common Customs Union perhaps than we have. Jersey appears to be working again on great parallel lines, but I would like to hear the latest update from Deputy St Pier as to how far we have decided to work together with Jersey or to do our own thing independently. That is question one.

Question two relates to our friends in Alderney, and come to that, Sark – how far will they be included within this, or how far will it make it too complicated for diseconomies of scale.

My third point relates to an issue that I think Deputy Tindall has already referred to, which is intellectual property, because something that puzzled me around listening to opinion, and also it is alluded to in the policy report and news reports, that Guernsey's regime of intellectual property, which was expertly drafted and implemented and in fact streets ahead of many other rival jurisdictions, has somehow been a barrier to us fully participating.

I appreciate there may be issues here that we cannot go into at this time, but I do not understand how if we have a more robust and more flexible set of innovative legislation, why that would affect the UK and why we could not be a full participant. So I think we need to resolve that issue and I kind of want to hear more on that. I will vote for the whole package.

**A Member:** Hooray.

**The Bailiff:** Anyone else?

Deputy St Pier will reply.

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

Deputy Fallaize asked the question: what happens in the event of the revocation of Article 50, and he is right that was not an issue which I addressed when I spoke. I suppose it is not one of the outcomes which is currently on the agenda, but of course as he suggested when he spoke, it could not necessarily be ruled out of course.

The impact of a revocation would be of course the UK would remain and this is almost certainly not the correct technical term, but it would effectively. Although it would remain a member of the WTO in its own right, of course it would fall under the EU's group membership in terms of the trade schedules that I referred to earlier.

Guernsey would still be eligible, just as the Isle of Man is, to come under the UK's membership and therefore there is no less significance in this opportunity for us. We were of course seeking membership of the WTO at the outset of the formation of the WTO and it is something which has progressed for the Isle of Man but not for ourselves. So I think the question was in essence: is there any prejudice to our position by supporting this set of Resolutions in the event of a revocation? I think I can provide a categorical reassurance to Deputy Fallaize that that is the case: there will be no prejudice to us if that is the outcome.

In relation to Deputy Tindall's challenge on us actually seeking membership in our own right and indeed whether that perhaps should be – she did not use this term but whether that should be – a plan B, of course the International Identity Framework that was agreed just over 10 years ago does envisage us developing a greater international identity and indeed seeking our own membership would be entirely consistent with that. I think she spoke to the fact that we should be proud of what we have achieved in the international sphere.



2370 However, speed is, we believe, of the essence right now, but having said that we are absolutely  
determined to ensure that our interests are protected and if we judge that it is better for us to  
seek our own membership of the WTO then further work will be undertaken in that regard. But as  
Deputy Gollop said, nobody should be under any illusion as to what a challenging task that would  
be for a jurisdiction of this size to embark on that kind of process. So I think this is a pragmatic  
2375 approach for now, but as I say the emphasis must be what is in our best interests and if we judge  
a different approach is appropriate then we will not be afraid to pursue that. I hope that gives  
Deputy Tindall the reassurance that she was looking for.

In relation to Deputy Gollop's three questions, I can assure him that Jersey is in exactly the  
same position as ourselves and we are working hand in glove on this issue, as we have done on  
many similar issues in the international arena over the last few years; and that has been a very  
2380 positive and good working relationship, and I do expect that to continue to a conclusion in  
whatever way. Sark and Alderney will be part of this arrangement. It would be for the benefit of  
the Bailiwick as a whole.

In relation to IP, this is a very complex area and in essence that is at the heart of one of the  
challenges – that both Jersey and Guernsey do have slightly different IP regimes to the United  
2385 Kingdom. Our IP regime is compliant with the WTO and that is one of the issues which we feel will  
be well addressed through the development of the Memorandum of Understanding which I spoke  
about when I spoke, sir.

I hope that has sufficiently answered the questions which have been posed during debate.  
With that, sir, I do encourage Members to enthusiastically support all the Propositions.

2390

**The Bailiff:** There are six Propositions – I put all six to you together. Those in favour; those  
against.

*Members voted Pour.*

**The Bailiff:** I declare them carried.

### **Personal Statement by Deputy Hansmann Rouxel**

2395 **The Bailiff:** Before we move to the Schedule of Future Business, I have given permission to  
Deputy Hansmann Rouxel to give a personal Statement under Rule 10(1). I remind Members there  
is no provision for any questions to be asked at the conclusion of the Statement.

Deputy Hansmann Rouxel.

