



**OFFICIAL REPORT**

**OF THE**

**STATES OF DELIBERATION**

**OF THE**

**ISLAND OF GUERNSEY**

**HANSARD**

**Royal Court House, Guernsey, Thursday, 30th March 2017**

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

**The Clerk to the States of Deliberation**

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

**Absent at the Evocation**

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 Deputy Greffier*

## EVOCATION

# Billet d'État VII

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

**The Deputy Greffier:** Billet d'État VII, Article VII, Committee for Home Affairs – Population Management (Guernsey) Law 2016 (Commencement) Ordinance, 2017 – continuation.

**The Bailiff:** The next amendment is to be proposed by Deputy Roffey, seconded by Alderney Representative Jean.

*Amendment 2:*

*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 to bring a Policy Letter to the States at the earliest practical opportunity setting out its policy and proposed treatment, under the new population management regime, of children born in Alderney and/or Sark and those taken to those Islands as minors and wishing to relocate to Guernsey to live and work or for the purposes of further education or training, together with a Proposition giving members of the States the opportunity through debate to comment on that policy and proposed treatment. Such a report to include a full explanation of the background to, and the considerations taken into account when formulating, the policy and proposed treatment.'*

**Deputy Roffey:** Yes, sorry, sir, it is me again. But there we go.

This amendment is really a very clunky way of saying something very simple: that this Assembly should be given the chance to debate and to influence Guernsey's policy on allowing young people born or brought up in the smaller Islands in the Bailiwick to relocate here, to the

10 mother ship, to pursue training, further education and employment opportunities, which are probably simply not available in their own Island.

It is certainly not an attempt to de-populate either Alderney or Sark, but an attempt to ensure that, wherever possible, those Island children who need to leave their own Island, because the career opportunities they seek are not existent there, can at least do so within their own Bailiwick, rather than being forced further afield.

15 How big is the problem of Bailiwick children from Alderney and Sark having to move to the UK or beyond because there simply are not the job opportunities that they need in their native Island, but they are not allowed to come to Guernsey to live and work? The honest answer is I do not know.

20 I know the problem has existed and has done for many years. It is not created by this new Law; it has existed under the Housing Law as well. But I do not know how big that problem is, I do not have any stats and I think they would be impossible to gather, because you would never be sure how many people who have gone off to the UK would have remained in the Bailiwick had they had the right to live and work in Guernsey, or how many would have chosen to go to the UK anyway, because that was simply their lifestyle choice.

25 I do not know how big the problem is, but that does not really matter. Either, it is quite big, in which case we should certainly be doing something about it, because we do not really want a brain drain of young people, particularly in regard to Alderney. We probably funded their education and we would certainly not want that to happen. On the other hand, if it is very small, then we can certainly afford to be generous in this, knowing it will have an absolutely minimal impact on the population of Guernsey.

So it does not really matter if it is small or big.

30 I know some have said that allowing those who cannot pursue their career choice in Alderney and Sark to come to Guernsey is a danger; it might exacerbate the de-population of those two smaller Islands. I think that is absolute bunkum. If people want to live in Alderney, who want to live in Sark, they will.

35 The best thing that those Islands can do to retain their own young people is to try, and I know it is not easy, and create the job opportunities and the vibrant economies that they can here and I think that this Assembly, wherever possible, without being patronising, should try to help in that endeavour. **(A Member:** Hear, hear.)

40 But, for those who want to leave, those for whom a career simply is not available at home, well they are going to go anyway, I am afraid. The only issue is whether we are willing to accommodate them here in the wider Bailiwick, or whether they have to go further afield. If a generation of Alderney children produces six accountants, I doubt there would be the work for them in Alderney. But we could certainly use a few of them here. So why force them to go to the UK?

45 Anyway, imagine the boot on the other foot. Imagine Guernsey struggling to maintain its population – not so hard to do – and the UK turning around and saying, ‘We are worried about the de-population of Guernsey, what we are going to do to help is we are going to stop Guernsey boys and girls from pursuing their career opportunities by relocating to the UK. We are not doing that because we are worried about migration into the UK, we are just doing it to help Guernsey, because we do not want to de-populate them. So we will ban their children from moving in here.’

How would we feel about that? I think we would feel both patronised and angry and yet, effectively, that is what we are doing to the smaller Islands.

50 I know some have said there is a big, qualitative difference between Alderney and Sark, in this regard. I actually do not agree. I do know, we have a partial political and fiscal union with Alderney and the 1947 Agreement grew out of the devastating state that Alderney had been left in after the German Occupation there. Not even Occupation; ‘Occupation’ suggests there would be a population there to be occupied. The Island was occupied. We understand why that happened.

55 Yes, that means that perhaps we have got a bigger financial incentive in respect to their children, because they go through education as a transferred service.

60

65 But, Sark is also part of the Bailiwick. I actually think it would be perverse to penalise them for having the guts to plough their own furrow over these years. If they had asked to become a part of Guernsey in the same way as Alderney, if they had asked for an equivalent of the 1947 Agreement, I am pretty sure it would have been granted over the years. I am absolutely sure the flow of money would have been out of this Island and towards Sark. But they have not done that. They have decided that they are going to paddle their own canoe.

70 With one glitch, I know, that the Dame of Sark, Sybil Hathaway, did state at one stage back in the 1970's that she was going to hand Sark over to Guernsey. I am not sure she had any right to do that, but it certainly hit the headlines. I was staying in Little Sark at the time and the late, lamented Phil Perrée – that is old Phil, not young Phil – told the man from *The Times*, his response was he was going to blow up La Coupée and declare UDI for Little Sark. How practical that approach would really have been, I have my doubts.

75 Other than that, they have steadfastly done their own thing and I think it would be perverse to treat them less favourably just because they have chosen to do that. Anyway, the numbers we are talking about are absolutely tiny.

80 Another myth that has been about is that actually this policy, as published recently by the Committee for Home Affairs, is really just treating people from Alderney and Sark the same way as children in Guernsey who are the children of non-permanent residents. In one way, that is true, but in other ways it is completely and utterly false. In two ways.

85 Say you have got the child of an Open Market resident. They would take 14 years to qualify if they have been brought here as a minor. But my understanding is once they have qualified they would be free to do whatever job they wanted to do inside Guernsey. The published policy by the Committee for Home Affairs says that those that have qualified on the 14 years' residence in the Bailiwick would only be able to come for work purposes for a job that would attract an employment permit – in other words, a job where somebody from just about anywhere could come and do.

90 At the moment, the list of jobs that would attract employment permits is pretty wide, maybe too wide. We will get onto that a little bit later. But, of course, that might change. If unemployment goes up in Guernsey, we will narrow that list. Well, we ought to, because we will be looking after our own first. But do we want to be slamming the door on children from elsewhere in the Bailiwick? I would hope that we would not.

95 Secondly, the real situation of this is, if you are the child of an Open Market resident, you may have to stay at home until you are 22, because you re-located here at whatever age; but, while you are living at home you are absolutely free to access the education training and job opportunities. You cannot establish your own household, but you are able to access the whole range of things that Guernsey has to offer.

100 But if you are from Alderney and at 18 you have not done your stint, you have to wait longer, then you cannot do any of those things. So you would be forced further afield. It is not an equivalent, at all.

105 Now, of course, I accept we do need population controls between Guernsey and the smaller Islands. They, for obvious reasons, have a fairly open door policy. They are quite happy to attract more people to go live in there and it would be utterly perverse if we tried to have a population control that allowed people to move in to, say, Alderney, and a couple of years later say, 'No, I would prefer to come down to Guernsey.' I am certainly not suggesting that we, in any way, have an open door for adults that are coming from those countries – sorry, those Islands; they might like to be countries.

110 However, we can surely afford to be generous towards children, either born in the smaller Islands or taken there as young children? After all, the impact on Guernsey will be absolutely minimal.

I am actually one of the Members of this States who is fairly obsessive about keeping our population down; who feels that Guernsey is currently over-populated. I will come onto that when we get onto general debate.

115 But, even I have to have a sense of proportionality. The numbers we are talking about coming from the smaller Islands to the Bailiwick are absolutely tiny and they will probably be coming to do jobs that we would be recruiting people from outside the Bailiwick to do anyway.

How relaxed should our approach to these controls be? I would like them more relaxed than the official published policy from the Committee for Home Affairs. I know others would like to go further. I think we all had e mails from three States' Members, two of whom are Presidents of senior Committees, suggesting there should be no controls, just let them come whatever. My stance is somewhere in the middle. I think a qualification period of about eight years will throw up far fewer anomalies than one of 14, but I am not suggesting that we decide that today. What I do know is that we need a debate and that is all that I am asking for.

120 I am really not trying to micro-manage the Committee for Home Affairs and I do accept, completely, that this is a matter of policy which falls within their mandate. But all principal Committees, in fact, all Committees, must realise that within their mandate are many things that are of broader interest to the States as a whole, which they will want to know about and they will want to influence.

130 This is actually something really quite profound for the inter-relationship between three communities that make up our Bailiwick.

I have to say, in closing, we started this States' debate yesterday with a statement from Deputy St Pier about the need for openness in Government and a presumption of release of information and openness and I have been, with all due respect to my friends on the Committee for Home Affairs, absolutely frustrated in my attempts to get out their thinking about how they were going to treat the people of Alderney and Sark.

135 I have sent emails. Yes, I have made use of the media, as well. But, more importantly, I have actually asked parliamentary questions on the floor of this Assembly and constantly been told: 'No, wait, wait, wait. We will not tell you what we are going to propose. Not yet, not yet, not yet.'

140 They finally release it when it comes out; this is what it is going to be for the next three years until 2020 – the very opposite of openness and transparency in Government. We are one team, here. I want to help them fulfil their mandate. I want to help Education fulfil their mandate, Health & Social Care. We may have disagreements, occasionally, over things, but we are actually part of one team. We are not in opposition to each other. Long may it remain that way.

145 But the more Committees play their cards close to their chest like some type of obsessive poker player, the more it will engender a feeling of them and us, opposition. I do not want that, so I have to say I deprecate that.

Having said that, I am pleased to see that they seem to have seen the light and they are now going to support this amendment and bring back a report for debate. I am not sure I will agree with them when that report comes back, but seemingly they are agreeing to do that and I think this will be a big step forward.

150 It is something, actually, that should have happened over the last 20 or 30 years and I am certainly very supportive of our cousins in the smaller Islands and trying to make sure that we actually live in harmony.

155 **The Bailiff:** Alderney Representative Jean, do you formally second the amendment?

**Alderney Representative Jean:** I do indeed, sir. May I speak?

160 **The Bailiff:** No, because the President of the Committee has the right to do so, if she wishes to.

**Deputy Lowe:** Yes, please, sir.

165 **The Bailiff:** Deputy Lowe.

**Deputy Lowe:** Sir, I confess to being a little confused about the circumstances that have given rise to this amendment; although, for reasons I will shortly explain, the Committee for Home Affairs will not oppose the terms of it.

170 So, for the record, I would like to provide the background context from the Committee's perspective and I promise to keep this brief.

Every policy that existed under the Housing Control Law will fall away when the new Law comes into effect.

175 Given that some aspects of the new population management system vary significantly from the old regime, no policy has just been re-badged and carried forward. Instead, the need for a replacement policy and the terms of any replacement have been carefully considered.

180 After reviewing the policy relating to the other Islands of the Bailiwick, under the Housing Control Law, we recognised that a replacement policy was indeed desirable. But, in line with the core principles of the new population management regime, we wanted to introduce a replacement that was more simple than the one that went before it, but we still wanted to enable people who were first resident in the Bailiwick before the age of 18 to move to Guernsey if certain other criteria were met.

185 Rather than starting the discussion with a blank sheet of paper, we instead decided to write to Alderney's Policy & Finance Committee, with proposals for what a new policy to replace old housing control policy might look like. We did not dictate that this must be the policy that was introduced, or that was our final word on the subject, or anything like that. We simply set out our initial proposals.

We were also mindful that, just like us, Alderney has its own economic and demographic situation to consider, that we felt that the proposals did not go into in that regard.

190 We wrote to Alderney's Policy & Finance Committee. We explained the core themes of the new Law. We set out our draft proposals. We even attached the old housing control policy to our letter as a point of reference.

Because it was so appropriate to do so, we copied the letter to Deputy Le Tocq, in view of his external affairs role, and to Deputy Brouard, who chairs the Alderney Liaison Group, and then we waited to hear back.

195 Sir, when Alderney's Policy & Finance Committee wrote back, they set out their thought process, showing considerations about whether the proposed policy should have been more or less permissive. But their letter concluded that they were content with the proposals, which they described as reasonable.

200 Only since this amendment was lodged have we now received a second letter from Alderney, saying the situation had changed, and that Alderney's Policy & Finance Committee now supported the terms of this amendment.

205 I do not know, and in many respects it is now irrelevant, why we received one letter telling us the policy terms were reasonable and accepted and then another, shortly thereafter, saying things had changed. But I do want to be very clear: Home Affairs did not, have not and would not close the door on negotiations. If Alderney did not or do not like the terms of the policy, they only have to say so. Their initial response did not say so. In fact, they wrote to say the proposals of the policy were reasonable.

210 For whatever reason, things seemed to have changed over the course of the last weekend and, in light of that, Home Affairs has no issue with starting this process again, nor does it object, since Alderney appeared not to object to discussing the terms of that policy in this Assembly.

Finally, sir, through the relevant officers, we had also advised the Sark Liaison Group that we intended, in the very near future, to start a similar process for that Island. But we will update Sark about the revised process we will be following if this amendment succeeds.

215 In summary, sir, Home Affairs will be supporting this amendment.

**The Bailiff:** Alderney Representative Jean.

**Alderney Representative Jean:** Thank you, sir, Your Excellency.

220 First of all, I would like to thank Deputy Roffey for working with me on this and putting forward the amendment. I am very grateful to him. He has taken an interest for some time now, and that is noted. We are extremely grateful.

225 Sir, Your Excellency, as I speak on the amendment I would like to deal with the letter from the Guernsey States, dated 2nd March, from the Committee for Home Affairs. The letter was placed on the March 14th Policy & Finance agenda as an item for information only, or for noting. There was no discussion, nor any suggestion of a response being drawn up.

The reply which was sent over a week later was, in my opinion, premature. It was not expected by me either.

230 As events were progressing at a pace regarding discussions between myself and other Deputies, including my colleague Deputy Roffey, about the possibility of laying an amendment, there was a lot going on. The letter of the reply from the Alderney States was clearly premature and, here as we are, I take my share of the blame for this. Less than 24 hours' notice was given for Alderney States' Members to find the email containing the draft and then to consider it and reply, giving comment or approval for the draft letter to be sent.

235 I am sorry, and I apologise to this Assembly and to the Committee for Home Affairs, and my colleagues in Alderney, for not picking up the matter of the letter of reply sooner, from the Alderney States. In mitigation, I did act soon enough, and only two or three replies from Alderney, maybe four, came in. I would point out that, although I have not given close examination to this, if I did, the letter might fall away on those grounds alone.

240 I may have been in time to stop enough replies of consent coming in to give the letter the authority it needed so the letter could be sent. I am of the opinion that my actions, late as they were, may have done enough to stop the amount of replies required, so the reply from Alderney may fall away anyway.

245 I turn my attention now to the second letter from the Alderney States and, yes, you have guessed it, I had more than a hand in this one. The letter does, indeed, at my insistence, have six replies of approval from Members of the Alderney States, including myself. That means there is a majority approval, definitely. This letter supports the amendment laid by Deputy Roffey and seconded by myself. This letter is the true view of the Alderney States. *(Laughter)*

250 I am very sorry about this! I ask you to ignore the first reply from the Alderney States and, instead, accept the letter supporting the amendment as representing the true view of the Alderney States, as it clearly does.

255 Now, to speak to the amendment placed by my colleague, Deputy Roffey, and seconded by myself. This amendment seeks to address situations in both Sark and Alderney, in terms of the Law which governs both the right to work and live in Guernsey for students and young people from both Alderney and Sark. It has long been a wish of mine that the lack of recognition in the current Laws for both the smaller Islands of Alderney and Sark, in terms of the right to live and work and pursue careers, training and opportunities not available to those residents of working age in Alderney and Sark.

260 It was not long after I first attended the Guernsey States, during my first years in the 1990's, with this Assembly, that I spoke with conviction on the subject of the right to work and live in Guernsey for Alderney in those days. I could not get this subject on the agenda. I could not get the take-up that was required. I continued to raise the subject, whenever an appropriate opportunity arose. I only spoke of the situation in regard to Alderney in those days.

265 The difference now is we also include Sark and I draw Members' attention to the fact that the situation, *vis-à-vis* Alderney and Sark, has changed and how that change has affected the two smaller Islands. Both Islands have suffered a considerable loss in their population and mainly families and people of working age. In 2013-14, Alderney was reckoned to have lost some 400 people. I do know that Sark is also concerned about the fact that many of their young ones of working age are tending to leave Sark for work elsewhere.

270 The words 'of working age' are, and should be, the key to this amendment and the information Deputy Roffey and myself lay before you all today. Guernsey, Alderney and Sark have one thing in common: they have already lost some of their working population. I know that this is the case in Alderney.

275 The subject assumes a new priority when we realise we must do all we can to encourage our working population to remain and grow. Supporting our amendment is the right way to go. Children and young persons of Alderney and Sark must know that they are welcome here and that the door is open for them and not half-shut, as at present, through too much restriction.

280 Since all the talks of right to live and work in Guernsey for Alderney's young people of working age started nearly 20 years ago, another change is that we are all aware of the demographic timebomb. We are living longer. This amendment seeks to push against the demographic timebomb, by asking for those age limits to be relaxed. Our amendment, the effects will hardly be noticed by Guernsey in terms of increased population. I believe the difference for Alderney and Sark will be significant. Their young ones will be welcome to live and work in Guernsey. At last, they will be treated with more equality.

285 The word 'Bailiwick' – together, all of us – this is the way to think for Guernsey, Alderney and Sark. The meaning of the word 'Bailiwick': the Islands together, as one. Our amendment seeks to strengthen the links between the Islands of Alderney, Sark and Guernsey and the Bailiwick as a whole, together.

290 Any loss of our asset base must not and should not be tolerated, and this is what is happening. It is easier to go elsewhere. Where are the people of working age going at the moment, our young ones? Because it is easier to go to the UK than it is here, they are going to the UK for work and job opportunities that Guernsey could provide. They are going to the UK because it is easier.

295 We lose out on all those years of investment through our education system, because they are working age and a whole working lifetime ahead of them. They are a huge asset to Guernsey and, as Deputy Roffey pointed out and I have pointed out, the difference would be so small to Guernsey and yet, over a working lifetime, the investment in those children and young ones would be paid back ten-fold, twenty-fold.

300 This is something that should have happened a long time ago. What makes it right for all our Islands now is the recession has highlighted where we need to go and how we need to look at our demographic timebomb. How we need to try and combat that demographic timebomb by stacking something against it that is an investment in life that means we are helping to keep things going. This is very important. The timing is absolutely perfect and I hope that each and every one of you will vote for this amendment.

Thank you, sir.

305 **The Bailiff:** Deputy Gollop.

**Deputy Gollop:** Thank you.

Well, we heard about the very eminent Perrée family from Sark earlier and it is a name similar to pear and, as Alderney begins with an A, I will call Alderney an apple, if people will forgive me.

310 I support the amendment and I would have seconded it, very much so, although I know Representative Louis Jean is a far better seconder of this amendment than myself. Members may recall that, although Deputy Roffey very much ran the issue since December, when it emerged in one of Home Affairs' policy letters, I have campaigned intermittently on the issue for a long time.

315 I mention apples and pears because I think Alderney and Sark, although equally deserving of consideration, are really an apple and a pear. They are different. The difference is not just historical and linked to Sark's feudal heritage and Alderney's different history in World War Two and before, but for quite specific reasons.

320 Where is Alderney in relation to us, as I look across to you, sir, and Deputy Le Clerc? As Deputy Le Clerc went on more than one occasion, and I tagged along too, to present Employment & Social Security policy ideas on longer working lives and the pension puzzle and so on. We

discovered in Alderney that they, perhaps, have not the full range of minimum wage legislation and employment legislation and possibly health and safety legislation that we enjoy. But, in many other respects, after long years on the Legislation Select Committee and its predecessors, we are aware that many of our Laws also relate to Alderney.

325 The reason why I mention Employment & Social Security is Alderney people are entitled to more or less exactly the same range of Social Security benefits, pensions and facilities in, for example, the excellent older people's residential homes, as Guernsey people. And, indeed, for the MSG contract.

330 The reason they are entitled is simple. Not only have we decided that, but they pay in according to their means an equal contribution. They are no different legally from a Vale Deputy or a West Deputy, or anybody who lives in any other part of the Island, even Herm. So, they are part of our society. Education, Sport & Culture have an oversight role with St Anne's School. Health & Social Care effectively run and oversee the hospital on Alderney. The police are provided by Home Affairs, led by Deputy Lowe, and so we could go on.

335 They are not an 11th parish, they are a self-governing, independent Commonwealth parliamentary community, but they are to a degree federated to us. Of course, there is the very complicated financial arrangements that Deputy St Pier and Policy & Resources are well aware of.

340 So it makes perfect sense that anybody from Alderney who has a decent period of residence there should be entitled to the same rights as people in Guernsey and I think, particularly, of children and young people who were born on the Island or who lived there throughout their child and teenage years.

345 Sark is different, because Sark does not have any of the above. We do have certain legislative requirements that we make for Sark, particularly, I believe, with certain crimes and financial services legislation. Of course, the Bailiff, yourself, sir, has the role of Chief Judge of Sark and the Law Officers are equal in their diligence in advising Sark Chief Pleas and the States of Alderney as they are to us.

350 But Sark is independent. I would argue that Sark, indirectly, contributes to our economy as part of *Visit Guernsey*, as part of the sale of Guernsey and its dependencies, in a manner of speaking, as a place that we enjoy going to, for everything from fruit and vegetable festivals to folk festivals and so on. There is even a postcard of me visiting a fruit festival in Sark that you can buy in the post office, strangely enough.

It is different.

355 Nevertheless, when you look at the bigger picture, Sark has a maximum population of around 600. In reality, it is probably closer to 300 or 400 today, and we should support our smaller brother or sister in Sark, because the young people born on Sark have limited employment and financial opportunities, and I do not think we want to see either Island become a denizen of retired people exclusively.

360 I think we have to analyse and, as the longest serving Member of the States, I think I should do this: why we are where we are with Sark and Alderney, particularly Alderney. The thinking of the old Housing Department, of which I was a member but resisted to a degree, was that Alderney people, even the children, did not deserve many rights. That thinking was there for two reasons, which were arguably both Alderney's fault, but they belong in a different era than today. Perhaps in those days Alderney had representatives, sometimes, who were more aloof than today's excellent couple of personalities.

365 Also, on a legalistic level, Alderney has a very petite Work Permits Law. It is only 13 pages. It is incredible that it still is robust. It has only got three or four substantive pages. Sometimes, I think we should apply it to Guernsey, but that is a topic for another day.

370 Their work permits Law, in times past, was used not only to regulate labour from the European Union and elsewhere in the United Kingdom, but also Guernsey. It was to prevent the smaller builders, painters and decorators and other craftsmen and suppliers going over to Alderney and perhaps making life hard for Alderney-born employees. It was protectionist. That was a crucial difference.

375 The other difference is that Alderney has not got, as we would understand it, a local market/open market division. Although there are a few properties there that are only available to people who would qualify for social housing or perhaps would buy it on a kind of partial share-ownership scheme at Le Banquage, most properties there, including most of the classic town houses and luxury new bungalows that exist, are open market.

380 That is an advantage to the Island and is part of its charm and part of its sale for second-home owners as well who contribute a lot, at least in the summer season, but it is a disadvantage to us and, to be frank, one of the downsides of Alderney's current situation is that it does import, with the best intentions, people of a certain age and generation who are not necessarily fantastically wealthy or well provided for, who do require substantial amounts of financial assistance from us.

385 So, whilst we are jealously guarding our gate to prevent Guernsey becoming a denizen for retired people who would swell the population and up the housing prices, we are letting it happen in Alderney with impunity and we pay the price, indirectly – Guernsey taxpayers. That is the way the cookie crumbles and Alderney has independence in that respect.

390 But, if you treat everybody in Guernsey as if – and this is an argument I have never taken up with HM Procureur or Comptroller, but I think I should – if you treated every child who has ever lived in Alderney, as if they were an Open Market child, either under the current Housing Law or the future, if we approve it, population regime, then many of them would qualify to live in Guernsey and I think they have as much right to be around as I do and probably more.

We should have a new way of thinking about Alderney because, even if you accept that they come in not through a back door, but through a different entrance into what amounts to an open market, we should give them rights along those lines.

395 Sark is a different situation but, again, it is easy to show how many families in Sark are of longstanding.

400 Which brings me on to birthright. There are lots of people in Alderney from diverse parts of the world. I have met people there who have lived in China, Turkey, Asia, Thailand and so on. But there is a core of a local population, of which Mr Louis Jean would be one, with Norman-French roots, but if you look at a list of local names you see around, there are representatives on the Island of Sebire, Gauvain, le Cocq, Mourant, Le Mesurier, Mignot, Le Moigne. All of these are classic Channel Island, Guernsey heritage names. Perhaps one is more Jersey. They have, in a manner of speaking, family cousins in Guernsey.

405 You could easily do a birth right grandfather living in the Channel Islands issue with those people as well. So, I think, even on the rather narrow and arguably restrictive and some might say prejudiced issues we were debating yesterday, some would qualify on those grounds.

410 Talking of birth right, the vast majority of Alderney and Sark babies are born in Guernsey and have been since, I think, the 1960's, for the obvious reason that we have got a greater range of doctors and superior hospital facilities. Indeed, paradoxically, the Mignot mental health facility is named after a family with Alderney roots and Alderney benefactors.

I am surprised that, in a way, Alderney people have not sought judicial review as a class action because, although I would not like to see the States of Guernsey actioned in such a way, I can see with certain individuals who have approached me over the years that they do have a very reasonable case.

415 We also, of course, as has already been pointed out, pay for their education and many other services. Yet, I have met people in Alderney who have been paid for by the Guernsey and Alderney taxpayer to do wonderful degrees and their main career option is to be a waiter or waitress and that is because the job opportunities are just not there.

420 I can understand why the States of Alderney, as Deputy Lowe pointed out, has had a rather ambivalent response to these issues but then, if I am honest, Alderney politics, the dynamics of it, changes every week. They might write a letter one day, then a different letter the following.

There is, perhaps, a more serious reason behind it. I know Deputy Kuttelwascher has praised the work of the electronic census, and it is an innovative tool that doubtless we can do more with, but I would point out a paradox and I have never had an answer to this, as to why, when Alderney,

425 unlike ourselves, did a paper census – in 2011 or maybe a bit later, 2013, I think – the population was only 1,900, but when we did an electronic census of the Island it was 2,100. There was a significant differential. I do not know the reason for that but, of course, it is hard to define how many people.

Whether it is 2,000 or 3,000, or Sark, 400 or 500, it is very small in relation to the population of other communities that come here – the United Kingdom, as a whole, or so on. So, we really do need to keep some perspective on it.

I will perhaps approach the issue as to why the States of Alderney have shown two different approaches here. In a way, they were bound to argue that what Deputy Lowe's team and their predecessors were offering was reasonable, because it is reasonable in the sense that it follows on from the previous housing policy. There does seem to be a problem with students attending the Tertiary College, but apart from that, it is more or less the same. I think, anecdotally, the attitudes of discretion by population control have been slightly more generous in the last few years than they were at one time.

But the States of Alderney, too, obviously are worried, as we should be worried, that Alderney could be in danger of an economic slump. A brain drain and a youth drain from the Island.

That is trumped by the human rights aspect of an individual person. We do not contact Whitehall and say, 'Is it fair that Mr X or Miss Y should wish to stay in Guernsey, because they could be lost to Leicester or Bournemouth or somewhere' and then have a reply back from the United Kingdom as to whether they believed they would like to see, let us say, 10,000 people, effectively no longer live in the United Kingdom and live here instead. That would be ridiculous.

We do not consult other governments to see whether somebody has a right to live here or not. It is based on the merits of the individual person, their past history and the logic of being a Channel Islander who had the right to attend the secondary school in Guernsey, who has been from cradle to the grave supported by Social Security, who pays Guernsey Income Tax in full, proportionately possibly even at a higher rate relative to disposable income in some cases. It is obvious that we have to modify our attitudes to Alderney people and preferably modify them according to Sark people.

I cannot see the legal logic why a child who has lived on the Island some years, in the Bailiwick, who has come here as a child of licence-holders or Open Market parents, has the right to qualify in their own right, but somebody who is perhaps from six or seven generations of Channel Islanders who have lived in Alderney never have the right to live locally, even though – and we know this is – their income levels are far below that of average Guernsey people. We have had a poverty survey from the Guernsey Community Foundation which, funnily enough, suggests that people who live in the West are a bit wealthier than the average person who lives in St Sampson's. But they are all affluent compared to Alderney people and we know that from all kinds of measures.

From every level, from fairness to legal process, to equality of treatment to mutual understanding, it is time, with a new mentality coming in for population, that we treat Alderney and Sark people, especially those aged under 30, more generously.

I do accept that certain modifications may need to be made in both Islands relating to migration of Guernsey people. Clearly a work permits Law should not apply to Guernsey people in most circumstances in Alderney and, clearly, there may well at some point need to be some degree of rationing of people of a certain age moving to perhaps either Island.

I think that is well into the future. In the meantime, we need to help both Islands, which have struggled on various levels, economically and politically the last few years, to give their young people the opportunity to earn money, perhaps take it back home eventually, learn skills and stay within the Bailiwick, rather than being lost to the wider world.

**The Bailiff:** Deputy Graham.

475

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

It seems to me there is quite a lot of preaching to the converted going on here. Speaking personally, I have never needed to be converted.

480 One explanation about the process, really, might help the debate here. I personally regret that the Committee for Home Affairs was not able to come forward much earlier than we were able to, in negotiating with the Alderney authorities the terms under which this new Law would be applied to a fellow member of the Bailiwick.

485 I am speaking as one of the new members of a new Committee. We have sat there for 10 months. The deadline for 3rd April was set by the previous States. We have tried to conform to that deadline and, I have to say, over the 10 months that we have sat as a Committee, I cannot recall a two-week period and, more recently, a one-week period, and even more recently a period from day-to-day when we have not sat down with the appropriate senior members of the Civil Service who are the authors of this regime and negotiated the whole thing, clause by clause, provision by provision.

490 We simply did not get around to the Alderney area until quite late in the day. I am not quite sure how we could have done it earlier. I think, if anybody is accusing the Civil Service staff, dedicated to that, of not working as hard as they might have done, then I think that would be unfair.

495 In a way, the fact that we have had this slightly embarrassing interface with Alderney, I blame myself for it really because I ought, from previous experience, to have known that, can I put it this way and I hope the representatives from Alderney will not be offended if I say that, when it comes to inter-governmental dealings between Guernsey and Alderney, you can expect the unexpected and, certainly, you cannot expect the straight-forward.

500 I would like to amplify what the President of the Committee for Home Affairs has said, in terms of the process. Of course, the terms or the proposed terms that were sent to the Alderney political body were preceded by discussions at staff level and, ironically, a lot of the discussions would have been along the lines that have been so well-articulated by Deputy Roffey in proposing this amendment.

505 In other words, we were seeking what may be a reasonably elusive balance between, on the one hand, acknowledging Alderney's presence as a fellow member of the Bailiwick and certainly not in any way wishing to discriminate against them and yet, on the other hand, acknowledging that there is a risk of de-population if the thing is made far too easy and that, really, from the Guernsey point of view, we were never really worried.

