



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Wednesday, 29th March 2017

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Present:

Sir Richard J. Collas, Kt, 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, J. Kuttelwascher, D. A. Tindall,
B. L. Brehaut, R. H. Tooley

St Peter Port North

Deputies, J. A. B. Gollop, C. N. K. Parkinson, L. C. Queripel, M. K. Le Clerc,
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, L. B. Queripel,
J. C. S. F. Smithies, S. T. Hansmann Rouxel

The Castel

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

The West

Deputies A. H. Brouard, A. C. Dudley-Owen, E. A. Yerby,
D. de G. De Lisle, S. L. Langlois

The South-East

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

Representatives of the Island of Alderney

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

The Clerk to the States of Deliberation

S. M. D. Ross, Esq. (H.M. Senior Deputy Greffier)

Absent at the Evocation

Miss M. M. E. Pullum, Q.C. (H.M. Procureur)
Deputy R. G. Prow, (*absent de l'île*)

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States of Deliberation

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

[THE BAILIFF *in the Chair*]

PRAYERS

The Greffier

EVOCAATION

CONVOCATION

The Senior Deputy Greffier: Billet d'État VII of 2017. To the Members of the States of the
5 Island of Guernsey, I hereby give notice that a meeting of the States of Deliberation will be held at
The Royal Court House on Wednesday, 29th March 2017 at 9.30 a.m. to consider the Items listed
in this Billet d'État which have been submitted for debate.

COMMUNICATIONS BY THE PRESIDING OFFICER

Communications with the Houses of Parliament regarding the Westminster terror attack on Wednesday, 22nd March

The Bailiff: Members of the States of Deliberation, good morning to you all.
10 I would like to advise you that last week following the Westminster attacks, the Deputy Bailiff
wrote on behalf of us all to the Speakers of the two Houses of Parliament at Westminster, and I
would like to read to you first of all the letter that he sent, and I will quote the letter that is
addressed to the Lord Speaker.

In the absence of the Bailiff, and on behalf of the States of Deliberation and the people of the Bailiwick of Guernsey, I
write to express to you and to the Members of the House of Lords our condolences and expression of support
following the violation of the parliamentary estate at Westminster yesterday. Our sympathy and prayers are extended
to the family of Police Constable Keith Palmer, and to the other people killed or injured in the terrorist attack.

We were appalled that the Parliament of the United Kingdom should be subjected to such a shameful and despicable
attack. Such actions, allegedly in the name of religion or religious ideals, are attacks on democratic peoples
everywhere. We must and will stand together in the fight against extremism and terrorism.

I am writing in similar terms to the Speaker of the House of Commons.

A reply has been received from the Lord Speaker, who has said:

Thank you most kindly for your letter of condolence and sympathy received in the wake of the Westminster terror
attack. I was deeply touched by the sentiments expressed, and the strong support and solidarity you have shown us in
these difficult circumstances. On behalf of the House of Lords and the people of London, I reiterate my sincere
gratitude.

15 That is signed, 'Yours sincerely, Norman Fowler', by The Rt Hon. the Lord Fowler, the Lord Speaker.

We have not yet received a reply from the Speaker of the House of Commons, but if and when one is received I will ensure that is circulated to you as well.

STATEMENTS

Policy & Resources Committee – Update on the policy and Code of Practice for Access to Public Information – Statement by the President

20 **The Bailiff:** Members, we move on then with the business of the day, and the first is a statement to be delivered by the President of the Policy & Resources Committee: an update on the policy and Code of Practice for Access to Public Information.

Deputy St Pier.

25 **Deputy St Pier:** Mr Bailiff, I would like to update this Assembly on the policy and Code of Practice for Access to Public Information agreed by the last States of Deliberation in 2013.

The Policy Council was directed to report back to the States on three matters: first to provide an assessment of an appeals mechanism; second to review the effectiveness of the Code; and third, to evaluate the feasibility of a '30-year rule'.

30 Sir, I would like to take the opportunity to remind the Assembly that the Code is not and, of course, was never meant to be, a stand-alone solution. It is one component of an overall policy to increase open Government and transparency. That policy has five guiding principles:

Firstly, a presumption of disclosure – our starting point should be to assume that information should be published unless there is a reason not to do so.

35 Secondly, a corporate approach, in other words, to ensure that the States of Guernsey as a whole should treat information in the same way in a consistent manner.

Thirdly, a culture of openness – the reasons for decisions made by the States at every level should be clear.

40 Fourthly, pro-active publication – we should be actively releasing information, in other words, it should be 'push' rather than 'pull'.

And fifthly, effective record management – we need to manage our records so that information held is accurate and up to date.

45 The previous States rightly emphasised the need to balance these principles and the importance of open Government with the need to maintain confidentiality and to continue to supply essential services.

We have, however, embraced these principles. We have published reviews and reports and made them available to the public in full, unless specifically advised against doing so by the Law Officers. We provide reasons when we cannot supply information: we do not just say no, but explain why. We do now have unified and improved standards across the organisation.

50 Unfortunately a lack of resources prevented the Policy Council from reporting back in the time that it was directed to do so, nevertheless, it did oversee a number of developments to improve government transparency, and this work has been continued by the Policy & Resources Committee.

55 So, sir, 49 requests were submitted under the Code between 2014 and 2016. Out of those 16 were refused, with a clear explanation of the reason for refusal. This was often because the cost of compiling the information was judged to outweigh the benefit of doing so, or because very similar information was already in the public domain. I will provide a further written breakdown to States' Members later today regarding the requests under the Code.

60 Overall the figures show that although the Code is used, there are a relatively low number of requests.

In terms of the overarching policy, there have been a number of significant changes in both the working practice and culture of the States of Guernsey.

65 Committees and officers across the States have worked hard to release information in a more accessible and understandable way, including making the website more user-friendly, and creating a more responsive social media presence to make sure that information is more easily and quickly available.

A Chief Information Officer was appointed in 2014, and since 2016 the major services that deal with information and technology report into that role with the aim of providing again a more unified and strategic approach to the provision and treatment of Government information.

70 The new rolling electronic census allows us to gather, analyse and publish a much wider range of information from our community, while the SAP system has made it easier to collect information internally and use that for external purposes.

75 There are a range of other initiatives that have been taken across all Committees and service areas, but I think it is safe to say that we are now making more information than ever available to the public.

Sir, the low demand for the Code itself shows that either people are able to find information by contacting the States directly, or finding it publicly, or else people are simply not aware that they are able to use this tool as a means of accessing information that might not otherwise be available. The Policy & Resources Committee are of the view the low number of requests means that Code remains a proportional response to that demand. If the balance was to shift and the demand grow in the future, then that will be the stage at which the scale, and effectiveness, of the Code should be reassessed.

85 The Policy & Resources Committee believes there should be some awareness raising and promotion of the Code to encourage greater use. We have agreed therefore that the Corporate Communications Team should take forward the work to promote awareness of the Code across the public service to make sure that all staff are fully aware of their obligations, and to promote awareness with the general public. We have also agreed that all requests and responses under the Code should be published so that information is readily available, and you will see this on the website in the next couple of months.

90 If someone requests information under the Code and it is refused, there is a provision to send a request to the Chief Secretary, or Principal Officer of the Committee, for review of that decision. Since the creation of the Code in 2014 there has been one request for review. Although in this particular case the response to the request for review took some time to process, the information requested was eventually released as a result of the request for review under the Code.

95 Given that there has only been one request for review since the agreement of the Code, the Policy & Resources Committee is not minded to change the current position at this time, and does not consider that a single request for review merits the introduction of an appeals mechanism. The establishment of such a mechanism would take up valuable staff time, and would not represent value for money, in our opinion. Should there be an increase in the number of requests for review under the Code, the position can, of course, be reviewed.

The Policy & Resources Committee has also taken an initial view on the introduction of automatic disclosure rules under the UK '30-year rule'. The '30-year rule' refers to the UK Public Records Act, where records are made available to the National Archives for public inspection by the time they are 30 years old – although that is now moving to 20 years.

105 The Island Archives is responsible for preserving the public and private records of the Bailiwick of Guernsey. However, the manner in which services across the States of Guernsey have sent records to the Island Archives has been disparate and in the absence of any kind of corporate policy. So, if we were to put in place a '30-year rule' retrospectively, then in order to comply officers would need to review each document to ensure there were no details that would need to

110 remain confidential, either due to data protection, or for reasons of security, for example. Such a
statutory rule would clearly have significant resource implications.

The Committee for Home Affairs will be placing a policy letter before this Assembly on data
protection in April and it may require the adoption of a document management policy. If that is
115 agreed then it may be possible to dovetail these two pieces of work, but for the moment, the
Policy & Resources Committee is not recommending the introduction of a '30-year rule'.

I know there have been comments about the introduction of a statutory freedom of
information regime, but we cannot recommend such a law at this time.

The low number of requests, the low refusal rate, the fact that many of those that have been
refused would have been refused under a statutory regime in any event, and the amount of work
120 that still needs to be done in the area of document management policy, does not evidence the
need for a freedom of information law. Putting a huge amount of resources into something where
there is little evidence of need is not value for money.

As a Committee we have carefully considered the policy and the Code, and I believe that our
recommendations are proportionate, practical and meet the current needs of the island. It works
125 sufficiently for the purpose that it was intended. If we were to gold plate every system we have
the States would, of course, creak under the weight of bureaucracy. What we have at present is fit
for purpose, and I welcome the opportunity to also set out the Policy & Resources Committee's
continued adherence to the five principles agreed by the previous States.

130 **The Bailiff:** Before we take any supplementary questions, those Members who wish to do so
may remove their jackets.

We will move to supplementary questions. Deputy Green.

135 **Deputy Green:** Sir, thank you, and I thank Deputy St Pier for that update statement this
morning – particularly the news that there will be the routine publishing of information requests.

Can I ask, does the President of P&R agree with me that if enhancing transparency within the
States is not to be a priority at this time, that decision really should be endorsed by this Assembly
itself, and not simply by Policy & Resources?

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

Deputy St Pier: Sir, that is the reason for presenting this information in this way to the States,
Clearly, if the States takes a different view then there are routes by which the matter can be
brought to the States, but we are not proposing to devote the time and resources to a policy
145 letter on the matter until such time as we would come to the Assembly with any
recommendations for change.

The Bailiff: Deputy Kuttelwascher.

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

Deputy St Pier mentioned that some of the requests were denied because of the cost involved
in gathering the information. Is it possible to quantify at what sort of cost level this becomes an
issue?

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

Deputy St Pier: Well, I think you would have to look at it in relation to each particular case
and the context of the information being requested. But, certainly I think there has been greater
attention by officers over the last couple of years as to the amount of time that is used by staff in
160 responding to requests, and I do not think you can fix a number of hours and say, if it takes more

than so many hours it breaches that test. Of course, it depends on the nature of the information and the level of public interest in it.

The Bailiff: Deputy Soulsby.

165

Deputy Soulsby: Sir, I do not know whether Deputy St Pier can answer this. I wonder if he knows how many of the 49 requests were made from off-Island, and if he does not know at the moment could he send that detail round with the further information he has talked about earlier.

170

The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, unfortunately I do not have that information to hand. There is considerably more detail in the information that will be circulated later today, and I will seek to ensure that that can be reviewed as well, sir.

175

The Bailiff: Deputy Yerby.

Deputy Yerby: Sir, notwithstanding my support for what Deputy Green has said, would Deputy St Pier agree with me that we could make more progress through cultural change, which sees the provision of information to the public as an inherent purpose of the business of Government, rather than an additional cost burden on our work.

180

The Bailiff: Deputy St Pier.

Deputy St Pier: I do agree with Deputy Yerby, absolutely, and that, of course, underpins the five principles. As I say I think some progress has been made in the last couple of years. There is more to do, and the Policy & Resources Committee is committed to that improvement, on the back of those principles, sir.

185

The Bailiff: Deputy Gollop.

190

Deputy Gollop: Thank you, sir.

The President outlines the various requests that have been made and hopefully not many of them are vexatious. There was a fear of that, perhaps, being the case. But what criteria are used to determine whether the cost is disproportionate to the value of the question? Because that strikes one as being potentially subjective.

195

The Bailiff: Deputy St Pier.

Deputy St Pier: It is clearly a function of whether there will be any direct costs incurred in preparing or recovering information and, of course, the time involved of the officers involved in pulling it all together. That is the primary test that will be used, sir.

200

The Bailiff: Deputy Green.

205

Deputy Green: Sir, yes.

Would the President of P&R agree with me that maybe a review of the use of exceptions under the Code of Conduct might help to shine some light on how appropriate, or otherwise, they have been used by Government Committees? It strikes me that there is a danger, I put it no higher than that, but there is some danger, or some risk, that Committees could perhaps not be following the principle of the presumption in favour of disclosure and perhaps relying on grounds for non-disclosure that perhaps are not as strong as they should be.

210

The Bailiff: Deputy St Pier.

215 **Deputy St Pier:** Sir, I think certainly where information is more readily available of those requests that have been received, the information has been provided, and indeed where requests have been received and declined, the greater publicity of that information alone will enable, perhaps, the kind of challenge which Deputy Green is suggesting, sir. I think that will undoubtedly help the process.

220 **The Bailiff:** I see no-one else wishing to – oh, Deputy De Lisle.

Deputy De Lisle: Yes, sir.

225 A number of Deputies standing at the last election, indicated their wish to see an increase in openness and transparency in Government. Am I right in thinking, as a result of what Deputy St Pier mentioned, that a policy letter is being brought forward by the Home Committee in the near future, which would enable some further discussion in this particular area?

The Bailiff: Deputy St Pier.

230 **Deputy St Pier:** Sir, I am sure Deputy De Lisle will have an opportunity in a moment to further quiz the President of the Committee for Home Affairs on that very matter. My understanding is the policy letter relates primarily to the EU's General Data Protection Regulation, and it is in the context of the information that must be readily available under that Regulation that this issue touches the question of access to public information that I have referred to today. So the policy letter that the Committee for Home Affairs is bringing forward is not specifically related to this area, but there is some overlap, and hence the suggestion that there may be an opportunity to dovetail the work, sir.

240 **The Bailiff:** I see no-one else rising.

**Committee for Home Affairs –
General update –
Statement by the President**

The Bailiff: The next statement is to be from the President of the Committee for Home Affairs, a general update statement.
Deputy Lowe.

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

Sir, thank you for the opportunity to update the States and the wider community on what has been happening within Home Affairs so far during this term, and our plans for the future.

The Committee for Home Affairs' mandate is so far-reaching that it would be inappropriate to try to cover within this statement every aspect of the Committee's wide portfolio.

250 Last week's terrorist incident in London serves as a clear and tragic reminder that the first duty of any government – now as much as ever before, and here in Guernsey as much as in London, Paris and Berlin – is to maintain the security of its people, a duty to which the Committee for Home Affairs gives unequivocal priority.

255 Our Law Enforcement Services have recently issued a media statement to reassure the public that they remain vigilant and continually review the levels of threat. Above all else the Committee is determined to support our front-line services, including those who police the Islands and

protect the borders. I shall update you further when I talk about our justice policy initiatives on specific and more general matters which relate to public safety.

260 With regard to the issues of National Security, I should inform the Assembly that this week Deputy Prow is representing the States at an International Parliamentary Conference in London on National Security and Cybercrime. It is being attended by over 90 delegates from around the globe and he is chairing one of the sessions.

Now moving onto finance matters. I am sure that not a single Member in this Assembly is unaware that finance is the key to achieving our objectives as a government, and this applies with particular bite on the Committee for Home Affairs. The Committee has continued to review the 265 2017 budget and considered opportunities for reducing general revenue expenditure without adversely affecting front-line service delivery. To this end, the Committee has signed off savings of 3% for this year, but we remain concerned in respect of our ability to make further savings without negatively impacting on service provision, other than those of around £500,000 which we intend 270 to make in our property rationalisation projects. These are included in our service transformation programme known as HOST which seeks to achieve a new operating model that will ensure sustainable, and affordable, future service provision. Work on the programme is progressing well, with a business case to rationalise our property portfolio being included for agreement by the States in the June debate. Given nearly £3 million has been saved by the Committee in recent 275 years, I have to be frank and say that members have yet to identify that there is scope to make further significant savings without the potential compromise of front line services.

In light of these concerns, the Committee supports the Priority Based Budgeting work led by PwC which has been ongoing in the last quarter. The outcome should be available shortly and will help to inform expenditure in future years.

280 Notwithstanding the Priority Based Budgeting work, the Committee fully believes that the only realistic way to achieve further sustainable savings is through transformation which will take considerable time to deliver, and are likely to realise the major benefits beyond 2019.

I would like to now mention the positive meetings the Committee has had with Health & Social Care, Employment and Social Security, Economic Development and the States' Assembly and 285 Constitution Committees. The Committee is keen to work collaboratively with other States' Committees and members, and we are committed to building upon this inclusive approach. Furthermore, I would ask Members of the Assembly, whatever their Committee allegiance, to contact me if they would like to attend a future meeting of the Committee for Home Affairs.

I will now focus on a few areas of our mandate and the work that is either ongoing 'public 290 safety' or project based work which will have a high impact on the public in the near future.

One of the key priorities identified in the Committee's work in relation to the Policy & Resource Plan is the need for the Committee to develop an inclusive justice policy, building on the work of the Criminal Justice Strategy. Part of the considerations around the justice policy are the links to social policy initiatives, and we are committed to working closely with other States' 295 Committees, and the third sector, to ensure that we are successful in maintaining a community that is safe and secure, but which is also inclusive and committed to social justice.

In conjunction with key partnership agencies, we will be working towards clear outcomes such as: a reduction in the levels of crime; a justice system which delivers value for money; an increase in confidence in justice institutions and processes; the promotion and delivery of the right 300 interventions at the right time; and a reduction in reoffending

We are conscious that these outcomes are aspirational and high level, and the primary focus of the Committee will be on translating them in into tangible projects, the benefits of which will be felt by our community.

305 In relation to the Drug and Alcohol Strategy, the Committee met with the Committee for Health & Social Care in late 2016 to discuss, amongst other areas of joint interest, the future operation of the Drug and Alcohol Strategy. It was clear that whilst cross-committee working has been central to the Strategy since its inception, and will continue to be so into the future, the Drug and Alcohol Strategy is best considered, at an operational level, as a public health matter.

310 Accordingly, both Committees agreed that there was merit in transferring the Drug and Alcohol Strategy to Health & Social Care and have written to P&R in this regard.

315 Work is also progressing in respect of the action plan falling out of the Domestic Abuse Strategy approved by the States. This will include: working with our partners to re-commissioning of services delivered by the Third Sector in 2017; establishment of early intervention group work, including engagement with adolescents who are showing signs of challenging behaviour and those who are experiencing abuse in their own relationships; development of a resource manual to assist health professionals in identifying and dealing with domestic abuse; evaluation of local legislation against good practice in other jurisdictions; and consideration in respect of the need to introduce a Violence against Women and Girls Strategy in the Islands, which may involve consideration of the Istanbul Convention.

320 Moving on to Data Protection. In May 2018, a new data protection regime will come into force in the EU. The General Data Protection Regulation, known better as GDPR, along with a Directive which applies a similar regime to exchanges of personal data between law enforcement authorities.

325 At the moment, Guernsey is among a small group of non-EU countries that are the subject of 'adequacy decision' by the Commission. This is an official certification that we meet essentially equivalent data protection standards to those applying in the EU.

330 Guernsey has committed to implementing into domestic law, by May 2018, essentially equivalent provisions to the GDPR and the new Law Enforcement Directive. The necessary policy letter to introduce new data protection legislation has recently been published and should be debated by the States next month.

335 In support of our commitment to maintain adequacy, at the end of last month, officers from Home Affairs, along with colleagues from Jersey, met with the European Commission's Directorate General for Justice and Consumers to discuss data protection issues. It was an opportunity to update the Commission on legislative, regulatory and policy developments, and I am pleased to advise Members that the Commission has made it clear that it remains committed to ensuring the continuity of the adequacy findings for Guernsey, and to further strengthen relations in the area of data privacy and data protection.

340 In relation to Brexit, The Committee for Home Affairs fully recognises the importance of Brexit for the Bailiwick and the requirement to work with the UK Government and the Policy & Resources Committee to secure and protect the Islands' interests. This is one of the primary focuses of the Committee's response to the P&R plan. It will be a core area of concentration for the Committee for the next two years, and it will undoubtedly change what business we do after that.

345 We are committed to ensuring that we are best positioned to meet the challenges associated with the UK's withdrawal from the EU. By working with colleagues, we will seek to ensure Guernsey's interests are taken into account and wherever possible new opportunities are seized, so as to maintain and promote our respected international identity.

350 The UK's exit from the EU will mean that Guernsey will see the end of Protocol 3 which will impact the Committee's work in respect of immigration and customs.

The Committee has been engaged in two of Guernsey's four priority areas of Brexit work with the UK Government, with officials attending meetings on free movement of people and the customs union. These are becoming important forums in which the UK can understand our position and help develop a future policy that takes into account our interests.

355 We have also twice met with our counterparts in Jersey and agreed that a close and productive working relationship will help us meet any challenges that Brexit might create for all the Channel Islands during the next few years.

The impact of Brexit on the Bailiwick will present challenges, but equally it will present opportunities, and the Committee for Home Affairs is committed to ensuring that it plays its full and active part in maximising these opportunities for our community.

360 I move on to cyber security and information management. The Committee continues to work
with colleagues from across the States in developing cyber security and information management
as a jurisdiction, a step essential for our continued success as an international financial services
and digital centre. We need to ensure that we have the correct expertise, and capability, across
365 the public sector so to best respond to evolving opportunities, and to support this we are shortly
to sign a Memorandum of Understanding with Jersey and the National Cyber Security Centre in
respect of partnership working and information sharing.

I now turn to the Committee's operational service areas, firstly the Law Enforcement.

Her Majesty's Inspectorate of Constabulary (HMIC), at the invitation of the Committee, will
carry out a full inspection of the Law Enforcement in Guernsey later this year. As an independent
370 regulator, HMIC will look at the performance, leadership and strategic direction of Guernsey Law
Enforcement, ensuring that law enforcement agencies are delivering high quality services that the
public expects, and that value for money is being considered at all times.

Conscious that it is 10 years since the last inspection of the Police, the Committee has
acknowledged that the Guernsey Border Agency and Guernsey Police have subsequently been
375 amalgamated under Law Enforcement. It is therefore all the more important for the Bailiwick to
have an independent inspection for the Bailiwick which will be invaluable for setting future
priorities.

We will continue to provide high immigration and customs control standards, ensuring that
our borders are secure and we have appropriate control over who may enter our community. We
380 will be mindful of our international obligations to support global efforts to tackle people
trafficking, drug syndicates and money laundering.

At the operational level, progress continues to be made in preventing Child Sexual Exploitation
and promoting early intervention. During November 2016, Guernsey Police worked with the Youth
Commission in a targeted operation on the streets of St Peter Port. The organisations worked in
385 tandem to engage with the children and any adults who were present. This initiative is a concrete
example of how agencies come together to protect children and young people from exploitative
relationships and situations in which they could be vulnerable. Law Enforcement has also
increased public awareness of 'online' risks by linking with the National 'Get Safe Online' website
which provides advice.

A further example of successful cross-departmental working can be seen in the Multi-Agency
Support Hub, otherwise known as MASH. Experienced detectives from the Public Protection Unit
meet on a regular basis with various agencies including the School Attendance Service, health
visitors, social workers, mental health services and the Children's Convenor. In this way, and
subject to strict information sharing protocols, any reports involving children, or young people,
395 can be raised within MASH for further discussion. This enables expedient discussions, and means
that where necessary early interventions can be taken by the appropriate Agency.

The 2016 Law Enforcement Awards Ceremony took place on 1st February, during which 10
commendations, 8 trophies and 19 certificates were presented. These included the Chief Officer
George Le Page Trophy for Outstanding Achievement, which went to the Guernsey Border
400 Agency's Moneyval Mutual Evaluation Team. Whilst not a publicly visible team, the work
undertaken by the Financial Investigation Unit is fundamental to our Island's reputation and
success.

The Committee has prioritised a review of the current legislation and working practices
surrounding how complaints in respect of the Guernsey Police are handled. As Members may
405 recall from the Police Complaints Commission's Report, which was laid before the Assembly late
last year, the Commission is supportive of such a review, recognising that some five years after the
introduction of the regime, it is opportune to evaluate current practices based on the practical
experiences to date. The Committee is keen to work closely with the Commission and other
interested stakeholders in progressing this review, and hopes to report back to the Assembly by
410 the end of the year.

Now turning to the Fire and Rescue Service. Since 2005 the Fire Service, both locally and nationally, has evolved significantly, with the Guernsey Fire & Rescue Service working increasingly closely with the other partner services. All operational members of Fire Service staff have completed specialist medical training in order to qualify them to provide this additional response capability, and during 2016 the Fire Service attended a total of 123 incidents to provide medical assistance to members of our community.

We recognise the value and importance of education and awareness programmes with emphasis on prevention and community engagement, visiting schools, inspecting licensed premises and tourist attractions, as well as working with professionals in industry. All this increased the operational activity of the Guernsey Fire & Rescue Service to a 10 year high, delivered within budget and with no detrimental impact on the traditional service delivery.

I will now speak about the Joint Emergency Services Control Centre, known more as JESCC. A key part in the effective and efficient deployment of our emergency services is played by the Joint Emergency Services Control Centre.

It is some two years since the introduction of the Joint Emergency Services Control Centre, and the commitment to transfer the command and control functions of the three emergency services and combine them with that of the Coast Guard in one operation was a significant undertaking, and has been the catalyst for change amongst emergency responders with all services working together much more closely.

JESCC is the first of its kind in the world, and the benefits of the project have been recognised by visiting experts in their fields, and in the award of a prestigious National IT industry award. We have welcomed delegates from many other jurisdictions, from as far away as Australia, seeking to replicate the model.

As an unprecedented project, and as we have previously publicly acknowledged, teething problems were anticipated. However, these have been compounded by the lack of staff stability, as a result of a variety of reasons and difficulties in recruiting suitable staff. Given the importance of the operation, the Committee has been receiving regular updates on JESCC so to best understand its challenges and to support JESCC and its officers moving forward.

Financial data for 2016 is currently being finalised and, given the crucial service JESCC provides and the public interest in it, we are planning to offer the community more detailed information regarding the Centre before the States' Accounts are published in May.

Whilst the introduction of JESCC has not been without difficulties, it is vital that I stress that the Centre is delivering high quality services.

I will now talk about the Prison Service. Guernsey Prison continues to provide a safe and secure environment that enables prisoners to address the causes of offending behaviour and provide them with values, skills and experience to take a positive role in the community upon release.

The work of Creative Learning in Prison, the excellent Prison Charity, has now expanded far beyond initial expectations. Whilst the workshops initially focused on commissioned projects from States Committees, and community and charitable based organisations, there is now demand from the public and the private sector. As a result, the Prison plans to produce items on a small commercial basis, and has approval to construct a building in the external grounds which will act as a shop front where the general public may purchase, and order, products made in the workshop, as well as elsewhere within the Prison, for example surplus fruit and vegetables from the horticulture site. It is planned that the shop will be staffed by prisoners, once eligible for Release on Temporary Licence, supervised by officers, thereby providing increased employability skills, experiences and qualifications.

Within the Prison, there is a clear focus on learning and skills, with the core curriculum focused on literacy, numeracy and ICT. Following a review of the contractual agreements for prison education, new arrangements have been put in place for tutors to be contracted directly by the Prison. Qualifications will increasingly be delivered directly through the Prison as a registered centre for City & Guilds. During the course of 2017, work is planned to install terminals in all cells, allowing prisoners to continue with their work whilst not in the education building. The

465 participation rates are extremely encouraging with approximately 70% of prisoners engaging in
some form of learning, education, or training during the last six months of 2016, and this was
reflected in their achievements. In 2016 a total of 69 prisoners have completed courses leading to
154 qualifications, certificates and/or awards.

470 Now turning to two of our smaller, but very important Services, Probation and the Family
Proceedings Advisory Service. The Probation Service supports the Courts by providing high
quality, evidence based reports and offender management programmes, and administering the
Community Service Scheme. Probation actively seek to reduce reoffending.

475 Throughout 2016 the Community Service Scheme has been very productive, with a caseload
averaging around 50 individuals at any one time. The Scheme has assisted a number of charitable
and non-profit making organisations, including Floral Guernsey, Delancey Park, Sylvans Football
Club, and the GSPCA. The Scheme has undergone a staff rationalisation programme so as to
ensure value for money whilst maintaining operational standards and the robustness of this form
of community based penalty.

480 The multi-agency management of persons presenting a risk of serious violence or sexual harm
has completed its first full year under the co-ordination of the new Multi-Agency Public Protection
Arrangements, known as the MAPP team, a collaboration between the Probation Service and the
Police. As of the end of 2016, 62 people were being risk managed within the community under
this scheme, with 34 of those also being subject to sex offender registration. The improvement in
process and information sharing that this new team has afforded is welcomed by the Probation
Service, and the continuing protection of the public from the most serious offences remains a
priority into 2017.

485 The Family Proceedings Advisory Service is our smallest service and undertakes a difficult and
very sensitive role, representing the interests of children and young people in public and private
legal proceedings. The Committee continues to progress recommendations from the 2015
Marshall Report.

490 As part of the Marshall report, it was recommended that transparency and accountability
surrounding the Family Proceedings Advisory Service be increased, and that the service be subject
to regular external inspection. The Committee has recently agreed the terms of reference for such
a review and is engaging with Ofsted to make the necessary arrangements. It is anticipated that
this will be completed in 2017.

495 And finally, a comment on the Population Management. As all Members will all be aware, the
Commencement Ordinance for the new Population Management Law will shortly be considered
by the Assembly, and for that reason, sir, I do not intend to expand on it here, and I look forward
to a healthy debate.

500 So sir, that concludes an update on some of the matters that come under the Committee for
Home Affairs, and I am happy to take questions.

The Bailiff: Yes, Deputy Roffey.

Deputy Roffey: Thank you, sir.

505 The President was very frank at the beginning of her statement in saying that her Committee
so far has been unable to identify the level of savings required by P&R without impacting on front
line services. So my question is quite straight forward: if that continues to be the case, what will
her Committee do? Will it reduce front-line services or will it wilfully overspend?

The Bailiff: Deputy Lowe.

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Deputy Lowe: Thank you, Deputy Roffey, for that question.

As I said in my statement as well, we have a duty to protect the borders, and our community
and if we are unable to make more than the £500,000 we will be working with P&R and we will be
bringing a report to the States. Because I think the States would be the first to say that they do

515 not wish our community to be at risk, when P&R's plan right at the very top is to make this Island safe and secure.

The Bailiff: Deputy Lester Queripel.

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

Sir, I take great comfort from the President saying that there will be a review of Family Proceedings Advisory Service in 2017. I am just wondering, sir, does the President know how comprehensive that review will be, or will there be some no-go areas? It seems a bit of a nonsense to have a review if there are no-go areas.

525 Thank you, sir.

The Bailiff: Deputy Lowe.

530 **Deputy Lowe:** I did not catch the area that you spoke about, sorry, I got the end of the question, but which review are you talking about, because we have got about five going at the moment?

Deputy Lester Queripel: Sir, it is the review of the Family Proceedings Advisory Service, which is recommended by Professor Marshall in her report on the implementation of the Children's Law.

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Deputy Lowe: Thank you very much, Deputy Queripel.

Thank you very much, I did not quite catch the beginning, sorry, I apologise.

Yes, it will be a comprehensive review. We are not just having reviews for the sake of it. Apart from they are too expensive, we have a duty to make sure that we can protect the children and young people who are involved with that area of work. So, I am comforted we have a very strong Committee who make sure that terms of references are very strong and all encompassing.

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The Bailiff: Deputy Leadbeater.

545 **Deputy Leadbeater:** Sir, would the President agree with me that Ofsted are coming to meet us on 5th May, and they have complete access to case files and information that Professor Marshall did not have access to?

The Bailiff: Deputy Lowe.

550

Deputy Lowe: Yes, I can confirm that is right, sir.

The Bailiff: Deputy Fallaize.

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

In January, I think it was, 2016, the States considered a report about the future of the Ambulance Service, and backed an option which envisaged sharing facilities between the Fire Service and the Ambulance Service, and envisaged that further reports would be laid before the States later that year. Is Deputy Lowe able to update the States on what her Committee is doing to progress the endorsements of the States to bring together the Fire Service and the Ambulance Service?

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The Bailiff: Deputy Lowe.

565 **Deputy Lowe:** Thank you Deputy Fallaize.

570 As I explained in my statement, the Ambulance Service and the Fire & Rescue Service, the Ambulance part, is going across to Health & Social Services, which is part of a report which is coming forward. We are working with Health & Social Services and we will continue to do so to find the best solution for the Ambulance Service and indeed for our own services of the States of Guernsey.

The Bailiff: Deputy Paint.

Sorry, I am allowing everybody one question first, before I allow second questions.

575 **Deputy Paint:** Sir, could the President confirm or deny that the cost of running the Coast Guard has increased or decreased to the State, by separating the Coast Guard and the Port Radio Operation from the Coast Guard, where both were operating as one unit previously?

The Bailiff: Deputy Lowe.

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Deputy Lowe: Thank you Deputy Paint.

We are having a full review of that, which, as again, I explained in here and the costs, because we have heard different costs, and it is important we actually have an absolute account of everything that has been happening in JESCC. The Committee are very mindful of that and very anxious about that to make sure we keep asking questions about it, and keep that service going, because it is an important service. We will be reporting back on the outcome of that review.

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The Bailiff: Deputy St Pier.

590 **Deputy St Pier:** Sir, the President of the Committee for Home Affairs confirm my understanding with regard to costs for the HM inspection of the Law Enforcement function that whilst that was not originally, perhaps, budgeted for in the 2017 budget for the Committee, it is something that can be managed which their cash limits for this year?

