



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Friday, 18th May 2018

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

Volume 7, No. 12

ISSN 2049-8284

*Published by Her Majesty's Greffier, The Royal Court House,
St Peter Port, GY1 2NZ. © States of Guernsey, 2018*

Present:

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

Law Officers

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

People's Deputies

St Peter Port South

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

St Peter Port North

Deputies, J. A. B. Gollop, L. C. Queripel, M. K. Le Clerc,
M. P. Leadbeater, J. I. Mooney

St Sampson

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

The Vale

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

The Castel

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

The West

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

The South-East

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

Representatives of the Island of Alderney

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

The Clerk to the States of Deliberation

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

Absent at the Evocation

R. M. Titterington, Q.C. (H.M. Comptroller);
Deputy P. R. Le Pelley (*absent de l'Île*); Deputy C. N. K. Parkinson (*absent de l'Île*)

Business transacted

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States of Deliberation

The States met at 9.30 a.m.

[THE BAILIFF *in the Chair*]

PRAYERS

The Greffier

EVOCATION

Billet d'État XII

V. Requête – Assisted Dying – Debate continued

The Greffier: Billet d'État XII, Article V – continuation of debate on the Requête on assisted dying.

The Bailiff: Deputy Yerby.

5

Deputy Yerby: Thank you, sir.

This is not a nicely put together speech it is more cobbled together to try and address those in this Assembly, the small number I think who might still be weighing up the arguments one way or another, and to offer, if I can, some support to those few more who will not support assisted dying despite a natural and instinctive longing to. For those of us in that position there is only thin comfort to be found. Who here has not been heartbroken again and again by the stories that we have heard?

Let's not pretend in this debate or outside it that death is ever anything other than senseless and cruel, and let's not pretend that there is a single good outcome to this debate. We are doing nothing to change the facts that people will die, only perhaps the manner of their death. All we are trying to find today on whatever side of the debate we are is the least worst possible outcome.

Being accused of heartlessness pales next to being accused of genocide. I understand that I am not on the side of this debate most likely to lead to me being called a monster. All the same I would like to turn Deputy St Pier's 31 objections on their head and suggest that there is just one argument for assisted dying that outlives all the criticism you can otherwise throw at the idea.

It is not about choice, as Deputy Graham said. If the issue at stake were a person's right to choose when their life should end, then there would be no sense in restricting it to terminally ill people in their last six months. Choice is a universal right or no right at all, and it is not about risk. If the requérants did not agree that there were inherent dangers in this project they would not have accepted the extensive work on safeguards that needs to come first.

25

When all other arguments fail the argument in favour of assisted dying is the argument from compassion. Does this Assembly care enough to relieve the suffering of the dying? I suspect that

Deputy Brehaut is bracing for the next thing I say to be another defence of palliative care, a trite explanation of how it can relieve all such suffering well enough. It is not, I know it does not work for everyone. I am so sorry, but the harshest reality of this debate is that assisted dying will not provide the answer either.

Please think back on the countless personal stories that we have been sent, think back on your own losses if you can bear it, and then think of the criteria for assisted dying: terminal prognosis, less than six months left, full mental competence, and probably psychological assessment for mental health state. Ask yourself how many of the situations we have heard of would fail at least one of those tests based only on what we have been told about them. For many assisted dying is a hope that will deliver no relief. For many, assisted dying will give no more legal clarity, choice or control than currently exists right now.

We have to ask ourselves, though, is it worth it for the sake of those it will benefit? We are debating a principle, a matter of conscience, and in that context it is perhaps too easy to say yes. My daily reality of working in Health & Social Care is that we are always faced with new options and innovations to relieve suffering and to improve quality of life at all stages. Not all of which we can afford.

If the Committee *for* Health & Social Care had put this forward as a service development could we have justified it financially, practically, and ahead of all the other opportunities that will be lost? Perhaps this one does trump all the rest, but how do we make that decision in a vacuum? Making value judgements and trade-offs in health and care is always thorny, but this one is especially hard. Equally importantly, could we keep up with new developments as new drugs are developed to make the lethal dose more effective, more painless, will we be able to take them on automatically, or will they have to take their place in the queue with other new drugs that we may or may not be able to afford? What would be the ethics of that?

None of these alone are reasons enough not to support assisted dying, but they show that the practicalities beyond the principle are complex and demanding, and that there is a kind of ethical ripple effect to be reckoned with, as there always is with new developments in terms of what and for whom assisted dying might displace.

The only way I can see it is assisted dying is not the answer to the question of choice. If it were as we have discussed there would be no cut off at a six month prognosis. It would be available to all who could no longer bear to live. Assisted dying, if it is the answer to anything, is the answer to the question of pain relief and I understand why the case for it is made there, although I do not think it is made out. But even there I appeal to supporters of assisted dying to see that there is a mismatch between the question and the answer they are proposing. If assisted dying is for the relief of unbearable pain, as Deputy Lester Queripel said early on, then the criteria and safeguards around it should not allow the indiscriminate exercise of the option by people who are terminally ill for reasons other than the relief of pain.

If you want to touch on the question of choice a bit more though before dismissing it, and especially the question of the human rights framework that underpins it, I know that those who are still weighing up this question do care about human rights, and for me this one argument is the one that looks at our particular role as a government rather than our duties as a community to each other, and that function needs to be looked straight in the eyes.

The premise of the Universal Declaration of Human Rights, which is the foundation of all human rights framework, is devastatingly simple. In order for our communities to remain safe, stable and peaceful places we must build and govern them as if every human life has value and is equally worthy of protection.

For me, the human rights framework is effectively the contract between a nation's government and its people. Your rights to liberty and to a private and family life are particularly important. They reflect the principle that usually the person best placed to make decisions about your own life is you. The government, distant and remote from your day-to-day reality, should only intervene with that freedom where it is necessary to protect the life, wellbeing and safety of others.

80 In this argument supporters of assisted dying normally – although I acknowledge not always –
ground their human rights case here. Ending your life is a private matter not one that the state
should interfere with, an exercise of your personal liberty which should not be restricted. Well
there is some truth in that. Suicide should never have been a crime, and it is shocking, if not
surprising, that it took until 2006 to sort that out. (**A Member:** Hear, hear.) But there is a world of
85 difference, in my view, between prohibiting the private act of suicide on the one hand and actively
applying the resources of government to help people end their lives on the other. That is what we
would be doing here. We would be providing doctors and nurses to assist with, prescribe or carry
out the intervention, and the times of the courts to oversee it. That is not non-interference with a
private matter, it is active engagement and the facilitation of the ending of life. It is different and
90 we must not claim otherwise.

If we value human rights then we need to recognise that the introduction of assisted dying is a
fundamental shift in our understanding of how they work. It changes the relationship between
government and society from one in which government is always bound to protect life, even if
sometimes we fail in that aim, to one in which government may at times intervene where life can
95 be ended. That is a huge shift. It is something beyond even a constitutional change. We cease to
be a government that operates, however imperfectly, under the principle that all human lives are
equal of value and worthy of protection, and we become a government that takes for itself the
right to determine categories and contexts where a human life may be ended.

That is an argument that is not about our relationship one to another as members of this
100 community, it is about us here in this room and our special responsibility as a government to
those over whose lives we have really quite extensive power. I think that we cross a line with the
use of that power when we intervene to help some of our citizens end their lives and I do not
believe that we have the right or authority to make that change.

But is there evidence that I can offer to sway Members in this Chamber one way or another?
105 What evidence that has not already been sent to us or that we have not already found in our own
research? What evidence that we have not already reached a judgement on to credit or discredit
and think right? We of course weight the evidence differently depending on what we value and
what we are trying to achieve.

There are only three areas, sir, in which I think I might be able to introduce something new into
110 the thinking of Members who are still weighing this up. Those are: first, the failure of capacity
assessments; second, the psychology of suicide; and third and last, our own inadequacy in
competence and fallibility.

In terms of the failure of capacity assessments I absolutely agree that we must have good
capacity law in place, and it must have demonstrated its effectiveness before we can even
115 consider proceeding with assisted dying. But make no mistake assessments of capacity are fuzzy,
particularly at the point where we have found ourselves asking the question, ‘Does this person
have the mental capacity to make the decision in front of them?’ Usually at that time it is because
it has become difficult to work out, it requires an element of expert assessment, it requires an
element of understanding. The findings of the House of Lords Select Committee Report on
120 Capacity Law in the UK, which has been in place for a good 10 years now, is that those
assessments are not always adequate, that there is not always a deep understanding of medical
capacity embedded even in the practice of those we would consider to be expert professionals. So
we cannot assume that just because we have good capacity law in place it will always be reliable,
that there will not be room for fallibility in those assessments. Capacity law is, I suppose, like a
125 speed bump; it is not a barricade against this going wrong.

Touching on the psychology of suicide, Deputy St Pier in his opening speech said assisted
dying is not suicide. I know that he has a particular interest in suicide prevention and so has taken
this particularly to heart. I do too, and I have to, and I do not mind saying that there is simply not
enough evidence either way. In part because assisted dying is so new, in part because this is an
130 area that is so difficult to research. I cannot say authoritatively how much assisted dying behaves
like suicide in the same way that he cannot say authoritatively how much it does not.

I will note that I looked up the paper he referenced from the American Association of Suicidology and it is a concept paper rather than a research paper. One of the things it does is it defines assisted dying and suicide as separate concepts, and then consequently defines the desire for assisted dying as being different from the desire for suicide. That is too circular to be relied upon.

On the other hand the research that Deputy Dorey cited yesterday referring to increases in total suicide rates as a consequence of assisted dying, rolls assisted dying into that; so when you separate out assisted dying and non-assisted suicides, certainly you do not see a decrease in suicide rates, but again I cannot find anything in that research strong enough to make me say well this is going to have a powerfully dangerous impact on suicide beyond the assisted ones.

What we do know of course is that assisted dying is about choosing death, it is about choosing death when you can no longer face life, and I think, because there is not much learning about assisted dying itself in place, we have got to think about what we know about the psychology of suicide when asking ourselves how this might unfold.

There are important things that we know about suicide. We know that if it is reported on badly there is more likely to be an increase in copycat suicides. We know that if the means of suicide are more easily available people will commit suicide because part of the reasons motivating suicide are impulsive whereas other suicides are long thought out, and we have to acknowledge that in places like Oregon where assisted dying has been legal for some time, we have seen significant increases in the rates year on year, which to me suggests it is probably susceptible to some of the same factors that suicide is, in terms of the way that people's behaviours around this change.

I am looking around, sir, because I think people have just got things in their throat, but I was just checking nobody was standing up and then wanted to interject.

As a society we have reached the conclusion that suicide prevention is something that government should be involved in that we should be actively involved in encouraging people to make choices other than suicide, and that where prevention initiatives exist they are more often than not successful in reducing the rates of suicide, and we do at least have to ask ourselves if behaviours around assisted dying are susceptible to the same factors as behaviours around suicide are there things that we should be doing other than simply making assisted dying available; to make other choices palatable for people; to make people who might at some level want to choose life feel able to choose for what period remains to them.

The final point of consideration that I think has not been adequately touched on is, as I said, our own inadequacy in competence and fallibility. Sir, we know that within end-of-life care, within health and care services generally, within any public service that we as a government provide, mistakes are made.

Staying within the field of health and social care our motivation at the moment is always to try and preserve life and to improve quality of life and even then things go wrong, sometimes horribly wrong. Often the quality of the intervention is good but the wraparound care, the person-centred care, the bit that we keep saying we need to improve, we keep saying we need to improve it because we are not doing it well enough right now. That leads to us failing people in the ways that matter most, in the ways that Deputy Brehaut addressed. But what makes us think that we are going to do that any better just because we introduce assisted dying? We are not, and the consequences of a mistake in this context could be far worse.

I think that it would be folly to assume that the one mistake that we are making in end-of-life care at the moment is failure to meet people's needs by providing an assisted death, that is far from the only gap, and it is probably far from the most substantial gap, and I think that we need to be aware that this will not improve the majority of problems that we currently face, and it could make the consequences of some of those problems far worse.

But what if we turn this debate around? What if instead of retrofitting the questions to a solution that has already been designed, we started with a question and then worked out the solutions? So what if we started by asking how can we best assure a good death for all and a

meaningful life up to the point of death, a dying process free – as far as something as terrible as death can ever be – from fear and pain?

185 I do not subscribe to the utilitarian principle of the greatest good for the greatest number, especially not when that could trample small groups of vulnerable people. In that at least I side with the requérants, but where I differ from them is that I feel that the risks are greater, if assisted dying is brought in for vulnerable people than if it is not.

190 But how can we best use our resources – which are finite – to soften the worst suffering to have the best impact for Islanders in terms of improving quality of life throughout and up until the point of death? If that were the question I think it will be a long time, if ever, before assisted dying is the right answer. Certainly there is much more that we should be doing now.

195 But whatever side of this argument we come down on this must be a watershed moment for the States. In making our arguments one way or the other for a good death we have held ourselves out as people who value the quality of life of Islanders, especially those in the worst of circumstances, and people who are willing to move the earth to provide the resources, wrestle with the legal and constitutional effects, and drive through the changes necessary to remove the worst of suffering and disadvantage.

200 Whatever our decision today there are many other decisions we will face over the next two years which require a similar degree of passion and commitment. There will be issues that need to be dragged on to our agenda if we care about Islanders' quality of life and the end of their life, which require a similar degree of energy, engagement and independent research. Please do not forget the fire in your souls today and there will still be hope.

205 Sir, I want to close gently to leave some space for sadness. I am grateful to and humbled by those who have let us into their sorrow, and also to those who made brave and thoughtful speeches without sharing their private grief.

Thank you. (*Applause*)

The Bailiff: Deputy Tindall.

210

Deputy Tindall: Thank you, sir.

I had intended to speak a little later because I too do not support these Propositions 1-4, nor did I support the Requête, but obviously we are getting late in the debate and maybe that choice was not open to me.

215 Sir, I found it difficult because the more I considered my position the more I believed my reasons for doing so differed from many, although yesterday I realised I certainly was not alone. It was also difficult to be satisfied that I had reached the right decision, at least for me, as we have read and listened to the heart wrenching stories of suffering. None of us would wish anyone to suffer.