510 If 20 youngsters from Alderney come here to work in Guernsey, in almost every way it is to our advantage. It will not make a dent in our population, not a significant one but, my goodness, it would make a serious loss at the other end. Of course, we do have an interest –

I give way.

515 **Alderney Representative Jean:** If I may point out, I would dispute that. I do not think it would make a significant loss at the other end, at Alderney, because those people who are striking out to go are going now anyway and they are actually going to England.

I could not quite agree with that.

520 **Deputy Graham:** The point I am making is that there is a risk to be calculated and we thought it was not for us in Guernsey to make the calculation of that risk. It was along those lines that, after discussions with the senior officer in Alderney, and it is unfortunate that, at a key moment, he has left at fairly short notice, and there may have been a lack of continuity there and a lack of link between the officer level and the political level.

525 Whatever, I really think that we are talking off the same script, now. Deputy Roffey makes a fair point, he did engage by email, there would have been a wish on the part of the Committee, had we known that he was going to place an amendment, we would have invited him in to come and discuss the best form of amendment and we would have probably even finished up seconding it. Anyway, that was not his style.

530 If I could sum up. I believe everybody is a winner from this amendment. The only sad thing is that there has been a certain amount of ill-feeling, perhaps suspicion, generated unnecessarily.

535 There is one subsidiary point that Deputy Roffey has raised and that is the whole nature of how Committees negotiating matters and sometimes very serious matters on behalf of the States, to what extent they should involve all 40 Members in the process. To me, it is a principle that is well worth following, to be as open as you possibly can but, on the other hand, we do risk occasionally paralysis by process.

I think there are some areas where engagement with all 40 Members is not necessarily appropriate or could offer a discourtesy to other parties. One thinks instantly of Deputy Heidi Soulsby's negotiations and her Committee's with the MSG. Did we get involved, all 40 Members, in that? No. Did we demand a running commentary on it? No. I think, quite properly, we did not.

540 There are other areas of Government where a bit more openness would go down well. I am thinking, really, of the States' Assembly and Constitution Committee, of which I think Deputy Roffey is Vice-President – am I right? – *vis-à-vis* the coming referendum arrangements. As I understand it, sir, in June the Committee will bring a proposal here as to the options being offered to the public for the referendum. I believe there are going to be five and I apologise if I have

545 blinked and not heard it. I do not think we, the States' Members, have been told precisely what those five options are and far less –

I give way.

**The Bailiff:** Deputy Fallaize.

550

**Deputy Fallaize:** I am grateful to Deputy Graham for giving way.

The States' Assembly & Constitution Committee is, as I understand it, the only Committee of the States which meets effectively in open session. The media is invited and States' Members are invited to attend at any time they wish and Deputy Tindall, indeed, takes advantage of that and does sometimes attend meetings of the Committee.

555

If Deputy Graham wants to know of the Committee's deliberations, he is welcome to join us.

**Deputy Graham:** I accept that invitation. I happen to know what they are because we have been properly told down the Douzaine route. But, as far as I am aware, we have not been told down the Deputies' route. Far less, have we been invited, really, to suggest variants on some of the options that are going to be offered to us.

560

The fact that I think three of them are idiotic is neither here nor there.

**The Bailiff:** Can we not get into a debate on the referendum, Deputy Graham?

565

**Deputy Graham:** I take the point, sir.

Just to sum up. Let us all vote for this amendment because, honestly, nobody is going to lose by it and everyone is going to win by it.

570

**The Bailiff:** Deputy Dorey.

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

I will not oppose this amendment, but I think it is important that we know what this amendment is about. It is not about who can live in Guernsey, but it is about who can live in Local Market accommodation, our protected housing market, without an employment permit. That is, essentially, what we are discussing.

575

Any Alderney or Sark resident can live in Open Market, Part A, Part D, Part B, Part C, or, if they have the appropriate skill, they can apply for a job and, if they get that job, then that employer can apply for an employment permit and, if they get that employment permit, they can then live in Local Market accommodation.

580

But I believe that any policy letter that comes from this amendment has to consider the Open Market situation. I do not think that Alderney or Sark children should get quicker access to Local Market accommodation, without having to go through any hurdles, than Open Market children living in Guernsey.

585 Let us look at a situation. If there are two families, one moves to Alderney and one moves to Guernsey at exactly the same time; they have the same age children: it would be wrong if those ones who were living in Alderney then could get access into a Local Market accommodation before the child of the same age who lives in Guernsey. I think that has to be considered.

590 Of course, with the proposals, if they look at the same 14-year term, Alderney-born children would have done more than 14 years and would be able to have access into Local Market accommodation.

The other thing which I think has to be considered is the February 2016 report, which was on the Alderney-Guernsey financial relationship, because there is specific wording in that report, which talks about the need to have an increased population of younger, economically active people in Alderney.

595 I think any proposals that come back have got to be consistent with those policies that were agreed from that February 2016 report.

I will not oppose it, but I think those two particular points, Open Market and the financial relationship and policies from the financial relationship between Alderney and Guernsey, need to be covered in a policy letter that comes from this amendment.

600 Thank you.

**The Bailiff:** Deputy Lester Queripel.

605 **Deputy Lester Queripel:** Thank you, sir.

I am going to support this amendment. I have a copy of the public response to the consultation document issued in 2011 and there is a question in the document that relates directly to this amendment.

610 It does concern me greatly there were only 354 responses to the document. Sadly, apathy rears its ugly head, once again.

The question on page 79, question 25a, reads as follows:

What are your views on how the other Islands of the Bailiwick and the residents of those Islands should be integrated with the new population management regime?

The paragraph below reads as follows:

Many respondents related their comments to their personal experience, as residents, of Alderney and Sark and these, typically, related to the limited education and career opportunities in the respective Islands, for the children. Those concerns are also reflected in a handful of responses from community, business and professional organisations.

With that in mind, I urge my colleagues to support the amendment.

615 **The Bailiff:** Deputy Fallaize.

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

I do enjoy Deputy Graham's repeated poking of the States' Assembly and Constitution Committee and I accept it in the generous spirit in which I know he always means it.

620 But I think there is a bit of a difference between proposals which are being developed and will come to the States and can be amended by States' Members, which is the case in those he was referring to, and the population policies which are being developed by the Committee for Home Affairs, which will never see the light of day in the States. I think it is particularly important that those policies being developed by Committees, which are not coming to the States, are as open and transparent as possible.

625

Two other points I want to make. One is: I accept the chronology set out by Deputy Lowe clearly is accurate and the Committee has not been advised consistently by the States of Alderney. They received one set of advice one day, as it were, and different advice the next day. I accept all of that and I accept that the Committee for Home Affairs, very reasonably, asked the States of Alderney for their views on the matter.

However, there was a bit of a sense, I thought, in what she said, that it was for Alderney to determine what our population policies were in respect of Alderney residents. Now, I do not think it is. I think it is right to take Alderney's views into account, but I do not think it is right just to abdicate to Alderney our responsibility to set our population policies in relation to the people of Alderney and the children of Alderney.

The dispute, if that is what it was, with Alderney, or the difference of opinion that was conveyed by Alderney, is all very peripheral, because the central issue is that Guernsey has to set its own population policies, including in relation to the people of Alderney.

Now, the key in this issue, debate, I think, was made very well by Alderney Representative Jean, both in his speech and in his intervention to Deputy Graham, that young people who want to pursue their lives in a way which they cannot in Alderney are going to leave anyway. Most of them, probably, are going to find their way to the UK. It is self-defeating, for Guernsey, partly because in very many cases we have paid for the education of these children, but for other economic reasons as well, it is self-defeating to us and to Alderney for us not to allow them residency in Guernsey.

Notwithstanding the point that Deputy Dorey has made about them having easier routes to qualification. If that is the case, that is a fault of the qualification criteria that we are applying to other people in Guernsey. It is not the problem of the people of Alderney.

I really do think the direction in this amendment is not as clear as the direction was, for example, in the amendment which we debated yesterday. That is maybe why it is attracting less opposition from the Committee for Home Affairs, but I hope that the spirit behind this amendment is fully accepted by the Committee for Home Affairs and that, when they return to the States, the policy that they set out is much more liberal in respect of children born in Alderney and minors who have located in Alderney many years ago. *[Phone rings]*

My speech is probably better if it is set to music, actually! *(Laughter)*

Finally, sir, I do not think we should get too hung up about the inclusion in this amendment of Sark. Sark is different from Alderney and I do not think that can be overlooked in our population policies. The whole economic relationship is very different. This may have been said by Deputy Roffey when he opened the debate, I was not listening closely enough, I am afraid. There is nothing to stop the Committee for Home Affairs, when they report back to the States, proposing different arrangements for children born in Alderney from children born in Sark. Wrapping it up together in a single amendment just means that the two Islands are included in this review.

I am very much in favour of the amendment and the thinking behind it and I hope the Committee for Home Affairs will take on board the tenor of this debate when they report back to the States.

**The Bailiff:** I see no one else, so Deputy Roffey will reply.

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

I think I am pushing at an open door here, but a few comments. Firstly, the one on secrecy. I do take Deputy Graham's point that it is not really feasible for every policy being worked on by every Committee to be disseminated to all States' Members to see if they have a view. I take that.

But, at the same time, when a States' Member actually asks parliamentary questions and tries to say, 'Please can you tell us what your proposals are in this regard', particularly if it is not Alderney's population management legislation, as Deputy Fallaize has pointed out, it is Guernsey's, I just think there should be a bit more candour and it should not be trying to hook an

ormer off a rock in order to try and find out what is going on. I think I have said enough on that. That has been and gone now.

680 A couple of individual comments. Alderney Representative Louis Jean, thank you very much for telling us the real view of the States of Alderney. I know that your view is always the official view of the States of Alderney! (*Laughter*)

685 Deputy Gollop pointed out the differences between Alderney and Sark and that is true. It would be feasible to have different treatments. This amendment does not say that whatever regime has to be identical across both, but I do not think we should overplay the differences, myself.

He pointed to the census, that showed a significant drop in Alderney's population. What he did not point out is, below that headline figure was something far more alarming: that the elderly population of Alderney actually had not dropped that much, but the young, economically active families with children were. Now, why?

690 I know it has been said by some, including Deputy Dorey, this might exacerbate it. Yes, there is that danger, but I think far more – having made friends with Alderney, I might be about to alienate them – I think their problem is they can attract a certain type of settler. Those who still remember the 1950's and grew up on Enid Blyton and re-find that idyll, if you like, up in the Northern Isle. It is far harder for them to attract families with young children, that they really need, because they look at the limited opportunities for their children. If they are in their thirties, they will really think twice and three times before relocating to Alderney, because they will say: 'What are the options for our children?'

695 So, I actually think we will be helping the demographics in Alderney and Sark, as well, if we allow some flexibility.

700 Deputy Gollop is right, of course, that there are lots of Alderney families, re their inter-link with Guernsey for years back. He mentioned the Mignots. Not only did they donate the land for the Mignot Memorial Hospital – and not just the new mental health block, but actually the whole of the PEH was the estate of Mignot House; that is why the road through the Hospital is called Rue Mignot – they also left us the odd plateau, I think, here and there, as well. So I actually think something should be done to commemorate that family, because they are the most amazing philanthropists for Guernsey, but I am diverting, and we have got work to do.

705 Talking about diversion, go back and tell Deputy Graham, through you, sir, that the next meeting of SACC, if this Meeting allows, is at 9.30 a.m. tomorrow and he would be very welcome. I would be fascinated to know which three of the five options he regards as nonsensical. Presumably it is not the *status quo*, so the two of them revolve ... Anyway, we will go onto that another time!

710 Deputy Dorey said, look, this is not really that harsh, the present situation, on people from Alderney, because anybody with the right skills would be able to get an employment permit to come and work in Guernsey.

715 Yes, and anybody from Sheffield with the right skills can get an employment permit to come and work in a job in Guernsey. But, nothing against Sheffield, I do not think we should be treating people from the UK and Alderney in the same way.

720 I am not going to go any further. I am sure that the sweetness and light and agreement on this today will not necessarily lead to total unanimity when we actually come back to discuss what the regime should be, but I think everybody is agreed that we should have that debate and, to me, that is a massive step forward.

I think Alderney, Sark and Guernsey are actually stronger together than when they are apart. We can achieve that by moving forward on this.

725 **The Bailiff:** Members, we vote, then, on the amendment proposed by Deputy Roffey, seconded by Alderney Representative Jean.

**Alderney Representative Jean:** I would like a recorded vote, sir.

**The Bailiff:** There will be a recorded vote.

*There was a recorded vote.*

*Carried – Pour 39, Contre 0, Ne vote pas 0, Absent 1*

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

730 **The Bailiff:** I think I can say that was carried, but I will just pause while the votes are formally counted. The voting on the amendment, proposed by Deputy Roffey, seconded by Alderney Representative Jean, was 39 in favour, with no one against. I declare it carried, unanimously.

Members will have seen another amendment is laid on their desk this morning. I propose that we take that one next, before we proceed with the others.

735 We now have an amendment to be proposed by HM Comptroller and seconded by HM Procureur. Would you like to read it or have it read, Mr Comptroller?

*Amendment 6:*

*To amend Proposition 1 by inserting at the end the words ' , subject to replacing section 1 with the following section –*

*'1. With the exception of paragraph 3 of Schedule 4, the Population Management (Guernsey) Law, 2016 shall come into force on 3rd April, 2017.'*

**The Comptroller:** Sir, if I can have it read, please?

*The Deputy Greffier read the amendment.*

**The Bailiff:** Mr Comptroller.

740

**The Comptroller:** Sir, this is an amendment to the Proposition that is currently being debated. If Members turn to the Proposition, they will find next to it the actual Commencement Ordinance and they will note that it is a very simple Ordinance. It has two provisions, I think.

745

The first section, a very simple provision, which says that the Population Management Law will commence on 3<sup>rd</sup> April. In fact, that is not quite correct. It is not the correct version of the Ordinance that was actually submitted to the Legislation Review Panel. There was a later draft which, in fact, would commence the Law, with the exception of Paragraph 3 of Schedule 4 to the Law.

750

Therefore, this amendment would change the Proposition so that the Ordinance that is approved, if indeed it is approved, finally, would read section 1, as set out in the amendment, 'With the exception of Paragraph 3, Schedule 4, the Population Management (Guernsey) Law shall come into force on 3rd April, 2017'.

755

Now, Paragraph 3 of Schedule 4, of the Population Management Law would amend the provision of the Children (Guernsey and Alderney) Law, 2008. It is a consequential amendment that would be necessary, if the Population Management Law is actually brought into force.

760

Upon reflection, it was decided that it would be better slightly to make the amendment to the 2008 Law in a different way, in fact, a more comprehensive way and that amendment is contained at Section 6 of the Population Management (Miscellaneous Provisions) Ordinance, 2017, which is the Ordinance which would be considered by the States if they actually decide to bring the Law into force.

To be candid about it, what has happened is that the wrong version of the Ordinance was transmitted, following the Legislation Review Panel meeting. The Legislation Review Panel actually reviewed the Ordinance with this wording in, the wording that is in the amendment.

765

We have a new document management system in our office and, I am afraid, to be candid, the version control of documents is something that was not entirely mastered on this occasion. *(Laughter)* We have taken some action to ensure that this should not happen again.

That is the background to it.

770

**The Bailiff:** Madam Procureur, do you formally second the amendment?

**The Procureur:** Sir, I do and I apologise to the States that this has occurred.

**The Bailiff:** Deputy Lowe, do you wish to speak on it?

775

**Deputy Lowe:** No, thank you, sir.  
It is just a technical amendment.

**The Bailiff:** Any debate?

We go to the vote, then. Those in favour; those against.

*Members voted Pour.*

780

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

**The Comptroller:** I am obliged, sir, obliged to the States.

785 **The Bailiff:** I have asked that HM Comptroller will make available to everybody, when we have completed the debate on all the amendments, a consolidated set of Propositions, so that when we go to the final vote, we know exactly what people are voting on and that will help to sort out any problems.

As things stand, we are going to have a number of Proposition 2s. We will know, clearly, which Proposition 2 we are voting on.

So, there will be a consolidated set of amended Propositions circulated in due course.

790 We now have two rather similar amendments: one proposed by Deputy Ferbrache and seconded by Deputy Kuttelwascher and one proposed by Deputy Yerby and seconded by Deputy Soulsby. Having spoken with the proposers and the President of the Committee, I propose that they both be debated together. Deputy Ferbrache will first lay his amendment, obviously speak on that. Deputy Yerby will lay hers and will have the opportunity to speak on Deputy Ferbrache's amendment, if she wishes to do so, although I imagine one speech will probably cover both. Then, 795 the President of the Committee will have the chance to speak thereafter, if she wishes to do so.

At the end of the debate, Deputy Ferbrache will reply. We will then vote on his amendment and, depending on that vote, if that is carried, then I understand Deputy Yerby is not asking there be any vote on her amendment, that will fall away. But, if it is not carried, then Deputy Yerby will 800 reply to the debate on her amendment and we will vote on that second. That is what has been discussed and agreed.

Deputy Ferbrache, would you like your amendment to be read?

*Amendment 5:*

*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 to adopt a policy, as of 3 April 2017, under which there is a presumption that, upon application for a Short-Term Employment Permit in circumstances where the person to whom the application relates –*

*'(a) was resident prior to commencement of the Population Management Law under a short-term housing licence issued under the Housing (Control of Occupation) Law (and including for the avoidance of doubt a person who was taking a mandatory 3-month break in residence on commencement), and*

*'(b) has accrued not less than 45 months' aggregate residence prior to commencement, a Discretionary Resident Permit shall be granted for a maximum period of 9 months, containing conditions including that the holder shall not be a householder and must undertake full-time employment in the post to which the application relates; and that, following a 3 month break in residence, this process of application and pattern of employment, shall be allowed to continue, unless: (a) the granting of the Permit would not be consistent with the Criminal Convictions & Public Interest Policy, or (b) the person to whom the application relates has not been ordinarily resident for a period of three consecutive years at the time of the application.'*

**Deputy Ferbrache:** I am quite happy just to summarise it, sir.

805 **The Bailiff:** It is really for the benefit of anyone listening.

**Deputy Ferbrache:** Firstly, can I thank very much HM Comptroller, because my amendment was very much the late, late, late show. I contacted the Law Officers out of hours on Tuesday and I had a very prompt and helpful and constructive response, as always, from them and, in particular 810 in this case, from HM Comptroller. So, gratitude, very much here.

I was prompted to bring this amendment by the efforts of Deputies Yerby and Soulsby, because what they have brought forward I commend; it is sensible and, if the Ferbrache/Kuttelwascher amendment is unsuccessful, I will certainly be voting for their amendment, because it is constructive.

815 My/Deputy Kuttelwascher's amendment seeks to protect the people who have already been here working in valuable jobs in our community for the last five years, but they have been working in our community on a 'nine months here, three months away from the Island' basis. The difference between my amendment and that, as I understand it at least, and the Deputy Yerby amendment is that hers would effectively mean they have to be here for the best part of seven  
820 years.

The reason for that is that if they are only here for nine months then five nines are 45, if you are here for seven years, then seven nines are 63, so you have got to be here for six years, eight months, or thereabouts, I suppose, to clock up your 60 months.

825 The reason that I and Deputy Kuttelwascher thought that this is a better amendment – and that is not meant as any kind of criticism at all of the amendment brought by Deputies Yerby and Soulsby – is that it leaves a lacuna. Theirs leaves a lacuna between the five years and the seven years, because the people that are covered by the Ferbrache/Kuttelwascher amendment will have actually been here for five consecutive years, by 3rd April of this year.

830 But what they will have done, which is what lots of people, from Madeira, Latvia and other lands do, is go back home for three months of the year to see their families, attend to their personal circumstances abroad, and then come back and do valuable jobs in this Island.

835 If we look through the legislation, the Population Management Law, the period of five years resounds and redounds very much indeed. Indeed, Part D, Section 65, which deals with Part D: if you have lived in it for more than five years then you are going to have grandfather rights, you will be able to continue to live in Part D. If you have not, let us say you have lived here for three years, you have got to do that for another couple of years, until you have clocked up your five years and then off you will have to go and make other arrangements.

840 So, as I understand it, from Home Affairs, the position would have been that, if you had 'done' your five years by your nine months/three months cycle by April 3rd 2017, assuming the Law comes into force on that day, then you would have grandfather rights.

845 But, those grandfather rights that are proposed are if you were here and then you did your nine months, in the summer through to the end of the year, let us say the end of 2017, you would have to leave the Island for nine months. Or, if you decided to work here for six months, you would have to leave the Island for six months. I think that is the basis, because when you look at the interpretation section of the Law, you have got to leave for the same period as you have been here. So, for five years to be five years, going with other categories which we are not concerned about. Five years is the period of time during which various provisions of the statute will kick in.

850 Deputy Graham very helpfully, yesterday, explained how my colleagues, Deputies Yerby and Soulsby, came to see Home Affairs on Monday, and when I got home, after doing business at Raymond Falla House, completely unconnected with any of the topics – nothing of the things we talked about yesterday and today – I then would go through emails and there were, of course, quite a few from lots of people about various matters that we discussed, I came upon the one from Deputy Yerby, that provoked the thought. I had a discussion with Deputy Kuttelwascher. I had to wait 15 minutes because he was wallpapering, but we spoke very soon thereafter. We  
855 decided between us that we would put forward the amendment that is now before you.

860 At one time, I thought I was going to have to push against doors about how we need people, the need for people to work in occupations. Let me say this, and I will say it when it is general debate, later, after all the amendments have been dealt with: I very much commend the work of the civil servants in the Home Affairs Department, in relation to the preparation of the policy of this Law. They have done a splendid job. I also commend the politicians in the Home Affairs Department, because they have grappled with a massive topic, an emotive topic. And they have come up with, generally, coherent principles.

865 But, there is this gap. When Deputy Lowe makes her remarks in connection with this particular amendment, I would be grateful if she could tell us how many people will be affected by the gap between the five years and the seven years, i.e. between the Ferbrache amendment and the Yerby amendment, and how that is going to fit in with our various policies.

870 What we did at the Committee for Economic Development, some time ago, before any of these amendments, we knew the topics that were likely to be the ones that were concerning people in relation to the Propositions, both the Open Market Law and the Population Management Law.

Very helpfully, one of our senior officers drew together a memorandum for us. That was as recent as March 8th. What he told us about the nine months/three months arrangements was this:

It is noted that there will be around 1,500 people currently enjoying the nine/three-month arrangements and the new legislation will, as intended, lead to the disruption of residence. It is noted that around 500 of those 1,500 people will benefit from grandfather rights, which will enable them to remain in Guernsey indefinitely.

The 'indefinitely' in the way that I explained it.

875 What I am concerned about is how many of that 500 are going to be between five years and the seven years? There will be some. I cannot think that it is going to be more than 100 or 200. That is my guess. I have got no arithmetical reason to say that. I have got no research to bring that forward, but it cannot be very many. Those people generally work in one of three industries. They work in the gardening industry. There are lots of Madeiran gardeners that come around who have worked for gardening firms for many years and they continue to work here. They work in the 880 hospitality/catering industry, in our hotels and our restaurants. And they work in the care industries, care assistants, auxiliary nurse is the phrase I used, and the like.

Those people are all thoroughly good and decent people who are, if you look at the reality of life, never going to make their permanent residence here. They are going to live in Madeira, in Latvia, in the Philippines, when they have eventually finished their time in Guernsey. They are 885 never going to progress because I know, and it has been very well explained by Deputy Lowe and by the administrator designate – very well explained indeed – that there is a possibility, if you progress from a commis chef to a chef, that you can progress in one category of permit to another. I know that.

890 But, being frank, the overwhelming majority of these people are never going to do a job other than the one that they currently do. They are going to be a kitchen porter. They are going to be a care assistant. They are going to be a gardener. If they do progress, fine. That is great. But these people have made their living in Guernsey and, therefore, they should have the right to make their living in Guernsey, going forward, until the time that they decide they are not going to come back any more.

895 We are talking about a very limited category of people who are doing a valuable job.

Therefore, I think I will conclude there. I will, when I make my remarks to the general debate, later on, quoting from the Green Book, quote lots of paragraphs about population etc. I do not think I need to do that in relation to this particular amendment because, as I say, I am just trying to close the gap that comes as a consequence of the amendment brought by Deputy Yerby and I 900 end my remarks by saying that, although I hope and you should, in my submission, vote for the Ferbrache/Kuttelwascher amendment, if not, very much vote for the amendment brought by Deputies Yerby and Soulsby.

905 **The Bailiff:** Deputy Kuttelwascher, do you formally second the amendment?

**Deputy Kuttelwascher:** I do, sir.

*Amendment 3:*

*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 to adopt a policy, as of 3rd April, 2017, under which there is a presumption that, upon application for a Short-Term Employment Permit in circumstances where the person to whom the application relates –*

*'(a) was resident prior to commencement of the Population Management Law under a short-term housing licence issued under the Housing (Control of Occupation) Law (and including for the avoidance of doubt a person who was taking a mandatory 3-month break in residence on commencement), and*

*'(b) has accrued not less than 5 years aggregate residence prior to commencement, a Discretionary Resident Permit shall be granted for a maximum period of 9 months, containing conditions including that the holder shall not be a householder and must undertake full-time employment in the post to which the application relates; and that, following a 3 month break in residence, this process of application and pattern of employment, shall be allowed to continue, unless: (a) the granting of the Permit would not be consistent with the Criminal Convictions & Public Interest Policy, or (b) the person to whom the application relates has not been ordinarily resident for a period of three consecutive years at the time of the application.'*

**The Bailiff:** Deputy Yerby, do you wish to lay your amendment?

910 **Deputy Yerby:** Sir, in terms of the amendment, the only way in which it differs from that laid by Deputies Ferbrache and Kuttelwascher is that it requires people to have an aggregate 60 months of residence in Guernsey, rather than 45.

To begin with, I feel I ought to declare an interest. My uncle owns Le Nautique restaurant. I have not discussed this with him. I do not know whether any of his workforce are affected and to what extent they might be affected and I know that strictly falls outside the rules on declarations of interest, but we are a close family and it would feel remiss not at least to mention it.

915 The thinking behind this amendment is that we know there are people who have worked here on a seasonal pattern for years; some, we are told, for decades. We asked the Committee for Home Affairs, at fairly short notice, whether it would be possible to put a number on the number of people who would be affected. They could not, but I am grateful to Deputy Ferbrache for giving us the figures approximately of up to 500.

I would like to add my thanks to him because the Committee for Home Affairs and their officers, and the Law Officers, did a great deal of work with us the first couple of days of this week. They must have put in five, six hours, probably more than that, behind the scenes. They have been absolutely phenomenal in terms of helping us to come up with something that is going to achieve what we want to achieve and is not going to undermine the fundamentals of the population management regime.

925 The reason we felt this amendment was needed was because, under Section 59 of the new Population Management Law, people who have been doing this seasonal pattern of work for years will be entitled to be granted a one-month short-term employment permit, but that must be followed by a recognised break in residence, which effectively breaks the pattern of work that they have been doing and for many, we think, will sever their tie to the Island because a longer-term break is not necessarily going to be sustainable.

930 The contrast between that and Sections 60-65 of the Law, which give people who have been resident in the Open Market for at least five consecutive years grandfather rights is quite marked, in terms of the real impact that is going to have on people's lives and opportunities to live and work in Guernsey.

940 So this amendment, as Deputy Ferbrache has explained, preserves the seasonal pattern of work. The logic behind the 60-month is that there is this logic in the Population Management Law that time spent in Guernsey, with some exceptions, is the time that counts and for Open Market residents, it is time spent in Guernsey in five consecutive years that allows them to build up those residence rights and so, in discussion with the Committee for Home Affairs, we felt that it was

right that it should be time spent in Guernsey in terms of the nine-month period aggregated to 60 months or the five years, that that should be the threshold for these rights.

945 That said, I understand that five calendar years feels like five consecutive years, especially for the people affected.

Personally, I am going to vote for Deputy Ferbrache and Deputy Kuttelwascher's amendment, but it is right that I explain what the logic behind our 60-month threshold is and that that is believed to be the most consistent with the way that the whole of the population management regime is constructed.

950 For those who want to preserve the purity of the logic within the regime, that is the reason why this amendment is written as it is.

I think, sir, that is all I need to say, actually. Deputy Ferbrache has covered a lot.

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

955

**Deputy Soulsby:** I do, sir.

**The Bailiff:** Deputy Lowe.

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

I will cover Deputy Ferbrache and Kuttelwascher's amendment first. Sir, from the very outset can I say that the Committee for Home Affairs will not be supporting this amendment. Let me take a moment or two to explain why.

965 This amendment will go further than the similar amendment laid by Deputy Yerby, because it will apply to people who, potentially, would have spent less than five years in Guernsey. It would also apply to people who spent less than five seasons in the Island and, for this reason, I think it even goes further than the authors think it will. Of course, they will correct me if I have that wrong.

I say this because, under the provisions of Section 4 of the Housing Control Law, that is the bit of the Law that deals with short-term housing licences, it is possible, if a person has not been in Guernsey in the preceding three years, for them to have a three-year short-term housing licence, before moving on to a three month/nine-month pattern. By my calculations, a person could accrue 45 months' residence by having one three-year short-term housing licence, so 36 months' residence, then a three-month break, because they have to do that under the licence restrictions, and then a nine-month licence.

970 In this way, by the end of their fourth year from arriving in Guernsey, and having no established pattern of employment in Guernsey, a person would, if this amendment succeeds, be able to return to Guernsey to work for nine months a year indefinitely.

This puts a particular cohort of people in a preferential position, when compared with other groups of people who will require grandfather rights when the Law commences.

980 This appears to be a less sensible and less consistent amendment than the one placed by Deputy Yerby and Deputy Soulsby. It goes too far. It will also cause confusion. It will create one group of people who would gain short-term employment permit grandfather rights under the Law and a different group who would get what I would refer to as a policy based short-term employment permit grandfather rights.

985 This can only serve to cause confusion and add unnecessarily to the administrative burdens surrounding the coming into force of this Law. It will also create lower residence tests for these policy grandfather rights than exist for all other types of grandfather rights set out in the Law and this could lead to a call for a policy to stop and transition in those areas too.

990 Deputy Ferbrache asked for numbers of how many of these will be affected. Unfortunately, owing to the late placement of this amendment, we have been unable to extract that data that he has asked for and I can only apologise for that. He could be right, it could be between 100 or 200, but I cannot say for sure, because we have not had time to get that information.

995 I will now move onto the Deputy Yerby/Deputy Soulsby amendment. From the very outset, can I say that the Committee for Home Affairs will be supporting this amendment? Can I also say how grateful we are to Deputies Yerby and Soulsby for allowing the Committee to work with them in developing the terms of this amendment, so as to ensure its terms are workable and properly achieve their desired outcome?

1000 Their collaborative and open approach has been very much appreciated and I think it would be fair to say, when they came in to see us, they were actually trying to seek something similar to Deputies Ferbrache and Kuttelwascher, until they heard all the ramifications of how this would not be seen as to be fair against others under the five-year.

1005 When the Committee for Home Affairs was elected last spring, we inherited from the former Policy Council the unenviable task of completing the task they had started, namely to bring the Population Management Law. We have been busy preparing to do just that ever since. In all the months that followed the general election, it was not until this last two weeks that the Committee was asked to meet the representative bodies, such as the Chamber of Commerce and the CGI, to discuss their concerns.

1010 The meeting took place last Thursday and, until last week, in fact as late as last Thursday and it was only at the very last stage, despite our and the panel's engagement with the business community over the last year, that the true strength of feeling, particularly on the matter of short-term employment permit grandfather rights became clear. It was with that conversation fresh in our minds that the Committee welcomed discussions over this amendment.