595 **The Bailiff:** Deputy Lowe.

Deputy Lowe: Thank you, Deputy St Pier.

We are looking at that, but if we are unable to do so, we will be coming to have a discussion with you at P&R, because it is important that we actually have a review of that. We cannot just continue how we are going along, it is too important. It is 10 years since the Police had an inspection, and now they are combined, it is only right and proper that we have a review of whether it is value for money, how it is working out, whether we have got the right policies in place, etc. That will be a very comprehensive review, and I am hopeful we will be able to raise the money, but we will be in touch with you if we cannot, sir.

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The Bailiff: Deputy Green.

Deputy Green: Sir, can I ask Deputy Lowe this, she mentioned the PwC benchmarking priority based benchmarking process, and that in the context of transformation. Can I ask Deputy Lowe can she indicate whether that benchmarking process is likely to be concluded before the budget of this year?

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The Bailiff: Deputy Lowe.

615 **Deputy Lowe:** We are hoping to receive the PwC report quite imminently, so therefore, again, that will help us, because it is very difficult, as we mentioned previously even last year, we knew this was taking place and we need that information to see what is best for a budget.

The Bailiff: Deputy Smithies is rising.

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

I would like to ask the President whether the transfer of the Drug & Alcohol Dependency policy responsibility from the Home Affairs to HSC indicates both Committees' acceptance of the modern and fashionable view that drug and alcohol addiction is to be viewed as an illness, rather than an individual's lifestyle choice?

625 **The Bailiff:** Deputy Lowe.

Deputy Lowe: Yes, Deputy Smithies, and we work very closely all the time with Health & Social Services, and it was important for us, and they were very welcoming, and agreed that it is actually more a health matter than a law enforcement matter, or under our mandate for Home Affairs. We will continue to be working together, but it is very much that operationally it is far better being across at Health & Social Care.

635 **The Bailiff:** Deputy Brehaut.

Deputy Brehaut: Thank you, sir.

Are the Home Affairs Department supportive of the Ambulance Service moving to Health & Social Care, and are they doing all they possibly can to facilitate that move?

640 **The Bailiff:** Deputy Lowe.

Deputy Lowe: Sir, it is out of our hands to a certain extent, because we are working with Health & Social Services, but we were having a review of the Fire & Rescue, and of course all of our services as well, to make best use of efficiency. It is part of the Home Operational Services Transformation (HOST) Programme as well, and we are not at that stage yet where we can come up with a complete answer of how it will work, but we are in negotiations as well as discussions with Health & Social Services.

650 **The Bailiff:** Deputy Gollop.

Deputy Gollop: Deputy Lowe rightly mentioned Committee's commitment to a modern and progressive Police Force, but she alluded to the strategic direction of the force. Would she agree that that direction is towards more of a softly, softly, in the community approach or more to, perhaps, a United Kingdom tactical approach? Or does the Committee have a lead in that area?

655 **The Bailiff:** Deputy Lowe.

Deputy Lowe: I think the approach that we have got, sir, is that we have to administer the law that the States have actually set. That is what the Police are there for. They are not ones to make up the law or to ignore the law. They have to make sure that people comply with the law. Very much a case of we could probably do with twice as many police, and some of you will be aware of that. You want us to be looking at pavement surfing, you want us to be looking at cyclists, you want us to be looking at cars that have not got lights on. We could be having, probably, the whole amount of our Police Force just covering the areas in our community, without the full mandate of the Police, which is obviously the fraud, it is probation, all the areas that we have got under the Police. It is absolutely massive, so you have got to prioritise which is right for the moment in time.

The Bailiff: Deputy Kuttelwascher.

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

In relation to the transfer of the responsibility for the Drug and Alcohol Strategy to Health & Social Care, was there also the transfer of any relevant budget associated with that? That may also apply with the transfer of the Ambulance Service to Health & Social Care, some of it anyhow.

675 **The Bailiff:** Deputy Lowe.

680 **Deputy Lowe:** Yes, we have written to P&R, and once we have had the approval from P&R. We have had it verbally, but I think they are looking to consider two or three others at the same time, before they go ahead with that. That was my understanding with it. Yes, the budget will go across to Health.

The Bailiff: Deputy Laurie Queripel.

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

It is just another question in regard to the impending Ofsted review. I just want to ask Deputy Lowe will the investigation include some scrutiny being applied to the relationship between the Family Proceedings Advisory Service and the Judiciary?

Thank you, sir.

690 **The Bailiff:** Deputy Lowe.

Deputy Lowe: Yes, it will be.

695 **The Bailiff:** I see no-one else rising for a first question, so Deputy Fallaize may ask his second one, and then Deputy de Sausmarez to have a first one.

Deputy Fallaize: Thank you, sir.

My question is a supplementary to the first one I asked.

700 Deputy Lowe said that the future of the Ambulance Service was largely out of her Committee's hands, but the States did agree in February of last year that the budget and non-clinical oversight role for the Emergency Ambulance Service would be transferred from Health & Social Services to the Home Department and its successor Committee. Now, is it that her Committee is going to – or that some Committee is going to – bring a policy letter to the States seeking to have that Resolution rescinded, and which will give the States an opportunity to debate the future of the
705 Ambulance Service, and if so, when will that policy letter be laid before the States?

The Bailiff: Deputy Lowe.

Deputy Lowe: Thank you.

710 Thank you, Deputy Fallaize. It was in Deputy Soulsby's statement last month, or the month before, where she was saying they would be bringing a report to the States to rescind the previous Resolution of the States.

The Bailiff: Deputy de Sausmarez.

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Deputy de Sausmarez: Thank you, sir.

I was interested to hear about the progression of the HOST Programme and Deputy Lowe's acknowledgement of transformation of services. That is encouraging particularly with relation to the property rationalisation process that the Committee for Home Affairs is also undertaking.

720 Can Deputy Lowe please confirm whether adequate resources will be allocated to travel planning within that process, or those processes, please?

The Bailiff: Deputy Lowe.

725 **Deputy Lowe:** I am not quite sure what you mean by the travel planning, is that to make sure
of efficiencies, to make sure we are not driving round the Island, and have everything on one site?
If that is what you are trying to say, absolutely right, we are trying to stop having Home Affairs
scattered around the Island at different sites, and different offices, which are expensive, and not
particularly efficient, so if we can have everybody on one site or a larger site. That is what we are
trying to aim to do.

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The Bailiff: Deputy Soulsby.

735 **Deputy Soulsby:** Sir, yes, I would like to know whether the President of the Home Affairs
agrees with me that despite that one aspect of the policy letter, back in, I think, February 2016
regarding the transfer of non-clinical governance and oversight, would not happen, and we are
proposing to rescind that in June, but that does not prevent any other aspects of that policy letter
being carried out, and that is the intention of the Committee for Health & Social Care.

740 **The Bailiff:** Deputy Lowe.

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Deputy Lowe: Absolutely right, and that is where we are working together to find the best
route and the best answer for the Ambulance Service.

The Bailiff: Deputy Brehaut.

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Deputy Brehaut: Thank you, sir.

750 The President said in her speech that, as with all Committees, they were up against it, and
although they could find the 3% they would struggle to find anything beyond that. If there is a
review of the Police, which as yet has no budget, what is the likely cost of that review? And if P&R
will not give you the budget for that, which front-line services will be affected, ironically, by the
cost of reviewing the Police Force?

The Bailiff: Deputy Lowe.

755 **Deputy Lowe:** I am not saying we have not actually got the money, I am not saying we have
got a lot of money, and we will try and get some of the other money from savings which we will
have from some of the transformation process that is taking place at this moment in time, but we
have got a pot of money that we can suddenly come up with lots when we are trying to be
efficient. It is the timing, a lot of this, so if it is a case of the timing that we have not got the
760 money, but we will have a few months further down the line, that is where we will be going to
P&R to ask for their help, to try and help us during that process as a bridging.

The Bailiff: Deputy Gollop.

765 **Deputy Gollop:** The President mentioned her pride with probation and the successes of
prisoners rehabilitating themselves with educational programmes, but how far is the Home Affairs
team moving towards, effectively, more rehabilitative philosophy rather than one of what can be
an expensive crime and punishment system that we have inherited?

770 **The Bailiff:** Deputy Lowe.

Deputy Lowe: Very much sir, I mean that is part of the Prison as well, where it is all about
rehabilitation. It has changed immensely, as I have mentioned to Members before, and you are all

775 welcome to actually come down to the Prison and have a look and see the work that they are carrying on. Also added to that, because the Probation Service now use the Community Service as well, that helps, that saves people going into Prison, that they are able to continue working and supporting their families by carrying out their penalty over the weekends.

The Bailiff: Deputy Merrett.

780 This will be the final question, and I have given permission for her to speak from a seated position in view of her bad leg.

Deputy Merrett: Thank you, sir.

785 I get great comfort from learning outcomes from the Prison and I noted that she mentioned terminals would be available within cells. Can we have some reassurance or comfort that these terminals will be used purely for learning and no other ... things. *(Laughter)*

Thank you.

The Bailiff: Deputy Lowe.

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Deputy Lowe: There will be no other 'things' – definitely not. I can assure you, there will be no internet access, it will only be to the education unit. Because they are in their cells, or they want to continue to progress the work that they are carrying on, and of course, it is a different life from what we have got at home. They have not got many distractions really. They want to carry on doing their courses. So it will be a huge bonus to many of them who get frustrated at times that they cannot carry on their work during the evening.

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The Bailiff: There we are. The 15 minutes has now lapsed.

**Committee for Economic Development –
Guernsey's sea connections –
Statement by the President**

800 **The Bailiff:** The next statement will be from the President of the Committee for Economic Development.

Deputy Ferbrache.

Deputy Ferbrache: Thank you, very much indeed, sir.

805 Sir, in November of 2016 I undertook to the States that I would report back with a progress report on Guernsey's sea connections.

Now, Members will recall that at that time I provided a brief update to Members on the actions which the Committee for Economic Development were undertaking, following publication in early November of Condor Ferries' Comprehensive Service Review. I referred, and nothing new in this, to the importance of resolving the issue of confidence in the services offered and of ensuring Guernsey has robust – and indeed the Bailiwick of Guernsey – reliable and affordable transport links, which are essential for the Island and the Bailiwick's community.

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Now, it is fair to say, it is written for me here, but I would have to put it stronger than that, I actually said, and gave an expectation, that I believed this matter would be concluded by this month. That, sadly, has not been the case and the only person responsible for giving that optimistic and, as it turned out, unrealistic timeframe was me, and I apologise. However, what I would say is that this is not through any lack of effort. The Committee has been working tirelessly, both at Civil Service and political level, on this matter and we have been in regular contact with

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820 Condor to ensure it improves upon its performance experienced during 2015 and the early part of last year.

Those conversations have not just been between Condor and representatives of the States of Guernsey. It is also necessary, and we have undertaken that, to have detailed discussions with our counterparts in Jersey, and, of course, they have their own idea of what an acceptable service will look like. The Committee has been in dialogue with Senator Lyndon Farnham, who is my broad
825 equivalent in Jersey, and indeed just last week, the Vice-President of Economic Development and I and civil servants travelled to Jersey to see Senator Farnham and had a regular discussion to update where our respective positions were. Lengthy discussions have taken place about the Service Review and as a result, work continues on a number of specific work streams. As Members know, the Committee is looking for greater resilience of service through additional vessels and
830 discussions between Guernsey, Jersey and Condor are currently taking place on that issue.

However, as Members will appreciate, putting in place the right strategy for connectivity to the Islands is highly complex, with many interrelationships and many associated risks. A solution needs to be identified that not only meets the needs of the business and leisure communities but also the transport providers themselves. Whether we like it or not we live in the real world, and
835 nobody is going to run a service to the Island if there is no profit in it. It really is as simple as that.

Therefore, we have to find an outcome that works for both Islands, both Bailiwicks, and for the service provider. I have learned that the proposals to introduce the vessel now called the *Liberation* were subject to a considerable degree of scrutiny at the time. Indeed works by somebody called Oxera in Jersey, and Frontier Economics in Guernsey, demonstrated the service
840 requirements demanded by the Bailiwicks in the current market conditions could only be met in a commercially sustainable way by allowing a single operator to cross subsidise the operation of the required passenger and freight services from the principally profitable northern route. That means between here and Jersey, and Jersey and us, and the mainland. At that time, in 2015, the move from five boats to four boats was seen as an acceptable solution – I will just pause and think – and
845 it was this decision that eventually saw the introduction of the *Liberation* on the northern route. Whether that remains the best option available to us is the subject of the Economic Development's current focus.

We have to acknowledge that after a poor start in 2015, Condor's reliability is now improved and in terms of business, we have seen significant growth in passengers booked to travel this
850 summer, when compared with figures of last year. On that basis visitor numbers are recovering strongly, they are up by a third from France, 50% from the UK, and 70% on inter-Island travel. Now, it is fair to say though that these forward bookings are just that and there is no guarantee that at the end of the season there will be an increase in passenger numbers overall. We will have to wait and see that. All we can say is that the forward bookings are very optimistic indeed.

Now, while that obviously is good news, the Committee continues to do all it can to facilitate
855 joint working with Condor, but we are also considering options from companies that have approached us with offers of operating passenger-only services between the Islands and France. It may be possible to implement additional services that improve our connectivity with Jersey and France and we are currently considering how this might take effect within the terms of the Memorandum of Understanding between States of Guernsey and Condor and, of course, the
860 binding legal agreement that exists between Condor and the States of Jersey.

But, sir, I say to the Members of the States they should be under no illusion. Having fit for purpose strategic transport links to the Bailiwick is essential to our future economic growth. Without those connections, we suffer the risk of becoming, a phrase I have used many times, an
865 economic backwater, with the consequences of us facing the inability to afford the type of social and environmental benefits we currently expect and enjoy.

I am of the view that this States will have to make some big, strategic decisions that will affect Guernsey's fate in so many ways over the next decade. Some of those decisions will be on strategic transport links and some of you may have difficulty in aligning your views with what is
870 being presented. We do not yet know the detail, but we do know that we are going to need to

think big, and we are going to need to think brave. It is essential that we put all of the interests of the Bailiwick first, and local and personal views second, if we are to enable the future generations to enjoy the same opportunities that we currently have, and have had in recent years.

875 Some views received from outside the Island would indicate that in some way our strategic links are regarded as reasonable and better than other similar islands and jurisdictions. However, the feedback is indicating the need to further enhance both air and sea links to ensure that we capture and realise the full economic opportunities within the Bailiwick. It was observed that both business travellers and those looking at Guernsey as a leisure destination would benefit from improved links, and the importance of Guernsey investing in its air and sea infrastructure was
880 identified as something that should be regarded and, in my view, must be regarded as one of the highest priorities for the Island.

The Committee is also currently in the process of seeking to diversify air links with the Island and, if research indicates a good return on investment, and we will have to be bold and we will have to be brave, it will be progressing a funding bid to bring forward for debate proposals to
885 extend the runway in Guernsey. It is aware that the low-cost carriers that have been instrumental in the upturn in cheap travel in and out of Jersey, and those low-cost carriers have been making it very clear indeed that they require a longer runway than we currently offer. Now, a London-based potential investor, a person of significant wealth, has informed us that he is of the view that a longer runway would send a message that Guernsey was being highly supportive of new business
890 and economic growth, a message he says we are currently not sending. The Economic Development Committee will continue to investigate the economic benefits of extending the runway and its potential costs. This will enable it to evaluate the likely return on investment and reach a view on whether this should be formally placed before this States for a decision.

Now, as you know the mandate, or part of the mandate, of the Committee for Economic
895 Development is to promote investment opportunities within Guernsey. A recent meeting between the Vice-President and a potential very high net worth investor has indicated a strong willingness to invest in the Island and sees, if Guernsey can show that it is more open for business, it is offering excellent investment opportunities for doing so. He was particularly interested in delivering some of the developments that may take place when the plan is eventually published in
900 the Harbour Action Area – something recognised as being important for our economy, and also, clearly, that would be a matter of liaison between various Committees including the Economic Development and P&R Committee and others. It is specifically identified within the Policy and Resource Plan as being something we should be delivering this term.

Now, I mentioned before the complex and interrelated nature of strategic transport links.
905 Members will, I am sure, appreciate that any increase in the availability of cheap flights to and from the Island will have a consequential effect, most likely, on the attractiveness of sea travel. While we will always rely on sea transport for freight, and while we all hope to see overall numbers of sea passengers increase, those movements may well be affected by improvements in air travel. So there is no easy answer; therefore we need to think strategically rather than
910 emotionally, and we need to speak practically rather than philosophically, and we need to think in the long term rather than the immediate. The Economic Development Committee will be looking to see how we can best balance the needs of the Island today, while ensuring, if possible, even better connectivity, and therefore opportunities for economic growth, tomorrow.

915 **The Bailiff:** Are there any supplementary questions?
Deputy Lester Queripel.

Deputy Lester Queripel: Sir, the President said in his report that we need to think big and we need to think brave. But when I asked the question in a previous debate regarding whether or not
920 he saw any merit in our working with Jersey and the ports in the south of England to establish our own ferry service, he said he saw no merit whatsoever. Has he now changed his mind, sir? I ask

that, bearing in mind that I think it is a complete nonsense for us to own an airline and not own our own ferry service.

925 **The Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: Deputy Lester Queripel and I have exchanged emails in the past. I always ask him to come up with some solution, come up with a practical one with a business case so we can consider it. Because we are not experts in the field. Although my colleagues on the Economic
930 Development Committee are all very able people, and very hard working diligent people, neither they nor I are experts in the field of sea and air transport. So we have to rely on advice.

But what we are, hopefully, having a degree of judgement upon is that we have to realise that there are economic imperatives behind any decision that we may have to take. There is not one simple answer, whether we look at air links or sea links, the two are inter-connected, when the
935 Aurigny review comes out. If Members will recall when I stood here on 1st February, I said I understood it would be coming out in two or three weeks after, and my colleague just two to the right, Deputy Trott, I do not think it will appear on *Hansard*, but he nodded vociferously that it would be coming out within two or three weeks. We have not actually seen that yet, and that will help us when we eventually piece together everything.

940 So the long answer to the very appropriate question from Deputy Queripel is that everything is being kept open at the moment. We are not committed to Condor. Ideally, I would like to bring before the Assembly, in the next month or two – that is the ideal, but I am not going to be able to achieve that ideal – an agreement or a potential agreement saying, 'Members of the States, we think this is in the best interests of the Bailiwick of Guernsey, can you formally endorse it.' We
945 would not want 40 people to then negotiate every term, because otherwise we would never be able to get anywhere; but a broad agreement.

The Bailiff: You are permitted a minute and a half –

950 **Deputy Ferbrache:** Oh, sorry sir, I apologise.

The Bailiff: I think we will allow somebody else to ask a question.

Deputy Ferbrache: I am sorry, sir, I apologise.

955

The Bailiff: Deputy Inder.

Deputy Inder: I thank Deputy Ferbrache for his update to the Assembly.

960 Sir, Deputy Ferbrache knows where I am with Condor. In 1998-99 the States of Guernsey and Jersey went out to open tender for the Channel Island ferry and freight services, and if anyone reads the preface to that letter, the reasons stated were confidence in management, reliability of vessel, damage to tourism industry. Twenty years on we are in no different position.

I accept that Jersey currently expresses no interest in a joint tender. I have spoken to Senator Farnham also, but I would like to know sir, is this now not the time to package up our northern
965 French and freight services and properly test the market in an open tender? And this before any future commitments are given to Condor and which may or may not include Government investment.

Thank you, sir.

970 **The Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: Well, sir, I do not think it is the right time at the moment, because what will we tender? Are we tendering just the Bailiwick of Guernsey's routes to the mainland, freight-

975 wise and passenger services, and to France? We cannot tender for the Jersey routes without the consent of the Jersey authorities, and they have a binding legal agreement with Condor.

The Bailiff: Deputy De Lisle.

Deputy De Lisle: Sir, thank you.

980 The President mentioned additional vessels, and also passenger-only services to Jersey and France. Can the President elaborate on the opportunities under consideration in the interest of furthering overnight visitor stay?

Thank you, sir.

985 **The Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: Sir, because at the beginning of this Assembly meeting Deputy St Pier was talking about openness and Government, I would like to be as open as I can but, of course, there are commercial imperatives which preclude me from saying too much in the open forum, because that is the way that commercial matters take place.

990 But, frankly, at the moment, I am not satisfied – I am speaking for myself now – with the inter-Island links between Guernsey and Jersey that Condor offer. We have got to look for other alternatives; we are looking for other alternatives. At one time we thought we might actually have something that would be available at the latter part of this summer. That is now not going to take place, but, all I can say to, again a very pertinent question from Deputy De Lisle, is that I am hopeful, but not necessarily expectant.

The Bailiff: Deputy Fallaize.

1000 **Deputy Fallaize:** Thank you, sir.

At one time, the Committee envisaged bringing proposals to the States this month, and the President has explained understandably why that has proved impossible. But I assume from his statement the Committee is not yet fully satisfied with the standard of service that is provided, and therefore the assumption has to be that they will, in due course, want to bring proposals before the States for endorsement, broadly. Now, is the President able to advise the States when he expects to be in a position to lay those proposals before the States? Will it be this year in order that they could be implemented for the tourist season next year, if not this year?

The Bailiff: Deputy Ferbrache.

1010

Deputy Ferbrache: Sir, I do not want to say once bitten twice shy, but I do not want to impose a timetable that is unrealistic. I confirm the early part of the question from Deputy Fallaize that we are not satisfied yet with the Condor service, we are not satisfied with the negotiations. It would be unrealistic for me to say to this Assembly that we are nearly there. We are a long way from nearly being there. I would be disappointed, but that is all I can say, if we cannot come back before the end of this year with something for next year. Because this year, even if we were to agree something now, and there was, for example, a new vessel available on the northern route, even if it was purchased or leased, it would take nine months to fit out, so it is not going to be available this year.

1020

The Bailiff: Deputy Gollop.

Deputy Gollop: Sir, as a member, a *[Inaudible]* of the Transport Advisory Board –

1025

The Bailiff: Can you switch your microphone on.

Deputy Gollop: Yes, thanks.

1030 As a Transport Board member we are actually discouraged, HM Comptroller and others might look at me, from making partisan comments about Condor or any other sea provider. That is partly because the States voted to bring in similar Port Ramp Licensing Agreements to what Jersey have, but the President indicated that might not happen. Is Economic Development minded to bring that to the Chamber this year, or will that policy be reviewed about whether we should have a Port Licensing regime similar to Jersey?

1035 **The Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: It is very much in our thoughts. Our current view is that we should be bringing that back before the States at the same time as we say either we have got an agreement with Condor, please approve it or whatever, or that we have to move in a different direction.

1040 **The Bailiff:** Alderney Representative Jean.

Alderney Representative Jean: Could the Chairman consider regarding any new contract including Alderney in the talks as part of an economic enabler package? I think it would be very useful for us indeed.

1045 Thank you, sir.

The Bailiff: Deputy Ferbrache.

1050 **Deputy Ferbrache:** We have certainly raised it on many occasions, many occasions would be an exaggeration, on several occasions with Condor. Again without wishing to breach confidentiality, which I know Alderney Representative Jean would appreciate, it is fair to say that it is not a package that Condor are likely to offer. So, it certainly will not be something that I envisage that Condor will agree to as part of these negotiations.

1055 **The Bailiff:** Deputy Brouard.

Deputy Brouard: Thank you, sir.

1060 Deputy Ferbrache mentioned in his address the harbour development and obviously the harbour does need improvement and repairs and certainly maintenance. Would Deputy Ferbrache agree we would not wish to tarnish or spoil the diamond of St Peter Port by inappropriate large Jersey waterfront style development?

The Bailiff: Deputy Ferbrache.

1065 **Deputy Ferbrache:** I am not sure that is within my mandate, because it is more Deputy Parkinson. But I am never without an opinion. (*Laughter*) In respect of that, I would like to see proper development, but really I am agreeing with Deputy Brouard, proper development, innovative attractive, not as fixed in time, but something that does not detract from the magnificence of our harbour.

1070 **The Bailiff:** Deputy de Sausmarez.

Deputy de Sausmarez: Thank you, sir.

1075 Thank you also to the President for his update, particularly regarding transport links. An important part of any business case, I would have thought, for transport links is our Tourism Strategy. Can Deputy Ferbrache please advise us whether the Committee for Economic

Development will be using our current Tourism Strategy as is, or whether they will be looking to revise and update it?

1080 **The Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: We are using it until we change it. I know that really does not answer Deputy de Sausmarez's question. It is under review. We would anticipate that by next year we will have a revised Tourism Strategy. Whether that is significantly different from the current one, it is
1085 unable to say yet, because otherwise I would be prejudging the review that we are going through at the moment.

The Bailiff: Deputy Trott.

1090 **Deputy Trott:** Thank you.

Sir, the President of Economic Development has advised us that proposals will come before us regarding the return on investment achievable on a runway extension. Sir, might we expect a full business case identifying both the opportunities and the threats that such a decision might involve, particular, with regard to frequency of flights?

1095

Several Members: Hear, hear.

The Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Well, of course, because it has got to be a balanced document. But what it can be, and when you look at other jurisdictions, you have got to sometimes take a step into the future. Whether that is a step into the dark or a step into the future, nobody, however acute they may be in relation to business matters, and however more able in such matters they are than I am, and members of my Committee, they are not going to be able to give you a guarantee but, of
1100 course, they should do the best they can to put all the plusses and all the minuses.
1105

The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, could the President of the Committee for Economic Development confirm my understanding that notwithstanding the perceptions that he reported – the anecdotal perceptions of a number of people that the Island is not open for business – that contrary to that, he and his Committee are very much of the view that it is open for business, and they will do anything and meet anywhere anytime to clinch any new business and can rely on the support of many others in this Assembly to do so?
1110

1115

Several Members: Hear, hear.

The Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Absolutely, we are, this is the best place in the world to do business. I just wish sometimes we would appreciate within this Assembly.
1120

The Bailiff: Deputy Dorey.

1125 **Deputy Dorey:** Thank you, Mr Bailiff.

Is the President concerned about the delay in bringing back the Ramp Licensing proposals, will have on possible freight operations, because one of the reasons originally for the proposals was the chance of another operator coming in on that northern freight route and the fact that that

1130 was the profitable element which, of course, subsidises the passenger? So a delay could affect our passenger services, and is he aware of that, and will he come back as soon as possible with proposals to stop that happening?

The Bailiff: Deputy Ferbrache.

1135 **Deputy Ferbrache:** We will come back when possible, rather than as soon as possible. Because we do not want to rush things. The fact is we are alive to that. We believe it is an advantage economically at the moment to take the step that we are taking, because we believe it is more of an encouragement to business than if we had something fixed which would preclude business opportunities that may be out there.

1140

The Bailiff: I see no-one else – Deputy Dorey.

Deputy Dorey: Thank you, Mr Bailiff.

1145 In relation to the runway, will the President's report when it comes back include the economic effect on Aurigny of possibly extending the runway?

The Bailiff: Deputy Ferbrache.

1150 **Deputy Ferbrache:** I suppose it will, to a degree, and of course, I will need the co-operation, which I know I will get – (*Laughter*) – which I know I will get from Policy & Resources, because clearly, there are strategic matters that go beyond the humble remit of the Economic Development Committee. We know that we are ever so humble, and we therefore deal with the senior Committee, but seriously we will be dealing with that, because it is pointless coming to the States saying can we have a runway extension, etc. without considering the effect that that might have on Aurigny. But Aurigny must not be a veto for otherwise sensible proposals.

1155

The Bailiff: Deputy Oliver.

1160 **Deputy Oliver:** Sir, would Deputy Ferbrache agree ... would the Economic Development be looking at other possibilities of what can be done with the harbour in order to actually help Condor? I know we have a limit of 134 metres in the boats. It might help to lengthen or do something like that.

The Bailiff: Deputy Ferbrache.

1165

1170 **Deputy Ferbrache:** Well, sir, again it is more, I do not mean to pass it because we should not have and we do not have a silo effect Government, at least not from the time that we dealt with the Island Development Plan in the summer of last year. But in connection with that, I would hope that we could talk constructively, and I believe we would with Deputy Parkinson and his team, but no doubt Deputy Parkinson would say he has only got limited money available, he has got to look at it economically; so would we, as the Economic Development Committee.

The Bailiff: Members, that concludes the time for statements.

Questions for Oral Answer

COMMITTEE FOR ECONOMIC DEVELOPMENT

Printed newspapers – Availability in Guernsey

1175 **The Bailiff:** We move on to Question Time.
First question is from Deputy Gollop to the President of the Committee for Economic Development.
Deputy Gollop.

1180 **Deputy Gollop:** Thank you, sir.
Is the President of the Economic Development Committee and his board concerned, like perhaps many left leaning progressive radical and liberal Islanders, that the traditional paper versions of the long established newspapers *The Guardian* and *The Observer* will no longer be available regularly in paper form on Guernsey (**Several Deputies:** Hear, hear.) following the Jersey precedent last year and the ending of the air supply connectivity papers contract?

The Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Sir,

1190

The Bailiff: Your microphone.

Deputy Ferbrache: Sorry.

1195 Sir, I scratch my head, because I am not sure this is necessarily within the mandate of my Committee and we cannot solve everything, but the decision made by (*Laughter*) these eminent – well we could if we were allowed to – (*Laughter*) The decision made by those eminent newspapers must be a matter for their commercial judgment. *The Independent*, some time ago now, decided that it would be largely an online publication and we anticipate that both newspapers would be available online.

1200

The Bailiff: Any supplementary, Deputy Gollop?

Deputy Gollop: Thank you.

1205 Subsequent to the question, I had helpful dialogue with a leading member of the wholesaling sector who filled me in with some of the details, and I am pleased that *The Financial Times* will continue to be available. (**A Member:** Hear, hear.) But I would like to ask the President, bearing in mind his previous statement, if we had an overnight sea service from the United Kingdom to Guernsey would it be easier for his Committee to ensure all of the papers continued to arrive every day?

1210

The Bailiff: Deputy Ferbrache.

1215 **Deputy Ferbrache:** The answer to that question is I do not know, but I do not believe so, because newspaper circulation, the sale of newspapers, has fallen dramatically in recent years. *The Evening Standard* has been distributed freely now for a number of years in London, because of falling circulation. *The Guernsey Press* circulation has fallen by I think 2,000 – I am not sure of the

exact arithmetic. So the answer to Deputy Gollop's question is I do not know, and I do not believe so.

1220 **The Bailiff:** Deputy Gollop, is this your next question or –
Oh, Deputy Fallaize has a supplementary.

Deputy Fallaize: Yes, sir, I have a supplementary.
1225 Would Deputy Ferbrache's Committee feel more inclined to act in this matter if the newspapers concerned were perhaps *The Daily Mail* or *The Daily Telegraph*? (*Laughter*)

The Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Well, I am surprised that Deputy Fallaize should ask questions about
1230 newspapers that he reads and loves. (*Laughter*) No, the answer is, and in fact I nearly put that in the answer, but I thought it is too long and I drafted this answer, I am concerned if any newspaper drops off. We want right wing, left wing, centre wing, centre forward, left back, centre half – (*Laughter*) We want all of them. We want a broad expression of opinion. I read different newspapers for different things, some I like the sports, some I like the politics, and some I just like.
1235 I would like them all to be freely available, but we live in a commercial world.

The Bailiff: Alderney Representative Jean.

Alderney Representative Jean: Would the Chairman agree with me that ... I was sorry to hear
1240 the recent news in Alderney a couple of days ago that *The Guernsey Press* is no longer to be made available at the newsagents. We are told that it will be available online, and for some time, because of the withdrawal of the actual material copy, that they are going to allow that to be free online. But would the Chairman agree with me that my concern is there are many people on Alderney who will not be able to access online, they will no longer be able to get their *Guernsey Press*. Many people derive a lot of opinion about the Guernsey States from *The Guernsey Press*. I wonder if he would care to assist me in any way.
1245

The Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Well, sir, I really am grateful to Mr Jean, because until he just said it, I
1250 personally did not know it. Of course, he makes a valid point, there are lots of people that actually like a piece of paper, they like that to read – I do, (**Several Members:** Hear, hear.) – rather than read things online. They are all right, but if you really want to assimilate something, at least in my generation, you want something in your hand so that you can read it. I fully understand that. I am
1255 not sure what we can do. I will speak to my colleagues, and I will speak to our civil servants and see if there is anything we can do. But I do have a doubt that there is much that we can do.

The Bailiff: Deputy Gollop. Your second question.

Deputy Gollop: Yes, sir.
1260 To some extent Deputy Ferbrache has answered it, but will Economic Development seek to ensure through action and negotiation, that the Islands, including Alderney, maintain full and appropriate equality of connectivity with the wider world and not be subject to arbitrary 'not available in Guernsey' mantras?
1265

The Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Well, sir, we have all heard that from so many suppliers, haven't we? 'We are not supplying to the Channel Islands', 'we are not going to supply to Guernsey'.

1270 Sir, the Committee for Economic Development anticipates this is a matter of wider concern, and we do share Deputy Gollop's disquiet that he has articulated so well, that the Bailiwick should not be subject to decisions taken by the supplier of goods or services based on arbitrary and sometimes ill-informed information. We have to be realistic, but we say this: to the extent that it is realistic and within our mandate, we will assist in providing such information and guidance where
1275 and when we can to be able to meet the disquiet that Deputy Gollop so ably expresses.

The Bailiff: There are no supplementaries.

STATES' TRADING SUPERVISORY BOARD

Guernsey Airport – Dealing with fog

1280 **The Bailiff:** We move on then to the next question which is to be asked by Deputy Gollop of the President of the States' Trading Supervisory Board.
Deputy Gollop.

Deputy Gollop: Thank you.

1285 My first question to Deputy Parkinson, through you, sir: has the Trading Assets team together with Guernsey Airport and other appropriate bodies costed the installation and application of a Category 2 Anti-fog Instrument Landing System?

