



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Wednesday, 16th May 2018

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Present:

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

Law Officers

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

People's Deputies

St Peter Port South

Deputies D. A. Tindall, B. L. Brehaut, R. H. Tooley

St Peter Port North

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

St Sampson

Deputies L. S. Trott, 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. 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

The Clerk to the States of Deliberation

C. Foster (H.M. Deputy Greffier)

Absent at the Evocation

R. M. Titterington, Q.C. (H.M. Comptroller);
Deputies P. T. R. Ferbrache (*relevé à 9h 34*); J. Kuttelwascher (*relevé à 9h 52*);
A. H. Brouard (*relevé à 10h 55*); Alderney Representatives L. E. Jean and
S. D. G. McKinley, O. B. E. (*relevé à 12h 07*); P. R. Le Pelley (*absent de l'Île*)

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States of Deliberation

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

[THE BAILIFF *in the Chair*]

PRAYERS

The Deputy Greffier

EVOCATION

CONVOCAATION

The Deputy Greffier: Billet d'État XII and XIV of 2018. To the Members of the States of the Island of Guernsey I hereby give notice that a meeting of the States of Deliberation will be held at The Royal Court House on Wednesday 16th May 2018 at 9.30 a.m. to consider the items listed in these Billets d'État which have been submitted for debate.

5

The Bailiff: Deputy Kuttelwascher, would you like to be relevé?

Deputy Kuttelwascher: I would, sir.

10

The Bailiff: You may be relevé.

IN MEMORIAM

Richard John Ozanne

The Bailiff: Members of the States, good morning to you all.

Sadly, we must begin this meeting by paying tribute to two former colleagues. Both of them were true Guernseymen always proud of their Island and Guernsey through to their very core. Former Conseiller Richard John Ozanne who was born on 13th May 1933 passed away some three weeks ago just short of his 85th birthday.

15

He was an Elizabeth College pupil who at the age of seven evacuated with the College to Great Hucklow in Derbyshire. After the War he returned to the family home at the White Gables Hotel now the Mallard, and later after leaving school he followed his father into the hotel trade.

20

During Richard's long political career he served both his parish and the Island, just as his father had done before him, and his younger brother also did. His father H. T. J. Ozanne, known popularly as Bert, was for many years the President of Tourism, and his younger brother, the former Deputy Martin Ozanne, is well known to you all.

Richard's political service began in the Forest, first as Parish Procureur then Constable and later Douzenier. He was first elected to the States in 1973 and served as a Deputy for St Peter Port from that year until early 1979 when the States of Election elected him as a Conseiller, an office he held until the General Election in 1994 when he was defeated in the first Island-wide election of Conseillers.

He will be best remembered for his time spent on the Tourist Board to which he was elected immediately on becoming a Deputy and on which he remained throughout his time in the States, becoming its President in September 1978. Richard served on a number of other committees with direct links to tourism. He was on the Island Reception Committee from 1979 to 1990 on the Population & Migration Committee for five years from 1985 and he sat on the Transport Board in the late 1980's.

Richard was a popular character with very many friends and was a generous host who enjoyed a good party whether it was at the family hotel with a boisterous evening around the swimming pool or promoting the Island and its hospitality industry both here and further afield. He was 'Mr Tourism', a great ambassador for Guernsey, and part of the reason why the tourist industry flourished at that time.

Among other committee responsibilities he was a Member of the Board of Administration from 1974 to 1978; Sea Fisheries in the mid-1970's and a director of Elizabeth College for three years from 1973. He was also a Member of two Constitutional Investigation Committees: the Constitution of the States from 1976 and the Committee to Investigate the Office of Conseiller from 1982.

His tourist interest was reflected in his membership and presidency of the Guernsey Hotel & Tourism Association (GHATA). He became Chairman of St James' Concert Hall after he retired from the States, and he was a sometime President of Guernsey Round Table.

In his spare time he played rugby for the Island and he was a keen swimmer who also played water polo for Guernsey. His brother Martin has described him as something of a petrol head who owned a series of sports cars, including a beloved TR6, and he took part in hill climbs and motor rallies. Richard's love of racing and boating came together when he was instrumental in bringing international power boat racing to Guernsey which at the time was controversial and may perhaps have played a part in his failure to succeed in the Island-wide Conseiller Election.

Boating was his favourite pastime and it must have given him enormous pleasure when during his term in office at the Tourist Board the Board was awarded the principal sponsorship of the London Boat Show at Earl's Court. A model of the Castel Lighthouse sat in the central lake with a replica of Aurigny's Joey suspended above. I remember visiting the boat show and being enormously proud of my Island.

The energy and enthusiasm with which Richard Ozanne promoted Guernsey to the yachting community is perhaps his greatest legacy. A legacy from which we continue to benefit as we can see today from the number of visiting yachts in the Harbour.

Richard is survived by his two sons Jeremy and Jonathan and by two granddaughters. Sadly, his first wife Elizabeth Staples, a childhood sweetheart, died when their sons were teenagers. He remarried Nancy Martel, a friend he had known for some years, and she has survived him. We extend our sincere condolences to her, to his sons and to all the family.

Renaut Nicholson de Garis

The Bailiff: We turn now to another Guernseyman, a stubborn old Guernsey donkey, who also passed away three weeks ago.

Renaut Nicholson de Garis was born on 21st May 1914. He lived through two World Wars and died shortly before his 104th birthday. A St Saviour's man through and through, he was born in the parish and lived there for almost his entire life.

70 On leaving Elizabeth College he became a grower. He stayed in Guernsey during the German
occupation and even right at the end of his life he could recall numerous stories and details from
those years. Indeed not long ago he shared memories in a short video produced to show the
history behind the *Guernsey Literary & Potato Peel Pie Society* film. He proudly told of how he and
his family had hidden supplies to prevent them going to the occupying forces. They also managed
75 to keep from the occupiers the fact that they were breaking the law by keeping pigs.

Renaut became Constable of St Saviour's in 1946 and later a Douzenier, an office in which he
served for many years, including two years as Douzaine Representative in the States of
Deliberation from 1st April 1971, long before some of you were even born.

80 During his time in the States he served on the States' Public Assistance Authority and the
Parochial or Outdoor Assistance Board. It is something of a cliché to describe a person as a
character, but Renaut was a real character. As I said, he was stubborn, he was annoyed when his
family recently took away his driving licence. I also said he was Guernsey through and through,
well a few months ago he was looking forward to cooking gâche at the Chateau des Tielles where
he was living. He was going to cook it for everyone on Liberation Day, at age 103. That is amazing.

85 I remember him as a devoted churchgoer in the congregation at St Saviour's Parish Church
where he was at one time a church warden. Sadly, his wife predeceased him by some 36 years, but
he leaves two sons, Victor and Ivo, four grandchildren and great grandchildren to whom we
extend our sincere condolences.

90 Will you please rise to honour the memory of former States' Members Richard John Ozanne
and Renaut Nicholson de Garis.

Members stood in silence.

The Bailiff: Thank you very much.

Before we continue it is likely to be rather warm in here – I will not say heated but warm. Those
who wish to do so may remove their jackets.

STATEMENTS

COMMITTEE FOR THE ENVIRONMENT & INFRASTRUCTURE

General update –

Statement by the President for Environment & Infrastructure

95 **The Bailiff:** We now continue with the business of the meeting starting first with a general
update statement from the President of the Committee *for* the Environment & Infrastructure,
Deputy Brehaut.

Deputy Brehaut: Thank you very much, sir.

100 I would like to take this opportunity to update the Assembly focussing on two themes in
particular.

Firstly, to raise awareness of how the Committee is working in partnership with the community
to deliver its mandate and, secondly, to inform Members of the Committee's plans over the next
six months or so.

105 E&I announced at the end of last week that the funding set aside for the e-bike subsidy
scheme was completed less than a month after the campaign was launched. This has been a very
effective public-private partnership between the States and the private sector which has resulted
in almost 370 e-bikes being purchased. On behalf of the Committee I would like to thank the
retailers for their contribution to the subsidy and their support for this initiative to promote the

110 use of electric bikes as an alternative to the car. This is of course the first step and we will now be
working with the owners of the bikes to monitor the impact of this intervention through regular
surveys over the next 12 months to see if the benefits of e-bikes are realised – that is to say a
reduction in traffic congestion on our roads, improved health and activity levels and of course
reduced emissions from on-Island transportation. We will continue to keep Members and the
community informed of those outcomes as information becomes available to us.

115 Staying with Traffic & Highway Services we continue to build close links with organisations
representing vulnerable road users such as Living Streets, the Guernsey Bicycle Group, the
Guernsey Disability Alliance and Access for All, which means that proposed changes can be
comprehensively considered prior to being recommended for implementation. We are
indebted for their assistance and input to the Committee's deliberations.

120 Another set of key stakeholders that we continue to work with are the parishes and again we
work closely with them, for example, targeting road cleaning in those areas identified by the
parish. More recently we have found ourselves working with parishes with respect to changes to
the public realm at the bottom of Les Val de Terres and traffic safety measures in St Julian's
Avenue.

125 We are currently working with the Taxi Federation to introduce a trial in the use of technology
to reduce emissions – in short, a gadget to enhance fuel efficiency.

The La Vallette area is a good example of the Committee's wide mandate, and presents a real
opportunity for partnering.

130 We have seen some truly remarkable restoration work from the public and private business
under the leadership of the Floral Guernsey group over the last year or more. E&I are keen to
pursue the idea of an Amenity Development Area alongside the States' Trading Supervisory Board
and Floral Guernsey to try and extend the work done on the Promenade Terrace, the Gent's Pool
and the Horseshoe Pool more widely in this area. This is a work in progress but one to which my
Committee is committed and wishes to maximise the value of the severely limited budget that is
available to us.

135 A longstanding partnership that my Committee has been pleased to see continue is that with
the Island's dairy farmers. Notwithstanding the changes of political responsibility introduced by
the SRC recommendations in mid-2016 – where the Dairy moved into the orbit of the States'
Trading Supervisory Board – the current basis for this relationship was established in 2014 when
140 the States accepted a complete package of measures to confirm the way that the States and the
dairy industry would continue to work together to protect and improve the breed and the market
for milk as well as care for the farmed environment.

This year we have seen the reduction in a long delivered service as a mutually beneficial
outcome of working together, in that, following extensive consultation, the States-run Artificial
145 Insemination service has been curtailed and will close completely at the end of the year. This has
been achieved by the provision of expert training and some start-up support from the Committee,
and as a result the Island has a group of some 30 farmers and farm workers who are able to
undertake the work themselves. That gives greater resilience to the industry and at the same time
cutting costs and facilitating better conception rates than a stretched, centralised system could
150 simply not produce. Incidentally I was pleased to meet a delegation of farmers from Kosovo
recently, who use the Guernsey Herd recording methods to secure more efficient and sustainable
farming methods in their emerging and recovering industry.

As part of the States' Biodiversity Strategy we are also working with La Société Guernesaise on
the Pollinator Project with the key aim of raising awareness of the genuine contribution we can all
155 make to the enhancement of Guernsey's biodiversity by providing food and habitats for
pollinators. The Project is working with schools, businesses, Government departments and
community groups to enhance urban and domestic areas which often support a diverse range of
habitats that are becoming increasingly important for many species of pollinators, when managed
properly. These include: public and private gardens; natural areas in school grounds, sports
160 pitches, golf courses; parks and patches of formal landscaping, such as flower beds and

roundabouts as well as business premises too. This important project is supported by a grant from the Biodiversity Strategy, as well as financial support from businesses in the private sector.

165 La Société is just one of the third sector partners we work with and the Pollinator Project is just one of the projects supported by a grant from the strategy. We are now seeing the real benefits of resource co-ordinating and galvanising States and third sector efforts to maximise their collective impact.

