



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Wednesday, 24th June 2020

*All published Official Reports can be found on the
official States of Guernsey website www.gov.gg*

Volume 9, No. 30

ISSN 2049-8284

*Published by Her Majesty's Greffier, The Royal Court House,
St Peter Port, GY1 2NZ. © States of Guernsey, 2020*

Present:

Richard McMahon, Esq., Bailiff and Presiding Officer

Law Officers

R. M. Titterington, Q.C. (H.M. Comptroller)

People's Deputies

St Peter Port South

Deputies P. T. R. Ferbrache, 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,
M. P. Leadbeater, J. I. Mooney

St Sampson

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

The Vale

Deputies M. J. Fallaize, N. R. Inder, M. M. Lowe, Deputy L. B. Queripel,
J. C. S. F. Smithies, S. T. Hansmann Rouxel

The Castel

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

The West

Deputies A. C. Dudley-Owen, E. A. McSwiggan,
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

The Clerk to the States of Deliberation

S. Ross, Esq. (H.M. States' Greffier)

Absent at the Evocation

Miss M. M. E. Pullum, Q.C. (H.M. Procureur); Deputy A.H. Brouard (*relevé à 9h 50*);
Alderney Representatives S. Roberts and A. Snowdon (*absents de l'île*)

Business transacted

Evocation	5
Procedural – Welcome back to Members sitting in person.....	5
Billet d’État XIII.....	6
V. Modernisation of the Abortion (Guernsey) Law, 1997 – Debate continued	6
<i>The Assembly adjourned at 12.36 p.m. and resumed its sitting at 2.30 p.m.</i>	43
Modernisation of the Abortion (Guernsey) Law, 1997 – Debate concluded – Propositions carried.....	43
Urgent Proposition in Pursuance of Rule 18	75
Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 3) (Amendment) Regulations, 2020 – Approved.....	75
Procedural	76
<i>The Assembly adjourned at 5.15 p.m.</i>	77

PAGE LEFT DELIBERATELY BLANK

States of Deliberation

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

[THE BAILIFF *in the Chair*]

PRAYERS

The States' Greffier

EVOCATION

The States' Greffier: Billet d'État XIII – Article V – the continuation of the debate.

Procedural –

Welcome back to Members sitting in person

- 5 **The Bailiff:** Well, Members of the States, can I start by saying what a great pleasure it is to actually see you all in this room once again; it is even a pleasure to see you, Deputy Trott. (*Laughter*)
- What I just wanted to do, Members, before we resume debate by inviting Deputy Le Tocq to move Amendment number 6 on this item of business, is just to explain to you that there will not be a mid-morning break, officially, because that was done because we were all glued to our screens.
- 10 But can I encourage you all to get up and move around, not necessarily within this room, as and when you feel the need to do so? If any of you think that you are sitting too close to someone else and want to move to other seats, provided you are back in your seat for any vote – because the Rules say that you must vote from the allocated seats – I am pretty comfortable about where you go for the time being.
- 15 You may have spotted that the Public Gallery is currently empty in this room, and that is because we have not really opened the door very much of late, and it is stuck. (*Laughter*) It is not the case, Members of the States, that nobody wants to come and see you and nobody wants to hear you, but there is a relay elsewhere within the building, so that if people are in the building who want to be in the Public Gallery, they can be in the Public Gallery there, and as soon as the door can be
- 20 sprung open – and there are some people that we sent elsewhere who could come and help us on that – then we will potentially open up the Public Gallery, because that is what should happen.
- Because there is no mid-morning break, I do encourage each of you to take your opportunity, when you see fit, to move outside, wash your hands, sanitise, whatever else it might be. Some of us have brought supplies just in case, and there are additional bins within the room so that if you are
- 25 using paper handkerchiefs, you can catch it, kill it, and bin it straight away, please.

Billet d'État XIII

COMMITTEE FOR HEALTH & SOCIAL CARE

V. Modernisation of the Abortion (Guernsey) Law, 1997 – Debate continued

Article V.

The States are asked to decide:

Whether, after consideration of the Policy Letter entitled 'Modernisation of the Abortion (Guernsey) Law, 1997', dated 2nd March 2020 they are of the opinion:-

- 1. To agree to repeal section 1(a) of the Abortion (Guernsey) Law, 1997 ("the Law"), and any other statutory criminal offence relating to a woman ending or attempting to end her own pregnancy that is in similar terms.*
- 2. To agree to remove the requirement in the Law for a second medical practitioner to be of the opinion required by section 3(1) of the Law.*
- 3. To agree to amend the Law to remove the gestational threshold for abortion procedures falling within section 3(1)(c) of the Law, as described in paragraph 5.29 of this Policy Letter.*
- 4. To agree to amend the Law to increase the gestational threshold to twenty four weeks for abortion procedures falling within section 3(1)(d) of the Law, as described in paragraph 5.29 of this Policy Letter.*
- 5. To agree that professional practice guidance should be issued in respect of the method of calculation of gestational age for the purposes of the Law.*
- 6. To agree to amend the Law to provide for registered nurses and registered midwives to be permitted to perform medical abortion procedures.*
- 7. To agree to remove the requirement in the Law for medical abortions to take place only at the Princess Elizabeth Hospital.*
- 8. To agree to amend the Law to provide that health practitioners who choose to conscientiously object to providing care in relation to abortions shall be required to make a referral without delay to another health practitioner without such objection.*
- 9. To agree to amend the Law to make clear that health practitioners may not refuse to participate in care required to save the life or prevent serious injury to the physical or mental health of a woman.*
- 10. To agree to create a power in the Law for the Committee for Health & Social Care to make regulations making further provision in relation to the circumstances in which the right of health practitioners to conscientiously object to the provision of care in relation to abortions may be exercised.*
- 11. To agree to amend the requirement in the Law to notify the Medical Officer of Health of abortions to a requirement to so notify the Director of Public Health.*
- 12. To direct the preparation of such legislation as may be necessary to give effect to the above decisions, including any necessary consequential, incidental or supplementary provision.*

The Bailiff: Without further ado now, we will resume debate where we were on Friday evening, and I invite Deputy Le Tocq, if he so wishes, to move Amendment number 6.

Deputy Le Tocq.

Deputy Le Tocq: Sir, could I ask the Greffier to read it, please?

The States' Greffier read Amendment 6:

Amendment 6

Immediately after Proposition 11 to add a new proposition numbered 11A:

'11A. To agree to amend the Law so that there is a statutory responsibility placed on the Director of Public Health:

(a) to inspect and approve any premises upon which abortions are performed, other than premises for which the Committee for Health & Social Care are responsible, in order to ensure that such premises are suitable places upon which abortions may be performed;

(b) to publish annually details of the number of abortions which have taken place, the type of abortion procedure, the gestation period, reasons for the abortion, and the venue(s) where they took place'.

30 **The Bailiff:** Members of the States, before Deputy Le Tocq speaks, I have just been reminded of something that I did forget, but I intended to say, which is: because it is warm, we do have all our windows open. You are entitled to remove outer jackets if you so wish, and that covers those of you who have already done so. *(Laughter)*

35 **Deputy Tindall:** Sir, we anticipated it being a continuation, and therefore, we assumed that we could. Apologies if we pre-empted you.

The Bailiff: No, no, the Rules about dress code are going to be strictly adhered to, moving forwards now. *(Laughter)*

40 Deputy Le Tocq.

Deputy Le Tocq: Thank you, sir.

HSC has based its reform on the need for modernisation of practices that were agreed in 1997, 23 years ago, and have argued that, in many cases, there needs to be alignment with the Abortion Act 1967, because later abortions, generally those over 14 weeks, will still happen in England.

45 This amendment, sir, addresses just that; I am suggesting that there needs to be a clearer approval process; inspections of any clinics, and any other places, because it is not clear in the policy letter where abortions may take place; and publication of statistics, because at the moment, our statistics are ad hoc and we have not got a clear idea of exactly what is going on – if the Law is to
50 change, particularly in respect of the propositions before us, it is important we have clearer and better statistics for any future review that might take place.

I shall turn to each of these in turn. Proposition 7 asked us:

To agree to remove the requirement in Law for medical abortions to take place only at the Princess Elizabeth Hospital.

Paragraph 1.10 of the policy letter states:

that the legal requirement for abortions to occur only at the Princess Elizabeth Hospital, should be removed from the Law ...

and goes on to say that:

medical (that is, non-surgical) abortion procedures can be initiated by medication, administered by a qualified clinician, and then completed safely in the privacy of a woman's own home.

55 Sir, from my reading of section 3(2) of the 1997 Act, the ability to allow abortions in other places seems to be already allowed under this provision. It states that abortions can be carried out in, and I quote:

such other place as the States may by Ordinance specify ...

This is the case, but in Paragraph 5.37 of the policy letter, it states:

The Committee believes that upon strict reading, it could be interpreted that Health & Social Care is in breach of the Law and that given changing practice, it is appropriate for the Law to be updated.

60 Given the powers in section 3(2) allow for other places to be specified, I am not clear why there is a push for the Law to be reformed, rather than using the powers available in its current legislation. It is not clear to me why HSC considers, and I quote:

it is not operationally practicable to provide a modern service to Bailiwick residents that currently functions within the scope of the Law.

– paragraph 5.39.

65 It is also not clear to me exactly how HSC want to update the Law. The suggestion is for the Law to allow to take abortion pills at home. Is it intended to be the second pill only, as has been the case in England pre-pandemic, or both pills, as it is temporarily allowed in England, and up to what gestation will these arrangements be allowed? Will women need to go to their doctors to get the pills, or somewhere else? If HSC is suggesting telemedicine, as is currently happening in England, how will the gestation of the pregnancy be assessed? There is evidence of more complications for women taking abortion pills the later in pregnancy this occurs. All of these are important questions
70 to be asked.

Since the changes introduced in April, a number of cases of illegal home abortions have come to light where, in the absence of supervision in the UK, abortion pills are being taken after the legal 10-week limit; this included the case of the abortion of a 20-week-old baby using pills provided in the post by BPAS. This amendment seeks a transparent process for approving places for an abortion
75 to take place, whether that be in some clinic in the future, or at home, and that clear safety parameters are put in place.

This amendment also seeks inspection arrangements for any clinics that are involved in providing abortions. This is in line with arrangements set out in England; in England, abortion providers are regulated and inspected by the Care Quality Commission, and this has proven critical in light of recent inspections which have highlighted concerns about safety procedures, including lack of
80 adequate safeguarding and training.

It also seems to us that it is important for HSC to be monitoring standards of abortion providers now and in the future, to which Guernsey residents will travel for care in England. Clearly, these abortions are carried out under the Law in England but will be financed with funds from Guernsey.
85 There is a duty to ensure that care is given in a safe manner, especially when they are likely to require good communications between such places in the UK and primary and secondary care here in Guernsey, something that is not always easy to put in place. This amendment is not seeking to put up barriers to access, but to ensure that abortions are safely provided.

The second part of this amendment relates to the publication of abortion statistics, which is, at the moment, *ad hoc* and far from transparent. The purpose of publishing statistics in February was, and I quote:

to facilitate planning and provision of services; to highlight areas of health needs; to provide information to support answers to questions from health colleagues, politicians, and other stakeholders.

HSC is asking us to approve changes in abortion legislation. Regular publication of statistics with more transparency will enable us to see the effects of these policies, if put in place. Great Britain provides detailed statistics on an annual basis; with modernisation, we should also be reviewing
95 how we present this data on abortions, and I am proposing that this should include the number of abortions which are taking place, the type of abortion procedure, the gestation period, the reasons for such abortions, and the venues where they took place. This should include data on the disabilities for which each abortion was sought.

100 The data is not significantly different from that provided already; table 1 sets out where abortions were performed in terms of whether they were on- or off-Island. This should include, in future, those funded by the taxpayer. Table 3 sets out gestation periods, page 4 sets out the termination methods

and complications. I am suggesting only a few additions, because it seems to me this amendment is a reasonable and logical extension of modernising the data that has been provided in this instance, and I encourage Members to support it.

105

The Bailiff: Deputy Stephens, do you formally second the amendment?

Deputy Stephens: I do, sir, thank you.

110

The Bailiff: Thank you very much.
Deputy Gollop.

Deputy Gollop: Thank you very much, sir. It is good to be back here.

115

I support the amendment, particularly the second half, for reasons that I will go into. The original proposition that Deputy Le Tocq referred to has Health & Social Care agreeing to amend the requirement in the Law to notify the Medical Officer of Health of abortions to a requirement to so notify the Director of Public Health. In a way, we have been through a century, maybe, where we had a Medical Officer of Health, held by various distinguished people – I think they were all men – and now we see the Director of Public Health, who has been outstanding in rising to the challenges of recent times. In a way, that is just a change in terminology and definitions and may change further in the future; I do not think that is particularly material as a proposition.

120

The amendment adds an additional amount. I am not fantastically sure of the need for 11A(a), because I suspect strongly that a responsible Committee *for* Health & Social Care – and, as we see here, Director of Public Health – would be doing this anyway, because I am sure that in a community as small and self-contained and, hopefully, as well-organised as Guernsey, there would, indeed, be a degree of inspection and approval of any premises upon which abortions are performed, other than premises for which the Committee *for* Health & Social Care are responsible, in order to ensure that such premises are suitable places.

125

Of course, what we do not know is that the Partnership of Purpose is a very broad vision and may mutate and evolve in different ways, and we may well see community hubs provided by renaissance of the General Practitioner services in Guernsey and Alderney, we may well see more holistic health centres, and I believe – which I may refer to in a later speech – we saw, during lockdown in parts of the United Kingdom, permission in certain circumstances for abortions to happen in private homes. So I can understand the need for 11A(a), although I do not think that if we did not vote for it, it would not happen anyway, but perhaps it gives us an extra safeguard and an extra degree of security that, from a public health and an ethical point of view, the premises will be suitable.

130

135

I do support 11A(b) even more, because I think this debate is still relatively short of facts and the issues behind the facts; therefore, publishing annual details of the number of abortions that have taken place, the type of procedure, the gestation period, and the reasons would be helpful. I say that because occasionally in Guernsey, because it is a small community, one would have to be extremely careful in publishing too much information about specific cases that may well be known to the community, and we know that successive Presidents of Health – and other people, Ministers of Health and so on – have always said in response to questions on the role of the state that they are not necessarily as free to give information as they might be in a larger community with statistical averages. But with that reservation in mind, I think we would all benefit from more clear information.

140

145

There is a lot to take in in the report, and there is perhaps a lot that is there and a lot that is not there; for example, we are told in the report that for some reason, despite Guernsey's relatively restrictive abortion Laws, that there is a lower proportion of abortions, compared to the size of the community, than in parts of England; yet on the other hand, by definition, most abortions are going to occur within the 12-week period. There are clearly cases we have been told about, not just in the report, but during the last few days of debate, where people have gone to the United Kingdom,

150

sometimes in difficult circumstances and not-ideal circumstances, financially or ethically or emotionally.

155 We really are, as opinion-formers – and we have been meeting outside today with people from two very different sides of this debate – we do not actually know enough. Therefore, I do support this amendment for 11A(b), because regardless of what we think of this legislation and what happens, I am sure when the legislation returns to the Chamber, it will not be the end of the story and there will be further evolution in public health procedures, which will mean a further
160 modernisation is likely in the years to come.

The Bailiff: Deputy Brouard, is it your wish to be relevé?

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

The Bailiff: Deputy Roffey.

Deputy Roffey: Thank you, sir.

170 I find this amendment quite extraordinary. I think that one of the ambitions of the modernisation of the abortion Law is to allow early-term abortions to be carried out at home; what will this amendment do to that? First of all, your home would have to be inspected by the Director of Public Health, and then, if you have the termination at home, your address will be published in a community the size of Guernsey! There is no point Deputy Gollop shaking his head, sir; it says 'the venue(s)' will be published.

175 As for the reasons why abortions or terminations are being carried out, either they are going to be usually generic and of not much use – like, 'There was a threat to the mental health of the woman concerned' – or they are going to be incredibly specific, which – again, in a community like Guernsey, people will recognise themselves or recognise their family or recognise their neighbours. I think we should give very short shrift to this amendment indeed.

180 **The Bailiff:** Deputy Inder.

Deputy Inder: I would like to move Rule 26(1), please.

185 **The Bailiff:** Members of the States, this is a test for us to remember what all these Rules mean, now that we are back into a physical meeting. Deputy Inder wishes to invoke the guillotine motion, Rule 26(1), so I am going to invite those who wish to speak in the debate on this amendment to stand in their places.

Deputy Tindall stood.

190 **The Bailiff:** In those circumstances, Deputy Inder, there is no point in you moving Rule 26(1), because I will simply turn to Deputy Le Tocq to reply to the debate – Deputy Tindall, first, and then Deputy Le Tocq; there is no need to put the Rule 26(1) to a vote. Rule 26(1) entitles the Committee and the mover of the amendment to speak, and that is why Deputy Tindall rose: because she is substituting for Deputy Soulsby.

195 Deputy Tindall.

Deputy Tindall: Thank you, sir.

Deputy Roffey summed it up. I will put down on record all of the various, fairly brief reasons that HSC requests Members here not to support this amendment.

200 Sir, this amendment is not trying to help women by providing reassurance on the suitability of the locations of the performance of an abortion, nor indeed helping the clinicians who support the service; this amendment, if approved, will prevent women from having the ability to have a medical

abortion before 10 weeks in their own home, and it will make it very difficult for any abortion taking place other than in the PEH, unless it was undertaken for the women on a private basis.

205 Sir, it is simply not practical or reasonable for the Director of Public Health to inspect other health services which provide abortion outside of the PEH, such as those undertaken in the UK. Currently, the Director of Public Health does not inspect homes of individuals, for example, who wish to have home births or, indeed, any other medical procedure, whereas the second part of this amendment requires each person's home to be inspected for its suitability for a medical abortion.

210 Also, in respect of the second part of the amendment, the Committee already publishes significant information about abortions, more so than it does for any other medical procedure. Moreover, much of this data will create identifiable situations, due to the small numbers involved, leaving vulnerable women and girls more vulnerable.

215 Sir, the statistics have been questioned by Deputy Le Tocq, and I just wish to refer to the statistics that are provided; the latest statistics summary we have is 2017-18, and naturally, these will be supplemented as and when the Public Health Service have a little less to do. The headings under which the information is provided is the 'Information on the number and rates of abortion per year and assessment of these numbers in comparison from 2009 onwards.' It is also the age of women; the gestation; the previous abortions; the percentage under each statutory ground; the primary termination method – and it is interesting to note that 70-75% were medical abortions in 2017-18
220 – complications; and very helpfully, the legislation context is also explained, because clearly, that is an important element to understand and differentiate between the types of abortion that can take place. If this amendment is successful, it will prevent the NICE guidance on abortion care being applied here on Guernsey, which recommends the provision of abortion services in a range of settings, including community and hospitals, to meet the needs of the local population.

225 Deputies Le Tocq and Stephens also lodged Amendment 5, which asks for consideration to be given to women in coercive relationships; sir, this amendment presents us providing support for such women, because being able to have a medical abortion at home removes the need for them to attend the PEH. The PEH remains the only appropriate location for a surgical procedure – other than, of course, in Southampton, where we have an SLA with them for foetal medicine.

230 Most abortions are now performed medically, due to the decreased risk to the women involved with this method. The medical procedure to end a pregnancy involves the administration of two medicines, 36 to 48 hours apart, and it has been common practice and best practice for some time for service users to remain at that place of residence between these doses of medication. The Committee believes that upon strict reading – and hence, the reason why we wish to amend the Law – it could be interpreted that Health & Social Care is in breach of the Law and that, given
235 changing practice, it is appropriate for the Law to be updated.

Deputy Le Tocq raised various questions in his speech which, unfortunately, unlike those which I sent to Deputy Stephens in my speech on the sursis, we were not privy to before the debate, so I will try and answer them as best I can – although, of course, I have dealt with some in my written
240 speech that I had prepared earlier, as they say on *Blue Peter*. (Laughter) The clear and better statistics, I think, has been dealt with. I have dealt with the ordinance and why that needs to be reformed, because basically, we are avoiding any ambiguity. I think I have explained about the Director of Public Health and how it is just not practical to go to each home. 'Not clear how the Law will be updated': again, I think that that is quite clear from the policy letter. I have described the process and up to what gestation period, which is 10 weeks; gestation assessed in the normal way,
245 again, all set out in the masses of information that has been produced not only in the policy matter, but in all the replies to the various emails we have had, the replies by our Committee clinicians and the Director of Public Health, in videos, and in the FAQs.

250 Sir, there are just a couple more issues that I wanted to mention, which are basically that these statistics that we are being asked to include – and, in fact, the statistics we are currently able to provide – do not include the abortions that women have to do because they are not qualifying here; those women and girls that we wish to help by modernising the Law. Those statistics would not be included if we do not allow them to come through the services that Health & Social Care wish to

255 provide, and all of the propositions go to the heart of this equality and requirements to help the people, the women and girls of Guernsey.

I think it is also important that I have had a cryptic comment to try to answer as best we can to Deputy Le Tocq's queries – as I say, without notice – so I just wish to read this that I have received:

We think Deputy Le Tocq referred to a UK case where police were investigating an attempted 28-week abortion carried out by a woman in her home who had access to medication using the temporary permission granted in the UK to obtain pills by post; as a result, that baby was stillborn. The critical difference here is that to access the abortion at home under our proposals, there would still be a need for a physical appointment. All the appointments a woman would have if she chooses to stay at hospital would still happen if she chooses to take the tablets at home.

260 Again, I hope all of these things which we try to do on the back of this very short debate reassures Members that this really is a case of an unnecessary and a severe impediment to us providing services to girls and women. HSC seek to ensure that women have access to safe abortions and that there are no barriers or perceived barriers to access safe, well-regulated abortion care. This amendment would be such a barrier.

265 Sir, I ask Members to please appreciate the true effect of this amendment and to help the women and girls in our care to have the best service we can give them, and reject this amendment. Thank you, sir.

The Bailiff: Deputy Le Tocq, the proposer of the amendment, to reply to the debate.

270 **Deputy Le Tocq:** Sir, obviously there have not been many questions, as such, to reply to, but I will make a few comments to the few speeches that we have heard.

275 Sir, in terms of 11A(a) of this amendment: from what I have heard, sir, there is obviously an intention anyway to do this sort of activity, at least to a certain degree; all we are saying here is that this should be done and the States should resolve that it is continued, that such inspections as are necessary for abortions to be safe should be carried out and reported. Sir, unless things have changed, from my experience and my own family's experience and friends' experience, when it comes to a home birth, homes are inspected – not, obviously, by the Director of Public Health herself, but by midwives and by health visitors – before someone is allowed to have a home birth; at least, that was the case years ago, and I would be a bit surprised if it was not the case now. Sir, it is very possible and, indeed, I think, necessary for there to be inspections and for the Director of Public Health to be able to be assured that when abortions take place in other venues – and again, I emphasise, sir, that there is –

Deputy Merrett: Point of correction, sir.

285 **The Bailiff:** Point of correction, Deputy Merrett.

Deputy Merrett: Thank you, sir.

290 From personal experience, my home was *not* inspected when I decided to have a home birth. Yes, a health visitor visited my home; they did not inspect all the rooms in my house, they merely came to discuss it with me and to deliver oxygen. I would not say, sir, that that was an inspection of my home.

The Bailiff: Deputy Le Tocq.

295 **Deputy Le Tocq:** Sir, I only make the point – and it is true that my experience dates back some years now, but that was that used to be the case. If it is not, then that is a different matter and needs to be addressed, I think, anyway.

Sir, in light of those things, and particularly, sir, in light of 11A(b) in this amendment, it seems perfectly reasonable, bearing in mind that what I seem to have heard is that these sorts of things

300 will be published – in terms of putting the venue as ‘Home,’ I do not think that identifies who the individual is; there are ways and means of doing it, this is not the Law, this is just an amendment, and I perfectly understand that we would not want personal addresses put in here, but I think we should know, if we are to make changes in the future, how many abortions take place in whichever venues. One of the difficulties of the 1997 Law was that it did not imagine the sorts of advances in
305 medical abortions that now take place, and so it could not predict the sorts of venues where abortions take place nowadays on a regular basis.

Sir, the UK example that I gave, whilst I accept Deputy Tindall’s response, does not cover the potential risk there is in a woman accessing medical abortion and then choosing to keep the medication until a later stage of the term of the pregnancy, and sir, that seems to have been the
310 case in the UK. Therefore, we need to ensure – and there has been a lot of discussion about safety – that we do have a system that is safe not just for the foetuses involved, but also for the women involved as well.

I give way, sir.

315 **Deputy Tindall:** I thank Deputy Le Tocq for giving way. I should remind Members: as I read out, there is a section in respect of complications in the statistics, and therefore, as Deputy Le Tocq is insinuating, that sort of issue would have been recorded if this had been the case before, and I think that that clearly shows that we do not have such people who would do so. To a certain extent, this is a case of trusting the women and girls, but also to ensure that they are fully supported throughout
320 this by discussing and having the telephone and having them able to have this in the PEH; all of the reasons are provided in all of the documentation.

Thank you, sir.

325 **Deputy Le Tocq:** Sir, I will just conclude by saying that if it is the intention of HSC to publish the sorts of statistics and the reasonable degree of detail that they published in order to support these propositions – which are not information that we have on a regular basis – if that is an intention to do so, then they should have no problem in supporting this amendment, and particularly 11(b).

Sir, I rest my case. Thank you.

330 **The Bailiff:** Members of the States, we come to the vote on Amendment number 6, which has been proposed by Deputy Le Tocq and seconded by Deputy Stephens. Is there a request for a recorded vote? (**A Member:** Yes, sir.) The effect of Amendment 6, as you can see, Members, would be at this stage to add a further Proposition numbered 11A.

A recorded vote, please, Greffier.

There was a recorded vote.

335

Not carried – Pour 10, Contre 27, Ne vote pas 0, Absent 2

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

The Bailiff: Members of the States, in respect of Amendment number 6, proposed by Deputy Le Tocq, seconded by Deputy Stephens, there voted Pour 10; Contre 27; and therefore, I declare the amendment lost.

340 We turn next, Members of the States, to Amendment number 7, and I invite the proposer of that amendment, Deputy Dudley-Owen, to lay it, if she wishes.

Deputy Dudley-Owen: Yes, thank you, sir. May I ask for the Greffier to read the amendment, please?

The States' Greffier read the amendment:

[Amendment 7](#)

Immediately after Proposition 11 to add a new proposition numbered 11A:

'11A. To agree to amend the Law so that women are offered appropriate counselling before and after an abortion.'

345 **The Bailiff:** Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you, sir.

350 Our culture views abortion as a medical, political, ethical, and legal issue, and in doing so, society does not acknowledge the natural grief that in many cases follows an abortion choice. I strongly believe in choice, but it must be a fully-informed and fully-supported choice. That means that not only are women who are considering or who have chosen to terminate their pregnancy provided with all the information they need in good time and in a way that they understand, but they are offered all the support and care that they need. Sir, if, as a female, one becomes pregnant, or your wife or partner, daughter, niece, or friend, becomes pregnant and they choose to terminate the

355 pregnancy, I want them to know in detail about the procedure and also, more importantly, for them to have access to psychological support services before and after the termination.