220 For helping me with this decision I also want to add my thanks to the very many people who have taken the time to email or write to let me know of their views.

225 Sir, I cannot support the first four Propositions for two reasons. Firstly, because I feel that we should not just have capacity legislation in force, we need to also ensure that it is effective. A working party set up to consider the test for what is effective does not give me the comfort that legislation would not be properly tested before we bring in assisted dying.

230 Secondly, the idea that I and obviously others have found difficult to reconcile, if those essential safeguards are indeed in place and effective, why are the requérants arguing that only a few people will be eligible to benefit? Why delude ourselves that it is fair or reasonable that with the appropriate safeguards assisted dying should not be available to those who truly want to have autonomy.

That leads me to why I absolutely cannot agree to go down this path without those safeguards in place; why I cannot yet, in the words of Deputy Roffey, grant the people of Guernsey what has been described as the crucial aspect of personal autonomy. However simple this concept appears, having been involved myself in ascertaining whether someone has the capacity to make a

235 decision, has this autonomy, I was concerned that the complexities were being dismissed as one of those clever drafts people can overcome.

Whilst we do have excellent professionals and an approach to legal drafting which creates simpler laws than those in the UK, we still need to understand that the law will need to be interpreted. This is a complex area and one I want to illustrate in my speech. So think how pleased
240 I was, sir, that not that late yesterday afternoon I was sent the May edition of the *Mental Capacity Report*. This report is sent to members of the Society for Trust and Estate Practitioners, produced by the Barristers practising in England and Wales, known as 39 Essex Chambers. In it was a very interesting article, entitled the 'Relationship between Autonomy and Adult Mental Capacity in the Law of England and Wales'. How timely. In it the author considers the underlying relationship
245 between autonomy and mental capacity, as discussed in various judgements dealing with this issue. I have decided to go into the arguments today raised to illustrate the complexities of what we are discussing. The author Paul Skowron, who is a research associate of the Wellcome Trust funded by the Mental Health & Justice Project working at the York Law School, divides the relationship between mental capacity and autonomy into three types identified by judges.

250 The first is the gatekeeper type, where having mental capacity is treated as an overriding reason not to interfere with people's wishes, not to interfere with a person's autonomy.

Another type is the insufficiency type, where capacity is not enough to be autonomous. Freedom from coercion and undue influence is also needed. For example, in one case Mrs L had capacity and did not wish to bring proceedings for non-molestation order against her son.
255 Nevertheless she was found to be a vulnerable adult whose autonomy has been compromised by a reason other than mental incapacity. So a wide range of injunctions were made restraining him. So Mrs L was found both to have capacity and to lack autonomy.

Lastly, the relationship between mental capacity and autonomy can be described as one of survival. Mr Justice Baker said this was when personal autonomy survives the onset of incapacity.
260 But that is not to say the end of it, and the author goes on in his article saying:

It does not mean that everyone regardless of capacity is so autonomous that the state should not act against their wishes. It merely holds that some people without the relevant capacity might be so autonomous and that the issue is decided as part of their best interests decision.

For example, one factor is the strength and consistency of the views being expressed. The author says:

Fairly often people without capacity know what they want, want it for intelligible reasons, or would be utterly distraught if what they wanted was disregarded. By softening the link between autonomy and capacity, the survival type allows these things to be taken into account.

265 But Mr Skowron concludes, one of the original aims of the Mental Capacity Act introduced in 2005 in the UK was to simplify the law but it does not appear to have done so. There are a wide range of factors that judges take into account when assessing a person's autonomy, and whilst capacity is relevant so, for example, is coercion.

For those who are interested the full article it is available, albeit for a fee – not to me I hasten to add! Sir, I mention this as the debate has focussed on freedom of choice – 'My life, my choice'. If the decision before us were that straightforward I would find this debate a lot less challenging.
270 But it is not that simple, because it has these competing demands, not just these legalities but practicalities too.

Giving due regard to those demands is the most important aspect of government, as we must not allow them to be overshadowed by the emotions of the argument. My feelings of empathy may pull me one way, but my conscience says another.

275 As can be seen from the various Propositions before us we are indeed on a very long journey. We have already agreed upon most of the stages of that journey, as it will involve the introduction of an effective capacity law; non-discrimination and equality legislation for disabled Islanders, or

preferably an equality law, the extension of international conventions, and an even better palliative care service than we now have.

280 But what I find is unacceptable, from a purely practical point of view, is that we are being asked to combine these aims with that of enabling one person to assist another to die. As I have said, it is not the outcome I have an issue with but that these other most essential steps could be in any way thwarted by association. I believe there is a real risk of that happening because of the nature of the safeguards required, because of the limited number of people to whom the right of
285 assisted dying is being proposed to be given and so inevitably the greater number who will need protection from those safeguards.

It is also not about the person's seeking to exercise the right that needs protecting, it is not just about giving the right to an individual to die, it is also about protecting the third person, the one who has the difficult task, even with well written legislation of assessing capacity, the one who
290 has to write the prescription, the one who administers it, and the family and friends who are left behind. We are told by supporters that it is a given that we should have the very necessary protections for the vulnerable in place before we can move forward, but do these four Propositions really provide for that. Do they adequately cover all of those people affected by such a decision?

295 The letter of comment from the Committee *for* Health & Social Care, a Committee on which I sit, sets out many such concerns. As Deputy Soulsby, as President of HSC, will be commenting further I will say no more.

The question I need to answer is do I feel sufficiently reassured by those Propositions to believe these people will be detected by laws, processes and support networks before anyone is
300 assisted to die. As a glass-half-full person, some of you may be surprised, sir, by my scepticism, but I feel the need to ensure the safeguards are in place first.

Well, what has happened is that I have repeatedly through my preparation for this debate drawn on my personal experiences, both of my family and as a lawyer. I too do not apologise for this as I believe these experiences are most relevant to this debate. For 25 years my primary task
305 as a solicitor who practiced law in England and Wales used to be discussing death, whether it was with an individual before their demise, or afterwards with their family and friends. For that reason, I am extremely pleased that the most difficult subject of death is being discussed openly with so many people.

During Dying Matters Week, or as we call it here in Guernsey 'going out with the tide', we have
310 an opportunity to break the taboo and stress the importance to talk about what needs to be done in the event of illness, incapacity and death, so that our loved ones are aware of our wishes and have the tools to ensure those wishes are carried out. It is also an opportunity to hear from professionals about what happens when people die, how the body functions in those last days, details difficult to hear but important to understand.

315 Getting people to talk about their ultimate and unavoidable demise has always been difficult but usually occurs after someone has suffered a loss or an experience which they felt they did not want to go through themselves, whether that be someone dying without having made a will, or because, as we have heard over and over recently, their loved ones have had a painful death.

I have made wills for people and then attended their funeral only the following week. I have
320 also helped people who have thought they were going to die a painful death, often because of an HIV diagnosis, only to receive joyful messages from them some 20 years later. My role was to enable a discussion to, as we used to call it, put one's affairs in order. In the UK this would include a will, plans for the funeral, and an enduring power of attorney which gave the power to someone to make decisions in respect of financial matters in the event of someone becoming mentally
325 incapable. There was also the advanced directive or living will, which dealt with medical matters. Together this suite of documents could enable families to get on with their lives feeling confident they could deal with the eventualities of life.

However, life or rather death is not like that. There have been occasions when I have been in despair over the way in which the law has operated. I have watched as families fight over assets

330 and debate whether someone had the legal capacity to take a certain action. I have seen the
despair when documents thought to be valid are declared invalid due to a technicality, and I have
seen well-constructed wills be overturned because a family member who was excluded had
335 managed to persuade the court they needed money, despite what Deputy St Pier said in his
speech. I have had to make it clear to clients that they do not have autonomy over their assets
either before or after death, they can only give an indication of what they want as nothing can be
set in stone. In particular I have watched the issues around the introduction in the UK for the
lasting power of attorney which combines financial powers with an enduring power of attorney
and a health and welfare section which is akin to the living will or advanced directive. That
340 legislation has brought untold problems due to the way it has been administered. One such
example was a case where the person ticked two boxes on the form instead of one giving a
contradictory instruction of what to do if the donor was in a vegetative state. This resulted in the
provision in the lasting power of attorney being struck out, and if the donor had not been able to
give another directive their wishes would have been ignored.

This leads me on to my second concern. To explain this I find it easier to refer to a
345 conversation I had last week. A parishioner asked me to vote for assisted dying, advising me that
if I did he would not need to go to Switzerland when he could no longer take care of himself. Even
if these Propositions are successful, my parishioner would not live to see the legislation, nor do I
believe he would be eligible as he is a fit octogenarian. I am concerned about this false
expectation, as people seem unaware of those who the requérants intend should benefit from
350 assisted dying.

During this time I have reflected on the life of my cousin, who was diagnosed with multiple
sclerosis when he was 21. He was given six months to live, and so could perhaps be someone who
under the proposed regime could have been assisted to die. Instead, knowing his life expectancy,
he successfully completed the nine months left of his degree course, and whilst not being able to
355 feed himself he continued to be the most inspiring person I have ever met for another 21 years of
his life. My aunt who cared for him every day never once advocated assisted dying, although later
when she found out how cannabis could have helped him her anger was immense.

So as the majority of people will not be able to take advantage of an assisted death once this
is acknowledged will there be a clamour for an extension before even the safeguards are in place?
360 Will the coming years in this Chamber be one of toing and froing from this stated position, raising
expectations only to dash them later, and all this whilst essential work which benefits the whole
Bailiwick is side-lined? Or simply should we wait until we have the necessary safeguards, sorely
needed, in place and effective, have the continued dialogue over what happens shortly before
death, what we need to plan for, how palliative care can help and improve and then agree and
365 only then agree what, if any, assisted dying legislation we should have.

Some may say this is kicking the can down the road, something I would *never* wish to do *unless*
it was *right* to do so. This to me is the right time, sir. Without safeguards that work that are
thorough and effective I cannot agree to start a process that has so many uncertainties with so
many people who could be affected without that protection at the forefront. Considering there
370 are just so many things we need to do to benefit Islanders I cannot agree to spend money on a
fundamentally flawed and expensive process to give help to a few.

There are lessons that I hope we can all learn from this debate and which costs nothing, and
that is to do our utmost to ensure people do not feel a burden, to help people to realise how
much they are valued. We also need to reiterate how all these aspects of life and death intertwine,
375 and that the horror stories we have heard are not what we or our families and friends *are* going to
face, that we as a government are finding the care to make this very unlikely. Let us explain in
greater detail what is available and to remove that fear at least.

Saying that, sir, I cannot sit down until I have complimented our palliative care on this Island.
All of our health care staff have had their training to provide such care, and we have an excellent
380 specialist palliative care team for the last weeks and days of life. Such care which can of course be

improved. For me personally, I put my faith in their care and that they will be there for me when I need it, rather than having faith that there will be truly effective safeguards in place. Sorry.

385 Before I conclude, a bit more boring stuff, I should add that whilst I voted for this amendment it was because I wished a clear and straightforward debate, not because I can vote for its effect. I should also add that amendment 7, if it had been successful made no difference, and nor will any amendment which tries to water down the contents any further if it is still associating any work streams with assisted dying.

390 I cannot agree to a path which can in any way deter us from the so important aims we seek to achieve. They have been and continue to be hard enough to achieve without assisted dying being added in the mix of the goals we seek.

Thank you, sir. (*Applause*)

The Bailiff: Deputy Oliver.

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

400 Firstly, I just want to say I hate talking about death; it is the only subject I would actually prefer just to bury my head in the sand, but I know I have to be realistic: sure as the sun will set we will all die one day. I know I am not going to change anyone's minds at this late stage as arguments have been thoroughly and most passionately aired both sides and most highly emotive. Most people love life, including myself, but where I draw the line is suffering. At this moment in time I would state if I become ill I want to be hooked up to every machine possible, however, if I do become terminally ill in the future I would hope that palliative care could accommodate my needs, and ease my suffering. I confess I am 100% behind Proposition 5, and any efforts to better palliative care will benefit the entire Island.

405 I fully respect the views of the parishioners in all parishes who have written letters, emails, phoned me, and have spoken to me. I do understand that you are happy with the *status quo*, and believe there is no need to change the current law, that is your choice.

410 This is too important a subject to dismiss and not spend time exploring, as so many have said to do. I ask all of these people, indeed all of our community to also respect my choice. By voting yes to this Requête we are not saying we do not have faith in our doctors and nurses that work so hard to care for our sick; (**Several Members:** Hear, hear.) we are not saying we are giving a *carte blanche* for people to end their lives on a whim; (**A Member:** Hear, hear.) we are not inviting tourists to come to death rock, as so many emails have stated. (**Several Members:** Hear, hear.) You were saying that you want to carefully explore this option and give those greatest in need the most basic right of living in a free society. Choice. We have a real chance to show residents of Guernsey that their States have compassion for those who wish to end their lives in agony and suffering in their own home surrounded by loved ones. Why should people have to travel to Switzerland? Travelling at the best of times is stressful; when you are seriously ill and in pain it must just be awful. This option certainly is not available to everyone, but is made even further out of reach by the price, not everyone can afford to spend £10,000.

420 Understanding how important this subject was and how interlinked it is with palliative care I was very keen to explore the palliative care team we have in Guernsey. I do, as I said earlier, have confidence in our palliative care and admire them and their six ambitions which they aspire to. As one of their, and firstly, their ambitions it states:

Each person is seen as an individual ...

425 And this is the statement, they say:

I, and the people most important to me, have the opportunities to have honest, informed and timely conversations and to know that I may die soon. I am asked what matters to me. Those that care for me know and work with me to do what is possible.

430 This surely should be the perfect time to discuss what matters to you and your choices. Pain does not feel the same for everybody. Take labour, it is the same process that must happen, but I can assure you many women feel very different levels of pain. The one true fact is that we will all die and many of us have so different experiences. Who am I to say that if suffering could be taken away from the few that so choose it, I should say no?