**Deputy Hansmann Rouxel:** Thank you, sir.

2400 Members will know that, following a complaint made against me by a parishioner, I have been  
subject to a Code of Conduct investigation for the past few months. The complaint included a  
number of unsubstantiated allegations against me, including slurs on my person and on my  
character. I am pleased to say that those were all dismissed by the panel. Members know that I  
have always acted with integrity and the panel's judgement has upheld my good character.

2405 However, the panel did find that section 19 of our code in respect of data protection was  
breached. They found that this was a minor breach and have issued a caution accordingly. The  
matter at the heart of this is the disappearance of a constituent's paperwork which had gone  
missing in transit back to him whilst I was the responsible data controller. I was the last person to  
admit that I had handled the paperwork and so the data protection buck stopped with me.

2410 I have done what any reasonable States' Member would do. I have taken responsibility. I have submitted myself to due process and I have gone beyond the call of duty in trying to help the complainant reconstitute his paperwork.

As the Code of Conduct process is now completed, I wish to take the opportunity to share my experience and to put a few important matters on the record. I trust Members will hear me out with the same patience they have shown others who have gone through this process this term.

2415 Sir, there is a growing recognition amongst States' Members that our exposure in respect of data protection is wholly unacceptable, (**Two Members:** Hear, hear.) and the support available to us is entirely lacking. (**Several Members:** Hear, hear.) I have found this out at substantial personal cost to myself and my family over the last two years.

2420 What States' Member has not had the experience of a parishioner wanting to share their story with them and shoving some paperwork at them, pleading for help? For me, this incident began in December 2016 – just two months after I had started as Disability Champion and just eight months after being elected. There was nothing that could have prepared me for what the last two years have brought me.

2425 The induction was completely inadequate. The section on data protection dealt only with digital safety, however important that may be, but it gave nothing about the physical handling of paperwork. (**A Member:** True.) New Members of the States could not have fully understood that although the Civil Service is there to support us in our committee roles, we are completely on our own when it comes to constituency work. Neither the Civil Service nor the extensive resources of  
2430 the States are available to support us in our parliamentary and parish duties, except where they touch on committee matters, so much so that I have had to rely on independent legal support throughout the period of the data protection complaint because I could not use the advice of the Law Officers.

After all I have been through in the past two years, what I am forced to say now is that I cannot  
2435 continue to take on the responsibility. In what business would a person take on a job where they become personally liable for the system failures of the business, in which they cannot rely on the business for support because in some of the important functions they are treated as a third party, an independent? (**Two Members:** Hear, hear.) It is not an acceptable position. (**Two Members:** Hear, hear.)

2440 This experience has taken its toll on me and my family, and I feel I have been harassed and intimidated throughout the period of the complaint. I have had to recognise the damage that this has done to my mental health. I have been reluctant to say that out loud. We send the message out to the community that mental health issues should not stigmatise people and follow policies which support mental health first aid being just as important as first aid for your physical health.  
2445 But, Members, in this highly charged atmosphere of politics we hold ourselves to a different standard. We have to take more care of each other. (**Two Members:** Hear, hear.)

The exposure and lack of support for Deputies completing parish work is very real and in the light of my experience I have scaled down the individual casework I am able to take on, whilst States' Members continue to be exposed to an unacceptable level of personal risk in the  
2450 management of such cases. For the last two years, I feel the complainant has pursued grievances against me through every channel available and I fear this will continue. I have been left without support and I am still dealing with the fallout, but I have used my experience to try and improve matters for fellow State's Members. To leave a better legacy for 2020, I provided feedback to the civil servants and to SACC on processes, on training and on support. Some improvements have  
2455 already been made and the need for others has been recognised.

The Code of Conduct Panel has found no bad motive or bad character on my part and I hope this is where the matter will finally end.

I am grateful for the opportunity to put this clearly on the public record today. (*Applause*)

## Billet d'État III

### **XII. Schedule for Future States' Business – Propositions carried**

*Article XII.*

*The States are asked to decide:*

*Whether, after consideration of the attached Schedule for future States' business, which sets out items for consideration at the Meeting of the 27th March 2019 and subsequent States' Meetings, they are of opinion to approve the Schedule.*

2460 **The Greffier:** Article XII, Schedule for Future States' Business.

**The Bailiff:** Deputy St Pier.

**Deputy St Pier:** Sir, I lay the Schedule and have nothing to add.

2465

**The Bailiff:** There has been no request to amend it. I put the Schedule to you for approval. Those in favour; those against.

*Members voted Pour.*

**The Bailiff:** I declare it carried and that concludes the business of this meeting.

*The Assembly adjourned at 3.18 p.m.*