In researching this amendment, I came across a quote which was a very familiar quote. It was from a counsellor whose past client had commented to her the following:

There is a conspiracy among the sisterhood not to tell each other about the sadness they feel after their abortion. We do not discuss our grief after abortion, because it can be so gut-wrenching. The depth of the grief goes to the core of our beings. Our society does not talk about abortion, because it is legal. We are not allowed to grieve our loss, because there is an implication that we should 'buck up' and 'get over it.' 'It is legal, do not complain, that is it.'

360 So we assume, sir, that is that, and the abortion provides closure for the woman. This, though, we know, is a false sense of resolution. At some point after the procedure, most women are caught off-guard with a sadness that is often rarely shared. This is a decision which stays with a woman for ever. If we did not approach the changes that are being proposed in the right way, we will actually make resilient women vulnerable, and vulnerable women even more so.

365 The current counselling service offered by Health & Social Care through the charity Choices is, I understand, a free and confidential service to Bailiwick residents for those women who are thinking of ending their pregnancy and who have had an abortion either recently or in the past. I have also been told by maternity services that pregnancy losses and terminations are seen on Loveridge Ward, usually after about 14 weeks, as this is a more specialist area for this later gestation, and they will have been booked for care under the midwives by that point. All losses and terminations prior to that are managed on Victoria Wing, or an alternative ward, depending on availability. This, however, 370 I understand, often needs planning with the ward staff to ensure appropriate staffing is available, due to the limited amount of gynaecology nurses in Guernsey.

I am told that, to some extent, this takes away the choice of ladies, as some early gestations may not want to come to the maternity ward, but they cannot be appropriately cared for elsewhere. This is completely understandable, as those who are in an early-stage pregnancy and wishing to have a 375 termination will not want to be mixed amongst women who are expecting and heavily pregnant. It would, in my view, be irresponsible to mix these groups, yet there may not be provision for them in other wards. There is a Specialist Bereavement Room on Loveridge Ward, and attempts are made to try to contact all women who come through the ward, to offer support and advice needed, regardless of whether they have chosen to terminate the pregnancy, or it is a spontaneous 380 miscarriage.

I have also been in touch with the Ivy Trust, a local charity that supports parents and families who have lost babies. They have stated that there is a lack of enough support prior to making a choice, as well as after. They say, 'Something we do at the Ivy Trust is to fill the gaps, and we certainly have started work outside our remit over the years.' So, sir, there are services, but there are also 385 seemingly some gaps, and it is in writing this into the Law that we will ensure that it is a mandatory requirement to offer mental health services to women who make the choice to terminate.

390 Depression can be triggered when pregnancy hormones change after an abortion in the same way it can be triggered after the birth of a baby, when hormone levels fluctuate, often called the 'baby blues.' For most women, it will disappear after a few days or weeks, but 1 in 10 women who give birth will suffer from post-natal depression, and the incidence is higher in teens. Why should this statistic be different for those whose pregnancies ended in termination? I founded and ran a Guernsey post-natal depression support group for a number of years before we handed over to the brilliant Bright Beginnings Family Centre. Many women have a story to tell, and I know the effects of these decisions on women and their families. Women who are no longer pregnant after an 395 abortion are very unlikely to seek out the support services offered by Bright Beginnings through their Beyond Blue programme – they will not feel that they are as deserving as a new mum who is suffering; after all, they are not a mum through the pregnancy they have decided to abort, they may not have family yet and will feel that the service is not targeted towards them.

400 Sir, it is the opposition to this amendment that actually proves the need for it; the comment from the British Pregnancy Advisory Service tells us that this is an operational issue and should not be in

405 legislation – counselling is already in place if required or requested. I am surprised that the BPAS would object to this amendment given the importance of women’s mental health and psychological care, giving her the confidence in her decision, and also for her recovery from the stressful and sometimes traumatic ordeal that is an unwanted pregnancy which ends in abortion. We have been told that mental health care provision is in the guidelines, but that misses the point again.

I also hope that I am not told, like others were last week, that I do not understand the pathway of care pregnancy; I have quite a bit of experience in this matter, having had multiple pregnancies of my own and been involved in maternity services locally over quite some years.

410 Let me be clear: this amendment is not about making the counselling compulsory, but ensuring that the right to access is enshrined in our legislation, as is the right to the access to the termination procedure itself. Our Laws reflect our community values and, as such, are reflective of what type of community we are, how we want individuals within our community to act towards each other, the care, empathy, and dignity we aspire to in order that we can thrive in a peaceful way.

415 Our health is defined by the World Health Organization as ‘a state of complete physical, mental, and social well-being,’ and with mental health now finding equal importance in the general populace with physical health, why would we just leave this as an operational issue? By including this provision in Law, we will ensure that it is not only explicit and unequivocally clear that it is a requirement to offer counselling services; it is also delivering a message about us as a community, that the psychological care and mental health support for a woman are acknowledged as being so very important in the matter of abortion that we have enshrined this in Law.

420 All comments received in opposition miss the important point: that if this amendment is accepted, it will be compulsory to offer the care, but it is not compulsory for women to *receive* it. That will be part of a woman’s choice: whether or not to accept the offer.

425 Sir, it is a sad fact that most babies in Guernsey are aborted for social reasons. We have been presented with the evidence for this, and it is the same in other jurisdictions locally.

Deputy Tindall: Point of correction, sir.

430 **The Bailiff:** Point of correction, Deputy Tindall.

Deputy Tindall: Most babies are born in Guernsey.

The Bailiff: Deputy Dudley-Owen to continue, please.

435 **Deputy Dudley-Owen:** Thank you, sir.

440 Whilst I am pro-informed choice, I also feel strongly that as a mature and sophisticated Island with a low birth rate, we should be seeking far stronger ways of supporting women and making them, no matter their age or circumstances, feel confident about the decisions they make in regard to their pregnancies. Notwithstanding that our health practitioners are skilled and experienced individuals, I must be clear that this amendment should not be interpreted as anything other than a desire to see this matter recognised as an essential part of the legislation where abortion rights are concerned.

445 Over the last few days of debate last week, a cornerstone for this amendment has been set unwittingly, perhaps, by Deputy St Pier’s honest and open speech in regard to his amendment on the Sex Offences Law. Deputy St Pier made an exceptionally strong statement in his speech; he said – and I do apologise if I do not repeat it verbatim – ‘it is our job as community leaders and policy-makers to stand up and shout, “No! That is not acceptable, that is not who we are. We are better than this. The culture must change.”’

450 He spoke about the impact of abuse and trauma, and I believe if we are serious about protecting the most vulnerable in our community – those who might need to choose an abortion the most, those who might have suffered abuse – then it is a small matter for us to approve the inclusion of

what will be an extremely powerful statement in our legislation by way of affirmation of our intent to give them the protection they deserve.

455 I wish to assure Members that I have not selected random research on this matter to support my view – something, actually, I have never done; I have sought the advice of experts in their field and have asked for them to help me with peer-reviewed research, which they have done. I have also some knowledge about perinatal mental health issues from the years that I spent involved in the Guernsey Post-Natal Depression Support Group, which received support from the likes of Dr Jane Hanley, who is past president of the International Marcé Society – it is an international group of
460 academics with specific research interests in perinatal depression. There is, indeed, a difference of opinion from experts over the psychological impact of abortion on women, but it is generally agreed that abortion is consistently associated with elevated rates of mental illness compared to women without a history of abortion, and that the experience of abortion directly contributes to mental health problems for at least some.

465 This amendment does have a link to Proposition 7, which seeks approval to remove the requirement for medical abortions to take place just at the PEH; the policy letter explains this in more detail, and will allow women to return to their place of residence for all or part of the procedure, if they choose. This is an important change and will enable her to miscarry at home, albeit a medically induced miscarriage. I support this change, and I know that in some instances,
470 women will feel comforted by this provision. It is vital, however, that support is provided wherever required and that women understand that miscarriage can be a lonely and perhaps frightening, even traumatic, experience.

A woman who miscarries after taking the pills for a medical abortion will be labouring and give birth. It takes one to two days to complete the abortion. Bleeding and cramps can be quite heavy
475 and painful and last longer than an aspiration abortion. Women may question if their symptoms are normal when they are home, which can be stressful, especially if they are alone. Imagine a young girl who is taking the pills and has no support, trying to keep the situation quiet from her family and friends. She has been told she can take the pills outside the hospital so she does not have to explain a long period of absence. She will undoubtedly be under stress, and if she chooses to take the pills and miscarry at home, it could be a traumatic experience for her. It could change her view
480 on having babies in the future. Her trauma could manifest as PTSD, which is not unknown. Even an older lady will need to have robust advice, to have someone with her to support, to comfort, and help her. It is so important that this is given.

My concern about allowing women the option to miscarry at home is that they may do so alone
485 without essential support. If we do this, we may increase the risk of trauma and serious mental health consequences for her. I have supported someone as they spontaneously miscarried; the cause was different from a termination, but the end effects were the same. It was traumatic, to say the least, and an experience that I will not forget, and I know has stayed with the lady for ever and will not leave her. Abortion must be an informed choice, and this is not reflected in the policy letter.
490 The support required for women about the choices that they face ultimately need funding to ensure that health professionals are skilled, experienced, and engaging in continuous professional development.

Sir, we must aspire to be a community that not only allows informed choice in a safe and caring environment delivered by skilled and experienced professionals, but one where all pregnancies, no
495 matter how they end, are fully supported. Pregnancy, abortion, or even miscarriage, shame is something that has no place in modern communities, in our community. Historical negative attitudes towards inconvenient pregnancies and the consequences – or weirdly, a lack of ability to get or retain a pregnancy – need to be removed from our society.

Thankfully, our community has come a long way since young unmarried Guernsey girls and
500 women were sent off-Island for generations to have their babies away from the disapproving gaze of the community; sent away to have their babies in homes for unmarried mothers, where they would often be treated appallingly and come back without their baby, because that baby had been put up for adoption. The sadness and the grief for many of those women who experienced this

awful treatment – those women are still alive and well in our community, and it is tragic. We still,
505 however, retain a palpable undercurrent that some pregnancies just have no place in our
community; if we did not, we really would not be having such an in-depth debate about this subject.

Clearly, there are women who feel for many reasons that they cannot bring a baby into the world,
and it is no longer valid as a community to put up barriers to them with a fear that they will not be
510 able to complete their education, or they will not be able to have the career that they aspire to, that
they will be left on the shelf, unattractive as a single mother with the baggage of a child.

We shame – I am sorry, Deputy Tindall, would you like to –

The Bailiff: Deputy Dudley-Owen, you do not address another Member directly in any event.
Just ignore what is going on around you.

515

Deputy Dudley-Owen: Thank you, sir. I do apologise for doing that, but when Deputy Tindall
laughed at that point, I am really quite surprised, so she may have wanted me to give way.
I give way, sir.

Deputy Tindall: I apologise to Deputy Dudley-Owen. She thought I was laughing at what she
520 had to say; it was, in fact, an expression of something that we were looking at and referring to, and
I apologise if she thought that it was in relation to what she was talking about.

Deputy Dudley-Owen: Thank you.

525 We have shamed women for centuries, and still do, about pregnancy, abortion, and miscarriage.
It was an effective contraception, but we have contraception now and an effective family planning
service, a service that is available and has helped to decrease unplanned pregnancies significantly,
as Deputy Soulsby has told us in her opening speech. This issue of shame is very relevant to the
530 mental health care and psychological support that we offer, because shame contributes significantly
to the silence surrounding the subject. It contributes to the feelings of regret, guilt, and grief,
perhaps sometimes mixed with relief, but certainly some of the more negative feelings that a woman
experiences may occur and increase post-miscarriage.

We should allow women and girls to speak in a safe environment with confidence about their
experiences. We are fearful about this topic, as it causes anxiety, and this anxiety is about judgement
535 and being shunned. In some parts of the world, this happens within the community still, but at a
personal level, it is about being shunned by partners, family, friends, and acquaintances. Abortion,
and, indeed, miscarriages, are still stigmatised, and this prevents us from tackling the subjects head-
on. Encouraging openness and empowerment of women to speak about their pregnancy and not
feel ashamed about their choice means that we will not gloss over the serious psychological effects
540 that a termination can bring. A woman's autonomy about her body is vital, but so is the support for
the decision she makes.

I have stated already in debate that some of the proposals I can support, but others I cannot.
The addition of this proposition via this amendment adds mental health support to the legislation,
as I believe that it was not given any prominence in the policy letter, and I think it is essential. If we
545 vote to allow 24 weeks for a social abortion, then research on the same source I have already
mentioned previously in debate shows that as long as second and third trimester abortions are
medical services that are freely available to women, we have an ethical obligation to more fully
understand the mental health risks involved and to convey this information in a sensitive manner
to women as they struggle with difficult abortion decisions. Sir, we will be allowing abortions in the
550 second trimester at the gestational threshold of six months into pregnancy, and therefore, we will
fall into the same situation as described in the quote. We share that same ethical obligation and, I
believe, responsibility to our Island women.

Overall, I believe strongly that whether you are pro-choice, pro-life, or somewhere in between,
it is absolutely essential that we allow and encourage open conversation, that we let women know
555 that we will support them and listen to them and hear them. This is about real support, not just

support from healthcare professionals; it is about parental support, relationship support, teacher support, employer support. As I have said for a long time, we built a culture of shame around pregnancy of the 'wrong' sort; in a different era, in this era, we should be demolishing that shame and instead building pride and confidence in motherhood, no matter the circumstances.

560 Culture does not change quickly, and even when it does, it does not negate the need for robust mental health care and psychological support. Our Island has made significant strides in recognising mental health as a significant factor in public health over the last decade. Mental health care needs to be treated as a significant part of the abortion process and, in this day and age, deserves to be enshrined in law. I hope Members will support this amendment.

565 Thank you, sir.

The Bailiff: Deputy Stephens, do you formally second the amendment?

Deputy Stephens: I do, sir, thank you.

570

The Bailiff: Thank you very much.
Deputy Lester Queripel.

Deputy Lester Queripel: Sir, I am rather attracted to this amendment. I apologise to Deputy Dudley-Owen if she has already covered this in her speech. I rise to merely seek clarification on the timeframes involved here in relation to counselling being offered after an abortion: will that counselling be restricted to just a few months, or will that counselling be available to a woman indefinitely, regardless of the time involved, perhaps even years as opposed to months? And will counselling be offered on a weekly basis, or even more than once a week, should a woman request it?

580 Thank you, sir.

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

Deputy Ferbrache: Sir, I had no hesitation in rejecting all the previous amendments; some of them were just naked attempts to subvert the principles behind the policy letter? But are we bringing regulations over too many parts of our life on the basis they are going to liberalise matters when, in fact, it restricts people's choice? This particular legislation, or this particular policy letter, seeks to give women more choice, and I will talk about that when we come to general debate in due course. If I were presenting this amendment the way that Deputy Dudley-Owen did, I may have been a little briefer, and I may have just said simply that if the ethos behind the policy letter is such that it gives women choice, then this gives women choice, because it does not make counselling obligatory; it makes it entirely voluntary. So a woman can say no. She should never be pressured into thinking whoever is giving the advice, that their opinion overrides or trumps hers; it must be her choice. And if this amendment had said that it is obligatory for counselling, I would have unequivocally voted against it.

595 At the moment, I am attracted to it. I would like to hear from the Health Committee as to why this amendment should not receive favour; it may be that there are good reasons, and it may be that my mind will be changed. But at the moment, I can see no logical reason to vote against it.

600

The Bailiff: Deputy Gollop.

Deputy Gollop: Sir, I am attracted to the amendment as well. I might not agree with every nuance of every aspect of what Deputy Dudley-Owen said, but I think that the general principles that Deputy Ferbrache has outlined about a libertarian approach, maybe, to empowering women to seek the choice, that is one element to support. It also, as Deputy Lester Queripel has pointed

605

out, is not necessarily time-restricted, because it is offering appropriate counselling before and after an abortion.

610 I know Health & Social Care will probably argue they already offer very appropriate counselling, and Deputy Merrett made an intriguing point last week when she suggested one has to be careful about drifting from counselling into psychiatric treatment or psychotherapeutics. That is not what this is saying; it is basically about client-centred, Rogerian, I suppose, counselling that is all about empathy and listening and teasing out issues that might be there.

615 I am not in a position to say; I am not a father, I am not a grandfather, I have not had a baby or whatever – I am certainly not in a position to talk about how women might feel in all of these circumstances. But one thing that is pretty obvious, whether you are a student of psychology or drama or, I suppose, women's studies, or literature, is that you cannot possibly etch yourself in everybody's head and dogmatically say how they feel or how they might feel. I certainly would not agree with anybody who said that women regret having abortions, because many do not; they have, 620 as Deputy Tooley and others have outlined, particular reasons in their past, in their present, through, maybe, abuse, poverty, health reasons, whereby abortion is a liberation. For others, they might regret it at the time, they might regret it many years later, they may have the circumstances in life whereby the issues change, because we even have different feelings about different things at the same time.

625 What I do not get, really, from the Health & Social Care report is any sense of bias beyond a medical, clinical, public health-based neutrality; some might say that is the best way to go. But in other areas of public health, there is clearly a degree of emphasis upon partiality; we know that Public Health is very keen on everybody focusing on wellness – mind, body, spirit, and exercise. We know that Deputy Soulsby is not particularly keen on deputies, or anyone else, who get obese by eating jelly babies or the wrong sorts of foods; we have a difference of opinion on obesity. 630

We know that for 10, 20 years, really – going back to Deputy Roffey's time as the President of Health, and before him – that smoking has been actively discouraged, regardless of the fact that it is still an activity adults can freely do in their own homes. We know that birth control is actively encouraged for teenagers, and rightly so, and we at Employment & Social Security can be proud of 635 the work we did with the Medical Officer of Health, Dr Brink, in that respect. But what we do not get from this is whether Health & Social Care really see abortion as a great choice, or whether it is just a necessary choice in particular circumstances. And as I say, perhaps it is helpful to be neutral, rather than judgemental, on such an area, but abortion covers so many things, from attitudes to disability, attitudes to civil rights and human rights, as well as solidarity with women, as we have heard. So for 640 all those reasons, I actually think it would strengthen the Law – especially as we are likely to liberalise abortion, generally speaking, today and beyond – to put in appropriate counselling before and after an abortion as a statutory provision.

One area, perhaps, I would like to know more – from Deputy Tindall or other Members, Deputy Dudley-Owen too – is how extensive that counselling would be, should a woman adopt it, and who 645 is appropriate to give it, because we can all imagine that some of us would like priests and nuns to give that counselling; others would prefer people who are experts on the psychology of women, of the social and domestic problems many women face; many people come from a humanistic point of view; many people from a Public Health point of view; some counsellors come from a psychoanalytic point of view, neuro-linguistic programming. So I think we need to know who would 650 be eligible and who would not, and I certainly would not want to see a woman being given religious counselling when that was anathema to her own faith base or her own appropriate mindset.

But in principle, I think we could work with this legislation that is being drafted up, and I think this would be useful in actually allaying, perhaps, half the community's concerns about the direction of this legislation and the practicalities of it. 655

The Bailiff: Deputy Tooley, to be followed by Deputy Merrett, and then Deputy de Sausmarez.

Deputy Tooley: Thank you, sir; I will be brief.

660 This amendment, on the surface of it, is incredibly attractive; why on earth would we not say,
‘Yes, let’s make it legislation that all women should be offered counselling’? Clearly, it is really
attractive. But actually, we should not be making Laws around good medical operational practice;
we should be allowing medical operational practice to dictate for itself the pattern it follows and
the way it goes. We had issues around bowel cancer screening where we had much, much better
665 ways of doing things that were there and available, but we were tied in legally to something that
the Chamber had decided should be the way things happen, which prevented us from moving on
and doing things better. So the Public Health team are very much against this amendment.

The arguments that have been extended so far are so far removed from what actually happens
and the work that is actually done with women who find themselves contemplating abortion or
having had an abortion that the Public Health team actually find them quite offensive, and Members
670 of our community have been in touch with us during this very brief debate to say how offensive
they find the tone of some of the speeches that have been made so far. It suggests, they feel, that
health care workers do not know how to provide signposts for emotional support; it does not
acknowledge that some women just do not want to take up the offer of counselling; it does not
acknowledge that, actually, even if it is not mandated, being reminded constantly that they are
675 allowed counselling and they may have counselling can be a barrier to women accessing the
services they need. It is very much, while this is incredibly attractive on the surface – because how
much more benign could it be? – it is something that the Public Health team are very much against
placing into legislation.

Thank you.

680

The Bailiff: Deputy Merrett.

Deputy Merrett: Thank you, sir; I, too, can be brief.

685 My concern is around the word ‘and for many reasons Deputy Gollop stated, because what I
may feel is appropriate somebody else, clearly, will not. So, I am assuming, sir, that the amendment
means – and it is an assumption – that the person concerned, the girl or woman concerned, will
make that decision.

I have several concerns, but what really concerned me was that the heavy leaning on Deputy
Dudley-Owen’s speech was all about natural grief: ‘It is all about bereavement, it is all about natural
690 grief.’ In fact, I think Deputy Dudley-Owen only said ‘relief’ once during her speech, and for some
people, it will be a very natural relief, and it will not be natural grief. I think the speech was loaded
to the other side of the presumption of how somebody may or may not feel.

Also, sir, I think it is a bit – I will say ‘disrespectful,’ because that is how I feel about it –
disrespectful that a person – woman or girl – who seeks to have an abortion will not have the ability
695 to understand or have a fully informed decision on such a life-changing decision; they will be able
to make that decision, but they will not actually be able to go and, therefore, seek any additional
help they may need. I actually find that quite disrespectful, because I do believe that if one has the
capacity to make this decision, they have capacity to seek help if they need it.

One of my key concerns with the policy paper was the support available, and it was the mental
700 health support available. I posed that question to HSC several weeks ago, I received a response that
satisfied me, sir. So I posed the question and I received a satisfactory response on that.

Also, sir, the timing of this: not the timing of the amendment, sir; the timing of being offered the
appropriate counselling before and after an abortion. Sir, I would argue that when someone is trying
to make an informed decision, there is a decision making process before they determine the way
705 forward, and they really could need that support. I believe that support is available currently; I have
had assurances from HSC that that is the case. I agree very much with Deputy Tooley, sir, that it may
be well-meaning, but unfortunately, for me, at the moment, it completely misses the mark.

What has really put me off the amendment primarily is actually Deputy Dudley-Owen’s speech,
which I am assuming she was saying to support it, because it was so heavily weighted, sir, on this
710 natural grief: ‘We need to offer you counselling because you will feel bereaved, you will feel this

715 way; we will offer you counselling' – that weighting, that belief. For all the research, for all the reading we do, for all the people in our community we engage with, sir, the only person who will know what support they need is the person concerned, and they should have the ability and the information available to them to reach out and to have the resource available to them, and I had all the assurances from HSC, sir, that that is the case, all the assurances that I need, because that was my concern.

I thought, originally, reading it, 'I think Deputy Dudley-Owen is going where I wanted to go,' sir, but I sought the assurances pre-debate, and so therefore, I do not think at this juncture I can support it, sir.

720 **The Bailiff:** Deputy de Sausmarez.

Deputy de Sausmarez: Thank you, sir.

725 I agree with some of the recent speakers, Deputy Tooley and Deputy Merrett, that this certainly seems to be a very well-intentioned amendment, but I do have some lingering and questions and concerns. If we are to enshrine in Law the offer of appropriate counselling before and after an abortion, what about miscarriage? What about stillbirth? What about neonatal deaths? All of those seem to be equally applicable. I do take heed of Deputy Tooley's words from the Public Health team about allowing them the freedom to do things in the most appropriate manner, in the way that

730 allows the most operational excellence possible, allows best practice to be followed.

I do think it is very well-intentioned, certainly, but my main concern over it is the issue that Deputy Gollop introduced about who would be giving this counselling. Deputy Dudley-Owen in her speech touched on two sides to this really: she talks, rightly, I think, about making an informed decision, and also about the emotional counselling side of it, and I think they can be construed as

735 two very different things. I do not think this in any way gives us enough clarity over what would be that intention, but I can see this being interpreted in very different ways, and I certainly would have concerns about who the appropriate bodies to be doing this counselling would be, and I certainly would not like to allow any room for it to be used as a political tool.

I also have lingering concerns that if it is a blunt tool, and I have some concerns that it may be,

740 then the very offer of counselling, a repeated offer of counselling, may be a form of pressure in its own right, and that does also concern me.

The Bailiff: Deputy Fallaize, to be followed by Deputy McSwiggan.

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

On the face of it, I think this amendment seems quite inoffensive, and my initial instinct was probably the same as Deputy Ferbrache's, and I think I have voted the same way as him on all of the previous amendments as well. But I have two concerns about it: one is, I think there is a risk of infantilising women, because I am not aware that, in relation to any other procedures, there is a

750 requirement in Law for women to be offered counselling in this way. I do not think that there is for women who carry their pregnancy full-term and give birth, I do not think there is a legal requirement for the state to provide counselling to women after they have given birth to a live baby. We know from evidence that there are challenges which some women face, like post-natal depression, so why would we make an exclusion in relation to abortion and say that, in Law, there is this requirement

755 to provide counselling, when we do not for other procedures, including in relation to other courses of pregnancy? I think the amendment risks infantilising women by assuming, uniquely, that women who are contemplating or who have had abortions need the support of counselling services, when in fact, lots of people – women during pregnancy or after pregnancy or in other circumstances, and men – need the support of counselling services, and I think those things are best determined by the

760 medical professionals who will use the resources provided to them by the States according to their professional judgement.

765 The second concern I have is along the same lines as Deputy de Sausmarez and some other
speakers have mentioned: it is, who would be required to carry out the counselling? The amendment
does not say 'appropriate professional counselling,' and I am wondering who is going to decide
who is 'appropriate.' I have a horrible image in my mind of a young woman who is contemplating
an abortion being faced with the prospect of being advised that it really would be sensible for her
to go to see counselling services offered by people who are then going to lecture her on just how
silly she is about to be if she goes ahead with this procedure. I do accept, obviously that there are
professional counselling services and other counselling services who would not approach it in that
770 way and are providing counselling in all sorts of areas of life, but I also think there is a very serious
risk of drawing into this area people who, though acting with the best of intentions, are hostile to
the concept of abortion and would use this as a platform to try to discourage women from taking
that sort of action. I do not say that in any way that is the intention of the amendment, but I think
it is a very serious risk if this kind of concept is incorporated into the Law.

775 Support for women who are contemplating or who have had an abortion, clearly, is right. If this
was an amendment to pump more money into the support of women in those circumstances, I
would be voting for it enthusiastically, but it is not; it does not provide any additional money. If this
requirement is laid out in Law without more money, it will probably mean drawing into this sphere
amateur counsellors on a voluntary basis, and although they can do a lot of good work in some
780 circumstances, I do not think that drawing that type of person into this matter, as a matter of Law,
is wise, and I think the amendment should be rejected and we should just allow the health
professionals working with the resources that the States and the Committee provide them to
determine what is best in this area with the woman concerned, who, after all, is independent and
autonomous and able to take some view on what is right for her.