The Bailiff: Deputy Parkinson will reply.

1290 **Deputy Parkinson:** Yes, Mr Bailiff, Guernsey Airport has undertaken at least two full technical evaluations into the feasibility of installing a Category 2 Instrument Landing System, which would give pilots greater ability to land in poor visibility. While it would reduce fog disruption on some days, it would not prevent it altogether. It would require an upgrade to the airfield and its
1295 approaches, with major cost implications and a significant impact to the west of the Airport.

Unless the valley to the east of Guernsey Airport is filled level, the terrain at that end of the runway would prevent Category 2 equipment functioning. Therefore it would currently only be of benefit to 40% of the flights which approach the airfield from the west, and obstacles would still have to be cleared on the western approach for this. This is likely to include re-routing at least two
1300 roads, and removing a number of domestic properties. Airport lighting and navigational equipment would also have to be upgraded.

In terms of improved performance, the most recent investigation, in 2008, found that a Category 2 Instrument Landing System would most likely enable around one hour's additional flying on days when the airport is affected by fog. Flights would still be impacted when visibility is below the level permitted for Category 2 operations. Therefore it is not a cure-all solution. The costs would run into several millions of pounds, with only minimal improvement in landings.
1305

Nevertheless, technology advances all the time, and in future it may be possible to improve operations during fog without such drastic or costly measures. My board will keep the situation under review, particularly in the context of any proposal to extend the runway.

1310 **The Bailiff:** Deputy Gollop.

Deputy Gollop: Thank you, sir.

1315 I do appreciate the President's answer that the cost would be significant, but has his board considered the wider questions many in the business community are talking about, which includes the cost to Aurigny, the cost to the taxpayer, the reputational cost to the Island, and the possible loss of business through *LocateGuernsey* and other avenues, because of the disruption of fog that we have seen in the past year?

1320 **The Bailiff:** Deputy Parkinson.

1325 **Deputy Parkinson:** Well, the wider economic impacts are probably not within the mandate of my board, but as I have explained the ground landing systems that are available now essentially would not work for most flights operating into Guernsey because they rely on level terrain below the aircraft, and on the approaches from the east there is a valley to the east of the runway, which would prevent the system from operating. But there are technological developments, which will hopefully lead to the introduction of satellite based navigation systems, where we would not be so dependent on the terrain below the aircraft for navigation, and if those become available then I am sure that will be a solution that Guernsey should consider.

1330 **The Bailiff:** Deputy St Pier.

1335 **Deputy St Pier:** Sir the President in his answer made reference to the extension of the runway. Is he able to advise whether he has any knowledge of whether, using current technologies, there would be an expectation or requirement for any new airlines, particularly of course the low cost carriers that Deputy Ferbrache referred to earlier, to require the higher level of availability to come into the Island? Is that a requirement or not?

1340 **The Bailiff:** Deputy Parkinson.

1345 **Deputy Parkinson:** I do not think it would be a regulatory requirement, but clearly, from a commercial perspective, the airlines would find it more attractive to operate into Guernsey if the availability of access to the Airport was more assured for them. So I do believe that the improvements to instrument landing systems need to be part of the discussion about lengthening the runway.

The Bailiff: I see no-one else rising that concludes Question Time. Oh, Deputy Gollop, you have your final question.

1350 **Deputy Gollop:** Sorry about that.

The Bailiff: Oh sorry, you have a second question. That is my fault, sorry. Deputy Gollop.

1355 **Deputy Gollop:** I think I did. Yes.

The Bailiff: I apologise.

1360 **Deputy Gollop:** Yes, I did. Would the States' Trading Supervisory Board agree that changing climatic conditions leading to many days of fog is adversely costing the Airport, airlines and maybe the taxpayer – in a way it is my supplementary – and is a situation that must be addressed as part of the Island's infrastructure and competitive advantage?

1365 **The Bailiff:** Deputy Parkinson.

Deputy Parkinson: The STSB acknowledges the disruption to passengers, airlines and potentially taxpayers that the recent periods of fog have caused. The Airport and its concessionaires also lose revenue from extended periods of disruption.

1370 Looking at the average days and hours of disruption over the last 12 years, it is clear there are wide variances.

The average hours lost due to fog was 102.6, over 36 days of the year. The peak was 170 hours of disruption over 63 days in 2015, preceded by a record low of 48 hours of disruption over 14 days, just a year before.

1375 There is therefore very little by way of general pattern or predictability to help present a business case to justify the investment in other property acquisition and/or land raising required to maximise that investment.

1380 The Airport continues to work with airlines and with its technical advisers to find ways of reducing the disruption which fog causes, either through advances in technology or changes in stringent aviation regulations. There is progress in this area and the Airport will continue to monitor how this can be applied locally.

The Bailiff: Any supplementaries?

1385 **Deputy Gollop:** No supplementaries, sir.

The Bailiff: Deputy Trott.

1390 **Deputy Trott:** Sir, I do not expect my friend Deputy Parkinson to know the answer to this question but I ask if he would be prepared to see if the information is ascertainable: whether those numbers that he quoted would have been materially affected positively had the runway been located at sea level. Because there has been much talk over the years to suggest that that is the solution to our problems. I do not believe that to be the case, but wondered if the evidence was in support.

1395 **The Bailiff:** Deputy Parkinson.

1400 **Deputy Parkinson:** I have also heard the theory that the Airport would be more accessible during of periods of fog if it was at sea level, but I have not seen any evidence or research to prove that point or disprove it. I can make enquiries in my Committee and see if anyone is aware of any such research.

The Bailiff: No-one else is rising. I think that genuinely does bring Question Time to a close, and we move on to elections and appointments. Greffier.

Billet d'État VII

I. Committee for Home Affairs – Police Complaints Commission: Reappointment of Member – Ms Alison Quinn reappointed

Article I

The States are asked to decide:

Whether, after consideration of the Policy Letter entitled 'Police Complaints Commission: Reappointment of Member' of the Committee for Home Affairs, they are of the opinion to re-appoint Ms Alison Quinn as an ordinary member of the Police Complaints Commission for four years, with effect on and from 1st April 2017.

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

1405 **The Senior Deputy Greffier:** Article I – Committee for Home Affairs – Police Complaints Commission – Reappointment of Member.

The Bailiff: Deputy Lowe.

1410 **Deputy Lowe:** Thank you, sir.

Police Complaints Law states that the Chairman and ordinary members of the Commission should be appointed for a term of four years by the States of Deliberation upon the recommendation of the Committee for Home Affairs. The Committee notes that Ms Quinn's term of office has come to an end, and therefore her re-appointment by the States of Deliberation is required prior to re-commencement of her role on the Commission. The Committee acknowledges that Ms Quinn's term of office ended on 1st February 2017, and we apologise for the delay in bringing this report to the Members, before them, today. The Committee is satisfied that Ms Quinn meets all the prescribed criteria set out within the Police Complaints Law and that she has carried out her duties on the Commission with professionalism and integrity. The Committee wishes to convey its sincere thanks to Ms Quinn in recognition of her tenure of the Police Complaints Commission, and we ask Members to support the report so she may continue.

The Bailiff: Is there any debate? We go straight to the vote. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare the Proposition carried and Ms Quinn re-elected.

II. States' Trading Supervisory Board – Appointment of a Non-Executive Director – Guernsey Post Limited – Mr Richard Digard appointed

Article II

The States are asked to decide:

Whether, after consideration of the policy letter entitled 'Appointment of a Non-Executive Director – Guernsey Post Limited', they are of the opinion:-

1. To approve the appointment of Mr Richard Digard as a non-executive director of Guernsey Post Limited with immediate effect.

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

1425

The Senior Deputy Greffier: Article II – States' Trading Supervisory Board – Appointment of a Non-Executive Director – Guernsey Post Limited.

The Bailiff: Deputy Parkinson.

1430

Deputy Parkinson: Yes, sir.

Guernsey Post Limited sought applications from interested candidates by way of an open advertisement in *The Guernsey Press*. 32 applications were received of which six were shortlisted for interview. Candidates were assessed and given a weighted score against a range of 20 criteria. Criteria included previous board experience; experience and understanding of change management; knowledge and experience of the Guernsey Government; commercial awareness and business administration; personal qualities and competencies, including professionalism; analytical skills; communication skills; problem solving skills; ethics and ability to inspire confidence; and motivations including community commitment. The process was managed at all times by the Guernsey Post Board's Nomination Sub-committee. The process concluded with the selection by that Board, or that Sub-committee, of Mr Richard Digard, whose nomination reflects the different experience he can bring to the role, which it was felt would complement the existing skills mix on its board.

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1440

For wider information Guernsey Post has confirmed that no candidate was discounted on the grounds of age, and at no point in the process was age set out as being a criteria that would affect consideration of an application. So I lay before the Assembly the nomination of Mr Richard Digard to the post.

1445

The Bailiff: Any debate?

1450

We vote. Those in favour; those against.

Some Members voted Pour, others voted Contre.

The Bailiff: I believe that is carried, but if anybody wishes a recorded vote they can have one. No? I declare that carried, and Mr Digard elected.

III. Policy & Resources Committee – Appointment of Ordinary Members of the Guernsey Financial Services Commission – Mr John Aspden and Mr Philip Middleton appointed

Article III

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 14th February, 2017, of the Policy & Resources Committee, they are of the opinion:-

- 1. To appoint Mr. John Aspden as an ordinary member of the Guernsey Financial Services Commission for a three year term with effect from 3rd April 2017.*
- 2. To appoint Mr. Philip Middleton as an ordinary member of the Guernsey Financial Services Commission for a three year term with effect from 3rd April 2017.*

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

1455 **The Senior Deputy Greffier:** Article III – Policy & Resources Committee – Appointment of Ordinary Members of the Guernsey Financial Services Commission

The Bailiff: It is the Vice-President of Policy & Resources Committee, Deputy Trott.

Deputy Trott: Yes, thank you, sir.

1460 Sir, I rise on behalf of the Policy & Resources Committee to nominate two outstanding candidates for the position of Commissioner at the GFSC. The first is Mr John Aspden, and as Members will have known from his short biography appended to this report, that he was a former director general or the equivalent of the Isle of Man regulatory commission, and since 2011, materially, he has been Chairman of the Group of International Finance Centre Supervisors.

1465 The second candidate, sir, equally impressive, is Mr Philip Middleton. Within KPMG he was both a partner and European Head of Financial Services Strategy and within Ernst & Young both a partner and head of the Central Banking Division. So we continue to be lucky that such impressive candidates are prepared to do this duty for us at the GFSC, and I thank them for it.

1470 **The Bailiff:** Any debate?

I think with these we will take them separately. So we will vote first on the appointment of Mr John Aspden. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare him elected.

Then on the appointment of Mr Philip Middleton. Those in favour; those against.

Members voted Pour.

1475 **The Bailiff:** I declare him appointed.

IV. Committee for the Environment & Infrastructure – Planning Panel – Appointment of new Chairman – David Gwyn Harry appointed

Article IV

The States are asked to decide:

Whether, after consideration of the Policy Letter entitled "Planning Panel – Appointment of a New Chairman" dated 20th February 2017, they are of the opinion:-

1. To elect Mr. David Gwyn Harry as Chairman of the Planning Panel with effect from 1 April 2017 to hold office for the unexpired portion of Mr. Patrick Russell's term ending on 31st March 2021; and

2. To note the resignation of Mr. Patrick Russell from the Planning Panel with effect from 31st March 2017.

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

The Senior Deputy Greffier: Article IV – Committee for the Environment & Infrastructure – Planning Panel – Appointment of new Chairman.

The Bailiff: Deputy Brehaut.

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Deputy Brehaut: Thank you, sir.

This brief report asks us to do two things. Firstly to elect Mr David Gwyn Harry as Chairman of the Planning Panel with effect from 1st April 2017, to hold office for the unexpired portion of Mr Patrick Russell's term ending 31st March 2021, and to note the resignation of Mr. Patrick Russell from the Planning Panel with effect from 31st March 2017.

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At its meeting on 25th March 2009 the States approved the appointment of Mr Patrick Russell as Chairman of the Panel for a six-year term. Mr Russell was re-elected as Chairman of the Panel on 13th February 2015 for a further six-year term, and we thank him for his service to the Panel.

Included in the States' Report is a brief CV with regard to, if I can just find it, the curriculum vitae for Mr David Gwyn Harry. Mr Harry was appointed as an ordinary member of the Planning Panel in 2009. As a member of the Planning Panel, Mr Harry has served on a large number of Planning Tribunals and has attended the Panel's various ongoing training sessions.

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Mr Harry retired from professional practice in 2014. Throughout his professional career as a solicitor specialising in property matters he gained a wide ranging commercial and private client legal experience including advocacy before courts, and considerable experience in connection with in connection with residential and commercial property situated in England and Wales. I think the last paragraph is probably why Mr Harry is known to a number of us. In addition, since moving to Guernsey, Mr Harry has been actively involved in Island life and has served on the St Peter Port and St Andrew's Douzaine. He has also been actively involved in sport on Guernsey, especially cycling. He is also Chairman of the Guernsey Commonwealth Games Association and is a member of the panel of legal advisers appointed to advise the Commonwealth Games Federation.

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I trust Members will support this nomination, sir.

Thank you.

1505

The Bailiff: Any debate?

Again we will take these two Propositions separately. First of all to elect Mr Harry as Chairman of the Planning Panel. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare him elected.

Secondly, to note the resignation of Mr Patrick Russell from the Panel. Those in favour; those against.

1510

Members voted Pour.

The Bailiff: I declare that carried.

APPOINTMENT LAID BEFORE THE STATES

Appointment of Mr John Lee as Chairman of the Guernsey Banking Deposit Compensation Board

In accordance with section 3(4) of the Banking Deposit Compensation Scheme (Bailiwick of Guernsey) Ordinance, 2008, the appointment by the Committee for Economic Development of

Mr. John Lee as Chairman of the Guernsey Banking Deposit Compensation board with effect from 6th February 2017 is laid before the States of Deliberation. Mr. Lee has been appointed as Chairman until 25th November 2018.

The States of Deliberation have the power to annul the appointment.

1515 **The Senior Deputy Greffier:** The following appointment is laid before the States: the appointment of the Chairman of the Guernsey Banking Deposit Compensation Board.

The Bailiff: I have not received notice of any motion to debate that appointment.

ORDINANCES LAID BEFORE THE STATES

The Document Duty (Amendment) Ordinance, 2017

The Senior Deputy Greffier: The following Ordinance is laid before the States: The Document Duty (Amendment) Ordinance, 2017.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

The Driving Test (Fees) Regulations, 2017

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The Senior Deputy Greffier: The following Statutory Instrument is laid before the States: No. 1 of 2017 The Driving Test (Fees) Regulations, 2017.

The Bailiff: Again, I have not received notice of any motions to debate those.

LEGISLATION FOR APPROVAL

V. Development & Planning Authority – The Land Planning and Development (Use Classes) Ordinance, 2017 – Approved

Article V

The States are asked to decide:

Whether they are of the opinion to approve the draft Ordinance entitled "The Land Planning and Development (Use Classes) Ordinance, 2017", and to direct that the same shall have effect as an Ordinance of the States.

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

1525 **The Senior Deputy Greffier:** Article V – Development & Planning Authority – The Land Planning and Development (Use Classes) Ordinance, 2017.

The Bailiff: Is there any request for any clarification or any debate? No. Those in favour; those against.

Members voted Pour.

1530 **The Bailiff:** I declare it carried.

**VI. The Development & Planning Authority –
The Land Planning and Development (Plans) (Amendment) Ordinance, 2017 –
Approved**

Article VI

The States are asked to decide:

Whether they are of the opinion to approve the draft Ordinance entitled "The Land Planning and Development (Plans) (Amendment) Ordinance, 2017", and to direct that the same shall have effect as an Ordinance of the States.

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

The Senior Deputy Greffier: Article VI – The Development & Planning Authority – The Land Planning and Development (Plans) (Amendment) Ordinance, 2017.

1535 **The Bailiff:** Again any request for clarification or debate? No.
We vote. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare it carried.

**VII. Committee for Home Affairs –
Population Management (Guernsey) Law, 2016 (Commencement) Ordinance, 2017 –
Debate commenced**

Article VII

The States are asked to decide:

Whether they are of the opinion to approve the draft Ordinance entitled "The Population Management (Guernsey) Law, 2016 (Commencement) Ordinance, 2017", and to direct that the same shall have effect as an Ordinance of the States.

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

The Senior Deputy Greffier: Article VII – Committee for Home Affairs – Population Management (Guernsey) Law, 2016 (Commencement) Ordinance, 2017.

1540 **The Bailiff:** I think the President of the Committee for Home Affairs wishes to open this debate.
Deputy Lowe.

Deputy Lowe: I thought you were going to say there was no debate, sir.

1545 When the new Government structure was put in place last spring, the Committee for Home Affairs assumed responsibility for the Housing Control Law and for its replacement, the Population Management Law, once it had been enacted. We concluded that it was our job, after the decade of work that had gone before we picked up the mantle, to get on with putting processes and policies in place and bringing the Law in.

1550 We know that there are those in our community who are ready to welcome and embrace the new rule. For some it is a welcome breathe of fresh air, recognising that the old Law is too restrictive and cumbersome to cope with modern day living and working arrangements. Those who acknowledge that the Housing Control system was conceived in a different time and for a different purpose.

1555 We also know there are those in our community who are strongly opposed to the Law's introduction. Some have put their views across passionately but politely, and have spoken out in what they wholeheartedly believe are the best interests of one aspect or another on our way of life and our economy. May I say how fortunate we are to have such engaged and passionate people living amongst us.

1560 Others have spoken out from a point of only self-interest, failing to see or failing to care about the bigger picture, (**A Member:** Hear, hear.) but it is our job to see the bigger picture, sir, to think about the whole of our community and not just one aspect of it in isolation. Sir, when it comes to accountability this Assembly, those of us in this room today are accountable for the decision we are about to make.

1565 At the risk of sounding like a celebrant at a wedding, this is a solemn decision and one we must not enter into lightly. We must be aware that there will be people in our community who will be adversely affected by the new Law coming into force, and it would be disingenuous of me to suggest otherwise. We will impose restrictions where there used to be none. We will *never* be able to develop a Population Management Law that will be welcomed by every person who lives in this Island. I am not aware of any law in existence that does not result in saying no to, or replacing restrictions on, some people. We cannot drive a car without wearing a seatbelt. We cannot build on protected land. We cannot smoke in public buildings. Sir, sometimes Government must make decisions and introduce rules that might be difficult for some in our community to adjust to. When we do, it is because those are the right decisions to make, even if they are not universally welcomed.

1575 But, sir, there is much to recommend in the Population Management System despite what its critics might say. Once we are over the immediate transitional phase, the basic principles of the Law are less complex than the Law it replaces. The advent of the Population Employment Advisory Panel and the policy resulting from the Panel's work brings clarity and certainty to our business community. The Panel also provides a conduit for conversations with the business community so that the policy can be developed and improved over time. We have more modern policy-led legislation that positions us well for the future. We have a clearer policy structure with all policies being published so that people can understand how and why decisions are made. The new regime also facilitates a move towards an online customer service, benefiting all applicants, but particularly employers who gain application tracking processes and a free employee record-keeping facility.

1580 Sir, Guernsey is at a crossroads, and regardless of the decision we make today, as an Island and as a Government, we face a challenging future. We are living longer healthier lives, and while that is good news for those of us hoping to enjoy a long and happy retirement, it is not good for those who will follow behind us picking up the financial burden created by us in our old age. We all know that family sizes are much smaller than they were a number of years ago. We know that this means there will be fewer home-grown people entering our work force than there are retiring from it.

1590 Whether we keep the Housing Control Law or replace it with the Population Management Law, these demographic challenges will still be there, and they will still be a problem that needs to be addressed. At some stage we need to grasp the nettle and start fixing this issue instead of just

staring at it. We have made a start with proposals to introduce a secondary pension scheme, and I wholeheartedly applaud that initiative, but it is some distance from being a reality.

1600 Sir, I guess the real question today is this: are we ready to start doing something to tackle our demographic issues or not? Delay simply kicks the can a bit further down the road. Sir, there are some here today who might be tempted to kick the can further ahead and even round the corner and out of sight, but the can does not disappear just because we cannot see it. One day we will get to the corner and it will be there to trip us up. Far better, then, to pick it up and do something with it now.

1605 For those who are tempted at the thought of delay I ask this: what are you delaying for? If the decision today is to delay, we, the Committee for Home Affairs, need very clearly to understand why. What do you hope to achieve as a result of the delay? What part or parts of the Law do you object to? Why do you object? What would you suggest instead? What would you suggest instead? Why are you only saying so now?

1610 While you are thinking about that let me remind you, the States of Guernsey have a population objective. It is an objective arrived at through a democratic process in this very room. That objective is this, and I quote:

That, as far as practicable, Guernsey's population should, in the long-term, be kept to the lowest level possible to achieve "The Statement of Aims" in this plan.

'This plan' is the States' Strategic Plan which is now being replaced by the Policy & Resource Plan. Sitting directly under the objective is the policy, and I quote:

That, instead of absolute population numbers or migration levels, States Policies should be focused on ensuring that the Island's working population is of a size and make-up consistent with achieving the States' strategic economic, social and environmental objectives.

1615 Whatever tweaks and changes you may want to make, a fundamental principle of the Population Management Law is that decisions taken under it have to accord with the States-approved utterances on population – unless, of course, it would be unjust on human rights grounds to do so. If you want to change the behaviour of this Law, you first have to think about changing these policies. The Law is not a policy; it is a tool to deliver a policy. If you were building
1620 a house would you throw the bricks and mortar away because you did not like the architect's plans, or would change the plans so that you can use the bricks in the way that you want to?

Sir, we have been saying out loud for the best part of a decade that the Housing Control Law has had its day, and that it is no longer fit for purpose. We have been saying that Guernsey's needs are changing and we need a system that can be more reactive to change than the one we
1625 have in place today, and that is what we are now being offered.

However, it would be misleading of me not to explain that some aspects of the Law, like how people gain their residential qualifications are hard-wired. Other bits of the Law operate under policies, and this is where the flexibility lies. Change the policy and the Law has to be administered differently. For example, there are those in our business community who want an open-door
1630 policy. If someone wants to come and work here, let them. If they want to stay forever, let them. From cleaners and pot washers to accountants and cyber security specialists, let them. But when the population objective and policies were set in 2015, they did not create an open-door.

Let's not forget the new Law is designed to help us manage not only the size but also the make-up of our population, making sure that people who build up the right to stay here for ever
1635 are the people who helped the States to achieve its social, environmental and economic objectives. This is how the States has chosen to approach the business of maintaining the size of its working population, without growing its long-term population to an unsustainable level. If you want to change that policy, the Law and the policies below it will react to that.

Sir, we should not vote to switch the Population Management Law on simply because of the
1640 many years of work that have gone into developing it. To enact significant legislation just because it is what we once said we wanted to do, would be to enact it for all the wrong reasons. Instead,

1645 sir, we should be voting today to switch the Law on because it is what the Island needs us to do. Let us not be the Assembly that kicks the can down the road. Let us be the Assembly that is ready to face up to the future and take decisive actions to position ourselves better for the challenges that we can see looming large on the horizon.

Sir, in the strongest terms I ask the Assembly to vote in favour of the Proposition to approve the Population Management Law (Commencement) Ordinance.

Thank you, sir.

1650 **The Bailiff:** Members of the States you will be aware that five amendments have been circulated. For the avoidance of doubt, I would say that they all go beyond the original Proposition. But we will take first the amendment to be proposed by Deputy St Pier and seconded by Deputy Lowe.

Deputy St Pier.

Amendment 4

To amend the Proposition as follows –

(a) By numbering the Proposition as "1.", and

(b) By inserting the following Propositions immediately thereafter –

"2. To direct the Policy and Resources Committee to lead a review of the Population Management (Guernsey) Law, 2016, and its underpinning policies, to include:

- The various ways of gaining Permanent Resident status for those born in Guernsey or first resident as minors;*
- The experience of employers in terms of the operation of those parts of the Law, other associated legislation, and policies relevant to all types of Employment Permits; and*
- A review of overarching strategic population policy*

and, together with the Committee for Home Affairs, to report back to the States during the first quarter of 2019 recommending, if necessary, any amendments to the Law and any associated legislation which may be desirable in order better to support the achievement of the States' strategic objectives.

3. To rescind Resolution 4 on Billet d'État IV of 2015."

1655 **Deputy St Pier:** Perhaps for the benefit of those outside the Assembly it would be helpful for the Greffier to read this amendment.

The Bailiff: Yes. Greffier.

The Senior Deputy Greffier read the amendment

The Bailiff: Deputy St Pier

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Deputy Ferbrache: Sir, can I just raise a question before Deputy St Pier presents his amendment.

If this amendment is successful, it is not going to stymie the debate on the other amendments, is it?

1665

The Bailiff: No, it will not matter, no.

Deputy Ferbrache: I am just making that clear –

1670 **The Bailiff:** If other people still wish to lay their amendments or other amendments, they will certainly be –

Deputy Ferbrache: Because I certainly would want to lay mine, whatever the result of Deputy St Pier's amendment. I am just –

1675

The Bailiff: The only reason I was taking this one first is principally because it is seconded by the President of the sponsoring Committee, and I understand it has the full support of that Committee. We always take the sponsoring Committee's amendments first, and it is also seemed to me it was the furthest reaching. That is why I felt it should be taken first.

1680

But as you said, it does not stymie debate on any other amendments, either those that are presently tabled or any further ones that may emerge during the course of the next two or three days, or however long we are going to be here!

Deputy St Pier.

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Deputy Ferbrache: Well, sir, I do not share your pessimism about that!

Deputy St Pier: Sir, thank you.

1690

I think in opening debate on this amendment, I will endeavour to be relatively brief, but perhaps I could begin by once again apologising to Members for the relatively late preparation and distribution of this amendment and just provide a brief explanation for that. Policy & Resources at its weekly meeting yesterday, as it always does, considers the business for this sitting today, including amendments presented or distributed up to that point. During the course of the discussion on those amendments, this amendment emerged.

1695

I am grateful also for the interaction that we have had with the Committee for Home Affairs and in particular to the President of the Committee for Home Affairs for agreeing to second this amendment. My understanding is that this does have the unanimous support of both the Committee for Home Affairs and also the Policy & Resources Committee.

1700

Sir, by way of background, I think it is worth emphasising that, of course, good governance would dictate that all legislation and policies, of course, remain under constant review, as they should do, and the relevant and responsible Committee would be expected to bring back recommendations to this Assembly in the event of identifying the requirement for change. Of course, the Population Management Law should be, and is, absolutely no different. However, given the significant interest in this matter over the last couple of weeks, the Policy & Resources Committee did take the view that actually embedding a formal commitment and timeframe for review would actually be worthwhile.

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The amendment is essentially broken down into the suggestion of a review including three principal parts, not necessarily exclusively, but it is to include the various ways of gaining permanent resident status for those born in Guernsey or first resident as minors. What drove the Policy & Resources Committee to consider this was the next amendment, labelled 1, sir, which is tabled for debate, that proposed to be laid by Deputies Roffey and Fallaize. What concerned the Policy & Resources Committee about that particular amendment was the fact that part (b) of that would seek to direct the conclusion of the review that is being asked for in part (a). So in other words, we asked for a review in part (a), but we have predetermined the results of that review in part (b), and Policy & Resources felt uncomfortable with that and felt that actually having a more open review was more appropriate, and hence the proposal which is before Members.

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Sir, the second key element of this review relates to the experience of employers in terms of the operation of the Law, and the policies in relation to employment permits. This, of course, relates to one of the key issues which has emerged in the last few weeks which is the five-year cap, which has clearly caused some concerns. This would provide an opportunity to test whether that is having the consequences which some fear for it, sir.

1720

Then, the third part of the review, as set out in the amendment, is in relation to the overarching Strategic Population Policy, which as Deputy Lowe said in her opening remarks is the policy which ultimately drives the whole Population Management Law. At the moment, of course, Policy & Resources, as the successor to Policy Council, remain under an extant Resolution 4 from

1725 Billet IV of 2015 to consider the overarching Strategic Population Policy which Deputy Lowe read out, which as she said, in essence, is to ensure that we retain an appropriate level of population to meet our economic, social and environmental objectives, This again will provide an opportunity to consider whether that remains appropriate or requires some amendment.

1730 Sir, the timeframe for this that we are suggesting in the amendment is for a report back to the States in the first quarter of 2019. That is intentional to give a full year's operation of the new arrangements and allow sufficient time to reflect on that experience. It would also enable anything that flows from that review and the debate in the Assembly in the first quarter of 2019 to then be fed into the review of the Policy & Resource Plan in June 2019 which, of course, is a pre-determined commitment to meet at that stage to discuss the Policy & Resource Plan.

1735 This amendment will ensure that the question of the Population Management Regime does remain on our agenda throughout this political term, which we believe is entirely appropriate, given the importance of it to so many aspects of Island life, and given the controversy in the last couple of months.

1740 In terms of the suggestion that it should be Policy & Resources that undertakes the review, that is in consultation with the Committee for Home Affairs, we believe that that is appropriate given our role and mandate, and in particular the oversight of social and economic policy generally and, of course, the responsibility for leading on the matters of Brexit which, of course, has again been cited as a potential reason for amending the policies surrounding the Population Management Law. Of course, it will require us to engage with many other Committees, not only
1745 the Committee for Home Affairs, which is cited in the amendment, but also one would expect the Committee for Economic Development and indeed others, as well as external interests, sir.

So, sir, this amendment does not clearly address every concern that has been raised in the last few weeks. I think, in particular, it does not seek to expressly touch on the immediate concerns of those in some parts of the Open Market, but we do hope that it does address sufficiently those
1750 concerns, it does ensure that we do not risk throwing the baby out with the bathwater by failing to approve this legislation.

So, sir, we do commend it to the Assembly as being a proportionate response to events and interest in this matter in the last couple of weeks, and enables us to move forward in a sensible and considered manner.

1755

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

Deputy Lowe: Yes, I do sir, and I will speak now, sir.

1760 **The Bailiff:** Well, let's just formally second it, and see if anybody wants to move any motion under Rule 24(4) or 24(6). No? Nobody is rising to do so.

In that case as President of the sponsoring Committee, you are entitled to speak now.

Deputy Lowe: Thank you, sir.

1765 Sir, with any significant legislative or policy changes it is always best to practice to go through a process of reflection, review and refinement. The implementation of this Law is no different. In fact given its scale, a review process is essential. The Committee for Home Affairs welcomes the opportunity to work collaboratively with the Policy & Resources Committee on a review of this Law. Of course, we will with the very implementation of the Law be monitoring and making sure
1770 that there are no unexpected consequences. If there are, we will look to resolve them quickly, but the formal review gives us a clear framework and timeframe to work within. Insofar as the employment permit policy is concerned, the Population Employment Advisory Panel has within its mandate the need to review and report on the success of the policies introduced as a result of its liaison with the business community, and this, of course, will feed into the wider review.

1775 It is natural given the very wide scope of the Law that the Policy & Resources Committee must play a pivotal role in any review of its impact on various aspects of Island life, and we look forward to working together on this.

Sir, the Committee wholeheartedly supports this amendment and asks the Assembly to do the same.

1780

The Bailiff: Deputy Soulsby.

Deputy Soulsby: Yes, I will be brief.

1785 I am more or less happy with the amendment, but it is not really quite what I would like, if it was up to me. I have got two issues, particularly, with it.

The first is capacity at full P&R staff to actually undertake the review, as we know they are going to be incredibly busy over Brexit itself, without even considering this extra work.

1790 But secondly – and this is with my old hat on, back in the day – to me, I read it and I say surely this is what the Scrutiny Management Committee should be doing, review of overarching Strategic Population Policy. That is just what happened with the Children’s Law and we had an excellent review which has led to lots of work being followed up and recommendations being actioned. I look at this and say, why isn’t this for the Scrutiny Management Committee? Why is it for another Committee of Government to be undertaking such a review?

1795 So, I would like to understand from the President of the Committee for Policy & Resources quite why he thought it should be for his Committee to look at? I would also be interested to hear the thoughts of the President of Scrutiny Management Committee on this particular issue before I decide how to vote.

The Bailiff: Deputy Roffey.

1800

Deputy Roffey: Thank you, sir.

1805 I think it is true to say that I feel strongly ambivalent about this particular amendment. *(Laughter)* You could look at it and say, well, it is pretty anodyne and it is pretty meaningless, and therefore why shouldn’t we pass it anyway? Both the President of Policy & Resources and President of Committee for Home Affairs said, this is something that would have been done anyway, and therefore we are being asked to pass an amendment which really has no impact because it would have been done anyway in order to give comfort.

1810 But there is a side of me, and I have to say though, I do not think that in any way I agree with Deputy Ferbrache, it does not in any way lessen the need for the amendments that are going to come after, and in particular as far as the birthright issue, the very fact that this does not give a direction of travel towards a more equal situation is exactly the reason why I do not think that this, if it is being offered up as a substitute for the next amendment, actually gives any comfort whatsoever.

1815 What worries me, I suppose, is I found out about this late yesterday evening, when I saw a thing on the internet saying there is a new amendment that has been placed. What it does in a way is quite profound, because here we have a major chunk of a Principal Committee’s mandate. This Assembly, or its predecessor, decided population policy and it was driven partly by the overarching policy plan for the Island, which comes under P&R, that population matters were going to be a matter for Home Affairs. Here we see them become a subservient part of the review. 1820 Not the lead Committee but the secondary Committee that was going to be consulted with and the review is going to be carried out by P&R.

1825 It could almost be seen as approaching a vote of no confidence in my mind. It is certainly a creeping change in our system of government. Now, we were told this morning that it is because there is huge interest in this from across the political spectrum and across industry etc. I suspect exactly the same is going to be true when we actually reform our system of secondary and tertiary education. What will P&R do then? Say let’s have a review of this in a couple of years, led by P&R

with Education, Sport & Culture as the junior partner? This is with no notice whatsoever, I think, the beginning of a creeping change in the nature of P&R and what it does.