1015 The terms of the policy proposed via this amendment are consistent with a theme of the transitional arrangements in the Law. They have been crafted to mirror certain provisions in the Law, so as to ensure they capture the appropriate group of people but do not run a risk of claims that they offer a preferential treatment, when compared with other types of grandfather rights, nor at this very late stage do they introduce unworkable administrative complexity.

1020 The amendment will, Home Affairs is sure, be welcomed by many employers and their employees.

1020 I cannot say that this amendment and the policy it seeks to introduce is entirely consistent with the population policies of the States, but it is no more or less consistent than other related transition arrangements.

1025 What I can say, is that it is fair and offers continuity and consistency to employers and their employees. At this particular point in time, the ring-fenced group of people to whom would apply, this proposal is, in my Committee's view, too good a compromise to pass on.

I encourage others here today to support this amendment and to applaud, as Home Affairs does, Deputy Yerby and Deputy Soulsby, for bringing it forward.

Thank you, sir.

1030 **The Bailiff:** Deputy Leadbeater.

**Deputy Leadbeater:** I would just like to set out a few comparisons between the two amendments, if I could please, just to further inform Members.

1035 I will start with Deputy Yerby's. The gateway criteria for Deputy Yerby's amendment is the same as the grandfather rights in the Law for short-term employment permits. It does not create inconsistency in the gateway criteria between this and other grandfather rights, like Open Market HMOs, Open Market hotel, care home, live-in staff, etc. all of which require a person to have been physically present for five years. It also does not create two gateway criteria, one in the Law and one in the policy.

1040 With the Ferbrache/Kuttelwascher amendment, it introduces a different, lesser gateway criterion to the grandfather rights than the Law for short-term employment permits. It would create additional administrative complexity and confusion around the criteria. It could allow a person whose connection with Guernsey is only four years long, a three-year short-term housing licence, three-month break, nine-month licence, to get grandfather rights via this policy.

1045 It also creates a gateway for this group of people when they have been physically present for 45 months when a person who has been physically present for, say, 58 months in Open Market, HMO, Open Market live-in staff, etc. will not get grandfather rights.

1050 There is a risk that those who will miss out on grandfather rights but who have been physically present for more than 45 months would rightly feel aggrieved that a different group got a better deal.

There is a theme running all the way through the Law, focusing on being physically present for five years and this is the premise upon which the grandfather rights gateway is based.

Thank you, sir.

1055 **The Bailiff:** Deputy Gollop.

**Deputy Gollop:** Sir, I most definitely will support the Yerby/Soulsby amendment, but I will also give consideration and support, as a first attempt, to the Kuttelwascher/Ferbrache amendment.

1060 The reasons are that, yes, we might have different interpretation on whether somebody would be eligible after 45 months, five seasons here. But really the five years is an academic distinction. The five years, effectively, in this context, especially in the seasonal hospitality, restaurant field, or horticulture, and of course it might apply to the care sector as well, is very much about working as part of, in our community, for embellishing our society in what we offer everybody, both tourists and locals, for nine relevant seasons.

1065 With the best will in the world, you are not going to have that much activity in restaurants in January unless States' Members go out for dinner. It is very much the summer season, perhaps between Valentine's Day and the Tennerfest in November, or early Christmas, when the action occurs. The nine-month period reflects that.

1070 We all know young people take breaks and gap years and so on and so forth. In reality, many seasonal workers have a pattern of making money and doing the work, flat-out, maybe, not just 40 hours a week, but maybe 80 hours a week, for nine months of the year. They accept that and then they take a break.

1075 Now, this break is more of an extended holiday, I would suggest, than a move to another jurisdiction. They might go home or they might travel. We know from our own history that many Islanders who were in the horticultural or tourism sectors, used to take winter off and would perhaps take their vacations and work hard when everyone else was on holiday.

The pattern is the same. So, I think we should regard the five years as five years, the equivalent of five years, for other kinds of workers who are more office-bound, for this particular sector.

1080 Then, of course, there are some other reasons for supporting the amendment. The first is the fact that we have had significant input and lobbying from people more connected to the seasonal sector than perhaps the corporate sector. That is because the complexity, perhaps overly complex, as I might say later, of the scheme, is very much relevant to the personnel industry. I think the personnel and corporate sector have engaged very well with Home Affairs and its predecessors at Housing and, of course, they do employ human resources professionals who are very much up to the mark on this. That is not necessarily true of the smaller scale and sometimes less well remunerated other sectors.

So, we have to be mindful of that.

1090 My second point is that some interesting arguments came out recently about the impact of Brexit on the Island, one of which might be an increasing competition for scarce skills. We are not too sure of what the United Kingdom's policy will be on continuing to accept migrants from the European Union or even those who are necessarily ordinarily resident there.

We need to ensure that we can attract the very best staff into catering, care and many other sectors, and clearly, if we are running what is effectively a more restrictive regime than other places, that does not do us any favours.

1095 I think, too, the third reason is that we do need to stimulate and sustain our economic development and that harsh policies in these areas, even uncertainty, will further confusion and

perhaps even the decline in both the viability of properties and the continuing enthusiasm of people to work on the Island.

1100 The States have halted, clearly, in December, a little bit of liberalism on the transitional policies and I think that this is a logical extension of that, that takes into account what is an unusual pattern of working. As has been said, perhaps we would not start from a position of the nine-month/three-month pattern, but I think we should enable those residents who benefited from it to continue and we should also bear in mind that many of these workers possibly have not engaged and contributed particularly to the strategy because, of course, their first language is not  
1105 English, or perhaps the consultation process took place on the periods when they were absent.

So, I think in the arguments for pragmatism, I would support the more generous, if you like, of the two amendments.

**The Bailiff:** Deputy Graham.

1110

**Deputy Graham:** But, it is not just a question of generosity and I will explain.

I had better start with two confessions, really. One is that, after the very productive session that we had, the Home Affairs Committee, with Deputies Yerby and Soulsby, and they had left, I think I was the first one to say, 'I could kick myself for not really seeing this way ahead, myself.'

1115 The reason that I was a bit frustrated on that is that the Committee had considered grandfather rights in some detail and, for the life of me, we just could not see, despite the fact that we were uneasy about it and were not totally satisfied that we were comfortable with it, we could not, for the life of us, really, find a way to progress matters.

1120 Here is a confession: it took fresh minds to come in and suggest a new idea which, and this has not been mentioned, it is predicated on the fact that those who would benefit from either of these amendments, will continue to be able to work on a nine-month/three-month basis – but predicated on the fact that they would at no stage be able to claim that they are sitting on a household. That characteristic will continue.

1125 This device, lo and behold, opened up, really, the prospect for this amendment. On behalf of the Committee, I am really grateful to both those Deputies for planning the amendment that way.

1130 Another confession, as Vice-President of the Committee for Home Affairs, I am tempted, on purely parochial grounds, by the Ferbrache amendment, because I am very conscious that there is certainly one constituent who currently employs four Latvian women, who are vital to his business. He and I have had long, long discussions about how on earth his business is going to continue if we did not do something about the grandfather rights.

1135 I was able to give him some good news the other evening to say, 'There is a prospect of an amendment coming up that just about solves your problem. Everybody is going to win.' He said, 'Well, not quite because, of my four women, three will benefit by the new scheme as outlined, and they will benefit easily, because they have been here eight, 10, 12 years. One of the four is going to miss the five-year aggregate by two or three months. And that will be hard on her.'

1140 So, I would love to be able to go home, in some sense, and say, 'problem solved', all four of your women are going to stay. But I cannot bring myself, as a member of the Committee, to support that, because the President has highlighted one unintended anomaly, which I hope is clear. I was not previously aware that some of those who are currently on nine and three will have started their regime here with a three solid year beginning, under the current scheme. They, therefore, when they converted to nine and three, would be able to satisfy the amendment at 45 months at the end of their fourth calendar year of residence here.

1145 The scene, then, we go back to Castel and the packing shed. That is the prospect, elsewhere, of one person in the packing shed standing next to another, one by the nine and three method, consistently, will have reached, say 59 months and not make it, another who started with a three-year slot and then converted, would make it after four years. Now, I am pretty certain of my facts here. I am not sure Deputy Ferbrache and Deputy Kuttelwascher were aware of that anomaly. I think it is inherently divisive, I do, and unintendedly so.

1150 Therefore, I believe that the States really should support the Yerby and Soulsby amendment, because it actually achieves a breakthrough that I think most of the employers have been seeking.

**The Bailiff:** Deputy Kuttelwascher.

1155 **Deputy Kuttelwascher:** Thank you, sir.

The Committee for Economic Development is supposed to represent all aspects of our economy. This is one aspect of it that has been neglected, I feel.

1160 That is what attracted us to this amendment following the work done by Deputies Yerby and Soulsby. At a recent dinner at the Governor's residence, I was invited on behalf of the Committee for Economic Development, to state our purpose, basically, and I did it quite succinctly. I said it is to identify hurdles to our economic development and remove or mitigate them. I also said I was feeling concerned that we might be creating more in the process than we are actually mitigating or getting rid of.

1165 This is one area, this nine-month on three-month off area which could have very, very negative impacts on our economy in a certain sector. To the point, I believe, it is a very high risk and critical issue. That has been confirmed by the three different sectors of the economy, which Deputy Ferbrache has mentioned.

This amendment primarily wants to do nothing more than maintain the nine-month on/three-month off employment system, which has been around for a long, long time and it works very, very well.

1170 Because these particular individuals are very unlikely to ever want to stay here, even if they have been doing it for 30 years, they are going to go home, the idea of them affecting our population, I think, is a complete red herring. It just does not happen. The people who have been here a number of years, who have done this particular nine months on, just go. One of the reasons is they mostly could not afford to stay, even if they wanted to.

1175 So where are we with this, this mention of this possibility of someone doing a three-year on and then going on to the nine? Really, my response to that is, so what? There will be some, and it has been said more than once, this Law is not perfect. It is not going to satisfy everybody. You will always have anomalies. There is so much complexity in it, particularly in the last three weeks or so when all these policies were put forward. Lawyers have said it is so complex they do not understand it.

1180 So we are in that situation and my view is I am quite happy to expect that anomaly. I will give way.

**The Bailiff:** Deputy Inder.

1185 **Deputy Inder:** It is probably worth mentioning, if you pay a lawyer enough money, he will understand some things fairly quickly! *(Laughter)*

**Deputy Kuttelwascher:** Only if they have got the answer.

1190 That is why we are where we are. This Law would only mitigate an exodus of people. That is all, because it is only those who would have achieved this period. Those four people, you say, may have only done three years or so, would have to go onto the new system. They will not do it. People are not going to do nine months off and nine months on. They could not afford it.

1195 That particular sector of the economy is going to suffer and the problem will be recruiting their replacements. How do you attract somebody if you say, 'You are going to do this job for a year, but then you have got to go for a year?' Are they going to come back? I very much doubt it. They are going to go somewhere else.

The other thing is, I attach a great importance to this particular sector of the economy. I was once asked, many years ago, what is the most important job in the world? I said a farmer. I include

1200 fishermen. People were looking at me aghast, thinking why? I said if you do not eat, you are not there. It really is the fundamental job in our community, which keeps us all going.

In this area, we have had an email from the Institute of Directors saying they support the Population Law and it is because, from their point of view, it is fine. Most of it is, I have got no doubt about that, but I want to refer to a comment made by Deputy St Pier at the Chamber of  
1205 Commerce lunch, where I was not, but he sent us a copy of the speech and there was a straw poll taken at the end about the Law. They said 3% supported it, 12% did not and 85% had no view. I thought, how interesting, because that could be interpreted in so many ways, depending on how you want to spin it.

If I wanted to spin it, I would say there are only 3% of them actually supportive, which is true;  
1210 or you could say 12% did not support it, which is also true. But what of the other 85%, why were they neutral? It is a bit like to know or not to know; if you do not need the support or do not support. There could be a thousand reasons why people did not vote one way or the other, but what is interesting about this 12%? Apparently in this sector of our economy, the employment is somewhere between 3,000 and 4,000. We have 30-odd thousand people working here. It is funny,  
1215 isn't it, 12% of 30-odd thousand is about 3,500. Could it be that these 12 people were representing that sector of the community which were going to be affected? It is funny how the numbers match up.

Our proposal mitigates better, provides better security, certainly in the short-term, for those people in that sector of the employment in our economy. I think it is reasonable. If anomalies do  
1220 come up, fine, we just have to address them. There will be more elsewhere, I guarantee it. There always are.

I would ask Members to support this, to give the maximum support to this particular sector of the community, which I do not believe will have any impact on the size of the population at all.

Secondly, if this particular amendment fails, the Ferbrache amendment fails, I would be quite  
1225 happy to support the Yerby one as well, which also helps, although not to the same degree.

Thank you, sir.

**The Bailiff:** Deputy Roffey.

1230 **Deputy Roffey:** Thank you, sir.

I am going to be supporting both of these amendments, even though, undoubtedly, the Deputy Ferbrache one does produce anomalies in the application of grandfather rights across the sectors.

My reasons are actually I do not think that this five-year obsession that it has to be even  
1235 throughout every type of worker in Guernsey makes any sense. I will upset employers by saying that, when it comes to the majority of medium-term permits, I think Guernsey's desire to have a revolving workforce, so they do not grow old here and settle here, from our demographic point of view, makes complete sense.

But I am not sure the fact that we have sort of extended that to say, okay, short-term permits  
1240 should follow exactly the same thing, they can be one-year, renewable up to five years and then, after that, you have to go. Because I do not think the same danger of leakage into our community exists in this area.

The Deputy Yerby one goes a little bit. The Deputy Ferbrache one goes a bit further. My idea would have been to actually keep the nine-month/three-month indefinitely in the new legislation,  
1245 going forward for people coming in future. I do not think it is a major problem.

Deputy Kuttelwascher says it has been around for ages. It has not been around that long, because I was Vice-President of the Housing Committee when we brought it in and I can say the rationale had nothing to do, despite some States' Members thinking otherwise, with the gestation period of a human foetus. It was largely because short-term workers in those days were principally  
1250 in two industries – horticulture and tourism – which have a seasonal nature; and, secondly,

because the Law Officers of the time advised us by insisting a three-month break a year would prevent a claim under human rights for enjoyment of home after a period of time.

1255 I know human rights thinking moves on and, I do not know, maybe today that would not be sustainable. If somebody had been coming here 10 or 15 years for nine months of the year, they may have a claim. I do not know. But, that is theoretical. How much of a risk is it, really?

1260 I go to my favourite curry house down on the west coast; the waiters, some of them have been there for donkeys' years, but they are from Goa. They can come for nine months and they go for three months. Could they ever afford to buy a flat here? Never. Can they bring their family here? No, they cannot. Only they can come. They want to go back and see their family. Can they build a palace back home? Of course, they can.

1265 Deputy Ferbrache talked about areas like gardening and care, but it goes far broader than that. I do not think I am letting out too many secrets when I am saying that I recognise the person that Deputy Graham was talking about, his long talks in the Castel; one of our 14 key farmers. A mixed famer, milk and potatoes. He said to me, if he cannot maintain this sort of regime, he cannot continue farming. He might carry on with the milk side, but he cannot continue. Of course, we can import potatoes from elsewhere, of course we can, but do we really want to be shooting ourselves in the foot in that way?

1270 He is not the only one. There are lots of other little niche areas that have used this provision without any harm for so many years. I hate the expression, 'If it ain't broke don't fix it'. We would still be using Bakelite phones and driving Model T Fords if we took that approach. But in some cases things are still working supremely well. Yet, here we are, we are going to throw it away.

1275 I know neither of these amendments will stop us throwing it away, it is only mitigating the impact, but my view is that I will mitigate it as far as I possibly can, because I actually think we should have retained the nine-plus-three in this Law, despite bringing a presumption of five years for those people. Yes, middle-range, finance industry, they have got their families with them, can afford to buy locally, if we gave them eight-year licences, we are storing up problems for our future, because of the demographics. We would not be doing that if we maintain nine-plus-three for short-term licences.

1280 I think hoteliers, all sorts of people, restaurateurs, how many bus drivers, for instance? CT Plus bring back the same bus drivers on nine-plus-three, or Island Coachways before them, for year after year. They know our Island. They can even get those darned things around most of the corners in this Island. They were never going to settle here, but we say to them after six years, 'You cannot come back again, we want somebody else, we want a new bus driver to try and get to know our Island.'

1285 I think it is a fundamental mistake, the way we have gone, on short-term licences. I think, really, the elephant in the room is clear: the care industry. Frankly, if our gardens get overgrown, our gardens get overgrown. They will not be pleasant, but we can live with it. But the care industry, I think, is such a big demand area that we have got coming up and we are going to be damaging it with this change to the continuity of short-term licences.

1290 I do not want to get onto my general speech, but I support most of this Law, but I do think treating short-term licences with the same 'Everything has to be five years, five years, five years,' I actually think there should have been a graduated approach.

1295 Neither of these amendments solve my fears, but they both mitigate them to a degree. Deputy Yerby's less so than Deputy Ferbrache's. So I will be voting for the most far-reaching. If that fails, I will be voting for Deputy Yerby's.

Actually, I think we should have kept nine-plus-three, full stop. I think we are actually doing ourselves a self-injury here and shooting ourselves in the foot.

1300 **The Bailiff:** Deputy Fallaize, then Deputy Dorey.

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

After the States decided yesterday to divide local children from other local children, I hope Deputy Graham will forgive me for not being persuaded by his argument that there may be marginally divisive anomalies created by one of these amendments.

1305 The issue with Deputy Yerby's amendment, because I suspect the States are going to vote for one or other of these amendments, is I suppose, is it enough? Is it still too harsh? As Deputy Ferbrache said in his speech, the actual practical effect is that it would capture people who had worked, been in Guernsey, physically present, for six years and some other number of months. Of course, theoretically, that is true, but because of the way these people's lives work, actually it means they will have had to have done seven seasons, in practice. Is that too many?

1310 What it certainly does do is it creates a lacuna, as Deputy Ferbrache said, between the five years and the seven years and, if we want to protect the five-year principle I do think, in reality, not perhaps theoretically, because of the way these people's lives work, we are taking, if we try and protect the five-year philosophy purely, the effect on these people is that we are creating this lacuna between the people who have been here five years and the people who have been here seven years,

1315 So, from that perspective, Deputy Yerby's amendment does seem too harsh, although it is better than what is sitting in the Law as originally approved.

1320 The question then is, is Deputy Ferbrache's too generous? I think I want to make two points about this. The first, did he consider, when putting the amendment together, trying to overcome this problem which Deputy Lowe identified in her speech, where some people may have been in receipt of licences which allow them to be here for three years, let us say, and then they left and then they came back and started doing the nine-month/three-month cycle? Clearly, under Deputy Ferbrache's amendment a person who has done that would qualify after four calendar years. That is true.

1325 Did he consider inserting into his amendment an additional provision so that, within the 45 months of aggregate residence, there had to be at least two cycles of nine months and three months? Because, if he had done that, that would have guarded against, in fact it would have overcome completely this issue that some people could have qualified after being physically present here for four years. I think it would have, anyway.

1330 So, if he finds in debate that Members are saying that this amendment is too generous because it means that some people would qualify after being here physically for four years, I suggest to him that he could lay a different amendment to guard against that, so that at least two cycles of nine months and three months would have been done. That would then overcome the problem that Deputy Lowe identified. Maybe it would not, for some reason that Deputy Yerby is about to point out.

1340 **Deputy Yerby:** No, not at all. It is just that Deputy Fallaize is repeating what several Members have now said about a lacuna between five years and seven years, which is having to second-guess myself. I have just gone back to the provisions in Section 59 of the Law, and in order to access the grandfather rights that currently exist for people who have been doing seasonal work, you have to have lived here for five years in aggregate, so 60 months. Unless I am misunderstanding what is being meant by this lacuna, it is not that there is one threshold to access the current grandfather rights and a further one to access the ones under our amendment; they are identical.

1345 **Deputy Fallaize:** I accept that is perfectly correct. I just do think it is a relevant point that the lives of these particular people who are now into – whatever they were into a year ago or two years ago or three or four years ago, they are now into this cycle of doing nine months and three months. I think we have to recognise – and, picking up on a point that was made yesterday in debate, I do not think we are putting up with these people, they are, in the main, not entirely in every case – perhaps gardening is a slightly different example – carrying out jobs which local people are not available for, will not do, or whatever the situation is and they are contributing to

our economy and contributing to our society and their lives are based around nine months and three months.

1355

Yes, I accept that, for the purposes of our regime, the 60-month, the physically being here is important if we are obsessed with creating this consistency across all classes, if you like. But, for the sake of these people, the practical effect under Deputy Yerby's amendment is that they would have had to have done seven seasons.

1360

So I do think Deputy Ferbrache could consider, if he finds as the debate unfolds that his amendment is too generous for too many States' Members, because it would allow some people who have been here for four years, physically here, he could amend it or he could just lay a different amendment in the way I have suggested.

1365

In any event, I think I will vote for his amendment, as presented, because the numbers of people who did two years or three years, initially, and then got into the nine-month/three-month cycle must be extraordinarily small. I do not know, he estimated a figure of 200 or 300 and that is a guess, but that is a tiny number of people. We are talking here about grandfather rights, so it is not that anybody is going to be able to get themselves into that situation in the future. It is not going to have even a noticeable effect, let alone a significant effect on our total population.

1370

I really do not think that that argument, although Deputy Lowe's argument is obviously perfectly accurate, I do not think that it should have a significant effect on the way Members vote. If it would have, then I think Deputy Ferbrache could reasonably lay a different amendment, but I will vote for his amendment as presented and, if it fails, I will vote for Deputy Yerby's, although I am probably going to vote against the Commencement Ordinance anyway after yesterday.

1375

**The Bailiff:** Deputy Dorey.

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

1380

I cannot vote for either of these amendments. Deputy Lowe said quite clearly in her opening speech that they are inconsistent with the objectives of the policy and, therefore, I do not think we should be voting for them.

1385

The point about people staying longer was covered. I sat, as I told you yesterday, on the Population Policy Group. We spent time on this issue and it is covered in the consultation document and I will read from it. This is when it is talking about seven-year licences, because that was the long-term period then proposed.

It is important to ensure that other individuals coming to the Island for employment reasons do not build up a number of separate periods of residence that, when added together, may lead them to be able to live in the Island permanently if they so choose.

It goes on to say:

There comes a point, after which a person's connections to the Island are likely to become so strong that to require them to leave Guernsey would be an unjustifiable infringement on their human rights.

1390

So this policy, and I have no doubt from what I heard when I was on the Policy Review Committee, will result in people being able to stay in the Island permanently if they so choose. I think Deputy Roffey said they will not, but that is what I understand from everything that I heard. They can move into the local market, they can get supplementary benefit, if they cannot afford it, because they would be able to.

1395

The situation with people who have been here for a long period of time was specifically covered in the 2015 report and it is under long-established short-term licence holders. It goes on to explain: these are complex cases, are likely to be particular to the individual and the Policy Council ...

... considers that it is neither possible nor desirable to make express provisions in legislation for each such case. It therefore believes that, in terms of transition, the positions of this group of people will have to be considered on a case-by-case basis, in the light of policies that apply at the time.

So the situation of people who have been here under short-term licences for long-term, I have absolutely no doubt from everything I have heard and read that they would be able to claim their connection as such they can move into a normal Local Market house. As I say, we would have to deal with them on a case-by-case basis.

1400 I would remind Members what is a short-term licence holder. Again, I quote from the 2013 report. It goes on to say:

... but where there is need for additional manpower, over and above what can be sourced from within the Island.

1405 So there could be a time when that manpower can be sourced within the Island. That is the important point: so that we can manage the population. That was the number one objective. The top objective of the Population Management Law is that a new regime needs to be as effective as possible to enable the States to manage the size and make-up of the Island's population.

I cannot vote for these amendments. They are not consistent with that policy and therefore I urge Members to reject them and let the specific, as was covered in the 2015 report, people who have been here long-term on a short-term licence, be dealt with on a case by case basis.

Thank you.

1410

**The Bailiff:** Deputy de Lisle.

**Deputy de Lisle:** Sir, I just wanted to say that this is all becoming very bureaucratic, complex and difficult and anybody listening to this, short-term licence holders, will be put off, I think.

1415 I have to claim an interest here, but they have already thought and felt that they should be leaving the Island. The danger is that people get put off and we lose them.

Managing the population must become such that it respects our economy. Actually, business leaders are worried about the state of uncertainty at the current time, within Guernsey, how to fill jobs. How to house and train staff and keep trading. This is the issue.

1420 In fact, what we are discussing here creates barriers to a competitive economy. I think we have got to decide, do we want to function as a competitive economy, compete with Jersey and the Isle of Man, where people are rapidly moving toward, from here, because of these regulations? Do we want a competitive economy, or do we want to slide down the scale and reduce our population to the sort of problems that we have seen in other Islands, such as Alderney and Sark?

1425 The other point that people make very clearly is that times have changed. All this bureaucratic population information came through when the population was expanding, several years ago. Today, we are in a very different situation and what is the prospect going forward? I do not see the uncertainty improving over the next couple of years, to be quite honest with you, with all that is going on in the UK.

1430 So we have got to watch that the Laws that we are putting forward do not make it harder to operate businesses in this Island and that workers are being treated unfairly and moving elsewhere.

I am a strong proponent of the nine-month/three-month continuing forward, without restriction. Let people continue along that particular line and let the businesses continue to flourish in this Island and not have the uncertainty and the issues that are currently in progress.

1435

Thank you, sir.

**The Bailiff:** Deputy Inder.

1440 **Deputy Inder:** Sir, my experience of the nine-month/three-month work is similar to those views expressed by, I think, Deputy Ferbrache, possibly Deputy Gollop and, latterly, Deputy Roffey and something similar to Deputy de Lisle.

In the main, Svetlana has no real intention of settling in Guernsey at the end of her days. They have got homes back in their cities. Extended family does beckon. It is a cultural thing. The

1445 Guernsey career is just that: a career, not too dissimilar to those of you who went out picking melons in Australia. It is just a different way of doing it.

They work hard. They save hard. Eventually, they return home. Actually, most people I have had at work are probably the most hard-working people I have ever met. Actually, more interestingly, if you actually scratch the surface, those girls and boys serving you coffee, you will find out they are probably more educated than a lot of people sitting around in this room. You will find chemical engineers, you will find dental nurses. You find, actually from a Skills Guernsey point of view, some of you guys might need to be looking at them. I am referencing Deputy Dudley-Owen there.

1455 The same as Jesus from Madeira: he is here to work. He is building up his pension, probably in the form of savings, building homes back in the home country and that is where he will eventually live.

1460 If the part of the Population Management Law is to ensure that we retain the economically active, it could be argued that there was never a reason to look at this portion of the workforce in the first place, because I do not believe they are going to stay to the degree that people believe that they might do.

It is picking up on the point Deputy Roffey made there, and possibly Deputy de Lisle. With 3,000-4,000 foreign workers here and, what, 1.2% of the population unemployed, I do wonder what the problem was we were trying to fix initially, but accept in some way that we cannot have, necessarily, a portion of our workforce hanging outside of what is a work permits system.

1465 I am hugely grateful for the foresight of Deputy Soulsby and Deputy Yerby. It is worth saying Sir, that, on the shoulders of these giants, both Deputies Ferbrache and Kuttelwascher walk, actually.

1470 How we dealt with the nine/three workers is what I was most concerned about. The Population Management Law was directly affecting these workers, their culture and, importantly, Guernsey businesses that need these workers.

I was genuinely struggling without these two amendments. I am going to take the advice of Home Affairs, I believe, on this. Unless there is some sort of killer line that comes out of the next few speeches, I am probably looking at voting with the Deputy Soulsby and Deputy Yerby amendment.

1475 Thank you, sir.

**The Bailiff:** Deputy Brouard.

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

1480 I will be very brief. Just three points.

I just want to ask for some clarification, if people of Policy Council need to declare any sort of interest?

**The Bailiff:** I do not think we have a Policy Council! (*Laughter*)

1485

**Deputy Brouard:** Sorry, Policy & Resources, as we employ staff, we are responsible for the States' employees. I am just conscious that there is a public debate and we just need to make sure we declare all the interests that we have before we speak and certainly before a vote.

So, if there is any guidance from yourself on that point, sir?

1490

**The Bailiff:** Rule 17(15) talks about somebody or whose spouse or co-habiting partner, infant, child or company, has a controlling interest, must declare that interest.

I think the fact that you are a member of a Committee that, on behalf of the States, administers or maybe employs people, does not give you a controlling interest in the States of Guernsey.

1495 Unless HM Comptroller disagrees with me, I do not see that members of the Policy & Resources Committee need to be declaring any interest before they vote on this. No.

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

1500 **The Bailiff:** You have no financial interest. You have no special interest in the outcome.

**Deputy Brouard:** Two points, very quickly.

We have talked about, or this morning, we mentioned gardeners as one particular thing, I just want to put one word of caution. A lot of the local firms who employ mainly local gardeners do  
1505 have quite a bit of competition from those firms who have a model which uses a lot of guest workers.

They find it extremely difficult at times to compete on that cost base. Just be careful what we ask for.

On that line, part of the idea of guest workers, especially from the point of view of the more skilled ones, is that the idea is to pass on those skills to local people and use local people as much  
1510 as possible.

So, please, although where we have a manpower shortage I can well understand that we need to use our guest workers and that is brilliant and that really helps us, if we can, where we are trying to have more and more skills coming into the mix, can we please ask employers to ensure,  
1515 where they can, to use local members to pick up those skills from the people who are coming in to help us and we can then grow more and more of our own and use our resources as best as we can.

I will probably be voting for the Deputy Yerby amendment.

Thank you, sir.

1520

**The Bailiff:** Anyone else? Yes, Deputy St Pier.

**Deputy St Pier:** Sir, I rise very briefly.

Of the two amendments, I think I will be supporting the Ferbrache/Kuttelwascher amendment.  
1525 I think I am persuaded by Deputy Kuttelwascher's arguments that now is the time to be probably more liberal in relation to this particular issue than less, given events and the challenges which some of the sectors are relying on this particular workforce are dealing with.

That will, I think, give us the time with the review that the States agreed yesterday with its amendment, assuming that is approved in the final Resolutions, to perhaps look at this issue  
1530 afresh, with the concerns which were expressed by Deputy Roffey.

I think that is quite a sensible set of Resolutions, which would hopefully give some reassurance to business and industry at this time.

The final point I just wish to make briefly is it is probably timely to address the issue which sometimes appears in social media, which is in relation to those that do the nine-month/three-month schedule, are in some way better off in tax terms. It is just worth, perhaps, reminding  
1535 Members of the Assembly, particularly those elected last year and, indeed, those outside the Assembly, that, of course that particular loophole, such as it was, was in fact closed by the last Assembly by only giving tax allowances proportionate to an individual's time that they are resident in the Island during the tax year.

In other words, if you are resident for nine months of the year, you only get nine months' tax allowances. I know that is a point of contention, was a point of contention for some people, but the last States did address that.  
1540

It is not directly relevant to this particular amendment, but I think it is timely and worth reminding people that that issue has been resolved.

1545

**The Bailiff:** Deputy Soulsby.

**Deputy Soulsby:** Sir, yes.

1550 There has been a lot of noise around the introduction of this Law, which reached a crescendo in the last few weeks.

All of a sudden, people have come out of the woodwork saying it would be an absolute disaster and the end of life as we know it. Calls have been made to delay it, as a result. However, I do not want to see the Law delayed as, in many ways, it will be an improvement on what we have now and I will speak about that in the main debate.