170 In February, a student approached and presented to the Committee expressing her passion for a popular national environmental 'Refill' scheme. As a result, Guernsey Water and Guernsey Waste, Recycle for Guernsey committed to support her vision and approached a local organisation, Plastic Free Guernsey, to form a partnership. Already a success in the UK, the initiative aims to make refilling reusable bottles with water easy, convenient and free, introducing local businesses as 'refill stations', reducing the use of single-use plastics. We look forward to launching that initiative in the next few weeks.

175 We recognise we can deliver better services and better outcomes by commissioning the work in partnership with the community that we serve.

I will now turn briefly and touch on some of the key work streams that the Committee will be bringing forward in the short term.

180 As we speak we are currently finalising our report on KPMG's Review of the housing market and we intend to publish this in June for debate at the July meeting of the States of Deliberation. This will be a multi-faceted report with a number of work streams to take forward by E&I, ESS and P&R.

185 The Committee will also be publishing a policy letter at the end of the year reviewing the progress with the implementation of the Integrated Transport Strategy. Officers are currently collating a wealth of quantitative data that is bus passenger numbers etc. to help inform the policy letter. The Committee also wishes to consult with the public on perceptions of road safety in Guernsey which will help inform the recommendations for the future. The Committee considers road safety issues to be extremely important and is its highest priority in terms of key transport policy aims and objectives over the next two to three years.

190 The trial initiative to reduce nuisance parking in our coastal car parks was successful to an extent, but because a few people persist in selling cars from this public land we will now have to pursue the more costly and time-consuming option of legislating against this practice. In the meantime, we hope the Police will do what they can to enforce the existing laws, which as we saw with the Vale Church car park can be effective in reducing other forms of nuisance parking such as abandoned vehicles.

195 In the next few months we should have completed the development of the Travel Plans for Sir Charles Frossard House and also the Princess Elizabeth Hospital – these will help us in the preparation of the policy letter.

200 We will also be coming back to this Assembly in the coming months with a policy letter updating Members on progress with the hydrocarbons supply chain and seeking endorsement on the next steps. This will be feeding and informing the development of the update and review of the current Energy Policy. Again allied to this the Committee is working closely with P&R on the 2019 Budget in order to implement the Roffey amendment or review of motor taxation.

205 Brexit is of course looming large over many of the Committees and our Committee is no different. We have established a Brexit Working Group that monitors progress and the many work streams that flow out of Brexit. We will keep this Assembly and the wider community informed of progress as the uncertainties become resolved, but the early indications are that we have to make some significant changes.

210 Following the States' decision earlier this year, we have been able to quickly procure stage 2 of the Bus Fleet Replacement Programme and the next wave of buses should be on our roads and start appearing from September of this year.

I am grateful for the opportunity to give this Assembly a broad update on the work undertaken by E&I.

Thank you.

215 **The Bailiff:** Before we start on questions, Deputy Ferbrache, do you wish to be relevé?

Deputy Ferbrache: Yes, sir.

The Bailiff: Thank you.

220 We may now have a period not exceeding 20 minutes for questions.
Deputy Laurie Queripel.

Deputy Laurie Queripel: Thank you, sir.

225 I would like to ask a question about the Waste Strategy and I hope it is going to the right
President, but a leaflet has been sent to households providing details to householders regarding
all the various aspects of the Waste Strategy. Will a similar leaflet be distributed to the proprietors
and operators of the Island's various commercial businesses, as a number of them are unsure as
to how the strategy will affect them, and what their options might be?

Thank you, sir.

230

The Bailiff: Deputy Brehaut.

Deputy Brehaut: E&I are responsible for the strategy which is to export waste, waste
235 collection and waste management does actually fall to STSB, but I am sure that Deputy Parkinson
has listened to that remark and staff as we know will be listening to the debate in the Assembly
and I am sure will get some type of communication out to commercial businesses.

The Bailiff: Deputy Roffey.

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

In his Statement, the President said that road safety was absolutely at the top of their list of
priorities, given the difference between the very outdated law on driving on pavements in
Guernsey and the guidance in the highway code which provides a grey area and uncertainty.
Would his Committee actually review the law on driving on pavements and bring it up to date?

245

The Bailiff: Deputy Brehaut.

Deputy Brehaut: The Committee sit as a full Committee and the Committee also sit as a sub-
250 group to deal with aspects pertaining to the Integrated Transport Strategy and road safety in
particular. We are very clear and we have also met with the Home department on giving
pavement surfing a higher profile to ensure that it is frowned upon and that it is a practice that
people do not undertake. But your specific question was with regard to the law, and I think a time
will come and it could be this Committee of E&I that push for a change in the law. As with
255 nuisance parking, naturally the Committee are inclined to work on an advisory basis, if you like, or
to persuade people to adopt the most appropriate behaviour. With pavement surfing I am afraid
to say that people generally ignore the law and do maintain their speed when travelling on
pavements.

The Bailiff: Deputy Parkinson.

260

Deputy Parkinson: Yes, sir.

I congratulate the Committee on the success of their e-bike scheme, but would ask does the
Committee have plans to increase the provision for bicycle parking in Town, because the racks are
frequently now overburdened?

265 **The Bailiff:** Deputy Brehaut.

Deputy Brehaut: Yes that is always up for review, and yes I know that, put through you, sir, I beg your pardon, when we put covered shelters up people were a little but critical saying that the most seasoned cyclists would not need a shelter, but of course if you have invested in an e-bike then you want that sheltered at certain times. But yes we are reviewing currently the provision –
270 Deputy Roffey has raised this independently – of both cycle parking and scooter parking, particularly in the summer, more people travel by scooter and at times, as today probably, I think even today probably the scooter carpark at the base of the monument is probably full to overflowing, so yes we do review provision for cycle and scooter parking.

275 **The Bailiff:** Deputy Inder then Deputy Gollop.

Deputy Inder: Thank you, sir.

I thank the President for the update. Based on his maths for the electric bicycles it looks like
280 the average subsidy was around £270 making the average bike costs around £1,300. Now I understand in terms of the Transport Strategy it is not about the wealth of the wheels on the road, it is about getting the four wheels off the roads. I understand that, but if we are to see a future initiative would he agree with me that there might be a better way to tie the initiative in with the various obesity- and health-related strategies rather than handing e-bikes to people who can
285 afford £1,300 and probably do not need a subsidy?

The Bailiff: Deputy Brehaut.

Deputy Brehaut: Well this debate could go be opened up on the nature of universal benefits
290 and this States does approve, it seems to me, the principle of universal benefits. The average price of the bike purchase was £1,603. It meant that £586,000 was spent in the local economy on bike sales, which is exceptionally good for business. If people are trying to purchase bicycles we know that most people own a bicycle, we also know that the majority of people certainly do not use it. We know that people invest in e-bikes and they continue to use them. Not everyone who walked
295 into a bike shop and paid for a bike paid cash over the counter, some people are buying these over a 12-month or a 24-month term. I know there has been a criticism that it has been elitist, I do not see it that way. Electric bikes have been hugely popular and some people just needed a little bit of financial incentive to go out and buy one.

300 **The Bailiff:** Deputy Gollop.

Deputy Gollop: Yes, thank you.

Whilst being a fan of the Integrated Transport Strategy, or mostly, and also commending the
305 Committee for the success of its e-bike initiative and engagement with the public, how can the Committee with its restricted budget, as described, continue to initiative for the rest of the year, now all the money has been used up to enable people who are perhaps less affluent to take advantage of an electric bike, or even an electric car for the future?

The Bailiff: Deputy Brehaut.

310 **Deputy Brehaut:** Every shed on the Island, every garage, every porch, every back garden, there is a child's bike that is seldom used. So we know that people being able to afford bicycles is not a problem, bearing in mind, as Members, I am sure, of Education, both former and current, will know that Les Voies School restores bikes, renovates them does them up and sells them on very
315 cheaply, as does a local charity. Most people can afford bikes. We have sold 670, we are undertaking a survey. When we get the results back, Deputy Gollop, we will then view again as to

whether we roll out this initiative, but we must remember when we talk about the Transport Strategy it is the funding we did not get for the Strategy that always taints to some regard what we can actually deliver.

320

The Bailiff: Deputy de Lisle.

Deputy de Lisle: Thank you, sir.

325 Can I ask the President, Deputy Brehaut, what efforts are being made to increase the availability of parking in Town for Town workers, shoppers and visitors, and also the resident population, thereby improving Town as a place to live, work and shop?

The Bailiff: Deputy Brehaut.

330 **Deputy Brehaut:** And to do business. I do not know if the Deputy does want to declare an interest – I will give way and allow him to.

Deputy de Lisle: Yes, I will declare that. *(Laughter)*

335 **Deputy Brehaut:** The answer to St Peter Port ... actually States' policy is very clear on that, that there should be no net gain in parking in St Peter Port. We know, studies show us that it is footfall that increases turnover for retailers, you do not necessarily need to park within 100 yards of a shop to be able to do that. So the bus service has improved immensely, we are constantly in conversation with the Town Centre Partnership and the retailers and occasionally with the
340 Constables on parking to see whether the two-hour works, whether the three-hour works, and as the Deputy would be aware, over the Christmas period and other times of the year we do revise some of those timings to facilitate the turnover. Some people would say three hours is perfect other people say no three hours is too much and they should be two-hour. But the idea is to create a turnover within St Peter Port, bearing in mind the spaces are predominantly used by
345 people who have come into St Peter Port to work, not to shop but to work, and to remain in Town for eight hours.

The Bailiff: Deputy Lester Queripel.

350 **Deputy Lester Queripel:** Sir, can the President clarify please whether or not the updated energy policy will be in place by the time the policy letter on the hydro carbons programme is presented to the States?

The Bailiff: Deputy Brehaut.

355

Deputy Brehaut: The work on the policy letter on energy policy is a work in process and it really is a parallel work stream. But before we commit to anything absolutely in terms of the future of hydrocarbons we have to do that with, in my view, the policy in place. Now those things are running in parallel at the moment, and I do not want to labour this point on resources, sir, but we
360 are talking about one individual doing these immense pieces of work, so sometimes it is resources and consequently timing can lapse in some of these things.

The Bailiff: Deputy Stephens.

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

Could the President advise if there is any current focused consideration on road safety for pupils travelling to and from school at the moment?

Thank you.

The Bailiff: Deputy Brehaut.

370

Deputy Brehaut: Yes it is a constant focus and it is a constant theme. The active travel unit are out on a weekly, daily basis, they do observational studies around school and we know the long awaited Island-wide speed limit review, we are looking to have speed restrictions of 20 and 25 mph around schools. What 'around schools' means needs further definition, but we are acutely aware of the safety issues around schools.

375

I will refer to St Martin's because probably St Martin's is the school that has had the most parental input on road safety, and once you get the buy-in from the parents then it is much easier to introduce one-ways, for example, which are universally popular whether they are around schools or anywhere else.

380

The Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: Yes, would the President kindly give us an update on the ruettes tranquilles project which I think was started about 18 months ago by the new Committee. I think this is a very important project to be pushing forward especially in regard to our tourism offering as well as road safety for pedestrians, cyclists and people on horses and for leisure etc?

385

So thank you, yes.

The Bailiff: Deputy Brehaut.

390

Deputy Brehaut: Yes, the ruettes tranquilles project predates this Committee – it may even predate the last Environment Department actually – but what we try to do where possible is connect ruettes tranquilles. It is interesting in some parishes our signs have not gone down particularly well because they are seen as intrusive and we thought the signs were actually fairly inoffensive. But we are doing what we can to extend the ruettes tranquilles network.

395

Incidentally I was invited to the Guernsey Bicycle Group AGM yesterday evening. I attended and this very thing came up, that in development terms, in Island development terms broadly, there are times when in a green development you can lose some of the link roads that are now ruettes tranquilles, but whatever we do with regard to cycling infrastructure on the Island, ruettes tranquilles will be a priority because they are extremely popular with locals and with tourists.

400

The Bailiff: Deputy Tindall.

Deputy Tindall: Thank you, sir.