435 I understand the problems that we would have to overcome. There is a small part of me that is worried that many civil servants, Law Officers, are overstretched trying to conclude outstanding legislation, but this subject will not go away. If this Requête is rejected it will come back to be debated at a later date. (**A Member:** Hear, hear.) So the sooner that this is considered the better, for everyone's sake.

440 Please vote for 1-3. I am still very undecided about Proposition 4, it is proposing about Alderney and I have not spoken to many Alderney Members, and many Alderney Members have not actually spoken to me about this, so I am actually going to vote *je ne vote pas* on Proposition 3 (*Interjection*) and I strongly advise ... 4 and everybody vote for 5.

Thank you. (*Applause*)

The Bailiff: Deputy Gollop.

Deputy Gollop: Thank you, sir.

445 I found a lot of common ground in many of the speeches, and I do very much endorse and support much of what Deputy Yerby has said. For example, she mentioned the finite nature of our resources, and also the very nature of how we will shift our nature of what we do as a State in protecting and prohibiting the taking of life to one with degrees of graduation there.

450 I found much common ground too with what Deputy Tindall says, she is an acknowledged expert, I think, on legal processes and the kind of issues that come up before the courts and in terms of judicial review, and I very much supported her mentioning 'going out with the tide', which is an interesting selection of events. I am sorry I missed pub psychology yesterday on the subject, but I did in fact go to an arts talk along those lines led by Charlotte Barnes in which she was making a point through a workshop that there are many ways – and I am sure Deputy Lester Queripel will endorse this, if not every other point – whereby people can find expression in therapy, in arts in poetry and in many other ways even when they are facing a very difficult health situation.

460 The only perhaps area that I did not fully see eye to eye with Deputy Tindall on was that she generally said that she did not believe in kicking the can down the road and I have often said that we do need to kick the can down the road, so it is unusual for her to make that point.

465 But coming up here today I had a meeting – I was actually looking for one of the Alderney Representatives but instead I found three St Peter Port parishioners. One of them was very much in favour of the Requête, one of them was very much against, and one of them was changing their mind when they listened to the arguments. I think that is not uncommon. We have seen a variety of views, and there are perhaps many perspectives that have come to us, and some people have shifted their position, which is one reason why I do not necessarily take too seriously all these opinion polls that have been mentioned, because it depends very much on the context, the nature of the question that is asked, and the points that are made.

470 Deputy Roffey made a particularly challenging and interesting speech, two days ago now, and I felt that in a way I could relate to many of the points he was saying. If I stood here and spoke solely about my own personal views, as one Member said to me only coming into the Chamber today, follow your conscience, I would actually be behind the Requête, perhaps even as originally drafted, because I think it is conversation that will continue to be had by society and by legislatures, whether we want to have it or not. The reality is whichever way the debate goes today the subject will not go away.

475 If all of the Propositions win then we will have an extensive study, we will see another report, we will see perhaps proposals not just a report describing, as Deputy Fallaize said, the logistics of

480 it, but we will see possibly legislation and obviously safeguards. Then that legislation may be amended, it may be regarded as essential to change in one direction or another, it could be an election issue or an issue even that brought us into, not conflict but consideration with other jurisdictions.

485 The other approach is that we do not support most or all of it today, but it will come back, perhaps in the next political term, perhaps a long time afterwards, but the reason why I think it will come back is not just because of the arguments of autonomy and compassion, but because of the more fundamental questions of changing medical technology, changing expectations of life, ways in which you can artificially extend life, and perhaps we will see people in the future, and we should welcome this really, who will not just celebrate their centenary, their 100th birthday, but maybe their 110th, and 120th. So these questions will continue to be around and clearly medical science and the viewpoint of various other states and countries around the world will change. But
490 I do not believe Guernsey is in a position really to cope with that change as being in the first tranche and I will go into that in more detail in a minute.

A parishioner asked me for my views and in my letter, which I will paraphrase, that I sent back was that – and this was a person who very much supports care for life and is opposed to these changes on every level – and I replied saying: ‘I would like to thank you for your clear arguments
495 and moral position and understand why you are against assisted dying. Like you, I do not want to see people die in pain locally, and I too have faith in the medical professionals’ ability to help people as well as people of faith. However, that belief in the ability of doctors, carers and nurses to help people in a terminal situation is not strengthened for me in that there is evidence that the States of Guernsey has not been prepared to put in sufficient support to all the charities. We all
500 support the third sector but we do have real questions relating to drug improvements and expenditure on drugs and the viability of us continuing to support exactly the same package as the United Kingdom or other places may do. Also we need to reconsider and strengthen our financial technical support for palliative care, and indeed other probable solutions. I will support any sensible amendment or policy which rectifies that situation.’

505 So I will of course support Proposition 5, but I would also point out that, for example, Policy & Resources, which is currently led by Deputy St Pier and Deputy Trott, both of whom have served as our Treasury & Resources Chancellor, if they would facilitate as a policy for this Assembly gift aid donations and other measures for relevant charities that would assist us to.

I agree that suicide can have a terrible effect on friends and families of a loved one, and I do
510 not think any States’ Member would wish to give out any message that we as a society think it is right for anyone to die because their life is not worth living, and as a former previous Disabled People’s Champion I too believe we should strongly be asserting that every life is potentially valuable and that caring must be universal.

I will definitely not be supporting the current Requête unamended – we have seen an
515 amendment but I will come on to that – and am personally minded to not support as a whole any recently attempted half-thought-out watered down version.

I am worried that being seen perhaps misleadingly as the first part of the British Isles, as described in international media such as BBC4, to become some kind of assisted death clinical centre will be probably damaging on balance. I want Guernsey to have the reputation as having
520 the best possible care for our size and scale and be the epitome of care and compassion to all who are terminally ill whilst finding additional ways of reassuring those who want their loved ones to have a peaceful and humane departure.

Now we have since of course seen an amendment. I decided on balance to vote to have this debate rather than perhaps on a split vote again to have seen a situation which would have been
525 difficult, with maybe only Deputy Le Tocq able to put forward his amendment and so on, but I did not go as far as supporting the Parkinson/Tooley amendment yesterday, even though I would agree that some of its points were actually better phrased. The reason why I stopped at that point was because I thought that we have had enough of these last minute amendments, that was perhaps the third or fourth iteration, (**A Member:** Hear, hear.) and the difficulty we have is – apart

530 from the sensitivity and complexity of the subject – we have had extensive correspondence from both sides of the debate and from professionals with expertise and then we are suddenly changing the words. Now we know, as Deputy Tindall and others have reminded us, that even the slightest change of wording can have profound legal and other consequences and so that is an area I thought that 24 hours into it we had to show a bit of restraint.

535 I would describe my own personal view which is that I think that this debate will not end today, it will continue, and I have described the point that I think we will see inevitably due to changing medical technology and longer life spans and more positive approach to disabled people and many other innovations we will see a development of this debate. But I do not think Guernsey can afford to be in the forefront of the debate for many reasons. Part of the reason is that we need to
540 operate as a community working on consensus and I do not believe we have that consensus at the moment.

Deputy Roffey talked of weak willed sort of sappy Members who say, 'Oh, you must not follow the UK,' and all that ... and we have been a pioneer in some areas like, for example, protected cell companies and intellectual property and so on, but I recall we started this States' meeting on
545 Wednesday morning with a very statesman-like speech, statement, from Deputy St Pier who pointed out the ill advisability for us of going for a public register before other places in the western world and putting ourselves at perhaps a moral, if not a commercial, disadvantage. That was an example where we were holding back on being a pioneer, because of the potential problems that that would result. Here we are being urged to be a pioneer, and I find a disconnection there.
550

If I could give a parallel, I do not think it is an exact parallel, but we have seen a gathering together of a strengthening of a movement towards inclusivity and homosexual equality in terms of relationships and connections. Twenty years ago – well 30 years ago – when Deputy Roffey was initially a Member, you put forward any positive views about the homosexual community and you
555 got enormous pushback with some rather reactionary comments made by many Members and so on. Twenty years ago some progress was made but there was still a minority.

I remember in 2004 putting in my manifesto that I supported civil partnerships, and I thought that was a bit daring at the time because it went against the grain, and it turned out that our Resolution to go for civil partnerships fell into a sort of disappearing black hole in St James' Chambers or somewhere and never emerged into the light, and society had moved on. American States, European States, the United Kingdom, Scotland and so on, were going for equal marriage, and I think to a degree, although there would be many people of faith and many people without faith who might oppose that, we have seen really a political consensus and a social consensus across the Channel Islands in favour of that. So by the time it came back it had merged into
560 equality of marriage. I do not say that will happen on this occasion because the issues are actually far more emotionally draining and upsetting for people, but I think we have to bear that in mind.
565

One argument Deputy Tindall made that Deputy Green, Advocate Green, also made, is the application of existing law. When you hear that there may be certain people on the Island who will privately pay or be privately paid to go to a country or state where the rules are different, that
570 raises questions about how we police those issues. I would prefer a moderate softly, softly approach but I do see the day that if there was a difficult case that drew international attention to Guernsey that would then bring this debate right back.

Deputy Lowe has made the same interesting point twice in this debate so far actually, that in her view, in the Home Affairs' view, there are issues about whether a British subject could be
575 prosecuted in the UK. Would that apply to a medical professional or relative? Would somebody like me – I am not saying I would be involved – be extradited from here or if I got off the plane to go to a conference I would suddenly find myself in trouble? We do not know the answers to that. I would not particularly wish to see a statement like that on the hoof.

Now yesterday we heard discussions about resources and what we have done. I find the composite package at times confusing and paradoxical, because the language can be interpreted
580 in different ways, that is the current composite that we are voting on. I think that every element to

the law as put across is unclear. There are indeed grey areas, and they are grey areas that would be extremely difficult for us to cope with. The six months clause in the original Requête has disappeared, but it has reappeared in a new manifestation as just being an option to discuss within the proposed working party. Well I think that is confusing as well.

Many of the critics have pointed out that the Oregon example has seen a rise in people feeling depressed, or that they are a burden, and more importantly that other countries in Europe – and I agree with Deputy Laurie Queripel, he mentioned perhaps that certain European countries like the Netherlands would be seen as progressive and civilised societies to live in, but then again I am not sure in the past we have adopted every element of Netherlands policy. They have always been very proactive about cycling and prohibiting cars in certain areas. They have a 51% tax rate for anyone earning over €50,000 a year and of course they have a somewhat liberal view on drugs, but we will not go into that one. So I think it is always dangerous to take countries out of context.

I was impressed by a film that Doctor Carmen Wheatley showed on the Island publicly recently whereby there were young adult persons who were effectively seeking a kind of suicide for mental health reasons facilitated in the Netherlands. That is a step I would not wish to see here. We need to celebrate life and encourage people to enjoy it. I am concerned that in some European countries particularly, the policy has been extended really down a slippery slope.

Indeed coming back to the question of language, we have seen many different phrases for what is a policy. Some call it 'euthanasia', although I appreciate euthanasia has a different definition; then we have seen 'death with dignity' which sounds really positive; then we have 'assisted dying', which is the official line; but one local doctor in a provocative television interview that was shown internationally called it 'assisted killing' – I do not like that phrase, but it is a phrase – then of course we have this 'suicide'. So the language people use can sometimes change the way they think about this and the way they follow through on it.

When I turn to the official Propositions that we are looking at I must admit I am sympathetic to voting for Proposition 1, because I agree that effective capacity legislation is essential in any event, and it is not just capacity it is powers of attorney and it is a work stream that we need to do. Now I do not want to agree that any assisted dying regime will take effect in Guernsey, but I do want to make the point that it is a statement of fact, an essentiality, that we have effective capacity legislation before we even move onto any other territory.

Now the political cynic in me – which I do not want to do because it is unfair on people with stalwart views in the community – but at the rate we are going with this legislation we might not even be there in the next political term, and that brings us on to the excellent amendment that Deputies Merrett and Hansmann Rouxel put across.

I support Proposition 2. I do acknowledge that the Human Rights (Bailiwick of Guernsey) Law gives statutory protection in relation to human rights and freedoms. I wish to see a legal framework ensuring non-discrimination and equality for disabled people consistent with the UN Convention on the Rights of Persons with Disabilities and the completion of outstanding work to seek UK extension in particular to the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), Convention on the Rights of the Child (CRC), and Convention on the Rights of People with Disabilities (CRPD), and an independent body, say a commission, concerning Islanders' equality and rights consistent with the States' Disability & Inclusion Strategy. Now I do hope we will get there by the end of 2019-20, but we need to put the resources – the scarce resources – we have, legal, financial, technical, into that first.

I think one reason you have seen a degree of pushback from many individuals within the disabled people's community and other areas, is that they are not even prepared to look at the broader ethical landscape that perhaps Netherland and Oregon can do, because we have not even got to stage one. We are woefully behind the time with equalities and inclusion law, and we are woefully behind the times with perhaps certain support for certain health initiatives, and we need to get there first. That is why I am not going to support what would be a very resource hungry progress.

635 Because when you come on to Proposition 3 it would define our political turmoil; a lot has
been said in the media that this would be a term definition. I would agree with that but apart from
giving us an international profile that would be positive to some ears, negative to others, what it
would do is that it would act as a kind of whirlpool gathering in significant political, Civil Service,
legal and medical resources. The reality is that at the time of Brexit, at the time when our economy
is flat-lining, at the time when we need strengthening of transport and other issues (**A Member:**
Hear, hear.) we cannot afford that level of commitment. We have already got 100 odd pieces of
640 legislation to get through, and therefore I say no to Proposition 3 quite decisively, and to
Proposition 4. I would point out that with the best will in the world Alderney has many problems
greater than us, even in some ways proportionately and they really do need to focus on those
other than this exercise.

645 If the community of Guernsey wants movement on this and I think we would be better advised
to work together with Jersey or wait for the United Kingdom or some other development, there is
nothing to stop intelligent, able members of this community forming their own working party,
employing academics, people doing theses, people from the religious, medical and philosophical
communities, external academics, and coming together with a report that I would be willing to
read and attend all of the meetings and develop it. That is not for us to do as a Government at
650 this stage. So I am strongly against 3, and strongly against 4.