785 **The Bailiff:** I was just about to call Deputy McSwiggan, but Deputy Inder wants to move a
motion.

Deputy Inder: Sir, I will try and move Rule 26(1), please.

790 **The Bailiff:** Members of the States, Deputy Inder is invoking the guillotine rule once again, Rule
26(1), so I am going to invite those Members who have not spoken but who intend to speak in the
debate on this amendment to stand in their places, please.

Some Members stood in their places.

795 **The Bailiff:** In those circumstances, Deputy Inder, do you still wish to move the motion? (**Deputy
Inder:** Yes.)

I will put to you, therefore, Members, that the debate on this amendment be drawn to a close,
other than the usual winding up, which will be Deputy Soulsby on behalf of the Committee and
then Deputy Dudley-Owen as the proposer of the amendment. Those in favour; those against.

Some Members voted Pour, others voted Contre.

800 **The Bailiff:** I declare that motion lost.
Deputy McSwiggan.

Deputy McSwiggan: Thank you, sir.

805 Deputy Ferbrache invited Committee members to try and change his mind, so I am going to try
to do so, and in doing so, I am also going to try to address the questions raised by Deputy Lester
Queripel to the extent that I am able to do so. I just want to offer, perhaps, three points in terms of
respect and stigma and time, which will be my arguments as to why this amendment is not the right
one.

810 Only four months ago, this Assembly considered updates to the Matrimonial Causes Law, the
divorce Laws in Guernsey, and if at that time, the Policy & Resources Committee has included in its
proposals that it should be mandatory in Law to offer many women counselling before, during, and
after the process of going through a divorce, I think we would have thrown it out on its head. And
yet, divorce, like abortion, is a matter that has a history of being ethically fraught and a history of
Government getting more involved in the morality of the matter than it has any business doing.
815 What this Assembly and its predecessor have been getting much better at is getting the Law out of
the minds of the individuals who are using it; I think that has been our general trajectory, it has
been a very good trajectory for us to be on, and it would be a step backwards to put this provision
into the abortion Law and to make presumptions about the nature of the experience that a woman
who is undertaking an abortion is going through. I think that that was very eloquently set out by
Deputy Merrett in her speech, where she reminded us that it is a different decision for each woman
820 who makes it; the experience and emotions tangled up in it are different for each woman, and any
woman who has the capability and the willingness to seek an abortion is equally capable of seeking
the kind of mental health care and support, and the ancillary support, that she needs around that
before, during, and, maybe, long after the process.

825 The second point that I want to make is in respect of stigma. This amendment is less
objectionable than I thought it was on first reading, because on first reading, I thought that it
mandated counselling; I think Deputy Ferbrache himself said how objectionable that would be. The
issue here is that legislating for counselling in the context of abortion is loaded with the kind of
value judgements that Deputy Fallaize and Deputy de Sausmarez picked out. It is something that
830 jurisdictions put in abortion Laws because they do not trust women to know their own minds, or
because they think with a bit more of a conversation around it, women might choose something
different. Even if it is offered on an optional, rather than an obligatory, basis, it says something
about what we believe about the competence and the ability to make ethical judgements of women
who might be seeking abortions, and I do not think, sir, that that is appropriate.

835 Thirdly and finally, sir – and this, I hope, will partially address Deputy Lester Queripel's question –
is the issue of time. Deputy Lester Queripel towards the start of this debate said, 'Is this counselling
that is only going to be available around the point of an abortion? Is it something that a woman
who has had an abortion can seek at any point in her lifetime, and is it something that she can seek
on a very frequent basis or on a periodic basis, depending on what is most appropriate for her and
her circumstances?'

840 What this Committee *for* Health & Social Care has done is to try to ensure real parity of respect
between physical health services and mental health services and to provide a variety of mental
health services for women and men in all in all walks of life, with all kinds of experience, that are
appropriate and suitable to their needs at that particular point in time, and we have also sought to
remove inappropriate barriers to mental health care; the general direction, as set out in the
845 Committee's Partnership of Purpose, is to enable people to self-refer to services wherever a
gatekeeper is unnecessary, and that includes mental health services. We have taken every step
possible to make mental health services available to people who need them, whenever they need
them, in whatever circumstances they find themselves in, and sir, I think it is quite right for us as an
Assembly to agree that that should be the policy that should be part of a provision of a decent
850 health system in Guernsey. But that then allows appropriate and non-judgemental care to be
provided to everyone, without the need for a specific requirement in the abortion Law, which I think
carries the risk with it of disrespecting and stigmatising women who seek abortions.

So for that reason, sir, I ask Deputy Ferbrache and others not to support the amendment.

855 **The Bailiff:** Deputy Roffey.

Deputy Roffey: Thank you, sir.

The last few speakers have meant that I can be far briefer than I was going to, because my first
reaction on reading this was exactly the same as Deputy Ferbrache's: 'What on earth can be wrong

860 with this?' And then I started thinking about it a little bit more deeply, and I also thought back to the last abortion debate, which happened all of those years ago, where the pro-life groups – well, they call themselves 'pro-life' groups; actually, a lot of them are in favour of the death penalty, so I prefer to call them 'anti-abortion' groups – of course, did not want us to legalise abortion at all, but also had this big thing about 'There has to be counselling offered and provided.' He was saying –
865 and I was at the BBC then; I was not in the States like he was – 'Okay, well, obviously, there is going to be some limit to the amount that the Board of Health' – as I think it was then – 'could provide,' and they said, 'That is fine, do not worry: we will step in, we can do this, and we will do it in a totally neutral basis – we have got the resources, we have got the national bodies behind us, we are informed, we can tell people about that.'

870 This time around, that element has not been stressed in this amendment, but I do wonder if that is where it is headed. With the best will in the world, I want anybody that needs counselling support to have it, but there is going to be always some limitation on resources from professional counselling. Deputy de Sausmarez is quite right: somebody that has lost a much wanted pregnancy through spontaneous abortion is going to need support; somebody who has a stillbirth is going to
875 really want support; somebody who loses a child in the early years of its life is really going to want support. The fact that we say that somebody who is considering, and perhaps then having a termination, in Law has to have that provided – if it is going to be by the professionals, and not by these other groups that, really, I do worry about their objectivity – I do not worry about their good intentions, but I worry about their objectivity – if it is going to be by the health professionals and
880 only in these circumstances, do we stress in Law – then I think we skew things away from all of those other people who also desperately need the support and counselling that are offered them.

I think there is a value judgement that is carried in that as well. It is not just a practical issue about skewing resources; it is a value judgement saying, 'In these particular circumstances, you are really, really going to likely need support,' which is not always true, as Deputy Gollop has said, but
885 it carries with it a judgement. Deputy Dudley-Owen in her opener said we have to move away from shame, we have to move away from stigma; I support her in that, but I have to say that the movers of many of the amendments that we have had to face over this debate, actually, although they have been well-intentioned, I am sure, the way they have been put forward has been more likely to reinforce stigma and reinforce shame than actually moving away from it. I think HSE have nailed it
890 with the way that they have put forward this modernisation, and I intend to support it completely unamended.

The Bailiff: Deputy Le Tocq.

895 **Deputy Le Tocq:** Thank you, sir.

Sir, when, a couple of years ago, an independent survey by ComRes in the UK asked the question as to whether a woman considering an abortion should have a legal right to independent counselling and from a source that has no financial interest in her decision, 89% of the respondents to that survey of the population agreed; in fact, interestingly, 93% of women agreed. I support this
900 amendment because not only, sir, do I think that it is essential in whichever way possible that women are offered counselling, I also note that the Isle of Man, in its similar reforms of its abortion Law two years ago, included legislation on counselling; in fact, sir, I want to and to quote from their legislation, so that we can understand how they decided it would work for them. Under Section 6, 'Abortion services: conditions for provision,' it states:

The Department must secure the provision of appropriate counselling and support for women seeking a termination under this Act.

905 It uses the term 'appropriate,' but then it goes on to define it:

Before abortion services are provided to a woman, she must be offered counselling if it is practicable to do so in all the circumstances without causing undue delay in the provision of those services.

It goes on to say, sir:

The Department must issue guidelines about counselling for the purposes of this section, and in the other provisions of this section 'counselling' means counselling provided by a person approved by the Department in accordance with the guidelines

– and the guidelines, sir, state this:

- (a) counselling is balanced, impartial and non-judgemental;
- (b) in the case of a prenatal diagnosis of foetal developmental impairment, counselling includes information about the possibility of continuing the pregnancy to term;
- (c) counsellors have available to them, and are willing to discuss with a pregnant woman, full and accurate information on the full range of available options in relation to the pregnancy;
- (d) there is available to a pregnant woman information in writing from support groups and other organisations representing people with disabilities.

910 I think, bearing in mind what we have also debated, sir, that is important. Then it talks about 'Post-termination counselling and support,' and it states:

- (1) The Department must secure the availability, to any woman who has undergone a termination of a pregnancy in accordance with this Act, of suitable and sufficient post-termination counselling and support.
- (2) In discharging its functions under subsection (1), the Department must have regard to the fact that a woman may need counselling and support some time after the termination as well as in its immediate aftermath.
- (3) A person providing abortion services must make available, to any woman who requests it, information about the availability of counselling and support.

915 Now, while I accept, sir, that some of this is good practice and I am sure goes on already, sir, I do not think, bearing in mind that the Isle of Man brought it onto the statute books, that there is any reason why we should not do the same, particularly as the Isle of Man is referred to, and its recent reforms referred to, quite regularly by HSC.

The Bailiff: I will invite the President of Committee, Deputy Soulsby, to speak on behalf of the Committee in respect of this amendment.
Deputy Soulsby.

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

Clearly, the provision of counselling is important, and Guernsey already makes pre- and post-abortion counselling available to women as a routine part of the Abortion Care Pathway and in accordance with NICE guidance on abortion care; we have a specialist counsellor for pre- and post-abortion counselling, support groups are out there for those diagnosed with foetal abnormality,
925 there are online groups and trained midwifery teams and specialist mental health nurses. Unlike the impression given by Deputy Dudley-Owen using an unreferenced source, people do use these services.

This amendment presupposes that healthcare professionals just do not do their job. It assumes, and risks advocating the idea, that women always need or want counselling, and also goes against
930 NICE guidance, which states that counselling should not be compulsory and neither should there be compulsory time for reflection before abortion. Instead, professionals are required to provide or refer women for support to make a decision if they require this.

Deputy Dudley-Owen says there are gaps; if there is any identified need – and I have to say, there have been a lot of reviews over the last four years in respect of women's health services and
935 maternity services and a specific additional need has not been advised or referenced anywhere – even if so, that is something that would come out of the normal course of review of health services.

But really, that is not the point; the point is, why put this – which is an operational issue; it clearly is, it about the services that are provided – into legislation? Deputy Dudley-Owen questions this, but if this is so important, why not everything that is associated with health and care legislation?
940 Where will you stop? All autism services, or mental health services, or various types of surgery? You

cannot; you could put the whole of every Health & Social Care provision in the statute book, but the States of Guernsey would go bankrupt. But then if you do not, and say some things should be in legislation, how do you choose? How do you choose which is more deserving of resources and priority than other aspects of health and care?

945 By stating that counselling services in respect of abortion are as important as they are and should be provided in Law, you are saying these services are basically of a higher need than other services that Health & Social Care provides, and more worthy of the resources that we have: more important than cancer provision, say, which is not a statutory provision; more importantly than maternity services, which are not a statutory provision; more important than community care; more important
950 than the counselling services that other parts of the States of Guernsey provide – post-natal depression. Indeed, the States of Guernsey also provide domestic abuse counselling; I do not think that is in legislation either. Who are we on the floor of this Assembly to make such a decision without that full evidence before us and do it through just an amendment by one Member of this Assembly?

It is also worth pointing out that the World Health Organization states that:

Barriers to accessing safe abortion include: restrictive Laws; poor availability of services; high cost; stigma; conscientious objection of health-care providers; unnecessary requirements, such as mandatory waiting periods, mandatory counselling, provision of misleading information, third-party authorization, and medically unnecessary tests that delay care.

955 Deputy Dudley-Owen seemed to talk about post-natal depression, but that is unrelated to the abortion counselling services provided.

She said about the importance of the choice of abortion at home, but voted in the last amendment, which would have made that impossible. She talks about, 'We have built an atmosphere of shame,' and all her amendment will do is add to it by forcing women to have an
960 appointment with someone when they do not want it.

While she was speaking, one of the healthcare professionals involved in this area sent me an e-mail, and she was really concerned about what Deputy Dudley-Owen said. She said:

Her argument is very far removed from the work that has been undertaken within this service. It is quite offensive and suggests that health care workers do not know how to provide and signpost for emotional support, and also does not acknowledge that some women just do not want to take up this offer.

Deputy Gollop asked about who will provide the counselling; well, I would ask the same. Nothing in the amendment says who that should be. Deputy Le Tocq talked about the Isle of Man; well, the
965 Isle of Man might do all that, but there is nothing in this amendment that says that that is what should happen. And as I said, I do not believe it should be in the legislation anyway. In the last amendment, Deputy Gollop said he supported that amendment about having them inspections, because he was concerned if ever there was an irresponsible HSC in the future. Well, I would say that is an absolute reason why we should object to this amendment; what if you have an HSC who
970 does think that such counselling should be through, say, a priest or a pastor or other non-impartial counsellor?

Sir, whilst I understand why this amendment might be alluring and it might feel like it is the right thing to do, we must support our women. It is unnecessary; it is also infantilising women; and it is also rather naive. So I ask Members to reject it.

975

The Bailiff: I now invite the proposer of Amendment number 7, Deputy Dudley-Owen, to reply to the debate on it.

Deputy Dudley-Owen.

980 **Deputy Dudley-Owen:** Thank you, sir.

We have had lots of comments, and actually most of them have been repeated by those who have contributed, but I do thank them for those comments.

Deputy Lester Queripel started the question about who will be offering the counselling services – ‘What are the timeframes? What type of counselling would be available? – and this was a theme repeated by speaker after speaker after speaker, and quite honestly, I think it has just been an absolute red herring; that actually *is* an operational matter, and would the Health & Social Care Committee really prescribe who should deliver the counselling in a way in which it would be a biased counselling service? Would they really employ the services of a Tibetan shaman or an extremist Islamic fundamentalist person, or an extremist pro-life priest? Let us be serious: that was a red herring argument if ever I have seen one, and quite honestly, completely goes to the heart of the amendment, that actually, all we are trying to do here is to make mental health provision as equal to that of physical health care provision.

I am not going to spend an awful long time labouring the point, because for me, as I have just said, that was trying to denigrate and undermine the principle of the amendment so I will just – I will be short, so I would rather not give way, Deputy Tindall, thank you; I would like to just get to the vote – I think we all would. I am just going to repeat this very short passage of my speech.

Let me be clear: this amendment is not about making counselling compulsory; it is about ensuring that the right to access itself is enshrined in the legislation, and it is the same as the right to access the termination procedure itself. Our Laws reflect our community values and, as such, are reflective of what type of community we are, how we want individuals within our community to act towards each other, the care, empathy, and dignity we aspire to in order that we can thrive in a peaceful way.

Our health is defined by the WHO as ‘a state of complete physical, mental, and social well-being.’ Now, Deputy Soulsby has painted the amendment as effectively pitting counselling against other medical services; well, if we go back to the World Health Organization definition of what health is, that is absolutely not the case and we should be raising mental health up there, along with physical health provision. By including this provision in Law, we will ensure that it is not only explicit, but unequivocally clear, that it is a requirement merely to offer counselling services, and not to take it by the lady. There is no disrespect meant in his amendment whatsoever, and it has been laid with a pure heart and the best of intentions, and I do hope that Members in the Chamber will be able to support it.

Thank you.

The Bailiff: Members of the States, we come to the vote on Amendment number 7, which is proposed by Deputy Dudley-Owen, seconded by Deputy Stevens. Is there going to be a request for a recorded vote?

Deputy Lester Queripel: Yes, please, sir.

The Bailiff: Thank you, Deputy Lester Queripel. It will also have the effect of inserting an additional proposition if it were to be carried. Greffier.

There was a recorded vote.

Not carried – Pour 12, Contre 24, Ne vote pas 1, Absent 2

POUR

Deputy Gollop
Deputy Lester Queripel
Deputy Mooney
Deputy Stephens
Deputy Meerveld
Deputy Inder
Deputy Smithies
Deputy Graham

CONTRE

Deputy Parkinson
Deputy Le Clerc
Deputy Leadbeater
Deputy Trott
Deputy Le Pelley
Deputy Merrett
Deputy St Pier
Deputy Fallaize

NE VOTE PAS

Deputy Prow

ABSENT

Alderney Rep. Roberts
Alderney Rep. Snowdon

Deputy Paint	Deputy Lowe
Deputy Dorey	Deputy Laurie Queripel
Deputy Le Tocq	Deputy Hansmann Rouxel
Deputy Dudley-Owen	Deputy Green
	Deputy Brouard
	Deputy McSwiggan
	Deputy de Lisle
	Deputy Langlois
	Deputy Soulsby
	Deputy de Sausmarez
	Deputy Roffey
	Deputy Oliver
	Deputy Ferbrache
	Deputy Tindall
	Deputy Brehaut
	Deputy Tooley

1025 **The Bailiff:** Members of the States, in respect of Amendment number 7, proposed by Deputy Dudley-Owen, seconded by Deputy Stephens, there voted Pour 12; Contre 24; there was 1 abstention; 2 absentees. Therefore, I declare that amendment also lost.

1030 **The Bailiff:** Now, Members of the States, those of you who are still glued to your screens will have spotted that a further amendment has been submitted to the Greffier. We have paper copies for you. Deputy Gollop, do you wish to lay this amendment next?

1030 **Deputy Gollop:** Yes, please, sir.

1035 **The Bailiff:** Then the paper copies will be circulated and you will have a short moment to read what is a short amendment, and then I will invite Deputy Gollop to lay it.

Deputy Le Pelley: Sir?

The Bailiff: Deputy Le Pelley.

1040 **Deputy Le Pelley:** Do we need to suspend the Rules?

The Bailiff: No.

1045 Just by way of further explanation on that, Deputy Le Pelley queried whether or not the Rules needed to be suspended; they do not need to be suspended, because we are back to the standard Rules, which means that a non-Rule 24(2) amendment does not require any notice. The modifications for the remote meetings that we were conducting until last Friday *did* require 24 hours' notice of all amendments, which was the Rule 24 one, so that is just by way of explanation.

Does every Member of the States now have a paper copy of Amendment number 11?

1050 Well, Members of the States, before I call Deputy Gollop to lay Amendment number 11, I am going to invite the Greffier to read it, because it has only just come into circulation.

Greffier, please.

The States' Greffier read the amendment:

[Amendment 11](#)

In proposition 4 for 'twenty four weeks,' substitute 'twenty weeks,' and delete ', as described in paragraph 5.29 of this Policy Letter'

The Bailiff: Deputy Gollop to lay the amendment that he is proposing.

1055 **Deputy Gollop:** Thank you, sir; I will talk, I hope, Deputy Ferbrache's advice and be very brief and succinct and not labour this one at all.

The thing is, we had a variety of options last week, when we were still on Teams. One of the more interesting amendments, which I supported, was put across, I think, by Deputy Le Tocq and Deputy Dudley-Owen, and Deputy Stephens may have been involved too, for 16 weeks; that did not succeed. Clearly, the core of this debate is about reform of what was, perhaps, an imperfect Law, as 1060 Deputy Roffey identified, that was made in the mid-1990s, and the compromise Guernsey came up with at the time was 24 weeks for foetuses that had severe abnormalities, but 12 weeks as a base.

I think Guernsey has been out of step with the 12 weeks, and however much many of us, some of us, would wish to see a reduction in the number of abortions, or maybe the elimination of abortion, we are aware that people in Guernsey who wish to have abortions if they are faced by 1065 restrictive legislation in Guernsey, there is obviously a risk of matters going into private hands, or there is a risk of exporting the problem off the Island; as Deputy Roffey has identified, and Deputy Tooley, it is easy to preach moral high ground when you have a situation where people who are disadvantaged by the legislation can leave.

I think many of us, many in the community, are still not comfortable with the doubling for 1070 foetuses is in certain categories from 12 weeks to 24 weeks, because that is a significant change. It may – not necessarily encourage, but may – facilitate more abortions to occur, which people could be uncomfortable about and are uncomfortable about, and it is not in itself a cautious and incremental approach to legislation. For those reasons of it does not feel right – Deputy Trott has said in a different context, and Deputy Inder – I do not think 24 weeks feels right for me at this 1075 stage, and 20 weeks is more reasonable.

Of course, for Members who wish to see reform of abortion but worry the whole package might not make it, or for Members of conscience – and everybody has got a conscience on this, but Members who really do not wish to see abortion in any circumstances, and I think there are several in the Chamber of that persuasion – this is an amendment both can support.

1080 I think the crucial argument for 20 weeks is actually none of those points; it is about another topic we discussed last week, and it is a delicate question, and it is about viability of the foetus. Of course, coming into the meeting today, one was given information that one cannot verify easily, about how, maybe, in late abortions – we define after 20 weeks as a late abortion – it is possible that the foetus has a degree of feeling that we are unaware of. But for me, the crucial issue is, what 1085 is the youngest age babies today can be born? We were looking, for example, at research in Sweden – which, admittedly, is an extremely well-funded country in terms of public health and technology – there is evidence that, whereas only 3.5% of babies who are born under 24 weeks survived a decade ago, that figure has increased to 20%, and it is likely, given emerging technological advances and medical specialists, that we will see – and thank goodness for that – more babies who are loved and wanted being born at an earlier stage, but nevertheless, surviving and thriving. We can look at Florida, at children from diverse ethnic backgrounds who have been born at 21 or 22 weeks. 1090

The core of this is to say: yes, we do need, and I will be supporting, contrary to what some may believe, most of Deputy Soulsby's Health & Social Care reforms if and when we get them to general debate, but I am not comfortable with the 24 weeks in all instances, and feel 20 weeks would be the 1095 right base to set at this stage of direction to legislation. We are reforming, but nevertheless putting out, I think, a message that we would rather see every child being wanted, a family, supportive infrastructure, a supportive society, a society with empathy, and a society where there are choices for men and for women, but especially for women, where birth control of all kinds is freely available, rather than the potential, not necessarily, of the trauma of abortion being late term.

1100 So I think we should support the five months – 20 weeks – and support my Proposition that I lay before the States. Thank you very much.

The Bailiff: Deputy Le Tocq, do you formally second the amendment?

1105 **Deputy Le Tocq:** I do, sir, and I would like to speak now, if possible.

The Bailiff: Let us just wait and see if there are any motions first, Deputy Le Tocq, but if – Deputy Inder, you have risen?

1110 **Deputy Inder:** I am going to try again, sir: Rule 24(4), please?

The Bailiff: Members of the States, Deputy Inder is seeking to invoke Rule 24(4), which is to see whether Members support debate on this amendment, and therefore, I invite those who support debate on the amendment to stand in their place; if there are fewer than seven who stand, then the amendment will be debated, so please stand if you support debate.

Some Members stood in their places.

The Bailiff: At the moment, there are fewer than seven, and therefore, there will not be any debate on Amendment number 11, and we move now, swiftly, into general debate, and if you can remember the opening that Deputy Soulsby gave last week, I invite you now to debate on that. Deputy Graham.

1120 **Deputy Graham:** Thank you very much, Mr Bailiff.

I very rarely make a long speech, but I am going to on this occasion and I make no apologies for it. I spoke for about three minutes on one of the amendments, and feel that I am going to make up for lost time. (*Laughter*) Members, I am not apologising to you, but you are duly warned.

1125 I want first to dispel some of the accusations made against those of us who are opposed to the Health & Social Care Committee's proposals and, in some cases, the myths that attach themselves to those accusations. The first is that we sit in moral judgement to women who resort to abortion; in my case, no such judgement was made. I maintain that although there was a moral dimension to the issue, in the sense that the life of a foetus is at stake, I make no moral judgement about those women whose assessment of its relevance to their personal situation leads them to opt for an abortion. My values include compassion for those women who have to make a difficult decision.

1130 The second is the assertion that we are driven by religious dogma; in my case, many of my values happened to coincide with those of Christianity, but I would describe myself as an individual with a strong spiritual element in my life, as distinct from an allegiance to an institutional religion. It is *my* values that lead me to a view on the proposals, and not anyone else's.

1135 The third is that we seek to deny women any access to abortion at all; the issue for many of us is not about abortion *per se*, but the future regime for abortions here in Guernsey. Last Thursday, Deputy Tooley commented that Deputy Le Tocq had strayed from debating the sursis motive to debating the principle of abortion, and she was right, but her own President had already done just that in introducing the debate; Deputy Soulsby began by saying that this debate was not about the principle of abortion and then spent the next two minutes also talking about the principle of abortion. She deployed a common rhetorical device whereby to promote one's own argument, one first distorts the opposing argument by exaggerating it to the point where it assumes the status of a scary bogeyman: all the easier to shoot it down and show, by contrast, how reasonable one's own argument is. And so it was on two counts: first, the argument opposed to changing the abortion Law was portrayed as advocating return to no abortion; well it was not. Second, the persons opposed to change were a bunch of extremists making accusations of a return to Nazism – and Deputy Tooley was in a similar mode the next day, characterising those of us who advocate the status quo as those who accuse women of treating abortion as a casual method of contraception.

1140
1145
1150 **Deputy Soulsby:** Point of correction, sir?

The Bailiff: Point of correction, Deputy Soulsby.

1155 **Deputy Soulsby:** Sir, I did not say *everybody* who was going to oppose the reforms were using extreme language, but they actually represent a *small minority* likening the overall proposal to Nazism.

The Bailiff: Deputy Graham to continue.

1160 **Deputy Graham:** Nothing could be further from my mind, certainly, and nor, would I think, from the minds of Deputy Stephens and Le Tocq.

Of course, such Committee narrative serves usefully to deflect discussion from the real argument, which was pinpointed with typical lucidity by Deputy Parkinson; namely, that any civilised
1165 community should seek a sensible and sensitive balance between the interests of the woman and the life of the foetus within.