405

Can the President advise the Assembly how his Committee and Home Affairs and in particular the Police are utilising the data collected, for example, that on the excessive speeds drivers travel on this Island and how it will be used consistently to identify hotspots to raise awareness of speed limits, and to highlight that enforcement will indeed follow, and so be the deterrent needed?

Thank you.

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The Bailiff: Deputy Brehaut.

Deputy Brehaut: I think Deputy Tindall has been reading my mail by the sound of it, because we discussed this issue yesterday. There has been a dearth of data in the past. Data has been held in a number of different places but has not been centrally owned or compiled. We are now getting that data together, but the delivery of policing comes from the Police. So I think I share the observation most people do, that there is a great deal of behaviour from the motorist, whether it is speeding, whether it is pavement surfing, whether it is a minor incident that is not recorded, and is not reported and is not followed up, and we need to improve on that, but we only have so many police officers. The Integrated Transport Strategy did have funding for one

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individual to pursue that type of work but of course we did not get the expected level of funding that we had requested in the Strategy at that time.

The Bailiff: Deputy Merrett.

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Deputy Merrett: Thank you, sir.

I am led to believe, through you, sir, that there is an ongoing review of speed limits across the Island, and I was wondering when the Assembly or the community ... when that review will be finalised and when suggestions will be forthcoming?

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Thank you, sir.

The Bailiff: Deputy Brehaut.

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Deputy Brehaut: I am willing to give way to any one of my Committee who can advise me exactly when we agreed to return to the Assembly with a speed limit review, because the speed review is a piece of work that is currently being undertaken with recommendations being put together. When that comes to the States I am not entirely sure. But the speed limit review has been a colossal piece of work that has been handed down to more than one committee and the closer you get to speed limits the more problematic the problem becomes because people living in a road want it to be 20 mph or 25 mph. In fact realistically the default speed limit on Guernsey is between 25 mph and 20 mph. The problem you have is, for example, a small illustration would be signage and we are reviewing all Island speed limits, if replacing signage alone that comes at some considerable cost, but that is not a barrier to change, and we are cognisant that with the high use of motor vehicles – and they are a creeping presence in the community – we need to manage the dynamic between pedestrians and cars in particular.

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The Bailiff: Deputy Gollop.

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Deputy Gollop: Whilst agreeing with Deputy Roffey's question about discouraging pavement surfing I would like to ask the President whether in conjunction with Living Streets, we have met the Committee, how far the Committee is able to look at experiments perhaps involving brave traffic calming or one-way street initiatives on Island roads that are particularly pressurised by lack of pavements and/or volumes of traffic?

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The Bailiff: Deputy Brehaut.

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Deputy Brehaut: If I could give – and bear with me it is not entirely unrelated, Deputy Gollop – if you look at pedestrianisation, the Committee would like to pursue and we are pursuing, would like to deliver pedestrianisation behind the States' Offices at La Tourgand It should be a cul-de-sac, people should be able to sit there, dwell, eat and enjoy themselves. At the moment it is a through road. I can deliver that, but to deliver the next one I need the support of the community. So what people do is observationally say that there are problems that need to be addressed with pavement surfing, with types of behaviour, the Committee can bring policy letters to this Assembly, but we can only really deliver with the support of the entire Assembly, and at times I am afraid there is not one single voice which speaks in relation to traffic safety issues and the need to resolve these matters.

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The Bailiff: Deputy Smithies.

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Deputy Smithies: Thank you, sir.

I wonder if the President would care to comment on the possibility of extending the road safety system to include roads for residents only. They have a very good system in France, 'sauf

riverains', I wonder if the ruettes tranquilles system could be extended to include that, a lot of these little roads, particularly in the Vale, are used as rat runs, they may be a ruettes tranquilles but that does not reduce the amount of traffic going down them.

The Bailiff: Deputy Brehaut.

Deputy Brehaut: Of course as we are all aware, the ruettes tranquilles system is advisory, so oddly these areas you can drive legally at 35 mph. Fortunately people do not, but they are advisory. Recently in Belmont Road, because most commercial drivers when they enter Belmont Road from Queens Road immediately jump up onto the pavement and drive down the pavement, we have now put a width restriction on the road to make it more tolerable for the residents in that area. What we know is that if you close off a road to residents only, what you have to do is have a real appreciation of how then the driver behaves. Because when we close a road, despite putting signage up to direct drivers wherever, people generally think they know the Island better than anyone else so they will make their way and block up the green lanes. In Bristol there are ideas such as the open streets whereby you have a marshal at one end and a marshal at the other and that children can play in the streets and cars are, if I can express it this way, lower down in the mix. But cars do monopolise the public realm; it is an issue that E&I try and deal with and we are open to any new ideas or initiatives as suggested by Deputy Smithies.

The Bailiff: I see no one else rising.

POLICY & RESOURCES COMMITTEE

Sanctions and Anti-Money Laundering Bill – Statement by the President for Policy & Resources

The Bailiff: We will move on to the next Statement which is to be delivered by the President of the Policy & Resources Committee on the Sanction's and Anti Money-Laundering Bill.
Deputy St Pier.

Deputy St Pier: Mr Bailiff, I rise to report on events in Westminster of constitutional importance to this Bailiwick.

In this statement I will brief Members on the background to, and progress through the UK's Parliament of the Sanctions and Anti-Money Laundering Bill; I will reiterate Guernsey's strong and determined stance against financial crime; I will outline why the outcome of the recent debate on the Bill was positive for Guernsey's constitutional relationship; and I will outline the steps that the Policy & Resources Committee intends to take to strengthen Guernsey's position for the future.

For the benefit of the national and international media in the public gallery, or listening in ahead of another matter on our agenda later – and given that they may have little knowledge in this area – it is worth briefly restating our constitutional history as a Dependency of the Crown. We have never been a colony of the United Kingdom. We have never been invaded by the United Kingdom. With some historical licence, we could claim quite the reverse! We were, of course, part of the Duchy of Normandy, whose Duke, William the Conqueror, invaded England in 1066 – 952 years ago – when he became King of England. One hundred and thirty-eight years later, in 1204, we pledged to remain loyal to King John of England, when he lost his continental Normandy territory to King Philippe Auguste of France. After the ducal title was surrendered, the King of England effectively ruled the Islands as though he were the Duke of Normandy, observing our laws and customs and liberties. These were later confirmed by charters of successive sovereigns which secured for Islanders their own judiciaries, freedom from process of English courts and

other important privileges. These are principles of which the Islands are justly proud – (**Several Members:** Hear, hear.) and which have always been respected.

520 And so, some 500 years before the creation of the United Kingdom with the Act of Union, we had already begun more than eight centuries of loyalty to the Crown. That relationship, and those rights, have led to the creation of separate legislative and executive institutions in the Bailiwick of Guernsey – which of course includes the Islands of Alderney and Sark. Although Guernsey is not an independent state in international law, it has competence over its domestic affairs. It is economically self-sufficient. We pay no taxes to the United Kingdom and we receive no
525 contribution from the revenues of the United Kingdom. (**A Member:** Hear, hear.)

It is a long standing constitutional principle that Westminster *does not* legislate for us without our consent on purely domestic matters.

530 This history is important, because it sets us firmly apart from the position of the Overseas Territories; and in the context of that centuries-old constitutional relationship, the lifespan of any current Westminster Parliament or any parliamentary career is minimal – and the Sanctions and Anti-Money Laundering Bill is no more than an historical nano-second.

The purpose of the Bill is to enable sanctions to be imposed and to prevent money laundering and terrorist financing in the UK, including after Brexit. Having started in the House of Lords, the Bill reached the Third Reading stage in the House of Commons on Tuesday 1st May.

535 The Bill had been subject to a number of amendments in its progress through both Houses of Parliament. On more than one occasion, whilst the Bill was in the Lords and in Committee, proposed amendments included references to the Overseas Territories, or the Channel Islands and the Isle of Man – and to their respective registers of beneficial ownership of companies. These amendments, each moved by the Labour Party, had previously acknowledged the differences
540 between the Overseas Territories and the Crown Dependencies. Those amendments had in the past been rejected or withdrawn on constitutional grounds. Similar amendments had been moved during the passage of the Criminal Finances Bill in 2016. All had been unsuccessful. The most recent amendment, that went furthest, was due for consideration during the Third Reading debate at the beginning of the month. It is the handling of that specific amendment which is the focus of
545 this Statement.

Guernsey takes very seriously its responsibilities to stand with the rest of the world to comply with international obligations and the rule of law, to prevent terrorism and to promote international peace and security. These include all necessary steps to impose internationally agreed sanctions and to prevent terrorism financing and money laundering.

550 Sir, we have nothing to be embarrassed about in relation to our role in the international financial system or our regulatory standards. Quite the reverse. Our standards and record are exemplary (**Several Members:** Hear, hear.) and we can hold our head high in any international forum on the topic. There is much that other jurisdictions could learn from us. We have no intention of being passive or defensive. On the contrary, we will be pro-active and proud when it
555 is appropriate to be so. By way of example, the House of Commons Treasury Select Sub-Committee has recently begun an inquiry into tax avoidance and evasion. The Policy & Resources Committee intends to volunteer evidence to that inquiry.

560 Guernsey already has its own robust systems and legislation to tackle tax evasion, money laundering and other financial crime, which meet the highest international standards – including a leading position on the retention and sharing of beneficial ownership information. Our policy position is to maintain a Register of Beneficial Ownership that is transparent – but that respects privacy – and this position has the support of the UK government. We will move to a public Register of Beneficial Ownership *if* that becomes an international standard. It must be a standard agreed by all jurisdictions; there must be a level playing field. (**Several Members:** Hear, hear.)

565 The States of Guernsey shares the same goal as the UK in seeking outcome-based, rather than rules-based regulation. We ensure – and historically always have ensured – that full and accurate information is shared promptly with authorities that have a legitimate need to know. The information held on Guernsey's Beneficial Ownership Register is – unlike the UK's – up to date and

570 accurate and populated with verified, rather than self-declared, data. Our central register was
established in the summer of 2017, but was a step that built on our own long-standing good
practice in ensuring that beneficial ownership information is established, verified and shared with
law enforcement authorities. Our effectiveness in this area has been repeatedly confirmed in
independent evaluations by international bodies such as the IMF, the OECD and Moneyval. In
2016, Guernsey signed an exchange of notes with the UK on sharing information with law
575 enforcement agencies to improve the exchange of beneficial ownership information to meet the
UK's law enforcement required standards, so that they can effectively investigate and fight
financial crime.

In a UK ministerial statement released on 1st May as well, the Home Office recognised the
effectiveness of Guernsey's Beneficial Ownership Register – and the effectiveness of the
580 arrangements to share this information with the UK's law enforcement agencies. This was the
result of the first review of the functioning of the exchange of notes on beneficial ownership – and
will be followed by annual reviews.

This reinforced that Guernsey has nothing to be ashamed of in maintaining this policy position.
Public registers are *not* the agreed policy of the G20 countries; we are not the only well-respected
585 jurisdiction to have this policy position. Whatever our detractors say, we are not a 'secrecy
jurisdiction' – but we do recognise the legitimate right to personal privacy. (**Several Members:**
Hear, hear.) Guernsey is a well-regulated, co-operative jurisdiction playing an important role in
international capital markets. Our legitimate current policy stance on the Register of Beneficial
Ownership meets the agreed international standards and maintains an effective balance between
590 transparency and privacy.

The amendments to the Bill sought to undermine our established policy position and sought
to impose UK policy on the Crown Dependencies. It was this potential imposition of policy and
legislation and failure to respect the Island's constitutional position that led to the rejecting of the
previous amendments at several stages during the passage of the Bill. However, during the final
595 stages of the Bill's passage in the Commons in early May, two amendments to the Bill were
particularly in the spotlight – each of which sought to introduce a new clause to the Bill which
would, ultimately, seek to impose a decision of the UK Parliament on the separate jurisdictions of
the Overseas Territories – an amendment called NC6 – or the Crown Dependencies – in an
amendment called NC14 – by use of a UK Order in Council. These amendments sought to compel
600 the introduction of public registers of beneficial ownership of companies, even if that was contrary
to any policy decision of the democratically-elected governments of those jurisdictions. NC6,
relating to the Overseas Territories, tabled by Dame Margaret Hodge had cross-party support
with over 50 signatories by the time it was debated. NC14, the Crown Dependencies one,
proposed by Labour Shadow Cabinet Members, only had four signatories.