By definition of course I support 5 because I do not believe the Resolutions of October 2004 in
terms of strengthening our commitment to palliative care were fully implemented and we still
have a situation where our principal provider, one of our principal providers, has to rely on car
lotteries and other extravagant fundraising devices because of the lack of direct relationship with
655 the States, and I believe we should be seen as a beacon across the Islands and across the British
Isles and globally as a model for palliative care and not have people say to us, 'Well, actually for
the sake of argument, France is stronger than you.' We can do better.

So I am not saying philosophically I am against looking at this issue now or in the future, but I
am saying *now* is not the right time for Government to support Propositions 3 and 4. We need to
660 strengthen our legislation in other areas of equality and disability, and strengthen our area of
commitment financially to the Health Service and strengthen our position to develop palliative
care rather than going on what would be a bit of a wild goose chase at this point.

So I apologise if I have upset people with my position, but that I think it is the pragmatic way
forward.

665 **The Bailiff:** Deputy Lowe.

Deputy Lowe: Thank you, sir.

670 I am not going to repeat a lot of what has already been said, so I am just going to make some
observations and some comments, sir. I probably would not even bother but bearing in mind this
is such a sensitive matter and there are people wanting to know how we feel about things, I will
just make these couple of comments following what has happened in the last few weeks.

I am making it clear right at the very beginning I shall be voting against Propositions 1-4 and
supporting Proposition 5.

675 It is interesting and I thank HSC, and indeed Deputy Soulsby, for putting on a presentation
which we had from the palliative care team at the PEH and indeed the doctor that come over from
Southampton, and I think it was very enlightening because I think probably many of us in this
Assembly we know palliative care is there, but I am not sure we totally understand or understood
how much it has changed over the years, certainly in the most recent years. Yes, there is probably
680 more that still can be done, but certainly things have changed quite considerably, and that was
very enlightening for me.

What was also enlightening for me was a question from – it was for States' Members only –
and there was a question that was asked by Deputy Inder, and Deputy Inder asked the doctor
over from Southampton how long he had been coming over to Guernsey – because he comes

685 over once a month – and how many patients had actually asked him to help end their life, and his
response was – this was the doctor, he said – ‘I am going to give you an honest answer,’ and he
said, ‘In Guernsey none.’ None at all in all the time he has been coming to Guernsey for the last six
or seven years. So Deputy Inder followed that up and said, ‘Well, you work in Southampton. What
690 is the position in Southampton, could you enlighten us with that?’ He said, ‘I can tell you in all the
time I have been in Southampton I could count on one hand the people that have asked me to
assist them to end their life.’ That to me was very telling.

Last month I spent a few enjoyable days in Alderney – as some will know I was a Conseiller and
represented Alderney and I have kept a lot of friendships with people in Alderney and a lot of
695 people do know me in Alderney – and although it was a few days’ break, supposedly for myself
and my husband, at one time there were probably about nine people sitting around at the hotel
who had joined us and said, ‘Do you mind if I pull up a chair? It is nice to see you, can we have a
chat?’ Assisted dying was raised by some people in Alderney to me, and they were asking my
views because they were very concerned, as elderly residents of Alderney, how this would sit with
them because they were uncomfortable with it and I said I personally would be voting against it. I
700 voted against euthanasia, I will be voting against assisted dying. I know they are not the same but
I would not be voting for assisted dying. So there were concerns there. I will say that it was not
from young people that approached, it was from middle aged to elderly people, but never mind,
the point being was that it was raised by people in Alderney to me.

Last weekend I was in Jersey – I travel around the Channel Islands – for the Muratti. What was
705 interesting, when I arrived at Jersey Airport, there is the *Jersey Evening Post*, and it has got on the
front, ‘Your complimentary copy courtesy of Ports of Jersey,’ and I thought that is nice and
friendly to actually say this is for you arriving in the Ports of Jersey. So I took it back to the hotel
and I thought, right, let’s have a look and see what is happening in the *Jersey Evening Post*. Sadly
for me right on the first page I look at it is about Guernsey, and it is about Guernsey having a
710 suicide clinic. Now we know that is not the case, and we know that Deputy St Pier tried to put that
right, but of course once those headlines are out and all the red tops are reproduced in a
newspaper that is handed out to visitors and people coming in and out of the Ports of Jersey and
we know their tourism is up, that is not the sort of image that we want here in Guernsey. So it
sticks, mud sticks when that happens. So I was disappointed to see that, but I do accept that has
715 tried to be corrected, but it is there, it is there for all to see.

Now also following those sort of headlines, Guernsey becoming the first suicide clinic and first
British suicide clinic in Guernsey, I thought we really do not want to see that, but of course is
‘assisted suicide’ the right or wrong terminology. On BBC Guernsey on 23rd March 2018 the
presenter said the following when interviewing Dr Brian Parkin, he said:

Now I am sure you have all seen the stories covered by all the national papers today and in many cases described as
‘suicide’. Now Deputy St Pier says it is not, he is calling it assisted dying. In your opinion what is the difference?

720 Dr Brian Parkin replied:

I am not really sure what the difference is, to be honest. I think people use different terms, don’t they, according to
their perception of what they want.

We have witnessed a campaign of generating support and seeking out voices, from the UK and
beyond, they are telling us this is a good idea and that it will all be fine and that the hurdles can
all be overcome. That is from many people outside of the Island and we had the reassurance from
Lord Falconer who is entitled to his opinion but of course he led a campaign to the House of
725 Lords and when it went to the House of Commons it was rejected overwhelmingly less than two
years ago by 2:1, and of course it is nice to hear that he did not think it would be a problem if our
legislation was passed but of course he cannot speak on behalf of government.

The majority of people, however, who I have spoken to and exchanged emails with do not
share that view that assisted dying should be passed here in Guernsey. It is accepted there is a
730 range of perspectives. On the one hand, the vulnerable and those who might become vulnerable

in future have fears, and the other, those who see it as a further positive step in giving people total freedom and liberty.

735 As was said by some Members yesterday, the day before and indeed today, no matter how we vote there will be people we will upset because there is a divide in this Island and it has caused discussion – *unnecessary* discussion – that we have got it before us today, that is a question which we have all asked ourselves, but nevertheless we are where we are, as the saying goes.

I will remain by voting against 1-4, and I will be voting for Proposition 5, and I ask Members to do the same.

740 **The Bailiff:** Anyone else wish to speak? Sorry, my microphone is off.

Deputy Soulsby and Deputy Meerveld both rose. Deputy Soulsby does have the right to go later in the debate, so Deputy Meerveld.

Deputy Meerveld: Thank you, sir.

745 Sir, on Wednesday Deputy Trott appealed for truth. My mother always warned me to be careful what you wish for. Today I intend to tell some home truths. While the debate has been very civilised I have been dismayed by the manner in which this debate has been introduced, and the political shenanigans that have been undertaken by some of the Requête's supporters to try and win votes.

750 Deputy St Pier opened debate with a long and eloquent speech detailing how incredibly important and sensitive this issue is, and yet six of the seven amendments to the Requête were proposed or seconded by Requête signatories, or declared Requête supporters. If Deputy St Pier considered this issue to be so important why was it not properly thought through in the first place? Why did it need potentially amending by supporters no less than six times? This raises the issue of good governance and due process.

755 The substantive Propositions that lie before us now are significantly different to the simple approve 'in principle' and implement Requête that was laid 11 weeks ago. It has been subject to no fewer than three amendment attempts in just the first 48 hours, including an amendment laid in the middle of general debate and another that usurped other amendments in a manner which at the minimum was very confusing and at worst may not have broken the Rules of Procedure but certainly bent them and set very questionable precedents.

760 Again considering the importance of this debate, how can these political machinations be considered good governance designed to lead to well-considered, clear and effective decisions?

765 Let us consider what finally lies before us after all of these machinations, we are being asked to approve assisted dying 'in principle' and then form a working party that, and I quote:

... shall make recommendations for the development of a legal regime to permit 'assisted dying' ...

There is no wriggle room here despite some assertions. Let us be clear in Proposition 3 we are being asked to approve assisting dying and then set up a working party to recommend how to implement it, and we have to make that crucial decision today.

770 Yesterday Deputy Fallaize suggested we could simply approve assisted dying 'in principle' and then change our minds, throwing it out or amending it later if we did not like the implementation proposals. This would result in yet another lengthy and expensive set of States' proposals being thrown out or changed beyond recognition after extensive and expensive research and development being undertaken. I am reminded of the two-school amendment. Deputy Fallaize may favour that approach to governing our Island but I certainly cannot condone that waste of time and resources. Not to mention the negative perception our Assembly has created by this wasteful, inefficient, indecisive style of flip-flop government.

Now let us look at the other Propositions associated with that decision and the implications. Proposition 1 requires that the capacity legislation be enacted prior to the introduction of assisted dying. Proposition 2 requires that disability – sorry capacity legislation Proposition 1 – In

780 Proposition 2 disability, discrimination and equality legislation needs to be enacted prior to the introduction of assisted dying.

As Deputy Ferbrache pointed out yesterday these pieces of legislation have already been in the works for years, along with nearly 100 other pieces of outstanding legislation dating back over 37 years. These particular pieces of legislation are huge pieces of work in their own right, and with the best will in the world, including significant allocation of resources, they will take several years to enact. Consequently, even if we approve assisted dying today I anticipate that it would be five to 10 years before we can expect it to be enacted, assuming it is not amended out of all recognition, or the decision is not overturned before then.

785 Additionally I anticipate that if fully costed the cost of this endeavour would run well over a million pounds.

790 Having reviewed what is before us, let us give some consideration to why it has been brought before us at this time? Assisted dying was not included in any Deputy's manifesto, it certainly was never included or even suggested for inclusion on the various iterations of the Policy & Resources Plans presented to this Assembly. So why have the two most senior Members of Policy & Resources brought this to the Assembly at this time and prioritised this issue ahead of the many other issues that are included in the Policy & Resources Plans and that are still outstanding?

795 I have personally speculated that this is a weapon of mass distraction, designed to draw attention away from the lack of progress on the many issues in the Policy & Resources Plans, on which little or no progress has been made in this term.

800 Yesterday Deputy Inder speculated that we may be being exploited by pressure groups and influential backers of assisted dying in the UK, as a back door method to pressure the UK Government to re-debate this issue. Others have speculated that this is a political grandstanding, an attempt to establish personal political legacies in Guernsey and abroad. Let us hope that none of these reasons are true and that the only motivation is granting relief to the one or two people a year who may regrettably want to take up assisted dying, if and when it is established.

805 Having assumed that the only motivation is the best interest of these members of our society, it then brings me to the conclusion that the signatories behind the Requête have been so absorbed by why they should do this that they have given little or no consideration to how to do it in the most effective and efficient way to enable our citizens to have choice, if they wish, and have it this year, not in 10 years' time.

810 I personally approach problems by a very pragmatic perspective and try to deliver solutions. If the objective is to offer people's personal end-of-life choice we do not need to change the laws of Guernsey. In fact attempting to do so will actually significantly delay and hugely complicate the ultimate objective of giving people choice.

815 As a practical, pragmatic solution that could be delivered quickly, much more cost effectively is to establish a charitable trust receiving funding by annual donation from the States, individuals wanting assistance could apply to this trust, based on the criteria outlined in the Requête, the trust could then help them to travel to the Netherlands, Switzerland or even Oregon to access well established – (*Interjections*) to access well established facilities where assisted dying is legal. The trust could not only cover all the costs associated with travelling overseas to access assisted dying but could also help with the legal and administrative issues that would be an impediment to many.

820 I can imagine that some are thinking of reasons why this would not work, such as what if the individual is too sick to travel. It took me literally two minutes on Google to find 24 companies in the UK that offer medical repatriation services. You can hire an intensive care ambulance aircraft with full intensive care facilities plus a nurse and a doctor on board with as little as one hours' notice. For example, an air ambulance flight from the Netherlands to the UK is quoted by one company at a cost of £8,000. A flight surgeon or doctor on that flight with the individual would cost £700 per day and a nurse or paramedic on that flight would cost £350 per day. Dignitas 830 quoted costs of £10,000-£16,000 for their services. This means it would cost approximately £25,000 per individual, assuming private air ambulance transport, the estimated cost of

introducing assisted dying legislation of one million pounds would be sufficient to cover an anticipated patient cost for up to 20 years – I am sorry I will not be yielding during this speech – most problems are not insurmountable and can be solved with a little creative thinking.

835 If there are concerns over legal issues this trust does not need to be registered in Guernsey, it could be established in Switzerland and administrated from Guernsey. The trust structure has other legal advantages: the criteria for any assisted dying law can be challenged in court; it could be claimed that the arbitrary six-month rule should be revoked; the capacity criteria should be broadened, as can any other aspect, potentially starting us down the slippery slope towards a
840 much less restricted provision than we ever anticipated. It would be much harder to challenge the letter of wishes behind a trust structure.

The opposite is also true, the settlor of the trust, the States of Guernsey, could vary the criteria for eligibility by amending the letter of wishes much more easily than amending legislation, therefore protected from external challenges on one hand and providing greater flexibility on the
845 other. The trust could even be open to applications from residents Bailiwick-wide, therefore including Alderney and negating the need for Proposition 4.

In the private sector I could establish a structure like this and be accepting applications within a few months. I am sure it would take much longer through the States but could still be implemented and operational years in advance of enacting any assisted dying laws and at far
850 lower cost and with minimal diversion of scarce resources from other areas.

So what will I be doing at the end of this debate? I will be voting against Propositions 1, 2, 3 and 4. I will be voting in favour of Proposition 5, as I believe we should have a world class palliative care system regardless of the outcome regarding assisted dying.

I will then be seeking support for a Requête to establish a charitable trust to offer end-of-life
855 choice to our citizens in a timely efficient and effective manner.

There is one more advantage to pursuing this charitable trust, over time it will provide empirical evidence of demand, the States will then be able to decide if a review of our laws is justified based on undisputable evidence of actual demand from Guernsey residents.