To read some of the letters we have received, the current Law allows no abortion and inflicts a barbaric regime upon the women of the Bailiwick. Much of the correspondence insists that there is currently an annual mass exodus of Guernsey women to the UK abortion clinics, driven there by our
1170 callous denial of access to abortion here. Of course, the official records contradict that view; the statistics tell us that under the current Law, there are on average 111 abortions performed within Guernsey's health service each year. Additionally, an average of eight local women have abortions in UK clinics each year, and amongst the latter, we do not know how many were beyond 16 weeks' gestation or how many have opted for an abortion in the UK because they were ineligible here or,
1175 perhaps, for other personal reasons. Of course, under the proposed new Law, most, if not all, of those carrying a foetus over 40 weeks would have had to have gone to the UK anyway, albeit not at their own expense

Which reminds me: even this week, we continue to receive e-mails that claim, quite erroneously, that the new Law will at last free women from having to have their abortions performed in the UK.
1180 Their ignorance is not surprising, because the policy letter is almost silent on the fact that all foetuses of 14 weeks' gestation or more will be aborted in the UK. Only at 7.2 does the policy letter even hint at this fact of the new Law, and then only by way of indirectly indicating there would be a cost implication if any late-term abortions are performed off-Island; blink, and you would miss it, as indeed, have many correspondents. In my view, the policy letter provides no evidence that there
1185 is significant unmet demand in Guernsey for late abortions that would justify such a radical change in the Law as doubling the permitted gestation time.

Members of the States, I now turn to other issues raised by many of the e-mails we have received and by some of our colleagues in debate. One of the most contentious is that since the foetus is developing within the body of a woman, only the woman has a right to decide its fate; 'My body,
1190 my choice' is the cry. Some correspondents went even further, and asserted that the subject of abortion itself is strictly women-only territory; men have no right to expect their view to be taken into account, far less to have a role in deciding the Law. Not even would-be fathers have a say. One corresponded objected not only to men in general having a right to a view, but white men in particular.

In passing, I ought to respond to Deputy Tindall's indignant outburst on Friday to my claim that
1195 in advocating a balance between the life of the developing foetus and that of the woman carrying it, I was pushing the view of, and I quote, 'a substantial portion of humanity.' Now, I do trust that Deputy Tindall was the only Member who inferred from that that I was claiming to have personally toured the globe in my consultation. Her claim that I could not possibly be right because around
1200 half the world's population is female allows very little other explanation. For the record, what I meant was that a heavy majority of the many e-mails and letters of support I received from the Guernsey community were from women, many of them mothers.

It is worthy of note that as of the end of last Friday's debate, as far as the place of men in this
1205 conundrum is concerned, those who have spoken in support of the HSC proposals will only mention men in the role of rapists or abusive partners who caused unwanted pregnancies: no mention whatsoever of any compassionate would-be fathers. I take issue with this rather misandristic view of abortion on a number of accounts; if the central logic is followed to its conclusion, that the would-

1210 be mother is the sole decision-taker and that the foetus growing in her is nobody else's business
but hers, there is no point in having any time limit, any conditions to the circumstances under which
an abortion can be performed, no matter what stage of development the foetus has reached –
1215 whether 12 weeks, 24 weeks, 34 weeks – no matter the health of the foetus, no matter the wish of
the would-be father. If indeed, it is the case that the choice belongs exclusively to women, then
these factors are irrelevant; the Law could simply state that, unless in the opinion of one doctor the
abortion procedure itself would harm woman, an abortion must be performed whenever and in
whatever circumstances the woman decides – and Members of the States, that it is not a million
1220 miles from what the proposed changes would lead to in the short term. I predict that this is precisely
what successors to the current Health & Social Care team will be demanding of the States in 10 to
15 years' time. There is no other logical end to the central thesis of 'My body, my choice.'

1225 My second objection to the principle on which the proposed changes are predicated – namely,
that the fate of the foetus is nobody's business but that of the woman carrying it – is that it amounts
to a denial that there is any moral or ethical element of a universal humanitarian nature in deciding
that fate. In her opening speech last week, Deputy Soulsby spoke at sufficient length to have
enabled all the key issues to be identified, and if I heard correctly, only once did she refer to the
foetus, and then it was not with regard to how much we should be concerned for the foetus, but
rather how distressing it would be for the woman if a baby were to be delivered, either dead or
1230 within hours of death. Having listened to the responses so far from members of the Health & Social
Care Committee, only Deputy McSwiggan has acknowledged that, in each case, there is also the life
of the foetus to consider; I would add that Deputy Prow hinted that he, too, was not entirely
comfortable with some aspects of the Committee's proposals, but I cannot speculate what those
aspects were and whether they included the status of the foetus.

1235 For the remaining members of Health & Social Care and their supporters, it was as if there was
some sort of *Fawlty Towers* pact such as 'Don't mention the foetus!', or that they were simply in
denial that the fate of the foetus has a place in this debate: anything to avoid engaging with it as a
difficult issue, and that is why they have done it. I do hope that, belatedly, they will be forthcoming
in addressing the value of the foetus in the difficult balancing act that is central to this debate.

1240 Few and far between were the emails from supporters of the Committee's proposals which gave
even a passing thought to the developing life within a pregnant woman; indeed, some of these
emails were brutally aggressive in objecting to any suggestion that the well-being of more than one
life is ever at stake. For them, it is all about one life, that of the pregnant woman, and her
unchallengeable rights: no mention that an individual's rights might be accompanied by the
1245 individual's responsibilities. In the words of the policy letter, at 5.9, an abortion is no different, and
I quote, to 'all other medical or surgical treatments.' And the Royal College of Obstetricians and
Gynaecologists, they are no less cold-blooded in their views, quoted at 5.8: in their view, the decision
to abort a developing foetus is just another 'personal healthcare decision' by a pregnant woman. I
disagree strongly with that view; I believe that there is a moral issue involved in deciding the fate
of a developing foetus and that any civilised community, far from washing its hands of it, should
address that issue – if necessary, through its Laws.

1250 Member of the States, that leads me to a third point and a related issue; some of the language
used, even in the policy letter, chills the blood. Ending the life of a growing foetus and disposing of
it is referred to as, and I quote, 'the expulsion of the products of conception.' The rhetorical question
posed repeatedly to opponents of the proposed changes goes as follows: 'Why the fuss about
ending a pregnancy? What other medical or surgical procedure requires, for example, the approval
or more than one doctor?' And the subliminal message behind the language is this: the foetus has
no more status than that of an unwelcome, malignant growth, and its removal should be no more
significant than any other medical treatment. Of course, the choice of the language is not accidental;
1255 it suits the chosen narrative of 'My body, my choice.'

I now turn to three of the justifications offered by the Committee for the policy letter, and the
first of these concerns the issue of the need for two medical practitioners to confirm that the
statutory conditions for an abortion to go ahead have been met. Back in 1997 and the debate

1260 leading up to it, those who worried that the proposed new Law on abortions would lead to a reckless
abuse of it were assured that no such abuse could possibly take place because of the two-doctors
stipulation, and the message to the doubters was clear and explicit: 'Have no fear: two doctors will
independently act as gatekeepers to preserve the integrity of the new Law.' I believe the impact of
that firm assurance was significant in securing support for the rule.

1265 So what has changed in the intervening 23 years? Is the danger of resorting too readily to the
use of abortion any less now than it was then? That seems unlikely, given that legal abortions
provided by national health services are now a less controversial and more common option. Or has
the integrity of doctors so improved that only one gatekeeper is now required to ensure that
professional objectivity is duly exercised? The justification offered by the policy letter seems to rely
solely on the concept that the ending of the life of the developing foetus is no different to any other
1270 medical or surgical procedures, for which no such stipulation exists. I just cannot accept that.

A second justification for change offered by the policy letter is the need to bring Guernsey in
line with the UK. This is an interesting argument when we look back on last Wednesday's debate of
the new Sexual Offences Law; then, the argument from all but one Health & Social Care Committee
members, and from their supporters, whether in debate or in e-mail correspondence, was very
1275 strongly along the lines that the last thing we should do is take notice of the UK approach to such
serious policy matters. Now, the very same persons are arguing the complete opposite; it has
suddenly become imperative to abandon our right to an independent approach, and instead toe
the UK line. Perhaps we should have similarly followed the UK line in the face of the pandemic.

Members of the States, it is a funny old world sometimes. This enthusiasm to emulate the UK on
1280 abortion is a puzzling ambition, difficult to understand, unless the aim is to achieve the highest
possible number of abortions. The UK and France are abortion champions amongst our near
continental neighbours. Whether measured by the number of abortions per 1,000 live births or per
1,000 women, the rate in the UK and France varies between twice and three times the equivalent
rates in Germany, Belgium, the Netherlands, and Switzerland, and in those countries, the adopted
1285 mantra is 'Safe, legal, and rare,' whereas the UK seems to have settled for 'Safe, legal, and the more,
the better.' I regret that Health & Social Care have identified the UK as the gold standard to be
followed; instead, I would urge them to look to those countries with lower abortion rates and seek
to learn lessons from them. They are no less civilised, no less compassionate than we are, and they
strike me as a far better abortion role model than the UK.

1290 I now come to perhaps the most difficult of all these difficult issues: that proposed by Proposition
3 – the removal of any gestational threshold for abortions under section 3.1(c) of the Law. I wish to
make two points about this: in the policy letter, at 1.2(ii), the Committee cites 'a lack of legal clarity
in some areas' as providing the need for a review of the current Law. It is therefore ironic that the
Committee itself offers no assurance that the proposed term of significant foetal abnormality is
1295 itself capable of being satisfactorily defined with any legal clarity. I seem to recall that the
Committee, in its response to a moving letter from a young woman with Down's syndrome who is
challenging the UK law – and it was a letter from Deputy McSwiggan first of all, and then repeated
by the Committee – they admitted, the Committee themselves, that there can be no such legal
clarity about what is a significant foetal abnormality. In my view, we should not be easily content
1300 that a life or death decision about a mature foetus should be determined by criteria incapable of
legal definition. Yesterday, we received a devastating critique of the proposed new Law in this
regard in an e-mail from Baroness Grey-Thompson, herself a survivor of birth with a severe foetal
abnormality – in her case, spina bifida – and, of course, patron to our own Guernsey Disability
Alliance. She has pointed to the absurdity of blindly following a UK Law that was passed deep in
1305 the last century; is, by now, way out of date; was done before the Disability Discrimination Act came
in and before the UN Convention on the Rights of Persons with Disabilities came in; and, in her
words, currently and very properly subject to a legal challenge. And yet, Health & Social Care argue
that the new Law is needed to provide legal clarity; I say, 'Nonsense.'

1310 I find it difficult to articulate my second point about section 3.1(c), as formerly a long-serving
infantry soldier, I have encountered some really nasty stuff in my time, but even I cannot get my

1315 head around what is, for me, the intensely distressing notion that under the proposed Law of a so-called 'civilised jurisdiction,' a foetus that has struggled to develop from embryo to maturity over the course of many months and now lies within the womb, its heart already beating, within, say, a week of birth, nonetheless will have the status of an 'it,' a 'something,' with no identity, no rights, not even to relief from pain by the choice of its mother, according to the States Members' shameful rejection of Amendment 4 last Friday – and all of this merely because the foetus remains within the body of the woman who bears it and in whom all rights are exclusively vested. And yet, Members of the States, one week later, that same foetus, scarcely changed in physical form but delivered from that body, the 'it' becomes a 'he' or a 'she,' the 'something' becomes a 'someone,' a fully-fledged
1320 human being with all the rights the world can bestow on him or her. One week, the foetus is liable under the proposed Law to receive a fatal injection of potassium at the hands of a medical practitioner, and yet one week later, all possible medical attention will be devoted to preserving and nurturing his or her life. Members of the States, it will not surprise you that I will vote against Proposition 3, as well as 3 and 4.

1325 I come to a close with two comments, the first of which I was not intending to raise, but I have been urged to do so by members of the public. In my previous role, it was my privilege to be a regular visitor to Mont Varouf School in the days when a certain Mrs Jane Stephens was its inspirational leader. It was not an unqualified pleasure to make such visits, because I personally found that the lives of some of those children invariably pierced what I consider to be my relatively
1330 thick skin. And I struggled to cope with that; every time, I used to come away thinking that there was no way I could each day provide the intensity of engagement that Mrs Stephens and her team seemed to assume as a matter of course, and inwardly, I used to thank Mrs Stephens and her colleagues for doing on behalf of our community what most of us would not ourselves cope, and feeling guilty for leaving her and them to get on with it. But it was not just Mrs Stephens' leadership and intensity of engagement that left me in wonder; it was also her compassion and the sincerity of that compassion. Of course, as Deputy Stephens, she went on to become the first ever States
1335 Champion for Disabled People and has been our co-chair of the Disability and Inclusion Strategy Implementation Group since 2016.

1340 It was, therefore, with sadness and not a little anger that last Friday I listened to Deputy Soulsby's mean-spirited attack on the sincerity and integrity of Deputy Stephens and of Deputy Le Tocq in placing their amendments relating to foetuses at high risk of disability once born. In what was a vicious, calculated verbal personal assault, Deputy Soulsby was not merely implicit in her criticism; no, she could not have been clearer or more direct. She insisted that both Deputies were not remotely motivated by a genuine concern for discrimination against the disabled; their amendments
1345 were solely, cynically, and disgustingly motivated by a wish to abolish abortion totally. Now, I leave aside the arrogance of an attitude that allows only one's own views to having any integrity, and I limit myself to the comment that I thought it exceedingly poor form for the President of a Principal Committee to attack publicly the person's integrity, rather than the person's amendment. Section 9 of the Code of Conduct states our responsibilities to each other with absolute clarity and with those
1350 in mind, I thought the remarks were pretty close to being unparliamentary. Back in 2007, Mrs Stephens' sincere passion for the disabled caused the wrath and the tyranny of the then-Education Department to descend on her, and it was disappointing to hear the same experience being inflicted on her by the President of another States Committee some 13 years later; she won her case then and deserves to do so again.

1355 I did not need the urging of members of the public to prompt me to make my second point – and, Members of the States, it is my last point – about Deputy Soulsby's speech made last Friday afternoon in response to the amendments place by Deputies Stephens and Le Tocq, because the issue is very much about this Assembly's approach to the democratic process. Now, *Hansard* will recall the exact words used, but it will not reflect the tone in which they were delivered, and the
1360 words and the tone combine to deliver this clear message: the Director of Public Health supported the HSC proposals and, therefore, for any States Member to vote for any amendments to the Committee's proposals was an insult to the Director of Public Health and a challenge to her

1365 authority as a States' senior advisor on the COVID-19 pandemic, and would seriously undermine
her authority in that position. Now, having concocted a wholly spurious connection between the
amendments and the community's fight against the pandemic, she then proceeded to portray the
conduct of such Members as disgusting. Furthermore, she threatened those Members seeking to
1370 amend the policy letter endorsed by the Director of Public Health with dire consequences for their
future amongst the community, not least at the next general election. The message was clear: how
dare any Member of this Assembly vote against or seek to amend any policy letter endorsed by the
Director of Public Health? You are either with us or against us in Guernsey Together.

Now, I leave aside the petulance of this contribution, and there are a number of issues raised by
this approach to policy-making that need to be sorted out, in my view; the least important is the
threat made to colleagues in the Assembly who are, in any case, awfully good at dealing with it.
1375 Members of the States, we are all publicly confronted from time to time by robust, sometimes
unpleasantly aggressive, questioning of our values, and we deal with it. We also all receive the
occasional message from members of the community along the lines of, 'If you vote for this or vote
against that, I will not vote for you at the next election.' I am always reply that, even if I were standing
for election, I would not allow the loss of the vote to influence how I speak or vote in the Assembly,
and I suspect the majority of Members can say the same, and they just have. I always add that I
1380 think it is a poor democracy if good candidates fail and poor candidate succeed on the basis of a
similar issue.

The second, more serious, issue was this: I always thought that we had a convention that
although it is permissible to refer in debate to officers and their advice, it is not permissible to make
the officers themselves the point of debate. The logic is plain: it would be manifestly unfair on
1385 officers to do so. I suspect that the Director of Public Health would herself not have wished to be
made a point of debate, to become the issue, still less to be put forward as the one person claimed
a replacement for the democratic process; in her place, I would have been embarrassed. It was
nonsense to suggest that those seeking to amend the policy letter would undermine the Director's
authority vis-à-vis her role in dealing with the pandemic, and I put it on record that I have supported
1390 the Director's leadership every step of the way and have no regrets for having done so. It was also
nonsense to claim that those seeking to amend the policy letter were any the less part of Guernsey
Together than those supporting the policy letter; I would remind Deputy Soulsby that even those
dozen or so States Members who wished to amend the policy letter have played their part in
Guernsey Together. It may have been played quietly and behind the scenes without coming to
1395 public comments, but it was no less sincere or significant for them. Coming on the day last Friday
that we should have been celebrating the last day in Phase 4, I think it was Deputy Soulsby's remarks,
and not my colleagues' attempts to amend the policy letter, which introduced an element of
divisiveness in Guernsey Together, and as far as I am concerned, some of the spirit that we associate
with that feud flew out of the window even as she spoke.

1400 No doubt I am considered to have pretty old-fashioned views on this, but undeterred, I would
repeat an observation that I have offered a number of times previously in the Assembly, and that is
that we are not seen at our best when there is the whiff of sanctimoniousness in the air. I would ask
Members, whatever our personal views on abortion and the policy letter, let us reject the bleak and
fundamentally divisive approach to politics that insists that a deputy or group of deputies enjoys a
1405 monopoly on integrity and sincerity, even when they cannot conceivably imagine that colleagues
of a different view could possibly be right. Some of the most scary people I have met in a relatively
long life have been certain of their own certainty. As for the democratic issue, I put it on record that
I will speak and vote on any policy letter brought to this House as I see fit, and not simply nod it
through because it is endorsed by the senior officer of whichever Committee is bringing it to the
1410 States of Deliberation.

Members of the States, I shall vote against Propositions 2, 3, and 4. I do realise that any Law
needs to have powers of enforcement, but I am going to be entirely inconsistent, and I cannot bring
myself to vote against Proposition 1, although when the President of Health & Social Care sums up,

1415 I would be grateful if we could have a reference to how many women have actually been prosecuted under the current Law since 1997.

Thank you for your indulgence, Members of the States.

The Bailiff: Deputy Lester Queripel, to be followed by Deputy Stephens.

1420 **Deputy Lester Queripel:** Sir, thank you.

Over the last eight years, in my dual role as a complementary therapist as well as being Deputy, I have been asked to give guidance and support to several Islanders going through the stress and trauma of abortion, so I have witnessed first-hand the stress and trauma that is involved in the whole process. Having witnessed all of that stress and trauma and the eventual outcome for those
1425 Islanders involved, I understand the need for Islanders to have the opportunity and the choice to terminate the life of a child. But that is not the issue we are discussing here today anyway. As we all know, abortion is already legally permitted, but I felt the need to say that in the interests of openness, honesty and transparency, we all so often speak of.

As we all know, balance is absolutely vital at all times, in all things, because if balance does not prevail, that means that imbalance prevails. There are many examples in life where balance does not prevail, and of course, we all have to do our best to deal with that. In this case, I am still not sure if that balance has been attained, and I say that primarily for two reasons: one, because, as I said in my speech in support of the sursis motive, it concerns me that there are groups who are saying they either were not consulted with, or they did not have enough time to respond to the
1435 consultation; and secondly, because of an e-mail we in the Assembly received recently – I think it might have been yesterday, actually – from Dr Neal at the School of Law in Glasgow, who said that Propositions 8, 9, and 10 would fail to afford any meaningful protection to health professionals who object and would undermine freedom of conscience for those health professionals in fundamental and sweeping ways. That concerns me, sir; it concerns me greatly. I will listen closely to the response from Deputy Soulsby when she sums up, because I have yet to be convinced that the balance has
1440 been attained. And I am not an immovable object, sir; I have proved that on several occasions in numerous debates. I can be convinced.

Moving towards a close, I want to comment on the ‘My body, my choice’ issue, because there is a certain amount of contradiction and hypocrisy going on in this Assembly, because when this
1445 Assembly had the opportunity to vote in favour of report on assisted dying to be laid in front of the States – as we know, assisted dying is a personal choice to decide whether *they* live or die, because their suffering has become unbearable – the majority of this Assembly voted against that Proposition, hence my saying there is a certain amount of contradiction and hypocrisy going on here.

1450 In closing, sir, to clarify, I voted in favour of the assisted dying Proposition – in fact, I signed the requête – and I am not anti-abortion; my concerns are focused primarily on the time allowed for consultation and the concerns that have been expressed out in the community and the possible legal issue highlighted by Dr Neal in her e-mail.

Thank you, sir.

1455

The Bailiff: Deputy Stephens.

Deputy Stephens: Thank you, sir.

1460 I acknowledge that I have had plenty of opportunities to speak earlier, before general debate, but I do have one question for HSC on an issue that Deputy Graham raised. I do need to return to an old argument, for which I am not going to apologise in advance, because I feel I need to do it, and of course, I do thank Deputy Graham for his kind words.

One key question that I think is fundamental to the debate, and is a question I wanted to raise early to give HSC opportunity to answer it, is concerning the differences between the changes to
1465 the legislation that HSC propose in comparison with the UK. It has been suggested that, in particular,

Propositions 1, 2, 6, 8, and 10 go further, and that Propositions 7 and 9 may go further, so I am offering that question to HSC now and I hope that they are able to deal with it.

1470 In my view, the purpose of the amendments has been to explore issues that the community might have explored if there had been broad-reaching information sessions in the run-up to the debate. There has been plenty of interesting illustrations and descriptions of personal experience in previous speeches, but the factual content coming from HSC has been less good, and there is still time to put that right. Since there is still some challenge over the level of contributions of members of the public in the period before the publication of the policy letter in early March 2020, I thought it would be really good to try and settle that matter during general debate, so I have alerted HSC
1475 to the following questions. I have asked them:

The policy letter refers to focus groups; could you please identify the dates on which those group meetings were held? Secondly, with all due respect to anonymity and data protection, how many members of the public – not clinicians or staff of HSC or politicians – attended those groups? Thirdly, how many other members of the public received details of the proposals shared by the attendees of the focus groups through Cascade sessions with their own staff? Fourthly and lastly, in the period before March 2020, were there any other face-to-face engagements with members of the community on the proposal?

In addition to the questions that I have just referred to, there are others which I do not remember being answered last week: I asked HSC, whose responsibility did they think it was to consult with and work with the community? I also asked, what was the point of the very short period of engagement with the public long after such an exercise could influence the propositions? And
1480 because nineteen Members of this Assembly are not entirely satisfied that HSC have done enough work with the community, I am asking those questions again. HSC, I recall, responded to me with questions of their own; they said, 'Who should we speak to? How long should we take?' Well, if they really do not know, I know some people who might help. There is a staff team very close to home; Public Health have demonstrated they can communicate, listen, and explain in exemplary fashion
1485 when dealing with the pandemic. Those skills could have been applied to this subject long before COVID-19 arrived, when this project was being planned, and those skills still can be applied.

HSC cannot be thrilled that 19 Members of this Assembly are not entirely satisfied with the performance of the Committee in this respect. They cannot be thrilled, as referred to by Deputy Graham, that as late as yesterday, a supporter of the proposals had to be advised by e-mail that no,
1490 these changes do not mean that all Abortions will take place on-Island. There is a level of misunderstanding that HSC must correct. As Members know very well, this HSC committee will soon be superseded by another, so what are Deputy Soulsby and the Committee going to do? Are they going to leave a note in a drawer for the next Committee, which says something like 'Nineteen members of the last Assembly did not think we worked hard enough to bring the community with us on this, but we did nothing about that, so good luck when the legislation returns for
1495 consideration.' I cannot think that the staff at public health, as much as they want these propositions to be approved, will be comfortable with that sort of outcome, because it stores up issues for their future, if not for members of the present Committee.

There are risks in what HSC have done in offering a passive sort of engagement. They have said,
1500 'This has been around for ages, people could get in touch if they want to.' They say, very reasonably, that they wanted to provide safe spaces for people to express their views, but these were a very select group of people; what about everybody else? If HSC made a firm commitment to the Assembly today that whatever the outcome of the debate, they will invite those in the community with an interest to a series of engagement opportunities, then that might assist some of the
1505 nineteen Members in agreeing to the propositions.

I thus close by referring again to the questions I really would like to be answered for the benefit of Members and listeners. The first one is, how much further do the propositions go than the Law in neighbouring jurisdictions? Then there were four questions concerning public consultation in a genuine attempt on my part to move that part of the discussion on. Lastly, will this HSC Committee
1510 undertake to work better with the community to explain what the implications of the propositions

are, because even if the election is called at the earliest opportunity, they have three months to begin to put this right and they have people to help them in the staff of Public Health.

Thank you, sir.

1515 **The Bailiff:** Deputy Merrett, to be followed by Deputy Ferbrache.

Deputy Merrett: Thank you, sir.

1520 This has been a long, emotive debate which many will have found exhausting, and I certainly have, sir. I will be frank, because I do not believe it started well, and I do not believe that was helped by the flip-flopping of the dates for debate; it moved from June to July, then back to June. We then had a comprehensive debate and a very close vote on the sursis, and in response to what Deputy Stephens said, the sursis went further and had more propositions than just 'sursis it to a later date'; there were other propositions involved, and that is why I cannot support it. But to me, sir, I listened carefully to that sursis debate, because to me, it really was a balance of listening to both sides of
1525 that debate and trying to determine what would be best in serving our community, but primarily, sir, serving those whom the changes to our abortion Laws would actually serve; it was those people that I had at the forefront of my mind.

I will never be able to say that I am happy to have this debate, because I am not; in my opinion, it is, however sir, a debate that I am content to have, as I said, for the people whom it may affect.
1530 Where I think some of the terminology and some differences lie is that an abortion is actually a medical procedure, but what it is *not* is primarily a medical decision. I think that, sometimes, when I read medical procedure and listen to other Members discussing it, is where the difference really lies, because ultimately, the procedure is a medical one; we cannot deny that, because that is what it is. But the decision pre-empting that it is not. Deputy Tindall, when she has spoken in reaction to something that I said in regards to one of the amendments, broadly, sir – it was broadly, because I did not write it down – broadly, was, 'It is a shame that I had to speak of my private' – and I used the word – 'fertility,' when in her opinion, that should be within the privacy of a clinical environment or a consulting room; I do not agree, sir. I do not agree, because we learn from each other, from others' experiences, and we need to be able to speak about such things as and when we want or need to, and I feel I need to, sir.
1540

I agree, sir, that medical professionals can give guidance and advice, but that is what it is: it is advice and guidance. What I believe we need to try to do is discuss things such as this with our families and our friends, who arguably could be better placed to give us the emotional support, the love, the kindness, and the nurturing that may be needed in challenging times in our lives. Further,
1545 sir, we have been elected and we have a voice. What we say is on *Hansard* and future generations can research, they can read, they can reflect, and hopefully, they can rectify – evolve, if you will, sir – the decisions that we make. Personally, sir, sitting through it once is enough for me, and of course, *Hansard* does not capture the atmosphere or the emotion of debate, as Deputy Graham alluded to earlier.

1550 So I ask myself: what are the Health & Social Care Committee, HSC, trying to do with this policy paper? I believe, sir, they are trying to provide safe, well-regulated, and equitable abortions that emanate best clinical practice, that promote health and safety for women, and provide certainty and clarity for the medical profession. These are all things that these propositions we are debating are seeking to address. Now, whereas Members may have to agree to disagree – and I prefer it to be respectfully so, sir – in relation to our opinions and views on this, that is quite simply what HSC are trying to provide, what they are trying to update. HSC have had a demanding few months and could have withdrawn the paper of exhaustion and other demands, but they have not. And as I said, sir, I am not happy, but I am content, to debate it, and more importantly, I am very pleased that they have the courage, the political courage and the personal courage, to debate this paper, and I
1560 thank them for it. So thank you, members of HSC, thank you.