1555 I do not have sympathy for some, who have been arguing for delay and who have been taking advantage of the system for many years. However, the one area where there have been concerns voiced consistently to me, I have to say, is around the treatment of seasonal workers.

1560 Whilst not the headline issue at the time, back when the Policy Letter was first put to the States in 2014, I was contacted about this by various business people for whom the proposals would have created real problems. This led me to place an amendment, to enable the seasonal element to continue.

1565 Before that, it would not have been possible to have anyone work nine months on, three months off. All well and good, but it did not deal with those who have come to Guernsey for many years – and in some cases this is 15-20 years. The current Law means that these people will effectively no longer be able to return to Guernsey on the same basis in the future.

There has been a lot of talk about discrimination in the last couple of days, but this is about fairness. It is not fair that people who have been working nine months on and three months off for many years are no longer able to do so. Hence the amendment being placed today. I thank Deputy Yerby for taking this on after I expressed my concerns to her.

1570 I have to say, when we first discussed this, we thought it would be a simple amendment but, as with much to do with this area, it was more complicated than we first thought and it has been a collaborative effort getting this resolved with the Committee for Home Affairs' officer responsible for the Population Management Law, Procureur and Comptroller.

1575 Now, imitation is the sincerest form of flattery and here we have an amendment almost identical to that being put forward by Deputy Yerby and myself and Deputy Ferbrache. Actually, I really welcome this. It has definitely added to the debate. Made me think.

1580 The 60 months was an attempt to bring some consistency with the rights of those impacted elsewhere in the Law, and nothing more really, to be honest. Deputy Dorey talked about transition being on a case-by-case basis, but we are saying that, for those who have been here for many years, they should not have to go through that process of applying for a discretionary permit. We think that is wrong.

1585 I am tempted by Deputy Ferbrache's amendment. As Deputy Lowe said, that is where Deputy Yerby and I started and we were persuaded by the arguments made by, in particular, the officer responsible for actually running the new regime, to put forward the amendment as we did. Really, all this boils down to is, unless you are Deputy Dorey, of course, whether people are bothered by the inconsistency or not.

Does it really matter? I am not sure it does, to be perfectly honest. I know that it matters a lot to the Committee for Home Affairs and it does make things look neater, of course. What I am sure of is that the Law as it stands is unfair and it cannot go unamended.

1590 I am happy if people vote for one or other of these two amendments, just so long as this Law does get changed before the end of today.

**The Bailiff:** Deputy Oliver.

1595 **Deputy Oliver:** Thank you.

I just want to point out one thing. I will be supporting the Heidi Soulsby and Deputy Yerby amendment. I was just mindful that, if people have made alternative arrangements, so they have looked at everything, they thought, 'this Law is going to potentially change, I needed to make arrangements', this will not actually worsen their position.

1600 If people still feel the new Law is better for them, under the grandfather rights, they can do the one-year on/one-year off, or six months, or whatever they want. Or they can stay and do their nine months on and three months off.

Really, all this amendment is doing is giving people greater choice.

Thank you.

1605

**The Bailiff:** Yes, Deputy Tindall.

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

1610 I noted Deputy Dorey talking about the opportunities to grandfather in particular circumstances on a case-by-case basis.

1615 My experience since the Population Management Law has been mooted, I have been involved in doing just that, and I have had the pleasure of working with the Director of Housing and am extremely impressed with her and her team in the way that these matters have been taken and not only on a case-by-case basis, but, where they represent a general trend, then certain policies have been introduced.

1620 Not only does that reinforce this point, but it also shows the flexibility that we are keen to demonstrate. I feel that, from this debate, this particular nine-month on/three-month off scenario may not have been presented on a case-by-case basis and therefore a policy has not been brought forward in the terms of the Yerby and Soulsby amendment, in this way, at this stage. So I am grateful again to the two Deputies for doing so.

However, having had that experience of the other scenarios, I do have concern about the Ferbrache/Kuttelwascher amendment, because in my experience, if the Director of Housing has concerns, as has the Committee for Home Affairs, then I do trust them and believe it is genuine and I do believe that it would have been given due consideration.

1625 From my perspective, I will support the Soulsby and Yerby amendment, but not the Ferbrache/Kuttelwascher.

Thank you.

**The Bailiff:** I see no one else rising. Deputy Ferbrache will reply on his amendment.

1630

**Deputy Ferbrache:** Sir, we hear much about flexibility and then, I have to say, the response from Deputy Lowe was disappointing. It was bureaucratic and it showed inflexibility.

1635 Of course, there has been reference to lawyers, etc. and I have been one for a long time and I used to rail, as an advocate, against what I perceived – and I was probably wrong, but nevertheless that was my view – the lack of flexibility in relation to the Planning Department.

That has changed dramatically, I have to say, over the last four months or so, since the Island Development Plan has been implemented. Flexibility now has a meaning.

1640 When you are a lawyer and you are in a court case you have got to be guarded, because you think what on earth is going to come out next? Because your witnesses never say what you expect them to, the Law changes day to day in so many topics, but I am not going to be guarded in relation to the comment or the question asked by Deputy Fallaize.

1645 Frankly, I had not thought of that point he is making. My concern, and that of Deputy Kuttelwascher, was to protect the seasonal workers who have been here for the five-year period on the nine-month/three-month thing. That was our sole aim and, as I say, we were very ably assisted by the Comptroller at short notice. That is what we were trying to achieve.

I am disappointed by the comments I have heard from Deputy Brouard: local firms cannot compete with other firms that bring in these guest workers. They are all local firms. They might not have the name Le Page, but they are all local firms. They all compete in the market place with other people.

1650 I would doubt, even if you got the most local people, let us say there was a Ferbrache gardening firm – and they only would be able to grow grass and weeds – and we have got the

1655 plank of wood to help us with our wheelbarrow, from Noah. So, we were moving on and we were there and we were employing every conceivable worker that we could, who had the name Roffey or Fallaize, or whoever it may be. We would be charging our clients £20 or £22 an hour. We would not be paying our workers £20 or £22 an hour, so there is a profit element and there are very few, and I am very sympathetic to every business, I want every business to make a profit, I am sympathetic to gardening firms. I do not think there are too many that do not make a profit.

Deputy Brouard's point was ill founded.

1660 Deputy Dorey – and I do not mean this in anything other than the way that I am saying it – I was not surprised at his view. There are always risks in life. I am not saying that any proposal, whether it is mine or the Yerby proposal, does not mean there could be some abuses. Do we live our life like that? Do we think that some people might actually negotiate around the system, abuse it, means that we should close every conceivable avenue?

1665 Of course, you do not do that. You cannot do that. I cannot guarantee to you that there is not a possibility of some abuse but, whether it is Svetlana, as Deputy Inder says, or Sven or Pedro or Peter, it does not matter, the fact is that those people, overwhelmingly, have not put their roots down here in the conventional sense of the word. They are going to go and live back in Goa, or they are going to go back and live in Riga, or wherever it may be. There will be some that change their mind. It will be that percentage – a tiny, tiny percentage.

1670 Flexibility and reasonableness are matters that we should have regard to. When I hear Deputy Tindall say, 'I have every confidence in the Director of Housing' – so do I. Every confidence in the Committee for Home Affairs – well I will just pause a bit there! I have got great confidence in most of their decisions.

1675 But, so what? They have not got the fount of wisdom. I have spent a fair chunk of my lifetime challenging the decisions of the Housing Department, as it then was, with a reasonable degree of success, I may have to say, persuading an impartial body, namely a court, that they have not acted reasonably, they have not acted with flexibility, they have not acted proportionately. So they do not have the wisdom of Solomon, because not even I do!

1680 In relation to that, when I hear Deputy Lowe say, 'this is a technical thing', it makes me so angry. It made me so angry as a lawyer; it made me so angry as a citizen. You have got these people, because they had a three-year licence, because remember under the current regime you can get three-year licences, and if they can join that together and that together, they will qualify after four years.

1685 How many of them are going to do it? These are grandfather rights. Does it matter in the big scheme of things? (**A Member:** No!) Thank you for that! (*Laughter*) I will just mention that, because *Hansard*, it is not me saying it. But I agree with his sentiment.

As I say, I commend the efforts of my colleagues, Deputy Soulsby and Deputy Yerby, and I believe they were trying to achieve what I am trying to achieve. I am trying to achieve it with just that one further step forward.

1690 It is not the Neil Carpenter thing, 'One great step for man ... ' or whatever it was he said on that July 1969 day. (**Several Members:** Armstrong!) Neil Armstrong. Neil Carpenter's a singer! You know who I mean! My great friend, Deputy Lester Queripel, knows far more about musicians than I do.

1695 In connection with all of these things, we are talking about such a small percentage and we are showing to the world at large: (a) that we are business friendly; but (b) that we, as the representatives of the citizens of Guernsey, are doing the decent and honourable thing.

Could we have a recorded vote?

1700 **The Bailiff:** We will have a recorded on the amendment proposed by Deputy Ferbrache, seconded by Deputy Kuttelwascher.

*There was a recorded vote.*

*Carried – Pour 32, Contre 7, Ne vote pas 0, Absent 1*

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

**The Bailiff:** Hon. Members, the voting on the Deputy Ferbrache/Deputy Kuttelwascher amendment was 32 in favour, with seven against. I declare it carried.

1705 I think Deputy Yerby is not calling for a vote on her amendment, so we will not vote on that one.

That concludes, I believe, the debate on all the amendments. I do not think there are any other amendments that have been circulated. So we can now start general debate.

1710 **The Bailiff:** Deputy Roffey.

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

1715 Firstly, an observation. What I presume is going to happen next week is a really major change in the Island's policy. A big policy issue. One that has obviously raised a large amount of concern, with some really key players around the Island. They are concerned about that change in policy direction.

1720 I do think that the job of politicians is to expound, explain, defend, render understandable policy. With due respect, I have to say, I think, to the Committee for Home Affairs, no doubt they have done a huge amount of work, working through these policies behind, I would have liked to have seen a bit more visibility out, meeting the people that have had concerns, because I think it would help to allay some of those concerns to some extent. A little bit less of 'can I refer you to my civil servants', because, however good –

I give way to Deputy Lowe.

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

1725 This States elected a panel to do exactly that job and there are six representatives, from each industry and services, and as soon as they hear there are concerns they encourage those businesses to contact them, or they contact those businesses concerned, to the engagement and to have good policies that they are looking for.

1730 **Deputy Roffey:** We elected a panel to decide what jobs would be regarded as likely to get employment licences. This goes far further than that. This is a huge change in the Island's policy and, as I say, I think there has been just a little bit too much of 'I refer you to my civil servant', however good – and, in this case, my goodness they absolutely were good – those civil servants may have been.

1735 Moving onto the Law itself. Maybe I should declare an interest, I am a director of the Channel Islands Co-op and, I have to say, we have quite a few really key employees living in Open Market accommodation, shared Open Market accommodation. Most of those have been there more than five years, they would get grandfather rights and that is excellent.

1740 But, like many other employers, I am sure that the Co-op are concerned that those sort of people, in future, will not be able to come through and stay that length of time and provide that continuity.

So be it. I am not here to represent an employer; I am here to represent the Island. I think there is a dichotomy here. A lot of people have said there is a lot of criticism here, but looking at the pros and cons of this Law, I think they are actually opposite sides of the same coin.

1745 The pros are that, if we are going to allow a significant number of people to come and work in our economy and not have those people grow old here and be a part of the demographic issues that we are all so aware of, we have to have a revolving workforce. Hence, the vast majority of these licences being medium-term, five years, they will have to go, however good they are, and new people would have to come in.

1750 Now, from the business point of view, of course, that is really disappointing. It is a lack of continuity and it is a downside and it is undeniably a downside.

But, I am not sure that those two things can easily be reconciled. Who are the big winners and losers, as far as the long-term permit policy is concerned?

1755 I think the big winners are, actually, the public sector: health care, education, areas like that. That will no doubt help the legislation go sailing through this Assembly, because there are many of us in here that would like to see, perhaps, preferential treatment for people in our health care service and education. But it is less generous in as far as long-term licences for the private sector is concerned.

1760 Has the private sector got reasons to complain? Maybe, and they certainly have been. But I think they need to be careful what they wish for. Put simply, if we are going to be very generous in allowing labour to come to Guernsey, it has to be on the presumption that most of those workers would not be allowed to stay long enough to become permanent residents, or else we would be simply allowing our population to sky-rocket without actually helping our demographic challenges in the long-term one jot.

1765 Put another way, down the other end of the telescope, if we are going to allow most incoming workers the ability to stay long term, then we are going to have to be very stingy on how many workers we permit to come here.

1770 I know we are not going to be stingy. Indeed, this Assembly has really agreed that our population policy should be subservient to our economic policy. Yes, there are words like 'as low as possible', 'consistent with', but basically the economic policy prompts the population policy. No reference to numbers, no reference to the number of people we think they can accommodate here. If we can generate the jobs, then they need to be serviced. That is, really, where our new population policy is coming from.

1775 Personally, I am not sure that is wise. In fact, I personally think it is unwise and I worry it could lead to a huge boom in our population. It does not seem to be a popular view these days but I think, if anything, Guernsey is already over-populated. But that is irrelevant.

It is the policy of this Assembly and one which, I suspect, most employer organisations would strongly support. If they can create employment, they want the staff to actually be able to come in and do that.

1780 So we are going to let in a significant number of workers and I think they have to realise, however much they complain, that the *quid pro quo* has to be a limitation in the duration of stay of the vast majority of those workers. To do otherwise would be to lead to an unsustainable rise in Guernsey's population.

1785 I do not deny the policy has some strong downsides and continuity is only part of it, but there is no perfect policy, I am afraid.

1790 I also feel very sorry for people on medium-term licences and fall in love with Guernsey and really want to stay. It has always happened under the Housing Law as well. They are good workers and they were really bringing something, but we say, 'No. Goodbye. You fall in love with Guernsey, but somebody has to come and take your place.' It is sad, but I am afraid, if we are going to face our demographic issues, then we have to go that way.

I am relieved, though, that as far as short-term licences are concerned, I think I picked up in the debate on the last pair of amendments, from Deputy St Pier, that the fundamental issue of the nine-plus-three for the short-term workers who cannot bring their families and are going back every year, will be re-examined, because I think the last Assembly got it wrong in that respect.

1795 I could not really lay an amendment about that because this a Commencement Ordinance, so you can only push amendments to the Commencement Ordinance so far, when that provision, getting rid of the nine-plus-three was in the Projet, which has already been through Privy Council. But, I think we got it wrong and in the two-year review I think we should be looking at whether there should be a U-turn, as far as short-term licences are concerned.

1800 I know there has been a broader concern, from some, over the list of jobs, where it is presumed that people will be given a permit to live in the local market. Particularly, when actually there are, stored up, in the shared Open Market properties, a very significant number of people who will now, I presume, if this all goes through, be able on day one to apply for permits to swap across to the Local Market.

1805 Some of that concern, I know, has come from people with vested interests who have made a business of developing Open Market properties in shared occupation. Nevertheless, it is true. It may be right that these people should be able to be in the Local Market, if they fit the criteria, but I do think we have to face up to the fact that, for the first year or two, this impact will be deflating the Open Market and, actually, putting quite a lot of extra pressure at the bottom end of the Local Market, particularly when there is no rateable value restriction. I am not saying we should go back to that, it was very bureaucratic, but I do think, suddenly, local flats and apartments and small houses, it may do wonders for our already recovering Local Market, but I do worry whether our own children and grandchildren – sorry, I sound like Deputy Paint from yesterday, don't I? – would actually lose out in the affordability stakes, by several hundred people actually coming across.

1815 I do wonder, even though their policy is right, if you started on a clean sheet of paper – and I know we set up an independent panel to look at this – whether we could not have turned that tap more slowly and actually slowly added to the schedule of people on the jobs for which it is presumed the licence will be given to live in the Local Market, so that it could have happened over a period of two or three years and we have allowed the construction industry to actually respond to that.

1820 Well, that is not the way we are going, so I think we have to brace ourselves for extra pressure at the bottom end of the Local Market.

1825 Lastly, I do have to mention it – I hate doing it in a way, but I have to mention Brexit. I know it is being blamed for absolutely everything these days and people are fed up of talking about it, but I do think we have to be very alive to the possible impacts of Brexit. The whole presumption

of this Law, which I support, is that you have a workforce, they stay here for a few years, they move on, new workers come in.

We may not be able to do that in future. We may, we may not. We do not know. We can from the UK, obviously, and presumably from Ireland, because the Common Travel Area would be maintained, but from further afield, who knows?

I think in the review that P&R do, assisted by Home Affairs, they do have to take regard to that.

Obviously, the falling of the pound is also an aggravating factor. This is a supremely bad time to be bringing in this Law. I am not suggesting we delay it for years and we get the uncertainty. We cannot help what has happened, but happenstance has been that we are bringing this in at a supremely bad time. Our pay is in pounds, where people outside the Sterling area, we are now being more stingy and less attractive than we used to be. Also, it is not very nice for us going on holiday, but that is another minor point. It is a supremely bad time for doing this. But, I would say to anybody that is expecting a delay in this would actually lead to everybody being happy and be able, in a way, to keep the pros of this Law and get rid of the cons: it is not going to happen. They are other sides of the same coin. Limiting the amount of time people can work here is a pro from our demographics and a con as far as continuity and employers are concerned.

Sending people away to try and iron those and drag it out, it will not happen. So, do not vote against in this in that hope that you would come back with something perfect that would please everybody.

However, I am going to vote against it, and you know why, because of something that was agreed yesterday, that my conscience just cannot support. I know no legislation is perfect, and I often vote for legislation with bits that I do not like, but there are some things you just cannot support and what we agreed not to reconsider yesterday is something that my conscience will not support.

Purely on that basis, I am going to have to vote against this legislation.

**The Bailiff:** Deputy Yerby.

**Deputy Yerby:** Sir, my basic view is this: a government that believes that it can control the size and make-up of its population is a government who is seriously over-reaching itself.

I am going to the famous Part D loophole as evidence in supporting my argument, which runs, I think, counter to the way that it is usually used in this Assembly. In my view, the fact that the loophole has been exploited is a factual demonstration that there is demand in this Island for the kind of workforce who are accommodated in Part D and that enterprising people have found a way, under the current framework, of matching supply to that demand.

I believe the Assembly should be in no doubt that similar loopholes will be found in the new population management regime, that such loopholes will be exploited and that such exploitation will generally prove to be in the interest of this Island. In other words, ultimately, I think that the population management regime will prove to be ineffective in achieving the States' objectives. So, how do I vote on it?

My instinctive, emotional and perhaps emotive response is to vote down the Commencement Ordinance. The whole process of developing a population management regime requires reducing people to costs and risks and deciding who is valuable to the Island and who is not. That whole premise rankles with me, it makes me searingly angry.

If I had been in the last States, I would have made more than a few incandescent contributions to the debates through which the population management regime was designed. It is so contrary to all I stand for that I want to knock it totally out of the park.

Before Deputy Inder accuses me of virtue signalling – not, by the way, that I think it is wrong for members of the Government to talk about their values or morality, because what kind of dystopia would that be? – let me make this clear: I do not think many people come into politics for the wrong reasons, especially not here. I know that this Assembly, however much I disagree

with certain of its Members on certain subjects, is predominantly made up of people who want to govern in a way that is humane, fair and achieves the best for this Island.

1880 Having worked with two previous Assemblies on the other side of the table, I am sure the same could be said for our predecessors. We all approach the question of how to do that differently and that is fine. That is exactly what you would expect in a democracy.

1885 Today's debate is not a game of moral one-upmanship and I do not want to play it that way, but it is a debate which evokes value-based, morality-based reactions, because population management is, by definition, an existential question. So there is, of course, a bit of rawness in what I say, but it should be heard in the context of the respect that I have for my fellow States' Members and the recognition that their principles, too, are sincerely held.

1890 The premise that underpins the population management regime, any population management regime, is not a premise that I find easy to swallow, but is that a strong enough reason to overturn it now? What happens if I do? If we do not commence the Population Management Law today, our old housing control system stays in force. Frankly, it does not score any better than the new regime on any of my fundamental objections. In some ways, it is worse.

1895 I have always been uncomfortable with what feels like a fairly linear relationship between the seniority of the job and the length of housing licence it attracts; a relationship which, in my view, undervalues the dedicated hard work of people who are here on licence in less senior roles, whose work is no less vital to the economic and social flourishing of the Island.

The initial employment permit policy published this month, on the advice of the Population and Employment Advisory Panel, seems to me to be much more even-handed in the way that it values those roles, especially in the field of health and social care, which is obviously the one I am most familiar with.

1900 Nor is the housing control regime any more effective than the population management regime will be at achieving the strategic objective of the States. We know it does not enable effective population management, or we would not be here today. It also does not succeed in protecting an affordable and accessible housing market here, so that the Island's indigenous population can realistically hope to become home-owners. When the KPMG Housing Review is published and we come to have a debate on Guernsey's housing strategy in due course, I am sure that will be abundantly clear.

In brief, housing control is not a regime I have any desire to be stuck with for any longer than necessary and I cannot, therefore, vote against the Commencement Ordinance because I want to preserve the *status quo*, I do not.

1910 Maybe I should vote against it because I believe we can design an improved form of regime before we go ahead?

Honestly, I do not believe that this Assembly is markedly different to any of its predecessors in terms of the balance of views among its Members.

1915 Nor do I believe that there has been a marked shift in the balance of community views. Actually, for that matter, I do not believe the external context is that different. Yes, Brexit is new, and we are going to need to be able to respond to it quickly and flexibly, but I think that we should bear in mind that the population management regime, too, was designed in the wake of the 2008 crash and the economic slowdown that followed.

1920 I am not sure that any changes that we might make at this stage, and in this context, would meaningfully change the shape of the population management regime. But, what of the claims among some, that voting for the population management regime will plunge us head-first into a political abyss? There are two specific points of challenge that must be considered here.

1925 Could we improve the population management regime, either by addressing its provisions in respect of birth rights, which were condemned by some as discriminatory yesterday and which are now subject to a P&R-led review? Or, by addressing the aspects of the regime which we are told would lead to litigation against the States, in respect of the Open Market, before it is commenced?

Could we address either of those points in a way that would substantively improve the Law, and should we, before it is implemented?

1930 To address birth rights first. A wise friend said to me before the debate, 'If you draw a line in the sand anywhere, someone is going to be just on the wrong side of it'. Now, my preference is not to draw any lines in the sand and to let anyone come to the beach who wants to. But I cannot envisage that happening. Whatever the results of the review, I think there will be a line in the sand somewhere.

1935 I am conscious that the human rights compliance of the current provisions has been carefully thought through before they were finalised. That does not mean that they are perfect, or that they are the only possible solutions, but it does mean, at least, that they are live-able and I can live with them, I think, albeit it through gritted teeth, while the P&R review is being carried out.

So, then, what of the litigation threat?

1940 We all know that new legislation creates the possibility of new litigation. We, as a Government, cannot be scared by that. But is there, contained within the argument of the litigators, a good policy reason not to go ahead?

1945 Honestly, we do not know much about that argument yet, but, as far as I can tell, the policy reason has not been demonstrated. The concerns of the potential litigators, as far as I understand them at this juncture, seem, if valid, able to be resolved principally at Committee level by the Committee for Home Affairs, through the policies which have been axed through the new framework.

1950 At some point, I think there is an extent to which we should probably say, 'Well we believe we have made this as robust as we can. We think we have got it right enough, so let the litigation come, let the new Law be put on trial.' We need to know how it stands up.

I do not think anything we might be able to do now to address either the birth right provisions or the litigation threat would be substantive and meaningful enough to require a further delay in commencing the Law, although I expect that we will see revisions to the Law once it is in place.

1955 If it is not already painfully clear, I should admit that I am a fan of good-enough solutions and iterative improvements. I said as much in the context of the Waste Strategy. The nature of political problem-solving is this: we either fudge something imperfect, which leaves a lot of people unhappy, but which takes the next step towards solving the issue we are facing, or we lurch indecisively from crisis to crisis, spending so long in chasing perfection that we never make a decision and we never resolve the issue.

1960 In the real world, you do not get the perfection in one bound and you may not get there at all. I cannot help thinking that 'good-enough' and 'better than' are the yardsticks we need to measure progress by.

1965 I am deeply ambivalent about this Law, as I know are many others, but I do not want Deputy Lowe and her Committee to leave this Assembly thinking, 'They do not have a plan, they just hate mine.' So, in response to the request in Deputy Lowe's opening speech, this is my genuine view on the better alternative.

1970 There is a fiercely libertarian streak that runs through my politics and it has already led to my votes being aligned with those of my colleagues on the Committee for Economic Development more often than I would have expected. I suspect we may find some of our arguments are in sympathy on this as well.

1975 When I criticise the new regime, I am not in fact saying a different regime would be better. Having heard the comments already in today's debate, I think I could not be further apart from colleagues such as Deputy Roffey and Deputy Dorey on this matter. I am, in fact, saying that no regime is needed at all. Yes, I would keep the doors open and let people decide for themselves who is going to walk through.

This is why: I do not think that would lead to unmanageable population growth, because I think the size and make-up of the population is, and will continue to be, primarily driven by supply and demand of work, of housing, of the cost of living, of our quality of life. We know, for

1980 example, that the Island Development Plan prevents excessive or inappropriate development on this Island. That is the basic control on housing supply and demand.

We know that good housing standards, if we had and enforced them, would prevent over-crowding, providing an additional control.

1985 We know that houses do not grow like Topsy. According to the Housing Stock Bulletin we received last night, Guernsey's housing stock increased by a net 43 units last year, of which only 10 were general housing. Likewise, good employment legislation, if we had and enforced it, would prevent exploitative work situations, which would be something of a control of employment supply and demand.

1990 Good border controls and immigration legislation already help to manage the aspects of our population which require active management; that is protecting this Island from people who would enter with the intention, or the likely consequence, of doing harm to our community.

With all that in mind, my view is that the population management regime is a sledgehammer to crack a nut and will be far from the deciding factor in determining how our population grows and changes in future.

I do not think it will work and, therefore, I do not think it can be necessary.

1995 So, where does that leave me? I do not think the logic of the regime stacks up. I think, over time, we will see that it does not do what it is intended to do, or at least it is not nearly as effective a tool as its champions hope it will be.

2000 I hate the process that the States has had to go through to reach this point: the process of designing a population management regime which, by definition, requires us to reduce people to costs and risks to decide who is valuable and who is not. It is a Pandora's Box I would prefer never to have opened.

But, I do not think that my own vision of a Guernsey without a population management regime would survive the political process, or even carry the support of the majority in our community. I do think that the new regime is preferable, in many ways, to the old one.

2005 A vote against this Ordinance needs to say something. It either needs to say that Guernsey is better off with housing control and I cannot say that. Or, it needs to say that I believe the regime can be improved substantively before it comes into force and I am willing to wait for it.

With my hand on my heart, I am not sure I can say that, either.

2010 I will listen to the debate carefully. I do need to hear what is said today, but I am not sure quite what else a vote against the Commencement Ordinance could say now. I have done my best to tackle the bits of the Law I find least acceptable, through drafting, laying or voting for amendments. I know I am keeping my eye on the ball and I will continue to challenge the defective aspects of the Law once it is in force, through the review process we have agreed to, or directly, if need be.

2015 But, policy-making is mucky. It is the art of the compromise. I know that and, if I think this is the best, or possibly even the least-worst, option for Guernsey today, I cannot keep my hands clean. I cannot rely on others' votes to take us to where I think we probably, pragmatically, grudgingly need to be, while lodging a protest vote myself.

2020 So, I am on the cusp of voting for it. But the arguments and counter-arguments are so finely balanced in my heart, it goes so very much against the grain to vote for something I do not believe will be effective and which is premised on political values that are so very different to my own, that I will need to hear my colleagues' contributions to the debate before I can know for sure.

*(Applause).*

2025

**The Bailiff:** Members, we will rise and resume at 2.30 p.m.

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

**Population Management (Guernsey) Law, 2016 (Commencement) Ordinance, 2017 –  
Debate continued**

**The Bailiff:** We continue the debate, and I will call next Deputy Le Tocq.

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

2030 Sir, in what was, I think, an absolutely superb and excellent speech just before we broke for lunch, Deputy Yerby gave us, as best I think as you possibly could, an overview of the pluses and minuses of this new Law which we are, I believe, going to enact as a result of the vote today.

2035 As a result, sir, I have very much less to say than I would have said, and I do believe it is incumbent upon us to just get on with it, to enact this legislation and to move forward, because if a review is to take place, now is not the time to be doing so.

2040 Sir, my three daughters, when they were in their teens, and they used to travel to the United Kingdom, and indeed elsewhere, for activities and camps and all sorts of things and they met young people of the same age, very often they would be asked questions of what it was like to live in the little Island of Guernsey, and they used to like to tease their friends by saying, 'Oh well, of course, we are all very much behind the times, we wear sort of Edwardian clothes, and when you go the ports or the airport or the harbours, you get given sort of more modern trendy clothes to wear because that is the nature of it.' (*Laughter*) There was always a lot of amusement in that.

2045 But I think, one of the dangers that we do have is that for this type of policy, this type of legislation, it is a long time in the making for us, we have not had the ability to move as swiftly as perhaps we would have liked. That is particularly true when you see the swiftness in which the world around us is changing and the implications that may or may not have for the policy that is before us today, the policies that are before us today. It is indeed not perfect, as the President of the Home Affairs Committee has said, but we have an opportunity to review. I believe we must make this step forward, because it is a significant improvement in so many areas to our current legislation, and if we do not vote to enact this today we are left with something lesser than it should be. So, I am very much in favour of moving forward on that basis.

2050 I think it was Deputy Lindsay de Sausmarez yesterday, sir, who quoted probably one of the highest political heroes, Edmund Burke, that I have, and also quoted a quote that I often use to speak to voters in the Castel District, to say that the reason I voted in that direction was that I am not just representing you, because that is impossible to do, unless I was multi-minded, because you have got lots of different views, but your representative is ... as the quote says, it is incumbent upon her or him to actually look at the evidence in front and make a reasoned decision based on his or her wisdom. Now Edmund Burke also said, and I quote:

All government, indeed every human benefit and enjoyment, every virtue, and every prudent act, is founded on compromise and barter.

2060 That is what we have here in this new Population Management Regime. It is a compromise, it is based on bartering, it is based on trying to get consensus from the vast majority of our population, many of whom have very strong views on particular issues within this legislation. But sir, on the basis of that, on the basis of the need for consensus and to move forward, and on the basis that it is an improvement I ask this Assembly to vote for the Propositions.

2065 **The Bailiff:** Deputy Laurie Queripel.

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

2070 Sir, I was very taken by Deputy Yerby's speech just before lunch. It was a very well organised and articulated argument. Over lunch, after picking my jaw off the floor, I began to think about other names or terms for this total liberal open-door approach that Deputy Yerby was speaking about. I came up with survival of the fittest, law of the jungle, (*Interjection*) anarchy, yes, winners and losers, sir, because there would be winners and losers within that kind of system, and the

losers would be the average Joe and Joan Public, sir, the more vulnerable people in our society. So, although it was interesting, and as I say very well put together, I will not be advocating that kind of model any time soon.

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Now, speaking of advocates, and I do not mean your most venerable self, sir, I need to refer to something that Deputy Ferbrache said this morning during debate on his amendment. Deputy Ferbrache dismissed Deputy Brouard's concerns far too lightly in regard to the points that Deputy Brouard made in regard to gardeners for example.