605 Whilst it is difficult to conceive how amendment NC14 could have had any domestic effect in
Guernsey, even if it had been passed by the UK Parliament, it would have created a serious breach
of constitutional convention. (**A Member:** Hear, hear.)

Many UK MPs were talked to during our lobbying – many of them that we did talk to
understood the constitutional and legal differences between the Crown Dependencies and the
610 Overseas Territories. However, I am concerned that a number of MPs seemed prepared to
dispense with established constitutional conventions, by seeking to impose UK policy on us, which
could disenfranchise Islanders and upset the constitutional relationship.

Many of those MPs were clear about their position on NC6 but reserved their position on
NC14. Each of the Crown Dependencies, along with the UK government, were concerned that
615 NC14 might have got carried along with NC6, leading to, at best, a serious breach of
constitutional convention.

In order to minimise the risk of the Crown Dependencies being caught in the rising support of
the Overseas Territories' amendment, Guernsey joined with Jersey and the Isle of Man, to make
sure that our constitutional positions were sufficiently understood across Westminster, including
620 immediately before the Third Reading debate of the Bill. We met with representatives of the

Overseas Territories to co-ordinate our activities. Our long-term, regular and active engagement with politicians, officials and special advisers in London proved invaluable. So too was the support from those at the Ministry of Justice, in particular the Lord Chancellor and Lord Keen, who are responsible for managing the relationship with the Crown Dependencies and who have an excellent grasp of the constitutional issues involved.

Following intense, robust and closely co-ordinated work over a number of days preceding the debate, the amendment which would have had most direct impact on us, NC14, was withdrawn. I made a public statement immediately following the House of Commons' debate to say that I welcomed the news that it had quite rightly chosen to respect our constitutional relationship with the Crown.

H.M. Government flagged up its serious concerns on constitutional grounds during the debate. The Government resisted the Crown Dependencies' amendment – NC14 – but decided not to resist the Overseas Territories' amendment – NC6. That particular amendment was accepted during the Third Reading debate. Unsurprisingly, many of those territories are concerned at that outcome.

The result regarding NC14 – although the right one – was by no means assured. It was achieved by hard work deploying carefully designed and deliberate strategies and working seamlessly with the Isle of Man and Jersey, at both an official and a political level.

The Bill is yet to return to the Lords and so, whilst the Lords have previously demonstrated a deep understanding of the constitutional issues which this amendment raised, there is still a risk that the issue will re-emerge again. We are taking steps, again working with the other Crown Dependencies, to mitigate this risk.

Sir, as I said at the outset, we are Dependencies of the Crown, and as such are distinct from the Overseas Territories, which could be thought of as dependencies of the UK. As Crown Dependencies, we enjoy a unique relationship with the United Kingdom and the rest of the British Commonwealth through the Crown, in the person of the Sovereign. We never have – and never have had – any direct representation in the UK Parliament – nor do we seek it. By a long established convention the UK does not legislate for us without our consent on purely domestic matters. The Overseas Territories each have different constitutions, effectively handed down to them from the UK. These are written and define their relationship with the UK government.

Our constitutional arrangements provide some resilience to any attempts to undermine the autonomy that we enjoy. However, we must remain vigilant and consider steps to bolster our constitutional defences, so that red lines are not crossed, whether deliberately or inadvertently. Having seen similar amendments tabled and withdrawn or lost in the Criminal Finances Bill and the recent Bill, we can reasonably expect such issues to arise when similar Bills are laid before the UK Parliament in future.

The fact that some Members of the UK Parliament proposed an amendment seeking to impose domestic policy on us is also of concern. It may be a surprise in some quarters that my concern at this time is not focussed on whether any beneficial ownership register is public or not – which is a separate policy issue – but more that UK parliamentarians gave serious consideration to riding roughshod over centuries of constitutional convention, our ancient rights and our democratic process.

It is vitally important to Guernsey that our position is recognised and that the functioning, conventions and customs of our centuries-old constitutional relationship with the Crown are not undermined by the UK's attempt to direct our domestic policy. Such a move would damage the constructive political and operational relationship between Guernsey and the UK, in particular that which has developed during the past two years since the Brexit referendum.

We will work with interested parties at Westminster to discuss and consider whether and how these concerns and policy objectives might be addressed, within the constitutional framework between Guernsey and the Crown. I have written to and have offered meetings with a number of MPs from across the political spectrum as a follow-up to the debate on the Bill.

675 But we will do more than just talk. The Policy & Resources Committee want to ensure that we
in Guernsey have the strongest package of measures which maintain the current constitutional
relationship and protect our autonomy should the UK's Parliament, or a future government, create
a similar constitutional challenge. These measures will include focussing on how to progress the
recommendations of the Constitutional Investigation Committee considered by the States of
Deliberation in January 2016.

680 One of the Resolutions from the Constitutional Investigation Committee was to investigate
referring certain matters to the States for approval and consent before registration. This might
include UK Acts of Parliament which have direct effect or are to be extended to Guernsey by
Order in Council. It would potentially provide an additional safeguard developed from one that
already exists in statute in Jersey. I intend to discuss that approach with counterparts in the States
of Alderney and Chief Pleas of Sark to seek a Bailiwick-wide consensus.

685 Another recommendation was to modify the process of Royal sanction for most Guernsey
projets so that they could be ratified on behalf of Her Majesty by the Lieutenant-Governor. A
similar practice already exists in the Isle of Man.

690 As well as prioritising the recommendations of the Constitutional Investigation Committee, we
will be looking at other measures to ensure that we have greater constitutional resilience. In
particular, the Policy & Resources Committee believes it is of strategic importance that we have
the legislative and procedural architecture in place to be able to test the will of the people of the
Bailiwick – should it ever be necessary. In the event of any breach of constitutional convention by
the UK, it is conceivable that the people of the Bailiwick may wish to express a view on the future
constitutional relationship. (**Several Members:** Hear, hear.)

695 Sir, I have already written to the Ministry of Justice to advise that we intend to progress this
work as a priority. The Policy & Resources Committee will reprioritise within resources that have
already been allocated and bring the requisite policy letters to this Assembly as soon as we are
able, working together with the Law Officers.

700 In the meantime, the Assembly can be assured that the Policy & Resources Committee will
remain alert to any future potential threats to Guernsey's autonomy. We will continue to engage
with UK parliamentarians at every opportunity to ensure that they have a better understanding of
our constitutional relationship. We are determined robustly to defend and promote our
constitutional position, wherever and whenever necessary.

705 **Several Members:** Hear, hear. (*Applause*)

The Bailiff: Deputy Kuttelwascher.

710 **Deputy Kuttelwascher:** Sir, does the President of Policy & Resources agree that the GDPR
Regulations which will be coming in to effect on 25th of this month actually are fully supportive, if
not protective, of our policy on the data that is held in this Register?

The Bailiff: Deputy St Pier.

715 **Deputy St Pier:** Sir, Deputy Kuttelwascher is absolutely right that the whole principle behind
the European Union's Directive on Data Protection is absolutely about preserving privacy rights
and the two policy positions do appear to be running counter to each other and that absolutely
endorses our position that there is a right to privacy.

The Bailiff: Deputy Tindall then Deputy Graham.

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

I wish to thank the President and his team for the work done in this regard combining with the
Crown Dependencies to ensure the success of the withdrawal.

725 Would the President agree that it is better for all those in law enforcement to have access to
an accurate register of information than having one that is inaccurate, incomplete and self-
declared, and that accuracy is also an important international standard we can promote by
example?

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

Deputy St Pier: Sir, I would absolutely agree with Deputy Tindall, and this is a point that we
have made repeatedly in respect of the UK's register, that it has some structural flaws, which mean
that its ability for it to be relied on and used has to be questioned, and I suspect those issues may
well emerge when the UK is subject to a review which is imminent from the Financial Action Task
735 Force.

The Bailiff: Deputy Graham.

Deputy Graham: Thank you, Mr Bailiff.

740 I do congratulate Deputy St Pier and his colleagues in Jersey and the Isle of Man on their very
robust intervention at Westminster the other week, in winning that battle. But of course it was a
battle and there is a war to be fought, and in that war the United Kingdom and the international
community have at their disposal, if they wish, various means of leverage.

745 I am coming now to, does the President agree with: that being the case, we won this battle by
deploying the constitutional card, in the future we not only have to do that more and more but
also defend the individual merits of the specific cases. Does he agree with me that in doing that
that is not just a matter for P&R, and the External Relations Group and those dedicated to that,
but actually the duty of every single Member of this Assembly is to act as an advocate in that
court?

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

The Bailiff: Deputy St Pier.

755 **Deputy St Pier:** Sir, there are many parts of Deputy Graham's question which I agree with. It is
absolutely right to describe it as a battle rather than a war. I would also agree with him that it is
the responsibility of everybody in this Assembly to help us to continue to win those battles as they
come up. But I would extend that and say it is the responsibility of other members of our
community as well in every position that they hold to seek to make sure that our position is widely
760 or more widely understood. I would also agree, sir, that it is essential that we continue to work to
negotiate and educate. That has to be the best way to prevent any future crisis but we also need
to make sure that we have taken the steps we can to ensure that we are as resilient as possible
should any lines be crossed, as I said in my Statement either, deliberately or quite possibly
inadvertently.

765 **The Bailiff:** Deputy Prow.

Deputy Prow: Thank you, sir.

I thank the President for his very comprehensive Statement.

770 Would the President agree with me that the response to the UK Parliament's unconstitutional
amendments were justly and successfully challenged and I thank him for that, but that similar to
Deputy Graham's question, the challenge to maintain our efforts to comply with international
anti-money laundering and terrorism financing initiatives remains, but it is frustrated by political
influences particularly from the EU rather than our excellent technical compliance of the United
775 Nations-based standards.

Thank you, sir.

The Bailiff: Deputy St Pier.

780 **Deputy St Pier:** Sir, I think there are many external political forces whether from the United Kingdom or the EU. The question of international regulation, whether it is anti-money laundering or counter terrorist financing, is a constantly evolving scene, as Deputy Prow is well aware. The important message is, as delivered in my Statement, sir, that Guernsey has a long and proud tradition of working with international bodies to ensure that we can put in to our own domestic
785 legislation provisions which achieve what the international community rightly expect of all jurisdictions including our own, that policy has been one to which this Government has been committed for several decades now and I see no change in that. But in the meantime we have to make sure that we deliver that within the constitutional framework that we have.

790 **The Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: Sir, I commend sincerely the authoritative Statement that we have had from Deputy St Pier and the resolute stance he and others have taken, but would he accept we have to face the fact that within four years we could face a government in England of a political
795 hue that we have never seen before, that does not respect democracy, that does not respect constitutional relationships? Will we be prepared, will we be able to resolve and are we going to devote sufficient resources between now and any time within the next four years to make sure that we can repel a not very attractive invader?

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

Deputy St Pier: Sir, I am sure Deputy Ferbrache probably would not expect me to comment on domestic politics of the United Kingdom. However, what I can do and hopefully what was underpinning the thrust of my Statement will give him the reassurance that we are committed to
805 ensuring that the resources are there to ensure that our position is as constitutionally resilient as it can be alongside very active engagement with all sides of the UK parliamentary system.

The Bailiff: Deputy Inder.

810 **Deputy Inder:** Thank you, sir.

I am grateful for the update, as I am sure everyone else is, and it is one of the first speeches that reminds the UK that this is not England.