I said earlier that, perhaps, some of the differences in terminology or expectation is that abortion is a medical procedure, and as I said before, sir, I do not believe is a medical decision. We can give

1565 them advice, but at the end of the day, it is the person concerned that makes that decision. Of course, at times, it may be a purely medical decision – for example, the predicted death of the foetus within the duration of the pregnancy or during birth – but it still is the decision of the person concerned. I argue, sir, that it is just a medical procedure, but I understand why HSC have used that terminology, because that is what they are trying to provide.

1570 I have been very disappointed with many of the amendments that were placed. Perhaps my interjections to Deputy Le Tocq's speech during one of his amendments showed my sheer frustration. This was partly because when Members read something out that someone else has said, when they do this, they are repeating it, they are reinforcing it, they are perpetrating it; basically, they are making something everlasting. They are using their voice to repeat the words of others, but if you are reading it, sir, in my opinion, it becomes your voice; you are using the public platform of your voice. There is no 'Get Out of Jail Free' card, sir – I played too much *Monopoly* during
1575 lockdown – by saying, 'Well, Deputy Merrett may have a problem with what I was saying, but it is not a point of correction, because these are not my words; I am reading someone else's words, and I am repeating it, I am reading it'; in my opinion, sir, it becomes that person's voice, more so, arguably, sir, when we are sitting as an Assembly.

1580 Adding to my disappointment and frustration is that if Members or our community are basing their decision-making on their religious beliefs, why do they not just openly and honestly simply say that? Proposers, seconders, and the community have advised us of their thoughts and beliefs on the amendments and on the propositions, but it is only when I have had to go back and say, 'Are these based on any strong religious beliefs?', they go, 'Actually, yes.' I understand that, I respect that, I do not have a problem with that, but please, can we be open and honest about it?

1585 I respect and understand that some religious faiths and their associated congregations have strong views, strong beliefs, and opinions on abortion, and I absolutely respect their right to do so. But I, like Deputy Soulsby, when she opened the debate, sir, struggle with some of the rhetoric or some of the comparisons that some have decided to use to weaponise their position. If they are anti-abortion, full-stop, I do not understand why they are not simply trying to rescind the abortion
1590 Law in its entirety; I do not understand why people try to tweak around the edges on what they feel is right.

This notion, sir – and this notion has come from our community – that 'Pregnancy should be left to develop and any live births could be adopted,' in my opinion, is most concerning, especially when you couple that with 'because the Church will look after them.' Some advised that in instances of
1595 rape or incest, it will damage the person more, their family more, by having an abortion compared to having to carry the pregnancy to full term and adopt. It reminds me, sir, of the days that Deputy Dudley-Owen referred to earlier, when single parents, those that were married, would be sent to a place when the pregnancy started showing, deliver, and then leave empty-handed because the Church would sort it out. If this rhetoric or what someone else believes is based on any psychological or medical evidence, I cannot locate, I cannot read it. The harrowing stories that these people
1600 endured – and I use the word 'people,' sir, because it is not only the person returning empty-handed; it is the families and friends that surround that person – it is certain does not support this theory, and it does not support this religious belief. It appears to me, sir, that the cultural and perceived shame of getting pregnant out of wedlock has shifted to the cultural or perceived shame of having
1605 an abortion.

I am always disappointed when some do believe, sir, reading the many correspondents, that they should be the judge and jury – or in our circumstances, a Jurat – of others. I will touch quickly on shame: in today's debate alone, sir, one Member has said, 'Should we export the problem?', and that actually alludes to it being a problem, rather than exporting the procedure. The same deputy
1610 said, 'It is getting rid of babies that are much loved and wanted'; if any Deputy in this Assembly believes that every abortion is because the baby is not loved or wanted, they need to, honestly, get a reality check, because that is not the case, that is not the case. There is this idea that most people do not have a conscience of some sort; most people *do* have consciences and they *do* have feelings,

1615 and they will weigh up their decision, and they will do it very carefully indeed. Please, at least, allow others to make their own decision, support them, listen to them, but please, can we not judge them?

1620 We have children that need fostering and adopting now; some may be thankful not to be in the care of the church, maybe some would. Nothing stops a person deciding that they need or wish to bring their pregnancy to the full conclusion and have that child adopted; nothing stops that. I struggle with the idea that one person thinks they should force somebody else to continue the pregnancy to fulfil the wish of another person who cannot conceive; I really struggle with that. I ask, would you do that for that person? And apparently they will not, or they cannot, because they are either males, it transpires, or they would not be silly enough, and I quote, getting caught out in the first place. Sir, if you wish to go down that route, and it is something called 'surrogacy,' surrogacy is a completely different scenario, and one that our Laws are silent on.

1625 Then we have this idea, stated last week, that deputies are either pro-life or pro-choice, and I really do like Deputy Roffey's interpretation of 'anti-abortion,' rather than 'pro-life.' Obviously, the opposite of that, sir, is you are either 'anti-life' or 'anti-choice,' which does not make any sense to me; I do not think people fit very easily into some of the boxes that some people try to give them. How am I to know, sir, if a deputy – other than if I am told by another deputy – is pro-life or pro-choice, unless that deputy tells us themselves? Am I meant to follow everyone's Twitter feeds, and find out that way? To me, sir, I think, we have a platform in this Assembly to make these declarations ourselves. I think it is absolute nonsense that we try to tick these boxes – 'Everybody know Deputy so-and-so is pro-life.' Do they? Okay, well I did not, so maybe I should get onto Twitter, maybe I should not. What I think is closer to the actual discussion and debate is the competing ideologies, the different beliefs our community and members of this Assembly have towards whether it is a 'fertilised egg' or it is 'conception,' whether it is a 'foetus' or a 'baby,' whether it is 'progressive pregnancy,' or 'the viability of the pregnancy,' when pain is felt, when the conscious develops, and the balancing of rights.

1640 So, what are my ideologies? Well, in my ideal world, sir, when I was pregnant, I would not have been told to get rid of it, because I did not have time to be a mother; if I wanted a career, I would have to terminate the pregnancy – that was what I was advised us. That is not my ideal world, that is not my ideology. Or, when my own mother died and our family home was sold and put into trust, that we are advised by a social worker that once of us needs to get pregnant, as that way, our names would be moved more quickly up the housing list. For the avoidance of doubt, sir, I robustly challenged the person in the boardroom scenario, and neither my sister nor I considered it was a good idea to get pregnant to secure a roof over our heads. I will always remember when we left and looked at each other and we both said at the same time – a jinx scenario, sir – 'Was she serious?' Honestly, we were flabbergasted. Neither of us – and we were young teens at times, sir – thought was reasonable, realistic, or even a sensible thing to do; instead, we contacted our local councillor, our equivalent of a deputy – it was Mr Chris Patten, sir; I remember him well, because he went on to Hong Kong; I remember it vividly, actually, surprisingly – we met with him and we managed to secure a private rental property while finished our O Levels, because that is how old I am, and A Levels. I worked around my school hours in retail to pay for utility bills and food. We got through it; it was tough, but arguably, sir, not as tough as the alternative route that was suggested to us.

1655 That, to me, sir, would have been a lot tougher.

1660 I tell Members this, sir, because, in an ideal world, utopia, we would have policies and Laws in place that avoid discrimination, but more than that, sir, we would have family-friendly policies; we would have maternity and paternity pay; flexible working hours; housing that welcomes families; education provision that gets past the reaffirmation on selection of four years; an education system that helps inform us with regard to contraception, fertility, our bodies, our minds, our religious beliefs; a Government that actually facilitates and delivers progress; one that wishes to have an inclusive and tolerant community; a Government whose social policies are progressive; and I strongly believe, sir, that our economic policy should enable us to support and progress our social policies. We should do all of this and more, but even if we do, sir, there may always be an occasion

1665 when a pregnancy cannot or might not wish to be carried to full term, and that is when principle clashes with practice; that is when ideologies clash.

This is where a decision is made, and a medical provision needs to be there. This is when a person needs to be able to make an informed decision, when they need to balance their principles, their conscience, and it is their decision. This, sir, is where I have concerns in regard to Proposition 2; 1670 there is some comfort to me, sir, in the belief that two medical practitioners may help with providing information, they will both have differing ways in which they communicate, because timing and communication, to me, is key. I am aware – painfully aware, in fact – of the barriers to accessing our primary care, which are primarily, sir, financial barriers for many, but this should not be the main reason why needing two doctors' opinion is deemed unnecessary. I am yet to be convinced that 1675 removing this will help facilitate informed decisions.

What members our community may need is the social security buffer that is provided, and they should feel no shame if they need some support, be that a roof over their head or some assistance in providing for themselves. I do not believe, as Members may know, that it should be a life choice; if it is a period of time and someone needs some support, they should feel no shame, just as they 1680 should feel no shame if they make the decision to not continue with the pregnancy. They will have their own reasons for whatever they decide. They will take into account the fact that they are, indeed, pregnant, and they will take into account the growing foetus/baby inside of them; to think for one moment that that person will give no consideration to that, I think, is – well, I cannot be polite, so I will not say it.

I for one, sir, do not feel the right to be their judge or their jury or Jurat; in my opinion, sir, it is a decision that that person should base on their conscience. As a Government, we need to ensure that there is a provision in place, and this policy paper tries to do this. If someone is determined to end a pregnancy, sir, they will, and let none of us in the Assembly forget that, and with devastating effects. This is a grey area, and I think Deputy Graham spoke to this, and I think, sir, it was Deputy 1690 Fallaize who explained this really well last week – I will find out if it was him, because it might not – but he really described the grey area, and he described the balance of rights, and he spoke of the see-saw effects of the balance of rights, backwards and forwards during the duration of pregnancy – it was Deputy Parkinson, in fact; I do not need to repeat any of that, because we do not need repetition, but I absolutely agreed with the analysis of what he said, the balance of rights and how it see-saws during the term of a pregnancy, and I agree with him, so no need to repeat that. 1695

Now, this is the bit I really, really struggled with, and I know Deputy Graham has as well; I really struggled with the differences in the dates of terminations or abortions. I really struggled with it, and I was very comforted to read the e-mail response that Deputy McSwiggan had sent and has since subsequently been alluded to by other Members. It is the part with regards to the area of a foetal anomaly or abnormality. I am not going to repeat my personal experience in this regard, but it is an area which causes me a lot of concern. Ideally, sir, the Law would have a clear definition, but as HSC has recognised, that is incredibly complex. For many members of our community and Members of the Assembly, sir, I believe, it is not just about disability and the way it has been defined and translated; it is not. I do not believe it is, anyway. It is not just about disability. In my opinion, 1700 and I agree with HSC, the reason this category even exists is because some foetuses will not develop, they cannot develop. It is a vile word, a horrific word, but they will not develop past a certain stage, and these are facts of life, unfortunately. I will give a nice one, because cardiac is not nice at all, clearly, but that is one we can all relate to.

What I think we are missing in this debate is that even if the foetus or the baby has an abnormality, even if the medical advice or guidance is that it may not survive birth or may not live for long, that remains the decision of the person; it is not our decision. They do not have to have a termination if they are advised of that; they can say, 'Okay, any time I can have with my child, I want it, whether it is a day, 28 days.' It is arbitrary – I think Deputy Le Tocq said last week – if the live birth is less than 28 days, I think; why 28 days? Why not 29? Why not 30? That, to me, is a decision very 1710 much for the people concerned – and I say 'people,' again, sir, because it is not just one person. 1715

1720 That is, in my opinion, why the category exists. The definition is broad, and my preference, like HSC's, would be that it excludes certain – what is the right terminology, sir? Probably 'conditions' – disabilities, which are different from fatal conditions. Again, I agree with HSC surprisingly so, and it really helped my thought process, because, as they said, they would then try to define which kinds of lives or disabilities, and I invite anybody to come up with that list, and arguably, sir, I do not think that is the right thing for us to do, because I do believe it should be the person's decision, with the guidance and advice from medical practitioners and with support, love, compassion from family and friends.

1725 I think HSC have actually done their best; I think they have done a good job. I think they have stood by their political courage and their political will – I am exhausted, so I cannot even imagine how HSC must feel – and they have brought this to us for debate, and again, before I conclude, sir, I wish to thank them. But I am still not convinced about Proposition 2, and I am still not convinced about the proposition that gives different dates for allowing terminations. So I will be listening to the debate, as I always do, and I will be making my final decision on the conclusion of – I am assuming – Deputy Soulsby summing up.

1730 Thank you, sir.

The Bailiff: Members of the states, it is lunchtime now. Would it help for Members to know, just so that they can be aware? It will not be Deputy Soulsby, the President of the Committee, replying to the debate, but Deputy McSwiggan. That might just avoid those sorts of comments coming forth. We will now stand adjourned until 2.30 this afternoon, Members.

*The Assembly adjourned at 12.36 p.m.
and resumed its sitting at 2.30 p.m.*

**Modernisation of the Abortion (Guernsey) Law, 1997 –
Debate concluded –
Propositions carried**

The Bailiff: Deputy Ferbrache.

1740 **Deputy Ferbrache:** Thank you very much sir. Sometimes you feel you have not come very far, really, because Deputy Roffey spoke about him reporting on the abortion debate of 23, 24 years ago. Of the 37 Members currently in the States today, Deputy Lowe and I are the only two that were actually in that debate and I sat where, he is not quite there at the moment, but where Deputy Inder normally sits, and it is a point that Deputy Graham very well made this morning about we could have different views but you should respect each other's views and deal with them accordingly.

1745 Now, I sat there as a Castel Deputy. It is a seat that I had occupied in the 1980's as a defence advocate, when the defendants were sitting where I am standing and I would be in days and days of trials, at the end of the day I go back to the office and they would go off to prison and that was another success that I had! (*Interjection*) I was on my way to visit Deputy Brehaut, but we will not mention that.

1750 I have always been, Deputy Le Tocq referred to it, and he did not do in any way discourteously, as me being pro-abortion. What I am actually in favour of is pro-choice. I was in favour of pro-choice then and I had sitting to my left, in those days, where Deputy Laurie Queripel now is, the very able Deputy and Advocate John Langlois. Deputy Langlois, a person I respected, he was a senior member of the Bar when I joined the Bar, and he is a person that I still meet occasionally and I respect considerably, he and I took radically different views in connection with that debate and he made some passionate speeches, during the course of the debates and amendments, which I respected. I did not agree with a word of them, but I respected them.

1760 And that is the point in relation to where we are today. We are now in our fifth session of debating this abortion policy letter and the two standout features, in my view, are people who have expressed views that I do not particularly agree with, and that is Deputy Graham and Deputy Paint. Their speeches were eloquent beyond words.

1765 Deputy Paint says, 'I am not an orator', but because he is so sincere when he says things those words carry considerable weight and his speech was emotional, emotive but also very factual. It touched me because he described his daughter being born with the problems that she had, so that was very sad. But what was very moving was that she was so clearly loved by her parents that they got through that and she led a very productive life, had three boys, a marriage, until sadly she fell ill and then died. So that was very sad.

1770 But then it turned back to joy again because Deputy Paint and his wife, bringing up their grandsons. So I respect his views absolutely. I do on most topics but I do particularly on this one. Well said. What I wrote at the time, in my little script so that I would remember it, was 'great speech, great Guernseyman, great States' Member'. I thought that was fantastic. So I do respect those views, even though I come to a different conclusion.

1775 And Deputy Graham's speech reminded me of a TV programme. What I mean by that is that you know you have watched a good TV programme or a good football match when they have lasted an hour or 90 minutes or whatever it may be, but it actually seems like three minutes because it is so informative.

1780 Now I enjoyed, and I mean that in the most constructive of ways, every single syllable that he said, every single word, every single sentence. He expressed it very well and even though I come to a different conclusion to my two colleagues, I respect their views. They were well expressed. The point where I come from, though, is I am pro-life. I would like every life to be happy and healthy, wealthy and wise. But that is not the way the world, sadly, is. Children sometimes come into a very difficult environment and have a really awful life.

1785 Now, where I do agree very much with Deputy Graham is that there is too much dogma, creed and intolerance. If you express a view that is different to somebody else nowadays you are intolerant, you are a racist, you are anti-discriminatory, you are whatever you may be. Now, I make no apology for the fact I am a white, elderly male who in his time has owned more than one property and in his time has had a few pounds in the bank. I make no apology for that. I am not going to wear a hair shirt for it because that is the way that life has been in relation to it.

1790 I do not have to say I am going to, let us say, a Black Lives Matter debate, and say, 'I am middle class, I am privately educated, I am happily married and I have no prejudice.' I do not need to say that because I take the view that I do not get any discrimination of any kind. I do not have to express those views because white lives matter, black lives matter, brown lives matter, every life matters.

1795 But in the matter of abortion, and Deputy Le Tocq has given me notice, as he would because he is a gentleman, that he may mention later in his speech something said in a speech on assisted dying and he mentioned that, in fact, in one of the amendments last week when he was speaking. He was correct, he is going to quote me absolutely correctly, because what I said then, and I voted against the assisted dying proposals, although I am generally liberal with these things, I explained why then, what I said was that I thought that perhaps, with abortion, the time periods would be coming down because of the science, because of the fact that the foetuses could live outside the womb earlier and earlier.

1800 But again it is a bit like this morning with Deputy Dudley-Owen's amendment. I was all in favour of it and I said so but then I was persuaded, particularly by the speech made by Deputy McSwiggan and I thought, yes, she is right, three points that she emphasised were right, so it changed my mind and therefore I changed the vote that I otherwise would have given.

1805 I, like every States' Member, I probably read this policy letter 10 times. And I also attended, virtually as most of us did, the session with Prof. Regan, I do not know how to pronounce the lady's name. Again there was some criticism by some States' Members, and it was not just differential but in some way she was not being independent that she was not speaking freely.

1810 I can only say, as somebody who has listened ... in my professional life I have had people from all social gatherings sitting in the office I have been in and they could be suing somebody for \$500 million, they could be up for a pornography charge, they could be dealing with a matrimonial case, so I have listened to lots of people and I think I can generally say when somebody is speaking with sincerity. She was speaking with sincerity. She was speaking in an unbiased way, she was speaking in a way that impressed me.

1815 So the science and the technology impress me and what Deputy McSwiggan said when she was summing up on the *sursis* debate last week was that she referred to this nine-year-old that had been in contact and she said she was that nine-year-old 25 years ago. Well, I think she was probably a bit younger than that 25 years ago, but she was that nine-year-old 25 years ago and she was speaking about people who had not changed their views then and they had not changed their views now and they will not change their views in another 25 years.

1820 Now, what we were debating in the mid-1990's, Deputy Lowe and I and the other Members of the States' Assembly at the time, was something to liberalise. There were a few tinkers and widgets and whatsits but we were really being asked to bring in the Abortion Act of 1967. Because the Law in Guernsey up until that time, it made women like serfs. They had no rights, they were criminalised for their actions. It made, and I have said it in other contexts, that document the Old Testament look a liberal thesis by some professor from Warwick University, or Sussex University. One of those liberal universities that people come from!

1825 It was a bit like that really and I had no hesitation, I did not find it difficult then to decide that overwhelmingly we should change the Law, which gave rise to the 1997 Law. We thought we were being liberal and pro-active then. We genuinely did because that was the learning at the time.

1830 Now I respect the views of the people who have expressed them, lots of them on religious grounds but not solely on religious grounds, and even though I am not a person of a religious faith, I respect those who do have a religious faith because they sincerely hold them and their views must be respected and they must hold that in the balance.

1835 But I do not find this difficult. Sorry I do not find it difficult. I did not find it difficult in 1995/96 or whenever it was debated, I do not find it difficult now. Because the person who overwhelming should have the right to choose, within certain bounds and I appreciate the point made by Deputy Parkinson about balance etc., is the woman.

1840 She is the one. There are things that we should all be equal about but not in relation to that. It must, by and large, be the woman's choice. There must be some legal limit, some legal outlines, but it is her choice. Not my choice. I am a father of children, a grandfather of children, but I have never actually borne a child and, in particular, it is completely different for a woman in those circumstances. I give way to Deputy Le Tocq.

1845 **Deputy Le Tocq:** I thank Deputy Ferbrache for giving way. I would just like to ask him, because I understand fully what he just said, if he would explain why he qualified what he said with 'there needs to be some limits'?

1850 **Deputy Ferbrache:** Well, I think this strikes a balance. I think the policy letter strikes the balance. It does not say you could have abortion up until the day before the child is due to be delivered. It puts balances and checks in it and it meets modern medical science in my view. So it does have a balance. It is a matter of judgement, I accept that. But I am not 95% convinced that this is the right thing to do, I am 100% convinced that it is the right thing to do.

1855 I do not have any reservations with any of the number of Resolutions that appear that we are going to vote on, hopefully later today if people do not speak for too long, and do not repeat what they have said 17 times. But that will depend and who am I to say because my good friend Deputy Lester Queripel, he increased another three minutes, just before, on my education speech. I may convince him next time that that comes before the States.

1860 Deputy Graham also made a point that how can we in any way say somebody like Deputy Stephens' views must not be given great weight because she is a person, well before she became a

Member of this Assembly, who served our community so well as a head teacher of the school that she referred to and the work she did with her colleagues in that school was absolutely and truly fantastic. I will probably never get the opportunity to do it again, I thank you Deputy Stephens – I am not supposed to speak directly to you, the Bailiff will have to tell me off, but so what? – I thank you directly for what you did in relation to that.

1865

So the point in relation to all of this is no system is going to be perfect. Nothing is going to ever make these decisions easy for anybody and, of course, people say, 'unmarried mother she goes and uses it like contraception', etc. I do not think there are any people that do that. There might be the odd one or two, but I do not think they do that. It is a difficult decision for any woman and some of these people, some women are young women and some women are older women, and they have abortions at different ends of their maternal life, if I can call that.

1870

It is never an easy decision. It is easy for me, as a man, to pontificate, but it is difficult for a woman to make that decision. So, as I say, I often sit here and listen to speeches and think I would rather be watching *The Simpsons*, I would rather be doing something completely different, I have got to sit here and listen to people repeat and say, carry their emotions, say, 'well this is it, I feel so sincere about that'. We all feel sincere but we do not have to hear it 17 times.

1875

But this is an emotive debate. As I say, the balance of the sides, the balance of common sense and the balance of practicality, overwhelmingly, in my respectful opinion, commends us to support HSC.

1880 **The Bailiff:** Deputy St Pier, to be followed by Deputy Prow.

Deputy St Pier: Thank you very much.

1885 I do not intend to speak at any great length either as I actually concur pretty well word for word with Deputy Ferbrache and actually the detailed and comprehensive speeches already made, in all the amendments really, by the Members of the Committee *for* Health & Social Care, in support of the policy letter over the last few sessions. Actually they have my support and gratitude for bringing these proposals to the Assembly. They clearly are of great importance and I just want to share a few key points that I believe it is imperative that we all consider when deciding how to vote in this debate.

1890 I think this is a significant and vital piece of legislation and policy for women in our community. It does not change the Abortion Law. It does, as it says in the policy letter, it modernises the Law and in my view and clearly in the view of the Committee, it improves the Law. I think we have to just examine why it is necessary and I think it is paramount that the policies that impact our community are based on several elements.

1895 I think, firstly, expertise. It is simply not good enough, as some said last week and indeed as Deputy Gollop said today in laying the last fateful amendment that was not debated, that for example 16, 20 weeks 'feels about right' or 'feels more reasonable'. In other words, having policy designed on the floor of this Assembly by those without any specialist knowledge whatsoever. I think Dr Brink and her Public Health team, together with the presentation from Prof. Lesley Regan, have comprehensively provided us with the experts' perspective on why these changes are necessary and of course furthermore supported by the overwhelming majority of medical professionals on the Island, of course do support the proposed improvements.

1900 Secondly, I think we have to look at the evidence and we have had extensive evidence provided by the Committee that these proposals will ensure that the women of our community will be able to access clinical best practice and practice that is relevant and, of course most importantly, in their best interests.

1905 Thirdly, I think we have to consider equality. We currently have a process that is, frankly, inequitable and indefensible. The 12-week time-limit is too short a period to allow every woman to make an informed, considered decision about the future of her pregnancy and, after 12 weeks, those women that have the resources and have the opportunity, may seek possible abortions in other jurisdictions but those women whose ability to travel is compromised – and this of course includes those who may be unwell, those on low incomes, those with small children or with disabilities, and teenagers, of course, or those that have suffered sexual violence – do not have the same access to these medical procedures.

1910 That iniquity, that inequality, has a potentially significant negative impact on their mental and physical health and of course future life outcomes, not only for them but of course potentially for the child as well.

1915 Fourthly, these reforms need to be contemporary. As elected Members representing our Bailiwick, it is incumbent on us, I think, to support and promote the policies that are relevant and appropriate in 2020 and the current Law is not modern and does, I think, unfairly penalise many in our community and I think the changes to remove the requirement for two medical practitioners to certify, to remove the criminal sanctions, in particular of course, and to allow early medical abortion procedures to be completed at home, are vital to make our Law fit for purpose, for this era and indeed the immediate future.

1920 This is the point where I absolutely chimed with Deputy Ferbrache. I think many Deputies have described the challenge of considering these proposed changes, how difficult the consideration of this has been for them. I do have sympathy and understanding for this view although I do share Deputy Ferbrache's position on this in terms of reaching my decision.

1925 I think many of us, including of course 100% of the men in this Assembly, can never know what it feels like to consider whether to continue with a pregnancy. Regardless of the circumstances that have resulted in that pregnancy, I have never doubted that a woman considering an abortion has a

far more difficult choice than the one which is facing us today. (**A Member:** Hear, hear.) The choice that a woman makes will have an indelible impact on her future and I do not think we should lose sight of that.

1935 Allowing women options and choice in these very difficult circumstances does not compel any particular outcome, of course. We have an opportunity today to provide the women of the Bailiwick with a modernisation of the Abortion Law that is, I believe, long overdue, to improve their rights of bodily autonomy, to remove a barrier to healthcare that should never have been created and to allow best practice medical healthcare for all women considering the future of their pregnancy.

1940 I do not consider this matter to be one of personal faith, religion or any other ideology. It is a matter of public health and for those that do have those barriers, these modernisations do not of course bar them from applying their articles of faith to their own lives and their own choices but neither does it provide a good basis on which to vote against these Propositions.

1945 If we do not consider the proposals through the prisms of the expertise, evidence, equality and relevance, then not only will the choice that a pregnant woman makes have an indelible impact on her future but crucially and cruelly, the choice that we make will also have an indelible impact on her future. So I fully support these proposals and urge every Deputy to do the same, sir.

The Bailiff: Deputy Prow.

1950

Deputy Prow: Thank you Mr Bailiff.

1955 Sir, I am very proud to be a Member of the Committee *for* Health & Social Care. One of the reasons for this is that during this term we have set out our stall at the highest strategic level and enshrined in the policy letter entitled Partnership of Purpose, which was unanimously agreed by this Assembly.