1830 So, on balance, as I am being told that this is going to be done anyway, whether or not we pass this amendment, I am going to vote against it. I am going to expect it to be done anyway. I am going to expect it to be led by Home Affairs because it is in their mandate, not in P&R's, and I am going to expect them to do what every good Committee has done since the year dot, actually consult with the other Committees that are affected, including Economic Development and certainly Policy & Resources as far as the Brexit issues are concerned. I do not think we should be
1835 ambushed into changing our system of Government subtly but going down a route that will change it profoundly by an amendment we only became aware of on sort of the midnight hour of this debate.

The Bailiff: Deputy Fallaize.

1840

Deputy Fallaize: Thank you, sir.

I agree with all of that, and I am surprised actually that it has taken ten months for the Policy & Resources Committee to try and do this sort of thing. I thought they would try and do it much more quickly, and this is an attempt to do it in a way that it somewhat under the radar. But it does
1845 undermine the proper role of the Committee for Home Affairs to be responsible for population policy.

If one looks at the bullet points, the second bullet point, for example, is to review the experience of employers in terms of the operation of those parts of the Law. Now, that has nothing to do with Strategic Population Policy, that is to do with detailed population policy, and it
1850 does fall to the Committee for Home Affairs to do that.

So that is one reason I will vote against it, but the other reason, in fact the main reason is, I hate to disagree with Deputy Roffey because I am seconding his amendment, but I think there is an effect on the other amendments of this one. Because how are they ... ?

I have to say, sir, with the greatest respect, I am amazed we are debating this amendment first, because all the others go further than this one, and this one is not being laid by the sponsoring
1855 Committee. It is being laid on behalf of the Policy & Resources Committee. How will the other amendments fit in within this one if this one is approved? The others are trying to add a new proposition. Well, is the attempt going to be to knock this new proposition out and replace it with what is contained in the amendments that come, or is it going to be to add further new
1860 propositions? Well if it adds further new propositions it is going to become somewhat incoherent, isn't it, because the States would have voted in favour of a review in 2019 of policies which subsequent Propositions would be asking to be changed in advance of 2019?

So I do not see at all how this amendment is compatible with other amendments. I think it would have been much better to have considered the other amendments, dealt with them, either
1865 approved them or rejected them, and if they had been rejected then Policy & Resources, or better still Home Affairs, could have come to the States and said, look, you have rejected all of those substantial amendments but we know there is some appetite to review this Law, so we will put in place an agreement under States' Resolution to review it in the way that it is set out in this amendment.

I am surprised that the movers, likely proposers of the other amendments are so disinterested in this amendment. I am tempted actually to make the speech which I was going to make on the amendment which Deputy Roffey was due to lay in a moment. I believe that if this amendment is successful, the argument against the amendments which come will be, why would we want to
1870 make a change now, you have just agreed to hold a review in 2019? So, I will resist the temptation to do that, but I do not think that this amendment is compatible with any of the other
1875 amendments which have been circulated, and I do not think that P&R is the right Committee to be doing this.

1880 Finally, this review, which the amendment proposes, conflates two issues. Policy & Resources has quite cleverly, but a bit sneakily, added in a third bullet point which is a review of overarching Strategic Population Policy. Now, that is the role of the Policy & Resources Committee and I have no problem with approving a proposal from them to review Strategic Population Policy. But that issue is completely separate from the detailed population policies which are contained in the bullet points above that.

1885 Sir, this is an attempt to undertake a review by the wrong Committee which seeks to conflate two completely separate issues and which undermines amendments which have been circulated. Therefore, sir, it should be rejected. I do not mind this amendment being laid again, if all the other amendments are rejected. I probably would vote for it if that is done, but this is the wrong time to be debating it, and it is certainly the wrong time to be voting in favour of it.

1890 **The Bailiff:** Deputy Gollop has been waiting for a while. Deputy Gollop.

Deputy Gollop: Yes, I just have a quickie.

1895 I take on board the last point that it does undermine the other amendments, in that sense it is a wrecking amendment, but, I think, on balance, I should support it (*Laughter*) because I disagree with the direction of travel of the two previous speakers. Because I have seen instances in the last ten months where in a way, P&R have certainly been on the border of interfering in social or economic areas, and in contractual areas too, and personally I believe, as does Deputy Green, that we probably should have more of a cabinet system and less of a departmental system. Therefore P&R taking ownership over that policy so much the better.

1900 I could have spoken earlier when we had a legislation that went through, which was quite interesting actually. It took me surprise, DPA, nobody debated it. DPA now take overall responsibility for the Island Development Plan over from Environment & Infrastructure. I raised that incident that took place about comments about 10 minutes ago, because it shows how we are already tweaking – well, admittedly it was a well-thought-out plan of functions, but we are making adaptations as we go along.

1905 Although I take on board the point that implementation of population management is clearly a Home Department responsibility at one leg removed compared to what Housing did. I do not think when we chose members for the Home Affairs, we necessarily had in mind that responsibility. It took some of us by surprise, others might object to that.

1910 But I would also point out that I do not think you can, and this is perhaps a fallacy of the whole Population Management Regime, you cannot separate out implementation of a system, a regime, and the population policies. That is our first mistake, because the very fact that we have a regime at all is what some people are objecting to, from the perhaps *laissez-faire* economic right of the spectrum, maybe, and that is the bigger picture, so it makes sense, actually – admittedly two years is rather too long, but – for Policy & Resources to not only review the overarching Strategic Population Policy but to look in more detail at the various ways of gaining permanent resident status for those born in Guernsey, and the experience.

1920 I have to point out though that we have heard hints ever since the summer that Policy & Resources have been thinking about a change of approach to population policy, and we have certainly had our ears burnt in our emails go over time for many, many letters and viewpoints that we have heard. There has been a change in the political weather for all kinds of reasons. But the downside of us voting for this today is that the nature of what would be a wide-ranging review *might* call into question again our current framework, dare I say, of housing markets and housing divisions. Clearly, if you are going to review something there is a possibility of change, and a possibility of change means a possibility of uncertainty for the employment sector or others. So, actually the arguments that we have heard until the day before yesterday that we must not rock the boat after nine years of preparation and all the wonderful tuitions and they have been very well thought through that the Home Affairs have been doing from the Office of Population

1930 Management, suddenly we are a bit changed by this because we are now looking to a future of possibly quite radical change in a couple of years.

1935 So, yes, well I am used to kicking cans down the road, you should see my flat, they have gone round the corner. *(Laughter)* So, I am 50/50 on this, personally, I will support it, but I would much prefer to see some of the more specific amendments be passed, and I have strong reservations, that I will come to, as to why we should not, necessarily, implement the housing changes today, anyway. I might well vote for a stay of execution.

The Bailiff: Deputy Brouard.

Deputy Brouard: Thank you, sir.

1940 I think it is also worthwhile reminding ourselves that in fact this is a commencement ordinance. This is not meant to be a debate on the Population Management as such, we have had that debate over the last eight or nine years or so, and a considerable amount of work has been done. Today is where we put our shoulders behind the wheel and get on and introduce the new Population Management.

1945 Now, P&R has a legacy, if you like, because the old Policy Council was, in fact, the holder of the policy going forward, so I do feel that Policy & Resources do have some sort of grandfather or father rights in this. I think the amendment shows us working together with the Committees. That is the whole idea of it, it is going away from the silo mentality where one Committee does something. We are trying to bring all the Committees together. So it is absolutely right that Policy & Resources has that overall review. As the words actually say, and together with the Committee for Home Affairs to bring back the report to the States. So, they are absolutely involved, it is called working together. So, I am not particularly concerned from that point of view.

1955 It is Policy & Resources showing a lead, that is what you want us to do. We have got to manage our population, we have got to manage the resources we have, and that is exactly our job, and it is very much so that we should be taking the lead in this area.

1960 Now, I think Deputy Roffey and Deputy Fallaize make the point that their amendment falls away, absolutely, it does. Yes, it falls, because it is not that we are trying to undermine it, but we are trying to collect the essence of what you are trying to do which is just have a review, but you took a very particular, sorry, sir, through the Chair, the amendment that may be placed took a very narrow view of one area, and then gave the answer to the question that you pose. So, I think, sir, in those circumstances the idea of having an overall review to pick up all the essences in one is far better than just one narrow focused part of it. Of course, that will be part of the review, no trouble at all, but I do not think we should have just one narrow focus.

1965 And, of course, the many people, the rights of local people were hard won over many, many years, and I would be one who would be very reluctant to let any of that go. So, I do not see this as a particularly bad amendment. I think it does encapsulate the overall review, so we have a proper balanced review in a few years' time, so see how the Population Management works, see if there are any difficulties that need to be changed.

1970 Sir, I would commend this to the States, that this is the right professional way to go about this.

(A Member: Hear, hear.)

Thank you.

The Bailiff: Deputy Green.

1975 **Deputy Green:** Sir, thank you.

I do not think I can support this amendment. What concerns me ... well there are a few things that concern me, really. I am not sure in principle that we should be in a position of potentially commencing the Law today and then immediately initiating some kind of generic review.

1980 I think if you look at the three bullet points that are listed in what would become the new Proposition 2, the first one is heavily generic, the various ways of gaining permanent resident

status. The second one is very generic, the experience of employers, and the third one is entirely specific.

1985 I would not have a problem, necessarily, if it was going to be the Home Affairs Committee who would be looking at the first two bullet points of those, as such, although it is heavily generic and not specific, and what does this amendment actually say, what is it precisely that we are so concerned about, that we do not like in the new Law that we want to immediately review it in some generic way. The point that Deputy Gollop made a moment ago I think was a good one, and is one effect of actually passing this amendment to actually reinstate the business uncertainty that we wanted to try and avoid in the first place.

1990 But it is the third bullet point that I just want to discuss, because Deputy Soulsby raised the point about this. I tend to think that the third bullet point there is something of a Trojan Horse. We have an existing policy on overarching strategic policy for population which was from 2015, a relatively new policy, relatively recent Resolution. We are talking about having an all-encompassing review of that led by Policy & Resources. I think if that were appropriate, I think ... I just do not think it is the right time to be doing that, when the policy is so recent. I have my own concerns about whether we have the right population policy at the moment, it was something that Scrutiny might well have addressed in the forthcoming economic policy review that we were planning on doing, but I do think that if this amendment is passed, it will be reviewing a relatively recent policy, against the background of quite a lot of heavy lobbying of Government to introduce
2000 a much more liberal approach to population policy, and that is why I think it is a Trojan Horse – I give way to Deputy St Pier.

Deputy St Pier: Sir, I am grateful to Deputy Green for giving way.

2005 It was really just to clarify that, of course, Policy & Resources are already under a direction to carry out precisely that review by June 2018 as a result of the previous Resolution in 2015. so this is nothing new, sir.

Deputy Green: Well, if that is the case why incorporate that third very specific element in this particular amendment.

2010 I think, sir, this is a fudge. I think it is a massive fudge. It is an attempt to wreck the other amendments that may well be laid. It is bizarre, I think, to potentially be commencing a Law today to then initiate an immediate wide-ranging review on some very generic things, and then to toss into the pot a kind of Trojan Horse to try, no doubt, to realise a more liberal policy on population.

2015 I think what I would say is if this amendment is passed then the job of the Scrutiny Management Committee will be – I will come to Deputy Lowe in a moment – the job of the Scrutiny Management Committee will be to scrutinise the activity of that particular review. But, in any event we were going to do a review on this as part of economic policy. I give way to Deputy Lowe.

2020 **Deputy Lowe:** Thank you, Deputy Green.

It just seems there is a little bit of confusion, really, around the area about P&R and Deputy St Pier tried to clarify that. Home Affairs does not have responsibility for population policy. It operates the Law, like a regulator, strategic population matters belong to P&R.

2025 **Deputy Green:** Exactly, and in those circumstances the first two things, the first two bullet points should be the responsibility, in my opinion, solely for Home Affairs to look at that. You are quite right the third bullet point would be the responsibility of P&R but not the first two points.

In those circumstances, sir, I do not think that I can support this amendment for the reasons that I have given before. Oh, I am giving way to Deputy Fallaize. *(Laughter)*

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Deputy Fallaize: I am grateful to Deputy Green giving way.

Would Deputy Green not agree with me that what the President of the Committee for Home Affairs just said is plain wrong? The Committee for Home Affairs' mandate says:

To advise the States and to develop and implement policies on matters relating to its purpose, including: the new Population Management Regime, once introduced;

2035 To advise the States and to develop *policies* in relation to the new Population Management Regime, once introduced. How that can be interpreted as 'the Committee for Home Affairs is not responsible for population policy' is beyond me.

Deputy Green: Ah, when you put it like that, it would appear you are correct. I have nothing further to add, sir.

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Deputy Lowe: It is the Law. We do not operate the Law, that is Policy & Resources, that is what I actually said.

The Bailiff: Deputy Kuttelwascher.

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Deputy Kuttelwascher: Sir, I just need a little bit of clarity here.

2050 Deputy Brouard said, oh yes, this is a wrecking amendment as regards the effect on the others. Right at the beginning of this debate on the amendment Deputy Ferbrache asked whether it was, and the initial response was that it was not. More than one other person has suggested this is a wrecking amendment. So could we have one more bit of advice maybe from HM Comptroller? If this were to pass, would it be pointless in laying the rest of the amendments, in that you would end up with a mess if they were all passed? Precisely, a mess.

Thank you.

2055

The Bailiff: Comptroller.

The Comptroller: Sir, I am not sure it is a legal issue, but I would just make a number of observations.

2060 It is not unusual for committees and former departments of the States to work together on policy letters and reports that are presented to the States. A number of departments and committees have worked together in the past. I had a brief look at the mandates here, it seems to me there is a bit of, I suppose you could argue there is some overlap, but I do not think it is inconsistent for the Policy & Resources Committee together with the Committee for Home Affairs to come back, effectively, jointly with the results of its review.

2065 In relation to the other amendments I would have thought if they are carried it would be possible for those to be swept up together in the same thing, I would have thought, in the same response, so far as they do relate to a review, because, of course, at least one of them is a proposal to direct the adoption of a policy for example, so that is going to weigh different from the matter of review. The others would fit, I think, within a review. I do not think there is any sort of fatal inconsistency, if I can put it that way, if that helps at all.

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The Bailiff: Deputy Trott and then ...

Deputy Fallaize: Sir, can I ask a supplementary question of HM Comptroller?

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The Bailiff: Are we back to Question Time? (*Laughter*)

2080 **Deputy Fallaize:** It is just that bearing in mind what the Comptroller just said, this amendment proposes that the report following the review would come back to the States during the first quarter of 2019. One of the other amendments, which was listed as No. 1, is to report back before

the end of March 2018, so if the two amendments were passed together, there would be one Proposition that would direct a report back by the end of March 2018 from one Committee, and then another Proposition which would direct the same issue to be reported on by a different Committee in the first quarter of 2019. Now, I mean, technically that may be possible, but surely that is not very coherent.

The Bailiff: Comptroller, do you wish to reply?

The Comptroller: Sir, yes, I am aware ... unfortunately I have not actually got the amendment in front of me for some reason – it is not the Policy & Resources one because it is not actually with my papers. But the second amendment, this is the amendment that has been put by Deputies Roffey and Fallaize. Yes, it is to direct the Committee for Home Affairs before the end of March 2018 to report back in relation to a specific issue. Well, that is a direction to the Committee for Home Affairs, if the States direct the Committee to review and report back it is going to have to, but I do not think that is inconsistent with the general review in relation to the Policy & Resources Committee suggesting together with the Committee for Home Affairs should come back in the first quarter of 2019.

The Bailiff: Deputy Trott.

Deputy Trott: Thank you, sir.

Sometimes this place can be quite odd. This morning is no exception. I cannot remember, sir, whether I thought this yesterday morning or articulated it. But I will tell you, nonetheless, that when this amendment was being put together I said to my colleagues, 'This is exactly the sort of sensible amendment that my good friend Deputy Fallaize would bring.' (*Laughter*) Exactly the sort, and there is much evidence of that, sir, over the last few years, because it is a helpful amendment, that seeks to move us forward.

It is helpful in a number of ways, it is unusual for an amendment like this to be unanimously supported by both the Policy & Resources Committee and the Home Affairs Committee. You would expect the Home Affairs Committee to be jumping up and down and saying you are trying a land grab or something of that nature here. It is nothing of the kind, of course, this is a very sensible solution to a particular issue.

Now, sir, Government is at its best when it is constantly reviewing its policy and those of us that are involved in the administration of this Island know that that happens as a matter of course. However, Government is at its worst when it does not set the processes, the appropriate processes in place to enable that to materialise, and in particular, when it does not set time lines. That is when things drift, and again, those words could have come from my good friend Deputy Fallaize. In fact, I think the probably have over the years.

I thought the Chairman of the Scrutiny Committee's comments were odd, sir. He jumped up at the start of his speech and said, 'Do not do a review so soon after commencing the ordinance' and then he told us that the Scrutiny Committee was intending to do a review on this matter anyway, (*Laughter*) which struck me as somewhat contradictory –

I will gladly give way, sir.

Deputy Green: There is a world of difference between the Scrutiny Committee doing a review of policy and the actual Government Committee responsible for the policy doing a review. The latter creates uncertainty, Scrutiny doing a review is Scrutiny doing its job. There is a world of difference.

Deputy Trott: Well, that is very interesting, because, I think, sir, within the explanatory note there is a paragraph that is well worth reading out.

'Given its coordinating role as the senior Committee of the States, its oversight of social and economic policy, and its role in leading Guernsey's response to the UK's exit of the European Union, the Policy and Resources Committee is clearly in the optimal position to [discharge this function. We are in a position not only to be able to] see the bigger picture in respect of the new Population Management regime, [but assigned by this States] to bring together all Committees of the States ...

to ensure that our external interests are considered, properly assessed and amended as necessary. Sir, far from seeing this as a negative move, this is what should have been suggested from the get go.

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The Bailiff: Deputy Graham.

Deputy Graham: Sir, I suppose I should not be surprised really that the allegations about some dark arts being practised have been going on here in this amendment, but I am a bit of a novice so perhaps I can be excused my innocence, really, about this.

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Members of the States, it may help you to understand the true context of this amendment if I narrated to you, and I hope ... I have not asked permission of those behind it, but I hope they will not object to it if I explain how this amendment came about. I think it is worth explaining because I think it will dispel this dark arts allegation. Also it is an illustration, in my view, of how an adult and mature democracy should be working. **(Several Members:** Hear, hear.)

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Late on Monday afternoon, Deputies Yerby and Le Clerc, gave notice to the Home Affairs Committee that they were thinking of placing an amendment, the essence of which I hope I have got this right, was really that it made sense given the far reaching repercussions that might flow from these policies that it would be worthwhile in a given period of time, perhaps two years, for the Home Affairs Committee to undertake a review, which would really demonstrate what the effects on the Island were in terms of the social environment and also on the economy. Now, at this stage, really, the alarm bells started to ring and they rang not only in Home Affairs but also amongst Deputies Le Clerc and Yerby to the extent that we realised that to conduct a review of the consequences of a new Law and its policies on such a wide area as the economy, and also the social effects, and so on, was really going to be asking far too much of the Home Affairs Committee.

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Okay, we are well set up having gone through policy by policy, provision by provision, of the new Law, we are well able to really run a running audit over how it is progressing. But there is no way that we are really set up to assess the social and economic effects at a strategic level. That was not for us to do. This was really then pointed out to Deputies Yerby and Le Clerc and we came initially to the view that instead of the amendment directing the Home Affairs Committee to come back with the review it might be more appropriate to invite the Policy & Resources Committee to come back as the principal authors or conductors of that review. That seemed to make sense, but of course, there was a recognition that the Committee for Home Affairs would play an essential role in that. In other words, we envisaged really a double act. That suggestion was then put to the President of Policy & Resources, I think this was the chronology of how it happened, and his first reaction on behalf of the Committee was to say well, actually rather than you direct P&R via this amendment, to be the authors of this review, why don't we as P&R take this on? Some of you may view in that some pretty dark arts. I do not know, I did not see them at the time, but as I say I am a political novice.

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I think it is worth narrating this really to dispel any notion that this was a conspiracy to somehow take away –

I will give way.

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The Bailiff: Deputy Kuttelwascher.

Deputy Kuttelwascher: Sir, I thank Deputy Graham for giving way.

2180 He has focused on the dark arts aspect of this, which was never an issue for me. There is the other issue, does this amendment effectively make the rest of the amendments a nonsense if they were all passed together? That is the only issue for me. So, I am quite happy with the explanation of a lack of any dark arts having been played out in this scenario.

2185 **Deputy Graham:** Well, I cannot answer really for one part of your question. All I can say is the motives were as pure as driven snow, and there was certainly no intention to take away from subsequent amendments. I cannot really comment from the legalistic point of view as to whether any of them would likely fall away, or in any way be diminished. I do not have a personal view on that.

2190 I would only say one other thing really on the subject of this particular amendment, and that is really it is very important to emphasise that this is merely a review, but in another form, the Committee for Home Affairs would be conducting anyway at an operational level. The whole essence of the new Law, compared with the Law that it is replacing, is that it is inherently flexible – not flexible in the sense of being all things ... (*Interjections*) not flexible in the worst interpretation of that in the sense that it is certainly not meant to be all things to all men, but it is inherently responsive to what is going on in the wider community. For example, the Population Employment Advisory Panel are there precisely to monitor week by week, month by month, how this is impacting on various sectors of the economy. The beauty of the new Law should it come in, and the policies that go with it, is that they are able fleet-footedly to respond to perceptions as and when the evidence is gathered. I think that is a good example really of how the strategic and the operational can work together. I think really that is the spirit of this amendment and would urge Members of the Assembly to vote for it.

Several Members: Hear, hear.

2205 **The Bailiff:** Deputy Inder has been waiting some time.

Deputy Inder: Sorry, sir, I will be quick.

It seems a fairly sensible amendment to me. It just formalises the review process, which I would have asked Deputy Mary Lowe if it was going to happen anyway.

2210 I cannot get too excited about the responsibility of both Committees, as we have got Committees that are effectively working together, what is wrong with that? We always told that we are working in silos; we are working together on something so what is the problem?

The Bailiff: Deputy Le Clerc.

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Deputy Le Clerc: Thank you, sir.

2220 When I indicated that I wanted to stand it was before Deputy Trott and Deputy Graham spoke, and they have really just reinforced what I was going to say. Deputy Graham has given the outline of the amendment. It was no intention of myself and Deputy Yerby to make this a blocking amendment. It was done in good faith, and after meeting the Committee for Home Affairs we decided that actually we would approach P&R and we are here with the amendment today.

2225 But I think Deputy Trott has hit the nail on the head, when he highlights, from the explanatory note, the co-ordinating role of P&R, and in particular we just do not know what the impact of Brexit is going to bring for us. We do not know whether we will have EU citizens able to come to Guernsey and assist us with the work that they currently do. I think we are predominantly reliant upon EU citizens at the present time. If we recruit from outside of the European Union, we then come under Immigration Controls which add an extra layer of complexity.

2230 I think it is really important with the way things will move over the next 18 months within Brexit that we make ourselves, and keep ourselves, aware of what is going on. So I wholeheartedly support this amendment, and I ask you to support this amendment, because we all need to keep

this review to ensure that this Island is fit to face whatever is coming down the road as the impacts of, not just Brexit but the global economy as well.

The Bailiff: I see no-one else rising. Oh, Deputy Le Tocq.

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Deputy Le Tocq: Sir, I would just echo that. I think it is important today that we send a signal of our Government working together for the sake of the economy, and the success of our Island, and there are unknowns ahead that are outside of our control, but we need to be able to respond very quickly. This new Population Management Regime has been a long time in the making. It is, obviously, a consensus piece that has been put together with compromises, but we have worked towards that. I was involved very much in the last Assembly, and although many of us in this current Assembly have not, perhaps, experienced the amount of work and headache that went in to finding a way forward, I think we have got the best way forward. We need to move forward on that.

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It is true, however, that time waits for no man and circumstances such as Brexit have occurred. I am hopeful that with the changes that will arrive, and changes that will need to happen in immigration, that we can deal with resourcing our economy in different ways in the future. But we need to review that, so yes, this is in a sense a sensible thing that should be happening anyway, but I think it is right that we should have this amendment now that brings together all of those threads, so that this Assembly knows that we are on track to review that in an appropriate timeframe and so that our Island does as well.

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The Bailiff: Deputy Yerby.

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Deputy Yerby: Sir, Deputy Paint just tapped me on the shoulder and said if you agree with Deputy Le Clerc then are you supporting it? I would stand up to confirm that I do agree with Deputy Le Clerc that the process as Deputy Graham described it was very much what happened.

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Yesterday the Committee for Home Affairs had the courtesy to give us a call and let us know what they had in mind, and to make sure we were on board with that. But I believe from what Deputy Roffey has said that he and Deputy Fallaize did not have the courtesy of a similar call, and so what played out behind closed doors with Deputy Le Clerc and me is what is playing out on the floor of the Assembly today, and probably why we are having this to and fro about the need for and the nature of the amendment.

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I do happen to have in my possession an email from Deputy Fallaize in which he said he was about 70/30 in favour of supporting an amendment along the lines of the ones that Deputy Le Clerc and I had drafted. So to oppose the principle of the thing now seems a bit silly. *(Laughter)*

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I would reinforce what Deputy Le Tocq has just said, that it is important to put a marker down that this Assembly is not going to allow this to slip off their radar. That we are not going to implement the Population Management Law and then abandon the Island to its fate. That is the thinking that was very much behind what Deputy Le Clerc and I were doing when we initiated this conversation. It is what we would hope to achieve with any such review, if it were to go ahead.

I would add that if Deputy Le Clerc is supportive and this amendment were to fail, we might seek to lay our original amendment subsequently.

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The Bailiff: Deputy Brehaut.

Deputy Brehaut: Thank you, sir.

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I will be very brief. The question is could we do any of this if this amendment was not in existence, and clearly we can. We can do all of this. So the question then is: is it just that we consider it expedient at this time? Because let's face it, there is a risk that the Population Management Law may not get through, so two Committees, quite understandably, meet to see

how they can assist its passage through the States. So a conciliatory amendment that has been drafted by two Committees looking for a way forward appears to be the sensible thing to do.

2285 But I would say there are already the tools, the mechanisms and the mandates, bearing in mind the review of Government we have not long had, that try to deal with that dynamic, so that one Committee was not given ownership of something that did not sit neatly with it.

2290 But ownership and reporting back is something that does particularly concern me. For those who have got concerns regarding Brexit, it is the staff at P&R who will be managing Brexit. Who within the P&R at the moment staff wise is twiddling their thumbs doing nothing? Who is going to do this review? When, how frequently will we have to, perhaps through Question Time or updates to this Assembly in statements, explain to the States why the review of the Population Law has not been tabled when we all expected it to be? That is the element that concerns me.

2295 I have a concern that we want to appear to do the right thing, which it to coalesce around a conciliatory amendment, well-intentioned as ever, but in fact, we could find that the Population Management Law could be in place for quite some time without a review out there, and then, of course, if you are having a review that leads you into consultation then leads to what?

2300 But I would just make an overarching observation before I sit down. I would ask that SACC seriously consider what we are doing now, which is second readings. This Assembly has moved from a position of agreeing policy, whether it is amended, whether it has been by requête, effectively signed off, then when we get to commencement ordinance, or we get to the legislation phase we then, more frequently than we have ever done before, are opening the debate up again in its entirety, and maybe this Assembly at some time in the future needs to consider whether it is the – I do not know what we call them, whether it is a white paper, or what – however the UK Parliament deal with it, where we have a reading of a Bill, or a States' report, and then we have a second reading, because so much hinges on a commencement ordinance. If you like, we thought we had a tapestry in place, and now we are picking the stitches out of it one by one, and that concerns me.

Thank you.

2310 **The Bailiff:** Deputy Smithies.

Deputy Smithies: Thank you, sir.

2315 As no-one else has, I think I will just comment on Proposition 3 in the amendment, to rescind Resolution 4 on Billet d'État IV of 2015. This amendment has been described as a wrecking amendment: be that as it may, it is certainly a delaying amendment, because that particular Proposition says:

To direct Policy Council to review the impact of population policy on current and future economic growth in Guernsey and report back to the States of Deliberation with its findings no later than July 2018.

2320 Now, I read the explanatory note and I can well understand the argument for rescinding that particular amendment, but if one takes the original Proposition to report back no later than July 2018, and then couple that with amendment 1, which I appreciate we are not discussing now, which requires a report by the end of March 2018, that is a lot closer, and I am not suggesting we kick tin cans down the road as far as Deputy Gollop would like to, but this is a delay of a year on that original Proposition. It seems to me that if the argument is that we need to let this Law bed in and run for a year, well if starts on 3rd April and runs for a year that is well within the 2018 date.

2325 **The Bailiff:** I see no-one else rising. Deputy St Pier will reply.

Deputy St Pier: Thank you sir.

2330 Thank you to those who participated in the debate, particularly, of course, colleagues on P&R Deputies Le Tocq, Trott and Brouard, for just expanding on some of the rationale behind the amendment.

2335 Deputies Soulsby and Brehaut questioned, really, the capacity of P&R to undertake this work. Of course, the reality is that with this kind of work, it will be a collaborative work with the offices with relevant experiences. So the Committee of Home Affairs, in particular, but also I would expect resources from Economic Development would be coordinated by P&R so it would not be P&R staff undertaking all of the work in relation to the review, and that is the pattern that we are seeing increasingly across the work of the States, and I see that as being very much being a positive not a negative.

2340 Deputy Soulsby also questioned why P&R were doing this rather than the Scrutiny Management Committee, but I think that has been dealt with during debate and in particular because of the extant Resolution which Deputy Smithies referred to, and which I will come back to in a moment.

2345 Again, Deputies Roffey and Fallaize I think did protest too much really. I think their argument that P&R have nothing to with this and that the Population Management Regime is entirely a matter for the Committee for Home Affairs –

I will give way.

2350 **Deputy Roffey:** Sir, that is totally misportraying what I said. What I said was I felt it ought to be a cross-cutting exercise involving P&R and Economic Development but the right to political lead should come from the people with the mandate to do it.

Deputy St Pier: I note Deputy Roffey's comment. Really, the question of who leads it I think is semantics. The fact is it is important that the right people are involved and do the work. It is quite clearly within P&R's mandate that we are responsible for quoting the mandate:

'developing ... the States' overall policy objectives;'

2355 That clearly must include population policy, and obviously, population management does sit with the Committee for Home Affairs. But as has been identified by others, in particular Deputy Gollop, you cannot sensibly separate out the two. Hence the suggestion that it makes far more sense to look at it together in the way that we are proposing.

2360 Sir, I think Deputy Fallaize said he is surprised it has taken so long for P&R to, and I am paraphrasing, sort of make this bid, this grab for power. I think Deputy Graham has well responded to that. I am perhaps surprised it has taken so long for somebody to claim that P&R are making a grab for power. But, I think, sir, do Members seriously look at the President of the Committee for Home Affairs and her colleagues and look at them and decide that they are willing patsies to be trodden on by Policy & Resources. I very much doubt it.

2365 Sir, Deputy Green described it as a fudge, but also as a Trojan Horse. I am trying to envisage a fudge Trojan Horse, (*Laughter and interjections*) and I do not quite know what that would look like or do, but it does seem a bit inconsistent to me. It just does not feel consistent.

2370 I think Deputy Graham absolutely described the context very well, and I am grateful for that, in particular drawing attention to the initiative of Deputies Yerby and Le Clerc, which was key to this, and which I did fail to address in my opening comments, for which I apologise, because I think it does help provide the context. So, I am grateful to Deputy Graham, but also Deputies Yerby and Le Clerc for the role they have played in this.

Deputy Kuttelwascher asked, does this mean that the other amendments are pointless? I think that has actually been dealt with. There is no reason why the other amendments cannot be laid. There is no reason why the other amendments cannot be debated and passed.

2375 Deputy Brouard's comment was simply his own political judgement that if this amendment is passed (*Laughter*), then the next amendment in particular is not necessary, but that is his view; that may not be the view of the majority of the Assembly.

Deputy Le Clerc made a very good point in relation to EU nationals and the impact of Brexit, and I think that was worthy of note.

2380 Deputy Brehaut absolutely did make a correct observation that we do have the tools to do this,
we did not need this amendment formally to direct this review, and I think that is it politically
expedient. Well, yes, the two Committees do judge that, in the current atmosphere, it is politically
expedient to do this, to send the reassurance to those that are concerned, that Government is
serious about keeping this particular item on their agenda and under review, and will amend it if
2385 necessary.

Finally, sir, in relation to Deputy Smithies' point. Yes, he is correct that the review of
overarching Strategic Population Policy is effectively being delayed, but there is a reason for that,
and, of course, it is in making it more logical, as I said earlier, to have it linked with looking at the
Population Management Regime, if we do as he suggests, or consider not accepting this
2390 amendment, and accepting the next one, we would then have two reviews running on different
time lines, one for Deputies Roffey and Fallaize, and one for the extant Resolution. That makes
little sense in terms of the efficient use of resource. But also feeding in the output of that review
into the Policy & Resource Plan which, of course, was but a twinkle in the eye of the States'
Review Committee in 2015, if Policy & Resources brings a report in July 2018, as currently
2395 directed, it will not feed into the Policy & Resource Plan until the following July anyway, so the
timelines make much more sense given the changes which have taken place since that extant
Resolution.

I hope that does explain the position to Deputy Smithies, and gives him some reassurance that
enables him to support this amendment. As indeed I hope all other Members will do, sir.

2400

The Bailiff: Members, we vote then on the amendment proposed by Deputy St Pier –

Deputy Lowe: Can we have a recorded vote, please?