815 As a card-carrying nationalist, sir – and his family probably came to Guernsey on one of the two boats which brought leprosy or the plague – with the threat of Brexit and the pressure and potentially, as Deputy Ferbrache alluded to, hostile UK governments, could the head of Policy & Resources actually state that anything that affects our ability to trade may mean independence for these Islands?

The Bailiff: Deputy St Pier.

820 **Deputy St Pier:** Sir, what I am not going to do is speculate about future challenges and threats, but again part of the rationale for fairly extended statements tracking back through our constitutional history perhaps even to before the time that Deputy Inder's family arrived on a boat with leprosy, is to make the point that our rights, and including the right to trade of course, our
825 ancient rights which have been granted by charter and certainly in our dealing with the UK over the impact of Brexit, that has underpinned much of the conversation is understanding that actually those rights precede the Treaty of Rome in 1972 or the accession of the Treaty of Rome in

1972 by, as we have already said, eight centuries and we are absolutely determined to ensure that those rights are not forgotten by anyone.

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The Bailiff: Deputy Gollop.

Deputy Gollop: Yes, at a very recent fascinating question time attended by several people in the Chamber today, the point was perhaps made that unlike, I am sure, virtually every Guernsey Deputy, some Members of Parliament and Ministers who are MPs are not as well informed on constitutional niceties and the Guernsey and Jersey and Isle of Man situations as they should and could be. How specifically will Policy & Resources on behalf of us all robustly mediate with these MPs for all parties, which of course may include Welsh nationalists, Scottish nationalists, Members from Northern Ireland and so on? So what tactics should be best deployed?

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The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, Deputy Gollop asks a very pertinent and excellent question. We have many opportunities to do so through the British Irish Parliamentary Assembly; through the British Irish Council Summits, which of course we will be hosting in Guernsey in June; through direct one-to-one contact with both Peers and MPs of all parties; through the Channel Islands All Party Parliamentary Group. So as I have said, on the back of this particular set of circumstances at the end of April, early May I have written to a number of MPs inviting them to arrange meetings with myself or other Members in order that we can open that dialogue with them, and on the back of that we will also make contact with our wide network of friends and allies from across both Houses of Parliament.

The Bailiff: Deputy Yerby.

Deputy Yerby: Sir, can Deputy St Pier give an indication of what work is likely to be deprioritised in order to progress this work and a full assurance that he will not simply seek to stretch an already stretched resource even further?

The Bailiff: Deputy St Pier.

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Deputy St Pier: Sir, it is managing the resources which have been allocated with this Assembly's having been kept informed in relation to Brexit and some of the Brexit resources that we have available that have been additionally approved for that, much of that work of course we are still waiting for significant development in the negotiations between the UK and the EU 27, and until that emerges there is still a bit of a hiatus in terms of some of the work that is going to fall out of that process, in the meantime we can be cracking on with some of this.

The Bailiff: Deputy de Lisle.

Deputy de Lisle: Sir, may I ask, given all that is done here and the support given by also some Members of Parliament, why is it that criticism is continually levelled at our door, that is in this area, is it due to our insistence on personal privacy and constitutional convention, misunderstanding of the same, or simply envy of our privileged position?

The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, Deputy de Lisle asks an incisive question and it is difficult for me to provide a definite answer, not being able to read into the minds of all those who may take a particular policy stance in relation to ourselves. I suspect it is a combination of factors. I suspect

880 some of it is ignorance, hence the need to actively engage to ensure that people do at least have
the facts; some of it may well be wilful; some of it may be ... we have to recognise that there are
no votes in the Crown Dependencies for any parliamentarians, and therefore it is very easy for us
and we have seen this, I think, many times over the last 10 years to be a whipping boy for some of
the UK's problems and I suspect that may be a factor as well.

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The Bailiff: Deputy Meerveld.

Deputy Meerveld: Sir, I totally agree that this is a priority. As Deputy St Pier has mentioned,
protecting our autonomy has to be a first priority. He has mentioned that he is going to be
890 reprioritising resources and particularly the Law Officers' time to address this issue, and I think this
is a very timely Statement considering the assisted dying debate we will be having later on today.
Previously in the last few weeks we have been told by Policy & Resources that we have nearly 100
pieces of outstanding legislation dating back some 37 years waiting to be written up and enacted
by this Assembly based on previous decisions. What additional resources will be required to
895 prioritise this effort? Will this be prioritised over assisted dying if that is passed later today, and
how long would that then take for assisted dying to be addressed; and if assisted dying is passed
on top of this priority what further resources may be required to then address that if we wish to
do it in a timely fashion?

Thank you, sir.

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The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, I do admire Deputy Meerveld's attempt to link the two topics, I think they
are significantly different, but I think in terms of the resources required, the resources that are
905 required for this will be in relation to the External Relations Team, and I think I have dealt with that
in response to Deputy Yerby's question, there are many competing challenges of course for the
Law Officers and St James' Chambers, including on the drafting resource. I think the question of
resources in relation to the assisted dying requête is probably best left for that debate, sir.

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The Bailiff: Deputy Roffey.

Deputy Roffey: Sir, given that a couple of questions have been asked from what I would call
the nationalistic framework, for the interest of balance can I ask the President if he would agree
with me that while total independence must always be a nuclear option if people seek to trample
915 over our rightful autonomy, it does also bring an awful lot of downsides, and should be exactly
that a nuclear option?

The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, I am not sure my Statement was necessarily putting the nuclear option
firmly on the table there, and I think it is unhelpful for us to be speculating at this stage in relation
to that particular option. As Deputy Roffey said, there would be significant implications from
pursuing that route. That is not what we are talking about today. There are very many things that
we should be doing long before we get into that kind of debate.

925

The Bailiff: Well, I see no one else rising. In fact the 15 minutes allotted under the Rules has
expired.

COMMITTEE FOR ECONOMIC DEVELOPMENT

**Update on Digital Framework –
Statement by a Member for Economic Development**

The Bailiff: We will move on to the next Statement to be delivered by Deputy Dudley-Owen as
930 a Member of the Committee *for* Economic Development on the topic of the Digital Framework.
Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you, sir.

I am pleased to provide an update to the Assembly on the Digital Framework. I do so in my
935 capacity as the lead Member on Digital Matters for the Committee *for* Economic Development
since the beginning of this term, which has given me a principal role in the co-ordination and
delivery of the Framework, and also as the current Chair of Skills Guernsey. The link between the
Digital Framework and the Skills Strategy is a critical one.

It is important to emphasise that the ongoing development and implementation of the
940 Framework and its work streams brings together the Committee *for* Economic Development, the
Committee *for* Home Affairs, the Policy & Resources Committee and the Committee *for* Education,
Sport & Culture.

The Committee *for* Economic Development published the framework document just over
945 12 months ago. At every stage and at every opportunity during this term, the Committee has
sought to prioritise digital. Our ambition is to make Guernsey the location of choice for high
value, low impact digital businesses, leveraging off existing economic sectors.

We will ensure that Guernsey is a centre of excellence for future digital technology, developing
new and innovative businesses through research and development in sectors such as FinTech,
data storage and analytics, cyber-security; institutional peer to peer lending, digital transactions
950 including blockchain, and wealth management platforms.

That means we need, broadly, to do three things, all of which are central to the Digital
Framework, we need to recognise the importance of digital enablers; we need Government to
help create a working market, but not to interfere with it; and we need to develop the skills and
the people of the future.

955 First, putting in place digital enablers means establishing a world class digital infrastructure,
and the next step is the publication of a telecommunications strategy here. That strategy will be
published in the next few weeks and it will be built on three foundations: first, fibre to business
districts; second, a target of up to 100 megabits per second to homes, which is 10 times greater
than the UK strategy recently published in December; and third, next generation mobile
960 technology, 5G.

We are working in partnership with industry as well as CICRA on this, and it will make Guernsey
even more connected – in fact, it will make us one of the most digitally connected places on Earth.

Another enabler that has been prioritised through the Digital Framework is ensuring we have a
robust and internationally recognised data protection framework. The Bailiwick's new Data
965 Protection Law is fully aligned with GDPR, and has been delivered effectively and efficiently by the
Committee *for* Home Affairs. The Guernsey regulator, Emma Martins, is in place; and Richard
Thomas CBE, the former UK Information Commissioner, has now been appointed as our Chair of
Data Commissioners.

The Guernsey Investment Fund was launched in February, with the States as its seed investor to
970 the fund to the tune of £25 million, with its first protected cell reserved for technology and
innovation. The fund supports the Digital Framework by investing in innovation and economic
diversification. So we will have world class connectivity, data protection, and the ability to invest –
all critical for the growth of our economy and the resilience of our community.

975 Second, we need the Government to help create the market that enables business to flourish –
but not be interventionist. To do that, we are working on smart contracts. We are working on

supporting intellectual property and the knowledge economy through working to join the World Trade Organisation. We have supported the development of blockchain technologies.

980 Third and very importantly, we need to develop the skills and people of the future. We need to grow our own – but we also need to make our rules flexible enough for businesses to bring in the skills required.

The focus of our plan to grow our own is the Digital Greenhouse. The Digital Greenhouse was established in 2016, and after a phase of establishment has really started to come into its own.

985 In under a year the Digital Greenhouse has seen a 98% increase in co-working membership, representing 30 digital start-up businesses working from the premises. There are 10 industry memberships, 74 student memberships, and an increasing female representation. There is a Digital Industry internship, and tie-ins with universities in the UK and beyond.

990 The Digital Greenhouse works closely with the wider skills strategy as well. It is critical to growing our digital entrepreneurs, challengers and disruptive influencers of the future. It also plays another important role. Through projects and events such as Digital ACE, it provides guidance on online safety and security for children – supporting their aspirations, and empowering them to learn, discover and importantly to be safe in our amazing digital world. Helping children understand how to stay safe online and secure is vital.

995 Given the great work that the Digital Greenhouse does, I am very pleased that last month the Committee *for* Economic Development agreed its plan for the next three years of funding, which was supported by the Policy & Resources Committee.

1000 A big part of the Digital Greenhouse's future is support from industry. Last month we confirmed the further development of the Digital Greenhouse with Barclays Guernsey, bringing the very successful Eagles Lab programme to the Island. Building on the growth of their 14 UK sites, this exciting new partnership will be a test-bed for Eagle Lab's new model of broadening delivery by working with Government. To Barclays, and to all of our sponsors and partners I offer a sincere thank you.

1005 Sometimes, of course, a business needs specific skills, and specific people. And they usually need them yesterday. So to ensure you can do that, the Committee *for* Economic Development has worked closely with the Committee *for* Home Affairs to ensure that the population management processes now positively reflect specialist digital positions, enabling straightforward off-Island recruitment. Tech specialists have been very positive about the process.

Over the past 12 months then, the States has made significant progress in implementing the Digital Framework. This has been a true partnership approach, across Government, and business. It will remain a priority as our economy and community meets the challenges of the future.

1010 Thank you, sir.

The Bailiff: Are there any questions for Deputy Dudley-Owen within the context of that Statement?

1015 Deputy Gollop.

Deputy Gollop: Sir, thank you.

1020 Whilst looking forward to telecommunications improvement one important foundation of a digital economy is its human capital of self-motivated entrepreneurs, whether they be people labelled as 'geeks', disabled people, Guernsey mums, or tycoons, self-generated or attracted through *LocateGuernsey*. Can the Deputy President ensure that there is a robust future for the Digital Greenhouse, because a number of events and promotional lunches that they were providing seem to have dropped off (*Laughter*) in recent months, so I hope that that enterprise of bringing people together across the community and commercial sectors will be enhanced?

1025 **The Bailiff:** Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you to Deputy Gollop for the question.

1030 Yes, well the funding for the Digital Greenhouse, which has secured a total of £493,000 for the next three-year period, will be going in to enhancing and ensuring that we maintain a strong relationship with business that we are looking at the skills in Guernsey, growing our own, enhancing those relationships. So I hope that that helps to answer Deputy Gollop's question and will not disappoint him about the events of the future that I know he really did enjoy going to at the Digital Greenhouse.