Not only that, but from that time we have started to implement the delivery level, the outcomes we need to achieve. Whilst we are not anywhere near achieving all we wish to do, great strides forwards have been made. Within this process, because we understand partnership is key, we have worked very hard and listened to all our health professionals.

1960 As part of this process, which I have alluded to, we acknowledged and heeded advice from those practitioners involved that our Abortion Law was some 25 years old and needed reviewing. This is a matter we raised publicly and during the States' policy planning processes and have, as a consequence, produced the policy letter before us today.

1965 Although we have received challenge, and I completely respect that challenge, HSC did widely consult and other Members of the Committee have detailed that consultation, so I will not repeat it. I would ask Members to refer to section 1.2 of the policy letter, which outlines the Committee has taken seriously the concerns raised by local practitioners regarding the impact of the Abortion Law 1997.

1970 Furthermore, I would refer Members to Section 1.13, which notes that a 'wide range' of health professionals 'overwhelmingly support the recommendations'. I ask Members, therefore, to consider this background when voting on the 12 Propositions before us. However I am not avoiding the fact that the subject of abortion is contentious and, for some, or perhaps most, a very difficult subject.

1975 It is my own personal view that the implications go wider than purely medical considerations but drive into the consciousness of all in our community. This is evidenced by all the messages and representations from members of the public to all Deputies and particularly to those in Health & Social Care.

1980 I thank all of those who have written in and expressed a view, some of which have polarised the debate but sir I deeply respect all of the submissions from all sides. I concur with the view Deputy Merrett, if I have understood her properly, that the polarisation has not been that useful in some regards.

We have heard the emotion in the voices of all the viewpoints expressed and it is a credit to this Assembly. I also agree with Deputy Ferbrache that the standout speeches so far in this debate, for

1985 me, are those of Deputy Graham and Deputy Paint and I thank them both for their contributions. I thank all other Deputies for having the courage of their convictions, for outlining other considerations which affect the consequences of some of the Propositions before us. I include those Deputies who lay amendments, giving this Assembly an opportunity to consider other options in areas that some Members of our community clearly find controversial. Similarly, I thank my fellow Members of HSC for outlining the background and the medical opinions and putting the evidence we need before us.

1990 Returning to the policy letter, one point that needs to be emphasised is that these proposals do not introduce abortions. This was done back in 1997, when the Abortion (Guernsey) Law came into force. It has therefore been recognised since that date that abortion care is now an essential part of women's health provision, a point powerfully made by Prof. Regan in her recent, excellent presentation to Members.

1995 In consideration of this policy letter, it is worth putting in some context the efforts of HSC and Public Health with regard to the access of the under-21 contraception programme and the excellent women's health services. Much fantastic work is being done and I salute those professionals involved in the effort to reduce unwanted pregnancies.

2000 I would also, again, thank fellow Members of my Committee, who realised that it has been a very difficult subject for everybody, but I think they have seen me struggle with some of the issues around foetal viability. We agreed and outlined in section 11.3 and I will repeat the quote, as it is important to me. It says:

... the Committee is unanimously supportive of the value of a debate regarding the proposals being submitted to the States for consideration, but also agrees that it is for Members themselves to vote on each Proposition according to their conscience.

2005 As said, I do support most of the Propositions – for they clearly benefit women's health and wellbeing – without hesitation, but some not so. I have explained my test when the amendments were debated, where I believe the consequence of a Proposition goes beyond what my personal conscience will accept.

2010 I do accept that the criminalisation in place is out of step with UK legislation and elsewhere and that illegal abortions must be discouraged at all costs. The current situation would, I believe, raise serious public interest dilemmas on any decision to prosecute a woman under our existing legislation.

2015 Where I can completely support the Propositions is where they make abortion safer, more accessible and quicker for women. Those Propositions which improve professional guidance and allow abortions to safely take place at home are, for me, an essential part of bringing our legislation to where it should be.

2020 I have also thought long and hard regarding the removal of the need to consult with two medical practitioners. I will support this. Not on the grounds that abortions should be viewed as comparable with any other procedure, because I do not believe they should, but because I trust all our local practitioners to provide the advice in a professional and balanced way and that, once the decision has been made, there is not a time impediment placed upon the procedure.

I further support the changes to the conscientious objection provision, which whilst maintaining the right of an objection in Law, require a referral without delay to another health practitioner to ensure the health and wellbeing of a woman is front and centre.

2025 So I must now deal with those Propositions I have had difficulty with. My concerns all centre on foetal viability and the changes that affect gestational thresholds. To be clear from the outset, abortion is a lawful procedure in this Island now up to a gestational threshold of 12 weeks. Section 1(d) at 24 weeks and in relation to 3(1)(d), where the limit has been removed.

2030 Whatever the views individuals may take, the abortion as a procedure has become internationally recognised and accepted and is undertaken lawfully around the globe and its development has done much for women's health and wellbeing. However the proposal before us seek to extend the Law to 24 weeks, or, as said, to remove any gestational period in Proposition 3.

2035 Medical science, in this case obstetrics and gynaecological care, has in recent years enabled the delivery of children who have survived after 22 weeks. So the facts are that unborn children have a high threshold compatible with survival at and before 24 weeks. Not only that but the science drives forward and where an unborn child has underlying conditions, more procedures and treatments become available, including operating on a baby still in the womb.

2040 I struggle, as I have said, around the question of when a foetus becomes a viable human being. Scans show babies moving in the womb, some at different gestational stages than others. So does this not raise some uncomfortable issues of conscience for us all? When does the unborn baby obtain a functioning foetal cortex and feel pain? These are factors for me, in my mind, that this Assembly needs to consider very carefully those considerations in their decision to extend to 24 weeks.

2045 We have also rightly debated, in my view, the issues that follow a diagnosis of foetal abnormality including non-fatal conditions. We have heard that similar provisions in the United Kingdom have been subject to legal and political challenge, centred on the diagnosis, the actual basis of the disability and the extent and definition of physical and mental anomalies.

2050 One other key consideration is that it is my understanding that the medical skills and expertise needed to abort a late-term baby are not available locally and neither is the intracardiac potassium chloride injection techniques, used in longer term procedures. I further understand that these and other techniques used in late-term abortions are highly specialist and not without risk. I believe it is not the intention of Guernsey to bring in these skills as the policy letter rightly articulates that the need for late-term abortions is very low and this would not change dramatically as a result of the introduction of this change.

2055 It seems to me that these procedures need to continue to be conducted off-Island by the professionals who can remain practised and up to speed.

For some reason it was raised in the debate that, whatever the outcome, this would be an election issue. Well, if it is I am more than happy to justify my stance. I have always supported my Committee and I have done so on this issue. Abortion legislation in this jurisdiction is nearly 25 years old and it is an essential plank in women's health and wellbeing provision.

2060 We listened to our highly valued health professionals and I support this debate and the decision to put all the Propositions before this Assembly but I will be entirely honest with the electorate that my conscience struggles with gestation limits and foetal viability. Neither, sir, in the aftermath, will I be made to feel uncomfortable because I am a man or that I am prepared to publicly admit that I find this incredibly difficult.

2065 In closing, I urge all Deputies support all the Propositions before us, except the two that I have mentioned, Propositions 3 and 4, that deal with gestational limits, in the way that they are currently worded. However I do not wish to try and persuade other of this view as I believe the policy letter itself recognises that this is a matter of individual conscience.

Thank you, sir.

2070 **The Bailiff:** Deputy Le Tocq.

Deputy Le Tocq: Thank you, sir.

2075 I think it has been referred to already, but there are only two possible stances to have on the issue of abortion, where you can be completely consistent. If it is about bodily autonomy of a woman then, quite simply, the matter is resolved, in fact quite a lot of the things we have been talking about are resolved, by making abortion legal up to birth, in other words full-term, for any reason whatsoever.

2080 Now, I know that some Members of the Assembly may agree with that. Interestingly enough, sir, on the way in this morning, I went to speak to those in the pro-choice group, because I am always interested in hearing alternative views. I think I knew the views of the people on the other side pretty well. Some people there agreed with that position but not all. Others said, 'I would not be able to countenance that.'

2085 I think that shows that particular viewpoint, to be consistent on it, you would have to agree to terminations for whatever reason to full-term. That would also resolve the issue of foetal disability as well and I think it is noticeable and needs to be remarked that that is not what HSC are recommending.

2090 The other point, of course sir, the other consistent position is to state that abortion should never be permissible under any grounds. I am not in that position and I do not think anybody here is but they may well be. So we are stuck, as I have said before in this debate, to decide in the grey area where we, as Deputy Ferbrache put it, on balance, will go far. Deputy Ferbrache has illustrated that he has changed his view on balance from two years ago, when he indicated at that time he thought it should come down below 24 weeks.

2095 So, sir, I think that legitimises the reason to have a full and frank discussion and debate on this. Not just now, but no doubt in the future as well, because I think views are changing. I alluded to a survey that was undertaken by a recognised independent, non-biased survey organisation in the British Isles, that undertakes all sorts of different surveys and three years ago they undertook a survey on abortion-related issues and in it one of the interesting things that came out of it, that was commented on by people on all different sides of this debate, was that when I asked the question
2100 on where current abortion time limits should be in Britain, of the general population, 1% said it should be extended to birth.

My colleague here, Deputy Fallaize, has indicated that he would be in that 1% and I think from what Deputy Roffey has said he would as well. No he would not, okay, I misunderstood him, I forgive, he is shaking his head. Clearly there is 1% of the population and that is represented here in this
2105 Assembly by Deputy Fallaize, at least, that believe that it should be extended up to birth.

Of the general population asked that question about time limits, 60% said that it should be reduced to 20 weeks or below. Now they were doing so on the basis, quite clearly, as Deputy Ferbrache alluded to, not on Public Health information alone – maybe some would have done that – but on their feeling, as human beings. This, as I have said before, is not just about a Public Health
2110 issue. I disagree with Deputy St Pier over that. Otherwise, we would not be here. If we were instructed to just vote according to what the Director of Public Health said we would, one, all be robots, and secondly we would not be operating as a proper democracy.

We have to consider the views of our whole community. I know I do not represent everybody that voted for me, or indeed everybody in the Castel, let alone people in Guernsey, but I would
2115 struggle to say, as some have indicated, that I do not represent anybody but the religious community in Guernsey. In fact, some would say I do not represent that because I am too liberal in many areas on that issue. (**A Member:** Yes.)

So I think we have got to accept that there is a plethora of different views. I have said from this ComRes survey, 1% of the general population said it should be extended to birth, 60% said it should
2120 be reduced to 20 weeks or below.

The interesting thing is of the females asked this question, a similar percentage said it should be extended to birth, 1%, but a larger number, 70%, said it should be reduced to 20 weeks or below and in fact 59% said it should be reduced to 16 weeks or below. So if this is a women's issue, clearly
2125 the women feel more strongly about this than the men. Now, I know Guernsey is a bit behind the times, but I would believe that if we were to conduct such a consultation that we would probably be as surprised probably as they were in the UK and many of the media outlets commented on this survey when it was done, as to the changing views in the population and the community and the culture around us.

In fact, it has changed quite dramatically from 20, 30, 40 years ago and I am not saying that I
2130 would embrace all those changes personally, all I am saying is that if we are seeking to be forward-looking and to modernise, we ought to take note of these things and I would argue and contend that the reason in this issue that views are changing is, one, because foetal viability is increasing all the time.

2135 Secondly that our modern medicine and science is enabling incredible things to be done in terms of supporting wanted and unwanted babies for that reason, but also in terms of the operations that

can be done within the womb for spina bifida, for example, now at 20 weeks gestation. Also because, and it certainly was the case in all of my children and even more so today, the detailed visible pictures, ultrasounds, that are available now.

2140 But I have also been conscious of people who have had miscarriages, in fact, one particular incident who was a pro-choice person and when they looked at the product of the miscarriage, they changed their view completely on the rights and the issues of that particular foetus that was miscarried.

2145 Because shining a light on an issue, as we know full well from other issues that are perhaps taboo in our culture, does change people's views. I encourage, as I have encouraged my colleague here Deputy Fallaize, that if you are at one end of the spectrum that you at least look at an abortion procedure. There are films available for you to watch it. That was indeed what changed my view on a number of issues during my life so far, it is by looking at the evidence, observing what it means and coming to my own conclusions on that basis.

2150 I cannot, as will be obvious, support any of the Propositions as they stand unamended. We have sought, those of us, to amend that and this Assembly, rightly so it can choose to do so, not to accept any of those amendments, with the possible exception of number one, because I agree we should not criminalise women.

2155 But I think by itself, unless in summing up or if another Member of HSC speaks, but if in summing up Deputy McSwiggan actually comments on what I think would need to be aligned to that and that is it should be a criminal offence to seek to provide some illegal form of abortion procedure to women, be that medically, via the internet or whatever. I think those sorts of things should be made illegal in the same way that the Laws in some countries on prostitution have changed, because they have changed the focus in a much better way.

2160 As stated when we debated the *sursis motivé*, there are several Propositions which go beyond the Law in Great Britain. I have identified those which concern me the most and BPAS readily agreed that this was the case. I would like in summing up for HSC to make clear which Propositions they admit go further and why they have chosen to propose to go further in each case.

2165 Specifically on conscientious objection and, whilst I fully realise we will have another opportunity to review and if necessary amend any legislation when it is presented to us, I cannot agree with Propositions 8-10 as they currently stand. I know that we rarely amend legislation, even debate it, in this Assembly when it comes before us, but we had an example last week where quite clearly the views had changed in this Assembly and through Deputy St Pier's very moving and pertinent amendment and speech on that, we chose to do so and that is our right as a legislature, to do so.

2170 Another reason why I cannot support these Propositions is the lack of proper public consultation. I have said already, referred to this recent ComRes survey in the UK, which demonstrates that there is a shift in society in terms of its views on abortion and the Law around abortion. I think our public at least should have had an opportunity to comment on that.

2175 But furthermore, sir, I have been contacted by a number of experts in human rights and one particular lawyer has provided some information who is used to the judicial reviewing of consultation processes and I have contacted the learned Procureur about this so it may well be right that she gives her view on this but the argument that I have been given on this is that consulting behind closed doors effectively, which was what happened and I fully understand why focus groups were chosen because there are sections of our community, the most vulnerable women, who would find it very difficult to articulate their views in a public environment.

2180 But that was not public consultation under the Gunning Principles, which have been taken to be the best practice in the British Isles for consultation processes. In a sense, because there is a legitimate expectation that people in the public would be able to offer their views in a timely and informed way, to give that consultation after the Propositions were published in March and really very late in the day, a two-week consultation process just before this debate began last week, is I think quite concerning.

Particularly because, irrespective of the fact that the disability community in Guernsey may have a plethora of different views, just as our medical professionals were clearly not unanimous in their

views on these proposals, it is only right that they should be given an opportunity, proactively, to be asked for their opinions on these things.

2190 That is why I think Baroness Tanni Grey-Thompson has made her pleas to us that this is not appropriate for us to proceed down this line without first insisting that we at least consult with the disability groups in Guernsey and with people in the disability community. I ask HM Procureur if she has any comments to make, perhaps when I finish this speech, to make those comments.

2195 But publishing on 4th March, which ironically is my birthday and I will come to that in a moment, for me, just before lockdown, did not give adequate time for our community to fully engage and understand with these proposals. On the basis of adequate consultation I cannot support it on that basis.

2200 I have two particular questions, before I get into something more personal, that I would like HSC to respond to. I have been asked in both cases by members of the public to ask these questions but I think they are pertinent as well. They have come from social media and email. I would not normally quote from social media but I think it is relevant here.

Firstly, I was made aware over the weekend of a Tweet by an organisation called BSACP, the British Society of Abortion Care Providers, who tweeted last week, just prior to our debate:

Public feedback summarised ready for debate by Deputies in Guernsey ...

2205 With a link to the gov.gg site. Now, I think at first glance it looks like they were involved in some way in putting together the public feedback report. Now if that is the case, I think it is highly irregular for an organisation that represents abortion care providers to be involved –

Deputy Soulsby: Point of correction sir.

2210 **The Bailiff:** Point of correction, Deputy Soulsby.

Deputy Soulsby: Sir, there has been no use of any outside organisation in anything that we have put together and the implication that he is making is completely false.

2215 **Deputy Le Tocq:** Sir, it was a question but I am glad for that reassurance because the nature of that Tweet and certainly the individual that picked it up was concerned that they had in some way been involved in the public feedback.

2220 Secondly, sir, a question that would require an answer. An individual, which I think several States' Members have seen a video of, Gianna Jessen, who is an individual who lives in the USA but survived a late-term abortion, with cerebral palsy, and was revived and continues to live to this day, had tweeted a response to Deputy Soulsby about how she would respond to people in her situation.

2225 We do know from the presentation we had from Dame Lesley Regan that occasionally babies are born in late term despite attempts at abortion. Now it is very rare, it is true, but I think it is worthy either of Deputy Soulsby, if she speaks, or of anybody else on HSC to respond to that particular situation.

2230 Stories shape our culture and we have listened to quite a number of personal stories during this debate. It is good to do so, I believe. I have listened to many stories as a pastor and a counsellor and some have made me laugh, some have made me cry, some have aroused my attention to something I was previously unaware of. Some have shocked me and some have made me change my mind on things.

2235 An example of that is capital punishment because when I was challenged years ago, when I was younger, I supported capital punishment and when I was challenged to actually see someone endure that and then eventually to meet someone who was on death row and very much at the last minute came off death row because somebody confessed to the crime, it was completely arbitrary and it was proven therefore that this person on death row was innocent, I changed my view on capital punishment. I changed my view, sir, because I believed one mistake was a mistake too many.

I hope Members understand that is an approach that I take with this particular issue as well of abortion.

2240 So I believe we must not stop listening to other people's stories. We certainly must not stop people being allowed to tell them. I am grateful to Deputy Ferbrache for alluding to, for example, Deputy Paint's personal story because it is only in listening to other people's stories and allowing them the freedom of speech to share their stories in that way that our culture can learn and move forward.

2245 Last week sir, coincidentally, the UK published its abortion statistics for the previous year. Last year's stats were the worst ever in terms of the highest numbers of aborted fetuses. They mean that, taken altogether since the Abortion Act of 1967 came in the UK, nine million lives have been aborted.

2250 I believe we have a problem. I believe we have a complex problem. But I also believe, sir, we are tackling it from the wrong end. Making abortion more readily available is allowing attention to move off the dire issues that many women have to suffer, which cause abortion and make abortion seen as the only way out. It is not. It only makes matters worse, I believe. For women, for society, for our culture, for babies and for future generations.

2255 I am not ashamed of using those terms because even Deputy Roffey, when he was speaking, and many other Members who do not share my views, used inter-changeably the words foetus, lives, pregnancy and babies. We all do and I think that demonstrates the inconsistency in our culture and why we find this, as Deputy Prow said, such a difficult issue to deal with. We must face ourselves in the mirror.

2260 I do not want to go into detail but a number of years ago, at a Commonwealth Parliamentary Association event, an international one, I was asked to sign a petition or a letter of some sort against sex-selective abortions, which were becoming regular and are becoming regular, not only in other parts of the world but also amongst certain communities, ethnic communities in the west as well. I readily signed that because I felt very strongly about that issue and, in fact, demographically, it is now being shown that sex-selective abortions, and it is normally that a female foetus is not wanted and a male foetus is, is becoming the norm in some societies.

2265 Would I be accused of disgusting behaviour, politicising people of colour or women, if I spoke out against sex-selective abortion or if I laid amendments saying that we should not have abortion on the grounds of sex selection? What is the difference here? So I do thank Deputy Roffey and others for their honesty for the reasons that I said before because I think, if we are going to have a proper debate, we need to be truly honest and consistent in our views and if we are not we need to listen to others so that we can come to a more consistent viewpoint.

2270 I respect those that have the viewpoint that abortion should be available for any reason whatsoever up to birth. I disagree with them wholeheartedly but I believe then, because the presuppositions are clearly expressed, that we can have a proper debate on the middle ground issues.

2275 Sir, I have not accused HSC of disgusting behaviour in bringing proposals, which restrict women's choice beyond 24 weeks, but these proposals before us clearly do that in certain instances. So there are certainly restrictions on a woman's bodily autonomy, which are presented before us. It is just a question of where you draw the line and why you draw the line.

2280 So when we say today that black lives matter and I do say that and was very glad to be there at the event on Saturday, we are not saying we disagree that all lives matter; just that this moment in time we have seen the dire need to affirm that black lives really do matter. Similarly, sir, I long for the moment to arrive when we might say in our culture and our community that unborn lives matter, or at the very least, that unborn lives matter more than we have valued them in the last few decades.

2285 Why, sir, the nihilistic argument around trying to resolve the issue of non-fatal foetal anomalies? I have heard it several times now. 'We tried to work out ways to grant equal legal protection to them as to those fetuses without potential fatal foetal abnormalities, for which we are recommending protecting rights, but on balance we could not find a definition that worked so we gave up ...' effectively.

2290 As I have said, there is a simple way of resolving this. Make abortion legal, for whatever reason,
up to full term and I would like, in summing up, to hear HSC's reasoning for not suggesting that
proposal now.

2295 Finally sir, I just want to share my personal story and I apologise to those who have heard this
before. I was born on 4th March 1964, at Amherst Maternity Hospital, as I am sure many in this
Assembly were. At 11 days old, I was adopted by a couple aged 51 at the time, who had lived
through the German Occupation and during that time my mother had several stillbirths and
miscarriages and was eventually told that she could not have children of her own.

2300 The Adoption Law in Guernsey only came in in 1960, I think. So, very late in the day, my adoptive
parents were able to apply to adopt a child and I am the product of that adoption. The little I know
about my natural parents is that my mother was underage, she was 15 when she gave birth to me,
and my father was older than that. So by today's standards that would be, I think, possibly rape, and
if abortion had been legal in 1964, I would not be standing here speaking to you now, almost
definitely.

2305 So that is why I feel quite passionately about this. So I say to my late adoptive parents, who gave
this unwanted child a life he could never have expected, let alone deserved, I say to my birth mother
and father, if they are still alive and ever hear or read this, I say this is for you, sir. I will not give up.
I will continue to tell this story and to speak up for the voiceless and weakest in our society. If I am
not successful in making the prospects for them, their mothers and their families slightly better than
they might otherwise have been, others will come after me who will do the same, hopefully better,
and more successfully than I have.

2310 Thank you.

The Bailiff: Deputy Tooley.

2315 **Deputy Tooley:** Thank you, sir. I will be relatively brief because I think it is getting late in the
day and we are all, I think, hopeful that this debate will be concluded today, rather than carrying on
into further days. But I just wanted to address a couple of the things that were raised in Deputy Le
Tocq's speech, which was as ever eloquent and moving but unfortunately, for me, does not come
close to hitting what we are aiming to do in modernising the Law that we have, that is operating at
the moment.

2320 Deputy Le Tocq spoke at length about a survey. He did not earlier state completely what survey
that was but I think I have found it. A ComRes survey that was carried out in 2017. That survey asked
its participants, of which there were about 2,000, it took place over two days, and it gave some very
bald statements and then asked people whether they agreed more with one or the other of these
statements. There were around 12 or 13 questions in total, most of which were variations on a
theme.

2325 People were asked did they think that abortion should 'never be illegal', that was the way it was
phrased, should abortion never be illegal. But these questions were really very leading questions so
it asked:

Given that in comparison most other EU countries have a limit for most abortions at 12 weeks or lower, do you think
abortion should never be illegal?

2330 It asked questions like: 'Abortion should never be illegal because this would make it less likely
that doctors were prosecuted under the Law. Abortion should never be illegal because this is about
a woman's autonomy.' And it asked people to agree or disagree with these statements. That is
basically what this survey did.

2335 The leading nature of those questions led me to look not just at the company that carried out
the research because obviously this is a reliable company, but you need to ask who approved the
questions that they were putting to the public. You need to ask who paid for the survey to be
undertaken.

That survey was undertaken on behalf of CARE, which is a Christian lobbying agency, which seeks – and this is from their own website:

Our mission is to bring a uniquely Christian insight into the policies and laws that affect our lives.

2340 Now, as has been said before, there is absolutely nothing whatsoever that prevents any Member of this Assembly or any Member of the public holding the opinions they do, this Assembly voting the way they do, on the basis of their deeply held beliefs. Their religious beliefs, their personal beliefs, their moral secular beliefs. Absolutely nothing whatsoever.

2345 But that needs to be open and we need to be aware of where that is coming from. When we are talking about research and surveys of the public, which are sent out and promoted to potentially a particular group of people, because obviously the people who knew this survey was about to go out and be put out there were the people who paid for the survey and so on, we do need to be aware of what lies behind surveys and lobbying. We need to be very aware and very conscious of those things.

2350 As Deputy Le Tocq also said, we should be sharing stories. We should be talking about the lives that are affected by laws such as these so, with no apology, I am going to share the stories of a couple more women that have been shared with me during the lead up to this, during our consultation and, actually, in some cases, as I say, during the days of debate, I have had emails from people who said, 'I did not know who I could tell this story to but when you spoke out during debate
2355 on ... ' Thursday or on Friday, 'I knew there was someone I could trust to tell my story to. If my story makes a difference, please will you share it?'

So I am going to share some of those stories.

Mine was an accidental pregnancy.

This woman says.

2360 I was 41 when I found out, nearly 42. Perimenopausal. My husband was leaving to live abroad for work for two years and was due to leave the week after I found out. My children were nine and six. My role means I look after very young children and I knew I did not want another. I went to a clinic for assessment and then to another for treatment. I was given the first tablet in the morning and had to go back in the afternoon for the second. I literally could not have stayed in hospital. Everyone would have known because, due to the nature of my work, Social Services would have been informed if I was not at my normal place of residence overnight.

The day after the treatment, my husband left next day. I could not have stayed in, I would have had no childcare for my own children. My mum is strongly against abortion. She would be protesting and writing letters about this legislation. I could not tell her, I could ask her for help. I had to take the children in the car to the second appointment. I had to lie to them about what I was doing.

That was one. Here is another.

I am one of those women people particularly like to talk about disparagingly in situations like this. I have had two experiences of an abortion.

This woman told me.

The first in my second year of university. I had a long-term boyfriend and we decided that it was not a pregnancy we could continue, probably for obvious reasons. I had my career ahead of me. I could not afford it. I found out I was pregnant when I was home for the holiday at Christmas. I shared this with my parents. They wanted me to stay in Guernsey but I decided that I would miss too much of my course if I had to wait in Guernsey so I returned to the UK and attended a women's hospital there. I had to stay overnight. It was within 12 weeks. I was alone and no one could stay with me. I spent the night alone, scared and in agony. It is emotional to this day.

2365 She says:

I am crying while I write this. I sometimes wonder what would have happened had I kept the child, but I know we would have led a life of poverty and I would have had to sacrifice everything I had worked for.

She went on to say:

The second occasion was probably five years later and, following a drunken night when I was taken advantage of, in Guernsey, by a friend, hence my staunch support of the Sexual Offences amendment, I am still with the same boyfriend as I had been before. I had never told anyone this. I did not report it, I did not think anyone would believe me. I felt so ashamed. This is the first time I have recounted this story.