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The point is, my concern in regard to the nine-month/three-month system is that, yes, of course, it caters for essential workers, and I do not doubt for a second that essential workers are amongst the people that Deputy Ferbrache described, people that work within the care industry, within the catering industry, within agriculture and horticulture. But the trouble is it does in its own way create a sort of open-door approach, in that as well as including and accommodating and facilitating essential workers, it actually allows a hole or a door for what I consider non-

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essential workers to walk through as well. I am thinking about people who work within gardening, various jobs within the construction industry, things like window cleaners, for example, jobs like that, still the jobs that traditionally local people, Islanders, have been willing to do and wanted to do, and my concern is, I think, and I hope that this might be considered when we have this review, that is going to be triggered by the amendment we approved yesterday, I think we need to give that area a bit more thought. Because I am all for accommodating people, accommodating guest workers, and treating them fairly and making sure that they come and work here, and they feel welcome here. I am all for that, but I think those jobs need to be proven to be of a more essential nature, and some of the jobs that some of these folk are doing are not of an essential nature. There are sufficient people within the Island and sufficient businesses to cover those areas.

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Deputy De Lisle this morning spoke about the competitive economy. I am not against the competitive economy, but you have to remember that Guernsey is a tiny Island and it has to be proportionate and appropriate to the conditions and realities of living on a tiny Island like Guernsey. My concern is that that approach almost goes against our higher level strategic and economic objectives, the kind of things that were contained within the States' Strategic Plan the kind of things that are now contained within Policy & Resources Plan. In those plans the objectives are to improve the quality of life of Islanders, to maintain and where possible increase the value of jobs that Islanders do. How can that be possible when in some cases the value of jobs that they are doing is being driven down? So, I do not understand ... There is a real mismatch there between higher level strategic objectives and at a lower level, this sort of free market, market forces competitive economy approach, which seems to take priority over everything else in some people's minds, in some people's eyes. I think we have got to be careful of that.

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I worked as a self-employed person within the construction industry for nearly 30 years. I know all about competition, I know all about trying to make sure that I can compete, and doing a good job and giving value for money, but a race to the bottom will not suit anybody. It will not suit the people that work within these areas, and it certainly will not suit the Island's economy, or the Government exchequer. If the value of these jobs is being driven down, that is not good for the economy and it is certainly not good for the exchequer, when the tax returns and the contributions are going down, because the value of these jobs are being driven down. So, there is a balance to be had.

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So, I am all for doing our best to accommodate and welcome essential workers, but I am a bit more concerned about the fact that it also opens the door to what I call non-essential workers, and the detrimental effect that will have on local jobs, local businesses, local economy and the exchequer. All those things need to be thought about, sir, and I hope that is thought about when we have this review in regard to this Population Management Law.

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Of course, one of the reasons why, and Deputy Ferbrache mentioned the fear of some gardeners charging £22 an hour – my goodness, not much of a gap there between what they charge and what advocates charge, £300 or £500 an hour, or doctors! I see no competition, no

2125 real outside competition there, in regard to the legal profession or the medical profession. (**A**  
**Member:** Hear, hear.) So why is it always tradesmen who charge £20-odd an hour that are looked  
upon as the bad guys and have the finger pointed at them and yet in certain other business circles  
and employment circles people can operate under, yes, a heavily regulated but also a monopoly  
2130 situation? There is no cry there about 'can we bring people in to drive the value of those  
businesses and those jobs down'. (**A Member:** Hear, hear.)

So, I really think these things need to be thought about, and as I say, of course, I believe in  
striking a balance. Of course I do, but we can only go so far when we talk about the competitive  
economy. We can only go so far when we talk about competition, because it will be detrimental  
for our economy, for our people, for their jobs, for their businesses and for our exchequer, and  
2135 these things need to be thought about very carefully, and not just flippantly dismissed.

Just one other point I would like to make, sir. It is in regard to this policy approach that is  
included within the Home Affairs proposals. In principle I think that is a good idea. I think it cuts  
out red tape, it decreases bureaucracy, it fast tracks things to a certain extent, but my concern is,  
in some ways it is wrongly emphasised. As we have heard this morning and in the lead-up to this  
2140 debate, for quite a long time now, in some ways the in policy jobs are at the other end of the  
scale. They are in regard to the care industry, and catering, and agriculture and horticulture. I do  
wonder if that also needs another look at.

Also my other concern is, in regard to these jobs, they are typically within the finance industry  
and associated industries, and industries of that ilk, sir. Actually, there are local people who  
2145 already work within those industries, if there was a willingness to work with them, and to train  
them and to upskill them, in many case they can move up to these positions, these more senior  
positions, these more responsible positions. So, I am a bit worried that ... I still think there needs  
to be an obligation on these people whose posts fall within the in policy approach. There still  
needs to be an obligation on them to say that they have a succession plan in place, that they are  
2150 looking to make the best use of the potential within their existing work force, and if Members ...  
well, the Members who were here in the last term will remember I placed an amendment during  
the debate in 2013, I think it was – was it that long ago, 2013? – saying that there should be a  
formalised approach in regard to succession planning, not only for product business, but for the  
States, to show that they have succession planning in place, and they are making the very best use  
2155 of their work resource, of their work force to ensure they get the best out of them, and to give  
them the best opportunities to move up. Because once again that will increase the value of jobs  
that they are doing, which is what we want, which is one of our high level strategic objectives.

So, I just raise those couple of points, sir, and I hope all these things can be looked at, as part  
of that review.

2160 Thank you, sir.

**The Bailiff:** Deputy Kuttelwascher.

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

2165 Just a few comments on Deputy Laurie Queripel's speech. I just ask, where are all these people  
going to come from? If we have got an unemployment register of 400 and there are 3½ thousand  
people working in this area, where are they coming from?

Yes, I will give way, I will give way.

2170 **The Bailiff:** Deputy Laurie Queripel.

**Deputy Laurie Queripel:** I went to great pains to say, sir, I am not against permits being  
issued, and people coming in to the Island when it can be proven there is a need for them, in  
other words, essential workers. But there are areas where people are coming in to work in the  
2175 Island where they are not needed. So I did make a great point of saying we need to strike the  
balance.

So please, I would ask Deputy Kuttelwascher to remember that, before he carries on.  
Thank you, sir.

2180 **Deputy Kuttelwascher:** I remember that, and I just totally disagree with Deputy Lester  
Queripel – (*Interjections*) Sorry, Deputy Laurie Queripel – they both begin with an L. Deputy Laurie  
Queripel. Yes, there is a need. In the area of restaurants, hotels and care for the elderly, there is a  
need and they are essential in those industries. (**A Member:** hear, hear.) How do you define  
2185 essential? Believe me, if over the next couple of years half the restaurants shut, half the hotels shut  
and indeed some of the care homes could not take residents, you would soon see how essential  
they are. (**A Member:** Hear, hear.) People would wonder why they were here if they cannot go  
shopping, they cannot go out to eat. That part of our environment is extremely important to  
people who are here. (**A Member:** Hear, hear.)

I will tell you a story. Not so long ago a particular hotel had an open invitation in Guernsey for  
2190 people to come to work in the hospitality industry, free lunch, free everything on the cliffs. How  
many locals turned up? Zero. That is the point, the people here do not want to do it. But you say  
there are some who are ... Tell me who they are and I will find them a job. (*Laughter*) There we go.  
Anyway that was just one point.

The other point was, I have really got to refer to Deputy Le Tocq's speech, because I almost  
2195 totally disagree with his philosophy, and I go back to something that was said yesterday by  
Deputy Brouard about flip-flop government. Now here is the issue. There is nothing wrong with  
changing tack if facts or environment changes. In aviation we had a mnemonic called DODAR: you  
Diagnosed a problem, you look at all the Options, you make a Decision, you Assign the task, and  
the last one is the R, the Review, and that is essential. The world is littered with the bodies of  
2200 people who, because the commander of the aircraft decided he was going to stick with his  
original decision, killed everybody. That is going to become more of an issue if you take a long  
time to deliver some sort of policy or law which is exactly what has happened in this case, and  
what has happened since. Brexit is a big issue which will impact this Law, and I think waiting two  
years to see what the impact is is far too long.

2205 We passed an amendment earlier the Ferbrache amendment, and that shows how much  
unhappiness there is with one section of the Law. Now, that particular section of the Law can still  
do a lot of damage in the short term. Certainly over two years. Because people will have to leave  
in this nine months on, three months off, if they have not got this magic grandfather right. We  
have no idea whether they can be easily replaced. If you tell someone, 'Well, you can come for  
2210 nine months but you go for nine months', there will be great difficulties.

Sentiment and confidence is something you can destroy in a flash, and it will take you  
sometimes a generation to get it back, and I want to give you an example. Deputy Lester Queripel  
mentioned the population survey, if you like, the consultation. That was the start of the death of  
2215 what we now know as the Open Market, because one of the things, one of the questions, one of  
the statements in that – I do not know the exact words, I do not have a copy – was something like,  
'We will tell you what we are doing with the Open Market after the consultation.' That is in there,  
that spooked it, and it has been spooked for the last six years. Now, some of our staff on the  
Committee for Economic Development –

Well, I always give way with a smile.

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**Deputy Brehaut:** Thank you very much.

**The Bailiff:** Deputy Brehaut.

2225 **Deputy Brehaut:** Have you been reading my mail?

Just with regard to the language regarding the death of the Open Market, I am just concerned  
as to the message that sends out. I am conscious that the repetition may add to it, but just

clarification regarding the market has been in a certain place for a while and there are signs that the market is lifting actually.

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**Deputy Kuttelwascher:** Well, wrong. Because there has been effectively a 50% to 60% slump since that initial population document came, and if you want figures, in 2016 there were 39 Open Market sales, the lowest for seven years. If that is increasing confidence, it is a funny way of expressing it. It is at the lowest level it has been for seven years in 2016 – these are figures from The Greffe – which is sad. Not yet, I have not quite finished.

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The reason I am bringing this issue up is because I want to talk about sentiment and confidence. The confidence in the Open Market has not returned, we still have a turnover of properties, some still sold, but the other thing that has happened is there has been a dramatic loss of value, and it is as much as 50% in some of the sales. Now, the reason I brought this up is because I have been a bit of a backseat driver on this population issue, and I am going to go back two terms, because it interested me, and on Treasury & Resources with the able help of former Deputy Roger Perrot, I asked should we not have two different laws, one for the Open as regards the register, and one for the population management, because one would deal with just the Housing Register like the Open Market Register, and the other one would deal with who lives in it. That has actually happened, and I am pleased about that, because the previous Law where the Open Market was part of the Housing Control Law, it was renewed, I think, every 10 years, and then it kept getting renewed every two years, and it gave no confidence to anybody.

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So I am pleased this has happened, but the problem with this current situation regarding the current Law is that things have changed. It is no longer correct, we have issues over birthrights, we have had the issue over short-term housing licences, and the consequences of Brexit are totally unknown, because we may find that in three months' time we cannot employ anybody from Europe without going through the usual immigration process. It could kill all the sort of possible incomers in that part of the market.

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Now, for me, is it better to hold off and review and amend a Law before you implement it, and I know it would require a possible ... well, it would require a Projet de Loi and going back to London, if you like, to the Ministry of Justice, and whatever, or do you wait to implement it, accept the risk, and there could be quite some damage, and then try and put it right, when it did not work with the Open Market going back five and a half, six years? We are still in the process of recovering, like it or not.

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The issue regarding short-term housing licences could do exactly the same sort of thing for the business that need those people, the three sectors of our economy that have already been mentioned. Now, should we be taking that risk? The amendment that was passed just mitigates it slightly, in that a certain number of those people could stay here if they want to, but the bigger proportion will have to go over the next few years, and will they or won't they be replaced under this new system? My view is they will not. There might be one or two, but who is going to come here for a year on, year off? What will happen is they will come for a year, go and never come back.

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But then, do we want them? I mean when people come here they often spend the first year learning the trade, if you like, or gaining the experience, and the next four delivering it. Currently the Law is quite high risk in that respect.

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That is all I want to say. My view is that we should hold off on this, review it now in the areas we have already discussed and possibly a few others.

I will give you one other policy area which is going to cause a problem. One option until maybe today is that Open Market residents who are of 65 who have been here for more than 20 years, and it would include me, could de-register their properties and move to the Local Market, because the property is too big. There is a dearth of accommodation at the, say, one-or-two-bedroom end of the scale in the Open Market, that is going. I notice from the latest figures that the number of Open Market properties has decreased yet again, I do not know if it is because of that, or whatever, So that is one particular policy thing which I think will have a negative impact.

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2280 You will have elderly residents rattling about, quite often on their own, in large buildings because  
not only can they not sell them at a decent price, but even if they did they could not buy a  
suitable property to go into because there is not one. Now, that in itself was not a bad policy  
because if we had a buoyant market it would release a property in which some, shall we say, high  
net worth individual, could come in and occupy and add to our community by way of taxes and all  
2285 the rest of it.

So, there are a number of things with this Law, especially some of the policies that have  
appeared in the last few weeks. I think really need to be looked at, and I think waiting two years to  
review it, and then trying to put right what, I suspect, will go wrong is going to be far more  
difficult, far more costly to the economy.

2290 So, at the end of the day, even though we had a successful amendment, I will be voting not to  
implement this Law at this time, purely because I think it is easier to amend it beforehand than it  
is after.

Thank you, sir.

2295 **The Bailiff:** Deputy Lester Queripel.

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

Sir, I am going to support these amended Propositions, and like others I want to commend  
Deputy Lowe, and her Committee, and the staff who have to deal with an abundance of  
2300 sensationalist comments and misinformation circulated these recent weeks.

It concerns me greatly that many of our fellow Islanders have only voiced their opinions in  
those recent weeks, when they have had six years to do so.

As I said in an earlier speech only 354 responses were submitted to the 2011 public  
consultation, one of which was mine. Very few people attended any of the four presentations that  
2305 I attended. 19 people attended the presentation at St James. If I remember rightly, 63 people  
attended the presentation at Forest School, 31 attended the presentation at the Vale Douzaine,  
and 27 attended the presentation at St Martin's School.

I know the late Deputy Dave Jones was also extremely concerned about the apathy in our  
community, because we spoke about it several times. In fact, it was early 2011 that he asked me if  
2310 I thought Housing were doing enough to publicise the consultation. My response was I did not  
think Housing could have tried any harder, and I would like to read the overview on page 2 of the  
consultation itself. I am doing this in an attempt to relay to colleagues, and members of our  
community, the efforts that were made to engage with the people of Guernsey. The overview says  
this:

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The Population Policy Group (PPG) published its consultation document ... on 20 January 2011. The consultation  
period was initially due to close after 10 weeks, but was ... extended by a further four weeks until 30 April 2011.

The PPG sent 60 copies of the ... document to a wide range of community, business and professional organisations ...

A further 1,200 copies of the document were issued to members of the public on request. A website was launched  
providing access to read or download relevant documents, along with the facility to complete an on-line  
questionnaire. Paper copies of the questionnaire for completion by hand were also made available.

The PPG sought to offer respondents as wide a range of options for responding as possible and invited people to write  
to, or email ... or to complete all or part of the online questionnaire.

In order to raise awareness of the consultation process, the PPG sent a leaflet to [every household in Guernsey]  
informing them that the consultation was taking place ... This was coupled with a number of media releases and  
planned interviews, including a dedicated BBC Guernsey Sunday phone-in.

In addition, the PPG ran three drop-in question and answer sessions at the former Checkers supermarket and six public  
presentations at different venues across the Island. The PPG also accepted eight invitations from community, business  
and professional organisations to address members of those groups.

So, surely, sir, no-one can say there were not aware the consultation was taking place.

We have to add to that, of course, a public presentation was also held at Beau Séjour, I believe  
a couple of years ago now, which was attended by a mere 173 people. So the 400-seat theatre

2320 was not even half full. Sir, where has everyone else been for the last six years? Why wait until the last few weeks to engage, when they have had six years?

Sir, apathy out in our community concerns me greatly, especially when it comes to the issue – I am not giving way, sir – on our population.

2325 **Deputy Kuttelwascher:** I will make it a point of correction then. *(Laughter)*

**Deputy Lester Queripel:** That's the way.

**The Bailiff:** If it is a point of correction.

2330 **Deputy Kuttelwascher:** Well, if it is not, I will get told off, but ... *(Laughter)* No, the point is Deputy Lester Queripel is implying that being aware of a consultation and consulting somehow, as it were, dictates what the outcome of that consultation is. Many people who were involved in the consultation –

2335 **The Bailiff:** This is a speech; it is not a point of correction.

**Deputy Kuttelwascher:** Well, not really. We are actually in opposition to what is being presented. **(The Bailiff:** No, no.) Until it is presented, they do not know.

2340 **The Bailiff:** It is not a point of correction, Deputy Kuttelwascher.

**Deputy Kuttelwascher:** All right.

**The Bailiff:** Deputy Lester Queripel.

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**Deputy Lester Queripel:** Sir, I am not clear, was that a point of correction or just a –

**The Bailiff:** It was not. I ruled it was not a point of correction.

2350 **Deputy Lester Queripel:** – an attempt to disrupt?

Sir, with the utmost respect to everyone, all I am saying here is extremely relative to debate, and I feel perfectly justified in saying what I am saying.

2355 Sir, as I was saying, before I was interrupted, apathy out in our community concerns me greatly, especially when it comes to the issue of population. Because after all this is their Island home, and when Islanders have the opportunity to influence the future of their Island home, sadly, the vast majority of them did not take it.

2360 Of course, sir, we also have to look at ourselves as well, and I cannot help but wonder how many of my Assembly colleagues submitted their views to the consultation in 2011, and how many attended any of the six public presentations, or the special presentation held at Beau Séjour. Only they themselves will know the answer to those questions, sir, as to the reasons why they did not, if they did not.

2365 We often hear criticism from some members of the public when States make a mistake and then we say lessons have been learnt; surely it is the other way round when it comes to public consultations. So I plead with my fellow Islanders, please, please, please engage. Contribute, submit your views at the required time and not wait until the eleventh hour. It is your Island, and it is your Island Home.

As I said, sir, 354 people submitted their views to the consultation six years ago, they played their part. From now on, regarding future consultations, surely we must all play a part, because we are all in this together.

2370 I want to spend a few moments focusing on – despite Deputy Joe Mooney sighing – I feel this is all relative to debate, sir, as I said earlier. The reason I want to focus on these, in particular, is because there were not that many concerns expressed: quite the opposite in fact. So, quite why there has been so much concern expressed by some businesses and individuals in recent weeks only they will know.

2375 Question 10a on page 6 reads as follows:

Do you agree with the objectives ... ?

The response: a large majority of respondents supported the proposed objectives for the new Population Management Regime.

2380 Question 10b on page 7: 'Are there any other objectives, not covered by those listed, which you believe should be included?' The response: most respondents did not indicate any additional objectives.

The last one on page 10:

Do you agree that population management policies should be determined by reference to the strategic objectives of the States?

The response: there was very strong support for this proposal, including responses from the majority of community, business and professional organisations.

2385 So, sir, in conclusion I see no justifiable reason to vote against the commencement of the Law, especially when one bears in mind that an extraordinary amount of time has been allowed for consultation, and also that a review is going to take place.

Therefore, sir, I urge my colleagues to vote in favour of commencement of the Law.

Thank you, sir.

2390 **The Bailiff:** Deputy Green, then Deputy Dorey and Deputy Parkinson.

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

2395 First of all I picked up a number of concerns in the community about the apparent removal of the TRP restrictions. I think it is worth putting on record what is the true position if, or when, this new Law is commenced, because as I understand it the States will have the ability to continue to monitor the situation with the regards to Local Market house prices.

2400 Section 11(2) of the Population Management Law will prohibit the imposition of accommodation restrictions on those holding medium- and long-term employment permits, but section 75(1)(c) allows for the making of an Ordinance in the future the provisions of which would actually, in effect, override the provisions of section 11(2) and thus provide for the imposition of accommodation restrictions on these permit holders. I think that is an important provision which, as I say, will allow the States to continue to monitor the situation. There is a lot of anxiety about, and confusion in fact, about the removal of the TRP ratings in relation to those on licence within the Local Market, but the reality is the States will have the power to monitor the situation and to come back and to switch restrictions back on if the effect of switching them off has been some unwelcome or negative consequences for Local Market house prices. I think that is worth reiterating.

2405 I will probably support the commencement of this legislation, without a great deal of joy, frankly, because I think from the macro view what we are doing is replacing one set of fairly Byzantine rules in the Housing Control Law with another set of fairly Byzantine rules in the Population Management Regime. I do not particularly like Byzantine rules generally, but I do think there are certain improvements which justify passing this piece of legislation.

2415 Deputy Yerby this morning, in what was an exceptional speech – I did not agree with it, (*Laughter*) but it was a very good speech, an excellent speech – said that the legislation before us could be seen as being good enough. I think that is the correct test. I do not think we should ever

2420 be looking for legislative perfection. I actually think that in politics – politics being the art of the possible – actually we should be looking to make marginal gains at the very least, and I think this piece of legislation does take us forward. I think this will be a better way of managing the population to some extent. The reason for that is, as we well know, the Housing Control Law was never a direct way of influencing our population numbers, it was always a very indirect way of doing that, and a very imperfect way of regulating population numbers. The other main advantage of the Population Management Regime will be, in my view, a human rights compliant piece of legislation, and you cannot say that for the Housing Control Law.

2425 I think the main point why I wanted to rise in general debate is this point about how untested, and unproven and untried the actual regime is going to be, because as others, I believe Deputy St Pier said this in his speech to the Chamber of Commerce, the reality is that the strength of the economy, or otherwise, and the position of the housing market, or otherwise, market forces are actually the main drivers for population generally speaking, and the influence that Government can have over population numbers is relatively limited. But the great unknown in all of this, the untested, the unproven, the untried element of all this is whether through a piece of legislation, and a system of administration administered by the States, you can actually be successful in managing the size of the population. That is untested, and we will have to see what happens.

2430 I do think that a lot of the background to the opposition and the criticism that has been made about the Population Management Regime has quite rightly come from corners of the business community who are very unconvinced and wary of this. I think it is worth putting on record that I think there is always going to be a very healthy tension between the business community and any Government on the issue of population management, and especially when you are bringing in a population management mechanism for the very first time. An inherent conflict, perhaps, because we are trying to achieve different things.

2440 The businesses that have, quite rightly, communicated with us as law makers in recent times have been entirely justified in looking out for their own interests, entirely looking out for the interests of their own businesses. Our obligations are wider than that, we have to balance the interests of the business community, which is clearly very high level in the hierarchy of interest, with the quite proper interests of Government in this area, which is not only to consider the demographic problems that our community has, but also the size and make-up of the population, especially given the fact that we are a very small Island. We are only 25 square miles, unless we start embarking on a policy of reclaiming great tracts to the east of us, or wherever, (*Interjection*) perhaps to the west, unless we are going to start going down that road we are still always going to be limited by our geographical area, and that is why we have to have a proper mechanism in place, whether it will be as effective as we think it will be is unknown. But I do think we have to have some sort of mechanism in place.

2450 Sir, that is the macro view, and I think there are good reasons why we should be passing the legislation, or commencing the legislation today. I think that is probably all I have to say. I will be supporting the Propositions, sir, as amended.

2455 **The Bailiff:** Deputy Dorey and then Deputy Parkinson.

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

2460 I will pick up two or three things that have been said recently. Deputy Green in his very good speech referred to TRP, again on Population Management Committee it is something we looked at in detail, we had various reports from the States' Economist about the effect it has on the housing market, and he showed that it did not have the positive effect that we wanted it to, and it was affecting house prices in particular areas in a way that was not beneficial to the population. But as you said there was concern about it. I particular remember Deputy Jones having considerable concerns and that was why the ability to, at some point in the future, by Ordinance to bring in some controls.

I recall when I was on the Housing Department and the Housing Authority previous to that, when you have, for example, somebody coming in to work in the public sector who is a single mother with two teenage children, so she needs a three-bedroomed house, or you have a couple  
2470 who are a professional couple who are both earning and to try and work out a fair TRP so that they can have housing for both of them at a price that is affordable is very difficult, because the financial resources available to those two different cases are very different. But you could end up saying that TRP ... and in the end what you had to do, we had to discount it, we had to find factors so that the person, the single mother who had two teenage children could be housed in the  
2475 housing market. So it was not a very good way, I do not think, of trying to control housing.

Deputy Queripel spoke about the consultation. He mentioned about 350 responses, there was a total of 800 people that took the opportunity to attend the various public events, and we did send out 60 copies of the consultation document to a wide range of community, business and professional organisations as part of the consultation launch, but a further 1,200 copies of the  
2480 document were issued to members of the public on request. Every consultation can be criticised but I think we did an awful lot of work to try and involve as many people as possible, and there were very many meetings arranged around various parishes. He referred to a number of them. We did as much as we could to involve the public.

Deputy Kuttelwascher spoke about short-term licences, he spoke about the year on, year off.  
2485 The new short-term licences are for a year, but they are renewable for up to five years. So the person coming in can do a total of five years, if they are renewed each time. So it is not a year on, year off. They can do a total for five years.

He also spoke about the Open Market and the number of sales. Well, I think you have to be aware that a third of Open Market properties are owned by companies. It is just around a third, so  
2490 any transactions in those areas will not be recorded by The Greffe, and the figures that we get specifically says it does not involve the share transfer.

As a member of the Housing Department, I concluded that the current Housing Law was not fit for purpose. When we had a case where somebody applied for a licence they were turned down, they appealed and went to the Royal Court and we won the case. Very soon after that, the human rights was then put into local law and that same person then appealed using the human rights and won the case, effectively – the Housing Department gave in before the end of the case. So, where we were trying to control, we had lost that control and it was no longer effective. As Deputy Green said, we now need a law that is human rights compliant.  
2495

What I like about the current Law is there are two elements, which I wish to highlight, is  
2500 transparency, because one of the things that the Housing Licence system had always been criticised was the lack of transparency. One of the key things is, and that is what the Population Management Policy Group wanted was the polices to be visible and available, and Home Affairs have published the policies, and as part of what has stimulated the debate, some of the debate we have had over the last two days, so we have a transparent system that people can understand  
2505 what the policies are and, effectively, they should know before they apply whether they are going to be successful or not. That is one of the key foundation stones of the new system.

Also it is flexible, and that was the other one. If I may go back to the 1980's, because I think the 1980's is an interesting historical time for Guernsey, and the need for flexibility. Now, we had considerable ... The unemployment situation changed massively during the 1980's. If you go back  
2510 to the peak of unemployment, it was in the winter of 1982-83, when we had 1,284 people unemployed, but by the summer of 1988 we were down to 58 people unemployed. So the economic situation rapidly changed in those few years.

Now, I am reading from a Billet from 1987, so in the midst of the high unemployment the States debated bringing in employment controls, and they were there to try and protect jobs for local people. In fact, the States voted for employment controls, effectively work permits, to be introduced. In a quite amazing way, which we do not see in these current times, the Projet was debated at the next States' meeting one month later. The vote was very close, and they rejected them one month later in March 1982. But as I said the economic situation changed very rapidly in  
2515

2520 the 1980's, and Advisory & Finance Committee had a review of the economic situation, and there was a rapid growth in the finance sector. The A&F was so concerned with the situation, and this was in September 1987, that they had a report, which was due to come back to the States in November that year, but having had an earlier version of the report, and I will quote from the report, which is from the Peat Marwick McLintock report:

One of the main effects of the present expansion has been, and will continue to be, an increase in the population which has now growing at such a rate that the basic social structure and environmental stability of the Island, which are its two main assets, are being put under extreme pressure ...

Those words were highlighted and underlined.

2525 So we had a situation where we had a very rapid growth and their proposal was employment controls, because we needed to do it. So we needed flexibility, and the conclusion both in the times of high unemployment and the times of very rapid growth was employment controls. So I think we have the right policies today. It has taken a long time, but they need to be flexible, and I believe they are and they will be. The ability for the Advisory Panel to change those jobs which can get various licences is there, and it can change, basically overnight. So we can react to the situation, and I think that is the absolute key to the new policy being successful. It is a far better system than the Housing Licence system.

2530 I would also, because there has been quite a lot of talk about the Part D as now is, and I would just like to go into the history of it. Again in –

2535 **The Bailiff:** Is that relevant to population management, rather than to the Open Market legislation we are coming on to?

2540 **Deputy Dorey:** Because the movement of people between those –

**The Bailiff:** If that is what you are ...

**Deputy Dorey:** – is in the Population Management Law.

2545 **The Bailiff:** If that is the aspect, that is fine.

**Deputy Dorey:** So, the situation in terms of the Open Market was of concern at the time for the Housing Authority and they said that, for example, the Authority was aware of two Open Market houses which had been used as lodging houses and they proposed moving them into Part D so that those properties could be controlled by licence, and the Advisory & Finance Committee at that time said:

The Advisory and Finance Committee is greatly concerned that there is a substantial entry of persons into the employment market in the Island through the use of Open Market boarding houses.

In the Law the definition of a lodging house includes any dwelling in which one or more rooms are occupied by a person other than the owner or principal tenant thereof under a tenancy, a contract of lodgement or similar arrangement.

2555 So, it is very clear that the States at that time wanted to stop multi-occupancy of Open Market Part A properties. Unfortunately, the way people occupy them there was found to be a loophole in the law and there was never meant to be. But the result of that is, where we are today is that you can, for example, if we had levels of unemployment as they had in the early 1980's you could have 25 carpenters unemployed, but you could have somebody coming into a Part A, Part D as it has now been changed, because it is not under licence control, and living there for five years while we are paying out unemployment benefit to those 25 carpenters, you could have a carpenter coming in, and there is nothing we can do, because we have allowed those people to come in. So in terms of having flexibility, that is one area where we have not got the flexibility (**A Member:** Hear, hear.)

2565 and it would be far better if we ended that. It was never meant to be that we would have all these properties occupied by people who are outside the licence system.

Sir, those really are the main points I wanted to make. I would just say that I disagree with Deputy Yerby: we do need a control, we need it when there is high unemployment to protect local people, we need it to try and protect the Island when there are high levels of economic growth. Those conclusions have been reached at two different times in the 1980's and there has been a number of reports since then which have all proposed employment controls, but we have always resisted them. But the key thing that has changed is human rights, and if we want to be able to manage our population, and in a small Island we do need to do that, I passionately believe, to protect the public. Just as Deputy Green says, there is always going to be a healthy conflict between business and social needs of the Island, and if you are going to be controlling something, I would expect the business sector to push back against it. That is natural, and I would be surprised if they didn't.

2575 Please do not be taken in just by that lobby, there is a need to protect the public of this Island, and protect that their jobs are available to them. (**Several Members:** Hear, hear.) So please vote for this. It is not perfect; I do not support all elements of it, but please vote for this commencement Ordinance.

2580 Thank you. (*Applause*)

**The Bailiff:** Deputy Parkinson.

2585 **Deputy Parkinson:** Sir, I have struggled with whether to support the commencement of this legislation or not, and my mind has changed several times, I think, during the course of the debate.

2590 One thing I do want to say, clearly, like other Members, I am not happy with every aspect of the Law and the Regime we are bringing in. But I think it is very unfair to blame the public for any defects that may remain in the drafting of the Law. Consultation is fine and well and we must take account of public opinion, but at the end of the day we are here to make policy, and if we do not get it right, if the policies we produce are defective, it is our fault. (**A Member:** Hear, hear.) It does not matter if only 350 people turned up, or 800 people turned up, it is not their fault; they put us here to do this job.

2595 Now, I was in the States in the early stages of the gestation of both this Law and the changes to the Housing Laws, which we will be debating later, because that started, I think, in the 2008-2012 term, and I had some input into discussions at that time. Most of my comments, I think, were generally ignored by colleagues, for example, I said from the beginning put the Open Market outside the scope of the review, because you will only open a can of worms and there will be very damaging consequences, but the view was that you could not have a population control law that did not include the Open Market so it had to be in the discussion, in the mix, and the consequences of that are still with us now.