1035 **The Bailiff:** Deputy Hansmann Rouxel.

Deputy Hansmann Rouxel: Thank you.

1040 Could Deputy Dudley-Owen advise – she mentioned blockchain, has any work or investigation been done in terms of the future of blockchain, because of the amount of energy that is consumed by the processes of calculating things over and over again, and that this is a real threat to the future of blockchain?

The Bailiff: Deputy Dudley-Owen.

1045 **Deputy Dudley-Owen:** Thank you to Deputy Hansmann Rouxel for this question.

Currently there is only one blockchain system working from Guernsey which has been widely publicised for the innovation of Northern Trust in order to support their private equity systems. Clearly if there were going to be many more coming out of Guernsey then yes I think that that is a very valid and fair question to ask and yes we would be looking into that in future.

1050 Thank you.

The Bailiff: Deputy Soulsby.

Deputy Soulsby: Sir, yes.

1055 As Deputy Dudley-Owen has said the digital strategy or framework, as it is now called, will be incredibly important to ensure we can develop and diversify our economy. However, it has not been approved by the States of Deliberation and in light of that and in reference to a telecommunication strategy, which I welcome, I would like to know whether the Digital Framework of the telecoms strategy or both will be brought to the Assembly, and if not why not?

1060

The Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you to Deputy Soulsby for her question.

1065 The Digital Framework is a strategy that crosses many elements of the States and as I have alluded to in the Statement, sir, it is a cross-Committee strategy, and various strands of work therein will be coming to the States. There is no intention as I understand it at the moment to bring the digital strategy for approval to the States because as I have just said individual strands of work emanating therein will be brought at the appropriate time to the States for approval.

1070 **The Bailiff:** Deputy Soulsby, second question.

Deputy Soulsby: Sir, as a follow up to that, Deputy Dudley-Owen did mention that the telecommunications strategy came out of the Digital Framework, so am I then assured as she just said about elements of it will come to the Assembly, that the telecommunication strategy will come to this Assembly?

1075

The Bailiff: Deputy Dudley-Owen.

1080 **Deputy Dudley-Owen:** I am afraid at this stage that I cannot give that assurance because that strand of work as I understand it is shared with Policy & Resources Committee and will be something we will discuss in the future as to whether it is deemed appropriate for it to come to the Assembly.

1085 **The Bailiff:** Deputy de Sausmarez.

Deputy de Sausmarez: Thank you, sir.
Can Deputy Dudley-Owen please advise whether there is any specific focus or support for the digitally dependent creative industries within the Digital Framework?

1090 **The Bailiff:** Deputy Dudley-Owen.

Deputy Dudley-Owen: The creative industries are very important within the digital strategy and as with all sectors that rely on digital it gets its fair share of support definitely.

1095 Recently, in November 2017 I represented Guernsey at the British-Irish Council meeting in Jersey to give an update on our progress with the creative industries. They are represented on the Digital Guernsey Working Group, which I chair, and they are a very important sector that we wish to continue supporting in Guernsey.

1100 **The Bailiff:** I see no one else rising.
Before we move on, Deputy Brouard has entered the Chamber. Do you wish to be relevé, Deputy Brouard?

Deputy Brouard: Thank you very much, sir.

1105 **The Bailiff:** We would now normally go to Question Time, but we do not have any Questions, so we will move on with other business, Greffier.

Billet d'État XIV

COMMITTEE FOR ECONOMIC DEVELOPMENT

I. Committee for Economic Development – Appointment of the Public Trustee – Mr Luis Gonzalez appointed

Article I.

The States are asked to decide:

Whether, after consideration the policy letter entitled "Appointment of the Public Trustee", dated 1st May, 2018, they are of the opinion:

1. In accordance with paragraph 1(2) of the Public Trustee (Bailiwick of Guernsey) Law, 2002, to agree to appoint Mr Luis Gonzalez as Public Trustee for a period of five years, with immediate effect.

1110 **The Deputy Greffier:** Billet d'État XIV, Article I, Committee for Economic Development – Appointment of the Public Trustee.

The Bailiff: Deputy Parkinson.

Deputy Parkinson: Sir, the previous Public Trustee, Miss Cathy Rowe, stepped down from the role in November and I thank her for the commitment that she brought to the role. I am now pleased to nominate Mr Luis Gonzalez as her successor for the post of Public Trustee. Over the past six months Mr Gonzalez has given assistance to the office of the Public Trustee as a delegate, providing advice and expertise on a *pro bono* basis. His diligence, intelligence and commitment to public service have shone through and I am pleased that he applied for the post and on being offered it has accepted. I thank him for all that he has done to date. His experience as a trust lawyer is of course first rate, but his first-hand knowledge of the role means that he would be a truly excellent appointment to this post.

I also wish to thank our previous proposed nominee, Mr David Harry. While a change of personal circumstances meant that Mr Harry decided not to take up the post of Public Trustee in the end, he has continued to provide support to the office of Public Trustee as a Deputy Trustee, and I thank him for his hard work and dedication. I would also like to thank the Law Officers' Chambers who continue to provide advice and resource to support the office of the Public Trustee. Their efforts are valued and appreciated.

In its financial update at the end of February the President of the Policy & Resources Committee referenced the ongoing costs relating to the office of the Public Trustee in relation to the IXG case as being around £1 million at that time. I want to reiterate the point that costs accrued by the office of the Public Trustee are provided in the form of a loan which we hope in due course and as the IXG case progresses will be recoverable either in part or in full.

I also want to add that on 4th June the Committee *for* Economic Development will be meeting to consider proposed responses to the special review of the office of the Public Trustee that was undertaken in December 2017, and shared with Members of the States in January. The appointment of Mr Luis Gonzalez will be timely in assisting with the implementation of any agreed changes in relation to governance or legislation, and I recommend him without reservation for the States' approval.

Thank you.

The Bailiff: Deputy Merrett.

Deputy Merrett: Thank you, sir.

We are being asked today by the Committee *for* Economic Development to appoint a Public Trustee in accordance with paragraph 1(2) of the Public Trustee (Bailiwick of Guernsey) Law, 2002. As we are asked to appoint a new Public Trustee under the aforesaid Law, I would like to ask the President of the Committee *for* Economic Development if he intends ensuring or if he expects the candidate, if elected, to perform their duties *under* the Law with particular reference to Section 8 of the Law being grants and loans to the Public Trustee, or if he expects the candidate to work within existing custom and practice? Indeed what is the expectation of this Assembly?

Sir, I strongly believe the Public Trustee should act within the Law that they are appointed under, although I appreciate that under Section 1(3) of the Law the office of the Public Trustee is not a committee, servant or agent of the States, *except* to the extent provided otherwise in the Law. When summing up I hope the President of the Committee *for* Economic Development will be able to provide clarity that the candidate if elected will indeed be expected to work under the Law.

Thank you, sir.

The Bailiff: Anyone else? No.

Well, Deputy Parkinson, as President of the Committee for Economic Development you will reply.

Deputy Parkinson: My answer to Deputy Merrett is yes.

The Bailiff: In that case, we vote on the Proposition to appoint Mr Luis Gonzalez as Public Trustee for a period of five years with immediate effect. Those in favour; those against.

1165 *Members voted Pour.*

The Bailiff: I declare the Proposition carried and Mr Gonzalez elected or appointed rather.

Billet d'État XII

COMMITTEE FOR HOME AFFAIRS

I. Appointment of the Data Protection Authority – Mr Richard Thomas CBE, Mr Simon Entwisle, Mr John Curran, Mr Christopher Docksey, Mr Mark Lempriere, and Ms Jennifer Strachan appointed

Article I.

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 9th April 2018, of the Committee for Home Affairs, they are of the opinion:

To appoint with effect on and from 25th May 2018 the following persons, as nominated by the Committee, to be voting members of the Data Protection Authority under paragraph 1 of Schedule 6 to the Data Protection (Bailiwick of Guernsey) Law, 2017:

(a) Mr Richard Thomas CBE as Chairman of the Data Protection Authority for a period of five years,

(b) Mr Simon Entwisle as a voting member of the Data Protection Authority for a period of five years,

(c) Mr John Curran as a voting member of the Data Protection Authority for a period of five years,

(d) Mr Christopher Docksey as a voting member of the Data Protection Authority for a period of four years,

(e) Mr Mark Lempriere as a voting member of the Data Protection Authority for a period of four years,

(f) Ms Jennifer Strachan as a voting member of the Data Protection Authority for a period of four years.

1170 **The Deputy Greffier:** Billet d'État XII, Article I, Committee for Home Affairs – Appointment of the Data Protection Authority.

The Bailiff: Deputy Lowe, the President of the Committee for Home Affairs, will open.

Deputy Lowe: Thank you, sir.

1175 The Data Protection Authority is established under the Data Protection (Bailiwick of Guernsey) Law, 2017, which will come into force on 25th May 2018, should the States approve the Commencement Ordinance placed before them later during this meeting.

1180 This policy letter is recommending the appointment of the Chairman and five members of the Authority with effect from 25th May 2018, in order to ensure that the Authority is constituted when the Law comes into force. In order to meet adequacy with the European Union, Guernsey

will need the Chairman and members of the Authority to be endorsed by the States prior to the enactment of the Law.

Sir, the Committee for Home Affairs unanimously asks the States to approve these appointments to the Authority.

1185 Thank you, sir.

The Bailiff: Is there any debate? No.

Well there are a total of six appointments, I will put them all to you together. Those in favour; those against.

Members voted Pour.

1190 **The Bailiff:** I declare the Proposition carried and the people duly appointed.

II. Election of Members of the Ladies' College Board of Governors – Ms Cathryn Llywella Perkins and Mr Peter Miller elected

Article II.

The States are asked:

1. To elect Ms Cathryn Llywella Perkins as a member of the Ladies' College Board of Governors who has been nominated in that behalf by the Chairman, the two States-appointed Governors and the two Governors appointed by the States on the nomination of the Committee for Education, Sport & Culture, and whose term of office will expire on the 31st May 2018.

2. To elect Mr Peter Miller as a member of the Ladies' College Board of Governors, who has been nominated in that behalf by the Committee for Education, Sport & Culture, to replace Mr John Marren whose term of office will expire on 31st May 2018.

The Deputy Greffier: Article II, Election of Members of the Ladies' College Board of Governors.

1195 **The Bailiff:** Deputy Ferbrache – sorry Deputy Fallaize. Sorry I do not know how I confused the two of you.

Deputy Fallaize: Please do not make a habit of it! *(Laughter)*

Is Proposition 1 not to be put by Deputy Soulsby on behalf of the Board? I think it might be.

1200

The Bailiff: It is, right –

Deputy Soulsby: Yes, I now propose Ms Cathryn Perkins.

1205 **The Bailiff:** Right. Nobody can be nominated from the floor of the Assembly because Ms Perkins has been nominated by the Chairman, the two States-appointed Governors and the two Governors appointed by the States on the nomination of the Committee for Education, Sport & Culture, so there can be no other nomination.

1210 **Deputy Soulsby:** That is the case.

The Bailiff: So I put that to the Assembly. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare Ms Perkins elected.

1215 Well the election of Mr Miller who has been nominated by the Committee for Education, Sport & Culture. Is there anything you wish to add?

Deputy Fallaize: No, sir, other than to say I think all the necessary details in relation to the candidate have been circulated.

1220 **The Bailiff:** So I put that Proposition to the States. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare him elected.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

**The Post Office (Bailiwick of Guernsey) Law, 2001 (Amendment) Ordinance, 2018;
The Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
(Amendment No.2) Regulations, 2018;
The Misuse of Drugs (Modification No.2) Order, 2018**

1225 **The Deputy Greffier:** The following Statutory Instruments are laid before the States: The Post Office (Bailiwick of Guernsey) Law, 2001 (Amendment) Ordinance, 2018; The Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No.2) Regulations, 2018; The Misuse of Drugs (Modification No.2) Order, 2018.

The Bailiff: I have not received notice of any motion to debate these Statutory Instruments.