I was due to go away to study. I attended a clinic there. Again, within 12 weeks, thankfully, and I was given a set of pills to take at home ...

2370 ... because the place that this woman was in had moved onto, I am trying not to identify her by anything I say, which is why I am stumbling a little bit for words, which was legal there.

I was able to stay at home with two friends who supported me through what was still a harrowing event. The experience was so much better than the last. I was in a comfortable place, with people who could give me hugs and love and support and talk me through the process. We are best friends to this day. They both now have children, I still do not. I had to pay a lot of money in that country to get the pills. I did it, though it was legal, in secret due to the shame. I could barely afford to eat because I had no money and I did not want anyone to know why. I could not ask to borrow money, they would have wanted to know where mine had gone. So I struggled.

2375 There are so many stories like this and I know that there will be people who think that I am playing an emotional card but this is an emotional situation. It is a medical procedure, it is about science, it is about how we deal with things when things are not the way that we would all choose the fairy tale dream to be.

2380 It is an emotional situation. It is not an easy decision and as Deputy Prow has said, we have, as a Committee, talked and talked and gone over repeatedly the various Propositions, what the best thing to do is around those Propositions, what the best thing to propose to the States is and we come back to the medical advice and the medical advice is what is in the Propositions, because the people who should be making decisions about these difficult situations are the woman who finds herself pregnant, either at a time or in a situation where it is not practical or possible or where she simply cannot cope with being in that situation.

2385 Or the woman who finds herself pregnant and is overjoyed about it but is given news that for her is something she cannot endure. That woman and the medical professionals who are charged with her care, who are expert in this, are the people who should be working towards making decisions.

Yes, we must give as much support as we possibly can but the proposals are here because these are the proposals that the medical profession who deal with this on a day to day basis tell us will give us the best, cleanest, safest way of looking after women's health for our future.

2390 Thank you.

The Bailiff: Deputy Gollop.

2395 **Deputy Gollop:** Yes, thank you, sir. I mean Deputy Tooley, as always, has made a really powerful contribution to the debate. But I suppose she has put very passionately a perspective, an argument, arguments of real cases that have made a difference to people's lives and perhaps the way she thinks and the way that many Members will think.

2400 In each instance that she has given, one was a case of betrayal and abuse, another one perhaps of relative poverty, another one a very difficult situation. The issue really boils down to the fact that the woman perhaps made the right decision with medical advice, legally one hopes. But the potential life of the baby did not happen. The baby might have been male, might have been female. We know not.

2405 Therefore I do not think, well it is an emotional issue, you cannot just take Deputy St Pier's line in its entirety, it is entirely an issue of public health. Maybe, as we are coming out of the restrictions that we have had for three-and-a-half months in Guernsey, due to the coronavirus, maybe that raises other questions. How far do you balance the importance of governing as a statesman or stateswoman on the good and solid advice of trusted and credible Public Health against other

considerations, which may be spiritual, which may be ethical, which may be to do with freedom of the individual, freedom to trade, libertarianism, whatever.

2410 I think maybe we as a global society are struggling with that and this debate puts us back into that situation because I perhaps am in a third category. There are people here in the Assembly and certainly outside us who are fundamentalists, in that they really take a strong, pro-life position and they find it hard to justify abortion in any circumstance, even as we have heard earlier, perhaps where an under-age girl is arguably being statutorily taken advantage of, even. They would not.
2415 They cannot bring themselves to support abortion even in that circumstance.

There are other people, at the other end of the spectrum, perhaps, who regard this as not a matter for men to pontificate on, or legislators or politicians or anybody of that ilk, let alone religious men. It is very much a woman's decision with a woman's right to choose. Because as a famous author said recently to a certain amount of controversy, only women have wombs, and so on.

2420 So that is really the two ends of the spectrum and we may have one or two Members in each camp and most of us are probably somewhere in the middle of that but at different ends. I kind of agree with some, not necessarily all, but I certainly agree with some of the points that Deputy Graham made inasmuch that he drew attention to the fact that abortion in different countries is regarded differently and is perhaps widespread in some countries.

2425 It used to be fairly widespread in the old communist bloc as well, I think due to lack of sufficient, other more palatable alternatives, such as birth control. Whereas, in other parts of Europe, abortion is seen as more rare. As something that should be there legally, but not necessarily to be normative.

I would not like to see us polarised along American lines. I was interested to read of a debate in the Republican-dominated state of Texas last year where one of their Representatives set a tinder box of a debate, his name was virtually Mr Tinderbox, I think it was Tinderholt, and he wanted to do actually which was the mainstream law in Britain and Guernsey and many other places not so long ago, of criminalising human beings, especially women who had abortions and put them on the same league as people who took a life. Now that was too much, even for moderate Republicans in that state and it was dismissed.

2435 So, I think there is a level of extremes we certainly do not wish to see, and I have been trying to find a way that we do reaffirm women's right to choose. It may be the situation Deputy Tooley has outline or maybe in other situations but in a way that gives the community, perhaps, more time, more ability to consider, maybe to input before the legislation comes back, maybe through public meetings, that of course have not really been possible in the last few months. Maybe through their
2440 own opinion research.

We have heard various people and various organisations who have had different ways of dealing with this from a faith perspective or not. I go to Trinity Church but I do not recall any recent sermons on this matter or anything similar to this. There may be organisations from a disability perspective or a human rights perspective who wish to survey people.

2445 I actually applaud Health & Social Care because maybe they have gone about this a year too late. The classic example, Deputy McSwiggan said once, she said, 'I have sat down in a committee room and Deputy John Gollop was there and he said, "You are going too fast Deputy McSwiggan, Deputy Fallaize, Deputy Le Clerc, just sit around and let us think a year before we know what to do."'

2450 If I said that, I was wrong. Because we have been pushing against the buffers on our Committee on many very important policy areas and so have all the other departments of the States. I think, if there is a philosophy that has come to the fore in recent times, it is a new Assembly should really get stuck into the difficult questions; even the elephants in the room that have not been tackled.

2455 There is no doubt the modernisation of the Abortion Law was one of those and, as I say, it probably should have come higher up the policy agenda but here it is now and maybe the Partnership of Purpose and the reorganisation of the senior management and political team at Health & Social Care has played a significant part in that.

When I look at the modernisation, I am actually more on the team than might be expected because, like some of those Texan Republicans, even, I am not comfortable with the criminal Law and the heavy hand of police and prosecution and jail and all those sanctions being involved in this

2460 highly personal bodily matter. So I will agree to repeal Section 1A of the Abortion (Guernsey) Law, relating to anyone attempting to end their own pregnancy.

I will also, much as my personal perspective is to discourage abortion where possible. Not to ban it, not to criminalise it, not to prevent it. But I would support Proposition 2 because agreeing the removal of the requirement of the Law for a second medical practitioner I think is not only
2465 a modernisation that we have seen in the United Kingdom, where one correspondent by phone was sufficient, but I think the whole business of access to general practitioners in Guernsey is one of those areas which is full of cost hurdles, barriers. It is not necessarily equitable to everybody. So I would support that as well.

I also agree that professional practice guidance should be issued in respect of the calculation of gestational age. I think, as I have in other areas, such as drug addiction, supported the increased professionalisation of nurses and believe that nurses and midwives should be given the same professional permission to perform medical abortion procedures and I also agree that we should remove the requirement of Law, as outdated, for medical abortions to take place only at the Princess Elizabeth Hospital. Indeed there appears to be a certain lack of clarity about the debate.

2475 I might abstain on the business of conscientious objection because I do not think the proposals here are particularly clear on that respect and maybe I would welcome other speakers to go into how they see that working. I agree that health practitioners should not refuse to participate in care and agree that the notification of the Medical Officer of Health is important in correction and preparation of legislation.

2480 So, like Deputy Prow, really the areas where I am least happy with are the complexities of possible prejudice towards people with disabilities and the gestational period and my amendment that I placed today but did not get debated was not, as some amendments might have been, an attempt to water down the proposals it, it was not like that at all. It was I think to go more along the lines as Deputy Le Tocq identified as to find a consensus of where the public will is; bearing in mind all sides
2485 of the debate.

I think, given the issues of foetus viability, I think 16 weeks, or even 20 weeks, I would be happy to support at this stage, but I think 24 weeks, in many instances, is too much, and I will be reluctant to vote for that and that, I think, will be the hardest decision of the day. I would not want to be seen as, in any sense, in the 'I want to ban abortion' camp, because I am actually supportive of not only
2490 the thinking and most of the reforms contained in this policy letter but also to a degree, of liberalising it.

But I think we are in danger of seeing the matter too much in isolation and many of the difficult cases Deputy Tooley and other Members have outlined, it might have been easier if men had their attitudes changed, if we had more family support, if we had more financial support for families. My own mother was 42 when I was born, so some mothers are older and it has been suggested too, by
2495 some of my political critics, perhaps, that I might not have been born in this day and age, with access to easier abortion, so who knows?

I think as part of the overall thinking, we need to strengthen every aspect of it and Deputy Dudley-Owen's stance on meaningful counselling to improved financial support, improved legal protection, improved housing and many other areas, and I do not see the Abortion Law in itself as being an answer one way or another.

Deputy Roffey is right to call out Americans and others who probably are passionately against abortion and also passionately for the death penalty and the inconsistencies therein and I have sometimes noted that some of the strongest supporters of the old-style moral majority are also
2505 those who have the strongest views of low taxation and minimal government intervention and so on.

I think if you are going to encourage families, you have to have a strong pro-family basis within society, Public Health, public policy. So I do support most of this legislation, maybe even more of it, if I am around when it comes back for legislation, but I still think that we should be cautious about
2510 overly expanding the criteria of abortions beyond the 12 weeks. I think we can improve the overall environment in many other ways so it is a guarded yes, but I am not sure about the 24 weeks.

The Bailiff: Deputy de Sausmarez.

2515 **Deputy de Sausmarez:** Thank you, sir.

We have obviously had an absolute deluge of correspondence on this issue, unsurprisingly, and I am grateful for all of it, because I think you cannot have too much on an issue like this. It is important and it is important that we take into account all those different views and perspectives. But one of the comments that really resonated with me from someone who emailed us was an observation that on the issue of abortion, it is a decision that no one takes lightly, and it is a decision that never leaves you. I think that was so true.

2520 I do not plan to speak for very long. I think there are some concerns from people who are not supportive of the proposals that HSC are putting forward and I think one of those is opening the floodgates to a greater number of abortions. I would say comparisons are treacherous in this area because we just do not have the data for fairly obvious reasons to understand exactly what is going on under our currently, in my view, quite restrictive Laws. Certainly because they are restrictive compared to our nearest jurisdiction.

2525 I think asking questions, for example, around how many people are prosecuted under the current Law sort of misses the point as well. Because it does not capture the number of people for whom the prospect of committing a criminal act, for whom that prospect makes an already incredibly difficult decision even more difficult and even more painful. So I think that really is the main point. The main point is it is just not an appropriate Law and it should not be on our statute books.

2530 I too, like Deputy Tooley and I am sure many others, have received personal communication with harrowing accounts. I think one thing is certain. I do not think, however we try to modernise this Law, I do not think we can make it perfect. I do not think we can tick all the boxes for everyone. I do not think we can even make sure that everyone makes the right decision for them. I think that is fairly impossible.

2535 I have heard really heart-wrenching accounts from people who have regretted the decision both ways. That is what is so difficult, but actually I have had really detailed accounts from people who have regretted those decisions, but still are supportive of modernising the Law. I think a point that Deputy St Pier mentioned, which has not really been touched upon, is that one of equity.

2540 Deputy Le Tocq talked about making abortion more readily available. I think it really is important to underscore that abortion under the UK Law is available to those who can afford to get there and this really is, centrally, an issue of equity. It is about making sure that the same options are available for people regardless of their socio-economic situation. So I will add my voice to those who have thanked HSC for bringing these important reforms forward and I hope that they will be really strongly supported.

2545 Thank you.

2550 **The Bailiff:** Deputy Hansmann Rouxel.

Deputy Hansmann Rouxel: Thank you, sir.

2555 I was not going to speak because I did say quite a lot on the various debates last week but after having received the response from Baroness Tanni Grey-Thompson yesterday, I thought it would be best to articulate the complexity of this area when there is the intersection of disability rights and the rights of the woman to bodily autonomy.

2560 What is always incredibly difficult is that the moral grey area does affect how we view somebody's rights but when we as policy makers are designing policy and creating legislation we need to understand the broader effects of that legislation. It goes to the heart of when the original legislation was drafted, it was at a different time and it has, does have, in our modern society, it has different effects and we are able to look at the effects globally of abortion legislation and how different ways of shaping that legislation does have different effect on the decisions and the process surrounding that.

2565 In response to Baroness Tanni Grey-Thompson, I agree with the broader points from HSC regarding consultation, but there is I think, in hindsight, a case to be made that the HSC should have, on the intersection of rights, and disability rights and how this is affected in this particular area and the sensitivities around that, that conversation should have been had sooner than the policy letter having been published.

2570 I apologise, in my failing as Disability Champion, for not having highlighted this to the Committee when the policy letter was first published. But I want to take this opportunity to highlight that had we had an Equality Rights Organisation set up at the beginning of the term, this is exactly the policy area around rights that they would be able to advise on. I am deeply concerned that we are going to be debating the Disability Discrimination Ordinance and that the Equality Rights organisation has been stripped down and will not be able to advise Government on these areas.

2575 Now, the GDA as an organisation is a charity that is not funded by Government and there is no statutory provision to consult them on these very important areas of rights and policy, so we need to acknowledge that this piece of work, that kind of consultation around rights, does need to happen and it cannot just happen by asking some volunteers to watch what policy letters are being published.

2580 Yes, as Disability Champion I try and look at all of these areas but I am but one person. It should be our job as legislators, all of us, to be disability champions. Currently we are not educated enough to be able to understand the complexities of how these rights fit in and the dynamics that they have when we are implementing them and it is not just about a stick but understanding how the Laws that we create have different consequences.

2585 There is enough information about the effect of different restrictions in abortion legislation. That is why when the rights organisations have looked at these areas, they have concluded that the best way to create, to design policy, is to not restrict, not put restrictions in and put it in the health side of things, which is exactly what HSC are seeking to do.

2590 What we are tied by and to a degree we are intrinsically linked to the UK Law. Not only because we know from the policy letter that having the two different gestational limits, the 12 weeks and the 24 weeks, leads to a perverse effect where some women will pop over and have an abortion, instead of being able to access that care at home in Guernsey, post the 12 weeks. But also that the health professionals here will not be able to even refer them, they are just on their own.

2595 Now it is that reason why, when I was looking at trying to amend Proposition 4, the idea of the 20-week gestational limit, in other places, it is something that is looked at. It was enticing to try and build a piece of policy around that, however that would still leave us with a slightly different approach to the UK.,

2600 In a way, we are tied by the UK. There are parts of the legislation and I am sure that Deputy McSwiggan will reply to Deputy Le Tocq on that. However, I do want to apologise that we have ... it is not fallen into the trap ... apologise that the effects of this legislation, the implied implications around disability are wrong and it is not just people who are against abortion that are using disability as a means to throw rocks at this. It is incredibly complicated and is sensitive and I genuinely apologise to all of those individuals who, even for a second, this has made them think that their lives are less worthy. Because that is not the intention of this policy letter.

2605 I do hope that, in summing up, HSC will confirm or give reassurance that if this legislation is passed, when the guidance and the process around the pre-natal testing, all of that guidance, there is a meaningful consultation with people with disabilities, women with disabilities, with parents of children with disabilities, so that guidance and that counselling that happens around the decision that a woman makes is not going to further the potential implications, or the implied implications around this that somehow people with disabilities' lives are less worth living. I do not think I need to say any more.

2610 Thank you.

The Bailiff: Deputy Soulsby.

2615

Deputy Soulsby: Thank you, sir.

I thought I should respond to Deputy Graham but I am not going to do so contradicting all he said. There is no point in doing so. I respect his views. I do not agree with them but I do respect. There are just two points I would like to pick up on, though.

2620 The first is the language I used last week regarding the amendments being brought by Deputy Stephens and Le Tocq. I do think I was rightly entitled to question the reasons why two people who are against abortion would want to bring amendments on gestational limit. What I do regret doing is using the word 'disgusting'. It is not a word I usually use, although I have been on the end of more emails than you can mention telling me over the years that it is 'disgusting' HSC is not doing this and it is 'disgusting' HSC is not doing that.

2625 Indeed, I had one that morning and that might well have been why it was in my head. In mitigation, and Members may wish to dismiss this as they so wish, I was tired and emotional. No that does not mean I was under the influence at that particular moment in time. It had been a long and difficult week, as have been the last few months, on top of the last four years, and to be honest, I regretted using the word as soon as I said it. But I do apologise if it did give offence.

2630 The only other point I would like to pick up on was the way Deputy Graham kind of insinuated that the Committee and myself did not care about the foetus. That I cannot allow to stand. I hope I will not get all emotional about this. I have tried not to. I try always, and have done since I have been in politics, to keep the emotion out of what I do and say and it will be difficult, but here we go. Take bets now!

2635 Last week I mentioned how I had been lucky I had never had to have an abortion and had given birth to two healthy children. Now I spent the lunchtime asking whether to say this or not but on balance, I think I need to. That is not the full story. Getting pregnant did not come easy for me. I have a condition called endometriosis that, amongst other things like making your periods painfully, occasionally it can make it harder to get pregnant. And that was the case for me.

2640 After a few years of trying and trying it seemed that the stress, the pain and the anxiety went away and I was pregnant. At last! Then, one day, a few weeks later, I woke up one morning and found that I was not. It was early. It was not a fully formed foetus but it was much wanted. I will never forget it or what it might have been.

2645 That is why I struggle with comments about, 'women just using abortion as contraception', that women really do not think about what they are doing when they have an abortion and what that means. It is also why I resent the insinuation that the Committee does not care. It would have been so easy for HSC to have left this matter well alone but it is always going to raise emotions. We could have decided not to submit it or to have kicked it into the next term. But we did not.

2650 The evidence provided to us was overwhelming. It was our duty to bring these proposals to this States and I would like to thank my Committee for agreeing to raise their heads above the parapet to bring this policy letter to the Assembly. I would very much like to thank Deputy Prow, in particular, who as he has said, has struggled with parts of this and for him I realise it must have been difficult being the only man on the Committee.

2655 For me, the best speeches we have had were from one person, and that was Deputy Tooley last Friday. They were well-considered and well-balanced. But I would like to thank all Members for their contribution and helping to share the load for me of what has been quite a different sort of time. Deputy Tindall with her forensic analysis and of course Deputy McSwiggan who at a personal level I know this has been very difficult for her but has provided the philosophical analysis to all this.

2660 The world is very different to the one when this subject was last debated by the States, 33-18 it was passed and I have actually got the original voting record here, so I can absolutely confirm that Deputy Ferbrache was a Pour on here, as was Deputy Lowe, who was the other Member on here. That was the time we had 51 Members voting on the Abortion Law.

2665 Some may think it is a better time now than it was, some may think it is worse. But it is different and the evidence that we have today is different and that evidence leads us to present these proposals. These are proposals that are about women's health; of course they are. But they are also about the world in which women live and, in answer to Deputy Le Tocq's question about reducing

abortions, I will only add how, if Members really do care about that, have those women who have had to have an abortion in your minds when you debate the recovery strategy, Revive and Thrive.

2670 Have those women in your minds when we debate the justice policy. Have those women in your minds when we debate the housing policy. Understand that for very many women they are placed in the position of having an abortion because of the circumstances that they find themselves in. An abusive relationship. Inadequate housing. In-work poverty.

2675 This is what we really should be getting emotional about. This is an incredibly important debate but really we must not lose sight of the wider determinants of health that really are where we can make a real difference and I therefore ask Members to please support all the Propositions in this policy letter, for the women of Guernsey and their families.

Thank you, sir.

2680 **The Bailiff:** As no other Member is rising to speak, I will turn to Deputy McSwiggan to reply to the debate on behalf of the Committee. Deputy McSwiggan.

Deputy McSwiggan: Gosh, I am not altogether sure that I need to speak after that speech from our President. I think I will continue only because there are a small number of questions that need to be addressed in the summing up, which a couple of Members, Deputy Lester Queripel among them, have said might influence how they vote in the end. So I will do my best to address those questions.

2685 The personal story that I want to open with is a little different to the personal stories that are usually told in the context of abortion debates because it is nothing to do with abortion, it is nothing to do with having a baby. It is a story that I think I have told in the States before. It was only when the States before this one finally decided to approve same-sex marriage that I felt welcome and safe and able to stand for the States and able to be present as a full member of our community.

2695 The reason why I think that is relevant and why I draw that out is because, until the last States made that decision, one of the most important decisions in my life, who I make a home with, was in not a legal grey space in the same way as this question of criminalisation in the Abortion Law, but definitely a legal grey space in terms of what is welcome and what is unwelcome in society.

2700 For women seeking abortions beyond 12 weeks, and this is the point that Deputy de Sausmarez was drawing out, that same kind of legal grey space, and with potentially far worse consequences, exists under today's Law. Because it is possible to go across the water to the UK and to seek an abortion that is legal under the terms of their Law, should you need it. But it is not possible to access that abortion with full social sanction or full legal blessing as a member of Guernsey's society.

2705 While that remains the case, and Deputy Roffey nailed the issue at the very start of this debate, if what we are doing is turning a blind eye, we are saying actually there is a case and a need for women to be able to seek abortions up to 24 weeks but we are not going to worry about dirtying our own hands with it because the UK's legal framework takes care of that, if in our heart of hearts we believe that it is right that women should have access to those abortions when they need them, then not dealing with it through our own legal framework, what it does to those women is it limits their ability to talk freely with people, with their loved ones, with professionals who could give them advice, with others that they might need to talk it over with about what their options are because they are talking about something that, if not definitely illegal, certainly exists within a legal grey space. If it is a decision that they feel they need to grieve over, as Deputy Dudley-Owen talked about this morning, then it limits their ability to experience that grief fully and to go through the emotions associated with that grief because it is tied up in this complication of fear and uncertainty.

2715 If they need to fully explore and live through the complex emotions that surround the decision to have an abortion or not to have an abortion, the opportunity to do that is completely stunted by the fact we have not addressed this shortfall in our legal framework and that causes some of the issues that Members who have brought amendments or who have proposed these proposals say we need to address.

2720 Policy makers who bring proposals to improve abortion laws here or elsewhere are called
‘murderers’ or ‘baby killers’ or ‘eugenicists’. We are, we have all received those emails if we have
expressed some support for these proposals. But critically, sir, so are women who are considering
the decision to abort a baby.

2725 The reason why we, as policy makers, take this on our shoulders is to take it off theirs. It is a duty
of care that we have to the community to say, look, this is the space in which you can make these
decisions and you are protected by the law and you do not have to exist in that legal grey space.
We understand that there is a balancing of rights that has to happen but here is where we are
striking the balance and we are making it as safe for you, as safe as we ever can, to do what you
need to do.

2730 That is the unique responsibility that we carry as policy makers. But doing so does come at a
cost and I thought Deputy Soulsby showed tremendous grace to apologise. I do not think she
needed to. The mask slipped for a moment and she showed how hurt she had been by the
comments we have been receiving. But that is natural. That is human. I would ask Members to bear
in mind how much of the flak that we have all received has landed directly at her door and for all
of us to extend the kind of grace that we would want to receive if we were in that position.

2735 So, sir, to the remaining points. The question of consultation. Deputy Stephens spoke earlier on
about consultation, the question of whether there was enough time, the question of whose
responsibility it is to consult the community. Of course, it is ours collectively. It is the responsibility
of a Committee developing a set of proposals to think about the kind of engagement that they
need, the kind of people they need to be engaging with, the point in which, in developing the
2740 proposals, at which they need to be engaging with different groups of people, and that is something
that HSC thought about at considerable length.

I am not going to unpack the same arguments that we went through during the debate on the
sursis, but I do recall during that debate, Deputy Le Tocq mentioned, I think he called them the
Gunning Principles, but Deputy Tindall in that debate talked about our scrutiny principles about
what kinds of consultations we engage in for what kind of decisions.

2745 Without repeating her arguments, the Committee was careful to engage in a consultation that
we thought was appropriate for the kind of proposals that we would bring to the States. We
engaged with professionals, not just those directly involved in the abortion procedure but the whole
spectrum of professionals who provide care for pregnant women, care for women who may be
2750 considering an abortion, care for women who may have had an abortion.

We consulted with small focus groups and the reason for that choice was to provide safe spaces
in which people could discuss the kind of intense and deeply moving issues that we have now been
discussing in public and we all know how hard that has been and what kind of toll it has taken on
us. We have a responsibility to do that but we do not have a responsibility to expose others to that.

2755 But this two-week consultation period has become a myth that has been blown out of all
proportion because the reality is that the policy letter has been in the public domain for over three
months. It had a much longer lead-in period than the majority of policy letters that come to this
Assembly.

2760 Tellingly, and I appreciate this point has been made but it is so to the heart of this issue, the
period which the public have had to engage on this policy letter and to make a decision, is if
anything longer than the period we are willing to allow women to make a decision about continuing
or not continuing their own pregnancy. So Members need to weigh that in the balance and consider
which of those is really the bigger decision.

2765 There were questions raised about conscientious objection and the email that we received last
night from a professor of law and ethics. Deputy Le Tocq and I think Deputy Lester Queripel both
asked why the Committee had made the specific recommendations that we have in Propositions 8
to 10 of the policy letter, which deal with conscientious objection.

The reality is, in some areas, our Law falls short of provisions in respect of conscientious objection
that exist elsewhere in the British Isles. We do not have the same provisions that other Laws have

2770 that require care to be provided in order to protect a woman from grave injury not only from potentially fatal outcomes.

Although the focus has been on our addition of grave or serious injury, to death, so covering circumstances in which a woman might die or in which she might be seriously injured, there has not been the same focus given to the deletion, which is that the Law currently refers to care for pregnant women.

2775 We have proposed to remove the word 'pregnant', again, consistent with other Laws in the British Isles, to ensure that women who have an abortion receive the best care at all stages including after the abortion has happened. That women who have had an abortion are not punished by professionals who conscientiously object to abortion by refusal to provide basic care surrounding particularly after the procedure. That Proposition is an important correction to our existing Law, which brings it more into line with Laws elsewhere and which seeks to avoid instances of cruel treatment to women who have had an abortion, which have been specifically reported to the Committee as happening in Guernsey.

2780 I am not giving way. I beg your pardon. That was more outraged than I meant it to be! But we have had a long debate and Deputy Le Tocq has spoken at length during that debate so I think all that is going to be said has probably already been said.

2785 Deputy Merrett asked about the Committee's proposals in respect of moving from two doctors to one doctor effectively agreeing that the woman may have an abortion. Her argument was interesting, I thought, particularly in light of the discussion around this morning's amendment because she said to us, if a woman has a conversation with two doctors, effectively, that will allow for more informed decision-making and greater consideration of the options.