2600 I was not in the States in the 2012-16 period, or not until the very end of it. So I was not here when the Law took several, in my view, bad changes of direction in 2013-14, and I would stand accused, along with many other people, of not having paid enough attention to what was going on at that time. I have to admit, when I left the States in 2012, I had a sort of six-month period when I did not even read *The Guernsey Press*, I just wanted not – I switched off completely from public affairs, yes, only sort of gradually recovered my appetite for this kind of debate. So, anyway, the Law took a number of, in my view, wrong turns in that period, and I will discuss some of those in a minute.

2610 So, I am not happy with it, I would not go as far as Deputy Yerby did in her excellent speech before lunch, because I accept that the public do want, if you like, the comfort blanket of the perception that they have some protection in the Local Market, however illusory that protection may be. So, as a matter of public opinion this is something that people in Guernsey definitely want.

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I also accept that the Law is an improvement on the previous Housing Laws, especially for people like the finance industry, and we have seen it has been supported by the IoD, But clearly, it has put the cat amongst the pigeons for, particularly, industries dependent on seasonal workers. In that regard I wholly align myself with Deputy Roffey's view that the nine months, three months regime could have been preserved without causing an influx of new permanent residents, and those seasonal workers are unlikely to settle here permanently. I also agreed with him yesterday that there should be a single qualifying period of residence for children born in this Island to parents ordinarily resident here. Unfortunately the Assembly disagreed with that view. I believe that the same qualifying period should apply to people brought to the Island as children, whether by locally qualified parents, licence holders or Open Market residents, and in my view the children of Alderney and Sark resident should be treated as analogous to children of Open Market resident and able to gain local residential qualifications on the same basis.

So, there are several aspects of the Law that basically I am very unhappy with, but the Housing Laws do have to go, because they are not human rights compliant, and clearly the new regime will be welcomed by many people in the business community and so it is clearly an improvement.

Sir, taking all of that into account, on balance, I am going to vote for the commencement, but it seems to me that an awful lot now rests on the P&R review, which was introduced by the first amendment we debated. That review needs to be both thorough and expeditious.

I think in this debate we have had a number of people expressing very, very, severe reservations about the regime that is being put in place. Obviously, when the review takes place there will only have been a few months of the new regime operating in practice, and maybe that is not long enough for any defects to come to the surface, and for the review to be as thorough as it would ideally be, But on the other hand taking Deputy Kuttelwascher's point, if the new regime is seriously damaging, particularly to industries dependent on seasonal workers, we simply cannot allow it to persist unamended to the point where our ability to recruit those seasonal workers who do such vital jobs in our economy, do damage to that market and perhaps driving them away to other jurisdictions and losing them to our economy for ever.

So, it is a difficult thing, I do hope that P&R will give the operation of this new regime a very, very thorough look, and if there are any signs that this is having unfortunate or consequences that were unforeseen for the economy that they will take expeditious action to put the matter right.

**The Bailiff:** Deputy De Lisle was standing earlier, so I will call him.

**Deputy De Lisle:** Yes, sir.

There are severe reservations out there, and also amongst Members here. It is folly to ignore them.

The transition from the existing Housing Control Regime to the new Population Management Regime has placed real uncertainty, among employers and seasonal workers. The fears that a significant number of seasonal workers, in fact, will be forced to leave the Island, which could cripple, actually, some industries, and add to shrinkage in the Guernsey economy in general. Hoteliers, restaurants, cleaning and property services, retailers, are just some that could be affected with residence periods capped to five years.

So I think that one has to have an ear to the ground, if you wish, and there is a strong feeling that the Open Market in Guernsey has been destabilised by Government intervention, and sales have been affected by the 2013 Policy Council amendments to the Open Market Register. These changes are affecting the market now, and the facts that uncertainty has continued into 2016 and to 2017, and the reasons are quite clear cut, sir, the rules of occupancy have been changed by Government. Now, this has affected property rights, and to be quote honest, as far as I am concerned, property rights are sacrosanct. Government is interfering with that, and interfering with what people thought, or believed, and were told through Government that was the situation when they bought in to this Island. The Island is changing the rules and regulations, and changing, really, property rights.

2670 So the facts of uncertainty continue but this specifically affects those who own Open Market property in multiple occupancy. The owners will not be able to use their properties for income, and may be forced to sell and further depress the market. Some tenants will be unable to remain in their current place of residence and will opt to leave the Island. The new Law effective from 2017 could affect actually 146 properties, and change the status of about 1,000 people that the Island depends upon.

2675 Now, this is quite serious and has to be taken seriously, and in terms of property rights some bought in the Open Market properties having been advised of the possibility under certain conditions later in life to live in the Local Market property by deleting a dwelling from part of the Open Market Register and becoming eligible for a housing licence. That was earlier related by Deputy Kuttelwascher. The new Law prevents deregistration, at discretion. It must take place within the next six months, actually, of 3rd April 2017 or permission is withdrawn. Now if that opportunity no longer exists under the new rules. Aspirations have been shattered and I have had the phone calls. Confidence in the States gutted. Changing rules and regulations undermines, really, our security, and selling now would result in a serious drop in value due to the state of the market condition at the current time. So these people have bided by the rules. Altering regulations of the Open Market undermines confidence of prospective buyers also, so we have  
2680 got a problem there with people coming in, because and that is with *Locate Guernsey*. Are you going to buy into an Open Market property when Government is changing rules?  
2685

So, my basic conclusion here is that there is a lot of ironing out to do, and I think we are best to look at a lot of that in the next year, and consider the concerns of our community in general. Consider again and try and iron out some of these anomalies that are causing such concern in this  
2690 Island.

Thank you sir.

**The Bailiff:** Deputy Ferbrache.

2695 **Deputy Dorey:** Point of correction.

**The Bailiff:** Deputy Dorey.

**Deputy Dorey:** Deputy De Lisle said about we have changed the rights, but I quite clearly showed that there was never an intention to allow those properties to be occupied by people without housing licences. The clear intention of the States was – and it was only because of a loophole – so I think he is misleading the States to say that the States gave these people rights. It did not. The States very clearly was trying to stop people doing that, but accepting what has happened, those houses can still be occupied by people without licences for up to five years. So I  
2700 think he is misleading the Assembly.  
2705

**The Bailiff:** Deputy Ferbrache.

**Deputy Ferbrache:** Well, I was not going to start there, but I do not think he is, because people are living lawfully in those properties now, and they will not after a transitional period be able to live in them in the same way afterwards. So he is not misleading them, he was expressing his point, I thought in a very succinct and productive way.  
2710

But let me start my comments by making some preliminary comments. The first of which is declarations of interest. I am an advocate, I have got an interest in a fiduciary business, I will have, I think, at least one property, or interest in at least one property that could be affected by the changes, and my family also have interests in the hospitality sector. So, I think I have declared all the interests, I hope I have. So, let me get that out of the way first.  
2715

Let me also say this: that Guernsey is a fantastic place to do business. Guernsey will be a fantastic place to do business, but what I would like the States to do, and I doubt that it will do so

2720 in quite the fulsome way that I would like it to do today, but what I would like it to do over the  
 next three years or so, is allow the Committee for Economic Development to develop the interests  
 of Guernsey businesses in a way that it sees fit. I would like the States to have confidence in the  
 Committee for Economic Development in a way that, frankly, it has not shown in the first 11  
 months of this States. Trust us, or get rid of us. If you want to bring a motion of no confidence, do  
 2725 so. Otherwise let us get on with our job.

Because you cannot ignore statistics. The comments I have just made about this being a  
 fantastic place, I was so fortunate to have been born in Guernsey. I was so fortunate to have been  
 educated here. I was so fortunate, because of my heritage, to be able to come back here and I  
 benefited from Guernsey at a time when the financial services industry was taking off. I have been  
 2730 extremely fortunate. The reason that I am a Deputy is to benefit the local people, so that the  
 carpenters, so that the care assistants; so that the nurses can have jobs, because the rich will  
 generally look after themselves. (**A Member:** Hear, hear.) But they do not have to be here. They  
 have got money in their pocket and assets and they can go.

When I was looking through an old Order in Council volume that I have got – we get given  
 2735 them free as advocates, or we used to – I was looking at the Housing Law but then, because I was  
 listening to some of the speeches and my attention wavered a bit, I was looking at the Project de  
 Loi, Office of Lieutenant-Governor of Guernsey (Salary and Federal Expenses) Law, 1948. What on  
 earth has that got to do with what we are talking about? I tell you what is going to be talked  
 about: his salary then was £2,500 a year, free of insular income tax or surtax. Now until the early  
 2740 1960's we had surtax. We changed in the early 1960's and got rid of it, and equalised our fiscal  
 position with that of Jersey and the Isle of Man. They all charged then four shillings in the pound  
 income tax, which is what we have got today – 20p in the pound. We changed.

Deputy Dorey spoke about the high unemployment in the 1980's. It still existed to a degree in  
 the 1990's, because when I was a member of the – he is shaking his head saying no – but I can  
 2745 remember as a member of the Board of Industry and then its Vice-President and then its  
 President, we were having to administer schemes where people who were unemployed went out  
 and cleared greenhouse sites. So there were a number of people, it may not have been 1,200 or  
 whatever it was, but certainly sufficient, because they did not have a job, so they were sent out to  
 clear greenhouse sites, and local people used to put down their sites and get very annoyed if they  
 2750 were not top of queue so that they could have, free of charge, these people come and clear their  
 greenhouse sites. I can remember that.

But what we have to look at, as I say, is some of the statistics.

Now, in 2012, Guernsey was significantly ahead of Jersey in the economic cycle. In 2017, it is  
 not. Deputy St Pier correctly, and accurately, in a speech he made to the Chamber of Commerce  
 2755 recently, referred to our economy still being 10% bigger than it was at the crash, Jersey's is 10%  
 less. Both of those figures are undoubtedly accurate, but that does not tell the tale, because we  
 are here stagnant, they are on the way up.

What I said yesterday in my Condor statement was be bold and be brave. So let me just give  
 you some statistics because you cannot ignore the statistics. Our economy, the GDP grew, as I  
 2760 said, I think, yesterday, between 2006 and 2015 by 20% - the GDP, from just over £2 billion to  
 £2.4 billion. But the growth between 2006 and 2012 was £2,000,012,000 to £2,000,399,000. So that  
 growth, it is now £2,000,417,000 or thereabouts. So that growth all took place in the first six years  
 and has been almost non-existent – these figures are reflat, so it has grown a little bit – in the  
 last four or five years. What does that tell you? That our economy is stagnant. You have all sat  
 2765 here, we have all listened to the Budget, and we have read the Budget, and the Budget predictions  
 for the next three years are almost no growth in real terms in income tax receipts.

Now, we heard statistics from Deputy Kuttelwascher about the Open Market. We received, at  
 the Committee for Economic Development, a confidential report from estate agents – and Open  
 Market is relevant because the Population Management Law deals with taking away people's  
 2770 rights in relation to the Open Market, restricting them. That is what it deals with amongst other  
 things. We dealt with a report which said that there were only 39 transactions through The Greffe

last year. Deputy Dorey rightly said well there are share transfers. There have always been share transfers. When I came back to Guernsey they were worried about the people avoiding stamp duty, document duty, call it whatever you will, by share transfers. So there have always been a percentage of share transfers. It would be ludicrous to think that the percentage of share transfers has gone up.

2775 A reasonable expectation would be it is about the same percentage as it always has been. So, if it is third, 39 divide by ... that takes it up to about 50, 52. There used to be 100 to 120 going through The Greffe. Ten years ago there were 70 going through The Greffe. So if you add the percentages there, another third to each of those, you are up to 88 and 120, 140, 150. There is no confidence at the moment in the Open Market. There should be, and actually the real value again statistically, again we have been shown that the average price of an Open Market house at the moment is just over £1 million if it is sold. 10 years ago it was about £950. But you add together inflation it is about £200,000 less in real terms than it was 10 years ago. There were also 30% of Open Market properties that were sold at a figure of over £2 million 10 years ago, it is now down to 12%.

2780 So, things have changed. We are not dealing in an economy where there are a lot of people banging on the door. The finance sector, and I have shown my absolute, categorical, unequivocal, unreserved support for the finance sector since I have been President of the Economic Development Committee. I was one of those who voted for the Beneficial Share Registry being where it is not, but I was in the majority of my Committee, but of the Policy & Resources Committee only Deputy Trott voted in the same way.

2790 I am in favour of the runway extension, because it shows Guernsey is open for business. I am not going to be able to project a business case and say 3,256,000 people are coming in. You have got to be bold and you have got to be brave.

2795 People out there, and I referred to it in the statement I made yesterday, people out there in the real world are seeing this as a bit of a backwater, and they need not, because if they knew the true facts, and if they heard what we had to say, they would say, come here, it is safe, it is decent, it has got a good legal system, it has got competent judges, it has got sensible people, most of the time, in the States of Guernsey enacting legislation, which most of the time is good. It has got all that kind of thing. It is a decent place where your money is secure, you are physically secure, you can bring your kids up, if you are at that stage of your life. It has got good schools and we all know when we get the report in June or July probably going to have even better schools. But we have got so much to offer, but we are bringing in a piece of legislation that is a heck of a lot better – I have got to say a heck of a lot better – than the Housing Control Law.

2800 I always raise my eyebrows figuratively when I hear a comment made by somebody like Deputy Dorey – or Deputy Dorey's comment, I should say – in connection with the human rights. Human rights is for everybody else until we need it. As a lawyer I have dealt with all kinds of litigation cases, but a fair bit of criminal cases, I think there were few more experienced criminal lawyers in Guernsey than me, and I have had people sit there across my desk from every social sphere. They would all say until that moment the police system, the courts system was wonderful; as soon as their son Johnny, or their husband Fred was in trouble it was a terrible system, how unjust, awful. So human rights are not important until you need them. So therefore the fact that the Housing Authority had to change their decision because it was not human rights compliant, so what? It was a good thing because we have got human rights legislation and we should enforce it.

2815 **(A Member: Hear, hear.)**

2820 So, let us deal with the situation as we have to deal with it. For a completely uneconomic development reason I am not voting for this. I know it will go through; I appreciate the mood of the Assembly. I am not voting for something that made the decision that it did yesterday on the Roffey amendment. I cannot do that. I am not a sensitive soul, I am not precious, I am reasonably robust, but when I get a decision like that, I have to accept it, because we are a democracy, but I do not have to vote for it, and I do not want my fingerprints seen on that decision at any time in the future.

2825 But let's come back to the economic matters. We should be doing the nine month, three  
month rule. It stood us in good stead for 30 years or 20-odd years, I do not know, I am not going  
to do the arithmetic – for a long time. We put our finger in the dyke with the  
Kuttelwascher/Ferbrache amendment this morning, and we would have done it with the  
Soulsby/Yerby amendment, but it is only putting a finger in the dyke, that is protecting the people  
2830 that are here. People die, people move on, their lives change. We should bring in – because there  
is no point just being disruptive; we can be constructive with something – we should bring a  
provision whereby we have that going forward under the new regime. Because those people will  
come in, and look at the argument about gardeners, I know gardeners ... I fully accept Deputy  
Laurie Queripel's point. Advocates charge, far, far, far more than a tradesman, they always have,  
and sadly for Deputy Queripel, and happily for me, they always will. (*Laughter*) That is the capitalist  
2835 environment that we live in but we do not have enough care assistants, auxiliary nurses. We do  
not have enough people working in the hospitality sector.

Now, one of the people who is on the Employment Advisory Panel or whatever the title is – I  
am not very good with titles – as I have said, is a really good person who thinks, as I do, that there  
are so many pluses to this new system. It is slicker. You put up your information if you are  
2840 employer for three years, then you do not have to go back and say, well, here are my accounts for  
last year or whatever – all of that is good. I do not actually see why that cannot operate, at the  
moment, without any change of legislation. Why can you not improve your administration without  
having a piece of paper saying 'Here we have got a piece of paper, we are improving our  
legislation'. What you do is you implement, you have the slicker system, you say 'Well okay, while  
2845 we have this interim period, this transitional period, you are going to have live with the old Law,  
just for a bit longer, because we want to get the Law right before we implement it, but we will do  
it in a slicker way, in a more proficient way.'

We have had at the Committee for Economic Development, and I am sure some of you have  
had, as other Members of the States, the industries that are really concerned, which are the care  
2850 industry and the hospitality industry. Those are the two that are really concerned by these  
proposals. The gentleman who spoke to me said all those pluses ... he said, 'I am concerned about  
the five-year rule, I am concerned about the nine-month, three-month rule. I am concerned about  
that.' We have had others write us letters, to my colleagues on the Committee saying, 'Look, I am  
going to lose good people.'

2855 Now at the moment, why should we be saying to somebody, when we have got this housing  
stock, we have got the Part D as it will be from the 3<sup>rd</sup> April when the Law comes in, why should  
we be saying to those people, if they have not done their five years ... ? If they have done their five  
years they have got grandfather rights and they can continue to live in a Part D property for ever.  
But there are a lot of those people that will move, as I say people's lives move on. Why can we not  
2860 say to people, 'If you are living in those kind of properties you could continue, as long as you are  
making an economic contribution to this Island, to live in those particular properties'? So,  
therefore I would make that law.

What I would also do it is not quite as far as Deputy Yerby, but although I think she is right, we  
will get there, we will get there in a few years. I just do not think there is the appetite here to get  
2865 there today. What I think we should be doing is getting rid of – except for the nine-month, three-  
month rule – we should be getting rid of short-term licences, we should go straight to medium-  
term licences. But we should have medium-term licence A and medium-term licence B. Medium-  
licence A would be those that can live as a householder, because that is what you will be able to  
do as a medium-term licence holder going forward, you will be able to live as a householder. But  
2870 we can have medium-term licence B, if you like, whereby they cannot live as a householder, but  
they can live in a Local Market property. They have got to have a Local Market householder. Now,  
that is not going to be perfect, but that would be bureaucratically free, it would show we are open  
for business, it would give business confidence.

We have had Deputy Kuttelwascher refer to it in his speech earlier, we have had a care home  
2875 provider tell us that 60% of his staff will be affected adversely by these provisions. Now, these are

not people with relevant NVQ qualifications, because for every NVQ qualification, which is entirely valuable, and we need them, you are going to have an assistant. It is a bit like when the learned Bailiff and I started out as lawyers in Guernsey, the only lawyer dealing with a case was him or me. Now they have got a coterie of assistants that help them, and it is funnelled through to you and you go into court and somebody tells you, or tries to tell you, what to say. They will have assistants doing – I do not mean it in a demeaning way – the more menial jobs. They will have those, they need them because their valuable time is spent doing akin to their expertise, whatever their particular expertise may be. So we need those people doing those jobs, we need those people at a lower skill level doing those jobs.

I say Deputy Laurie Queripel referred to his experience as an employer, I still have experience as an employer. I would love ... and I do not mean it in any demeaning way, to the truly excellent staff that we employ from Latvia, from Poland, from Bulgaria, from France, from England and from various other places. I probably missed out some other nationalities. They are excellent; they do a fantastic job; they provide a fantastic service. Does he not think that we would much rather employ local people, because we would not have to provide them for housing, we would not have to go through bureaucratic procedures, we would not have to pay fees? We cannot do that. We cannot do that.

Deputy Mooney and I, when we went to the President's meeting at Beau Séjour, well organised by Deputy Lowe, a few weeks ago, we had a local couple came to see us – a local couple, a step-father and a mother of a very, very seriously disabled adult, very mentally and physically disabled. They were really worried because they had nine-month, three-month carers. Whenever a carer leaves, as happens from time to time, they advertise. Deputy Mooney will correct me if I am wrong, they put 20 to 30 adverts. They very rarely got an application. They took on a local worker who said yes, this is for me, I am going to do this job, I have found my way forward. He did not turn up the second day. So, we have got to realise that our community has, to a degree, moved on. Those jobs are now done by others. That does not make our community bad, it does not make those people bad. We are not first-class citizens beyond them. We are all first-class citizens, whether you come from Poland and are here for two years, or whether you have been in Guernsey as long as a Dorey, however it was spelled in the 12th century, or Ferbrache, it has always been spelled the same, because as I say we were not as educated as the Doreys. And we may not still be. But in connection with all of that, those are the kind of changes we should be making. We can bring back those proposals within six to twelve months, I do not like ... there is an inertia –

Sorry, I will give way to Deputy Trott.

**Deputy Trott:** Thank you.

I am grateful to Deputy Ferbrache for so doing.

Sir, can I ask through you, when Deputy Ferbrache was being asked by these people who required carers, did he advise them that as employers, those carers could now stay for one full year. They did not have to go back after nine months, and indeed they could reapply on four consecutive occasions in order that uninterruptedly those carers could stay providing that service for five consecutive years.

**Deputy Ferbrache:** And I am dealing with one point – I can deal with that, but I can only deal with one point at a time because of my limited memory span.

**Deputy Lowe:** It is lumped into that.

**Deputy Ferbrache:** I can deal with that then you can interrupt me afterwards.

**Deputy Dorey:** Point of correction.

**Deputy Ferbrache:** Okay, shall I go and come back afterwards? *(Laughter)*

**The Bailiff:** Are you correcting what Deputy Trott said or – ?

2930 **Deputy Dorey:** No, I am correcting something that Deputy Ferbrache said earlier on –

**The Bailiff:** Well, why don't you allow Deputy Ferbrache to answer the give way point and then you can raise your point of correction?

2935 **Deputy Ferbrache:** The answer to Deputy Trott is: he already knew that. We established that with him. We would have advised him but he seriously ... What he was concerned about though is continuity of service, because after five years, using the example that Deputy Trott has given, those people have got to go. (**A Member:** Yes, yes.) It is difficult to get them. As the gentleman I spoke to from the hospitality trade said, and the gentleman that spoke to us in connection with his care homes, there are not people knocking on the door.

The biggest curved ball that nobody anticipated, including HM Secretary for Foreign Affairs and Commonwealth Affairs, Boris Johnson, was that the Brexit vote would succeed to exit the European Union, and you remember what collywobbles it put him in. He hid for two days and then did not stand for the leadership of the Tory Party. But there we are.

2945 So, we are where we are. So greater and better minds than humble Peter Ferbrache from Charroterie were unable to predict what was going to happen in relation to Brexit. That has changed the world. That has changed the world. That is how the world changes. My facile example of the Governor's position when he had to pay surtax from 1948 to 1963 or whenever it was. The example of Deputy Dorey about the 1,200 people or whatever it was employed in the 1980's. Now, I see bursting at the seams, I have got Deputy Lowe and Deputy Dorey who want to interrupt me. I do not mind which does it first. I will sit down while they choose.

**The Bailiff:** Deputy Lowe.

2955 **Deputy Lowe:** Thank you.

I just want to – it can be a point of correction or it can be a point of information.

2960 Carers now, we recognise that under the new Population Policy Plan, and they get eight years, they do not even have to leave. It can be a much lower – it is down to quite a NVQ lower level, that they are able to do that. We recognise the shortage of that. In fact, if I can just continue on that we also heard about a care home, and it was named to us, where there were 60, might be coincidence, or not, the staff contacted that particular care home, they spoke to them, they reassured them, and there is only one that would currently need a licence.

**The Bailiff:** Deputy Dorey.

2965 **Deputy Dorey:** My point of correction was about GDP, because he made a comment about GDP growth. In fact the GDP growth in 2011 was 4.5%. That is in real terms. Also in 2012 it was a further 4.5%. So to say that there had been no GDP growth in the last five or six years is very inaccurate and misleading.

2970 **Deputy Ferbrache:** Well it isn't because I am looking at the Guernsey – I can only read the Guernsey – let me just read (*Laughter*) – Let me just read the Guernsey Facts and Figures 2016. If that is wrong, it is wrong.

2975 **A Member:** What you said was right.

**Deputy Ferbrache:** It says, I am looking at the table on page 11, for the purposes of *Hansard*, or this wonderful document that Deputy Mooney first introduced me to about a year ago – we have the 2015 version. That says GDP: Refflated GNP (2015 prices, £m) – £2,012 million in 2006.

2980 Now, it went up most years from 2006, up to and including 2012, because in 2010, it was £2,198 million; in 2011, it was £2,305 million; and in 2012 it was £2,399 million. So therefore what I said last time was accurate. It went up between 2006 and 2012 – I should have said *inclusive*, of course, I apologise for omitting that word (*Laughter*) – by about 20%.

2985 In the last three years of these figures, in 2013, it was £2,414 million; in 2014, it actually fell a bit to £2,403 million; and 2015, it is £2,417 million. So, I am always very, very pleased when people correct me, but I am not so pleased when they correct me wrongly.

Now, in connection with Deputy Lowe, she has given me the extreme example of how flexible this system is. This is just one example, because there are carers – certain carers are permitted and the categories are there.

2990 Now, this is not going to cause the walls of Jericho to come tumbling down, but until December of 2015 I have been Chairman of St John's Resident Home, a charitable residential home that operates from Saumarez Park – wonderful, absolutely wonderful, and superb staff. Its Matron is Dr Sue Fleming, and Dr Fleming wrote this to certain States' Members, certainly I got it on 8th March 2017. She talked about a lady, I am not going to mention the lady's name, who on 2995 3<sup>rd</sup> April 2017 will have been in Guernsey for 4 years, 11 months and 14 days, consecutive residence, as she has been resident in Guernsey continuously since 21st April 2012. She worked in another care home, she now works in a care home in St John. This means, this is ... 'Deputy' Fleming, I wish she was! ... Dr Fleming saying this: 'this means that unfortunately she does not gain grandfather rights to remain in a Part D property indefinitely and when reaches five years consecutive residence she will be required to leave the Island for a recognised break in residence of five years before she can return to reside in a Part D property. Housing have been helpful and have granted an extension until 30th November 2017, after which she will have to leave. This is really sad and once again will affect the continuity of care of the Home as we will have to recruit someone of the same level of experience and qualities which, as I am sure you are all aware, is a bit challenged locally.'

3000 She referred to their previous cycles of trying to recruit such posts have proved exactly that. Now we did get a helpful response, and as I say she has been given an extension of about seven months or eight months beyond the extension Law. But this is a letter from the Director of Housing Control. She says this, and it is helpful, and it is no criticism of her at all. I have spoken to Sue Fleming and got more information etc. Under the agreed employment permit policy, nurses working at Band 5 and above are eligible for long term employment permits, as are nurse practitioners. Health care assistants holding or working towards a VQ3, they are all going to get their permits. Other carers, that is to say those at less than VQ3 and not working towards to VQ3 have their residence limited to five years.

3015 So therefore what I said was accurate, and again another interruption from a politician which was inaccurate. So, I do not mind being interrupted, but it would be helpful if they are accurate interruptions, bringing factual ... correcting my many factual errors.

So therefore there should be all these changes made, they should be done now, because once the Law is done it loses its, it just loses its energy.

3020 There was talk about, only Deputy Lester Queripel thought they were interesting, very, very interesting, statistics about people are not engaged. I was not engaged when I was in the States because I trusted the States' representatives to bring forward sensible policies and enact sensible laws. So therefore, though there is much good work, commendable work of high standard, by politicians and civil servants alike in relation to these, I am not going to vote for the commencement Ordinance.

3025  
**Deputy Dorey:** It is a point of correction.  
I was quoting GDP figures, which I think was not what you –

3030 **Deputy Ferbrache:** I was quoting the GDP figures –

**Deputy Dorey:** You were quoting GNP figures, which includes income from outside the Island, if you look at the book.

3035 **Deputy Ferbrache:** Yes, that's right.

**The Bailiff:** Deputy Paint.

3040 **Deputy Paint:** Sir, further to what Deputy Lester Queripel said earlier. I arranged a discussion about the population proposals in the Parish at Beaucamps School a few years ago, with about 60 to 70 parishioners attending. It was chaired by the Vice-Dean of the Douzaine of the Castel Parish. The overwhelming consensus of those who attended was that birthright for all locally born children with local heritage should be obtained at the time of birth. As was stated yesterday birthright has been democratically passed by this and past Assemblies on several occasions, I cannot see why some here will not stop arguing just because they cannot have their own way.

3045 Sir, after my first election in 2008, in my opinion, one of the most disgusting and disgraceful events took place, where the Assembly in 2004 took away the widows' pension. I spent a whole year researching everything, and brought it as a requête to this Assembly, and failed. I also tried twice in the last term to bring it again, but could not get enough support from this Assembly. I have not continued to press this matter, although I really did want to, there is no point in flogging a dead donkey.

3050 Hopefully the P&R review will iron out all the difficulties and problems that have been said today. The devil is in the detail. You have heard a lot of it today. Things can be changed in the future under the review with what Deputy Ferbrache has said, because I agree with most of what he says. Not to vote for this will prolong this matter, which will do untold damage to Guernsey. Please, please, vote this through, then adjust it later.

Thank you, sir.

**The Bailiff:** Deputy Fallaize.

3060

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

Deputy Paint brings me to my feet because, I mean, he has won the argument over birthright twice, so to bring it up again and try to criticise those of us who have taken a different view, I think, is unjustified.

3065 I also think that it is unreasonable to criticise Members who are consistent in the way that they vote. Deputy Paint said that over widow's pension he disagreed with the decision that was made in 2004, he tried to, effectively, get that decision overturned, he did not just say, 'Oh I accept that that was the decision made democratically and so I am just going to take it on the chin.' He failed in his second attempt, and he did try again, he was as he explained unable to obtain sufficient support to bring it to the States, but he kept trying. I think he tried four times. He just told, us (Deputy Paint: Three.) Three times, to change something which he felt was wrong. This is absolutely no different from the issue of birthright. No different whatsoever.

3070 I accept the decision the States has made, in the sense that I acknowledge that that is the decision. People who wanted that have won the argument, I have lost the argument, but I am not just going to roll over and say well, okay, I will vote for something I profoundly disagree with, any more than Deputy Paint would not vote for the provisions in respect of the widow's pension that he so profoundly disagrees with. There is nothing that could force Deputy Paint to come to this Assembly and vote for those provisions which he disagrees with, and I respect him for that, and he should respect those of us who cannot vote in favour of this Law while the, what is in our view, very profoundly discriminatory and divisive provision exists within it, and I do not think there should be criticism of those Members who cannot accept that to such an extent that they will vote against the commencement Ordinance.

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3085 The commencement Ordinance is going to pass, I am sure of that, but it does not have to pass unanimously. If a small number of Members who disagree so profoundly with the birthright provisions vote against it, so be it, it will go through. I am not going to bring a requête to try and get it overturned, but do not expect me to turn up here and vote for something which I think, and have always thought, and have consistently voted this way, is divisive and discriminatory.

3090 It is a little bit like, and I say this more for the record than anything else, the Proposition that was put to the States about noting the triggering of Article 50, which I voted against, I do not think anybody else voted against it. Deputy St Pier's letter –

3095 **The Bailiff:** If you did vote against it Deputy Fallaize, there is no record of it on the tape. I have listened to the tape and I said in the Assembly that nobody has voted against and you did not stand up and say otherwise.

**Deputy Fallaize:** That is true, sir, but I did vote against it.

**The Bailiff:** Well, you did it very quietly, because – (*Laughter*)

3100 **Deputy Fallaize:** I always do, sir.

**The Bailiff:** If you had your microphone on, it was not picked up by the microphone.

3105 **Deputy Fallaize:** I will give way to Deputy Paint.

**Deputy Paint:** Sorry to ... I listen very closely to what Deputy Fallaize says because he does speak a lot of sense at times. (*Laughter*) What he actually indicated, and I recorded this, was that he did not agree with Brexit. I did not hear a vote, he just stated that. That is fair enough. So, I confirm that he did *not* vote, but I confirm that he *did* say that he did not agree with it.