LEGISLATION FOR APPROVAL

**III. Committee for Home Affairs –
The Data Protection (Commencement,
Amendment and Transitional) (Bailiwick of Guernsey) Ordinance, 2018 –
Approved as amended**

Article III.

The States are asked to decide:

Whether they are of the opinion to approve the draft Ordinance entitled "The Data Protection (Commencement, Amendment and Transitional) (Bailiwick of Guernsey) Ordinance, 2018", and to direct that the same shall have effect as an Ordinance of the States.

1230 **The Deputy Greffier:** Legislation for Approval, Article III, Committee for Home Affairs – The Data Protection (Commencement, Amendment and Transitional) (Bailiwick of Guernsey) Ordinance, 2018.

1235 **The Bailiff:** And there is an amendment, to this to be proposed by Deputy Lowe and seconded by Deputy Prow on behalf of the Committee. Do you wish to open, Deputy Lowe?

Deputy Lowe: Thank you very much, sir.

I am pleased to present to the States The Data Protection (Commencement, Amendment and Transitional) Ordinance, 2018.

1240 As a States we have already approved The Data Protection (Bailiwick of Guernsey) Law, 2017. This ensures that the Bailiwick provides the same level of data protection standards as those afforded by the EU General Data Protection Regulation, generally referred to as the GDPR. Today we need to bring the law into force on 25th May and at the same time make the necessary amendments in relation to e-privacy and to provide for a transitional period for the new Law to
 1245 bed in. The Commencement, Amendment and Transitional Ordinance provides for a transitional period of one year until May 2019 for certain provisions within the Law. These include areas such as consent, the duty to notify individuals of data protected before the commencement date and the requirement to complete data protection impact assessments. These transitional provisions are proposed following consultation with the Data Protection Commissioner. The aim is to provide
 1250 additional time for businesses and public authorities to achieve compliance in light of the other requirements within the Law. Following a meeting with the European Commission Director General for Justice and Consumers in March of this year, the EU has confirmed that it has no concerns with the Bailiwick having this reasonable transitional period.

Then, sir, I would like to actually place the amendment, if I could do:

Amendment

In the Proposition –

*a) immediately after "The Data Protection (Commencement, Amendment and Transitional) (Bailiwick of Guernsey) Ordinance, 2018", insert the following –
 ", subject to the amendments indicated below", and*

*b) immediately after the Proposition, insert the following list of amendments to the Ordinance –
 "Amendments*

In Schedule 2 (pp. 28 – 39) to the Ordinance –

(a) immediately after the row (p. 29) setting out amendments to be made to section 24(2)(b) and (4)(b) of the Data Protection (Bailiwick of Guernsey) Law, 2017, insert the following row –

<i>"Section 27(2)</i>	<i>For subparagraph (c), substitute – "(c) the right to bring an action under section 79.",</i>
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(b) in the row (pp. 30 – 33) setting out the amendments to be made to section 111(1) of the Data Protection (Bailiwick of Guernsey) Law, 2017 –

(i) for the amendment to the definition of "law enforcement purpose" (p.p. 31 – 32), substitute the following –

"In the definition of "law enforcement purpose" –

(a) at the end of paragraph (b), omit "or",

(b) in paragraph (c), for "the security of the British Islands", substitute "national security", and

(c) immediately after paragraph (c), insert –

"or

(d) exercising or performing any power or duty conferred or imposed on a public authority by a criminal proceeds enactment", and

(ii) in the amendment inserting new definitions in section 111(1) of the Data Protection (Bailiwick of Guernsey) Law, 2017 –

(A) at the end of the definition of "employee", delete the word "and", and

(b) immediately after the definition of "employee", insert –

" "national security", for the avoidance of doubt, includes the security of the British Islands and the British Overseas Territories, and" "

(c) immediately after the row (pp. 33 – 34) setting out amendments to be made to paragraphs 3 and 19 of Schedule 2 to the Data Protection (Bailiwick of Guernsey) Law, 2017, insert the following rows –

"Paragraph 8 of Schedule 3	Immediately after "than", insert "the Bailiwick or".
Paragraph 13 of Schedule 3	Delete ", and the rights of appeal under sections 82 and 83".
Paragraph 6 of Schedule 5	Delete "the rights of appeal under sections 82 and 83;".",

d) immediately before the row (pp. 38 – 39) setting out amendments to be made to paragraph 19 of Schedule 8 to the Data Protection (Bailiwick of Guernsey) Law, 2017, insert the following rows

"Paragraph 1(7) of Schedule 7	Immediately after "give", insert "or disclose to".
Paragraph 18(1) of Schedule 8	For "the security of the British Islands", substitute "national security".

1255

The proposed amendments are largely technical in nature and are intended to correct minor omissions in the Law aligning the Law closer to the GDPR or providing for the transition of the Office of the Data Protection Commissioner to the new Data Protection Authority. I would like to highlight that the Data Protection Legislation is rapidly developing across the EU and UK at this time, and as such we are continuing to monitor any changes which have an impact on our Law and will continue to recommend amendments where necessary.

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I therefore ask Members to support this Ordinance along with the recommended amendment.

The Bailiff: Deputy Prow, do you second the amendment?

1265

Deputy Prow: Yes, sir.

The Bailiff: Thank you.
Deputy Gollop.

1270

Deputy Gollop: I welcome the amendment, especially the delayed transitional aspect and think that the way the States as a whole and the Home Affairs Department in particular have gone about this has been extremely professional and we have relished our appraisal of the legislation in a Legislative Scrutiny Select Committee context.

1275

I have generally speaking seen it as a necessary evil and even a strengthening of our offer in the financial services sector and the professional and corporate community have accepted the legislation and think it is a job well done because it is perhaps not as onerous as it could have been, but it nevertheless satisfies global and international requirements, and hopefully puts our digital and other economies on a secure footing.

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That said, inevitably I have had some apprehension from voluntary and tertiary and charitable bodies who are rapidly wondering whether they have got the wrong kind of mailing lists and whether they need to revise their application forms or register of members. So there is that activity going on, and the other snag that some of us – some of us perhaps less efficient States' Members are a little bit worried about is the implications of a more onerous data protection regime, albeit there have been obligations on us with both the Code of Conduct and the 2001 legislation and therefore I would hope that the Home Committee can liaise with States' Members generally, with SACC perhaps in particular, and Policy & Resources Committee about necessary possible exemptions but also resources and advice that the States collectively can assist States' Members with, and candidates too, in the going about of their business, in a legitimate and appropriate but professional and caring way.

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The Bailiff: Does anyone else wish to speak either on the amendment of the substantive Proposition?

Yes, Deputy Lester Queripel.

1295

Deputy Lester Queripel: Sir, I appreciate I might be a bit late on saying what I am about to say, but I cannot see any reference in either of these data protection documents on the rights of the data controller. Deputy Gollop just referred to that issue. I appreciate, sir, I might be missing a fundamental point somewhere along the line, and if I am I apologise to Deputy Lowe, but it concerns me greatly that a data controller does not seem to have any rights.

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I say that because since being elected six years ago I have worked on dozens of cases with my fellow Islanders in an attempt to help them resolve problems, as I am sure all of my colleagues have. I have even sat alongside them as a Mackenzie Friend in a court of law on several occasions, so the issue of Deputies securing information is an extremely serious issue, because we do get vast amounts of personal information given to us by Islanders when we are working with them. I am sure we all do this, but all the information I am given by Islanders is kept securely in my office at home, no one has access to it except me, no one sees it except me. However, the risks attached to being a data controller have always concerned me. I am starting to wonder if I should continue taking on any more cases because of those risks.

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1310

I just want to spend a moment or two, sir, touching on the complexity of some of those cases because –

The Bailiff: Is this straying beyond the Ordinance that is actually before us in this debate, Deputy Queripel, I think it –

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Deputy Lester Queripel: It possibly is, sir.

The Bailiff: We are not debating the substantive legislation at this stage because that has already been approved and registered. We are only debating this Ordinance.

1320

Deputy Lester Queripel: I appreciate that, sir, which is why I started my speech by saying I appreciate I might be a bit late. Are you saying, sir, I should perhaps sit down? *(Laughter)*

The Bailiff: I would not be so rude, Deputy Queripel, *(Laughter)* but I suspect Members of the Assembly might be very grateful if you were to do so. *(Laughter)*

1325

Deputy Lester Queripel: Sir, in light of what you say I think perhaps I had better sit down. Thank you, sir.

1330

The Bailiff: Thank you, Deputy Queripel. Deputy Lowe, do you wish to reply?

Deputy Lowe: I am very grateful for Deputy Queripel sitting down. I thought I was going to have to answer lots of question there and as I am losing my voice I am really pleased that you have decided to do this.

1335

I just want to give assurances to States' Members we put on a couple of training sessions, another one was held yesterday, and certainly do contact the GDPR office, Data Protection Office, and they will do their utmost to help you. But you must remember there is already a Data Protection Law in place without this one. We all have a duty to look after data that is supplied to us. We all have a duty, I believe, when people offer us documents to say please give us a photocopy. Do not take the original. So there are lots of ways that you can protect yourself, providing you can show that you are doing your utmost to look after people's data in the same

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1345 way you would look after your own data. I would not expect to walk into anybody's house and see
bank statements and all sorts of things laying around, or in car seats, or left on buses. So whatever
you do you have a duty yourselves to look after documentation in the same way in the current
Data Protection Law and this is just giving assurances to those who you are working with and
1350 assisting you are taking this responsibility in the same way we are actually expecting businesses to
do so. I am delighted that Members, some Members, have attended the training, but if in any
doubt please actually get in touch with the Data Protection Office and they will assist you.

The Bailiff: We vote first on the amendment. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare it carried.

Now we vote on the substantive Proposition as amended. Those in favour, those against.

Members voted Pour.

The Bailiff: I declare it carried.

**IV. Committee for Home Affairs –
The Data Protection (Law Enforcement and Related Matters)
(Bailiwick of Guernsey) Ordinance, 2018 –
Approved as amended**

Article IV.

The States are asked to decide:

*Whether they are of the opinion to approve the draft Ordinance entitled "The Data Protection
(Law Enforcement and Related Matters) (Bailiwick of Guernsey) Ordinance, 2018", and to direct
that the same shall have effect as an Ordinance of the States.*

1355

The Deputy Greffier: Article IV, Committee for Home Affairs – The Data Protection (Law
Enforcement and Related Matters) (Bailiwick of Guernsey) Ordinance, 2018.

1360 **The Bailiff:** I apologise there is an error in the latest version of the Agenda that has been
circulated. The amendment in relation to this is to be proposed by Deputy Lowe and seconded by
Deputy Prow.

Deputy Lowe again.

Deputy Lowe: Thank you, sir.

1365 I am pleased to present to the States' Assembly The Data Protection (Law Enforcement and
Related Matters) Ordinance, 2018.

1370 As a States we need to ensure that necessary law enforcement functions can continue to be
performed and to be able to meet the provisions of the EU Law Enforcement Directive. The
Directive addresses processing activities for the purposes of prevention, investigation, detection,
and prosecution of criminal offences, including the safeguarding against and the prevention of
threats to public security. The (Law Enforcement and Related Matters) Ordinance reflects the
provisions within the Directive, while also addressing processing activities in relating to
identifying, tracing, freezing and seizing the proceeds of crime with due regard to the nuances
associated with the jurisdiction of our size. This Ordinance ensures a consistent and high level of
1375 protection of the personal data of individuals and facilitates the exchange of personal data

between competent authorities to ensure effective judicial and law enforcement co-operation in criminal matters. Approval of The (Law Enforcement and Related Matters) Ordinance will enable law enforcement agencies to continue to work co-operatively with EU Member States. This will promote the continued flow of information where there is a need for cross border collaboration.

1380 Then, sir, I have got the amendment, which I ask Members ...

Amendment.