2790 In this morning's debate she said a woman who knows that she needs to seek an abortion or is considering whether she should seek an abortion, also has the capability to consider what other help and support, counselling or guidance she might need before or after making that decision. Now, if we are enforcing a woman needing to see two doctors before going to have an abortion, we are saying the opposite of what we decided this morning. We are saying actually no, we need to put these additional safeguards in because you may not know your own mind.

2795 I encourage Deputy Merrett to stick with the position that she set out this morning, which is that if a woman recognises that she needs more time to consider, more time to talk it over with, whether they are professionals or friends or other people in her personal or professional life that she might go to for advice, we should make it possible for her to do so and trust that she will make the choices that are right for her.

2800 But we should not enforce a particular set of hoops for her to jump through because we need to acknowledge that she will already be doing that in her own mind but abortion is not a decision that anybody has taken lightly and that everybody, anybody who is considering this will be weighing up the ethics, the possible medical outcomes, the variety of considerations that they need to take into account before finally reaching their decision.

2805 So I would encourage Deputy Merrett to think about that in respect of moving from two doctors to one. I think in respect of any other medical procedure this is a safeguard that we do not put in and it was Deputy Merrett who said, yes, it is a medical procedure, but it is not a medical decision. But if it is not a medical decision, if it is an ethical decision and it is a very personal decision, then allow it to be an ethical and personal choice for the woman as to whom she consults with.

2810 There were comments from a number of speakers about the need for family friendly policies and I hope it was simply a throwaway comment in Deputy Graham's speech that possibly HSC's motivation for trying to align the legislation more with the UK is trying to achieve as many abortions as possible. No, is the answer to that, but no with context. The context is, for example, that this is the Committee that, together with the Committee for Employment & Social Security, has introduced free contraception for under-21s because we wanted to address not only the conception rate among very young women but also the termination rate among very young women.

2815 If we are making it easier for young women not to find themselves in a scenario where they are pregnant and they do not know what to do, we need to be taking that kind of upstream action and

that is a conscious decision that this Committee has made. This is the Committee that continues to progress work on the Children Law, which has made corporate parenting, if not an everyday term in this States, then at least a term that States' Members recognise and understand.

2825 This is a Committee that is committed to the welfare of children and families. It is committed to providing the best available support for women's sexual and reproductive health and the sexual and reproductive health of men, in order to avoid people having to make these difficult, ethical decisions about abortion unless they really need to.

2830 To suggest that this is some hobby horse of the Committee and we have not thought about the wider context and we do not care about family friendly policy is so completely off-base that it might have come from someone who has not been here for the last four years. This is not what the Committee has been doing.

2835 I suppose, simply in passing, I want to address the comment that a couple of Members made about, in their words, the danger of resorting to abortion too readily and I think this is more a tabloid headline than an everyday reality, this idea that people might be using abortion as contraception, I think. Those stories are blown out of all proportion, they completely ignore the reality of women's complex lives and the situations that they find themselves in when they are having to choose an abortion and it leaves us pursuing straw men and spooks rather than dealing with the complex reality that we absolutely need to engage with.

2840 Just two points remaining sir. The question of foetal anomaly and Deputy Le Tocq asked why did HSC give up on finding another definition? Two things there. First, he misunderstood what I said to the person who wrote to us about this. It is not that other definitions are not available but that a definition that is more specific about what conditions fit or do not fit can become a definition that makes more of a value judgement about what lives are worth living and what lives are not.
2845 What conditions are on that list and what conditions are not.

2850 Actually, although it might not feel that way at first, that can have exactly the kind of perverse consequences that Deputy Le Tocq would wish us to avoid. So that is one half of the answer. The other half of the answer is we have not given up. We recognise that the wording of the 1997 Law is, as Deputy Hansmann Rouxel put it last week, extremely out of date and offensive. This is not wording that we want to carry forward into the 21st century and in the space between today's decisions and the drafting of the legislation, we will be updating that terminology to make sure that is appropriate and respectful and is expressed in clear and contemporary language.

2855 I will absolutely give the undertaking, as Deputy Hansmann Rouxel asked for, that we will work with any disabled Islanders who wish to work with us, because it is not necessarily a debate in which everyone wishes to engage with their representative groups and representative groups of carers and families of people with disabilities to make sure that the guidelines that we issue around this legislation are appropriate, do not seek to undervalue or stigmatise lives with a disability.

2860 And I completely echo Deputy Hansmann Rouxel's apology, which again I think is not one for her to give but it certainly is one that I can give, to those who felt, even for a moment, that this makes their life less valued. I say it is not one for Deputy Hansmann Rouxel to give because she has been, as she always is, a champion for disabled people through this debate.

2865 But I endorse that apology, if that is a thing one can do with apologies, but I would just ask Members on all sides of the debate to recognise how hurtful some disabled people on-Island and off-Island have found it and to recognise that is not simply a consequence of the subject matter but also of the way that we have chosen to engage with it.

2870 For example, the category of severe fatal foetal abnormality does not necessarily engage the lives of everyone who would recognise themselves as a disabled person. There are many disabled people who would never have fit into that category and the way that we have talked about this, as a disabled people's issue has, I think, created fear and alarm that is unwarranted and unjustified. I think there is a responsibility on all of us to manage that better in future.

Finally, sir, Deputy Lester Queripel, when he spoke, addressed the question of possible double standards in light of this debate as opposed to the assisted dying debate and I think that this is

something that I need to address personally because I am voting differently in this debate, in a way that people might not have assumed given my vote on assisted dying.

2875 But to address Deputy Queripel's point directly, first, he said he did vote for the assisted dying proposals and that was despite them being on the back of a requête, which had only the ordinary lead-in period that proposals that come to this States have. It had no prior notification in the way that the Committee's proposal to change the Abortion Law did now well over a year ago. It had none of the consultation that we have done to get proposals to this point.

2880 If consultation is the issue keeping Deputy Lester Queripel awake at night, and he recognises that actually the ethical issues in respect of assisted dying and abortion are similar then I would ask him to waive the vote that he made previously on assisted dying and to recognise that there is a similar ethical case for voting for these abortion proposals and that in fact the amount of consultation done around them has been far more extensive than was ever done around those proposals.

2885 A number of Members praised Deputy Graham's speech and because it was repeated throughout this debate I think I need to say I recognise that he was moved and angry but I need to ask him to hold up the mirror of his own speech to what he said. I think that is all I need to say but, because it has been mentioned in other speeches, I think that needs to be said, in balance.

2890 Finally, this question of assisted dying and how one might vote one way on that and a different way on these proposals. For me, the two questions fall on either side, if you like, of an ethical cigarette paper. They are that close and yet the outcomes of the debate, for me, need to be quite different. They are both deeply, ethically complex issues. The simplified and polarised positions that Deputy Le Tocq said are the only consistent positions it is possible to maintain on abortion ... I tend not to agree with anything that is too simple!

2895 The key issue is this balancing of rights and what the States should sanction and what it should be careful to protect. We do have to recognise that pregnancy and giving birth are major things that happen to women. They are a major experience for the nine months or so. They have long term physical and then psychological consequences in many cases. They have a huge impact on you and on your body and what, is it right of one person to sustain the life of another person? That is the fundamental question that we are trying to get to in this debate and it is complex and it does invoke questions of viability and it does invoke questions of what is the foetus and what are its rights and what are the rights of the woman?

2900 The Committee has been very careful to try and find a path through that balances those rights in the fairest and the most ethical way, that affords a protection, if you like, to both parties, that is appropriate and reflects the best available medical science because we have gone over the question of viability at length, the time limits that the Committee is recommending are time limits before which very few babies survive and those babies that survive tend not to survive long at all.

2910 This is never going to be an easy issue. It is never going to be an issue on which we find we can have settled consciences and convenient answers. But what we have tried to do, as a Committee and with our community, because despite accusations to the contrary we have engaged extensively with the community through numerous different forums, is to try and find a way through that is as compassionate as it can be, as fair as it can be, that respects the complex choices that people have to make and that allows for those choices to be made safely and within the context of a legal framework that is clear and modern and fair. So I would ask Members to support the proposals wholeheartedly.

2915 **Deputy Le Tocq:** Point of order, sir.

2920 **The Bailiff:** Point of order, Deputy Le Tocq.

Deputy Le Tocq: I was not sure whether to make this point of order but in responding to debate I did ask that whoever replied on behalf of HSC should address a number of issues, but one particular issue was relating to identify which of the Propositions went beyond the current law in

2925 Great Britain and why they do so and I think particularly in Propositions 8 to 10 on conscientious objection and the possibility for a challenge on that, I would also ask HM Procureur for her opinion on that.

Thank you, sir.

2930 **The Bailiff:** Deputy Le Tocq, just a minute. What Rule of Procedure do you say that Deputy McSwiggan has broken?

Deputy Le Tocq: She is responding to debate and she did not respond, by even saying that she was not responding, to the issues that I raised.

2935

The Bailiff: But you know, Deputy Le Tocq, full well from the times that other Members have responded to debate, possibly including yourself, that you do not always answer every question that is posed. It is a matter of choice. That is not a valid point of order. It is a reminder, Deputy McSwiggan, if you wish to respond to those questions, but you are not obliged to do so. But we will potentially hear from the Procureur after Deputy McSwiggan has finished. Deputy McSwiggan to continue.

2940

Deputy McSwiggan: Thank you, sir.

I did in fact address questions raised about conscientious objection, perhaps I blended Deputy Le Tocq's questions with the questions asked by Deputy Lester Queripel and perhaps that was not satisfactory for Deputy Le Tocq, but I fear no answer I could give on this matter would be.

2945

The Bailiff: Now, Madam Procureur, Deputy Le Tocq has just invited once again any comment that you may wish to make on the issues that he raised earlier. While, equally, it is not a point of law or procedure that you are being asked on, as far as I understand, if you wish to comment, please do.

2950

The Procureur: Thank you, sir and I would draw Members' attention to Paragraph 5.44 of the policy letter, which relates to conscientious objection, because in relation certainly to Propositions 8-10 the Committee for Health & Social Care had made reference to equivalent legislation in Jersey, England, Wales, Scotland, the Isle of Man and the Republic of Ireland.

2955

As I heard Deputy Le Tocq's response, he was specifically specifying Great Britain. He is absolutely right that Propositions 8 to 10 do not reflect absolutely the provisions that are in the UK legislation but they do reflect provisions from those other jurisdictions that are mentioned in 5.44. If Members needed me to discuss that in further detail, it is in various email tracks that behind the scenes we have been corresponding on.

2960

What I would draw Members' attention to, in case it assists, is that the concept of going further is sometimes used in a way to convey that the Proposition may not be lawful or may not be given lawful effect and I think Members also need to have regard to the ethical considerations that Members of the Committee have talked about.

2965

It is absolutely true that some of the ethical considerations that are noted in the policy letter may be reflected in statute in the way that the UK has chosen not to do so and the Health & Social Care Committee are here recommending to do so. But fundamentally the issues covered in paragraph 5.44, the issues may not be purely in the legislation of Great Britain but they are in other Crown Dependencies' legislation, as noted in that policy letter.

2970

Thank you, sir.

The Bailiff: Members of the States, there are 12 Propositions. I have sort of got the impression that you do not want all 12 to be put to you *aux voix*, all together. (Laughter) Can I have requests for those Propositions on which a discrete vote is desired?

2975

Deputy Le Pelley: Sir, I do not mind which way you clump them together, or group them together but I would like a recorded vote on all of them, sir.

2980 **The Bailiff:** Deputy Lester Queripel.

Deputy Lester Queripel: Sir, that covers it, I guess. I was going to ask for 3 and 4 and 8, 9 and 10 to be taken together but Deputy Le Pelley has beaten me to it,

2985 **The Bailiff:** Deputy Merrett.

Deputy Merrett: A separate vote on Proposition 2, please, sir.

2990 **The Bailiff:** Let us start with Proposition 1, then, and we will have a recorded vote on Proposition 1 and then we will move for a recorded vote on Proposition 2 and then we will work out whether we take 3 and 4 together, So, Greffier, Proposition 1 only, Members, and we will have a recorded vote.

There was a recorded vote.

Proposition 1

Carried – Pour 36, Contre 1, Ne vote pas 0, Absent 2

POUR

Deputy Gollop
Deputy Parkinson
Deputy Lester Queripel
Deputy Le Clerc
Deputy Leadbeater
Deputy Mooney
Deputy Trott
Deputy Le Pelley
Deputy Merrett
Deputy St Pier
Deputy Stephens
Deputy Meerveld
Deputy Fallaize
Deputy Inder
Deputy Lowe
Deputy Laurie Queripel
Deputy Hansmann Rouxel
Deputy Graham
Deputy Green
Deputy Paint
Deputy Dorey
Deputy Le Tocq
Deputy Brouard
Deputy Dudley-Owen
Deputy McSwiggan
Deputy de Lisle
Deputy Langlois
Deputy Soulsby
Deputy de Sausmarez
Deputy Roffey
Deputy Prow
Deputy Oliver
Deputy Ferbrache
Deputy Tindall
Deputy Brehaut
Deputy Tooley

CONTRE

Deputy Smithies

NE VOTE PAS

None

ABSENT

Alderney Rep. Roberts
Alderney Rep. Snowdon

The Bailiff: Members of the States, on Proposition 1, there voted Pour 36, Contre 1, two absentees and therefore I declare Proposition 1 duly carried.

2995 A discrete vote next on Proposition 2 please, Greffier.

There was a recorded vote.

Proposition 2

Carried – Pour 28, Contre 9, Ne vote pas 0, Absent 2

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

The Bailiff: Members of the States, on Proposition 2, there voted Pour 28, Contre 9, same two absentees and therefore Proposition 2 also carried.

3000 Is there any Member who wants to cast a vote differently on Proposition 3 to Proposition 4 or can I put the two Propositions to you together? In that case we will take Propositions 3 and 4 together, Members of the States. These are the gestational periods referring to paragraphs (c) and (d) in subsection (1) of section 3 of the Law. Greffier.

There was a recorded vote.

Propositions 3 and 4

Carried – Pour 23, Contre 13, Ne vote pas 1, Absent 2

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Parkinson	Deputy Gollop	Deputy Lester Queripel	Alderney Rep. Roberts
Deputy Le Clerc	Deputy Mooney		Alderney Rep. Snowdon
Deputy Leadbeater	Deputy Stephens		
Deputy Trott	Deputy Meerveld		
Deputy Le Pelley	Deputy Inder		
Deputy Merrett			

Deputy St Pier	Deputy Laurie
Deputy Fallaize	Queripel
Deputy Lowe	Deputy Smithies
Deputy Hansmann Rouxel	Deputy Graham
Deputy Green	Deputy Paint
Deputy Brouard	Deputy Dorey
Deputy McSwiggan	Deputy Le Tocq
Deputy de Lisle	Deputy Dudley-Owen
Deputy Langlois	Deputy Prow
Deputy Soulsby	
Deputy de Sausmarez	
Deputy Roffey	
Deputy Oliver	
Deputy Ferbrache	
Deputy Tindall	
Deputy Brehaut	
Deputy Tooley	

The Bailiff: Members of the States, the voting in respect of Propositions 3 and 4 is as follows: there voted Pour 23, Contre 13, one abstention, two absentees and therefore Propositions 3 and 4 are both duly carried.

3005 Now, Members of the States, I got the impression that 8 to 10 should be taken separately from 5 to 7, so we will vote on 5 to 7. Does any Member want to vote differently on any of those Propositions? In that case, we will have a vote on Propositions 5, 6 and 7 taken together please. Greffier.

There was a recorded vote.

Propositions 5 to 7

Carried – Pour 30, Contre 7, Ne vote pas 0, Absent 2

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

3010 **The Bailiff:** Members of the States, the voting in respect of Propositions 5, 6 and 7, is as follows: there voted Pour 30, Contre 7, same two absentees. Therefore Propositions 5, 6 and 7 are all duly carried.

We turn now to the suite of Propositions, 8 to 10, which relate to conscientious objection and we will have a recorded vote in respect of those three Propositions together. Greffier.

3015 **Deputy Dorey:** I would like to vote differently on 10.

The Bailiff: Can we take 8 and 9 together, before doing 10 discretely?

There was a recorded vote.

Propositions 8 and 9

Carried – Pour 27, Contre 8, Ne vote pas 2, Absent 2

POUR

Deputy Parkinson
Deputy Le Clerc
Deputy Leadbeater
Deputy Trott
Deputy Le Pelley
Deputy Merrett
Deputy St Pier
Deputy Meerveld
Deputy Fallaize
Deputy Lowe
Deputy Hansmann Rouxel
Deputy Graham
Deputy Green
Deputy Dorey
Deputy Brouard
Deputy McSwiggan
Deputy de Lisle
Deputy Langlois
Deputy Soulsby
Deputy de Sausmarez
Deputy Roffey
Deputy Prow
Deputy Oliver
Deputy Ferbrache
Deputy Tindall
Deputy Brehaut
Deputy Tooley

CONTRE

Deputy Gollop
Deputy Mooney
Deputy Stephens
Deputy Inder
Deputy Laurie Queripel
Deputy Smithies
Deputy Paint
Deputy Le Tocq

NE VOTE PAS

Deputy Lester Queripel
Deputy Dudley-Owen

ABSENT

Alderney Rep. Roberts
Alderney Rep. Snowdon

3020 **The Bailiff:** Members of the States, the voting on Propositions 8 and 9 was as follows: there voted Pour 27, Contre 8, two abstentions, two absentees and therefore Propositions 8 and 9 are both duly carried.

We go to a vote on Proposition 10 taken in isolation.

There was a recorded vote.

Proposition 10

Carried – Pour 25, Contre 9, Ne vote pas 3, Absent 2

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Gollop	Deputy Stephens	Deputy Lester Queripel	Alderney Rep. Roberts
Deputy Parkinson	Deputy Fallaize	Deputy Mooney	Alderney Rep. Snowdon
Deputy Le Clerc	Deputy Inder	Deputy Dudley-Owen	
Deputy Leadbeater	Deputy Laurie Queripel		
Deputy Trott	Deputy Smithies		
Deputy Le Pelley	Deputy Graham		
Deputy Merrett	Deputy Paint		
Deputy St Pier	Deputy Dorey		
Deputy Meerveld	Deputy Le Tocq		
Deputy Lowe			
Deputy Hansmann Rouxel			
Deputy Green			
Deputy Brouard			
Deputy McSwiggan			
Deputy de Lisle			
Deputy Langlois			
Deputy Soulsby			
Deputy de Sausmarez			
Deputy Roffey			
Deputy Prow			
Deputy Oliver			
Deputy Ferbrache			
Deputy Tindall			
Deputy Brehaut			
Deputy Tooley			

The Bailiff: Members of the States, in respect of Proposition 10, the voting was Pour 25, Contre 9, three abstentions, two absentees and therefore Proposition 10 is also declared duly carried.

We come to what I think will be the final vote which is on Propositions 11 and 12 and there is still a request for a recorded vote, is there? (**A Member:** Yes please, sir.) A recorded vote then please, Greffier. Propositions 11 and 12.

There was a recorded vote.

Propositions 11 and 12

Carried – Pour 34, Contre 3, Ne vote pas 0, Absent 2

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Gollop	Deputy Mooney	None	Alderney Rep. Roberts
Deputy Parkinson	Deputy Smithies		Alderney Rep. Snowdon
Deputy Lester Queripel	Deputy Le Tocq		
Deputy Le Clerc			
Deputy Leadbeater			
Deputy Trott			
Deputy Le Pelley			
Deputy Merrett			
Deputy St Pier			
Deputy Stephens			
Deputy Meerveld			
Deputy Fallaize			
Deputy Inder			
Deputy Lowe			
Deputy Laurie Queripel			
Deputy Hansmann Rouxel			
Deputy Graham			
Deputy Green			
Deputy Paint			
Deputy Dorey			
Deputy Brouard			
Deputy Dudley-Owen			

Deputy McSwiggan
Deputy de Lisle
Deputy Langlois
Deputy Soulsby
Deputy de Sausmarez
Deputy Roffey
Deputy Prow
Deputy Oliver
Deputy Ferbrache
Deputy Tindall
Deputy Brehaut
Deputy Tooley

The Bailiff: Members of the States, in respect of Propositions 11 and 12 there voted Pour 34, Contre 3, two absentees and therefore Propositions 11 and 12 are declared duly carried.

That means all 12 Propositions have carried.

Urgent Proposition in Pursuance of Rule 18

CIVIL CONTINGENCIES AUTHORITY

Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 3) (Amendment) Regulations, 2020 – Approved

P.2020/109

The States are asked:

To decide whether they are of the opinion to approve the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 3) (Amendment) Regulations, 2020.

3030 **The Bailiff:** Now Members of the States, we have got time, I think, to do the extra item of business, which is the Proposition in Pursuance of Rule 18, submitted by the Civil Contingencies Authority, which is the amendment to the latest set of Emergency Regulations.

3035 **Deputy Tindall:** Sir, in the explanatory note it does say that these will be presented on 1st July.

The Bailiff: It does, but you are here and as far as I am concerned, with 25 minutes to go, that is ample time to get through this. So I am going to ask the Greffier to call the item and then invite the Chairman of the Authority to speak to that. The explanatory note should not have said anything, of course, because there would be no known time of when the States would next meet when these were made. And it is not the explanatory note. It is the preamble.

3040 **The States' Greffier:** Item 61 of 2020, Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No.3) (Amendment) Regulations, 2020.

3045 **The Bailiff:** And I invite the Chairman of the Authority, Deputy St Pier, to open debate.

Deputy St Pier: Thank you, sir.

3050 This is the product of the Civil Contingencies Authority continuing to roll back on the Regulations, which it no longer believes are necessary for the management of the current emergency. In particular, the revocation of those Regulations in relation to control of premises, death registrations and cremations, parochial meetings and of course States' Meetings, which is why we are of course compelled, actually, to meet physically at this Meeting and indeed next week.

3055 The Civil Contingencies Authority did give considerable thought to the question of whether the other Regulations were still required other than in relation to the border, which is perhaps self-explanatory, but the other extant Regulations, in relation to mental health, health and safety, the Court of Appeal, schools, population management and the cutting of seaweed and we concluded that actually it was still relevant to keep those in place for the time being but obviously we will continue to keep those under review and indeed the Authority will be meeting again this week and subsequently every two weeks to amend as we see fit. But obviously sir, I am happy to deal with
3060 any questions that arise.

The Bailiff: Deputy Gollop.

3065 **Deputy Gollop:** Possibly not as prepared as I could have been with the questions, but nevertheless I have a few quick queries to raise. It is extremely good to be back in this Chamber on many levels but as you sir, as the Presiding Officer, have already identified, the Public Gallery is kind

of closed today and our traditional entrance. Hopefully more work can be done on facilitating access to buildings as part of the roll back of the Regulations and I think there has been general welcoming of the changing of travel Regulations as well and, hopefully, in relation to mental health and so on.

3070 My query, though, concerns the repeal of the Regulations relating to the impossibility of holding parish meetings because there has been a degree of difference between the 10 parishes and confusion in some quarters as to the role of douzaines and constables in setting the rates for the year, the remèdes, the process of legitimacy and whether decisions taken by those parishes in good faith will stand now or whether parishes will have to reconsider their position in view of the excellent
3075 efforts of Public Health and the CCA in bringing us back to a near insular normal.

So I kind of want clarification, if anyone is able to provide it, whether the wise counsels the parishes adopted in relation to parish meetings and the remèdes this year will have to be significantly changed. Some other Members of this Chamber, who are constables or involved more in parishes than I am, may also be able to respond if they choose to in that respect.

3080 In every sense I am going to obviously vote with Deputy St Pier's directions.

The Bailiff: Deputy Le Pelley.

Deputy Le Pelley: Thank you, sir.

3085 I really rise just to give Deputy Gollop some assurances. The legislation that came into power has been enacted. The various parishes have met remotely in accordance with the Law, the remèdes have been debated and placed and agreed, I am looking at the top bench, and indeed they have actually been approved by the Court. Speaking for St Sampson's, of which I am a constable, half of our rates are already in, so I hope they are not going to be changed!

3090 Thank you.

The Bailiff: Nobody else is rising, so I will invite Deputy St Pier as the Chairman of the Authority to reply to that short debate.

3095 **Deputy St Pier:** Sir, thank you.

I think the only substantive point is in relation to the parochial meetings. I think HM Procureur will confirm my understanding that clearly any decisions or actions taken by the parishes in reliance on Regulations that were then current would obviously remain valid. Those actions will not themselves be revoked by virtue of the fact that the Regulations have now been revoked.

3100 Clearly the parishes will need to operate as they did prior to this crisis, but they can rely on the actions and decisions they took whilst those Regulations were in force. So hopefully that addresses Deputy Gollop's point and gives him the reassurance that he was seeking, sir.

3105 **The Bailiff:** Is it your wish, Madam Procureur, to confirm that for the record – just that Deputy St Pier has taken your name?

The Procureur: I am happy to do so, sir, yes.

The Bailiff: Thank you very much.

3110 Members of the States, there is a single Proposition, which is whether you are minded to approve the Emergency Powers (Coronavirus) (General Provisions) (Bailiwick of Guernsey) (No.3) (Amendment) Regulations, 2020. Those in favour; those against.

Members voted Pour.

The Bailiff: I therefore declare that Proposition duly carried.

Procedural

3115 **The Bailiff:** Now Members of the States do you want start something else or have you had
enough for today? We probably will not be able to finish whatever comes next and it will be the
General Housing Law. So Deputy Brehaut, it is not your desire, is it, to make your opening speech
on that now?

3120 **Deputy Brehaut:** No, it is not sir, and there is an amendment in play, too, which will need some
debate. Thank you.

The Bailiff: In those circumstances, Members of the States, we are almost as close to 5.30 p.m.
as we need to be now and therefore we will adjourn the Meeting. You have already agreed to sit
again next Wednesday again at 9.30 a.m.
3125 Deputy Gollop?

Deputy Gollop: Am I able to make a point of order, that is in mind to make anyway, re Deputy
Le Clerc's –

3130 **The Bailiff:** Who are you saying has broken what Rule of Procedure, Deputy Gollop?

Deputy Gollop: I do not know. I do not know whether the next States' Meeting will have an
opportunity to obtain certainty of outcome for a provisional date for the Disability and Equalities
Ordinance debate and it might be difficult to set it next week if we go for a full three days and we
3135 are still out of time. I do not quite know if we can set out timetable at this point, even though of
course we are just moving on?

The Bailiff: The position as I see it, Members of the States, is that the Meeting started last
Wednesday, we have run through four days now. The Meeting is continuing but there is already an
3140 agreement to adjourn from today to next Wednesday. We will see where we get to by the end of
Wednesday as to whether that is the end of this Meeting or whether there is a proposal that we go
into Thursday of next week. But that is where the rest of the business for this Meeting will happen
and before we finish this Meeting, Deputy Gollop, there will be the need to settle the Schedule for
Future States' Business at that point.

3145 With that I invite the Greffier to close today's sitting with the Grace, please.

The Assembly adjourned at 5.15 p.m.