Thank you, sir.

860 Through you, I call on my fellow Deputies to reject this ill-conceived Requête and support a much more practical and effective solution instead.

The Bailiff: Alderney Representative McKinley.

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

I have deliberately kept my very short speech towards the end of this very impressive debate because I wanted to hear so much what those in favour and those against had to say, and my goodness, there has been some very impressive speeches.

I was first asked to be a supporter of this Requête, following a States' debate in Alderney in
870 December last year. There was no formal vote at that, and actually what we were debating was whether we should be looking at it rather than whether we should be enforcing it. If I recall, the vote was either 9:1 or 8:2 in favour of having a look at it. As the result of that informal vote I was of the opinion that the vote was representative of the people of Alderney and that is why, one of the reasons that I was prepared to support this Requête.

875 I also have the personal experience, which I will not go into in great detail, of the suffering of my much loved father towards the end of his life. He was a renowned and quite famous Royal Air Force pilot during the Second War and shortly after that rose to the rank of Air Vice-Marshal. At the age of 52 he retired from the Air Force before he should have done because he had a very major argument with the then Lord Mountbatten who was Head of the Armed Forces, and he
880 came to live in Alderney, and he was much loved and much respected and contributed a great deal to Alderney, and I think my fellow representative behind me will concur with that. In about 2000 he was taken into the Mignot Memorial Hospital suffering from ... well he had backache and back pain and all kind of other pains actually resulting from a rugby accident when he was at

885 Trinity College Dublin and he stayed in hospital for almost three years before he died. He had the
most dreadful death and my two brothers and my much loved mother tried desperately to allow
him to die peacefully and we spoke to the members of the Mignot Memorial Hospital, all the staff
who actually got rather tired of us and said, 'No, we are going to keep him alive,' and they were
quite right and I quite understand, but we were not very popular at that time. He did die after
890 three years but it was a very undignified death, and he was not able to do any of the things that
you would expect, and well described by various other Deputies so I will not go into the detail of
that. But it was for those two reasons really that I personally support the idea of assisted dying.

But since December last year up to now, which is nearly six months, I have heard a lot of
people in Alderney saying concerns that we have not consulted properly with them before going
ahead with this, and that there should have been a period of consultation even before we debated
895 it in December, although we were not actually debating whether to formally introduce it, because
of course we could not do it in Alderney without your permission anyway. So for those reasons,
there are also strong people and actually Deputy Lester Queripel mentioned Helen McGregor who
was very keen to allow it to happen; she has very good personal reasons for that also, but the
majority, as I understand it, in Alderney at the moment are not in favour, and I think that my
900 fellow States' Members in Alderney are beginning to understand that that is the case. So that was
the views of the people of Alderney.

But I also attended the showing of *Fatal Flaws* on Monday night and I was rather depressed
with the movie actually, although it showed exactly what is happening or what has happened in
the Netherlands and Belgium, and in America, the six States in America, particularly Oregon, and
905 in Canada, but some of the things that are allowed or coming into force now in the Netherlands
are particularly worrying and I think someone mentioned it this morning in their speech – that
even children or young teenagers, if they have a dreadful experience, maybe a fall out with their
girlfriend and get terribly depressed, or lose a lot of money in gambling on the internet or
something, can then apply for assisted suicide, and that is really going a bit too far.

910 I know that this Requête is not specifically to do with that, it is to do with terminally ill people
who have six months to live, but I worry slightly that it might gradually, if introduced, actually start
to include others also. So, the other thing that has been most impressive for me has been the
speeches here – sorry about that –

915 **The Bailiff:** Giving way to Deputy Hansmann Rouxel, are you?

Alderney Representative McKinley: I give way.

Deputy Hansmann Rouxel: Thank you very much to Alderney Representative McKinley for
920 giving way.

The question of the Netherlands has come up a few times in this debate and I just wanted to
clarify that although the Netherlands as an individual state has decided their own procedure, it is
very clear from the two rulings of the European Court of Human Rights that the way that they
implement their law on euthanasia is not compliant, and they have twice been written to, to
925 amend their euthanasia laws.

So as a jurisdiction that is adhering to human rights and moving towards having those human
rights more embedded in our society we would not be able to go the route of the Netherlands
because by doing so we would already be looking towards undoing the work that we are doing
embedding human rights. So I just wanted to make that clear: that if that is a reason for concern,
930 the human rights that the laws are based on prevent us from going down that route.

The Bailiff: Alderney Representative McKinley.

Alderney Representative McKinley: Thank you very much. I quite understand that, and I am
935 just relaying that there are concerns that it could happen.

940 There are also concerns that people could ... although it is limited to residents of Guernsey and perhaps residents of Alderney, what are the terms of those residences? Is it one year? Because somebody could say, 'Well, actually I am going to die in the next year, so I am going to now move over to Guernsey and become a resident.' I do not quite understand, there is still an awful lot more to learn about this before we start actually putting it into effect.

945 So the very inspirational and excellent speeches by all, I must say, by the supporters of the Requête, I have enormous thanks for them inviting me to sign up and I have great respect of what they have done in the last few months to promote this and the communication that we have had. It has been a great shame that I have not been able to come across to some of the public meetings that you have had over here but we cannot always do that unfortunately, but we have had meetings also in Alderney and we have gathered the opinions of people over there.

950 I thank also those who are clearly against it for the manner in which they presented their speeches in such a clear and understandable way. That is what I think debating is for. If we all come to this Chamber with our minds made up before we come in, all 40 of us, why do we bother to debate? Stand up and just vote. But the debating has convinced me, I am afraid, to consider voting against this.

955 Sir, as I still support and agree in principle with the proposal of assisted dying and introduction of assisted dying for the terminally ill with mental capacity, I do think there needs to be further consultation with the public before we actually pass the idea of assisted dying. I think there has to be some – either referendum or plebiscite either here, or here and in Alderney, and get the feelings of the people before we then go into great detail as to whether we should or should not do it.

960 So I believe we are rushing a decision that is critical and highly emotive, and it was for this reason that I spent a lot of my time yesterday morning discussing with the three Deputies at the top table, and it was then I heard Deputy Parkinson's speak about requiring slightly more information, and I heard Deputy Fallaize speak in the same way and it was as a result of that that I think partly that amendment 7 came up, and I was very much supportive of amendment 7 so I am sorry it did not go through.

965 But I cannot, I am afraid, continue to go through with this. I believe that I would like to go back to Alderney and discuss with my fellow States' Members there whether we should go ahead, whether we should have some sort of public consultation and think about it again. But there is no doubt that this issue will arise again.

970 I thank all the Deputies for the excellent speeches, and I apologise most sincerely to my fellow requérants for voting against this, but I shall vote against it in principle and shall vote against 1-4 and vote in favour of Proposition 5.

Thank you, sir. (*Applause*)

The Bailiff: Deputy Soulsby.

975 **Deputy Soulsby:** Sir, I will begin by speaking in my capacity as President of the Committee for Health & Social Care.

980 Members will have read our lengthy letter of comment to Deputy Stephens on behalf of the Policy & Resources Committee and I am sure you will all be pleased to hear that I do not intend repeating everything set out in it today. But I will concentrate on just two aspects: the capacity legislation and palliative care.

985 The importance of having capacity legislation in place before any assisted dying regime is brought in cannot be overstated. One of the Committee's top priorities for this term has been the introduction of the capacity legislation, following approval of the then HSSD's policy letter at the end of last term, and we have invested resources to ensure it is progressed as quickly as possible with a view to consultation later this year, and to clarify to Deputy Gollop the firm intention of bringing a Projet to this Assembly next year.

It is legislation that really is long overdue, but this is not simple drafting, and we want very much to avoid all the problems experienced with the Mental Capacity Act in England and Wales, in particular those related to the deprivation of liberty safeguards, which resulted in a review by their Law Commission last year.

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The experience of England and Wales which have had the law in place for many years demonstrates that just having legislation is not enough, it needs to be tried and tested. In other words, whether or not we agree to set up a working party at this stage, it will be many years before we are in a position to bring in an assisted dying regime. Certainly we would be operating at considerable risk were we to do so before such legislation had been properly embedded. The Committee therefore supports Proposition 1 in terms of the capacity legislation is needed before we can bring in an assisted dying regime.

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Now it is evident from the emails and letters received over the last few weeks that the provision of, and responsibility for, palliative care is not well understood. Many have equated this to hospice care, which it is not. Many think that hospice care is care in a hospice, it is not. I do ask those listening in this Dying Matters Awareness Week to take advantage of all the information out there to discover what palliative care is all about. Dying well and end-of-life care is a vital part of health and care provision across the Bailiwick focussed on dignity, compassion and choice. Palliative care is an approach that improves the quality of life of patients and their families facing life threatening illness. It is the responsibility of all health and social care staff, partner organisations and commission services within Guernsey and Alderney. This includes primary care, MSG, care homes, St John, GGG, pharmacies, and our colleagues at Les Bourgs.

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Specialist palliative care is provided for people who experience more complex needs either physical, psychological, spiritual or social. It is delivered by medical nursing or allied health and social care professionals who primarily work in palliative care and have undergone specialist training. I hope Members found the presentation given by members of the palliative care team last month useful and were impressed by their professionalism and openness. (**Several Members:** Hear, hear.)

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I do need to respond to Deputy Dudley-Owen who quite rightly yesterday asked about end-of-life care for children. Now I might be HSC President but I am above everything a mum, and I know there is nothing that a loving parent would not give to ensure the health and happiness of their child. That is why quite early to this role I sought assurances that we were doing all we reasonably could to ensure we provided the best palliative care to our children.

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Thankfully the need is rare, which also means that we do not have all the formal structures you would find in a major paediatric centre in the UK, but also means we can and do provide a very family focussed approach with our care partners. Children with cancer can stay at the Children's Hospice in Winchester, Naomi House. However, I suspect we all would understand most families choose for their child to be at home at the end of their life, and HSC makes sure that their wishes are fulfilled. Nurses from Frossard Ward supported by the community children's nurse provide hospice care usually at the family home or only if essential on Frossard Ward. Their work is well supported by the local paediatricians and the Southampton Palliative Care Service who provide support and guidance to the team at such a very difficult time. Every effort is made to support the family's wishes and preferences. Support, both medical, nursing and, if requested, spiritual, will be organised for everyone involved.

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Inevitably there have been comments that more money needs to be spent on palliative care. Could we do more? Of course we could. Doctor Carol Davis, a consultant in palliative medicine who spoke against assisted dying at the Les Cotils presentation, says we have a good service, but we could spend more, something to repeat in our open letter at the weekend. But the same is true of all the other specialisms that HSC is responsible for: E&T, obstetrics and gynaecology, ophthalmology, urology, paediatrics, renal and ethology to name just a few. Believe me it is a long list with a lot of '-ologies', as Maureen Lipmann used to say in the old *BT* adverts, and to be perfectly honest I have not met a specialist yet who does not think we could spend more on their service area.

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1040 Not only that but we have recently had a review of general medicine which suggests that we
may need a haematologist, another gastroenterologist, oncologist and pathologist. We are
waiting for a review of the anaesthetists and anaesthetics and expect there to be a
recommendation for more specialists in that field too.

1045 There are a number of competing demands across the epidemiological profile of a community
and this makes prioritisation a real challenge. The Director of Public Health is leading a joint needs
assessment specifically around older people to help determine need and prioritise resource
allocation. This will mean that any investment resources will be evidence-based and targeted
where the need is determined. Only by doing this can health and care be delivered in an
affordable and sustainable way for future generations, and more on that in a minute.

1050 Finally, for this part of my speech I would like to take the opportunity to thank my fellow
Committee Members, Deputies Prow, Tindall, Tooley and Yerby for their professionalism
throughout the Committee's discussions on what is a highly emotive issue and where we all have
our own personal opinions.

1055 The letter of comment we provided to Deputy Stephens was able to be as thorough, balanced
and comprehensive as it was thanks to them. In that spirit I can assure Members that whilst it is
not a Committee priority, we will abide by the will of the Assembly and as it is very likely there will
need to be considerable HSC input to support any working party that is formed, I can assure
Members of our full co-operation, so long as we have the necessary resources of course.

1060 Sir, that was the easy part of my speech, now the difficult bit. I would like to say up front that I
have found this the hardest subject I have ever had to consider as a Deputy. Indeed where I
started off was very different from where I am today. As with any debate I researched the matter
thoroughly, including reading the 2004 Billet, *Guernsey Press* reports of the times, technical
research papers, and listening to people who have contacted me. It is probably an
understatement to say that I have come to where I have in this debate after quite some
considerable thought, and a few sleepless nights, and never have I felt the burden of office to be
so heavy as on this matter.

1065 The requérants say that now is the right time to consider assisted dying with life today being
very different from what it was 14 years ago when it was last debated. Well if the way people
communicate their wishes is anything to go by, we do live in different times. Back in 2004 when
the then working party consulted with the public they received 296 responses: 252 by letter, just
44 by email. Now I have done a running total of the responses I have received since the Requête
was published, I have logged over 350 responses, and just 17 of which were by letter. For sure life
has changed and it has changed in more ways than that of course. The question is should the way
of death be allowed to change or, more accurately, should we consider whether it ought to
change now?

1075 There have been some excellent arguments made on both sides, and I do not wish to repeat
them. But just in passing I would agree with Deputy de Sausmarez regarding risk in relation to the
safeguards for the vulnerable. I spent much of the last term as the Public Accounts Committee
Chair questioning the States' understanding of risk. It can never be eliminated. The question is
how much risk are we willing to accept?

1080 Now what I will say here and now is that I am not against the principle of assisted dying, that is
because, like the requérants, my instinct is to support freedom of choice. (**A Member:** Hear, hear.)
It is also because I am a human being, and yes it is possible to be a human and a politician at the
same time. I hate to think anyone is living in what to them is intolerable pain. I also really feel for
Deputy Tooley at this time and what she is going through.