2405

The Bailiff: There is a request for a recorded vote.

The Senior Deputy Greffier: This session, sir, the voting begins with the South East.

There was a recorded vote.

Deputy Roffey: Mr Bailiff.

2410

The Bailiff: Deputy Roffey.

Deputy Roffey: While that is being formally counted, can I seek your guidance because,
obviously, it was passed. As the person laying the next amendment, would you like me, together
with the Comptroller, to formally change Proposition 2 to Proposition 3 (**The Bailiff:** Yes.) or do
2415 you just regard that as a consequential we can wrap up at the end.

The Bailiff: I think that is a consequential we can wrap up at the end; it applies to the further
amendments.

I was going to say if anybody feels that their amendment has now been wrecked and wishes to
consider over the lunch hour whether they need to amend their amendment, then they have the
2420 lunch hour in which to do so.

Deputy Roffey: It has been done a mischief, but not totally wrecked.

Carried – Pour 27, Contre 12, Ne vote pas 0, Absent 1

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

2425

The Bailiff: Well, Members, the voting on the amendment proposed by Deputy St Pier, seconded by Deputy Lowe is 27 in favour, with 12 against. I declare it carried.

We will resume at 2.30 p.m.

*The Assembly adjourned at 12.34 p.m.
and resumed its sitting at 2.30 p.m.*

**Committee for Home Affairs –
Population Management (Guernsey) Law, 2016 (Commencement) Ordinance, 2017 –
Debate continued**

2430

The Bailiff: Members, we will move on to the next amendment: the one that is marked amendment 1, to be proposed by Deputy Roffey, seconded by Deputy Fallaize.

Amendment 1

To amend the Proposition as follows –

(a) by numbering the Proposition as "1.", and

(b) by inserting the following Proposition immediately thereafter –

"2. To direct the Committee for Home Affairs, before the end of March 2018, to –

"a. review those provisions of the Population Management (Guernsey) Law, 2016 and any associated legislation, which define the categories of persons who are regarded as 'Permanent Residents' for the purposes of the Law by reason of birth within Guernsey or being, or becoming, first resident in Guernsey as minors, and

"b. report back to the States by way of submission of a Policy Letter, together with suitable Propositions, recommending amendments to the Law and any associated legislation, which will

have the effect of ensuring that for the purposes of qualification as a 'Permanent Resident' under the legislation, all children born in Guernsey are treated equally and all children first resident in the island as minors are treated equally."

Deputy Roffey: A shame it had not been amendment 1 in my view, but there we go!

2435 Mr Bailiff, there is actually very much I like in this legislation that we are being asked to activate, and some things that I do not. I will get on to those in general debate on the Commencement Ordinance later this afternoon or tomorrow or Friday or whenever that may be.

But there is one aspect of it which I find simply unconscionable, and I use that word in the literal sense.

2440 Not many weeks ago now, we passed the first phase of our Policy and Resource Plan. I think the vote was almost unanimous. I seem to recall Deputy Leicester Queripel voted against on some point of principle I did not fully understand at the time, but I suspect that –

A Member: Were you listening? *(Laughter)*

2445 **Deputy Roffey:** I was listening – and listening and listening! But I suspect that even he would not negate one of the high level principles that were set out right at the beginning of that plan and in plain English. What did we sign up to? We signed up to promoting inclusiveness and equality. Inclusiveness and equality. Fine words. But, Mr Bailiff, fine words butter no parsnips.

2450 Here we are, just a few months later, about to bring into operation a law impacting fundamentally on Islanders' lives, which absolutely reeks of inequality. If we do that un-amended, or without further amendment today, then, in my view, our much-vaunted Policy Plan really will have fallen at the first hurdle.

2455 How did we find ourselves in this position? Frankly, I lay the blame squarely at the door of the last States and of the Policy Council, in particular. To be fair, it is quite true that, back in 2003, their first proposals in this regard did treat all Guernsey-born children equally. So, two cheers for that.

2460 However, their huge error was to propose an increase in the qualifying period for the Guernsey-born children of qualified residence from the 10 years that exist under the current Housing Law, to 14 years. That was a massive mistake. **(A Member:** Hear, hear.) Even the current Rule can create difficulties at times for local families who want a residency break to pursue their careers outside the Island.

2465 If anything, the qualification criteria should have been made easier, bringing down the residential period required before gaining permanent resident status from 10 years to eight, or maybe even five. Instead, by insisting that it should become harder for local children of Guernsey families to qualify, the Policy Council, and I have to say endorsed by the whole Assembly, acted wholly unreasonably. Deputy Fallaize is shaking his head. The whole Assembly by a majority acted wholly unreasonably and thereby stirred up a totally predictable hornets' nest of resentment and vocal opposition.

2470 I was part of that opposition. I objected loud and clear to the move from 10 years to 14 years. Alas, it was not my voice that the, by then clearly spooked, Policy Council listened to. Rather, it was a few hundred very angry people who demanded an illogical and unfair set of Rules, based on impossible to define concepts of families either being really local or fairly local. They capitulated to that lobby, knowing full well that it was plain wrong.

2475 A low point, in my view, in Guernsey's system of representative democracy, where each Deputy is supposed to look into matters in depth and use their own judgement on what is right and what is wrong and not simply to blow with what they perceive as the strongest political wind at the time.

2480 I hope Members have all read, I am sure they have, both the 2013 Policy Letter and the subsequent 2014 Policy Letter brought to this Assembly by Policy Council. It was plain as a pipe staff that the Policy Council did not really believe in what they were proposing in 2014. They were just capitulating to an angry lobby group.

2485 Let us look at a few things that the Policy Council said in that 2014 Report. Well, firstly, they were really miffed that those objecting to the proposed population controls at the 11th hour had not engaged when they were first being formulated, despite all Islanders being urged to do so. Well, what is new? That is how it works in Guernsey, isn't it? We have seen a fair bit of that over the last few weeks, as well.

But, secondly, they said that this lobby group mistakenly thought they were somehow having something called birthrights withdrawn. When, actually, no Housing Law since the Second World War had ever awarded anybody any birthrights.

2490 Thirdly, they pointed out that the calls from the lobby group to define really local as families who 'had the stamp in their passport' were utterly misguided. British citizens from Guernsey, they have that stamp in their passport and do so if they do not have a parent or grandparent born in an EU country, be that the UK, France or Germany. So, if their family originally hails from Guatemala, India or Mongolia, they are really quite likely to have that stamp in their passport.

2495 Yet, we were being told by the angry lobby group that these very families should be regarded as more Guernsey than other Guernsey families.

Sir, it was a campaign rooted in lashings of righteous anger but, I am afraid, not in any form of logic whatsoever. The Policy Council said as much. In the 2014 Policy Letter, they say of the campaigners, and I quote, that their views 'may or may not be logical'. From which, read not logical at all.

2500 They also pointed out that the revised proposals could be seen as divisive. By golly, they were right there, and that they created, for the first time in the modern era, the ability for people taken from Guernsey as babies to return in their old age and retire here, with the obvious impact that would have on our hard-pressed public services.

2505 But then, having made all of those points, they supported the proposals anyway. They knew full well they were wrong, but they simply did not have the backbone to stand up to a strident lobby group.

2510 How have these new proposals, between 2013 and 2014, been formulated in reaction? You know, there were pitchforks up there. How did the States deal with it? They devised new proposals in a series of emergency workshops for Deputies. What a way to try to devise something as complex as a population control mechanism. It is almost as daft as using a series of Deputies' workshops to devise something like, I do not know, secondary or tertiary education systems. *(Laughter)*

2515 The result was shocking. I tell you what, if one group of Islanders who did not realise what was happening until the 11th hour, then got angry, I predict that is as nothing to the fury that will be unleashed when other Guernsey families realise, too late, that they are being treated less favourably than the family next door. Because, although they may be a well-established Guernsey family, they are still not, quote, 'Guernsey enough'.

2520 Now, I could quote lots of examples to prove that point, but I will limit myself to just one. Let us consider a baby who is born in Guernsey in the future, who is the fourth generation of their family to live in this Island, because their great-grandparents came here as essential workers to do things like teaching in our schools or looking after us in the PEH. Bringing with them their infant children, who go on to be, I was going to say grandparents – we are talking about one grandparent, we are not talking about an incestuous family here, but you get my point – of the baby that we are talking about who, in turn, perhaps 30 years ago, had then two locally born children, one of whom would go on to be the parent of the child. A fourth generation child of people who actually came here because we needed them, because we wanted them to come here, because we needed their skills. And, yet, we are saying, 'No, even onto the fourth generation, you will not be regarded as local as the house next door.'

2530 What sort of despicable discrimination is that? We simply have to make this law more equal in its treatment of Guernsey-born children.

Remember our solemn pledge, in the Policy & Resource Plan, to pursue equality? If Members are really going to live with that level of patent unfairness and inequality, then I have to say to

each one of them I am disappointed with them individually and I will be hugely disappointed with this Assembly collectively.

2535 It is not all just about *Guardian* reader, if you still can, ethics and morals; it is about pure practicality. We keep being told we need to attract some key workers here. Yes, come and help us out with our demographic and economic challenges, but it will only be on the fifth generation that you will be regarded as equal with us. What kind of message is that to be sending out?

2540 Of course, there are lots of different ways in which we could level the playing field and make this Law fairer. One, would be to give birthrights to all Guernsey-born children. Any baby born in Guernsey automatically has permanent residency. I do not favour that, for the very simple reason that I agree with what the Policy Council said in 2014. I do not think that, with the demographic challenges we have facing us, a child that left as a toddler and has never been back should have an absolute, guaranteed right to come back in their seventies and retire in Guernsey and put strain on our social services. I really do not believe that is right.

2545 Rather, I think they should have to apply for a permit, with their return being considered, taking into account the issues that will be facing the Island at that time and which we cannot see now. Will there be adequate housing for the population who actually stayed here and made their lives and careers here? Is the size of the population at that time such that the infrastructure is struggling to cope and how are we managing to deal with the huge demographic issues we all know we face?

2550 Others may disagree with me and be keen on the concept of birthrights. Fine. If so, then they surely have to be provided to all locally born children of local families. At the moment, as set out in this legislation, they are not. They are simply not.

2555 Deputy Lowe said in her opening this morning that, if we wanted to change the Law, we should say what we wanted in its stead. Okay, I will say that in my personal view we should give all locally born children permanency after birth and a period of, say, five or eight years. I think that would be a very good compromise. It is more generous than has existed in any Housing Law hitherto. It is treating everybody in exactly the same way and yet is not, by circumstance, conferring the permanent right to return on any baby born over a transient resident of Guernsey who happens to give birth here, because they will never make that five or eight-year qualification.

2560 It would also, if we did it in a period of 20 years, give local families the ability to pursue their careers outside the Island and still be able to come back without jeopardising their children's status.

2565 But, I am doing that because Deputy Lowe said there was an onus on us to say what we would put in its place. But the amendment very specifically does not propose a single solution because I think to do that on the basis of an amendment to a commencement ordinance would be irresponsible.

2570 I think these are deep matters. I think that we do need a full report before deciding and that is exactly what this amendment asks for. Does this amendment go further than the main Proposition? Well, you have already ruled on that, but I do not dispute that for a second. Clearly, it does. But that is no reason not to debate it.

2575 That Rule was brought in to prevent this Assembly making rash decisions that they would regret later. This amendment does not do that. It simply calls for a report and proposals, which Members then could consider at their leisure, with the proper information before them.

2580 I carefully drafted this amendment in such a way, I do not think any single Member of this Assembly should have reason to object to it. Because, if it is inserted, I think each Member will be able to vote according to their conscience. If you actually want the Law brought in now and have no problem with the discriminatory provisions in it, as far as birthright is concerned, then you will vote in favour of Proposition 1 – not one, any more, it is going to be 2 and 3 – and against Proposition 2.

If you want the Law brought in now, but would still like a review of this particular element of it, then you would vote for 1 and 2. If you were so appalled by this discrimination that you cannot vote for it until it has been addressed, then you will vote against 1 and in favour of 2. So, nobody

2585 will have a reason to vote against the amendment, but they may have reasons to vote against parts of the Propositions that have been inserted.

Before we left this morning, Deputy Brouard said that, basically, this amendment was blown out of the water by the amendment that was passed this morning. I could not disagree more, actually. What we agreed this morning was to ask, led by P&R because of their over-reaching vision of everything that happens in the Island, huge issues like the economy, to look at the impact of this Law.

2595 There were a few things that were mentioned that they could include in that, one of them was qualification rights. If we take that out, through passing this amendment, put it back where it rightly should be, because this is not talking about the big economic issues, it is talking about something very specific, who should qualify under the Law and how, back where it is, it would allow that review that we have already agreed to disregard that point and concentrate on what it should be concentrating on: how is this new legislation impacting on our economy, on our society and everything else?

I actually think the two are very complementary.

2600 Finally, let me just say this. When I first raised my concerns about this, I have raised them over the years, but when I first renewed my concerns a few weeks ago, the first people who told me that they shared some of those concerns all had strikingly Guernsey names. Ferbrache, Dorey, Le Tocq, Brehaut, Fallaize. Well, I have to say, I think, in Deputy Fallaize's case, I am not sure, I have not looked in his family tree, I think his mother may have been a Falla. So, that makes him probably more of a Spaniard than a Guernseyman, really. *(Laughter)*

2605 Nevertheless, leaving that aside, I have not quite got the heritage of then. The Roffeys only came here in the 19th century, when a forebear of mine fell in love with a local girl. I do have local roots through that route! He fell in love with a Guernsey girl and swapped being a sailor who was helping to export granite from St Sampson's to actually having a permanent job there and settling in the Island instead.

2610 But my point is this is not an issue that should be splitting us between those of us with huge, long Guernsey roots and those of us that have come more recently. Our opinions should not be based on that. Rather, it is this legislation itself that seeks to divide us into sheep and goats. How destructive is that? Surely, every family who makes this precious Island their home, that actually works hard to support its community, develop its economy, is deserving of equal treatment and equal respect, are they not?

2615 I really do not want to create ... I cannot vote for a Law if you leave it as it is and want to create first, second and third-class Guernsey citizens. Yet, currently, that is exactly what this legislation does. So, here are we, who a few weeks ago put equality at the heart of our policy programme, and we are about to endorse it. In my view, that would just be truly shameful. I would be ashamed of this Assembly. *(Applause)*

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

2625 **Deputy Fallaize:** Yes, sir, and I reserve my right to speak.

Although, I would like to speak quite quickly, but I think Deputy Lowe might want to speak next.

The Bailiff: Deputy Lowe.

2630

Deputy Lowe: You want to hear my speech first, Deputy Fallaize?

Deputy Fallaize: Yes.

2635 **Deputy Lowe:** Indeed.

I am one of the relatively small number of those here today who have been a serving People's Deputy throughout the entire life-cycle of the development of the regime the Committee for Home Affairs is today asking the Assembly to bring into force.

2640 I, along with a handful of others here today, can well recall the formation of the Population Policy Group in 2008, the Island-wide consultation in 2011, the approval of the guiding principles in the new regime in 2012 and then the detailed proposals and lengthy debates in the Assembly in 2013, 2014 and 2015.

2645 Sir, those processes resulted, in 2013, in the Assembly approving a population management system that did not differentiate between one child or another, based on where they, or their parents, nor indeed their grandparents were born.

The 2013 debate was not a simple one. How children gain residence rights always has been and always will be an emotive subject. There were a number of amendments seeking to lower the qualification period based on a child's parentage, or raise it to the children of Open Market families, all of which were defeated.

2650 Based on the outcome of the 2013 debate, all children were going to be treated equally under the new Law. It did not matter that the baby in bay 1 on Loveridge Ward was born to a Mummy Le Page and Daddy Le Tissier, whose connections with the Island could be traced back to the 15th century and that the baby in bay 2 was born to Mummy Smith and Daddy Jones, who had recently moved to Guernsey to work. The States voted on and voted for a system that would see both
2655 babies have to serve the same qualification period before they gained what the new Law refers to as 'permanent resident status', the lifelong right to live in Local Market accommodation in Guernsey.

2660 So, there we were. In 2013, having simplified and standardised all the complications associated with the 13 qualification routes under the old Housing Control System, the Assembly agreed that the Population Management Law would have just one qualification route. Job done.

But we were not done. The community did not like it and, in the months that followed, it became clear that we were not just talking about little pockets of our community feeling a bit unhappy; the concern was widespread and deep-seated. (**A Member:** Hear, hear.)

2665 So, back we all went to the drawing board. Briefings and workshops where we were, as People's Deputies and, having heard loud and clear from the people we represent, worked through this type of family scenario and that type of family scenario and tried to find a new way forward.

2670 We did find a way forward. We settled upon an alternative that reflected, we hoped, what the people we all represent wanted. And then the Population Policy Group checked it and if we had got it right. A leaflet was posted through every front door in Guernsey, setting out what the revised proposals would look like. There were public presentations, too.

Then, in July 2014, the Policy Council's revised proposals were put to the vote in this Chamber and the relevant provisions of the Population Management Law reflect the outcome of that debate.

2675 Sir, I accept that, on a subject as emotive as this, we are never going to please all the people in our community. Nor are we going to please everyone in this Assembly. But when it comes to how children born in or brought to this community gain residential qualifications, we have already had this debate. Twice. We need to move on.

2680 When it comes to – I cannot even say the word now! – procrastination and indecision, we all know that this is the worst States ever and every States that follow us will be the worst States ever, too. But this Assembly truly will deserve that label if we continue to insist upon going over the ground we have already ploughed over twice.

2685 There will be some here today who question whether treating children differently because of their place of birth, or their parentage, is human rights compliant. They might question whether this aspect of the Law leaves us open to and vulnerable to a successful challenge on those grounds.

2690 I have political colleagues in the Assembly today whose experience and expertise on such matters is far greater than my own lay knowledge on that complex subject, but I will say this: do we really believe that our eminent Law Officers and the legislative drafters and litigators in their Chambers would not have stepped in to advise us against this course of action if concerns as worrisome as human rights compatibility existed? Do we really think that the legislation would have received Royal Assent if that were the case?

2695 We need to be very careful before we start calling into question the long-established and robust processes in place, both here and in the UK, that serve to ensure the legislation we enact complies with our human rights obligations.

2700 While I am on my feet, it would be remiss of me not to make it absolutely clear to the Assembly that voting for this amendment would have far-reaching consequences. Our Committee deserves better than for us to introduce a set of Rules on something as fundamental as how our children gain residency rights, if those rules already have a wrecking ball hanging over them.

Not only would that wrecking ball be hanging overhead, but we would know, beyond doubt, that the wrecking ball is destined to fall and, when it does, it is destined to crush the provisions in the Law that deal with how children gain residential qualifications.

2705 I say this with such absolute certainty, because if this amendment is successful, this is precisely what will happen. This amendment seeks to place the Committee for Home Affairs under an obligation to, and I quote, 'report back to the States by way of submission of a Policy Letter, together with suitable Propositions, recommending amendments to the Law'.

2710 This amendment does not say, as might more reasonable, if you subscribe to the way of thinking of those placing the amendment, to consult and report back its findings. No, we would be obliged to report back, recommending amendments to the Law.

We have already agreed an amendment today that means a review will happen, but that review does not prescribe the outcome before we even get started. Make no mistake, this amendment is dangerous. It leaves no room for our community, whose children and grandchildren we are affecting, to conclude that they are happy with the Rules the way they are currently set out in the Population Management Law.

2715 This amendment presumes that the authors must know best and that change must follow. This, despite the process I have already spoken about, making it very clear that the community have already had their say on the subject and have been listened to.

2720 Are we, as the Committee for Home Affairs, but also as People's Deputies, expected to come back recommending amendments to the Law, even if that is not the will of the people? I certainly hope not.

I urge the Assembly, in the strongest terms, let us not bind any review to a pre-ordained outcome. Let us allow the Law time to bed in and review it properly. Let us also recognise the strength of feeling there is in our little Island on this big subject and make no attempt, at this unthinkable late stage, to sign up to a journey down such a dangerous and prescriptive path.

2725 Sir, I urge the Assembly to vote against this amendment.

The Bailiff: Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

2730 Deputy Roffey referred to my familial background and it is true that I can trace both sides of my family back in Guernsey to at least the 18th and, probably, the 17th century, which I think makes us probably nearly local and probably accounts for the difficulty I always had learning to walk upright!

2735 My children would benefit and, in the future, children in identical circumstances to mine, would benefit from this particular part of the Law. Under the existing Housing Control Law, they have to have lived here for a certain number of years in their first 20, I think it is, before they, in effect, enjoy permanent rights. But this provision would give them permanent rights at birth.

2740 I also have very close family members who are in the opposite position, where this provision would benefit them and what I am trying to move us towards, would not benefit them, in the sense that they have long-standing ancestral connections, if that is the right term, were born here but left at a very young age and are now adults and do not have permanent residency rights.

2745 I say that, partly, to sort of declare an interest. To confirm that I would be voting against my own familial interest. But also, because I want to say something, obviously through you, sir, to those Members of the States who were not born in Guernsey. When we debated this, as Deputy Lowe said, more than once in the last States, I know that there were some Members who were not born in Guernsey who left that debate having been made to feel like second-class citizens. I do not say that that was remotely the intention of anybody who spoke, but I do think it is important to make that point, as a local person, at the outset.

2750 Every Member of this Assembly was democratically elected and has a right to be here, every bit as much as any other Deputy. I do not want to hear in this debate anything about people voting one way or the other because of their own place of birth, or their own familial circumstances. I think that pollutes the debate and it is unnecessary.

2755 Two further things, before I come to the main reason for my seconding this amendment. We are, as Deputy Roffey has said, discussing rights which have not existed, at least, for decades. I do not know what the position was before the Second World War, I doubt there were very many controls at all, because the whole profile of the Island's population was very different. But, for decades, there has not been this permanent right to residency at birth.

2760 The second point is that, obviously, this provision creates absurd anomalies. A person born here who has all of their life here, all of their connections here, could end up with, in effect, class two residency rights. A person born here who leaves at a very young age and may, years later, barely be able to find Guernsey on a map, enjoys class one residency rights – permanent residency.

2765 I used the terms class two and class one deliberately, because that is what we will be creating. Some children born in Guernsey and spending their formative years here will have superior residency rights and other children, also born in Guernsey and also spending their formative years here, will have inferior residency rights.

These are the sort of anomalies created by this particular part of the legislation which we are being asked to commence from 3rd April.

2770 That is my main objection. I absolutely despise the idea that children born in Guernsey into local families should be divided and that, at birth, some Guernsey children should have first-class residency rights and other Guernsey children should have only second-class residency rights.

2775 I do not think it can be right to draw a distinction between these children based entirely on where their parents or grandparents were born, perhaps 25 or 50 years earlier. It is certainly discriminatory, it is certainly divisive. I would go further than that and say it is actually quite distasteful and quite nasty.

There is a sort of semi-nationalist fervour underneath it, where there is almost an attempt to test the purity of people who are obviously equally local, to try and test, just as Deputy Roffey said, whether they are very local or whether they are fairly local. I will not say any more about that, but that is how I feel about it.

2780 I accept that there are certain rights which ought to go with being born in Guernsey. We have that now in the Housing Control Law. We are familiar with it. I think most of us accept it and I go along with it.

2785 I think people who have built up strong personal connections should be granted an easier route to permanent residency. But, other than in a few exceptional cases, people's connections are built up by where they go to school, where they make friends, where their family life is, where they spend their formative years. It is not dependent on where their grandparents were born.

I think of friends of ours who were born in Guernsey and whose parents, though not born in Guernsey, came to live in Guernsey years ago. These Guernsey-born friends have children the same age as our children, 10 and seven. Born in Guernsey. Living in Guernsey since the day they

2790 were born and all their closest family connections are in Guernsey. Yet, under this regime, our children and the children of our friends are divided. Ours have first-class residency rights and theirs have second-class residency rights, simply because of the birthplace of their ancestors. Or, to put it another way, because they are considered insufficiently pure in terms of their localness.

2795 We received an email last night, which asked us simply: birthright or betrayal? My answer to that is that, for children born in Guernsey, who spend their formative years in Guernsey and, indeed, whose parents may have been born in Guernsey, in other words children every bit as local as my children, for those children it would be a betrayal of them to give them second-class residency rights only and they are local children.

2800 We are talking about children born in the same place, who have lived in Guernsey for the same length of time, been to the same school, possibly been in the same class, the same football team, the same Brownie group, have the same group of friends, the same birthday parties. We are going to discriminate between them, to divide them, on the basis not of their own lives or their own place of birth, possibly not even on the basis of where their parents were born, but possibly on the basis of where their grandparents were born.

2805 I will give way to Deputy Trott.

Deputy Trott: I am grateful to my friend, sir.

2810 Would my friend accept that that is precisely what happens currently, with regards the EU? There are Members of the States, of course, who do not have a parent or grandparent that was born within the EU, which as consequence, are not allowed to work in the EU. It is common practice throughout the EU to look at the genetic line.

Deputy Fallaize: I am only too pleased to give way.

2815 **Deputy Ferbrache:** Would Deputy Fallaize agree with me, that so what in relation to Deputy Trott's point? Who cares what happens in the EU? We want to do what is decent, right and principled for Guernsey? *(Applause)*

The Bailiff: Deputy Fallaize.

2820

Deputy Fallaize: I thought we were all meant to be committed Brexiteers, now, anyway.

2825 The point Deputy Trott misses is that where those regimes exist in Europe, they exist for nationals of those countries, irrespective of where they are born. It is not a question of you have to be born in Country X and then have an ancestral line, if you have a long connection, you can be born in the middle of Africa and you would still have a permanent residency right. That is what tends to be associated with those sorts of regimes he is talking about.

2830 We are talking about a completely different set of circumstances in Guernsey. The analogy is not just loose, I think the analogy he draws is false. I agree with Deputy Ferbrache. Whatever is being done elsewhere, in terms of residency rights, should not be our primary concern. We do need to do what is right for Guernsey.

2835 I think what is misunderstood, or has been, to some extent, misunderstood in this particular narrow field of this debate, is that there is a sense that we are talking here about local children and non-local children. But we are not. We are talking about local children and local children. This is not about giving preferential rights to local children, because this is deliberately ensuring that some local children have second-class residency rights.

I want to grant reasonable routes to permanent residency for people who have established and strong personal connections in Guernsey, but I want to do it through their own lives and their own experiences. Preferably not through their parents' lives and certainly not through their grandparents' lives.

2840 I am sad to say that I think we will be living in a slightly less pleasant place if we start trying to draw totally artificial divisions between children at birth when they should be treated equally.

We are told, again today – as we were told in, was it June 2014, I think Deputy Lowe said it was debated most recently? – that this discrimination is what the public want. To resist this idea is to set oneself up against public opinion, to become a sort of enemy of public opinion. Deputy Lowe, 2845 in the lead-up to this debate, when she was asked what were the reasons for this provision being inserted, quite openly said, ‘I am sorry, I cannot offer any rational arguments, we are just doing it because of public opinion.’

This is a Law affecting quite fundamental residency rights and, yet, we are being advised to disregard the absence of rational argument, to suspend any critical analysis, and instead stick a 2850 finger in the air, see which way the wind is blowing, and move in that direction, accordingly.

I think that is bad government. But, in any event, I challenge this claim that, if they knew the details of the new Law, the people of Guernsey would support the irrational and discriminatory consequences of this part of the Law.

I do not believe for one minute that the average man or woman in Guernsey, Guernseyman or 2855 woman, who is fair-minded and who is reasonable, would support the idea that a child born in Guernsey, to parents who were born in Guernsey and who spends his formative years in Guernsey, should have inferior residency rights compared to a child born in Guernsey who has lived across the other side of the world since the age of six months.

The idea that that is what the public of Guernsey want is codswallop. It is not true. It does not 2860 stand up to any rational analysis.

Most people in Guernsey, if they fully understood all of the practical consequences of this part of the Law, I am convinced would consider it utterly absurd. To wrap the flag of public opinion around it, as Deputy Lowe has, I think is extremely misleading and would be offensive to many proud Guernseymen and women.

Now, Deputy Lowe has already spoken in the debate, but when any other Member of her 2865 Committee speaks, I wonder if they might tell the States about the status of adopted children under the provisions of this part of the Law and how the Law deals with adopted children, perhaps quite possibly children adopted into families with very long ancestral links. Also, how it might deal with children who have grown up in the Open Market.

There are some local families, some families with strong and long-lasting connections to the 2870 Island living in Open Market properties. Now, would children born in those circumstances have the class one residency rights, as I called them? I am not sure they would. I have been contacted by an Open Market resident, who has made inquiries into this, and who has been advised that actually, that child, or presumably the parents on behalf of the child, would need to make an 2875 application, which would be determined on its own merits.

I think it would be useful if we could have some clarification about the position of adopted children and children living in the Open Market on this narrow point. That is a digression, slightly.

I want to touch, briefly, upon the origin of what I think is this very flawed idea. For two or three 2880 years, this has been referred to already, the regime was being developed and there was no thought of dividing locally born children in this way. Then, the States approved the regime in principle. There was some public concern, about, if you like, the balance of rights between what was expressed as local children and non-local children.

At the public meetings I went to, and I went to most of them, the opinions expressed in this regard were all to do with young Guernsey people in the future being able to secure decent jobs 2885 and affordable housing and maintaining the character of Guernsey. The idea of birthright in the way that it is being applied here may have been mentioned on the periphery, but it was far from central to the main concerns expressed at these meetings.

It was about the future economic health and security and prosperity of what were considered local children.

These are perfectly reasonable and legitimate aims and, as a responsible Government, they 2890 should concern us and we should be pursuing them. But it is ludicrous to believe that those aims can be furthered by dividing local children and giving some of them superior residency rights, which their forefathers have never enjoyed in the past.

2895 This is going to do nothing at all to address most of the concerns that were raised at those public meetings about housing and jobs and prosperity and security.

They are the proper concerns, but the way this regime tries to apply the concept of birthright by dividing local children in the way I have described, will do nothing to address those concerns. This is demonstrated, as if any further demonstration were needed, by the fact that the two people who were most prominent in organising that campaign, in recent days, have written to the local media urging the States to reject or defer this Commencement Ordinance, because they do not believe that the legislation before the States does anything to address the central concerns that they were leading on, about protecting what they consider to be local children.

2900 The States may have thought they were responding to the concerns raised at those public meetings. The States may even have created the impression that they were responding to the concerns at those meetings. But they were not.

This is a completely bogus response to what were legitimate concerns.

2910 This is not, in any event, a question of human rights, this is a question of what is right. What is right and what is wrong. Take whatever view one wants about local children or non-local children; I mean the difference between local children and children who come here with non-local parents, who effectively are coming here for the first time. But for goodness' sake, surely we cannot, as a responsible, sensible Government, want to create a division between local children?

Children born in Guernsey, living much of their childhood in Guernsey, whose parents may have been born in Guernsey, all their connections to Guernsey, some of them will have permanent residency rights and some of them will not; based not on what they have done, possibly not on what their parents have done, but based on what their grandparents have done.

The idea that this is a proportionate and accurate response to the concerns of local people and carries the support of the majority of local people is absurd. This is discriminatory, it is divisive, it is unjust and I would be ashamed to be associated with any of it.

Certainly, if this amendment is not passed, I will vote against the Commencement Ordinance.

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The Bailiff: Deputy Gollop.

Deputy Gollop: Thank you, sir.

2925 Deputy Roffey has characterised aspects of the last States, maybe, as being kind of without backbone, blowing to the prevailing wind, which made me think of myself maybe as a jellyfish out on L'Ancrese Common.

Yes, the reality of the situation is that I do not feel particularly strongly either way on this, which might surprise you. We have heard passionate speeches from Deputy Ferbrache, in the media, Deputy Roffey, Deputy Fallaize, but this issue – it is not that it is new to me; it is too old. We have been having these discussions since the days of the Guernsey Association, the 1980s Housing Law, the ridiculous 1960s Housing Law, which would not pass any human rights test, because it defined who was local as to whether you were here on a particular day of the year or not, I believe, rather randomly.

2930 Deputy Roffey has made a lot of play, as have other Members, about the discrimination of three babies born in the hospital together, A, B and C. I grew up in that situation.

2935 Back in the 1970s and 1980s, there were three categories of people on the Island. There were true locals, who were able to live on the Local Market after, I think it was, 10 years; then there were children of licence-holders, who were doctors, teachers, dentists and so on, whose children qualified at 15 years; and children of Open Market people, who initially did not have a gateway at all, but later on the concession in the era when Advocate Langlois led the Committee, got 20 years. But it was not even a differential of five years, as Deputy Ferbrache will remember, it was also one was cumulative and the other was consecutive.

2940 We have lived with discrimination on the Island for a long, long time. That is before we get to Sark and Alderney and those issues.

2945 Therefore, in a way, most of the new Law, although I do not agree with all of its principles and philosophy, was and is an improvement. There was a sophistication.

When it first came to the States in the dying days of the 2012 Assembly, the Policy Council that Deputy Parkinson, for example, was a member of, and Deputy Trott was Chief Minister, initially the proposals were perhaps a little bit standardised. I mean, as Deputy Roffey rightly recollects, the
2950 idea of everybody having a longer qualification period was unfair. What we were doing was we were levelling downwards and there were problems with that.

There was a successful wave of political lobbying in the last States, from some well-known and respected ex-Members of the States, who had serving on Housing and other Committees and who worked with many other people, who, effectively, mobilised opinion that is out there. Deputy
2955 Fallaize appears to deplore some of the viewpoints of the people. It can be seen in a particular light, but I must admit I canvassed myself, or have been aware of candidates who, over many years, who at election times, some voters will happily say, 'I will only vote for people who were born in Guernsey or from Guernsey families.' That view of ancestry is there.