3110 **Deputy Fallaize:** I thank Deputy Paint particularly for the first part of his intervention. (*Laughter*) But look, I am just putting on record that I meant to vote against it, and I think I did vote against it, by saying *Contre*, but if I said it too quietly and, sir, I am not criticising your declaration, I ought to have jumped up at that time, but in any event this is a debate about ...  
3115 (*Laughter*) population management, not about –

**Deputy Tooley:** Sir, not that it really matters very much in the course of the –

3120 **Deputy Fallaize:** I will give way.

**The Bailiff:** Deputy Tooley.

3125 **Deputy Tooley:** If I may say, sir, that on that occasion I noted that Deputy Fallaize had voted against, (**A Member:** So did I.) you declared that it had been carried unanimously. Deputy Fallaize looked at me and raised his eyebrows, I shrugged my shoulders and he made no motion to criticise, so the record is correct, but –

3130 **The Bailiff:** Well, I would not have said it was unanimous because when it is *aux voix* I do not know who has abstained. So the correct thing would be that it has been carried *nem. con.*, as the late Deputy Bell once pointed out to me, and I have never forgotten that. It was about the second meeting I presided over I think, I declared something was unanimous and he pointed out - no the correct thing is carried *nem. con.*, in other words for those who know their Latin, no-one against, *nemine contradicente*.

3135 **Deputy Fallaize:** Okay, for the sake of *Hansard*, this is an exchange that serves no purpose. (*Laughter*) I must say to Deputy Tooley, I cannot believe I would ever roll my eyes at any judgement, sir, of yours ...

**Deputy Tooley:** Raised eyebrows.

3140 **Deputy Fallaize:** Oh, raised eyebrows. Well, I am sorry – I can promise I do not do that very often.

But on this issue, I am just not going to give in. I know I am going to be in a small minority, but I consider the attempt to divide local children one from the other to be so divisive and so discriminatory that I just cannot accept a Law which does that.

3145 I do not criticise the Committee *for* Home Affairs, who are bringing a commencement Ordinance which is fully consistent with previous States' decisions. They are doing exactly as they were directed to do by the States, I respect them for that.

I certainly do not criticise any of the staff who have advised them, and who I think have been absolutely first class in the lead-up to this debate, and in whom I have full confidence to administer this Law reasonably, fairly and compassionately.

3150 But I simply cannot accept the way in which we have ... or this Law will divide what I consider to be local children from local children, and therefore in exactly the same way that Deputy Paint would always vote against the new arrangements for widows' pension, and I respect him for that, I will vote against this commencement Ordinance.

Thank you, sir.

**Deputy Paint:** Sir.

3160 **The Bailiff:** Deputy Paint.

**Deputy Paint:** Can I just say, *touché*?

**The Bailiff:** No. (*Laughter*) You have had your speech. Alderney Representative McKinley wants to speak.

**Alderney Representative McKinley:** Thank you, sir.

As a relatively new Member of this esteemed Chamber, I rise to seek advice and clarification from HM Comptroller and others with relevant knowledge on this issue.

3170 We have spent many hours, about eight or ten hours now, eight or nine hours now, debating what is clearly a very sensitive subject. We have six amendments, three of which, I think, passed, three of which failed, so we are now debating the amended Population Management (Guernsey) Law which was circulated, I think, to everybody at lunchtime.

3175 If that is so, am I correct in my understanding that if the majority vote against this proposal then the many hours spent debating this morning, and yesterday, will have been really, effectively, totally wasted, because none of the amendments will be passed and go through, and we will be back to square one, so we would be back to where we were yesterday morning before we started this debate? I just ask that question of HM Comptroller.

3180 **The Bailiff:** Mr Comptroller, do you wish to reply?

**The Comptroller:** Thank you.

Well, it seems to me we have now got five, arguably, individual Propositions before the States following the amendments that arguably should be voted on separately. Arguably.

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**The Bailiff:** In other words you are saying, if the Ordinance is not brought into force because Members, the majority, vote against Proposition 1, we can vote on the other Propositions and the Committee for Home Affairs will have to make such sense of them as they can. Is that what you are saying?

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**The Comptroller:** Well, they are stand-alone Propositions, as they have now been amended. I think looking at them there can be sense made of them, even if Proposition 1 were to fail.

**The Bailiff:** To some extent.

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**The Comptroller:** To some extent.

**The Bailiff:** Can we perhaps leave this, can we get on with the debate, have the vote on Proposition 1? If that carries then this issue does not arise.

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**The Comptroller:** Well, indeed.

**The Bailiff:** If it does not carry, then I suggest we will then need to discuss this issue, because it is perhaps not quite black and white; there are some grey areas.

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**The Comptroller:** Indeed, sir.

**The Bailiff:** Some grey areas, where some Propositions may stand, some may not.

So, I think, let's proceed with the debate. We will vote on Proposition 1. If it carries, as I say, this issue goes away, Alderney Representative McKinley, if it does not carry then we have to look individually at the subsequent Propositions, and see how they are to be affected in the light of that.

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**Alderney Representative McKinley:** Thank you very much, sir. Thank you.

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**The Bailiff:** Deputy Gollop.

**Deputy Gollop:** Thank you.

I will just start. I know some of us have already drifted into irrelevant facts this afternoon, but I felt it was quite interesting to look at a new statesmen you.gov online poll which suggested that in the Brexit vote across the UK constituencies 39% of people over 65 voted to remain, 61% voted to leave; it was 44%, 56% in 50–64; 56% wishing to remain, 44% wishing to leave in the 25-49 category. And the 18-24, 75%, 25% split to stay in. In other words, on the average, people under 50 in the UK voted to remain and people over 50 voted to get out. As the turnout in electoral participation is always greater amongst the older generation, hence the narrowness of the margin.

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I will come back to that in a minute. I wanted to praise all the speeches that we have heard, especially from Deputy Ferbrache, and Deputy Fallaize, and particularly this morning Deputy Yerby and Deputy Roffey.

I listened to the first two speeches, and it was interesting that Deputy Roffey made a large number of arguments broadly to support where we are at today, and then said he would vote against, and Deputy Yerby made passionate arguments against the direction of travel and said on balance she would vote for. I entirely agree with both speakers (*Laughter*) and wonder which way – and also some of the remarks Deputy Le Tocq made as the third speech, when he talked about the fact that this is a compromise of a convoluted and rather lengthy process.

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Of course, it does not have to be lengthy, we have got other instances where we have acted quickly, whether it be the purchase of an airline or a tanker system or almost anything Deputy

Trott's been involved with in the past 10 or so years. I think perhaps we do seem to have a legislative log jam on some of these issues, which makes our system not as flexible as it should be.

3240 You see, Deputy Ferbrache gave an interesting insight into a particular home, that is well known to us as an excellent place that we on Employment & Social Security, amongst other people, are extremely aware of the work that they do for the benefit of the community and so on. The letter they got back was probably written and constructed from an extremely able administrator who, and their predecessors, have served people like ourselves that once sat on the Housing Board absolutely excellently. But of course, listening to the letter in this context, you  
3245 realise that the Law has to be applied in a fair and impartial manner, but it is not, as Deputy Ferbrache has said in another context about issues relating to me and politics generally, it is not as flexible as it could be, and that is the nature of a population management system.

I am not really a Johnny-come-lately, to the Open Market band wagon, or the issues that have emerged in the last few months. Because funnily enough when it came for a first reading back in  
3250 2012, in the year when Deputy Parkinson was Minister at Treasury & Resources, Deputy Trott was Chief Minister, I voted against it, and people thought I was mad. I was one of three or four out of 47 who voted against it, then when it came back a second time, I worked with Deputy De Lisle and other Deputies to make what was in some respects a dogs breakfast better, and made some compromises, and I was not against giving additional rights to some people, if other people had  
3255 one, because I wanted a liberalisation of the rights generally across the board. But I still was not happy with it, and again, certain eminent people were shocked when I went on the Radio questioning some of its long term consequences for the Open Market and other related sectors, and said, 'Oh no, that would not happen. Well, I think the chickens have come home to roost a bit, because there are potential unknowns in this, and uncertainties, and the market that Deputy  
3260 Kuttelwascher, rightly, identified as slumping three or four years ago, has not entirely recovered, although there might be seeds in some elements of the market. In other areas perhaps less so, therefore we have to approach all of this carefully.

I am actually fairly close politically on this issue with Deputy Yerby. I would not go as far as she has, but having been brought up on the Open Market, and then spent my political apprenticeship  
3265 working with very able and friendly people, as Deputy Dorey knows from the Guernsey Association, and all of that, I could see there were many reasons in the late 1980's and 1990's for population restraint, ranging from environmental restriction of motor vehicles, perhaps, conservation of the countryside, protection of a way of life, and to a certain extent protection of jobs. I think those issues have changed, and are changing.

3270 The reason why I wasted the first couple of minutes talking randomly about the statistics of the average age of people who voted in the election is because clearly there is a difference of opinion between younger people and older people. Not that I want to be prejudiced against older people, because Deputy Graham sits too close to me for that, (*Interjection and laughter*) but there is that issue. Actually, if we look across the water at the United States' presidential election I think there  
3275 was a similar pattern. My point is I think the attitudes amongst the younger generation of Guernsey people, whether they are professionals or work in all other kind of social sectors, have become a bit less nationalistic, if I can call it that, and a bit less protective than was perhaps the mainstream view of the 1980's and 1990's. It has made the Housing Law more difficult to defend. That has been accelerated by the judicial decisions that we have had, as everybody knows in the  
3280 Court of Appeal you are more likely to get, perhaps, a non-local judge who comes to the Housing Law fresh without the context of being an Islander, which I am not saying that is good I am not saying that is bad, but it has made a difference, I would suspect.

In addition to that you have changing requirements in the work place, and a sense that not only as Deputy Ferbrache says, money can disappear, but jobs can disappear, and organisations  
3285 can disappear. So we really have to think carefully about any population management system we change or adopt. Clearly, this system has been worked on very hard by many people.

Clearly, if it goes through as amended it will bring greater benefits, perhaps, for people from Alderney and Sark and in other respects. And I know I spoke even in the lunch hour, I went to a

3290 seminar on inclusivity that members of the Institute of Personnel Management are generally  
supportive of the legislation. They have a good working relationship with Home Affairs and  
Population Management. We know the Institute of Directors are supportive of the legislation, in  
principle, as are some members of the Chamber of Commerce, and other people, perhaps,  
because they have attended the training sessions and engaged they are on track with it. But they  
do not answer the wider question, which is, do we need as system at all, and if so, what is the  
3295 philosophy of it?

States' Members were asked when we attended the workshops, are we objecting to the regime  
because it is a regime, or because we do not like the population policies behind it? Well, I suppose  
the majority might agree with the latter point, and Deputy St Pier has picked up on the political  
antennae on that by suggesting, effectively, another review. Of course, I was worried the first time  
3300 this process started back in 2010, or whenever it was, because I knew many Members wanted a  
population review, but some wanted it to be more restrictive and some wanted it to be more  
liberal, which I think explains the speed of activity. But actually, the regime itself is part of the  
problem, because it creates and sustains for Guernsey, a system or barrier that is not there for  
other places.

3305 Frequently housing officials have given useful talks to business bodies on the Island and when  
asked they say contrary to popular belief that most licences are turned down, the opposite is  
true – about 95% are granted. That is true, but that is because personnel people and businesses  
more or less know what they are likely to get away with and what it I not likely to happen. It acts  
as a burden and a block, and it creates hard cases.

3310 I also think that the points that have been made by elements of the Open Market sector are  
pretty valid. The first is that by its nature it changes the terms on which Open Market properties  
are owned and sold.

It also will lead to perhaps less of a turnover of staff, and maybe a downsizing of rents. Now  
some of us might cheer and say hear, hear, they are too high already. But of course, that could  
3315 have consequential effects for the Local Market property sector, as has already been said, but  
there are then consequences for not only local housing availability and affordability, but maybe  
for Employment & Social Security. In paying, for example, top ups for rents and so on, and in turn  
that could affect SWBIC. So we have to be very mindful of that. We also have to be mindful we do  
not see properties falling into disrepair, and that we do not see a labour shortage on the Island.  
3320 Because the Open Market, although, in a sense, you could argue, it has been a loophole, it has  
always been a way in which there has been a degree of labour mobility, but also whilst we have a  
Housing Law which was based, as Deputy Dorey rightly says, on the need to protect housing for  
local people of lower income, we still could open to the world perhaps a tenth, or just under a  
tenth, of our housing for a wider community. Now we are moving towards what amounts to a  
3325 permission to reside on the Island, we are metaphorically closing our doors. Because in many  
respects if you are a multiple occupancy or short term essential employee in the Open Market and  
you are not a householder of one of the bigger properties, you are going to be no different than if  
you were in the Local Market. That is a significant change, and has an untold effect on the future.

As a final point on this theme, I would say that although I supported both the Ferbrache and  
3330 the Yerby amendments in grandfathering existing transient workers, if you like, I agree with what  
Deputy Kuttelwascher and others have said, that many of those workers are already in midlife,  
they have a pattern of the past. The amendments we passed today do nothing to ensure that we  
get the right quality of workers coming in to the Island today or tomorrow.

Really, the main argument Deputy Roffey has put up for sustaining the population laws is the  
3335 demographic time bomb. That was not, of course, the thinking behind the Housing Laws in the  
first place because Guernsey had a completely different demographic in size in the 1960's and  
1970's.

I wonder, in a way, about the ethics. We have had a lot of talk about principles and right so  
about discrimination and babies, but what is our ethical stance here. Some people of the  
3340 Assembly have always opposed exporting our waste on the grounds that we should deal with our

waste internally. But is it really the right thing to do to import people of working age, have them here for a number of years, and then export them again to somewhere else to be a potential burden on the taxpayer. I do not get that philosophy, and I do not get why some jobs at the higher end carry longer licences, in a form of class discrimination, and strangely enough I think that can lead to an inverse result, because if you are giving longer licences for seniority, then the persons likely to apply for that are going to be older with families who will settle and you will not build career progression here for younger migrants. So you wind up, possibly, allowing someone to work for a decade who will then stay around for another half century.

So, I have got a lot of reservations. I do not think the Housing Law has been at all successful in reducing our house prices, or rents. Nor has it been successful, really, in manging the economy. The only benefit that the Housing Laws have brought us collectively over the years, and this is a significant one, which is why I would not go as far as Deputy Yerby, until we had thought through all the consequences, is it has prevented the Island from being 'Retiredsville-on-Sea', because what we would not like to see which is many villages, rural communities, and seaside communities have in the UK is a very large number of people who adversely affect the demographic size of the community.

That is why I think, on balance, we would always have been better in retaining the Housing Law based upon occupation, but moderating it. Doing some of the work Deputy Lowe and her team have done in publishing transparently the length of licences from one year, five years, and so on. That the Population Board that has been brought in led by able retired States' Members Peter Gillson is a good innovation, because it gives relevance and expertise to decision making body. I think if we had all of that and a lighter touch on the Housing Law, and an attitude that when you reached the line in the sand, when you reached the border, you actually should be more generous than not, especially if it could result in litigation.

I think we would be better off for the next few years retaining the Housing Law, going through the process Deputy St Pier has outlined of rethinking what we need for dynamic economy and a sustainable society. Complete with equality and environmental protection, and then coming on to the Housing Laws' replacement, if we need one.

So, for all of those reasons, I think, on principle I should vote against the introduction of this new Law, even though, in a few respects, it would simplify and consolidate matters.

**The Bailiff:** Deputy Inder is wanting to move a guillotine motion under Rule 26(1).

**Deputy Inder:** That is correct, sir.  
Thank you.

**The Bailiff:** So, would those Members who have not yet spoken, and would wish to speak please stand in their places. I see seven Members standing. Do you still wish to proceed with the guillotine motion, Deputy Inder?

**Deputy Inder:** Yes, please.

**The Bailiff:** Okay. In that case, I put to the vote the proposal that debate be closed. So if you agree that debate be guillotined, you vote *Pour*, if you wish to continue the debate, you vote *Contre*.

I put to you the motion that debate be closed. Those in favour; those against.

*Some Members voted Pour, others voted Contre.*

**Deputy Inder:** Okay, that didn't work.

**The Bailiff:** I declare that vote lost.

3390 Deputy Graham, I think, was wanting to speak.

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

I do hope the States this afternoon signs up to support the introduction of this new Law, but in trying to persuade you to do so, I am not going to invoke some of the obvious things, to invoke, because I think they are almost becoming overused. For example, waste a lot of work, flip flop and all that sort of thing. Nor am I going to pretend, really, that the failure of this Law to come in on Monday is going to be an absolute disaster. Although, along those lines, purely coincidentally, I did bump into former Deputy Peter Gillson over lunch, and his first words to me were, 'Well, I do hope you pass the thing this afternoon.' I said 'What are the consequences if we do not?' and he said, 'An awful lot of industries out there have made arrangements for it, an awful lot of industries out there are going to be dismayed to be faced with a further period of uncertainty', and he said, 'For God's sake, get on with it!'

I have always thought of myself as a bit of a chum of Deputy Kuttelwascher, and certainly, when he was flying his jumbo jets I would have had absolute confidence in getting on board and flying with him. It is when he gets out of the cockpit that he sometimes scares me. (*Laughter*) On this occasion I found him a bit scary because very glibly we are told if we do not pass this thing today, we just simply delay it, and we take a bit of time, it won't take too long, we will have a complete rethink of it, and we are bringing this in with some appropriate amendments and then away we go. Well, I do say to Deputy Kuttelwascher, we have had five substantive amendments place against the introduction of this new Law. Of those five, four broadly speaking were passed – admittedly the fourth because it was subsumed amongst the third. Of course, that is not to deny that the one that was not is a pretty thorny one on which people feel very strongly: that is birthright.

I think it is a shame if certain Members find it so difficult to take the outcome of that amendment yesterday, that they take it so hard that they cannot bring themselves to see the bigger picture. I do understand that it is difficult. I would ask them to accept that for me the loss of the education argument meant just as much. I feel just as strongly about the future shape of secondary education in this Island, but I hate to disappoint Deputy Fallaize, when the time comes I am not going to try and subvert it. I am trying to think of myself as a good loser. I am going to move on, and I am going to put my shoulder to the wheel, to the best way of getting three secondary schools, all ability, working to the benefit of everybody. I do not even have a refuge from that anyway, in the form of a review going on. Those Members who are disappointed, so disappointed yesterday by the birthright decision, do have the comfort of a review. Now, admittedly that review is not due to report for a couple of years, which is a year later than you had envisaged, and admittedly it is not as prescriptive, in what it is going to lead to, as you would have wished. But unless you are saying that you not trust P&R to follow the evidence and come up with a reasonable balanced answer to the birthright solution. If you cannot bring yourself to do that, I am disappointed, and I would invite you really to see the bigger picture and not allow that to frustrate your vote on this particular thing.

Quite rightly, it has been pointed out there have been some excellent speeches. Clearly, Deputy Yerby's was outstanding this morning, complete to the point where she kept the [inaudible] right to the end, and we were all waiting for that, weren't we?

Also could I mention Deputy Laurie Queripel, in an entirely different style, who I think brilliantly, and from the heart, and from experience, painted the contrast. There we had the contrast, didn't we? On the one hand we have got a regime that threatens to be too restrictive, and on the other hand a regime a regime that is not restrictive enough. Now, by comparison Deputy Laurie Queripel is pretty mild on this, last week the Committee for Home Affairs invited those representatives from industry to come in and chat to us, and I think, was it Thursday, they came in to see us. We had two members, including the President of the Chamber of Commerce, we had two representatives from the CGI, we had a representative from the property sector, and I think also a representative from the construction area. There may have been one other.

3445 Members of the States, normally I would have observed completely the confidentiality of what was said there, if confidentiality was appropriate, but towards the end we were specifically invited, or asked, as a Committee by those present whether we would honestly undertake to represent their views in some form to our colleagues, and at that point, I said that I would do that in this Assembly. But I did say I would need, therefore, to be absolutely clear about what case I was putting to them. I said I could not possibly advocate it under all circumstances, but I at least undertook to give an honest rendition of what they were saying.

3450 So to help them to elucidate that, I said if you do not want the new Population Law, what do you want? What would you replace it with? Now, I am not exaggerating here, and I cannot claim to be repeating word for word, but I undertake to give you an honest representation of what they said.

3455 They said, 'Replace it with nothing. Government should not be involved in setting population levels or controlling them.' They said, 'Leave it to the employers, we will decide who comes here, we will decide how long they stay, and we will decide when they go. We will get rid of them when it is time to go.'

3460 Now, let's leave aside the fact that they could not possibly get rid of them, because they would not have legislation to get rid of them anyway – in terms of from the Island. They could terminate their employment. But let's leave that aside. If you think that is a bit extreme, I undertake to tell you that was not exaggerating the case at all. One of those present said, 'Of course, contrasting Guernsey with Jersey there is a buzz in Jersey.' He did not say quite what was creating that buzz – was it the buzz of 4% unemployed, who were not feeling too happy? Was it the buzz of those both in industry and commerce and the taxpaying public who were paying 5% GST, 80 million quid a year? Was it them, the buzz that he heard?

3465 Was it environmentalists, for example, who were saying, 'Look, Jersey's population has increased by 9% since the crash in 2008, and look at the environmental damage it has done! Okay, we have got a GDP that, I think, rose by 2.1% last year, but my goodness it needed to, in order to take on the extra infrastructural burden of having an additional 9% of population!'

3470 Then of course it could have been the buzz of discontent of those who believe in fiscal discipline, who look at the 50-million-quid-a-year budget deficit that Jersey are running with now.

3475 On the point of 9% increase in population, that is what is happening when you deliberately take the brakes off and have a free-for-all. We need to remind ourselves that here in Guernsey now, even at the inflated levels of population density that they have now in Jersey, if our population density was the same we would have 55,000 people here in Guernsey now, instead of the 63,000. So Jersey have got quite some way to go before they feel the impact of population density that we have been living with for a whole lot of time. I think the Jersey example, if anything, tells you that you cannot populate your way out of economic trouble – (**Sever**  
**Members:** Hear, hear.)

I give way.

3480

**The Bailiff:** Deputy St Pier.

3485 **Deputy St Pier:** Sorry, I hesitate to break Deputy Graham's flow, but I wonder whether he might also agree that it might also be the buzz of the Regulation of Undertakings Law in Jersey, which, of course, the IOD in Jersey have described as making the Island closed for business.

**The Bailiff:** Deputy Graham.

3490 **Deputy Graham:** I am grateful to Deputy Gavin St Pier for making that point  
I am going to close my short speech really with a reference to Brexit. Now, Brexit has been mentioned in a number of contexts, and I am not going to succumb to the temptation to comment in terms of who is right and who is wrong, but in the context of this new Law, let us be clear, I understand that on the Phone-In on Sunday, I did not hear it myself, but somebody reliably

3495 told me that this subject came up. The context was the claim that the new Law will enable Guernsey to respond more fleet-footedly, and more quickly, to anything that comes out of Brexit, in 18 months, two years' time, as compared with the rather leaden-footed and stolid Housing Control Law that we have now. I understood that Deputy Ferbrache contradicted that, or challenged the logic of it.

3500 Now, I am not a lawyer, but all I can say is that those members of the Home Affairs Committee who have spoken to those who have done proper analysis, all agree that actually we will be far better placed to respond to events both appropriately and more quickly given the nature of the new Law. It would be nothing short of a disaster if we are still lumbered at the time of Brexit with the Law that we have at the moment. If we do not vote for the commencement of this Law for any other reason, let's do it for that. (*Applause*)

3505

**The Bailiff:** Deputy Soulsby.

**Deputy Soulsby:** Sir, the new Law is not perfect, the current system is not perfect, and frankly, there never will be a perfect system, however long we delay things.

3510 But it does beg the questions Deputy Yerby has already done, took away my thunder on this point: actually, do we really need a Law at all? (**A Member:** Yes.)

3515 Were we to have no barriers to entry would we have vast swathes of people knocking on our doors wanting to come here? Well, speaking as a true accountant, what I would say is, it depends. It depends if the jobs and houses are here, of course. But, and touching on what Deputy Dorey said earlier, it also depends on how easy it is to access the health and social care and benefits systems. But those are subjects of more than one debate, and will not be resolved overnight, involving issues over human rights themselves, of course.

3520 So, if we do have to have a system why not keep what we have already got? Well, for me a key reason for change is our current system is not based on need. In many ways it is quite a class based system that values certain professions and work above others – nowhere more so than in health care. Guernsey is competing with the global market place for skilled health and social care professionals. The current system is just one barrier that gets in the way of recruiting for those we need. Not want; *need*. Whilst we can apply for 15-year licences for doctors and specialist consultants, the standard licence for nursing staff is five years. Despite the fact that a surgeon cannot operate unless he has sufficiently qualified nursing staff to support him or her. We need fewer barriers, not more. The new system enables that to happen, the linking of permits to jobs and not individuals makes so much sense. It reduces the barriers to and costs of recruitment. Of course, there are other issues at work here, but this is one area where we can make a difference now.

3530 Deputy Roffey is right, health and social care is a winner here, and in response to Deputy Ferbrache in terms of ensuring suitably qualified staff and continuity of care in care home establishments, some of those living in care homes. No, it is not perfect, there will be losers, and it does make me uncomfortable, yes, I have to admit it, but there are far more winners in the health and social care sector than losers. And health and social care staff have done a lot of work to make that the case.

3535 Now, I do think it unfortunate that Deputy Ferbrache, as Economic Development President, cannot vote for the new Ordinance, based on an aspect that will have little impact, whereas our largest employment sector, the finance industry is supportive of the new regime. The current system is bureaucratic and cumbersome, creates uncertainty for employer and employee unnecessarily, and for no constructive benefit, and I speak from personal experience there.

3540 Deputy Dorey makes the point about transparency. The current system is far from that, not only that but it is also being used by employers for purposes not originally intended, and that is as a means of managing staff out. Licences have been used as a reason to get rid of underperforming staff, rather than to manage them appropriately. The benefit of the new system

3545 is it separates the suitability of the individual from the job requirement, and that in turn should help to drive better people management.

For these reasons I do not want the Law delayed now. That does not mean I think it is fantastic, and I do have concerns over five year licences, and still over treatment of seasonal workers. But I do not think that is enough to prevent it from coming in to effect, now. Especially given a review is guaranteed.

I would therefore request that Members vote for the Ordinance, as amended, today.

**The Bailiff:** Deputy Leadbeater.

3555 **Deputy Leadbeater:** Thank you, sir.

This speech will be, as I am, short (*Laughter*) and to the point. If this Assembly wants to make Guernsey appear like a backward-looking economy, if as my colleague on Home Affairs, Deputy Graham alluded to with Article 50 triggered, we want to put ourselves on the Brexit back foot, and in the shadow of the other Crown Dependencies when negotiating with the UK and the 27 Member States of the EU, then delaying, or not voting this Ordinance through, is exactly the way to go about it.

This regime has been designed with both social and economic priorities at the forefront, and as we have all heard, it is human rights compliant, whereas our current Housing Control Law is not.

3565 We have the Population Employment Advisory Panel that will continue to work across industry. We have had some successful sensible amendments, and we also have built in flexibility within this regime going forward, allowing it to evolve in parallel with social and economic demands.

Sir, I urge all Members to see sense and vote this Ordinance through, and please let us get on with it.

3570 Thank you.

**The Bailiff:** Deputy Brehaut.

**Deputy Brehaut:** Thank you, sir. I will be brief too.

3575 I attended St Peter Port Douzaine meeting on Monday, a very short affair, because generally it takes longer to get there and back and any discussions takes, I know I timed it, I think it was just over 23 minutes, and every member of St Peter Port Douzaine, no recorded vote, but just on a show of hands, opposed the Population Law, and I know that St Peter Port Douzaine is not representative of Douzaines in that regard.

3580 I just wanted to make a point regarding short-term workers and how unintentionally, unwittingly, in discussion in this Chamber we seem to take these people for granted, that we have had almost an embarrassment of riches, that they could be gardeners, we were spoilt for choice. What was wrapped up in that, what was missing from that, from my perspective, was an oversight forgetting what they give up to come over here. We very casually say, well, they are here for nine months and they go home for three. I cannot imagine being away from my children for three weeks, three months – I cannot leave them for three minutes without getting a text, or three hours without them reminding me that I have not sent them a text.

3585 We do take that for granted, I think, when we should not do, because they make real sacrifices to give up their family and to work on Guernsey, and to do jobs so that the Guernsey community is upskilled and these seasonal workers are friends who visit this community, give up a great deal in order to contribute to it.

3590 It is an interesting perspective, how we see people who choose to work in our community: literally, an example at lunchtime walking down Smith Street, somebody observed, there is an English company fitting out a shop – ‘Look at those English vans over here fitting out a shop’. Of course, the opposite side to that coin is, look, a UK company is investing in Guernsey. They are opening a business, they have got the confidence in Guernsey to open a business and they

brought the team over with them to fit out that shop in order to trade. So we can dress up this visiting worker scenario in more ways than one.

3600 Because time is running out, I just wanted to reiterate comments made by Deputy Roffey, that all of us, I think as Presidents, when we step up to the plate like this, we really need to lead from the front with policy. I know I have still got the scars on my back for heading up the Integrated Transport Strategy, but I know that politicians really did put everything in to that, and took every opportunity to sell the policy, and very rarely did we, very rarely, if ever, did we rely on staff to respond by volume, and I think it is important, and it is skill, presumably, that we are all going to need to learn to face off in front policy.

3605 Now, I just wanted to say, I wonder whether Deputy Kuttelwascher will open an estate agency, the Grim Reaper Open Market Sales (*Laughter*) or The Brothers Grimm Estate Agent or something, because I think there is an opportunity I think to talk the Open Market up. Although the question probably is what is the Open Market?

3610 Now, I looked at the bottom of the document that we all had, the Population Law, and a number of documents appended to it, and in 1952 and this is really a discussion on tolerance, more than it is probably on the Open Market, and I will round off my argument later as to why I am referring to this. But in 1952 the States' Housing Authority said that regarding the well-to-do people who wished to settle in this Island, the Housing Authority fully realises the value of such people to the community and every possible encouragement, short of releasing rent-controlled dwellings, should be given to them. Interesting, rent-controlled dwellings are something that we have lost along the way too.

3615 In 1958, 1960 the States agreed to buy the Fort George, and the local narrative is that they bought that for Open Market and 10,000 people signed a petition – 10,023 people signed a petition to stop that happening. That is not quite true. In fact the requête did not seek to revisit the type of development; it simply questioned the extent of the areas of development. So people were not opposing the Open Market or people coming here, they were opposing the volume of land in proportion to the estate that was given over to housing. That ties in to this point.

3620 I say this because, Deputy Paint has said a number of things, he is not in the Assembly at the moment, but this was the Guernseyman's perception on the arrival of the Open Market and English people at that time. There is widespread feeling that it is undesirable to bring so many English families into the Island and lodge them in the small, close community, and this is the significant point, where they will be cut off from the contact with the people of Guernsey. So Guernsey people for years have been tolerant of people coming and going. Guernsey people have been accepting of people coming and going from this Island and respectful of the contribution they make.

3625 I make that point because when I went to one of the presentations at Les Côtils, possibly two years ago, put on by a lobby group, a small group of people who wanted the Law changed, I was having a conversation afterwards with somebody who said to me, 'Barry, let's face it, you are local, your wife is not, your children will never be local.' That is the sort of prejudice you buy into if you are not careful, when you go down that birthright route, because it is there, and it is real, and it is the one element that bothers me with regard to this PML Law, is that there is this signing off of this casual discrimination that sits uncomfortably with me still, sir.

3630 Thank you.

3640 **The Bailiff:** Deputy Hansmann Rouxel.