1085 I lost my mum to Parkinson's disease and associated dementia just two years ago in the middle
of the last election. It still feels raw, and I think of her every single day. However, it is not easy for
me just to vote according to my personal conscience. I also head a Committee with a mandate to
promote, protect and improve the lives of the people of the Bailiwick from before they are born to
the day they die, all 65,000 souls. It is only when you are in this job do you realise what those
1090 words really mean and what a responsibility that is.

1095 What Members have heard and read these last few weeks from Islanders who have shared their most intimate stories gives an insight into what I experience on a regular basis, not through a filter of civil servants and private secretaries that my counterparts in larger jurisdictions may have, but directly by phone, email and face to face in the supermarket, coffee shop or on the High Street. Hearing first hand from people who want support or help can be a real emotional roller coaster.

1100 What makes it harder is knowing it is impossible to provide what everyone wants, and never has that been more true than now. Because it is not just the means of communication that has changed since 2004, the intervening years have seen Zero-10, the FTP, and most recently the Medium Term Financial Plan. Money has been tighter than it has ever been, whether that should continue to be the case is a debate for another day.

1105 But I welcome the *Damascene* conversion of Deputy de Lisle that I witnessed the other day. For the last two years he has been asking when will we give back this mythological £8.2 million the then HSSD was supposed to have received three years ago. Two days ago we heard him say on record how he supported more money going into medical care. Hallelujah, perhaps there is a God. *(Laughter)*

1110 Now 2004 certainly does seem a long time ago to me, when I think my eldest child started school that year and has just finished their first year at university. But interestingly when I was reading *The Guernsey Press* from back then it was evident there are things that have not really changed. The recruitment and retention of nurses was no easier then than now, with Deputy Roffey as President of the then Board of Health writing an article countering comments from the RTN that morale had never been worse at a time when turnover was no better than today and a telling comment from a charity blaming politicians for not heeding the warnings of the ageing demographic, and how right they were because we are paying the price now.

1115 In the last 10 years the number of over-65's and over-85's has increased by 25% and we are witnessing the impact of that ageing population like never before as the demand for services increases as a result. Not just for HSC, I should add, but GPs, MSG, St Johns and our colleagues in the third sector. It is happening now. This year's winter pressures were not a blip but a reflection of the impact of the ageing demographic. Similar warnings have been put out by the NHS, 1120 although at least here no-one is left on a trolley in a corridor, and whilst, yes, you have to pay to attend A&E you rarely have to wait more than 15 minutes to be seen.

1125 But the last 10 years is nothing when we look at the next two decades. The latest analysis shows the number of over-85's will increase by 20% during this term. By 2028 we can expect that number to increase by over 40%. By 2038 it is estimated to grow by 130%. Yes 130%; that is over 2,200 people over-85 with over 300 more care home beds being needed in the next 10 years and 650 by 2038. That also excludes the growing need for care in the community. How on earth are we going to manage that?

1130 We have a long-term care fund that has insufficient reserves to cope with such unprecedented demands. The level of contributions provided mean far from being the self-financing assurance scheme touted in 2001 the fund will run out of money in less than 30 years' time if we do not do anything. Even if we do increase funding where are we going to find the care homes and the people to care for our elders. This is not theory, this is hitting us already. Care homes are near to capacity, and it is difficult to find people to provide care and support in the community. There is a lot of talk about how important the economy is to generate income, but you can have all the 1135 money in the world but that is no good if you do not have the buildings or people.

1140 The unpalatable truth is what everyone is getting heated up on is whether they can die at their choosing due to a terminal illness which they may fear but are statistically unlikely to get. The vast majority of us over the next 10, 20 and 30 years will get older and frailer, possibly with some form of dementia, but kept going and our aches and pains managed better as a result of the relentless improvements in medicine. That is why I say, standing here as President of the Committee for Health & Social Care, this is what we need the community to be fired up about.

I understand why the UK and international media are here in numbers as the whole subject of assisted dying makes great copy, it raises strong opinions on all sides, we are all mortals and it speaks to our innermost fears, after all, and it pits one side against another, provides emotive, personal and tragic stories, brings in celebrity supporters and is topped off with a bit of church-v-state tension too.

But the UK is facing exactly the same problem as we are, and it is a debate that needs equal, if not higher, billing there than here. This week the *Radio 4 Today* programme has been focussed on the crisis in care and it has made very interesting listening. However, that is not enough; a wider debate is needed now. The naive mistake Theresa May made in the last UK Election was in attempting to provide a solution to a problem that the community was just not thinking about. The solution she provided was in the 'Yes, Minister' meaning of the word 'brave' but it is an issue that will not go away. Far from it. But of course it is not a simple issue it is not a gut yes or no; you cannot see it, not unless you are working in health and care; you cannot film it; you do not think of it if you are young, fit and well and let's face it, many people switch off when they hear statistics, such as I have just reeled off – unless you are economists or accountants. On that, what did we ever do wrong that on a recent *Phone-in* accountants were blamed for wanting assisted dying because it would save money, and then blamed for not wanting it as a review would require more resources? Well there are chartered accountants on both sides of this debate, so make of that what you will.

Anyhow whilst we share the same problems we are in a far better place than the UK and that is because we have agreed a new model of health and care, the Partnership of Purpose, a model designed to bring the public, private and third sector together to provide joined up patient centred care, a model focussed on need, fairer access to care, prevention and early intervention.

Our counterparts in Westminster are talking about the need to get cross party support to develop their new model of health and care, which is no wonder given the crisis that is enveloping the service there. Well we have done that, and this Assembly demonstrated its full support by approving that model in December last year. That is something we should all be proud of. But that is not the end of the story, it is just the beginning. We cannot afford to let the dust settle and that is a point of Proposition 5, which addresses the reality of where we are today and what is going to hit us in the next 10 to 20 years. It is about community care, long-term care, support for carers and all areas that will help improve the quality of life and health outcomes of those that are approaching the end of their life. That does not just mean 'provided at the end of life' but in the years beforehand, and it is not just about palliative care. It is what the Partnership of Purpose is all about, and by approving Proposition 5, Members will be demonstrating their commitment to making real sustainable and positive change happen.

It is my considered view that supporting an investigation into assisted dying at this stage is incompatible with the work to develop the Partnership of Purpose. Firstly, it will raise false expectations with many people not realising this will only benefit a small number of people a year – that is those who are mentally competent with a terminal illness and less than six months to live – which it is estimated may cover one to three people a year.

We are told this is all about giving people the freedom of choice but this will not give everyone that right, those with dementia, or like the 104-year-old professor recently just fed up with life. There are times when the needs of the few do outweigh the many, that is why we need equality legislation after all, but I do not believe that this is the case here, for the reasons I have already pointed out.

Secondly, it will raise expectations in terms of when such a regime will be brought in, when the reality is it will take many years, probably a decade, were we to press the button today, given the need for many hurdles to be jumped not least the passing and embedding of capacity legislation, and who knows how long it will take to get UK legislation passed as Westminster's time becomes ever more focussed on Brexit and its fallout over the coming years.

Thirdly, it will create uncertainty for our medical professionals, again over many years. However small the number given the current shortages across health and care across all disciplines and

1195 with a growing demand, as I have mentioned. We just cannot afford to make ourselves any less attractive a place to come and work for qualified professionals.

1200 Now Deputy Prow quoted the author and surgeon, Atul Gawande, yesterday, saying our ultimate goal after all is not a good death but a good life to the very end. Funnily enough, I have read his book *Being Mortal*, thanks to Deputy Yerby, who gave me a copy last year and that was long before this Requête came into existence, I should add. There is one quote from that book that really explains why I am going to vote as I am:

Assisted living is harder than assisted death, but its possibilities are far greater as well.

So finally, there have been a number of people who have told us that no Deputy mentioned assisted dying in their manifesto. Well to be fair I do not recall anyone contacting me about assisted dying in the last election either to be honest.

1205 Anyhow this is my manifesto. No there is nothing about assisted dying in it, but what it does say is that I would seek to stand to become President of the Committee *for* Health & Social Care to ensure that transformation could continue without delay. Members voted me into this role and the Committee have been 100% focussed on driving transformation. Our policy letter was approved in December, we have received Policy & Resources' approval for the next phase of funding and positive change is happening, as I hope will be made very clear at the scrutiny hearing next week. I am absolutely determined to ensure that momentum continues, and that means a complete focus on the implementation of the Partnership of Purpose. As I have outlined above we literally cannot afford for it to stall. Indeed, as Members will see, focus was a thing of my manifesto. How governments so easily get distracted but how we need to focus on priorities. That our priorities should be set early in this term and that we should stick to them. After two years of deliberation those priorities are now set out in the Policy & Resource Plan. Those are the priorities we should all be focussed on. (**A Member:** Hear, hear.)

1215 Whilst I think an assisted dying regime will eventually come to pass and I think the vote today will be much closer than it was 14 years ago, I do not believe the time to start that journey is now. It is for that reason – putting my personal preferences aside and remaining true to my manifesto promises – that I will not be able to support Propositions 1-4, but I do wholeheartedly embrace all that Proposition 5 sets out to achieve.

Thank you. (*Applause*)

1225 **The Bailiff:** Well Members, all that remains of this debate is to have the closing speeches and the voting which you agreed yesterday will be televised. So I propose we have a short five-minute recess – no more than five minutes – just to enable the camera to come in and some extra microphones to be installed. Five minutes.

*The Assembly adjourned at 11.39 a.m.
and resumed its sitting at 11.47 a.m.*

**Requête –
Assisted Dying –
Debate continued –
Proposition 5 approved**

1230 **The Bailiff:** I think you are blocking the camera, Deputy Lester Queripel. Deputy Le Tocq will now reply – well he is not replying to the debate because Deputy St Pier will reply to the debate. Deputy Le Tocq will now speak.

Deputy Le Tocq: Thank you.

1235 Sir, I was also lined up to speak on behalf of the three non-recused Members of P&R. We have very little to add to what Deputy Stephens has already said and we refer to our letter of comment and nothing has really changed on that, neither have there been any questions, as far as I am aware, from any Members in regard to the comments that we made in that letter.

1240 Sir, I am not going to take up much of the Assembly's time. I am conscious of the fact it has been alluded to that I am a follower of Jesus, and Jesus preached the Sermon on the Mount and it was a total of 15 minutes. So I have already used, I think, three times that amount of the Assembly's time; I do not plan to use much more of it.

I do not also recollect any particular questions relating to Proposition 5 which is the part of the Propositions now before us that formed the amendment that Deputy Soulsby and I laid. Deputy Soulsby has, I think, indicated exactly what the implications of voting for that are, and the importance of that and I underline that particularly.

1245 I will pick up on a couple of things as we go through that certain Members have said and then make some final comments myself.

1250 Firstly, Deputy Brehaut said when he was speaking on the issue of faith, and so just picking up on that, that faith dictates, and I think for those of us who are people of faith here that is a very great generalisation. Faith does not necessarily dictate for everyone, it guides, it leads, it supports, but it does not necessarily dictate, and that is even I think demonstrated by the fact that there are people of faith on both sides of this debate. Not only that, there are people of faith who change their mind over time and so I think that is a great generalisation to say that.

1255 Sir, when the Death with Dignity debate was before this Assembly 14 years ago or so, I quoted in that debate quite extensively from an organisation called Not Dead Yet, from people like Harriet McBride Johnson, and I have similarly in this debate quoted from and gained support from people like Liz Carr who is the UK representative of that organisation. Not Dead Yet, I am sure some Members are aware, gets its name from the famous Monty Python Holy Grail sketch where at the beginning you see in the plagued London in the Middle Ages someone walking through crying out *'Bring out your dead'* and someone brings out a body to put on the cart with the corpses and this person shouts out *'I'm not dead yet'*, and it is deliberately humorous but deliberately poignant that the organisation in the UK that represents people with disabilities who are against assisted dying use this as their title, because that campaign group came about as they increasingly felt that their voices, their rights, their cause, were being overlooked, side-lined – unintentionally perhaps – but undermined in public debate over assisted suicide and euthanasia. Their right to life, if you like, was at stake because of the perhaps noble intentions to grant new rights to others.

1270 Now, sir, if Members are in favour of assisted suicide and therefore particularly in terms of Proposition 3 here, and their conscience allows them to vote in that direction, I want to put it to them, first of all we cannot do everything. I think certain Members have made that point very clear, and I think Deputy Soulsby, as President of Health & Social Care, also made that very clear. We have limited resources, and we certainly, sir, cannot do everything as well as we should. Now we have all heard Deputy St Pier and others of us in P&R use this mantra again and again elsewhere, particularly with regard to the Policy & Resource Plan, and because of the fact that we know from experience that we as a government certainly cannot do everything well assisted dying is at best likely to be undeliverable and at worst it will sap up resources which if we really do have them should be legitimately and fully used elsewhere. Deputy Soulsby again has given good reason and good examples of where we need to focus our attention on those very needy areas that our resources should be given there first.

1280 Sir, in 2002-04 when the Requête on Death with Dignity came to this Assembly and a working party was set up, it consisted of legal on-Island, off-Island professional third sector representatives, it brought over consultants, lobbyists, MPs, yet it was not tasked with the intricate and complex conundrums and details that we read in Proposition 3. It had a very broad remit in effect. It was one of investigation and we did so at the time, sir, when this Island was registering annual surpluses of £50 million plus. We are just back into balanced budgets, but how long for?

1285 Let us all commit to targeting our resources on what we are most sure of doing and do them well. Let's target our resources on what we have promised already to do and note with particular concern the Partnership of Purpose which, sir, I have to say got some debate in this Assembly, but really very often we debate things which are huge and far ranging like that and do not contemplate the amount of commitment, ongoing, not just a snapshot, a one-off decision, but
1290 ongoing commitment that is required by us. Deputy Soulsby again highlighted what that will look like in the years ahead. Tough decisions to make, and this is a tough one now, I understand that, but it needs to be put into that context.

Let us all therefore, sir, target our resources on those matters, and enhance those services for our Islanders who fear being disenfranchised, or worse that their lives may end up devalued by
1295 society. So on that ground alone, sir, I would say please vote for Proposition 5 and against at the very least Propositions 3 and 4. Life is precious. You may not think we have sanctity of life but I am sure we would all agree that we consider life to be precious and as I said in my opening comments we not only own it individually, we own it corporately, so let's handle life with care.