Deputy Trott has reminded us on a point that it is sometimes applied for nationality reasons
2960 for different countries. I believe it is with Canada. I know Germany and France have different criteria from England, but they are based sometimes on so-called blood or roots and so on. Unhappily, it does not make it right, as Deputy Ferbrache rightly says, I believe in Germany you can be born a baby of guest workers and find it extremely hard to qualify, even if you have spent many, many years in the nation. So, the European Union, in itself, does not have a level playing
2965 field. As we know, some Channel Islanders were not allowed to live and work in the EU and others were. They could live, but they could not work without permission.

Of course, there are other examples one could choose, around the world, without being an expert on it. If one looked at Canada, Australia, New Zealand, United States of America, one could probably find groups of people who are defined as indigenous native populations who would
2970 have access to jobs, rights and land rights that others would not have. I am not suggesting that is an appropriate model for Guernsey, but I think, perhaps, some of the thinking behind it was the Population Law was not giving local people enough rights.

Now, of course, Deputy Fallaize is also right. Some people, since then, almost wanting the Law to be postponed; the opposite of some of the other proponents of the view have wished that the
2975 Law could go further and you could restrict the right of migrants who came to the Island, say, to buy property, or restrict rateable value and those wider questions.

Deputy Fallaize is, of course, right, that granting any baby a local right does not necessarily guarantee the person will ever be able to live here if the employment is too weak to offer a good job or if there is no housing available at any income level. But politics was the art of the possible
2980 and it did seem that, given the many changes of the Policy Council in the last States and the dog's breakfast we were making of the population and migration situation, in order to get something through we needed to compromise.

What was agreed by the States was a compromise. It was giving some, not all, local people some notional right based on their long-term connections to the Island. It was a compromise.
2985 Some of us wanted, of course, the 14 years to be reduced. It was reduced to 10 years, but it should have been lower. Many of the principles of the new population regime are flawed, such as the relationship of the Open Market to long-term residency and all those kinds of matters.

What we were doing was a gesture. I know Deputy Green and others do not like gesture politics, but it was a gesture, rather than substantive. I must admit, I did not think we would ever
2990 have this debate today, if I am honest, because I thought one of two things would be likely to – well, one or two possible options, because the second could not happen until we approved the Law. The first option, I believed, that we were very much on the margins of political acceptability with the amendment that we accepted last time around and I thought, 'I wonder if the Ministry of Justice will ask some questions about it?' They did not, it is back with us.

2995 The other thing I thought might happen is that, like quite a lot else in this Law, some which we will come onto later, maybe, there are aspects of judicial review that could come into it, because

Deputy Fallaize's example and others, of one baby who is very much from people who have been here for many generations, who finds him or herself treated different from the family next door, they could and possibly should take this Law to the legal process. An adjudication of it would be intriguing.

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On balance, I have now decided to support the Roffey/Fallaize amendment, but for a particular reason. If you read the amendment in a particular way, it not only might incorporate the Open Market as well as all branches of what we used to call the Local Market but, as most children who come from local or even less local roots, who emanate from the northern Island of Alderney, and also Sark, would be born in Guernsey because of the nature of our hospital facilities being superior, I would imagine that that could incorporate those children as well into it. I think that is, perhaps, another reason to support a review into this amendment.

3005

Of course, the amendment assumes, however bad the new Law may be, that the new Law would come into action, decisions would be made on it and the review would take effect, maybe a year or so later. Yes, I should support equality and anti-discrimination but, I think, if we are committed to that, we should also be committed to a policy of real equality, which would mean ironing out other anomalies and providing more equality of opportunity for all the children born on the Island and not just notional rights.

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The Bailiff: Deputy Brouard.

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Deputy Brouard: Thank you, sir.

My apologies to the House, I have not written a speech because I was hoping that the amendment that we passed this morning, from Policy & Resources and from the Home Affairs, would have actually encapsulated and given a platform for Deputy Roffey and Deputy Fallaize to bring forward their ideas and present them to the review. But, I mention again, we are here for the Commencement Ordinance. We are not re-doing the debate. We have had this.

3020

I am a little bit, probably, vexed is the word. We have had critics around us for years saying not to flip-flop, do not sit on the fence, be decisive in the States, get on with it. We have had 10 years of debate, we have come up with some compromises. Some things are absolutely perfect. Some things are not so good.

3025

But it is a pretty good fist that we have made.

Then, some of these people find themselves in these hallowed walls and, they are now doing just what they warned us against. I say, it is time to put your stones and your bricks away, come with your hands and put your shoulders to the wheel. We have got our policy, we need to put it into action and we need it for all of us.

3030

One thing I particularly do not like about the idea of the review, and it sounds like a review, but it is not, it is a pre-determined result. If it had stopped at paragraph (a) and a little bit of paragraph (b), I would be quite happy. Come back with a report by way of a submission of a Policy Letter.

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But, then it goes on with the killer bit, 'recommending amendments to the Law ... to ensure the purpose of qualification for permanent residence of all Guernsey children are under review'.

It is telling us the result. I would have more sympathy with the proposer and seconder if they had actually come up with some sort of requête earlier on in the term, raised it several years ago, or even brought some wording in that did it. But to actually come now and say, 'have a review and by the way here is the answer to the review', what is the point? Why not just come up with the wording ready to go in?

3040

I do understand, people will have very strong views in certain areas, and they will feel that they have to, no matter how much I would like them to sit on their hands at some stages, they will have to articulate their particular view and that is absolutely right and proper that we have that debate in this Chamber.

3045

I just want to pick up on a couple of things that Deputy Fallaize ... Again, it is a great thing of debate, get a few hares running and make everybody worried. My daughter is adopted, by the

3050 way. Adopted children can either use their birth parents' rights, or the adoptive parents' rights. So, dead. Kill that one.

Something else. Open Market children will qualify in 14 years out of 24 years. It was in the previous, 20 years out of 30. Again, another improvement. It is all making it easier for people to qualify.

3055 **Deputy Fallaize:** Can I just ask Deputy Brouard to clarify something on adopted children? This is a serious point, it is not really a debating point, one way or the other on the amendment, but it is an important point.

3060 **The Bailiff:** I think he is giving way to you.

Deputy Fallaize: I am grateful for that.

Is he saying that what he has just described in respect of adopted children applies for children not born in Guernsey?

3065 **Deputy Brouard:** Absolutely, because the usual pattern is that children come up for adoption within Jersey will come to Guernsey and Guernsey will go up for adoption in Jersey. Yes. I have just had that from the President of Home Affairs –

3070 **The Bailiff:** Is this a point of order or a give way?

Deputy Brouard: I will give way.

The Bailiff: Deputy Graham.

3075 **Deputy Graham:** I am grateful that you have given way.

It is purely in the spirit, really, of giving Deputy Fallaize an answer to two questions that he posed and I really wanted to give an authoritative answer and, clearly, we on the Committee have had to check on this specific point.

You raised your eyebrow when you heard Deputy Brouard's response.

3080 Two aspects to adopted children. They can either get the benefit of their birth parent or their adoptive parents' position and children born elsewhere, but adopted by parents who are ordinarily resident in Guernsey at the time of the adoption will be treated as though the adopted child were born in Guernsey.

I hope that helps.

3085 **Deputy Brouard:** Thank you very much. That is exactly what I was saying.

Let us not have too much, I think Deputy Kuttelwascher uses it, 'conquer and divide' or something, put a few hares running.

3090 Deputy Roffey, I think, in his introduction, was saying about how long it would take for families to qualify. But I have looked at the maps, or the plans, or trees, and it is three generations – not five or four – as far as I work it out. I do not know where that came from.

Deputy Roffey: If I can help, I will.

3095 **The Bailiff:** Deputy Roffey. Is this a point of correction?

Deputy Roffey: Probably not. *(Laughter)*

Yes, it is, actually, because he said it was three generations and not four and I can correct that. In some circumstances, it is four.

3100 If people come here, bringing their infant children, the people who relocate are the first generation, the infant children they bring with them, who were not born in Guernsey, are the second generation; they have Guernsey-born children, that is the third generation, but it is the fourth generation that still do not have a locally born grandparent and, therefore, will not have the fast route to qualification.

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The Bailiff: Deputy Brouard.

Deputy Brouard: Thank you.

3110 I can see that point. It is one grandparent born in Guernsey, one parent born in Guernsey and the child born in Guernsey. That is three in my book.

3115 Actually, Deputy Roffey, in those few words captured the whole point. It is one way to qualify as a permanent resident. There are multiple ways for people to qualify. So, those who have got a strong ancestral line can play that card. Those people that come in to do a job and have been here for a time, it is eight years. For some people in the Open Market it will be 14 years. So, everybody has an opportunity to qualify. It is just that it will take different times for different people.

3120 I do not have a problem with this sheep and goats. People have different positions. People come to the Island for different lengths of time and we say that we are so righteous that we cannot have something divisive between one local child and another, but we are quite happy to take guest workers and tell them, 'By the way, you can come and work for a whole season but you cannot bring your family or your kids', or something like that.

3125 Come on! Are we going to have the Island completely open with no rules, or are going to have some sensible ways in which we can look after our population and ensure we do right by everyone and I do not have a difficulty with having different courses for different people? If you had two children and one child came to you and said, 'actually, Daddy, I would love to have a train set,' and the other child comes up to you and says, 'Daddy, I would really love to have a castle', well, being equal I will give them both a castle. Is that being fair? It is not.

You need to have different routes for different people in different circumstances.

3130 The majority of children will, of course, qualify in eight years of being in Guernsey with a permanent resident. Some will qualify at birth, some will be qualified in eight years' time. I do not particularly have a philosophical difficulty with that and there are some countries in the world that will not allow me in. There are some countries in the world which say I cannot buy a house. There are some countries that say I cannot marry in. There will be different places all over the world where you have different rules. I do not have a problem with that.

3135 What we do, we are welcoming people in, and we are saying, 'by the way, once you have done a certain length of time, you can have certain rights'. I do not have a problem with that. We say that to people coming in for Social Security, we say that for residential care for people in the Open Market, they have to do five years' residency before they get certain things.

Perhaps it is more a philosophical argument, rather than a practical one.

3140 We do have a review, which we agreed to this morning. That is the proper time to do this. It is not to try and do it now on the floor of this Assembly. I think it will put a real pressure on the Home Affairs Department to have this hanging over them, because the writing is on the wall as to which way it should go, according to the prescriptive amendment. I do not think it will get through, even if it comes back later on, but hey-ho, that is my particular view.

3145 All children who stay here are class one. Again, I am at odds with Deputy Fallaize on this. All children will eventually qualify. It will just take different time, because of different routes that they have got here. I do not have a difficulty with that.

3150 So, I would say, please do not tinker. Reflect that we have a review. That is the right time to do this. Do not take away the hard-fought route that people put in for local people to have a slightly different way to get in, in certain circumstances. It does not cover every single local position. Absolutely not. It is just one of the many routes that people can get qualified to this Island.

I just want to pick up on something that Deputy Fallaize says, do not go there about people being second-class citizens.

3155 Some of us here are lucky that we were born here and we have lived here ever since. Other people have made a conscious choice to make this their home. They have actually chosen to come here. What better endorsement for Guernsey than that? I do not see that same divide that Deputy Fallaize does. I welcome people to come in, but there are different routes to how you qualify. Just as I cannot go and work, necessarily, in Europe, I accept that. There are different routes for different reasons.

3160 So, please, do not take away this hard-fought extra route that we were able to put in. It was part of the overall compromise. When you start picking at these seams, eventually you will find an arm will drop off.

Please, reject this seemingly meaningless amendment, but I think it will cause a lot of damage and I will urge all Members: do not vote for this.

3165 Thank you, sir.

The Bailiff: Deputy Paint.

3170 **Deputy Paint:** Sir and Members of the Assembly, there is something said here in this Assembly several years ago, so for the sake of the people that were not here and those of you that may have forgotten, I would like to read it.

It is to do with birthright.

A man does not choose his mother or father. Nor does he choose the time or place of his birth. Yet this birth gives him a place amongst the nations, tribes and clans in the family of man. His birth grants him other priceless gifts. These are the rights of place that are as much part of him as the colour of his eyes, the texture of his hair and the ability to reason. No power on Earth can take these gifts away from him.

No man is born without a country, each one of us acquires the right of a place and of kinship, which they receive from their parents. They in turn receive these rights from their parents that have been carried down through the generations. This is the process by which we inherited land, property, customs and language.

These rights are acquired with a man's first breath and they are confirmed with his first cry. These rights will be inviolate until the day he closes his eyes for the last time and draws his final breath.

While the laws of man may seek to change or deny these words, they neither have the power to remove or withhold what is not theirs to give.

The governments and courts of man can only choose to recognise these rights and reaffirm them. These rights are called 'birthright' and they are as much part of each and every one of us as our right to life, liberty and the pursuit of happiness.

Our birthright is precious beyond words and if we were ever foolish enough to lose it, we would find the path that leads to tyranny ...

3175 Sir, Guernsey people throughout the ages have been generally very accepting and tolerant of newcomers to this Island, as they are today. We all know that we need workers and those with expertise to help run our many tasks and government.

We do not have enough local labour in our community to fill the various positions that are vacant. This is one of the reasons why the Island has been successful over the last 40 or 50 years. We, somehow, have managed to move with the times and keep ahead of the rest of the world.

3180 Guernsey people are now becoming victims of their own success. England, Scotland, Wales, France and many other nations around us ensure that their indigenous peoples are looked after first. All these nations are proud of their history, and rightly so, but their first priority is their indigenous peoples.

3185 All these nations are filled with much larger proportions of locals than we are. So, if there is any attempt to diminish the rights of their own people, it would cause an uproar and politicians would no doubt not be re-elected again in future elections.

So, why should we be different here?

Guernsey, locally born people, are in a new minority. It is still their first home and, unlike other nations who have immediate right of citizenship when born, we do not.

3190 In other nations, a child has the immediate right to its parents' citizenship when it is born, no matter where it is born in the world. I am sorry that Deputy Fallaize neglected to say that.

Any local man or woman who marries a person from anywhere in the world, when that lady comes here, or that man comes here, and their children, they should have immediate rights to live here. But that is different to what Deputy Fallaize is saying.

3195 We are a very small community, of which roughly half are not local, or with local connections going down three generations.

We do not have the number of locals to overturn whatever is decided today if we have to. This amendment appears to me to be supporting the demands of non-locals over local rights.

3200 As my very good friend Deputy Dave Jones used to say, many come here and want to change us to the same as the place they have just left. I am sure they would not do this if this amendment would not have been put forward. It is put forward by two apparent locals.

Any discrimination at all in these proposals, it is by those who have put this amendment forward, against Guernsey's long-standing families. The history of oppression throughout the world is very well noted and documented. We only have to look at events that have taken place in certain African countries to see that oppressors eventually turned in to the oppressed.

3205 Perhaps, that is why so many try to leave and oppress the people where they tried to settle.

The two Deputies who put this amendment forward, through my eyes, should hang their heads down in shame. They have put forward, to try to proliferate their own political views and values, not those of by far the most of the Island's indigenous population. I have had several phone calls asking me to speak against this, so that is what I hope I am doing.

3210 They are actually selling their own fellow Islanders down the douit. (*Laughter*) Absolute shame on them, I say.

Sir, I have gone through many, many countries in my life throughout the world. I never, ever comment on their political system or religion that they practise, unless I am asked. It is not my business, even though I am a politician myself.

3215 I also frown on those that do try to resist what is being proposed. I believe it is quite wrong. I believe, as Guernseymen, very shameful of them.

So many of Guernsey's families and other important history, our culture has been eroding. We have been told that we are in-breds. We are told that we have been responsible for the holocaust by people who know nothing about our history and, what is more, do not even come from this place.

Shame on them. What a shameful thing for somebody elected to this Assembly to do.

What this amendment is doing is direct discrimination against the people of Guernsey. Please do not vote for it. Throw it out.

3225 Thank you, sir, and I would like a recorded voted when this is over.

The Bailiff: I think Deputy Le Clerc wanted to speak.

Deputy Le Clerc and then Deputy Ferbrache.

3230 **Deputy Le Clerc:** Thank you, sir.

I have just got a couple of questions, if I could ask Deputy Roffey if he can, when he is summing up, to give me some answers.

This is on (b), when he is saying under the legislation all children born in Guernsey are treated equally and all children first resident in the Island as minors are treated equally, would that include children born on the Open Market, because, as Deputy Brouard has said, at the moment the proposals are that they would require 14 years' residency out of 24? If he would have some idea of what he would put forward as the number of years of residency before they would become a permanent resident.

3240 I say that because, if it is under five years, then parents, for example, on medium-term employment permits, where would the Law stand when those children or minors and their parents then having rights to continue living in Guernsey because those children have got residential

rights in their own right? Sorry, I am not wording that very well, but I think Deputy Roffey understands what I am saying and if has got some indication of that, that would help me make some decisions.

3245 Thank you.

The Bailiff: Deputy Ferbrache.

3250 **Deputy Ferbrache:** Sir, I did start, but I did not, and it is really following on from Deputy Paint's comments.

I really liked the quote, really liked the quote he gave, although my conclusion is somewhat different to Deputy Paint, whose views I always respect, but I differ from considerably in this particular matter.

3255 I actually think Deputy Roffey and Deputy Fallaize should hold their heads up high (**A Member:** Hear, hear.) in making these points. I do not think they should hold their heads low. I think those who vote against this amendment should very much hold their heads low.

You have got no choice where you are born. You open your eyes for the first time. You have not got a clue whether you are in Thailand, Timbuktu or the maternity hospital in St Peter Port, where I was born on July 19th, 1951. I will be taking you back to 1872 in due course! (*Laughter*)

3260 I give way to Deputy Paint.

Deputy Paint: Sorry to butt in, but would a 1590 direct line suit you?

Deputy Ferbrache: I like Deputy Paint, even if he and I disagree on this matter.

3265 For Deputy Brouard to say, 'ah well, what are you going to do One child wants a train set, you have got to buy two of them a train set, you have got two kids, because they have got to have the same thing'. How banal, how ridiculous, how facile!

We are talking about where a child is born.

3270 It is a point that Deputy Roffey made early on in his speech. One of the early things that he said in connection with your birthright, where you are born etc. was how can you trace things through? When does a Guernseyman, a Guernseywoman stop being a Guernseyman, a Guernseywoman? When do you acquire it?

3275 He read out a list people. We are all Johnny-come-latelies, aren't we? Ferbrache. My lot were here when Noah was building his ark and looking for planks of wood. I am not talking about the gentleman from the Old Testament, I am talking about Noah Le Page in the 15th century when he was building his fishing boat!

He needed it in those days, because he had the foresight to see, in 600 years' time, there would only be two mackerel, there would only be two crab and there would only be two lobsters, so that was all that he could take on his fishing boat called *The Ark*.

3280 So, we have been here a long time. But this is not about who is more Guernsey than anybody else. It is doing what is decent. He talked about discrimination and he talked about inclusiveness and we made that decision, rightly so, and I would have been appalled if we had not made that decision and I am sure Deputy Lester Queripel will vote against the Proposition, he is a decent man, he would be against discrimination and such matters.

3285 So, would we discriminate against a child because of the colour of that child's skin? Would we discriminate against a child because the child because of the child's gender? Would we discriminate against a child because the child had a disability? Of course, we would not.

So, how can we distinguish between a child because one has not got Guernsey parents and Guernsey grandparents?

3290 When we actually look at the legislation it reminded me of something, almost like you see these very clever professors who have got no common sense, that they look at and they trace the hereditary line all the way back. You have got to trace it back through your father's line or your mother's line. You cannot mix and match when you look at it so, for example, you could have a

3295 child who has got a Guernsey-born parent on one side, but his Guernsey-born parents' parents were born in England, they came here as teachers and social workers – we do not want them, do we? They are not doing anything useful, they only lived here for 30 years, they are a second-class Guernsey person! Cast them asunder.

On the other side, they could have a Guernsey-born grandmother but, because you cannot join the two, they are not local. They are not class one.

3300 Who thought that up? How many of the 63,000 people in Guernsey would support that? To me, you are a Guernsey person, whether you have been here helping Noah, giving him his plank of wood so he could build his ark, or you have been here for 10 years and you have put your roots down here.

3305 The indigenous population of Guernsey is the people that make this place their home. That contribute towards its wellbeing.

Johnny-come-latelies like Ferbrache, Brehaut, Roffey has only been here 200 years, we cannot think about them. Fallaize, I do not know about him. We are not sure if he is half-Spanish going back 400 years. Or Dorey, they have not been here very long. They only own half the Castel, but they have not been here very long. (**Deputy Dorey:** Two thirds!) Two thirds, I accept that!

3310 In relation to those people, we are saying, Guernsey people as indigenous as Deputy Paint's heritage, all the people that have voted, we are as Guernsey as Guernsey as Guernsey. And yet we think this is so appalling. It is discriminatory.

It is bigotry and, if I leave here tonight and this amendment fails, I will be ashamed. I will be ashamed to be a Guernseyman. I will be ashamed to be a part of this Assembly.

3315 You might well reject it but, if you do, the majority of you, the majority of the Members who vote against this amendment should hold their heads low and in shame, because it is despicable.

When I see three kids in the maternity ward at the Princess Elizabeth Hospital, I do not give a jot whether one is black, whether one is white, whether one comes from Wales, originally, or the parents come from Wales, or whether they come from St Sampson's. They are all children. This is where they take their first breath. This is where they open their eyes for the first time.

3320 Of course, Deputy Lowe says we have got to get on with it. I do not want to get on with bigotry. I do not want to get on with prejudice. I do not want to get on with discrimination.

I want to get on with inclusiveness. I think everybody knows me and those that have seen me speak here, now and on various occasions, I am not a touchy-feely person. I just want to get on with things. Inclusiveness, to me, is just getting on and doing what is right. All this jargon, all these words, we have heard it.

I think it is appalling leadership, appalling leadership from our main Committee, Policy & Resources, to unanimously say that they support it, you cannot pre-judge a review. You are going to pre-judge a review because it is the right thing to do.

3330 I know Deputy Le Clerc asked of Deputy Roffey, it is his amendment so he will sum up in due course. My own view is, if you are born here to a parent who is ordinarily resident, whether that parent is an Open Market parent, have they been here 30 years or they have been here ever since God was a boy, you are local, you have those rights and, if you live here for a period of five years, then you are local forever, whatever the term, I think it is permanent resident. That is my view.

3335 That may be too simple. I do not see why it should be.

I am appalled at the leadership of the five Deputies who are members of Policy & Resources and they should all hang their heads in shame, because they should not be supporting something like this.

3340 **Deputy Trott:** Sir, on a ...
Thank you for giving way.

Deputy Ferbrache: I will give way.

3345 **Deputy Trott:** Deputy Ferbrache has on a number of occasions in his speech used the word bigotry.

Now, bigotry is intolerance towards those who hold different views to oneself. Is he not demonstrating bigotry in the way he is behaving, sir? *(Laughter)*

3350 **A Member:** Hear, hear.

Deputy Ferbrache: No, I am not. *(Laughter)*

3355 Some will remember a few months ago, Deputy Brehaut and I had a bit of a spat in the States. That was not bigotry. We had a debate, we got over it. I respect his views on various matters and they differ from mine on quite a few occasions and, I think, *vice versa*. It has nothing to do with it. In the heat of the debate, you could say something that you regret. That is human nature, because we are emotional creatures.

3360 But bigotry is to be bigoted against those who cannot defend themselves. I do not know too many two-day-old babies that can defend themselves. I can defend myself. Fifty-two or fifty-three-year-old Deputy Trott can defend himself; 65-year-old Peter Ferbrache can still, just about, defend himself. Certainly, hopefully, verbally.

3365 We talk about dangerous. This is 'dangerous', says Deputy Lowe. I have not got a clue what she is talking about. How on earth is it dangerous to do something that is decent? Has anybody produced any statistics that we could realistically rely upon that show that, if we do not treat all children equally, it is going to be all of a sudden we have got another 20,000 residents?

Even if we had, and I do not think that is the case, I still could not vote in favour of something that is bigoted and unreasonable.

3370 Of course, we have got the fact that this legislation has been looked at by lawyers at the Ministry of Justice, by the Law officers, by Privy Council and even, when the legislation was registered in late June of last year, by the learned Bailiff and 11 Jurats. I do not really give a jot about that. The fact that somebody with a triple first from Oxford says that it is human rights-compliant, the fact that the Law officers say it is human rights compliant, the fact that the Royal Court says it might be whatever it is compliant does not influence me at all.

3375 My version of human rights compliant, and I have been known to occasionally challenge the views of the Law officers, and challenge the views of the Royal Court, in courts more superior than the Royal Court. Sometimes I have been right, sometimes I have been wrong. In relation to that, I do not care even if I am wrong, in relation to my view of human rights. It is not right if it is not decent and I cannot see how this is decent.

3380 We approved, the States of Guernsey approved, a piece of legislation in 2000 called the Human Rights Law. That came into force in September of 2006. There are various provisions, so this is the Law of the land. When you look at Article 14 of the Convention, Prohibition of Discrimination:

'The enjoyments of the rights and freedoms set forth in this Convention shall be secured without discrimination on any grounds, such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.'

So, there you are. You cannot discriminate against somebody – Article 14, part of our substantive Law, has been so for the last 11 years – on the basis of their birth.

3385 Then you turn back to Article 8.1, because the best that you can have in life – Deputy Paint referred to Deputy Jones; Deputy Jones did not have this when he was a boy – was good private and family life. As we know, he had a terrible upbringing and he turned out to be a wonderful human being despite that upbringing.

The best thing that you could have is a good family life, and Article 8.1, says:

'Everyone has the right to respect for his private and family life, his home and his correspondence.'

3390 Sub-law 2 says:

'There should be no interference by a public authority with the exercise of this right, except such as in accordance with the Law and is necessary in democratic society, in the interests of national security, public safety or economic wellbeing of the country for the prevention of disorder and crime, protection of health and morals, protection of the rights and freedoms of others.'

What jurisprudence says is that the state can interfere under an Article 8.1 right, but the onus is upon the state to show that it is one of those factors: disorder, whatever it may be, effectively all the words that I read out. It is a very heavy burden on the state.

3395 But I am not going so far – the learned Comptroller is here, so he will be able to give an opinion if anybody asks him in due course – to say that this Law is, necessarily, not human rights-compliant. But, I think it would be a very, very brave lawyer to say that he or she or they could guarantee that this Law is totally human rights-compliant. If they can, fantastic, we will hear in due course. It will not have influenced me, because it is still not right and it is still not decent.

3400 Of course, we go through the careful legislative process. One of the Ordinances that we are going to have to approve, and we are likely to approve in due course, is an Amendment Ordinance, which is the Amendment Ordinance of 2017 and it is the Population Management (Guernsey) Law, 2016 (Amendment) Ordinance, 2017. Now, that replaces section 6.1 of the current statute that has been looked at by the lawyer with a triple first in Oxford, looked at by the Law Officers, looked at by the Legislative Committee and, if we actually look at the body of the
3405 wording of the Order in Council, that was approved by Her Majesty in Council on 8th June 2016, it says here:

'The Committee have considered the Projet de Loi and have agreed to report that it may be advisable for Your Majesty to approve and ratify.'

When you look at section 6(1) of that particular Law, it has seven subsections. These are the transitional provisions. Seven subsections under section 6(1).

3410 That says if you fall into one of those seven subsections the following people, dealing with transitional situations, are permanent residents.

If you look at the Amendment Ordinance and, bearing in mind, I understand, I have never been to Privy Council, never likely to be, that they do it standing up so they pay particular attention, they are deemed to be in the presence of the Sovereign, but if you stand up you are likely to pay more attention than if you are sitting down. That is why lawyers in court generally stand up.

3415 Of course, it was approved by them. Then we go back to the further wording, on 27th June 2016, before the learned Bailiff and 11 Jurats:

The Bailiff having this day placed before the Court an order of Her Majesty in Council, dated 8th June 2016, approving and ratifying the Project de Loi of the States of Guernsey entitled the Population Management Guernsey Law 2016, the Court, after the reading of the said Order in Council and having heard HM Procureurs thereon, ordered the said Order to be registered on the records of the Island.

3420 Yet, we look back at the Amendment Ordinance, section 6(1) of the one that went through, all this wonderful legislative process, so carefully considered, is now going to be amended before we even bring it into force and it has now got 13 subsections. So, they found another six and it is also got (1A), something which is brand new, like the Veneerings in *Our Mutual Friend* and it reads:

In any case where he thinks it is necessary to achieve compatibility with one or more Convention rights, or otherwise equitable to do so, the Administrator may give notice in writing to a person in a period of that person's ordinary residence and occupation of a dwelling or dwellings shall be treated as having been under or by virtue of a licence or licences of a type described in ...

... various sections of the Housing Law.

So, we have had this wonderfully, carefully scrutinised piece of legislation that is going to be changed materially before it even hits the statute books. That fills me with an abundance of confidence.

3425 So, we go back and we are told that section 3 is completely human rights compliant, absolutely no problems with any of it.

Let me take you back to what section 3 says and the provisions I am going to ask you to look at in relation to sections 3(a), (b) and (e).

3430 This is the one with all those clever professors of whatever it is, tracing back through your genetic line.

The following persons are Permanent Residents:

(a) a person (A) who was born in Guernsey on or after Commencement, one of whose birth parents (B) was born in Guernsey where-

(i) B was ordinarily resident at the time of A's birth and

(ii) one of B's parents was born in Guernsey,

3435 So, you have got to go back through one line, as I said before. Who thought of that? Have the 63,000 people in Guernsey, 45,000 of them are adults, how many of the 45,000 of those who are adults – even if we go back and say 25,000 of those are indigenous Guernsey people like me and Deputy Paint, Deputy Roffey and all the others – there might be 200 or 300 who think that is fine. I would be surprised if the other 24,700 think it is anything other than nonsense, because that is ridiculous. I am surprised the five Members of the Home Affairs Department, or whatever it is now called, five Members of the Policy & Resources Department think that that is acceptable.

Deputy Fallaize: Sir, point of correction.

3440 They do not. Because they did not all vote for it when it was put before the States. Deputy St Pier argued against it and voted against it when it came to the last States.

Deputy Ferbrache: Well, he still may see the light at the end of this debate. I will be surprised if he does, but we will see if he does.

3445 I remember the gentleman who has just interrupted me, and I accept the interruption, sending me an email, because we send lots of emails, they can be all political things about whether Tottenham are better than Arsenal, all those kinds of things, and they are at the moment. He will correct me if I am wrong, but I recollect him sending me an email some time ago saying he attended a meeting some time ago, down at the Vale, where he was booed because he expressed the kind of views that he expressed today. Booed.

Sometimes you have got to say to those who boo you: 'Boo off!'

3450 The Policy Council, or whatever they were then called, because we all changed our titles, one time were against it, as Deputy Fallaize said. They showed the vigour and the courage and the leadership that we expect and did a *volte face* and changed their view. Disgraceful. They changed it. When the guns fired, they retreated over the hilltops and that is, in my view, pretty unacceptable.

Section 3(b) is the other one I said I would refer to:

A person who –

(i) was born in Guernsey [...] and

(ii) completes an aggregate period of eight years ordinary residence in an 18 year period,

And 3(e), a person born in Guernsey, ordinarily resident:

completes an aggregate period of 14 years ordinary residence in a 24 year period,

3460 So, you have got A, B and C. Let us just say they are boys. No discrimination about the boys, because they are all going to play in the same football team in a minute.

These three boys are born in a maternity hospital. We do not have it now, they knocked it down. What a shame. They were born in the maternity ward of the Princess Elizabeth Hospital on 5th April 2017. Their parents live here, because you have got to be ordinarily resident, which means Guernsey is your home. That is defined under section 78(7) of the Law. So, this is their

3465 home. One of them automatically, because he is fortunate enough to have that line back, he is local, *ipso facto*, from day one.

The other one, his parents only came here 30 years ago. They are teachers, social workers, they are doing jobs we are not bothered about, what do we care about them? Eight years. I saw in the paper last week, it had a thing about somebody, great entrepreneurs who came to Guernsey 30-
3470 odd years ago, had their 50th wedding anniversary. They created in Guernsey a world-class business, that is probably promoting Guernsey because it is an ethical business. It has done so much for Guernsey, better than everybody else. Let us say we had them of this era. Somebody came here six months ago, I will not name it, they are going to create a rate savers' business in due course. They are going to create a business which is going to be world-famous. It is going to
3475 bring lots of money to Guernsey, it is going to make Guernsey well-known. Their kids have got to do 14 out of 24.

These three boys, at five years of age, go off to Hautes Capelles to play football. They are all of equal ability. Not as good ability as the former centre forward from the Policy Council, but they play. One of them is already class one local, another one has got to wait until he is eight, until he
3480 is in the second bit of his primary education. The other one has got to wait until they all go off to, let us say, St Sampson's High. He has got to wait until he is half-way through his education at St Sampson's High to be local.

I know, in practical terms, it is probably not going to make any difference. It sticks in my craw that it is so wrong. There will be instances.

3485 Let me give you an example. I said I would go back to 1872. I was born in Guernsey on a Thursday afternoon, so my mum tells me, on 19th July 1951, at about 3.30pm at the maternity hospital. She remembers it. You would expect her to remember it. She had had rather a trying day and it was about 3.30pm, the kids were coming out of school. So, I am a Guernseyman by anybody's definition.

3490 My wife is English and three of my four kids were born in England. Only the youngest one was born in Guernsey.

I will give you the example of one of my daughters. She was born in England when I was 23 and her mother was 23. But, she came to Guernsey when she was five, and she went to three excellent schools: St Sampson's Infants, La Hougette and then the magnificent school that is the
3495 Grammar School. So, she lived here, but she is married to a Frenchman. On that side of the family, there are no French grandparents. Her mother, my wife, is English. So, I am only the Guernsey bit that she could draw. It does not matter. Her children are born.

Let us just say we are doing a 'Peter Ferbrache differing', if you understand what I mean. My daughter, because she was born in England, she has got a Guernsey-born father, but my
3500 grandsons, her children, could not qualify under that provision. Isn't that ridiculous?