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

3645 I rise to add possibly something different to what is not really a debate, but just talking about turning something on or off. But it strikes me sitting here listening to debates how little listening we do to each other, and about that, yesterday and today, it was brought up about one of the contentious parts of this, and Deputy Brehaut has just mentioned that, is about birthrights, and were we really listening to each other when Deputy Fallaize was talking about that certain

3650 Guernsey people would not have birthright? For instance my husband's grandfather is born in Guernsey and brought up in Guernsey, and his father was born in Guernsey and brought up in Guernsey, and my husband is locally qualified but he was not *born* in Guernsey. So therefore if I was to have a child now, they would not have that birthright, although they do have, like Deputy Graham was talking about, ancestry, or that pool. I think it is about acknowledging that, and listening to what it is we are saying, and finding that compromise – the compromise that Deputy Le Tocq was talking about when you are creating legislation.

3655 Deputy Yerby has talked about it today: the art of creating legislation is mucky, but it is the art of compromise. But true compromise comes when you *listen* to what it is behind what people are saying, and finding that compromise.

3660 Now, without denying people that birthright, or that sense of identity, we can acknowledge that there is something else about ancestry. We can build in something different to the Law. What has happened, and the reason why people are so up in arms about this particular aspect in the legislation, is that we had just added a Band-Aid, we have not actually compromised, we have not actually dealt with the real nitty-gritty issue. We have just band-aided it and made something as simple as possible, which is just that if you are born in Guernsey and your parent was *born* in Guernsey And their parent was *born* in Guernsey, they might be locally qualified, they might have ancestry, but if one of them was not *born* in Guernsey ... So I think that was the crux of it, we were not getting to that, we have added a Band-Aid and that is why it does need to be reviewed.

3670 If we are going to go down the ancestry route, I being an immigrant myself, know what it is like to have resistance to your person entering and exiting different countries. Perhaps, as UK and British citizens the majority, I think all, might not have that much experience of having to travel to London in order to get a Visa to go over to France, which seems quite strange. So, the idea of immigration – (*Interjection*) Sorry, I am getting to my point.

3675 So when I first arrived in the United Kingdom, I arrived on a two-year holiday working visa, and the proviso was that you only stay in the country for two years and you do not work in your profession. So there are ways around that, and I am sure that there will be post-Brexit some very interesting new immigration provisos brought in. However, you can get, what is called an ancestry visa, which allows you to live and work there for four years, as long as your parent or grandparent has a British Passport. Now, that does lead to some anomalies because I do know that a friend of mine applied for that. Her grandmother was a British citizen who had never lived in the United Kingdom, but she had a British Passport, she lived in South Africa, she was a dual national, but kept that British Passport and therefore went back, and those kind of anomalies are the kind of anomalies that Deputy Fallaize and Deputy Roffey were trying to highlight. We cannot create a perfect system, but we can treat people equally, and then acknowledge where there are people who have left the Island, but have ancestral roots, so they have grandparents and parents that live here and were born here, when they are returning to the Island can we not create a special visa or a special residence permit which will allow them to come back to the Island and not be treated exactly the same, but acknowledge their ancestry, acknowledge their heritage, and acknowledge their pull and their contribution to the Island, that would allow them to return. That is where you get the compromise, not by just adding a Band-Aid on.

3690 I agree with Deputy Fallaize and Deputy Roffey, that is not much surprise, that I do not think I can vote this Ordinance in. I do understand that there are many reasons why we should be getting, it is better than the Housing Population Law, but like Deputy Ferbrache said, I am concerned that once we turn that ignition, we turn it on, then it is full speed ahead and the real concerns that we have brought up in the last day and a half, or two days, or maybe three, that we will not get those fixed. That is my concern.

3695 I cannot vote for turning on the audience ... *Ordinance*, not the audience, (*Laughter*) I prefer not to turn on an audience.

3700 So one other thing I wanted to just touch on was the churn: this idea that the five-year churn. Deputy ... (*Interjection*) Ferbrache, that's it. So unforgettable, sir. Deputy Ferbrache brought that up, the churn. Now, Deputy Roffey referred to it as the revolving workforce and this idea, and I

think the entire idea of population management, like Deputy Yerby, I think it is a fool's logic, an accountancy exercise, in how neatly people will fit into these little boxes and decide. We know from the teaching profession that they might be granted a five-year licence but at year three they will be looking elsewhere, and therefore we are building in three-year licences and an extra churn. It is hard enough with the churn and saying to businesses, yes, you are going to invest in somebody for five years, but at the end of that five years, because we do not want to keep this demographic time bomb, and we have worked out this calculation, that they are then going to have to leave the Island for at least five years and not be able to come back. But we know what is going to happen is with those valuable jobs, and the jobs that are hard to get, at three years they are going to be looking elsewhere – if that. It is a fool's logic thinking that that is actually going to have the effect that we want it to have.

We should listen to the concerns of both business and the social side, from the teaching profession as well.

That is all, thank you.

**The Bailiff:** Deputy Meerveld.

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

I must admit I was not planning on speaking in this rather tortuous debate, but there are three points I think I would like to make, as succinctly as I can.

Regarding birthright, I am one of the people and my children are two of the people who will be affected directly by this. Whilst on my father's side, and through his mother, a Coquelin, I have many generations going back on the Island, I myself was born in Manchester, and my two sons were born to a Chinese-Taiwanese wife in Thailand: the country where, incidentally, being born there gives you no rights whatsoever. They will never be nationalised and they will never be allowed to own property there.

I must admit I am not particularly exercised by this. I understand the moral arguments. I understand the moral high ground we are looking for here. But in practical terms it is going to impact very few people. Will my nine- and ten-year-olds running round the playground with their friends tomorrow think themselves second-class citizens because some of their class mates will be fully qualified as local residents and they won't? I do not think so. I, as a parent, will make a decision whether I remain here for the 14 years and qualify them, or whether I do not. I am not particularly exercised. I certainly would not like to see far reaching legislation that affects our economy, our industry, our Island, being thrown out on one moral point for one sub-section of the legislation. I would go back to point out that the first amendment approved yesterday is a review process. If this is really a concern for Islanders, and this Assembly, let's raise it as part of that review and address it later. Well let's not throw out the baby with the bathwater, just because there is a moral element that people do not like.

I must say also, as somebody who has lived on three continents, worked on six, and travelled through over 80 countries, the vast majority of countries have some forms of discriminatory legislation that benefit their local population, and you can argue whether it is justifiable or not, but we are not an exception in having some kind of nod to the people who are less international than me and my family.

Next point, in deference to Deputy Ferbrache and picking up on a point that Deputy Graham raised, and I know, it is phrase that Deputy Fallaize does not like, but I would consider myself to be a businessman, and as a businessman, and one who has done business on six continents, one of the things I can tell you that businesses hate the most is uncertainty. As a businessman you cannot sit down and make business plans about how you are going to implement an industry, how you are going to promote your business, how you are going to develop over time, in an environment of uncertainty. Again, the one thing we will be doing if we throw out this legislation today is creating massive uncertainty. What we are not doing is targeting and amending sections of it, not reviewing it and looking at sensible considered amendments. We are throwing the whole

thing out and it all goes back to square one, and we are throwing out years and years of effort by previous Assemblies.

3755 Now I do not like everything in this policy, absolutely, I have serious reservations about sections of it, but after all the effort that has been put in to date, let's implement it, let's go for a review, and let's adjust it and amend it as necessary over time. But let's not throw it out.

3760 That brings me on to my last point; workload. Every Committee that I am aware of has huge projects that they are working on. At what point is this Assembly going to stop second guessing decisions and policies that have been put in place previously, and try to reconsider them, re-debate them, and get down to actually doing what is on our plate today. **(Several Members: Hear, hear.)** Right. At the end of the day we will be saying to Home, here you are, go back to the drawing board, let's throw out seven, eight, nine years of work, and let's start again from scratch. No. Please. Let's implement this, let's get on with it, and review it by all means, and amend it in the light of experience of practical application and implications, not try and go back to the drawing board at this stage. **(A Member: Hear, hear.)**

3765 Thank you, sir.

**The Bailiff:** Deputy Tooley.

3770 **Deputy Tooley:** There are a couple of things that bother me about this debate. The first is a feeling that it is too late to change anything. Well, if that was true we would not have had the last two days. It is not too late to change things. There is actually in the process an eleventh hour for legislation, and this is it. Now, I agree we are at the eleventh hour, but there is a reason there is an eleventh hour, as anyone who has watched any film made by Hollywood in the last 100 years will tell you, the eleventh hour is when the act is saved.

3775 I also object to this notion that people consulted should have spoken up sooner. Now, I agree, in an ideal world people would speak up the moment you ask them a question. But I went to the UK over the weekend, forgive me, *(Laughter)* and I found myself travelling through airports and 'trailway stations' ... railway stations, and – 'trainway stations', yes! You see, I have been in Guernsey a long time and I have forgotten what those things are that run over there! *(Laughter)*

3780 I found myself travelling through airports and railway stations. In all those cases there were sign boards that told me which platform to be on, they told me where the train was going, they told me what to expect, they even told me to mind the gap as I stepped from one thing to another. I read some of them, and I probably missed others. If I had taken no notice of them whatsoever and presented myself at the doors of a train as it opened and it had been the wrong train, should the person standing behind me have said, 'I am sorry, it is too late to change your mind now. You are getting on the train anyway'? No. People do not take notice of consultation, we know that. Sometimes people wake up late to the fact that something is going to affect them. Sometimes people are in a situation where a policy will not affect them and then something changes. Huge amounts change over the six years of a consultation process. People marry, they have children, their life plans can change. Things alter, people grow up, people mature, people decide that something they had no interest in before is something that now they will take interest in. So, it is not true to say that we should disregard those who did not pay attention when we first opened consultation. **(A Member: Hear, hear.)**

3790 I am going to quote Edmund Burke, because he seems quite popular today, on the subject of consultation.

It is a general popular error to suppose the loudest complainers for the public are the most anxious for its welfare.

3800 **(A Member: Hear, hear.)** Just because somebody speaks up does not mean that they are necessarily the person to whom you should be listening. So, sometimes we need to listen to the people who did not speak up. Whether they spoke or not, whether they emailed us or not, and I can honestly say, hand on heart, that I have had more emails and more phone calls about this than I have about anything else since I have been in the States. Of all those, it might not be the

3805 same for all of you, but it is for me, maybe it is because this is something that particularly  
exercises the people of St Peter Port South, who are not always so interested in all matters of  
policy. But I had a huge number of emails and phone calls about this. With the exception of one,  
which I will come back to in a second, I would say 99% of them have asked me to call for a delay  
in this policy as did St Peter Port Douzaine who asked to call for a delay in this policy. That one,  
3810 incidentally, was somebody who phoned me because she had been prompted by the adverts that  
went out in *The Press* and she phoned me to say please call for a delay of this. So we talked about  
why, and I will, hand on heart, tell you that having spoken to her I told her that she was going  
down the wrong track and if that is what she wanted she needed to call for an action of the  
Population Management Law because she had misunderstood and misinterpreted what was  
written in the letters.

3815 It is not too late to make change. If I instruct an architect to build me a house, to draw up  
plans, to accommodate my family and the path I think we will take over the next few years, he  
looks at the environment – I understand I will have to defer to Deputy Langlois as to whether I am  
right about this or not – my requirements, the area in which I intend to build, we contact Planning  
and consultation goes ahead. But if, before we place the first stone in the ground and cement it  
3820 into place, my plans change, the environment changes, the cliff way on which I was about to build  
starts to slip, or my family suddenly discovers it is having twins when it was not expecting it, as  
happened to me on one occasion, I make changes to those plans, because it would be foolish of  
me at that point to say, 'Well, we have made the plans, we have gone out to consultation, this is  
what we must do.'

3825 That is where we are. The landscape has changed over the six years since we set this ball in  
motion. Now, that is not to say that this is the wrong decision to go forward. Looking at a map of  
where we are, the first thing to do, always, is to ascertain where you are on the map, because  
there is no point looking for directions until you know where you are. Looking at the Population  
Management Law I have no doubt in my mind that this is better for public services. This is better  
3830 for health and social care, than what we have right now. So, I, knowing in my mind that this is not  
the best thing, it is not the right thing, have to balance it against the fact that the Department  
which I hold most dear at this present time in this States, the one I am putting the largest part of  
my work effort into, will be improved by this.

3835 I think about the workload issue, as mentioned by Deputy Meerveld, and I think about the  
uncertainty as mentioned by Deputy Meerveld and others, and I balance these things. Then I  
remember that we have just agreed that there will be a review of all this, which creates  
uncertainty. So that uncertainty is not going away whichever way we vote today, there remains  
uncertainty in the decision we make today.

3840 The workload issue worries me for reasons other than the ones that Deputy Meerveld  
mentioned. If I make a decision to make a change which is a small change but not the full and  
correct change, I delay the correct change. If I have in my house a kitchen which is largely  
unworkable, but I cannot afford, or do not have the time, or cannot yet get planning, or whatever,  
to put in what I really need, and so I put in place a stop gap, which is better, and which is  
workable. Then I automatically delay doing the work that is really needed in the long term,  
because why would I pull out of something that is workable and that can be made to work?

3845 We have a situation where we know the way in which we control population through housing  
needs to change. If we allow this Law to go ahead, which I, in my heart of hearts, do not believe is  
the right, or best, way despite the fact that it is better than we have got, we automatically put a  
delay in place which will affect us moving to what could be better.

3850 So, I have spent all week sat here weighing these things in my mind, and I am almost at that  
fulcrum balanced point between the two. Because I have found it really hard to decide which way I  
ought to go on this. Even as I have been sat here preparing to speak, I have been weighing this in  
the balance. It only takes the jot or tittle of the Law to push me one way or the other. I cannot,  
bearing in mind that I do not think this is the right way to go, I cannot agree that we should do it,  
when it also puts in place a discrimination that has never before existed. It is not enough to say

3855 this affects a small number of people. It is not even enough to say it does not affect anybody. Would I vote for a Law that said that people with green skin could be discriminated against in Guernsey? We have not got any, the world does not have any, we are hardly ever likely to see any. Would it be the right thing to do to put it in place? It is not going to affect anyone. Of course, it is not right. This is not right either.

3860

**The Bailiff:** Deputy de Sausmarez.

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

3865 I too have spent the duration of this debate on that see-saw, and I am not sure I have come down on either side yet, actually. I endorse much of what Deputy Yerby said in her very good speech, especially, the point about needing to hear other points of view.

3870 My one point of difference is on the open-door element, I do think Government has a very great influence on the size and makeup of the population and, indeed, to me, I think that is one of the responsibilities of Government. I think we can look at places like Venice to understand that an open-door, or leaving things to their own devices and leaving human beings to their own devices does not create an egalitarian situation necessarily. Deputy Gollop also cited Alderney, which is an example closer to home, which has got some perhaps unintended consequences of a similar approach. So, I do have to disagree on that point.

3875 I have many concerns about this Population Management Law, and I have many concerns about our current Laws. I think our current Housing Control Laws have created some perverse anomalies and inconsistencies and unfairness's, and I have known too many young talented people who would be an absolute net benefit to this Island, as would their descendants probably, leave, because of them. So, I really do feel as though they need to be reformed.

3880 I have similar concerns about what we are bringing in. Many of these concerns have been discussed at length, I think most fundamentally, I do worry, I think it was Deputy Roffey, who said that, actually, economic policy trumps population policy in this, and I do have serious concerns that we have a very fleet of foot and effective method for having input in terms of employment, but there is no such mechanism for taking any other factor into account, and that is something that worries me. I think Deputy Dorey, when he spoke, he quoted an instance from the 1980's  
3885 which worried about the social fabric and environmental constraints, and I do think those things are being overlooked with this Population Management Law, and that concerns me greatly, and I would ask Policy & Resources that that is something that is looked at in their review.

3890 I have many concerns about the Open Market. I would like to hear from the President of Home Affairs, please, in her summing up on the subject. I would like to hear her address the concern, of deflation in the Open Market, and inflation in the Local Market as a result of the implication of this Population management Law, please, because that is a great concern.

I tend to agree with Deputy Soulsby that there will be losers in this. A great many unfairnesses, I am really struggling with that, because as I say, I think actually our current system has also got many, many unfairnesses, and things that need to be addressed.

3895 I am equally torn on the issue of certainty. Because I have heard from members of the Open Market or Open Market residents, who have said, look we do not particularly like this, but actually what the Open Market really, really needs is certainty, and I am struggling with the point that Deputy Tooley just raised, about the fact, does this review introduce a further level of uncertainty. What is going to be better? I just do not know, and I would like to hear from those that do, please.

3900 Just a minor point as well, I would like to address. Something that worries me is this legal definition of 'householder' can only be applied to ... 'householder' in the singular, that is something no-one has mentioned. It does really concern me in the event of partners living together and possibly separating, I would like to hear, if possible, on that as well please.

3905 Brexit – it has been bandied around a lot today. I think it is fair to say that none of us know what is going to happen, what the implications are going to be. I do agree with Deputy Kuttelwascher that it is a significant change, but similarly, I just do not know when we are going to

3910 know. That is what really worries me, is the timeline. If we delay in order to understand the implications of Brexit, then when will we get to that point? How long do we need to wait? When will we even know when we are there? I tend to think that it is a constantly – or it is going to be a constantly evolving thing over the medium term? So I am struggling with that as well.

3915 The issue of employing locals is one that has popped up a few times, and this is something I think the Population Management Law is inherently going to have to change business models. As I said before, I think the current system has actually introduced some perversity in business models that would not be there had our Housing Controls been different. I do think that is inevitable, and again I think there will be winners and losers. But I think businesses are going to have to ... or some businesses are going to have to accept that they may need to fundamentally adjust the business models on which they are based. Who knows? People will perceive that as either a good thing or a bad thing depending on where they stand.

3920 Finally, on birthright this has been an emotive issue. I would like to hear, I suppose, from the President of the Policy & Resources Committee as they are leading on the review. My concern is that there have been several attempts to pacify those people who supported the Roffey amendment yesterday, the first one on birthright, by saying, 'Don't worry, don't worry, this is something that will be looked at in the P&R review, you have got nothing to fear.' I have two things to fear. The first is that Deputy Lowe made it clear yesterday that such an outcome would be potentially damaging and dangerous, and the second thing that I fear, which is a more pragmatic concern, is that as Deputy Brehaut explained yesterday, there is not currently a birthright that has been taken away, but as and when we implement this Population Management Law there will be. A review that takes place in a year and a half, or whatever, down the line would then, if it were to come to any other conclusion would potentially be taking that right away, which is a fundamentally different thing. So, I would like to hear from the Policy & Resources President, please, whether the review will have the guts, if the process of that review directs a more equal, or less discriminatory, recommendation, whether actually it would be prepared to follow that suggestion through, and I would like to hear the President for the Committee for Home Affairs take on that as well, please.

3935 I will leave it there, it is getting late.

**The Bailiff:** Members, it has just gone 5.30 p.m. Can I have an indication of how many people still wish to speak? Just two. Then Deputy Lowe will have to reply to the debate. I propose that we continue to sit. Those in favour; those against.

*Some Members vote Pour, others voted Contre.*

3940 **The Bailiff:** I think those who voted *Contre* shouted louder than those voting *Pour*. But I think there may actually have been more people saying *Pour*. But it was so close, I think we are going to have to have a recorded vote, I am afraid.

So we are having a recorded vote on whether to continue to sit in order to complete this debate this evening.

*There was a recorded vote.*

3945 **The Bailiff:** Well, clearly that was carried, I think those voting *Contre* just shouted louder. So, let's continue, while the votes are counted.

Deputy Trott.

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

3950 I shall be brief.

Sir, I said yesterday when Deputy Roffey moved an amendment, that I was grateful for him doing so because I had learned something about Deputy Fallaize. I learned something about

Deputy Ferbrache today which surprised me. He advised that he was a criminal lawyer, and may I say, sir, I commend his honesty. *(Laughter)*

3955

**Deputy Ferbrache:** One of my clients was Deputy Trott.

**Deputy Trott:** We lost the case, I recall.

3960

Sir, there has been much talk about Open Market uncertainty, and the problem that we faced back in the 2012-16 period was that the many residents in the Open Market wanted an unequivocal assurance from us that we would never conduct a review into the Open Market. Of course, we could not do that. We could not do that for two reasons: (a) because it did not make sense, it was not good governance but (b) and I think much more significantly, we could not give any assurance passed any electoral term. Because the new States could have come along and carried out a review at its whim, so, any sort of commitment of that type was completely meaningless.

3965

Sir, business, and in particular, the people it employs, pay for the things that we do in this Assembly, which is why issues to do with business must always be the most significant factor in the decisions we make, because without it, social policy, nurses, teachers, you name it, cannot be paid for. It is pretty obvious to us all, I know. Business thrives here because of the rule of law, because of political and economic security, and importantly, because of our ability to be nimble and agile. Now, our present tools with regard to Housing Control Laws are no longer fit for purpose, and they are challengeable in Law. We cannot be nimble and agile. The Population Management Law gives us a legal framework through which we can make expeditious policy tweaks, if needed. It is a far more useful tool. The current legislation is not.

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3975

So what is better for business, the old Law or the new Law? Well the answer is the new Law, and I think the attitude of the Institute of Directors, which covers a spectrum of industries were quite magnanimous in the advice that they gave us. One of the problems with a debate like this is, that we can, if we are not careful, give the impression, sometimes unintentionally, sometimes intentionally, that we are not open for business. Well we are open for business.

3980

One of the best ways of emphasising that is at no time during this States have we opposed anything brought forward by the Economic Development Committee that would support or stimulate the economy. Now, admittedly, there has not been very much yet, but I believe that when those proposals come forward, if they are well evidenced, they will be supported by this Assembly, because we are, I believe, we are a business friendly Assembly.

3985

That is why it makes complete and total sense to support this framework, because it enables us to make the necessary tweaks as and when they emerge.

Thank you, sir.

3990

**The Bailiff:** Deputy St Pier.

Just before he speaks, 27 Members voted in favour of the motion to continue, and 12 against, just for the record.

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

**POUR**

Deputy Soulsby  
Deputy de Sausmarez  
Deputy Roffey  
Deputy Oliver  
Alderney Rep. Jean  
Alderney Rep. McKinley  
Deputy Ferbrache  
Deputy Brehaut  
Deputy Tooley  
Deputy Parkinson

**CONTRE**

Deputy Kuttelwascher  
Deputy Tindall  
Deputy Gollop  
Deputy Lester Queripel  
Deputy Leadbeater  
Deputy Merrett  
Deputy Meerveld  
Deputy Smithies  
Deputy Hansmann Rouxel  
Deputy Green

**NE VOTE PAS**

None

**ABSENT**

Deputy Prow

Deputy Le Clerc  
Deputy Mooney  
Deputy Trott  
Deputy Le Pelley  
Deputy St Pier  
Deputy Stephens  
Deputy Fallaize  
Deputy Inder  
Deputy Lowe  
Deputy Laurie Queripel  
Deputy Graham  
Deputy Paint  
Deputy Le Tocq  
Deputy Brouard  
Deputy Dudley-Owen  
Deputy De Lisle  
Deputy Langlois

**The Bailiff:** Deputy St Pier.

3995

**Deputy St Pier:** Sir, a fairly long debate, but I would like, in particular, I think, to commend to the Assembly the speeches of Deputies Graham, Soulsby, Leadbeater, Meerveld, and my colleague just now Deputy Trott.

4000 This legislation I think many in the Assembly have said during the debate is not perfect, and as I and others have said both during this debate and elsewhere. There are probably very few people who agree with absolutely everything in it. However, many people have said during the debate, and I absolutely agree with them, that it is better than the system that we currently have, and Deputy Trott has just said that.

4005 I think Deputy Trott, absolutely, made the case for business. If we wish to provide certainty and if we wish to send a very strong signal that we are open for business, then we do need to pass this legislation. If we were to reject it at this stage that would send a very negative message to business.

4010 So, I think the case very much has been made that this is the right thing for the private sector. But the case was also made extremely well by Deputy Soulsby referring particularly to health and social care, but I think it applies equally to other public services, including, of course, education, that this is better for them too. I know Deputy de Sausmarez was concerned that the case should not just be an economic one, and I think when you look at some of our social policies, which do rely on public services, and the continuity of provision from our public services, I think a very good case can be made for that as well.

4015 Deputy Gollop, sir, was pinning much on the review. He was saying that actually we could vote against the commencement, and all salvation would arise from the P&R review, which is now in Proposition 2 as a result of the amendment. But of course, the review is a review of the Population Management Law, 2016. It is not a review that takes us right back to the very beginning, in the absence of any legislative regime at all. So, if we throw out this legislation it will be coming back to the Committee for Home Affairs to start from scratch from 10 years ago, in essence.

4020 The review also, of course, has specifically picked up the points of concern in relation to minors, and I just wish to address Deputy de Sausmarez's question there, about the risk that rights could be taken away from those that would acquire birthrights, so called, under this legislation, and therefore would, or could, the joint report from P&R and the Committee for Home Affairs ever possibly seek to undo that position. I would say to her, yes, absolutely, it could, because it would not ... I think the advice from the Law Officers would probably be that in respect of those people that gained rights by virtue of the legislation with effect from 3rd April to whenever that position changed, they would almost certainly be kept, they would not be lost. But in terms of  
4025 from when any change was agreed there would be absolutely no reason if that was the will of the

4030 Assembly at the time to have some form of lesser right, more equal if you like, then that would be entirely possible, and I am sure the Law Officers would give that advice.

I have already made my own position clear in relation to that particular part of the legislation.

4035 So, I would certainly urge Deputy Gollop to reconsider his position, the review in Proposition 2, will not, I think, do what he expects it to do, if the commencement legislation is not approved. It is very much linked to the commencement and operation of the Population Management (Guernsey) Law, 2016.

4040 Sir, for those reasons, I strongly urge this Assembly, and those that are on the fulcrum to back this legislation. Let's get on with it, let's provide that certainty for business, and let's provide that improved environment for the private sector and for public services, and then let's embark on the review and come back in two years and improve it, should that be required at that time.

**A Member:** Hear, hear.

**The Bailiff:** Deputy Lowe.

4045 **Deputy Lowe:** Thank you, sir.

I think there are only two questions that have really been asked, and one is from Deputy de Sausmarez, and I endorse exactly what Deputy St Pier has said, that will be part of the review, and certainly we would not be coming back and saying different to what was in the review, and we would have to address that, if they went against the decision that the States made yesterday, or today.

4050 The Open Market and Local Market, I mean nobody has got a glass ball on that, but all I can give you is assurances we will be monitoring that, as will P&R. They are out there – and Economic Development – trying to encourage high net worth people, and if we thought we were going to do any damage to the Open Market clearly that would be addressed, sooner rather than later.

Sir, I think everyone has had enough of this to be honest, they just want to get on and make the votes.

4060 So, all I want to do is thank colleagues here who have spoken, many with passion and conviction on the subjects that matter very much to them. I do not intend to rehash or summarise all that has been said over the last day or so.

4065 This Law has been a long time coming and in the making. I recognise that there are some whose strength of feeling about certain aspects of the Law is so strong they have already said they will find it impossible to vote to commence it. That of course is their prerogative, and I respect it. But it remains my firm conviction that the time is right to step away from the Housing Control system that has its roots in the post-World War II era. It is my firm belief that the time is right to move to a system better suited to assist us as a jurisdiction to cope in this 21st century with issues and the challenges which we undoubtedly face in the future. The time is right to finish the job we started two terms ago. The time is right to finally implement the Population Management Law.

4070 So, sir, I urge the Assembly to please support the amended Propositions and the commencement Order that we can get on with population management.

Thank you, sir.

4075 **The Bailiff:** Just before we get to the voting there have been a number of Members who have declared interests. Is there anybody who has not yet declared an interest and needs to do so?

Deputy Kuttelwascher.

4080 **Deputy Kuttelwascher:** I just want to say that both my wife and I are joint owners of a Part A Open Market property, which we also occupy, alone. There are no strangers there. None that I know about anyway. *(Laughter)*

**The Bailiff:** Deputy Mooney.

**Deputy Mooney:** Yes, I am also the owner of private and a multi occupancy.

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**The Bailiff:** Deputy Tindall.

**Deputy Tindall:** I own an Open Market property.

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**The Bailiff:** Deputy Tooley.

**Deputy Tooley:** I am resident in but do not own an Open Market Part A property.

**The Bailiff:** Okay.

4095

Well, in that case we will vote first on the amended Proposition 1, which for the benefit of anyone listening, is to approve the draft Ordinance with the exception of paragraph 3 of schedule 4 of the 2016 Law to come into force on 3rd April 2017.

**Deputy Mooney:** May we have a recorded vote?

4100

**The Bailiff:** There will be a recorded vote, just on Proposition 1 only. Proposition 1 only, the amended Proposition 1.

*There was a recorded vote.*

**The Bailiff:** Just while the votes are being counted on that, can I point out that there is one typographical error in the Consolidated Propositions that were laid in your places at lunchtime. It is just in the transcription of the amendments in Proposition 4, the one relating to Alderney and Sark, in line 5, the word 'or' should be inserted after the word 'work', which is the first line of that. So that part of it should read:

4105

and those taken to those islands as minors and wishing to relocate to Guernsey to live and work *or* for the purposes of further education or training...

That was in the amendment as laid, and as I say in the transcription, unfortunately, that word has been omitted, so that just needs to be inserted, otherwise it would have a slightly different meaning.

4110

*Carried – Pour 26, Contre 13, Ne vote pas 0, Absent 1*

| <b>POUR</b>            | <b>CONTRE</b>          | <b>NE VOTE PAS</b> | <b>ABSENT</b> |
|------------------------|------------------------|--------------------|---------------|
| Deputy Soulsby         | Deputy Roffey          | None               | Deputy Prow   |
| Deputy de Sausmarez    | Alderney Rep. Jean     |                    |               |
| Deputy Oliver          | Deputy Ferbrache       |                    |               |
| Alderney Rep. McKinley | Deputy Kuttelwascher   |                    |               |
| Deputy Tindall         | Deputy Tooley          |                    |               |
| Deputy Brehaut         | Deputy Gollop          |                    |               |
| Deputy Parkinson       | Deputy Mooney          |                    |               |
| Deputy Lester Queripel | Deputy Merrett         |                    |               |
| Deputy Le Clerc        | Deputy Fallaize        |                    |               |
| Deputy Leadbeater      | Deputy Smithies        |                    |               |
| Deputy Trott           | Deputy Hansmann Rouxel |                    |               |
| Deputy Le Pelley       | Deputy Yerby           |                    |               |
| Deputy St Pier         | Deputy De Lisle        |                    |               |
| Deputy Stephens        |                        |                    |               |
| Deputy Meerveld        |                        |                    |               |
| Deputy Inder           |                        |                    |               |

Deputy Lowe  
Deputy Laurie Queripel  
Deputy Graham  
Deputy Green  
Deputy Paint  
Deputy Dorey  
Deputy Le Tocq  
Deputy Brouard  
Deputy Dudley-Owen  
Deputy Langlois

**The Bailiff:** The voting on the amended Proposition 1 was: 26 in favour, and 13 against, I declare it carried.

Does anybody wish to have a separate vote on any of the – ? Proposition 2.  
So we will vote now on Proposition 2. Those in favour; those against.

*Members voted Pour.*

4115 **The Bailiff:** I declare that carried.

Then can we take 3, 4 and 5, together? Yes. We vote on Propositions, 3, 4 and 5 together.  
Those in favour; those against.

*Members vote Pour.*

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

Well, it is now ten to six, we will rise and resume tomorrow morning at 9.30 a.m.

4120

*The Assembly adjourned at 5.50 p.m.*