One further comment, sir, on something that another Member made a comment that they
1300 made during debate – and there has been quite a lot of analogies, I alluded to some of them in my opening remarks, but I believe many of them have been false analogies and this was one as well. They can sound convincing when we give them but if we think deeper about them I believe they are unhelpful, and it was Deputy de Sausmarez who talked about road transport and she said something along the lines of we do not ban all cars just because there are some fatalities, that is
1305 true, but there is a good reason for this. We already have laws, rules, regulations, governing our road use and our vehicular use. In fact these regulations, these laws go back in society, in western society at least, sir, to Roman and Greek times. Assisted dying would introduce new risks which we do not know or understand. Not on the basis of what has happened in a few actually dissimilar places and other countries in the world, but even if we were to say let's invent our own system here in Guernsey we similarly would not understand the implications of that. These are new risks
1310 and I am not willing to put my vote towards that.

Sir, the vast majority ... this is probably the saddest thing I think in this whole debate, in terms of the public out there, and as I said before in my opening comments I have been involved with many people on their death beds and families who have had loved ones dying. I also, a number of
1315 years ago, was involved in the setting up of the Guernsey Bereavement Service, and I chaired that board for a number of years, and what struck me particularly at that time, sir, was in our society how distanced we are from the process of dying, and that is why perhaps people as they get older and get more experienced sometimes change their views on this particular subject. But the saddest thing, sir, is that in terms of the examples given and we have heard many in this Assembly there have been many in the media and there have been many that the requérants themselves
1320 have given, in terms of examples of people in pain, people suffering etc. the vast majority would not qualify, would not qualify, they would not be ... they would either be too vulnerable, they would not be competent to do so, they would not have a terminal illness, or they would not be near death. Therefore the very safeguards that so many have been keen to trumpet as being able to produce and would secure our society I do not believe could be defended and upheld. It is sad
1325 to think that unless such safeguards are relaxed or removed, these Propositions are just empty promises at best. Indeed I believe the strapline, though well-meaning I am sure, 'My care, my choice,' and the talk of autonomy are actually providing false hope to many people.

So, sir, I want to thank everyone because this has indeed, as many have said, been a useful and
1330 proper opportunity for us to discuss very serious issues that all of us in some way in our society face and will continue to face in the future. There is no doubt about that. I thank both sides for their candour, their passion and their focus, but I will leave this Assembly, sir, with a question that I started with yesterday. What is worse, not to kill someone who wants to die or to kill someone who, with the right care, may want to live?

1335 Thank you, sir.

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

1340 **Deputy St Pier:** Sir, I have 47 points to make! (*Laughter*) No, I am joking, don't worry, it is okay!

First of all, just to remind Members to re-extend my invitation for Members to join me for a drink in the Prince of Wales afterwards. You would be most welcome too, sir.

1345 Secondly, to thank a number of people. First of all, to thank the Members for their engagement in the debate today. This I think has been a good and high quality debate, and I do not think there has been too much seeking of the moral high ground that Deputy Graham referred to. For me it has probably been one of the top three debates that I have been privileged to participate in, along with same sex marriage, and the Disability & Inclusion Strategy.

1350 It is a debate that we needed to have and I am glad that by a majority the Assembly approved the amendment which allowed that debate on all the issues and that that was successful. It was what our community expected and I hope that even those Members who opposed that amendment at the time would accept that it would have been a mistake to have denied the full debate that we have had.

1355 I would like also to thank the requérants, whilst as the lead requérant ... lead requérants in any requête of course often end up being the public face of the requête and that has been no different for me, but I could not have done what I have done in the last six weeks or so without the supports of the requérants, and I respect Alderney Representative McKinley's position as articulated. He feels clearly that he is a delegate of the people of Alderney whilst obviously Deputy Ferbrache, when he spoke, spoke very much as being an elected representative and there is a sort of philosophical difference in the roles.

1360 I would also like to thank Death in Dignity; they have been an amazing and dedicated group of professionals, and I wish to address one point here that Deputy Inder raised, that in some way we might have been a stalking horse for other jurisdictions. I can assure Deputy Inder, sir, that Deputy Trott and I, and others, do genuinely have other things to do other than allow ourselves to be manipulated as a stalking horse. They did not come to us, we went to them, and we have used them as a resource, and certainly I would be proud to support them in their ongoing work, they have done a fantastic job. (**A Member:** Hear, hear.)

1370 I would also like to thank the palliative care team, I have done that publicly, but this is a better opportunity to do so on the record, and in the gains of publicity to thank them. They do do a sterling job and I think we have recognised that we have got good palliative care. (**A Member:** Hear, hear.) And finally, as he is in the Assembly today, sir, I would like to take this opportunity to thank once again Martin McIntyre. (**Several Members:** Hear, hear.) I think he has been an amazingly brave stalwart and put himself through a lot given his condition. So thank you. Thank you, Martin.

1375 Sir, I am going to respond to some of the issues raised in debate by some Members, but clearly not all. Deputy Lowe, sir, spoke about having been advised that it was not possible to proceed because it would require a change in the law in the UK. That is the advice of the Law Officers because of the risk of a British subject being subject to prosecution in the UK. I addressed that in my opening speech; we recognise that from moment one. Deputy Lowe would of course normally be the first person to say well the Law Officers are only there to give advice, so advice it is. Lord Falconer QC, the Lord Chancellor, former Lord Chancellor, who had responsibility for Crown Dependencies gave different advice. So we take that advice as we choose.

1380 Sir, this debate has taken its toll on the community, and it has taken its toll on us as elected representatives. The personal experiences particularly from Deputies Roffey and Tooley I think were difficult for us all, and I think also I need to acknowledge Deputy Soulsby's position as well, and know from the conversations I have had with her in the last few weeks that she has found this extraordinarily difficult. But it is absolutely right that it should have been so, because this is not a subject to be treated flippantly. It is a weighty topic and I certainly, and I do not believe any of the requérants either, sir, make any apologies for triggering this debate and causing us to think

1390 deeply. If we are not here to do that on subjects such as this then really I do not know what we are here for. (**Several Members:** Hear, hear.)

1395 Sir, it has divided the States and that was inevitable, and it has divided committees, and actually for the first time in two years the symbolical divide which you present in the middle between myself and Deputy Trott and the other three Members of Policy & Resources has suddenly acquired a sort of new significance. But I should say that it has not remotely impeded our work in the entire period; whether it is 7th February that Deputy Ferbrache mentioned or the date the Requête was laid, it has not impeded our work, and if anybody thinks that our division on this particular issue is a fissure which they can exploit they will be sorely mistaken.

1400 Deputy Stephens – I just wish to pay particular tribute to Deputy Stephens because in her very typical and quiet way on Wednesday morning before the States began she tapped me on the shoulder and she leaned in and she said I wish you well but not success, and I think that absolutely is the mark of Deputy Stephens.

1405 Sir, Deputies Stephens, Prow, Paint, Le Tocq, Green, Inder – I kind of lost count at the point but a number of others did – have talked a lot, there has been a lot of talk about palliative care and really what we need is we just need a lot more of it, and I think I just really wish to emphasise that that is just not the point. Now I suspect the Members who have raised that point may genuinely believe that that is the right answer, and if they do I absolutely respect that, but I think that they are being naive, and I want to just draw attention to one piece of correspondence which I received. It was sent to me by letter to Frossard House so other Members have not seen this, and it only arrived on, I think it was, Wednesday night, it was forwarded to me, and it struck a chord because I think it explains better than anyone else can why palliative care is not the solution for everybody.

My daughter died on the 1st May 2018 –

so it is only a few weeks ago –

– after she elected to have terminal sedation. However, instead of a peaceful sleep until she passed away after a short time, she underwent five days of continual waking in pain. The Hospice had a strict protocol with which they had to adhere and despite giving her 'scary', the consultant's words, amounts of drugs, she was still in excruciating pain and continued to wake.

Fiona was 31 years old and had suffered from cancer for two and a half years. In the last weeks of her life she had lost all mobility, use of her arms and hands, her speech was diminishing and the tumour in her eye had spread to her brain and into her nose making it difficult for her to breathe. Her cancer had also spread to her neck, shoulder and spine and her pain was constant. Being in sound mind she wanted to have a peaceful and pain free end to her suffering. This did not happen.

1415 That is why palliative care is not the solution for everyone, and indeed even if palliative care had been able to give the relief of her particular pain and suffering, of course it may not have been her choice which is so central to the argument.

Deputy Lester Queripel, sir, gave I think a very personal, moving and compelling speech, and Deputy Roffey also spoke about the depowering of the patient and the empowering of doctors, which is a point I think I also started to address in my opening speech.

1420 Sir, he also emphasised – and this is important – that today's decision is not an irrevocable decision, because there will be further votes at the second stage, and this was a point which Deputy Fallaize picked up, was a concern to him and indeed also to Deputy de Sausmarez as well, and Alderney Representative McKinley, and it is very key to understand that we are not approving assisted dying today, we are merely moving it on to be considered at the next stage, and I think also Deputy Merrett made a very good point that Propositions 1 and 2 attach further conditionality to that.

1425 I want to address the comments of Deputy Paint which in particular emphasises, because I think the language he used was unfortunate that suggesting that ... he used the language of wanting to kill, and I certainly do not want to kill anyone, but I do want people to have control themselves.

1430 Sir, as Deputy Ferbrache said, I suspect few people have changed their minds, but the
outstanding speech for me, without doubt, was that of Deputy Hansmann Rouxel (**Several**
Members: Hear, hear.) It was the best speech of the debate by a country mile because it was so
well researched and balanced, and it was delivered clearly as a people's representative for the
1435 for the Vale, and I know she has found this topic very challenging, delivered as a people's representative
additional interest, and burden, and responsibility to look at this issue every which way, and she
has done that, and she has focussed on what vulnerable really means and how you can protect
that for those that are vulnerable, including of course critically that group of vulnerable people
who are terminally ill and who want to die, and that was absolutely critical, and I think it was such
1440 a good speech. I think for those who did come into this Assembly willing to consider changing
their mind that was the most persuasive of all. She also finished towards the end of her speech
with these words, sir:

That supported living and supported dying are not mutually exclusive.

1445 Sir, Deputy Le Tocq did not quite go as far as to say that I was Margaret Thatcher and that I
believed there was no such thing as society, but he sort of made an oblique reference to it. In the
context of compassion I think there is a compassion which operates at a collective and a
corporate and a community level as well, and that is very much what this debate is about.

He referred to there being one hospice which I think is actually irrelevant, it does not matter
whether we have got one hospice or three hospices, I really do not see the relevance of that.

1450 He also said assisted dying does not take the pain away, well I would suggest as a matter of
fact that is just simply wrong.

I am glad Deputy Fallaize picked up on the point about this could be a time for growth, it
could be a time for growth which was a point that Deputy Le Tocq intervened on to make it clear
that he said it *could* be or it *can* be. Because I had the same reaction as Deputy Fallaize I found
that very difficult, and I suspect Fiona would have found that quite difficult, and her mother, to
1455 accept that that period was a time for growth.

Finally, Deputy Le Tocq said at the end of his opening speech and the end of his speech now,
what is worse? Well for some terminally ill people living is worse than dying. (**A Member:** Hear,
hear.)

1460 Deputy Graham – I have much to agree with what Deputy Graham said. He, as ever, very typical
style fairly brief, made some very good points. He said vote with your own conscience. That is
what you should do. I absolutely agree with that. Nobody should feel compelled to vote in any
particular way given their position or anything else.

1465 He also spoke about having a common humanity and a common respect for life, and I think
that mutual respect that we must have, that we all share that irrespective of which side of this
debate we are on, I think that was an excellent point. We can make up our own minds. He said
that there is no monopoly of compassion, and that is true too.

1470 But he then said what is the fundamental difference; in other words, where do you draw the
line? He made the point well about why six months not 12 or 18, but that is a flaw that exists in
our current law. Where do you draw the line between when to decide to prosecute somebody
who assists a suicide? When do we decide that that is a compassionate mercy killing or not? So I
am afraid that is not a convincing argument for me.

1475 Then the question of why not just allow it for somebody who has just had enough. I think this
is drawing the distinction between assisted dying rather than suicide, and I think it is important
the language to understand that suicide prevention strategies for those who wish to end their
lives is incredibly important, but the difference is that we are talking about people who *are* dying.

I think Deputy Yerby also making the point that there is not evidence assisted dying does lead
to – she pointed to all the evidential weaknesses around the arguments of assisted dying leading
to more suicides and how further evidence and research was required in that area.

1480 Deputy Graham also made the point, and there are two points here which I did disagree with. He referred to justice and the horse and he did make the point that it was amusing and light-hearted and therefore a little irrelevant, but I think he also made the point about the death penalty, which was a point that Deputy Le Tocq picked up too, and I think it is unfortunate to conflate the fact that some States in the US have the death penalty as having moral equivalence to this, and to in some way suggest it does. Canada does not have the death penalty.

1485 Deputy Dudley-Owen said that there were some people on the requérant side who had said that faith has no place in this – forgive me I am trying to paraphrase – that if somebody has faith then it should not have any place in this debate. I am not aware ... I certainly do not believe I said that, I am not aware of others who may have done, I do not know whether it was somebody else on the pro side of the case outside of the Assembly but I certainly would agree with her that it is not appropriate. I absolutely have no problem with those with faith having a view on this just as doctors have a view and others.

1490 I think Deputy Fallaize's analysis of the Propositions was, as we have all come to expect, typically robust and analytical and I think he absolutely understood the steps that would be followed as a result of passage of this Requête and giving, in particular, an opportunity to really examine at the next stage.

1495 Deputy Inder said that the decision is ours alone as a community and not to follow other jurisdictions. I absolutely agree. He also spoke about drift. Well of course there has not been drift in the Oregon model.