I have told you about Peter Ferbrache, born on 19th July 1951, so you can remember that this year, please send me a card, I will not remind you again! (*Laughter*)

In connection with that, my mother was born in Guernsey in October 1932. Her mother was born in Guernsey in 1914. Her father was born in Guernsey in 1907. They go all the way back. My
3505 father's line, he was born in Guernsey in 1928. He had got a French mother. My goodness, we will have to cast her asunder. She is a Pagan, because she came from a little hamlet near Mayon in the 1890s and she had married my grandfather, who was born in Guernsey in 1872. They got married in 1899 and between 1900 and 1928, they had 14 Guernsey-born children.

My grandfather can trace his heritage all the way back to Noah and his ark. Whether the gentleman in the Old Testament – they must have had a problem in those days, because
3510 everybody lived to 1,000; somebody begat somebody who begat somebody, who begat somebody and they all lived until they were 1,000 years old. I do not what happened to them at the end. Obviously, we should go back and find out what happened to the water when they parted the Red Sea.

3515 The point is, in relation to all of that, remember those were the days when he was a young man of British Imperialism, and Guernsey people were nationalistic in the sense that they were

3520 very much British Empire. My grandfather went off, before he got married to my grandmother, in his early 20s in to some skirmish when Queen Victoria was the sovereign. My grandmother only had 14 children because my grandfather went away to these wars on occasions and there was no television in those days, as my grandmother would tell me.

He went off when Edward VII to fight in another skirmish. He ended up as a man in his early 40s and his name was down, they sent him down, 'We think you are a bit old to go to the First World War.' But, part way through the First World War, off he went, in the reign of George V.

3525 He would be told – he would be dead a long time – having lived here the first 89 years of his life and, then, when his wife died, went to live with one of his daughters for his last years. He would be told, 'Dan, you do not have sufficient heritage. Your great, great grandsons under that provision, because they are not true Guerns. They are not indigenous Guerns. They will have to do the eight years.'

People who could create a world-class business will have to do 14 years.

3530 You tell me, any of you, how you can justify that, because I cannot. It is abhorrent, it is abysmal, it is appalling.

3535 It is not going to affect any of my family, because of the way it is. I will just mention another thing. The only one of my children that was born in Guernsey, he is the only one who now does not live in Guernsey. If he wanted to come back to Guernsey, this is just a slight aside, because he has got a status declaration, if he wanted to come back and take up ordinary residence in due course he has got to get another piece of paper.

Don't we love bureaucracy? Don't I love bureaucracy?

3540 But, really, when you come down to it, I will vote for this amendment. I commend the Deputies who brought it. I commend those who will vote for it. I hope we all do, on reflection. I know you all will not, but I hope you all do.

Because I cannot see, logistically or fairly, or as a human being, how this is fair.

3545 If it offends anybody, I am afraid you will have to be offended. Can I just say, I am not – well, I am – a litigious person. I do not care what the man with the triple first from Oxford says. I do not care what the Law Officers say. I do not care what the Royal Court may say. If any of my grandchildren or any of my children were affected by this legislation in such a way as their rights were impinged upon, I would take this to whatever court I could take it to, in whatever jurisdiction. Because it is completely wrong.

3550 I have the ability to do that, financially and otherwise. Lots of ordinary people who live in Guernsey do not. We have got no second-class citizens, we have got no second-class babies. We are decent people and we should do the decent thing. (*Applause*)

The Bailiff: Deputy Le Tocq.

Deputy Le Tocq: Thank you, sir.

3555 It is difficult to follow on after Deputy Ferbrache's *argumentum ad nauseam*! I sympathise with his views, although I take some umbrage to his criticism of the past Assembly and the past Policy Council, particularly because I think I am the last Member here who was involved with the Population Management Regime Sub-group, which was in existence for a long while. In fact, it had started prior to the last Assembly that I was not in.

3560 I say that, to illustrate the fact that this is a very complex issue and it had taken years and years, because there were a number of different issues that various Members in this Assembly and the previous Assembly – and no doubt in this Assembly as well, but it might well be different – reflecting the views in our community felt very strongly about. In order to have an all-encompassing new regime that would take the place of the old housing legislation, it was important for us to find some sort of consensus and, yes, compromise position.

3565 I am grateful to Deputy Ferbrache, because he hinted, certainly, at or he had one phrase right in the middle of his numerous interesting scenarios and straw men that he painted a picture of,

that indicated certainly why I was willing, in the end, to go with the position that we find ourselves in.

3570 I do not feel very strongly, one way or another, and it is because of this. He said in the middle of it 'and it probably would make no practical difference anyway'.

It would not, because we are talking about a very small number.

He also said that he would struggle to swallow that. This was why he could not vote in favour of the Ordinance as it currently stands. Now, I can understand that, but welcome to politics.

3575 We have to, if we are going to effectively lead, decide which things we do swallow and which we do not. I think some of his arguments have been in the extreme. It reminds me of a former politician who once looked me in the face and said: 'If there is one thing I cannot stand, it is intolerance.'

3580 I think we have got to be careful before we do that because, in our community, we have some very strong views. They may be a small but significant minority, who may shout louder than the rest, but they still are represented here and we have to find a way forward.

I think the best way forward is for us to instigate the Ordinance, to move the regime into place and to review it in the proper and reasonable way that we have said. That may mean, for some of us, we have got to swallow things that we find difficult in principle. But, in terms of the actual number of people that this is going to affect, it is minuscule. After all, it was only when we began to review the regime that some of our locals found that they did not have automatic birthright anyway.

I will give way, sir.

3590 **Deputy Fallaize:** I am grateful to Deputy Le Tocq.

I accept the fact of what he is saying, but I would ask him: how many people does he need to discriminate against before he considers it unacceptable?

3595 **Deputy Le Tocq:** It is a very good question. It is a question I ask myself. It is a relevant question.

3600 But I do believe in our system that, with the new flexibility we have got in, we would not need to do that, certainly for the foreseeable future, because, over the last 40 years or so of the previous regime being in place, the 10-year rule that most people did not know about affected, I think, only about six people in all and most of them were accommodated appropriately. So, it works both ways. It cuts both ways.

I really do think we are arguing, and I did say this at the time, again and again in the numerous debates that we had on the new Population Management Regime, we cannot legislate for everyone. So, we are having to find a compromise way forward. The best way is for this new system to be reviewed.

3605 This would include the issues that we are currently discussing on this amendment and I think we should do so in a calm and measured way once they are in place.

The Bailiff: Deputy Soulsby, then Deputy Trott.

3610 **Deputy Soulsby:** Sir, I have to say, I have felt very uncomfortable about some of the comments made so far in this debate.

Saying that people should hold their heads in shame is really unnecessary and, quite frankly, adds nothing to the debate, especially as both sides of the debate are saying it.

3615 Speaking as a blow-in, I have to say I have never had any issue over the need for my children to reside here for several years before they became 'local'. I have always thought it odd that those of the strongest family lineage did not have such an automatic right.

I do find it interesting that Deputy Roffey says that this aspect of the Law is discriminatory. Deputy Ferbrache has spoken at length about it. We do understand that it is human rights

3620 compliant, whether definitively or not, and I challenge Deputy Ferbrache as a lawyer to say whether anything is definitive. *(Laughter)*

Really, the whole Law can be described as discriminatory, if you think about it. You can stay after eight years, but not five. You have different rights if you live in Local Market rather than Open Market. You have special rights if you have been in the armed forces.

3625 Before anyone says that is a reason not to bring it in, the same can be said for the current system, albeit in different ways, such as who can live where, based on TRP.

3630 This amendment does not set out a so-called equitable alternative; one that would treat all children the same, which the proposer and seconder want. Of course, that means automatic birthright for all, or the same qualifying period. The former is fine, if you do not care about population management and, as the person who is proposing the amendment is the same person who introduced the population cap, it is no surprise Deputy Roffey is not proposing that.

3635 The only realistic alternative is clearly that those with birthright under the new Law would, like now, have to live here for a specific period of time before becoming local themselves. Basically, what was proposed in the original policy letter. It could be five years, eight or more. But, I think, so what? I am not bothered by the fact there are going to be people with an automatic birthright. Deputy Ferbrache has demonstrated quite unwittingly how few people are likely to be covered by this aspect of it anyway and Deputy Le Tocq covered that as well.

I am happy with what we have ended up with. It came out of considerable debate, which, actually, drowned out all the other concerns at the time and which, possibly as a consequence, are now rising to the surface.

3640 Now, Deputy Fallaize spoke at length about why he finds this aspect of the Law unacceptable, and Deputy Ferbrache and Deputy Roffey. That is fine. We have already dealt with that, through the previous amendment and we do not need this one.

For that reason, I am not going to support it.

3645 **The Bailiff:** Deputy Trott, then Deputy Lester Queripel.

Deputy Trott: Sir, I am loathe to offer Deputy Ferbrache advice, particularly if it is *pro bono*. *(Laughter)*

3650 However, when he says he does not care what the Royal Court says, as a practising advocate of the Royal Court I would remind him that such an attitude is ill-advised and I would urge caution.

Some may think that I am disappointed that Deputy Roffey laid this amendment. I am not, in fact, because I have learned something today that I did not realise hitherto. That is, that Deputy Fallaize's mother was the girl Falla. My grandmother was also the girl Falla. We are clearly cousins and it explains to me where he gets he gets his good looks and intellect from! *(Laughter)*

3655 Now, my main reason for rising is to remind Members of something that Deputy Lowe covered in her speech, but I think it is particularly material to this debate. Revised birthright proposals were circulated to every household in the Bailiwick and, following that, proposals were put to the States. These modified proposals reflected views expressed and expressed strongly, certainly strongly at public meetings.

3660 The States passed the amendment by a healthy margin. Around a third of the States of today voted for that amendment. It was very much on the back of public opinion and, like I say, there was no doubt that everyone had the opportunity to understand those proposals if they so wished.

3665 I take particular exception, though, to something Deputy Fallaize said. He insinuated that Guernsey folk did not appreciate what the proposals meant. They did, which is why there was such extensive lobbying for change and it is why we are in the position we are in today.

I ask Members to reject this amendment, not least for the reasons that Deputy Brouard articulated earlier. It is uncommon, it is not unprecedented, but it is uncommon to have an amendment that calls for a review in part (a) and then gives you the answer in part (b). Do not be fooled, Members.

3670 Thank you.

The Bailiff: Deputy Lester Queripel.

Deputy Lester Queripel: Thank you, sir.

3675 In the previous Assembly, when Deputy Trott and I sat alongside each other in what was then known as the naughty corner – nothing to do with me, sir, I am sure it was because Deputy Trott was sitting there – Deputy Trott said something along the lines, and I am sure he will correct me if I am wrong, in a speech in he made that the levels of hypocrisy displayed by some colleagues in this Chamber never cease to amaze him.

3680 **Deputy Trott:** Yes, on a number of occasions.

Deputy Lester Queripel: It seems to me there is an element of hypocrisy attached to this amendment.

3685 The reason I say that is because proposition part b. reads as follows. It has already been alluded to by several speakers:

To report back to the States by way of submission of a Policy Letter, together with suitable Propositions, recommending amendments to the Law ...

To me, that is not directing, that is dictating. I am not at all comfortable with that because, to me, that is an attempt to micro-manage that Committee and a department.

3690 I am very surprised and extremely disappointed that Deputies Roffey and Fallaize have chosen to go down that route, because they have always rallied against such an approach. Surely, there is an element of hypocrisy here?

3695 On the issue of the timeline involved here, I would like to ask the question: how much time do the layers of the amendment envisage the review itself taking? Are we talking about, let us say, for example, nine months for the review itself, then three months to compile the report and put it in the Billet for March 2018? I think we need to know how long the actual review will be. Will it be nine months, will it be more than nine months, will it be less than nine months?

My view is surely the review itself should be over the period of a year, if it is going to be a substantial review? So, I would like to hear Deputy Roffey's view on that when he responds. I am sure we will hear that in no uncertain terms.

3700 I would really like to hear the rationale behind recommending suggesting a review that will take less than a year.

Deputy Fallaize finished his speech by saying that if this amendment is not supported, he will then vote against the commencement of the Law. I am wondering why he felt the need to tell us that. I will not go as far to say it is toys out of the pram, but surely that is a prime example of the subtle psychological bullying that Deputy Fallaize occasionally indulges in?

3705 In fact, he and Deputy Roffey, and also to a certain extent Deputy Ferbrache, have indeed mastered the art of convincing many of us that their view is the only view worth considering.

My message to colleagues is please do not fall for it.

3710 I think we need to be mindful of Deputy Lowe's comments when she spoke. Deputy Lowe said – and Deputy Ferbrache challenged this in his speech – this is a potentially damaging and dangerous amendment and the Assembly should reject it. I resonate with that view, sir.

Thank you.

The Bailiff: Deputy St Pier.

3715 **Deputy St Pier:** Sir, I agree entirely with what Deputies Roffey and Fallaize said earlier.

I think I agreed with most of what Deputy Ferbrache said. I think I lost the track, thread, somewhere around Edward the Confessor (*Laughter*) or, certainly, one of the Edwards. I am not sure which one it was.

3720 **A Member:** Edward the Hairdresser!

Deputy St Pier: Nonetheless, I will be voting against this amendment and, I think, it is worth explaining, briefly, why.

3725 As Deputy Fallaize quite rightly pointed out, I did not support this particular policy position when it came before the States last time. However, it was, as Deputy Soulsby said, extensively debated at that time and a majority found in favour of the policy which has now been turned into legislation by the Committee for Home Affairs.

3730 I can understand why those Members who were elected in 2016, including Deputies Roffey and Ferbrache, do not necessarily feel bound by the decision of the previous Assembly, but I was a Member of that previous Assembly that did make that decision and I do feel so bound.

3735 For those Members, of course, who argue that we should not have flip-flop government, those Members who argue that we should not use these opportunities of legislation for a second bite at the cherry, a second reading process, of course we all present those arguments when it suits us. However, when there is a decision before us which does not quite align with our positions, then of course we can find a reason to use the legislation as an opportunity for a second bite at the cherry.

3740 So, for me, I will be opposing this amendment on the basis, although I did not support the policy before, that debate has been had, it has been turned into the legislation, as the Committee were directed and, therefore, I will be opposing this amendment.

The Bailiff: Deputy Yerby.

Deputy Yerby: Sir, I wanted to challenge Deputy Paint on one of the points that he made in his quotation.

3745 It was something along the lines of no one is born without the right to a state and no one is born without the right to a nation.

3750 That is not always true. The world has a problem with statelessness and for those that it affects it is a profoundly serious problem. I make that point just in passing, but it explains why I have some sympathy with those who have designed the Rules as they are currently in the Population Management Law and who want, effectively, a fast-track to local residence for those who are born here.

I understand the fear of statelessness and why people would want to avoid it.

Even more surprisingly, perhaps, I agree with almost everything that Deputy Brouard said when he stood up to speak, except, perhaps predictably, his conclusion.

3755 I think we know that no outcome in this Assembly is ever certain. That is as true of the result of this review, no matter how prescriptively the amendment is worded, as it is of the passage of the Commencement Ordinance or, indeed, of what we are going to do with the code on access to public information.

3760 One point that Deputy Brouard made in his speech really does bear repeating. It is this: the provisions in relation to birth right are far from the only provisions in the Population Management Regime, which value people differently based on characteristics such as their place of birth, their depth of connection to the Island, their profession or other things which they are relatively helpless in terms of whether they apply to them or not. That is something that I will come back to in the main debate, but I am reluctant to polarise the morality of this question too much unless
3765 we are prepared to throw out the whole regime on the grounds of discrimination, which I accept that some in this Assembly may be and which is a question I am still finding thorny even now.

3770 I did want to respond very briefly to the point that Deputy Fallaize made, or implied, about adoption. I think it is important that we recognise that adoption functions like birth. As a social policy point it is very important. Putting myself in the shoes of those who do support the Rules as they are currently written, even I can recognise that it is supposed to be about heritage, about depth of connection with the Island, rather than the actual blood that flows in your veins.

I have heard no evidence to convince me that this amendment is as dangerous as Deputy Lowe and Deputy Brouard have said that it is. I do think it is an issue worth revisiting, especially in light of some of the concerns that have been floated today.

3775 I have hope, in light of what I have heard, that we can probably do this more fairly, but I am afraid on the flipside that the debate around it will be uglier than I can bear, and that is the other reason why it is difficult to decide which way to go.

But, with my head at its customary height, as I hope everyone else's will be, I intend to vote in support of the amendment and brace myself for a potentially fiery debate when it reports back.

3780

The Bailiff: Deputy de Lisle.

Deputy de Lisle: Yes, sir.

3785 This is something that we should not swallow and, also, I think we should be very firm, because the people of Guernsey were very, very strong on this fact that they wanted some birth right. But, then, what they have is discriminatory at the current time and unfair and, I think, then we have a duty in this Assembly to make sure that we vote in the correct direction on this.

I say that it is discriminatory in two ways. First of all, the points raised by, particularly Deputy Fallaize, with respect that he feels it to be unfair for a person's residency rights to be based on the birthplace of his or her grandparents, as it divides the people of Guernsey and discriminates. That is discriminatory policy in broad terms and we say, in this place, that we want to end discrimination of women, of children and so on and so forth. Yet, here we are introducing it.

3790 So, from the macro point of view, it is wrong. It is unfair and it is discriminatory and we should be working against that.

3795 But then when I look at the birth right itself and the reason it was put in, it was for families who have longstanding roots in the Island. You have heard two people, Deputy Roffey and also Deputy Ferbrache, giving instances of the fact that it is discriminatory and unfair for Guernsey families who have longstanding roots in this Island.

3800 Now, my situation is very much the same as Deputy Ferbrache's, because I went away, worked for the Federal Government in Canada for years, and my children were born outside of Guernsey and, therefore, if they have children then my grandchildren, basically, would become second-class citizens. Yet, you will find the de Lisle name in 1200 in the courts here. That, to me, is very unfair and discriminatory.

3805 Now, from that point of view, we have brought in birth right, but it discriminates against the very people that it was supposed to do something for. That is wrong. It is unfair and we vote against it. For Deputy Lowe to say that we should just rush these things through, that is all wrong.

This Assembly is to debate these issues and if something is unfair and discriminatory and wrong then it is our duty in here to put it right. (**Several Members:** Hear, hear.)

3810 Now, just to outline that point, a baby with a Guernsey-born parent and grandparent would get instant rights of birth right, but another baby, born to Guernsey parents, not born here, even though they may have lived here since they were children, as my youngsters and Deputy Ferbrache's youngsters have, been educated here, their child would need to gain residency rights through an eight-year qualification period. That is discriminatory and unfair.

3815 What does this all boil down to? Deputy Queripel needs to note some point that was made earlier in the debate, that Law is a tool to deliver policy. We know what the policy was, but the problem is the legislation and the Law does not actually do what it should do. It should respect the rights of all Guernsey families with longstanding roots in the Island. It did not. It needs to be changed and it needs to be put right.

3820 It is either put right in terms of those that are longstanding in the Island, which is the birth right principle that was originally conceived, or it is changed now to accept the fact that discrimination is out in any way and that every child that is born here should have the same rights.

I would appeal to everybody here to please support this amendment, because it is the right thing to do. It is fair and it rids ourselves of discrimination within this area.

Thank you, sir.

3825

The Bailiff: Deputy Tooley.

Deputy Tooley: Thank you, sir.

3830 I have hesitated over speaking in this debate and flip-flopped about it for weeks. The reason I have done that is because I am not local. I know that there are many people who feel, therefore, that I have no right to speak on this matter.

3835 But I was voted in, elected, to represent the people on all issues, not just those that apply only to people who were not born here. There is another child who could be born in the Hospital at PEH, on 5th April 2017 who has not yet been mentioned in this debate. I say I am not local. I do not know I am not local, because I have no idea who my paternal grandfather was.

3840 Given my innate obstinacy and my absolute imperative view that my own view is the only one that matters, perhaps I should be DNA-tested? But, perhaps everybody who is claiming their Guernsey family heritage through the paternal line should be DNA-tested? Who is to say, really, when it comes down to it, who is more Guernsey than anybody else? We would all like to believe what is written on official documents, but we all know they are not always correct.

The unacknowledged child is a potential loser in this situation. It is all very well to say that it makes no difference to the child who is born on Guernsey on 5th April and who spends five years here before they qualify, or eight years here before they qualify.

3845 What about the child who is born on Guernsey to a mother and a father who will not acknowledge that baby – because we know it happens – who has Guernsey heritage going back to the ark and before it, but does not have that on their birth certificate and whose mother, because she cannot afford to raise that child on this Island, leaves the Island before that child is five? That child is discriminated against by this Law, despite the fact that their entire family, all their blood heritage, might come from this Island.

3850 This Law is discriminatory against children of this Island and there is no way around that. It might be a small number. It is accompanied by a potential small number whose parent may decide to enter false information onto a birth certificate in order to give that child legal rights.

3855 If I, as a single mother, do not know whether my child's father is A or B, or if I do know but there is no advantage to writing down A anyway, will I write down B? What problems are we storing up for ourselves in terms of genetic illness going back, if we create a situation where we allow, by the very nature of our legislation, positive discrimination which encourages people to give the wrong information about family background and heritage? This will not be good for anybody. It certainly will not be good, going forward and looking at what financial implications there may well be on health budgets for the Island. That helps nothing. It helps nobody.

3860 I have also, in the course of debate, realised that I do have a solution to my issue. I have just got to get Deputy Fallaize to adopt my fatherless father and then I can claim local status, as long as at the time of the adoption Deputy Fallaize is resident on the Island!

Thank you.

3865 **The Bailiff:** Deputy Dorey.

Deputy Dorey: Thank you, Mr Bailiff.

3870 I think we need to remember what this is all about, because this is about local housing Laws. You can go back to the original words, it was to protect the Island's housing stock for local people, because there was an awful lot of people, when you go back to, I think it was the late forties, coming to the Island and local people were struggling to occupy and have houses to live in. That is the basis of where we are today with the local market.

So, anything which then limits who can live in a particular type of house in the Island is going to be discriminatory. It is going to have to discriminate against someone.

3875 So, the whole basis of having the local market, and if you believe in having the local market, is going to be discriminatory, it is going to limit who can live in that particular type of housing. That is the basis of the Law since it has been set up.

3880 What we are saying is one category who can live in local market houses under the new Law will be permanent residents. This is trying to define who is a permanent resident in relation to your childhood. That is what we are discussing today.

To give you an example, we have all been discriminated against. There have been some speeches, Deputy Ferbrache and others, who have talked about discrimination and are against it, but that has been in our Law for years. In 1994, I think Deputy Gollop referred to it, there has been the 10 years for locals, 15 years for licence-holders and 20 years for open market.

3885 I fully accept, sir, that some Members feel passionately about this, but why did not they bring requêtes or try and change them while they were Members of this Assembly in the past? If they felt so passionately against the system of having different periods when people can live in this Island and be able to live in local market housing without restrictions, why didn't they try and change it?

3890 They have not. We have had this system all this time and that is the accepted system.

So, I urge you just to remember that.

3895 I would just like to go through a bit of the details, because I sat on the Population Policy Group from 2008-12, where we came up with the basis of these proposals and the consultation which went out in 2011 and the debate which happened in early 2012. Obviously, it was then slightly amended for the 2013 debate and 2014 and 2015.

We discussed this issue at length, between 2008 and 2012. We had papers on it and we discussed it at more than one meeting, I particularly remember it. We revisited again this particular issue and went through it again before we finally put our proposals into the consultation document.

3900 We proposed equal periods for all children and it was a compromise. There were five of us. There was the Deputy Chief Minister, the Home Minister, the C&E Minister, the Housing Minister and Social Security Minister, myself. It was a compromise where we came up with an equal period for all children and the basis was that children needed to have some commitment to this Island, in order to be able to have a right to live in this limited housing stock.

3905 But, when the proposal came in 2013, I accepted the criticism and the criticism was – I think Deputy Roffey mentioned it in his speech – that 14 years was too long. Deputy Brouard then proposed, in that debate, 10 years, as it is now for locals. I supported that amendment, but I also believed that Open Market children should not qualify for the shorter period of 14 years. I proposed 20 years, as it is now. That was rejected.

3910 In 2014, I did not support the birth right. I do not believe that, just because you are local, two generations, and just as Deputy Ferbrache said, I have got generations going back – if you go back, our name changed from Dorey to Doré and you can follow our family tree back – and we have always lived in the Castel parish, at least my Dorey line. I did not think it was right that somebody could be born in this Island with two generations before being born in this Island, then immediately leave this Island, spend all their childhood away, spend all their career away, and potentially come back when they want to retire and then compete in this limited housing market. Remember, people can live in the Open Market. People can get employment permits. We are talking about automatic access to the Local Market. I did not think it was right that somebody who has spent all their career, all their childhood, away, could then compete with somebody who lived their life in this Island, and buy a house and compete, which means the price is higher.

3920 So I voted against the birth right element of it. But I accept the outcome of that debate from 2014. I accept that there was a considerable lobby and I think it was an issue which the public supported. I see no point in re-visiting the issue. I think the outcome would be the same.

3925 I cannot support this amendment. I particularly do not agree with having equal periods for all people, if the period is so short. Deputy Roffey mentioned five, eight years. I think that is too short. Potentially, at five years, you could have a child that came here from an Open Market, who

did their A-levels here, who spent three years at university, they would have clocked up their five years and they would then be able to buy a Local Market house.

3930 For those reasons, I do not support this amendment. The outcome is not right. It is saying that everybody has to be equal. I do not think that is right, particularly if it is such a short period.

So, I urge you to reject this amendment and just stick with the review that is being proposed in the St Pier/Lowe amendment.

Thank you.

3935 **The Bailiff:** Deputy de Sausmarez.

Deputy de Sausmarez: Thank you, sir.

3940 There has been some talk on this amendment, on the subject of public opinion. So, at the risk of sounding like a broken record, I would like to remind Members that we are here as representatives, not delegates. I think the best summary I have ever heard of that, as we keep harking back a few hundred years, comes from Edmund Burke MP, who said, and about the representative, and I quote:

Your representative owes you not his industry alone, but his judgement, and he betrays you instead of serves you if he sacrifices it to your opinion.

I think that is a timely reminder.

3945 Speaking of timely, it is terrible timing, because Deputy Paint has just left the Chamber, but I rise mainly in response to something that he quoted. I listened with great interest to some very eloquent rhetoric that he quoted and I may have got this slightly wrong, but I think it is roughly as he said: no man is born without a country.

3950 I listened to that, feeling somewhat alien, and I choose that word advisedly. I think I was born without a country. I was born to a Guernsey father and a Scottish mother in Hong Kong and Deputy Paint's quote went on to say the place that we are born is how we inherit things such as land, property, customs and language.

3955 Perhaps unfortunately, I have not inherited any land in China, nor any property. I do not retain many of the customs and I have to say my Cantonese is rather rusty. More to the point, I have not lived through my life expecting those things to land on my lap by virtue of my place of birth. So, I do find this concept of the place where you are born, which as many people have rightfully described is something absolutely entirely out of our own control, as anomalous.

3960 I do accept, I think Deputy Dorey was the person who mentioned it most recently – Deputy Fallaize spoke very eloquently about this very same thing, it is the experience of our childhood that really is very formative in our sense of place and identity. That is what I think we should be focussing on, not accidents of birth.

There are many, many anomalies that I could list in my own family, but will not. Other people have gone into anomalies.

3965 I would just like to bring up one point that does concern me. Deputy Brouard and others have reassured us that there is no need to support this amendment because, do not worry, a majority have just voted to support a P&R review which will look into this, amongst other things. However, this gives me no reassurance whatsoever because the first speaker after the proposer on this amendment was Deputy Lowe, who told us in no uncertain terms how damaging and dangerous this outcome would be. It would actually be, my interpretation was, utterly untenable.

3970 So, if we are talking about pre-determined conclusions of reviews, to me, the P&R review is equally pre-determined as this amendment. Therefore, I think we are faced with something of a dichotomy.

I will be supporting this amendment, because I do not want to introduce any more discrimination into our Population Management Law than is absolutely necessary and I think the Law as it currently stands, unamended, is unnecessarily discriminatory.

3975 Thank you.

The Bailiff: Deputy Oliver.

Deputy Oliver: Sir, I have thought long and hard about this amendment and whether I could support it or not.

3980 There are a number of points that have been raised that I do honestly agree with. However, I feel the main problem with this amendment is it is constricting to the Committee, with every child being the same, but fundamentally it is very ambiguous.

3985 What this amendment is saying is you want every child to have the same rights at birth or at five years or eight years, without taking into account any relationships that a child has with the Island. Where this amendment is so restricting is that, if the Home Affairs Committee goes back out to consultation, which will be an additional cost to the taxpayer, we do have to remember this was only done three years ago.

3990 Following consultation in 2012, the issue of birth right came up and was then debated in 2014. After consultation, a number of workshops going through various scenarios, the Island came to a decision that they thought was fair and proportional as a whole for this Island. If we do go to consultation and it comes back saying, again, this is still what they want, this amendment will not allow us to carry out the people's wishes.

3995 We would be saying to the electorate, they are wrong, we are right. I just do not feel comfortable doing that. As a Deputy, we are the People's Deputies, if people really did want this reviewed, I have no problem with that. But I want it to be the conclusion that Guernsey comes to as a whole and not to be dictated to.

Thank you.

The Bailiff: Deputy Merrett.

4000

Deputy Merrett: Thank you, sir.

4005 I am looking at this slightly differently. I believe we need to look to the future, not just to the past. We cannot influence what our grandparents or parents have done. What we can influence is what our children and our grandchildren can do. What will our children and grandchildren bring to this Island?

4010 Part of the demographic concern is that we need to encourage people born here to stay, to become economically active. We, as an Island, pay for pre-and ante-natal care, pay for early years health care and educate our children, just when they could, potentially, become economically active, we say, 'You have no right to work here. No right to live here.'

4015 We need to retain our children, ensure that they can become part of our demographic, are included in our society, while paying for their health and education.

I was not in the last Assembly and I will not be bound by them. I will support all children that are born on this Island.

4020 It is not about a pure blood through three or four generations. There is, as Deputy Tooley says, no DNA testing, just what is stated on the birth certificate.

We need to have **proportional** representation over all ages in our community. We need to encourage children to stay, to become economically active, to be included equally in our society, to feel they belong.

4025 If a child is born here, to locally born parents or not, if Guernsey is not their home, where is?

4030 Please support this amendment.

Thank you, sir.

The Bailiff: Alderney Representative Jean.

4035 **Alderney Representative Jean:** I am going to support this amendment and the reason I am going to support it is the words of Deputy Merrett are exactly, in the main, what I wanted to say.

I believe, as well, this has a demographic aspect. It has an aspect that young children are entitled. They know no other home and they should be included and I think this is an excellent amendment.

4030 Thank you, sir.

The Bailiff: Deputy Graham.

4035 **Deputy Graham:** Sir, I have made a comment on a previous occasion in this Assembly on another matter, I think it was the education debate, that I always personally find this Assembly at its least appealing when we have a scramble for the moral high ground.

I think it is totally unnecessary and I am certainly not going to join it.

4040 Deputy Fallaize made the first use of the word 'shame' and it was then followed up by my dear colleague in the Castel, Deputy Paint, and I have to disagree with him on this occasion. Then it got even worse. We had words like 'nasty' and 'bigotry' and so on and even passing, for a moment, Deputy Ferbrache's slightly independent interpretation of what the word bigotry means, and I certainly do not subscribe to it, there have been, not necessarily in the Assembly today, but also in the prelude to this, hints and pretty dark hints that anybody who opposed this amendment and supported the whole concept of the part of ancestry and heritage, were somehow dabbling in
4045 eugenics or xenophobia and so on and I really hope we do not get into that again.

My experience, really, and I cannot share it really with Deputy Roffey ... he seems to be quite certain that the only people who previously, when consultation was going on, were shouting loudest represented only about 200 or 300 of our indigenous population. I do not know how he came to that conclusion. To counter it, I cannot say that I know how many thousands of
4050 indigenous Guernseymen and women actually support my view. It is a claim that I certainly would not make.

What I would say is that those who now hold the view that I am going to express now seem to me to be thoroughly decent people. They certainly should not be hanging their heads in shame. I am thinking of my dear wife – otherwise I dare not go home at the end of the day! (*Laughter*) Her
4055 family go back yonks and yonks. I am thinking of my neighbours. I am thinking of my fellow Douzeniers on the Castel Douzaine. I am thinking of people who tap me on the shoulder in Waitrose and have a decent exchange of views.

I think what they are really saying, and clearly they do not articulate in the same way that I do, in one breath they are saying, 'Look, in Guernsey we have a pretty unique, perhaps shared with
4060 Jersey in a way, heritage here. We have got an Anglo-Norman heritage that goes back about 800 years and, before that, some Norman heritage. Over the centuries various people and various families have played their part in what that produces after a few hundred years, and it is called heritage.'

Now, in my experience, they do not for a moment, in being proud of their heritage, indicate
4065 that they are jealous of it in the pejorative sense of the word. I think they traditionally have welcomed newcomers here, have said, 'Come and share in our heritage.' But, certainly in my own case, it is very difficult to actually become a true Guernseyman overnight and you do not, in my case, just by marrying a Dorey.

I have always accepted that. I never accepted it as a criticism that I am not a proper 'Guern'. I
4070 am still trying pretty hard. I certainly never thought that it treated me as a second-class citizen. I think what they are saying is, really, 'Look, ancestry plays a part in our heritage. Some of us have played a bigger part through our ancestors than others. We think that that should be reflected in the hierarchy of qualification under the new regime, in some way or another.'

I do not think they mean anything more by that. But I think they do say, to any States, not just
4075 States but any States: 'That is a part of our heritage that no States, here today, gone tomorrow, can just chuck away and say it does not count.'