1500 Sir, Deputy Inder I think said that he does sarcasm quite well; I think Deputy Ferbrache may have said the same, I cannot recall. I am not sure I do sarcasm very well, but I am going to have a go (*Laughter*) because Deputy Inder referred to the unfortunate negative headlines that there had been in some of the media and here is me attempting to be sarcastic. The really positive thing is that no-one in our Government has sought to promote those inaccurate headlines in order to make a political point. (**A Member:** That is sarcastic.)

1505 The residency point I think he also raised, I think that has been defined as being an issue that needs to be considered in Proposition 3.d.

1510 Finally, on the question of how this looks from the outside, a number of us were at the Chamber of Commerce Annual Dinner last night and Alastair Campbell was speaking there. He commented on the assisted dying debate because it has been so prominent for him as an observer in the UK. Now he did not express his own views on whether he was a supporter, for or against, and indeed actually if you listen to him because of his own personal experience I think he may have been implying that actually he was probably instinctively more against, but that was not the point, the point that he made was that he felt that it was good for the image of the Island; he said, 'You are seen to be talking about the subjects that other governments are avoiding, and you are doing a good thing in having the debate.' Those were his words.

1515 Deputy Green spoke about the need for the strong to be a safeguard for the weak. I agree absolutely with that, and that of course is why those of us are arguing it is necessary for us to think of the terminally ill as being the weak, particularly those that seek to take their own lives, and we do need to give them a more rigorous legal protection, and a legal regime that allows them to pursue the choice that they have made, which they currently do not have. That I think is a responsibility for us as the strong, to think about them.

1520 He also spoke about the fine line and the choice that was needed and I think we have to accept that those fine lines already exist, when treatment is withdrawn that is going to lead to death we need to be understanding the consequences of that and doctors need to be examining the motives, the pressures and so on, and there really is not a difference between those two circumstances.

1525 Deputy Kuttelwascher referred to Stephen Hawkins and his prognosis and again it is a well-recognised case that he had only a few months to live and of course lived for many years. It is an unfortunate case to cite because of course Stephen Hawkins was a supporter of assisted dying.

1530 Deputy Ferbrache – actually I am glad Deputy Ferbrache is sitting down and I am glad also that this is on camera because these are words I may not use again. Deputy Ferbrache had some very wise words. (*Laughter*) I think he was right to concede that he thought that actually probably a majority of the population were in support and he also went on to say I think probably this may well happen in time.

1535 He also said that we are elected representatives, we are not delegates and I do agree with that absolutely, and I was also moved, I have to say, by his own account of his mother's death, and his honest explanation of his own journey from where he was in 2004 to where he is now. As I say, it was a moving and truthful account.

1540 He was also right to say that society has moved in the last 14 years, and that indeed was a point which Deputy Gollop of course made as well.

1545 Now Deputy Trott and I have for a number of years, particularly in the last term when we were less close both physically and politically, he would ask me questions that I would tease him that he always knew the answer to. Well Deputy Ferbrache, with the typical skill and experience of a litigator, intentionally asked a question that he knows his witness does not have an answer to, and his question was: how long is it going to be – definitively how long is it going to be – until capacity legislation is up and running? Well he knows I do not know the answer to that, but what he does know is what Deputy Soulsby and others have said – that of course it is in the process of being drafted and we should expect to see something fairly soon on that.

1550 Deputy Yerby gave a typically good speech and analysis and she asked is it worth it for those that will benefit, and I think the answer to that might be we have reached different conclusions, it is the right question to ask. As Deputy Ferbrache would say, she is entitled to be wrong, but the answer to that question is yes rather than no.

1555 I think the evidence that we need to look at – and I am going to come back to this in a moment because it is important – is that those that have introduced assisted dying, those states and countries that introduced assisted dying, we have seen an improvement in palliative care, and it will provide more choice, clarity and control, which again uses some of her language, and I think it is an appropriate point to turn to Proposition 5 because I am sure we will all enthusiastically support it. We are going to say we are going to do what we probably would or should be doing anyway, and it should not have been necessary to be prompted by this assisted dying Requête.

1560 Just a couple of points, actually of course it potentially triggers exactly the same resource implications as with the subject of Policy & Resources Committee's letter of comment, the need to consider the measures that could well lead to the need for intensive investigations. It is worth pointing that out. It also talks about the need for greater investment in person-centred care. That is really good, focussing again on the individual, but in 5.a.iii. it also says:

Including: possible developments in end-of-life care, such as increasing the hours [etc.] and/or the provision of alternative medication and technologies for pain relief;

1565 Well possible developments in end-of-life care have to include consideration of assisted dying (**A Member:** Hear, hear.) as one of those options, end-of-life options, and the Health & Social Care Committee will not be doing their job properly if they bring a report back to this Assembly by June 2020 without having considered whether assisted dying should be a possible development in end-of-life care. Now, had Deputy Le Tocq intended to exclude permanently

1570 assisted dying as an option, then it would have said possible developments in end-of-life care other than assisted dying. Now I think Deputy Yerby, as a former civil servant and just given her analytical skills and her depth of consideration and need to examine evidence which is absolutely right and appropriate, I am sure that as a Member of that Committee she will want to be examining my claim that there is evidence that assisted dying leads to better palliative care

1575 (**A Member:** Hear, hear.) because if that is the case we need to look at that and report back on that in order that we consider our future options.

So Deputy Gollop is right, this is not going away. Actually I think it probably is best to vote for all the Propositions – I would say that, wouldn't I! – to enable us to look at these things together rather than in a piecemeal way.

1580 So I am drawing to a close. Finally, just to deal with some scaremongering, assisted dying is not going to create a constitutional clash with the UK; it is not going to lead to a recruitment crisis in health and social care; and it is not going to normalise suicide. I think what it will do is lead to better protection for the vulnerable, and I think the very first question that Robert Preston asked at the Cotils, was does the current law need changing, and the answer to that question has to be
1585 yes, it is not protecting the vulnerable.

Deputy Trott and I started our journey on this topic very much focussed on free will, autonomy, and self-determination, but as both he and I have gone on that journey actually considering that vulnerable group of people who wish to exercise their free will and determination and are unable to do so in a safe, protected way has become of increasing concern to me and that for me – and
1590 Deputy de Sausmarez also raised the point as indeed did Deputy Laurie Queripel – is one of the key issues, and I think Deputy Lester Queripel – I am going to actually refer to his poem again:

Pain free is what I long to be
But sadly that will never be
I will never get back to being the real me
So please allow me to die and set me free from this misery.

If that individual is determined to take their own lives and they have no safe and legal way to do so, we as a society are failing them and letting them down and that is a responsibility which we have to consider. (**A Member:** Absolutely.)

1595 So an assisted dying Law will lead to better end-of-life choices as individuals are engaged in better conversations, and planning about their options and wishes, and that *will* lead to better palliative care, and it is compatible with the individual's choices. An assisted dying Law will lead to no *more* deaths among the terminally ill, merely a reduction in their suffering as those individuals judge it, which was Deputy Oliver's point. It is the individual's judgement of their suffering not
1600 others. Not least because its mere existence, and the existence of choice, will give peace of mind to many more than ever choose to use it, and that is a point that was made by a number of people.

We have had, as Deputy Soulsby said, I think over 350 emails – I kind of lost count at about 300 so I will take her word for it – but one stood out for me, from a nurse and she wrote:

As a nurse I stare death in the face a lot more often than the average person, most people supporting this campaign do so because of a loved one's experiences in their final days. For me it is the love I have for my patients as human beings that makes me support this campaign. We have a work ethic to maintain patient's independence to be transparent and above all to ensure the patient fully understands their care options and that they can choose what is best for them, yet we do not transfer this option across to the patient when it comes to their demise and eventual death. How can we as care givers be selective in deciding where the patient's personal choice ends? We do not and should not have this right, it is the right of the patient and theirs alone to decide how, when and where they would like to die should they have a terminal illness.

1605 That sums up the case for this Requête, and finally, sir, the words again of Deputy Hansmann Rouxel: 'supported living and supported dying are not mutually exclusive'.

Please support all the Propositions. (*Applause*)

The Bailiff: Members, we come now to the vote on the Propositions. Can I suggest that we
1610 take Propositions 1 and 2 together or does anybody wish to vote differently on Proposition 1 from how they would vote on Proposition 2? I will be calling for recorded votes as I am sure that is what is going to be requested.

Deputy Inder: Sir, I am just seeking some legal advice actually.

1615

The Bailiff: Yes, on Propositions 1 and 2 or –?

Deputy Inder: No, sir.

1620 In Deputy St Pier's summing up he alluded to the for voting on assisted dying is mentioned in
 Propositions 1, specifically 2, 3 and 4, but it is not mentioned in No. 5 and in his summing up he
 alluded to section a.iii. in the final paragraph, the provision of counselling and support services
 and/or the provision of alternative medication and technologies for pain relief, and there was a
 suggestion that by voting for that that would include assisted dying. I do not think there are many
 1625 Members in this Assembly that believe that and I would like to seek some clarification if that is the
 view of H.M. Procureur.

The Bailiff: Madam Procureur, are you able to assist?

1630 **The Procureur:** Sir, it is a matter of opinion in the words. It is not really a legal issue, you have
 the words as clearly laid down before you and it will be a matter for the Committee when they
 come back to consider this to consider their options in the light of those words.

1635 **The Bailiff:** We come back then – does anybody wish to have separate votes on Propositions 1
 and 2 or can we take 1 and 2 together? Right we can take Propositions 1 and 2 together and I am
 sure the request will be for a recorded vote. Yes there is a request for a recorded vote. So
 Propositions 1 and 2, and I remind you they are the Propositions that were set out in amendment
 6 and that replace the original Propositions 1 and 2.

There was a recorded vote.

Not carried – Pour 16, Contre 22, Ne vote pas 0, Absent 2

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

1640 **The Bailiff:** Well, Members, the voting on Propositions 1 and 2 was 16 in favour, with 22
 against. I declare Propositions 1 and 2 lost.

We come now to Proposition 3 and, as was pointed out in debate, there is a typographical
 error, the reference in 3.a. should be to Proposition 1 and not Proposition 2. That is quite clear on
 the face of the document. A recorded vote now on Proposition 3.

There was a recorded vote.

Not carried – Pour 14, Contre 24, Ne vote pas 0, Absent 2

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

1645

The Bailiff: Well, Members, the voting on Proposition 3 was 14 in favour and 24 against, I declare Proposition 3 lost.

Proposition 4 next, can we go aux voix or do we need a recorded? Does anybody want a recorded vote on Proposition 4? Which is:

To direct that the Policy & Resources Committee liaise with the States of Alderney to consider whether and how the States of Alderney and the States of Guernsey could work together in order to develop a suitable policy and legal regime to permit assisted dying in both islands.

1650

Does anybody wish to – ?

Deputy Lester Queripel: Yes, please, sir.

1655

The Bailiff: Right, there is a request for a recorded vote on 4.

There was a recorded vote.

Not carried – Pour 11, Contre 26, Ne vote pas 1, Absent 2

| POUR | CONTRE | NE VOTE PAS | ABSENT |
|------------------------|------------------------|--------------------|------------------|
| Deputy Lester Queripel | Deputy Gollop | Deputy Oliver | Deputy Parkinson |
| Deputy Le Clerc | Deputy Leadbeater | | Deputy Le Pelley |
| Deputy Trott | Deputy Mooney | | |
| Deputy Merrett | Deputy Stephens | | |
| Deputy St Pier | Deputy Meerveld | | |
| Deputy Laurie Queripel | Deputy Fallaize | | |
| Deputy Langlois | Deputy Inder | | |
| Deputy de Sausmarez | Deputy Lowe | | |
| Alderney Rep. McKinley | Deputy Smithies | | |
| Deputy Brehaut | Deputy Hansmann Rouxel | | |

Deputy Tooley

Deputy Graham
 Deputy Green
 Deputy Paint
 Deputy Dorey
 Deputy Le Tocq
 Deputy Brouard
 Deputy Dudley-Owen
 Deputy Yerby
 Deputy De Lisle
 Deputy Soulsby
 Deputy Roffey
 Deputy Prow
 Alderney Rep. Jean
 Deputy Ferbrache
 Deputy Kuttelwascher
 Deputy Tindall

The Bailiff: Members, the voting on Proposition 4 was 11 in favour, with 26 against and 1 abstention. I declare Proposition 4 to have been lost.

1660 Finally, we vote on Proposition 5, again with a recorded vote.

There was a recorded vote.

Carried – Pour 37, Contre 1, Ne vote pas 0, Absent 2

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

The Bailiff: Finally, the voting on Proposition 5 was 37 in favour, with 1 against I declare Proposition 5 to have been carried.

Thank you very much. That concludes the voting and concludes the debate.

1665 So the States have only agreed that the camera can remain for the closing speeches and the voting, so could you switch it off at least? We will only be a few more minutes. I know that may take a long time. So long as I can see the red light I will assume it is on. It has gone now. Thank you very much.

The final item, Greffier.

VI. Policy & Resources Committee – Schedule for Future States' Business approved

Article VI.

The States are asked to decide:

Whether, after consideration of the attached Schedule for future States' business, which sets out items for consideration at the Meeting of the 5th June 2018 and subsequent States' Meetings, they are of opinion to approve the Schedule.

1670 **The Greffier:** Article VI, Schedule for Future States' Business.

The Bailiff: Deputy St Pier, is there anything you wish to say?

1675 **Deputy St Pier:** Sir, no, I think it is self-explanatory. This of course does give Deputy Ferbrache the opportunity to show his love for the Policy & Resource Plan update on 5th June.

The Bailiff: Right. In that case, I put the Schedule to the vote. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare it carried.

That concludes the meeting.

1680 Can I just say at the end of it that there have been a number of references to the quality of debate and I would just like to thank Members for the quality of the debate. There have been excellent speeches on both sides and I think some of them are amongst some of the best speeches I think I have ever had the privilege to hear while I have been sitting here.

1685 I would also like to thank you very much for the general level of courtesy that there has been, there has been passion and emotion on both sides. It could have been a very difficult debate, but I am pleased to say you have made my life very easy for me by being so courteous to each other and showing great respect to each other. Thank you very much. That may change, no doubt, but anyway.

The Assembly adjourned at 12.47 p.m.