I think to them, it does. It certainly does.

4080 I will tell you a little story, which is part personal. Back in 1911, on 15th December, a young
army sergeant and his very pregnant wife set sail from portside at the western end of the Suez
Canal, hoping to get back to Southampton in time for Christmas. Five days later, they put into
Gibraltar, where, as it happened, my mother was born in the 36-hour period that they were
ashore. My mother was then brought back on board ship and, three days later, they were back in
Southampton in time for Christmas.

4085 In that scenario, those who are the midwives of this amendment, they would have been there
at the bedside, whispering to my dear mother in her tender ears, 'You are every bit as Gibraltarian
as the child lying next to you. Your Gibraltarian-ness goes back even further, probably, than the
Barbary Apes, who have been there since before the British were there in 1723, 1713, something
like that.'

4090 Just think of it, Mr Bailiff. If my grandmother had produced before they left Egypt, my mother
would have been as Egyptian as the pharaohs. Or, if my grandmother had been able to hold on
until they got to Southampton, she would have been as English as Geoffrey Chaucer and all that,
which of course she was, anyway.

I will give way.

4095 **The Bailiff:** Deputy Soulsby.

Deputy Soulsby: Another piece of anecdote for Deputy Graham. In my heritage, I do have a
Gibraltarian ancestor and, at the time, I do not know if it is still valid, which it probably is not, by
having so I was told that I could actually set up a retail establishment on the Rock.

4100 **The Bailiff:** Deputy Gollop.

Deputy Gollop: Could I make a point of order, which is confusing me?

4105 H.M. Comptroller might be able to assist. The example Deputy Graham gives, the baby possibly
being born on the Rock of Gibraltar intrigued me, because we have had interesting questions
about migrant guest workers and tourists who might have children whilst in Guernsey, but doesn't
this amendment specifically talk about permanent residence, which would exclude such examples?

4110 **The Bailiff:** Deputy Graham.

Deputy Graham: I will answer directly. The point is the policy that the Home Affairs
Committee wishes to bring in acknowledges that there are different degrees of Guernsey-ness, or
claim on a Guernsey heritage. It is as simple as that.

It is only indirectly tied, in my view, to the whole business of residence.

4115 Before I was interrupted, I mentioned that I think the people that I think I am speaking on
behalf of are asking for nothing more than their heritage should be reflected in some way
hierarchically within the new population management regime, in as far as it applies to eligibility
for permanent residence.

4120 I think it would be quite reasonable to ask that and I think it would be quite reasonable to say
that the States would need to think very carefully before it said that their heritage counted for
nothing.

4125 I think they would be doubly right, because we have had reference to the population steering
group that was produced by the previous Policy Council in the previous States. I would like to
refer the States to a public statement that the then chairman of it, Deputy Paul Luxon made in
response to these loud protestors that Deputy Roffey referred to.

One of the things that Deputy Luxon said was this. One of the things which irks Islanders is
when their elected representatives constantly re-debate matters that have already been decided.
They are absolutely right to say that. Here is a reminder of exactly how much consultation and
debate has previously gone on and I think, sometimes, we need reminding of this. He remarks:

Following an extensive public consultation in 2011, the States has now had four debates on the fundamentals of the new Population Management Law, which it has agreed will replace the out-dated and outmoded Housing Control Law. On each occasion, the States has fully discussed and agreed the details that will enable us to have the right toolkit to manage the shape and size of the Island's population in the 21st Century.

4130 He then, Deputy Ferbrache, says:

The Policy Council is entirely satisfied that all of the population management proposals are human rights-compliant.

Of course, you have a right to disagree with that. Crucially, he went on to finish like this:

The suggestion that the indigenous population will be losers when the new Population Management Law comes into effect is a gross misrepresentation of the truth. As a result of the feedback received from the indigenous population, upon its introduction, the new Population Management Law will provide for the following: a birth right qualification for children born in Guernsey, with a Guernsey ancestry, as opposed to the 10-year qualification period that applies under the current Housing Control Law. Secondly, shorter qualification periods for other children already resident in the Island or who are not currently resident, but are the children of Guernsey-born parents with residential qualifications.

Now, I take that as a pretty firm undertaking, if not a promise, that actually those people's concerns were wrapped up in the proposed Law.

4135 Deputy Roffey quite rightly reminds us that one of the over-riding philosophies behind the P&R Plan, to which we are all committed, is that of equality and inclusivity. He points to the apparent lack of that consideration, fairly narrowly, under the policies of the new Law. He concentrates on the birth right, rather than the clear lack of equality and the lack of inclusivity in the way we treat the employment side of the equation.

4140 Even the example that he quoted, he was saying, let us get away from the fact we are just talking about where somebody was born, he was querying, for example, whether we should have instant permanent residence on the basis of birth here. He was really saying we need not necessarily give that to all categories, but we could give it in such a way that, say, after five years, everybody would similarly qualify.

4145 Well, that is itself discriminating against a child who might be born here, of parents who are on five-year, medium-term employment, who will then leave before that child can clock up its five years' eligibility.

He may have plucked that five years out of the air, I do not know. But that is a demonstration, really, where this amendment, I think, does not actually address the problem.

4150 He also brought into the whole –
I will give way.

The Bailiff: Deputy Fallaize.

Deputy Fallaize: I am thankful to Deputy Graham.

4155 The point he makes is correct, obviously, but is the point not that the children would not be discriminated against? He said the parents who hold the employment permit would be discriminated against. The issue is that the children would not be discriminated against because, if the amendment is successful, the principle will be that the children will be treated the same based on their own experiences and their own residency status.

4160 That is the issue, is it not? It is not the parent, it is the children.

Deputy Graham: Yes, but the child that is cited will not be in control of its destiny. That is the whole point. Other parts of the Law will require its parents to go and that child will not, therefore, have an equal opportunity to fulfil its rights under the new Law. I stand by that.

4165 Deputy Roffey brought in the whole business of respect. I do not think that in saying, for example, on the employment permit area, that when we say to a head teacher who is coming here, 'we do value you very highly, you can have a long-term employment permit', I do not think we are respecting necessarily that person any more than we are respecting the person who comes

4170 here to help pick potatoes in the Castel for a period of nine months and going away for three months. I think we value all of their contributions and I do not really think respect comes into it.

It seems to me that the movers of this amendment somehow want to have population control, without the hierarchy of any sort, that in any way discriminates one person from another in terms of their eligibility to profit or not under it. In any Law, there are bound to be anomalies.

4175 Is it as a result of our Reform Law and the latest amendments to it that we have a minimum age of qualification for voting in our general elections of 16. I will not go through the whole litany that Deputy Fallaize took us through of two children in the same class, going to the same music lessons, playing in the same football team, but, come the general election, one child who qualified by one day to vote at the age of 16, whereas another child, two days younger, will have to wait until they are 20. It is tough luck. It is an anomaly. No law, I think, is capable of really sorting that
4180 sort of thing out.

I am going to be very careful how I react to Deputy de Lisle's speech, because I know he spoke from the heart. But I do, with respect, feel that there was more than heat than light there. I could not follow the logic of wishing to support this amendment, as opposed to the broader amendment that Deputy St Pier, seconded by Deputy Lowe, had already brought and which we
4185 have passed.

That amendment will allow the sort of review to address, if possible, the inadequacies and the perceived unfairness of how the population management regime may apply. In his particular case, where his children themselves were born away in Canada, and despite their long lineage here do not benefit from residential rights here, that will not in any way be redressed by this amendment.
4190 This amendment is solely on where a child is born. If anything, this amendment, narrow as it is and confining us to a review with a pre-determined result, this review will actually accentuate the unfairness of Deputy de Lisle's situation, because his children, born in Canada despite a long ancestry here, will be disadvantaged by a child born here of parents with absolutely no lineage here at all.

4195 I give way.

The Bailiff: Deputy de Lisle.

Deputy de Lisle: Sir, if I may just make a point, I was only indicating that there was discrimination in both areas. Both generally, in terms of discrimination against one child and another, and also there was discrimination directly, and that was my concern, with regard to the rights of birth right.
4200

That was the point I was getting at. It is up to the States to decide, in the reviews of both this amendment, if it passes, and the earlier amendment. It is up to the States to consider both of those particular angles and decide which way we are going.
4205

Discrimination is discrimination, but when you set up something on birth right you do not expect, within that particular framework, that it will discriminate.

So, the point that I am making is that the States has to decide how it deals with discriminatory policy, both in terms of long, ancestral occupation here and, also, with respect to the fundamental principle of discrimination.
4210

Thank you, sir.

The Bailiff: Deputy Graham.

4215 **Deputy Graham:** I am not quite sure how to respond to that and I will not.

I thank Deputy de Lisle for his observation.

Members of the States, I am going to conclude very briefly now, just to say, and this is a very personal thing, really, I feel extremely strongly about this particular birth right issue. I have not consulted my fellow members of Home Affairs on it but in my view this amendment, if passed,
4220 would require the Home Affairs Committee to go back and have a review and a consultation with

the public and that, irrespective of the results of that consultation, come back with a pre-determined view.

If the States wants the Committee to do that, I will not be able to bring myself to do that and I wish to make that clear. It is not a threat, it is just a statement.

4225 If I did that, there are certain Guernsey people that I would not be able to look in the eye again.

A Member: Well said.

4230 **The Bailiff:** Deputy Green.

Deputy Green: Sir, thank you.

4235 First of all, I should say I have not been terribly impressed by this debate. I make no apologies for saying that. My starting point here is that I am not opposed in principle to the new Law giving certain special recognition to some particular Guernsey individuals who have substantial and longstanding family connections within the Island.

But I have always thought that the particular model that was chosen, in this case, to enact the birth right provisions in this particular Law, was always a sub-optimal one which was always going to create the anomalies, the oddities, inconsistencies that we have spoken about.

4240 So I am in favour of birth right, in principle, just not very keen on the particular model that we have got here. I ask Deputy Roffey to consider that and help me out. I think I probably started off in this debate, almost certainly opposed to this amendment, but I am still on the fence, probably.

4245 I think I know what the question in this debate is, but I am not sure what the answer is. The core question in this debate is: is it absolutely essential to have full equality of qualification for all children born in this Island in order to establish the fairness that so many people have talked about, or is this a situation where, for a particular group of Islanders with that long history of local roots, some degree of differentiation is actually justifiable in order to allow those people to have social justice?

4250 I do not know what the answer is. I hope Deputy Roffey will be able to elucidate further when he sums up.

The Bailiff: Deputy Brehaut.

Deputy Brehaut: Thank you, very much, sir.

4255 I am losing my voice, by the way. A nation rejoices!

Where we went wrong with birth right is that we built on and added to a misunderstanding within the community. People would ring us up and say, 'What do you mean, you have taken away a birth right that we had?' We did not.

4260 People generally were oblivious to the fact that there was a qualification period, that their child had to be ordinarily resident for 10 years, then they became local. Because families said, 'Hold on a minute. My child was born on Guernsey. I have lived on Guernsey all my life. My child is never going to leave Guernsey and you are telling me that my child has no birth right?'

4265 That is not what we were saying. In fact, the people's awareness of the Housing Control of Occupation Law led them to believe, or made them aware for the first time, that there was no birth right as we all understand it, but there was a qualification period.

I think the consultation, in that regard, the feedback from that, or the premise for some of the public meetings that were had, was misleading. We had politicians out there defending the Guernseyman's birth right when actually, for families that were born here and intended to stay here, it did not impact or affect them in any way.

4270 If I can be candid, what this debate lacks is a real intellectual commitment to the principles at stake.

4275 I want to hear members of the Home Department, particularly the President, Deputy Lowe, taking apart this amendment, shredding it, intellectually taking it to pieces, explaining why it is so wrong, rather than referring to a series of pre-prepared notes or just saying that 'it is dangerous', without pointing out in any great detail, from a core value principle, why the amendment is so flawed.

4280 My family go back many generations. I married a Scottish woman. Our children are Guernsey-Scottish and they celebrate both sides of their culture. Regardless of where their grandparents were born, my children, like all other children born on that day on Guernsey, would do certain things. Regardless of where they are on the Island, they would still point at planes, they would still have far too much sand in their sandwiches when on the beach. At some stage, they would come home with tar on their feet. They would still speak to strangers and their grandparents. At some stage in their young lives, they will leave apologetic notes in hedge veg stalls and go back later with the money.

4285 They will learn to swear, probably, at the bathing pools. They will wear wraps. They will have a cup of tea and an ice cream at the 'modelly yot' pond. They will drink a tepid mug of tea at the Cup and Saucer. They will resist wearing a Guernsey until the age of about 45, then convince people they have always worn one. (*Laughter*) They will say, 'is it?', instead of, 'oh, really?' Just when they have got to the stage where they have learned to ride a bicycle with a degree of competence, they will start learning how to fall off mopeds.

4290 Now, that is what being a Guernsey child means to Guernsey children. It is a unique, different life experience and we should celebrate that experience through equality in legislation, rather than discriminate these children who have shared so much in their young lives.

4295 I do not know why we balk so readily at terms like bigotry. I know that makes some people wince but, I am afraid, some of the public discourse that led to the proposals, was very unpleasant and clearly discriminatory and could be described, on occasions, as bigotry.

Thank you, sir.

4300 **The Bailiff:** Can I just have an indication of how many more people wish to speak? I see Deputy Laurie Queripel is standing. I just want to see whether we continue and try and finish this evening. If you intend to speak, could you stand in your place for a moment.

Two people, and then Deputy Roffey will reply.

What I am going to put to you is that we continue to sit until we have concluded the debate on this amendment. Those is favour; those against.

Some Members voted Pour; others voted Contre.

4305 **The Bailiff:** It was close, but I think it was carried.
If anybody wishes to challenge that, we will have to have a recorded vote.

A Member: A recorded vote, please, sir.

The Bailiff: Okay, we are going to vote on whether we continue to sit until we conclude debate on this amendment. If you wish to continue sitting and conclude this amendment this evening, vote Pour. If you wish to leave now by the time the vote has been counted, and resume in the morning, vote Contre.

4310 *There was a recorded vote.*

Carried – Pour 25, Contre 13, Ne vote pas 0, Absent 2

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

The Bailiff: Members, the voting on the motion as to whether we continue to sit until we have concluded debate on this amendment, there were 25 in favour, 13 against. We will continue to sit. Deputy Laurie Queripel will speak next.

4315

Deputy Laurie Queripel: Thank you, sir.

My name is not Edward, but I am going to start by making three confessions. Before I do that, I just want to say I agree with Deputy Graham: there have been some rather emotive and, at times, extreme language during this debate, and it has come from both sides of the argument. I want to try and avoid that if I can.

4320

Before I go into those confessions, sir, I also want to pick up on something Deputy Ferbrache said. I know Deputy Ferbrache is a true champion of equality and fairness, etc. and he speaks very passionately and very powerfully in that regard. But I do have to ask the question, bearing in mind he has been a legal professional for so many years, an advocate, I wonder if, during the course of his career, at some stage or other, he has been on one side of the court and he has been, knowing that the other party in that court is being discriminated against or being treated unfairly, but has pushed the case anyway, on behalf of his client. We all know that Law is not always about fairness. It is not always about what is just, it is about sometimes winning the case on behalf of your client.

4325

I am sure Deputy Ferbrache has found himself in that position at times, when he has had to push his case knowing that the other side in the case has been discriminated against or has been treated unfairly.

4330

Now for my confession, sir. My first confession is that I actually agree with quite a bit of what Deputy Roffey said during his opening speech in regard to this debate on this amendment.

One point he made was this issue really was ignited by the fact that when the original proposals were brought forward the department putting those proposals forward were really trying to play hard ball and they were saying a child, regardless of their local links or not having any local links would all have to serve a 14-year qualification period. That was really what ignited this whole issue and it was really unfortunate. We should never have gone down that road.

4335

So I agree with him on that issue.

4340 When he first started making noises about the fact that he was not comfortable with this birth
right provision and he was considering bringing an amendment forward to this debate and during
this debate, he made those points. Actually, I was quite keen to see that amendment because,
although in principle I agree with the concept of a birth right provision, I also agree with him that
4345 what we have in the proposals in the Law is far too convoluted and far too complicated and really
there is a great element of unfairness in it.

I hoped he was going to come forward with something that would moderate that birth right
provision. Something that perhaps mirrors the kind of provision that exists in other jurisdictions. I
think there are many jurisdictions across the world, many territories, that have a birth right
provision with their population law, their population policies: Germany, Holland, France etc. I do
4350 not refer to those territories as countries because I think we should fall into line with them. As a
Guernseyman, I am not keen on that approach, when a Policy Letter comes to the States and says,
'This will bring us into line with other jurisdictions or help us to fall into line with other
jurisdictions.' I do not like that very much, but I mention it because it was not a concept that was
dreamed up in Guernsey. It is something that exists across the world: this idea of a birth right
4355 provision. It is not something that was brought forward here as a knee-jerk reaction to the public
call for a birth right provision.

The third confession I have to make is that I think Deputy Roffey and Deputy Fallaize have both
said that they feel that the last States buckled because of public pressure and they did not
demonstrate backbone and they did not stick with the original Propositions. I have to say, sir, I did
4360 not buckle, because I was always for the idea, and Deputy Fallaize knows this, of some sort of birth
right provision. Certainly, a more modest version, a more mild version, a simpler version than the
one we have been proposed today in the Law, sir.

This is one of the reasons why I supported the amendment this morning. I am hoping that
when that review is done, one of the proposals that will come back will be a moderation of this
4365 birth right Law. I would like to see something like, for example, a bit similar to what they have in
other countries: if you are born of a local parent, you are granted birth right and any other child
would have to serve a not-too-onerous term of perhaps between five and eight years. That would
seem to me, sir, to be compliant with human rights. It also fits in with the eight-year period of the
medium-term employment permit.

I think that would be fairer and simpler and far more acceptable and would not create so many
anomalies. That is one of the reasons I voted for that amendment this morning. I want that review
to come back with something which is simpler, far less convoluted and with a greater degree of
4370 fairness.

I still believe that the Law should contain some recognition, some acknowledgement of
4375 significant or substantive family ties to the Island.

Just referring to something that Deputy Brehaut was saying, sir, he spoke about all the
Guernsey-isms in regard to if you consider yourself to be a Guernsey child. He mentioned all the
things about tepid cup of tea at the Cup and Saucer and other things, down the bathing pools. Of
course, the other Guernsey-ism is actually making a definitive statement, but ending the sentence
4380 with 'eh?' as if it is a question. That is another one, I think, you can add to that list, eh?

I certainly do not agree with, Deputy Fallaize alluded to this during his speech, I think those
people who were sent emails, Members who were considering supporting this amendment, saying
birth right or betrayal, I think that is completely unacceptable. I think Deputy Roffey and Deputy
Fallaize and those who are going to support this amendment have every right to bring it and
4385 every right to support it, sir.

If their conscience compels them to do so, they can do no less. I do not agree with that. I will
not align myself at all with that birth right or betrayal comment. If the Deputies feel they need to
bring it, they are compelled to bring it, they were right to do so.

The problem I have with this amendment is, I think it has been alluded to already, but I think I
4390 am quite clear about what is behind it. Deputy Roffey and Deputy Fallaize, I think, would like to
see an equal qualification period for any child born in Guernsey, regardless of family ties or

ancestral ties so they are probably thinking about something like five to eight years and I believe that we should have a birth right provision, but we need a much more moderate and much less complex aspect to that.

4395 The point is, and I think it was Deputy Graham that made it, you either have a population regime with levers of management and regulation and conditions and restrictions within it, or you do not. It seems unreasonable to me to have, at one end in regard to work permits, about how long people can work here for and how long they can live here for, and where they can live, it seems unreasonable to have one end have those levers of management and regulation and, at the
4400 other end, have absolutely nothing at all. I think we do need levers of management and regulation in place, sir.

Just to summarise what I have said, really. I do have some sympathy with the amendment. There was a programme on television a few years ago, I think it was called *Jeopardy*. It was the other way around, the question was actually the answer in regard to the quiz. Somebody would
4405 give the answer and somebody else would have to offer up the question. This is what this amendment is doing – the second part. The first part, as Deputy Brouard said, is perfectly reasonable, as I say. It is almost akin to one of the Propositions in the Deputy St Pier/Deputy Lowe amendment, but the second part is almost a *Jeopardy* situation. It is already offering up the answer before the question is asked.

4410 That is why, although I have some sympathy with it, I cannot support it. I believe that there should be some sort of birth right provision within the Law and I am hoping that, in due course, when the review is done something fairer and simpler and less complex and less convoluted will come back.

I will certainly consider very seriously voting for that.

4415 Thank you, sir, that is all I have to say.

The Bailiff: Deputy Langlois.

Deputy Langlois: I think it is ironic that, on the day that the UK is going to trigger Article 50, mainly to get control of their borders, we, who have control of our borders, are now here, having
4420 spent years and years debating what to do with that control and we still have not quite decided. Maybe that is a salutary lesson for the UK on what they are about to be facing.

I was here for the big population debate in 2012, but I missed the big population debate in 2013 and I missed the big population debate in 2014 and the big population debate in 2015. I can
4425 quite understand why people who were there in those years are slightly tired and a bit fed up with the whole business. I think I could hear their tones of voices.

Personally, I am not going to support this amendment because, of all those big debates, the one I thought which got it most right was 2013, where you had a uniform system requiring permanent residence of Guernsey. I thought they got it right in 2013 and I did not welcome the
4430 addition of the birth right in 2014. From my point of view, if we can get back to that 2013 system, all to the good.

My concern is that, if this amendment is voted through, it is going to stir up the whole birth right hornets' nest yet again. We are far more likely to get a rational decision and a reversion to the 2013 concept if we follow the already approved process in the St Pier/Lowe amendment. I
4435 think the problem will be seen in the bigger context of a review of the population management, rather than as a one-off effect, which is bound to get an enormous amount of publicity. As I said, it is probably going to stir up a hornets' nest.

The reason I do not mind the wait is that I think people are loading the current Law too heavily. Deputy Ferbrache used very, very strong language about it. It is not as dramatic as he portrayed it. My ideal of the 2013 proposals, really what has happened since then, in 2014 is, that
4440 some groups of Islanders were discriminated in favour of; it was not that people were discriminated against.

4445 That is kind of wordplay, but we started with 2013 and we picked some Islanders and said actually they are going to be more favourably treated. There is a subtle difference between that and actually discriminating against a group of people. So I am reasonably comfortable with the Law carrying through until the proposed date of the review in the St Pier/Lowe amendment.

What I do not want to see is an awful, time-consuming, highly emotional debate on birth right, which is what I think would arise if we vote for the Roffey/Fallaize amendment today.

Thank you.

4450

The Bailiff: Deputy Roffey will reply.

Deputy Roffey: Thank you, sir.

4455 I am going to go through some of the individual comments that have been made in a moment, but there were, I think, two generic objections made by a number of people to this amendment.

The first was it has been decided and now you are trying to unpick it and go back again. When you think of some of the people who have been objecting to my amendment, Deputy Trott, Deputy Brouard, Deputy Graham, Deputy Oliver, Deputy Lowe, what on earth did they do with the 11-plus? Did they say, 'Oh no. It has been decided we must not try and unpick this and go back again.' They all wanted to overturn a previous decision they disagreed with.

4460

That is what I am trying to do today, trying to overturn ...

I give way.

4465

The Bailiff: Deputy Oliver.

Deputy Oliver: Sir, I never said that I did not want it reviewed. I just said I did not want a review that came to a conclusion already,

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Deputy Roffey: That is the second point I am coming onto. I will give way again to you on that in a minute.

The Bailiff: Deputy Graham.

4475

Deputy Graham: I would just like to make clear that at no point in my speech did I produce the spectre of not revisiting something.

Deputy Roffey: I accept that, but a number of people who have been opposed to it have been actually saying that is exactly the reason why it has been decided and yet there is a strong correlation – it is not universal, but a correlation – between those people who were quite happy to look to unpick previous decisions when it suited and those who did not believe it should be done now.

4480

4485 As for pre-determination, Deputy Trott said this is unusual, you are asking for a review and yet you have come to a conclusion. Firstly, he is wrong that it is unusual and, secondly, it is wrong that this is coming to a conclusion.

It is coming to a generic conclusion that what comes back from the review should have been non-discriminatory and I fully accept that, if you do not believe that that is something you want to decide today, then, if you think you might want to carry on discriminating and being unequal, then you will not want to give that degree of steer and therefore will probably be a vote against this amendment.

4490

That is all it does. There are lots of different ways of skinning that cat. So it is not actually coming to a firm conclusion.

By contrast, countless other amendments asking for reviews have done that. Our esteemed leader up there, looking at his iPad or whatever he is, put forward an amendment through asking

4495 Education to carry out a review that said it should have three schools, non-selective, come back and tell us how to do it. How much more pre-determined was that?

Deputy Fallaize put forward an amendment saying, whatever you come forward with in the Budget, those with the broader shoulders should carry more of a burden.

4500 Pre-determining directions in amendments, to be honest, there is almost no point in having an amendment if you are not giving some sort of steer to the people of the direction you are seeking to go.

So, I reject both of those arguments. Now, let us go through a few of the individual comments.

4505 Deputy Lowe said that this amendment would be like a wrecking ball through the legislation, or some words to that effect. Why? Because it wants equal treatment of Guernsey-born children. In that case, if this great white saviour of the P&R review comes to that conclusion, that we should move towards equality, as Deputy Queripel and others are hoping it will, no doubt that conclusion will be equally a wrecking ball, because it will be moving in the same direction. I think I can see the direction of flow. If we do not pass this amendment and go with the P&R amendment, say goodbye to the idea of equality of qualification, because it is just not going to be there.

4510 Deputy Fallaize said that he thought the majority of Guernsey people did not want this sort of discrimination. They did not realise how far it was going down in not discriminating between incomers and non-incomers, but between one Guernsey family and another. He may be right, he may be wrong. I do not care. I admire Gandhi and I will not do the accent, but Gandhi said: 'Even if you are a minority of one, the truth is the truth.' I believe in that, too.

4515 That picks up Deputy Oliver's point. She actually believes we are trying to put our own opinions here, rather than the public. I think our own judgement is what people elect us to do, otherwise let us just have a requête to bring back capital punishment. After all, public survey after public survey suggests that is what the majority want.

4520 Who is going to bring it? Deputy Oliver? Others? That is the logic of the argument that they were putting forward.

4525 Deputy Gollop says there is discrimination in the current Housing Law and he is quite right. In fact, there is more discrimination in the current Housing Law than there was in the one before it. I think it was the 1982 Law, because that at least said that if you were born and did 10 years here – Deputy Ferbrache will correct me if I am wrong, I think it was Section 9.2(b) – then whatever your background, you were treated the same and you became a qualified resident. This Assembly moved away from that and brought in different qualifications depending on how your parents were here.

4530 This would take it a stage further. The current Housing Law discriminates between the children of licence-holders, open market residents and qualified residents. This would discriminate between local families. It is actually ratcheting it up one stage further. It is going another step down a very unfortunate path.

4535 Deputy Brouard said he has got no problem with people having different lengths of term to serve. Some people are from the Island, some people come from the Island, they expect to be treated differently. No! We are talking about families already in the Island and have been for a generation or two.

4540 He has indicated, just serve your time and you will get there; and Deputy Ferbrache, even though he was on my side, said this actually will not make much practical difference. Yes, it does. If a family wants to preserve their children's inherent rights then some families will be able to go and pursue career opportunities one week after their child has been born, knowing they will always have a right to come back. Other families would have to wait here for eight years saying, 'No, although I would really like to do that job in New Zealand that could develop my career, I cannot, because it might jeopardise my child.' The next family will have to wait here for 14 years.

4545 It does make a practical difference. It is not just a question of it is a little nicety, the indigenous people have got a little recognition. It is making a real difference between one Guernsey family and another.

4550 Deputy Paint. I do not know what I can say about Deputy Paint, really. He read out, at the beginning, a really quite emotive thing about inviolate birth rights and how nobody should be able to have them taken away. How they were as much a part of you as the colour of your eyes or the colour of your hair. Not very applicable in his case, I know. Yet, he only wants to give them to some people and not to others. A child of two Guernsey-born parents who is born here itself will not get the birth rights that he feels so much about – and he is happy to sign that off. How does that tie in with that emotive thing that he read out?

4555 I have to say, please do not say that Guernsey people, the indigenous people, have been 'tolerant' of incomers. What are we tolerating? Sorry, through you, sir, I hope nobody says that. I do not think we have been tolerant. I think we have benefited from them and I think that sort of wording is very, very unfortunate indeed.

4560 Deputy Le Clerc asked a couple of questions. Would it mean the children of Open Market children being treated equally? I know there are not many, but some Open Market residents are from Guernsey families that go back generations. You do not have to be a non-local to live in an Open Market property. So, I think the answer certainly does have to be yes.

4565 She asked for how long. I am not tying it down, but I would be really accused of pre-empting the review I am asking for if I was saying that here. My own personal choice would be eight years. It is two years less than most favoured people, i.e. the children of qualified residents under the current Housing Law – two years less than Deputy Brouard put forward by his amendment that was referred to when this was discussed before. I do not believe it could go below five years, for the reason that she says.

4570 Now, Deputy Graham thinks that is discriminatory, because the children of transient, medium-term licence-holders should have the equal right. I do not agree with that, because I think, in deciding how many people can live here, it is your childhood that really anchors you to a place. I think if you have done less than five years, it is not the same as if you have been brought up throughout.

4575 But, I have deliberately, despite what people have said, not pre-empted the review. I am just saying whatever it comes up with has to be fair. It could be birth rights for everybody, it could be 14 years for everybody. I would argue against the latter, but it could be.

4580 That brings me on really, in a way, to Deputy Dorey saying he cannot vote for this amendment because five years or eight years is too short. Nothing in this amendment mentions five years or eight years. I have felt obliged to give my personal view and it would be around eight years but, if he believes 10 or 12, or whatever he is thinking, there is nothing in this amendment that actually prevents that.

4585 Deputy Le Tocq reiterated this will not make much practical difference. It does. It ties families to here. It makes them behave in a way that they do not want to do in order to protect their children, if they are second-class children in Guernsey. If they are first-class, they can just go and do whatever they want without any worry.

4590 Deputy Soulsby, I have to correct – it did not have much to do with this debate – that I proposed a population cap. Absolutely did not. What happened? The Policy Council – there was a review led by Deputy Lowe – suggested what I call the hump-backed bridge approach to population: let it go up 5,000 and bring it down 5,000 and then have it the same in 40 years' time as it is now. It was bonkers and I put an amendment saying if you want the population to be the same in 40 years as it is now, then keep it roughly the same all the way through. That is what happened, it was not a population cap.

4595 Deputy Trott, well I dealt with his business about giving the answer in advance. It is not giving the exact answer, it is saying whatever answer is come up with must be rooted in equality and not in discrimination.

Deputy Queripel. I do not know if it is an insult, he says that I have tried to persuade the States that my view is the only right one. I have listened to debates for a long time. I think that is what most Deputies try to do, including himself: try to persuade the States that their view is the only right one.

4600 I have to say, it is creeping into this Assembly a lot, the use of the word of hypocrisy. In the UK Houses of Parliament, the Speaker has been extremely clear that it is a non-parliamentary term. Normally, we follow the lead of the Mother of Parliaments but, of course, we have got the right to be different if we want to.

4605 I blame Deputy Trott, by the way, for the introduction of that term on a regular basis. He asked how long this should take. It is not the sort of review that we passed before – sorry, I know we are pressed for time, I will finish in the next minute or two – the sort of review we passed this morning will have to take a year or so, because it is looking at the impact of the Law, how it is affecting the local economy and things like that.

4610 This is not. This is the States saying, 'We want to remove this discrimination, we want qualification periods that are non-discriminatory.' That should be able to be completed in three or four months.

4610 I could be far more generous than that than in the time that I have allowed.

4615 Deputy Gavin St Pier. I think he believes in this amendment, but he has got this leadership role and he has to pretend that he does not. It is quite clear, he cannot hide it. That is why party politics would be such a nonsense, because you would have to follow the party line, but everybody knew you did not believe what you were saying! (*Laughter*)

4615 Deputy Yerby, thank you for your support. I think you were going to support. Likewise, with Deputy de Lisle, thank you very much. I will not expand on what you said, because I think we need to get through it.

4620 DNA testing: that is interesting from Deputy Tooley. I lived in Israel for a while and the kibbutz I was on was really easy about the fact I had a close friendship with an Israeli girl, because any children that might have resulted – thank goodness, they did not – would have been Jewish, because you can only be sure who the mother is, you cannot be sure who the father is. That was thousands of years of wisdom from the Chosen People we are going to put aside and we think that we will be able to tell who the grandfather was, even though we will not know at all, will we?

4625 I will do one more point. Deputy Graham said you cannot remove all discrimination here. People who are brought here on short-term permits, medium-term permits, long-term permits; we are treating them differently. Eight years, in fact, indefinitely for the long-term permits. Five years for the medium. One year, although renewable for the short term.

4630 These are adults making choices, relocating to Guernsey knowing what the score is when they come and making an adult decision. That is utterly different between discriminating from Guernsey-born children from Guernsey resident families. It is not on and if some people think my language has been too strong, I apologise for any offence but really, not for my language, because I think it is despicable and I really hope – I suspect you are going to reject it, but I really hope – that Members will pass this amendment.

4635 **The Bailiff:** Members, we vote, then, on the amendment proposed by Deputy Roffey, seconded by Deputy Fallaize, and there has been a request for a recorded vote.

There was a recorded vote.

Not carried – Pour 17, Contre 21, Ne vote pas 0, Absent 2

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

4640 **The Bailiff:** Members, the voting on the amendment proposed by Deputy Roffey, seconded by Deputy Fallaize, there were 17 in favour, with 21 against, so I declare it lost. We will rise now and resume at 9.30 a.m. with the other amendments.

The Assembly adjourned at 6.03 p.m.