In the Proposition:

a) immediately after ""The Data Protection (Law Enforcement and Related Matters) (Bailiwick of Guernsey) Ordinance, 2018"", insert the following –

", subject to the amendments indicated below", and

b) immediately after the Proposition, insert the following list of amendments to the Ordinance –
"Amendments

1. In each of clauses 12(2)(e) (p. 17), 13(1)(b)(viii) (p. 21) and 21(2)(b) (p. 32) of the Ordinance, delete "and appeals".

2. In clauses 24(1)(d) (p. 35) and 42(4)(d) (p. 65) and paragraph (c) (p. 83) of the definition of "law enforcement purpose" in clause 50(1) of the Ordinance, and paragraph 18(1) (p. 107) of Schedule 3 to the Ordinance, for "the security of the British Islands", substitute "national security".

3. In clause 24(2)(a) (pp. 35 - 36) of the Ordinance –

(a) in subparagraph (iii), delete "and appeals", and

(b) for subparagraph (iv), substitute –

"(iv) the possibility of bringing an action under section 79 of the Law, and".

4. In clause 50(1) (pp. 77 - 86) –

(a) for the definition of "the complaints and appeals information" (p. 79), substitute –

" "the complaints information" means –

(a) information as to the existence of the right to complain to the Authority under section 67 of the Law, and

(b) the contact details of the Authority," and

(b) insert, in the appropriate alphabetical order, the following definition –

" "national security", for the avoidance of doubt, includes the security of the British Islands and the British Overseas Territories,".

The proposed amendments are largely technical in nature and are intended to correct minor discrepancies between the Ordinance and the EU Law Enforcement Directive.

I therefore ask Members to support this Ordinance along with the recommended amendment.

1385

The Bailiff: Deputy Prow, you second the amendment?

Deputy Prow: Yes, sir.

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The Bailiff: Thank you.

Does anybody wish to speak on either the amendment or the substantive Proposition? No.

Well we vote first on the amendment. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare it carried.

Next on the substantive Proposition as amended. Those in favour; those against.

Members voted Pour.

1395

The Bailiff: I declare it carried.

**V. Requête –
Assisted Dying –
Debate commenced**

Article V.

The States are asked to decide:

Whether, after consideration of the Requête titled "Assisted Dying" they are of the opinion:

To direct that:

1. The States agree in principle to the development of a suitable legal regime to permit assisted dying in Guernsey subject to and conditional upon:

a. the development of appropriate and effective capacity legislation and any other legislation which may be required; and

b. proposition 2.

2. The Policy & Resources Committee establish a working party with such membership as it sees fit and having consulted appropriately (for example, with members of the public, the Committees for Health & Social Care and Home Affairs, the Guernsey Disability Alliance, relevant UK bodies such as the British Medical Association) to report back to the States of Deliberation within 18 months with recommendations for a suitable legal regime, including consideration of inter alia:

a. the legal and professional obstacles required to be overcome in order to permit assisted dying in Guernsey;

b. whether it shall be a requirement that the individual is terminally ill and, if so, the means by which that shall be defined and determined;

c. whether it shall be a requirement that the individual shall physically administer the final act to themselves or whether it shall be permitted for others to assist;

d. whether there should be a requirement for individuals to be locally resident;

e. what measures are required to protect the vulnerable and prevent abuse of the legislation;

f. the numbers and roles of doctors under any proposed assisted dying legislation and whether they would be permitted to have any conscientious objection to an individual's request; and

g. the age at which an individual shall have capacity for purposes of consenting under the assisted dying legislation.

3. 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 to minimise the duplication of effort necessary to consider the issues in order to develop a suitable policy and legal regime to permit assisted dying in both islands.

1400

The Deputy Greffier: Article V, Requête – Assisted Dying.

The Bailiff: The Debate will be opened by the lead requérant, Deputy St Pier.

1405

Deputy St Pier: Sir, assisting a suicide is a crime, assisting the relief of suffering is not a crime even if it results in death. With 49.2% of us dying in hospital and a further 3.7% of us in the hospice we have medicalised the dying process. Consequently very few of us will experience a natural death. Most of us will have a managed death in which in most cases there will be a point at which health care providers will make key decisions on our behalf with or without prior input from our families or ourselves depending on the circumstances, and one of those decisions may have an impact on the timing of our deaths.

1410

It is often said that this is an immensely complex moral ethical and legal issue, but at its heart is a very simple principle, that of autonomy and the right of self-determination. (**A Member:** hear, hear.) As the Dean noted in the Town Church we celebrated self-determination as a community only last Wednesday on the 73rd Anniversary of the Liberation. It is this principle which over the last two centuries has given us all greater individual rights; it is this principle which underpins the liberal democracy in which we live; it is this principle which allows an individual to cease treatment

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1420 even if it hastens their death; it is this principle which allows an individual to give an advanced directive or living will to have or not have certain treatments in certain circumstances, perhaps weeks, months or even years before the given situation arises.

The core of health policy focusses on patient centred care and it is founded on the principle of autonomy. For example, Ambition 1 of our palliative care team states:

I am asked what matters most to me, those who care for me know that and work with me to do what is possible.

1425 It is the principle of self-determination which underpinned the change in the laws of inheritance removing forced heirship and giving rights to the individual to gift their estate as they wish. Ironically perhaps we have a right of self-determination before and even after our deaths, but we are denied it in the manner and timing of our deaths.

1430 It is the same principle of self-determination which has given us divorce, decriminalised homosexuality, allowed women to take control of their reproduction with contraception and abortion, and more recently, only a year ago last week in Guernsey, has allowed same sex couples to marry. **(A Member:** Hear, hear.)

1435 Each change has been resisted; each change has been accompanied by arguments of slippery slope, a minority in our community still regret that some or all of those rights have been granted to individuals, but I, along with the majority of our community, believe that giving our fellow citizens increased rights of autonomy and self-determination is self-evidently the right thing to do, even if we disagree with the choices made, and may never choose to exercise those rights ourselves. So it is with assisted dying.

1440 So what is it that we are asking for? We believe that the Canadian model, and that of the State of Oregon Death with Dignity Act 1997, are the kind of models to which we should look. In Oregon it has been tried and tested for 20 years without amendment. When this topic was last debated in the Assembly 14 years ago in 2004, Oregon was the only jurisdiction with such a model; since then it has been copied by Washington State, Vermont, California – of which I am sure we will talk later – Colorado, Washington DC, and last month Hawaii. Oregon, Colorado and Washington State all after public referendums; 60 million Americans can now access assisted dying in their home State, and they have been adjoined with similar models by Canada and Victoria in Australia.

1445 What do each of these models have in common? They are only available to adults with mental capacity who are terminally ill, and in Oregon's case with less than six months to live. This means that those with dementia who have no capacity will not be euthanised.

1450 Sir, there have been so many reasons presented for not pursuing this course, it is a struggle to know where to begin. But begin I shall. I have counted 31 objections to this Requête and I shall go through and dismiss each of them in turn. Starting with the most ill-founded first.

1455 One – 'The mere fact that this Requête is being led by me or being supported by Deputies Trott, Brehaut or Roffey or any of the requérants may be enough for some to oppose it.' That may be the case outside this Assembly, but I do not believe there will be anyone in this Assembly today who would make such a key decision of principle for this reason.

Two – 'The topic was not in any of the election manifestos of the any of the requérants.' There are dozens of issues that would fall into that category and I think there are few in this Assembly who would feel unable to sign a requête simply because they had not taken a public position on the matter in their manifesto.

1460 Three – 'Deputy St Pier, as President of the Policy & Resources Committee, should not be leading this Requête as a divisive issue of conscience and he should instead be concentrating on running the Island.' Sir, my office does not or should not take away from me the same right as any Member to express a view or lead on any issue of conscience. **(Several Members:** Hear, hear.) In the same way that when David Cameron was Prime Minister he led on the matter of same sex marriage which was not a party matter or government policy at the time, neither do I believe that everyone in this Assembly would necessarily welcome me seeking to discharge their mandates in order to run the Island.

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1470 However, I am, and have been able to do both, namely lead on this matter with the support
and assistance of my fellow requérants and discharge my other responsibilities. My days have got
longer, my family have seen less of me but I would challenge anyone to show me where or when I
1475 have dropped a ball in the last 11 weeks. In that time I have participated exactly as normal in the
very many States-related meetings, events and presentations my office is asked to participate in.
The annual update to the Policy & Resource Plan has been finalised and submitted and I have led
our response to the issues on the Sanctions and Anti-Money Laundering Bill, the subject of my
earlier Statement.

Four – ‘This is all about saving money.’ Only a few people have made this argument and I think
most people would agree that it is both offensive and unfounded. (**A Member:** Hear, hear.)

1480 Five – ‘We really do not have the time to devote to this issue and we should be prioritising our
economy instead.’ Light-heartedly, I have noted that the Requête has triggered an economic
contribution with at least 35 return flights and 45 bed nights from visiting media and speakers
that I am aware of. A direct economic contribution.

1485 More seriously, this Requête was lodged on 26th February 11 weeks and two days ago.
Important as our economy is, if we with a GDP per head in the top 10 in the world cannot find
11 weeks and two days to debate such a profoundly important issue to our society as this, then
we are a much poorer society than that statistic suggests. (**Several Members:** Hear, hear.)

Besides the two issues are not mutually exclusive and we can and should do both and indeed a
lot more besides. The requérants make no apology for triggering this debate and as it has an
inundation of our inboxes from the public. I think around 250 so far.

1490 As an aside I would say that I am so proud of the way our community has handled this debate.
While strong views are held and have been expressed strongly the conduct and tone of the
debate has been a model of decency and respect. It is a real display of maturity, perhaps
unsurprising after 814 years of self-government.

1495 Whilst it is entirely coincidental that this debate has been held in Dying Matters Week, it is not
remotely inappropriate that it should be. I hope that the public debate and media coverage will
have enabled many families to have had conversations around what they think, believe, and want
for themselves, all of which will have been valuable and important.

1500 Six – ‘There has been insufficient time to consider this matter.’ This matter was researched at
length after the 2002 requête ahead of the 2004 policy letter and debate. All that material remains
available to us. In 11 weeks and two days there has, I would suggest, been ample time for the 40
Members of this Assembly to assimilate and understand the issues.

1505 Seven – ‘We have not prioritised resources to deal with this matter.’ This is true, and this is the
subject of the Policy & Resources Committee’s letter of comment. The Policy & Resource Plan is
not cast in aspic and its process is intended to be able to flex and adjust to our priorities. If this
Requête is approved today it will have to take its place in that process and compete for resources
alongside other demands. It is not jumping the queue.

Eight – ‘It will cost a lot to implement.’ It is not obvious to me why particularly, but that detail
will form part of the working party’s report back to the States before the legislation is drafted.

1510 Nine – ‘It is bad for the reputation of the Island.’ Nonsense. There is no evidence that California
or Canada’s reputations have been damaged by their adopting assisted dying laws. On the
contrary it has enhanced their reputations as progressive, compassionate, forward-thinking places.
We can argue about where public opinion lies locally, but there is strong polling evidence of
significant support outside the Islands, so it is ludicrous to suggest that those externally who
support this would view us negatively. I had this from one correspondent in the UK this week in an
email which she said I can use:

I visited Guernsey a number of times as my husband is a seafarer, and we have always found it a beautiful place full of
lovely people. Your endeavours to instigate this on the Island confirms to me what a fantastic place you call home.

1515 10 – ‘This matter should have been put in the Policy & Resource Plan either at the outset or by
an amendment.’ This too is true in an ideal world. But everyone in this Assembly today knows that

1520 an issue such as this could never have been put forward by one of the Committees, and to suggest it could have been inserted into the Plan by an amendment is absurd. Any attempt to have done so would have rightly been met by a barrage of protest that it was too important an issue to be dealt with in such a manner. It is an issue that was always going to be, and should be, the subject of a stand-alone debate, and the only way that was ever going to happen was by requête. I can barely think of another topic for which that parliamentary procedure is more appropriate. It is also true to say that the Requête is consistent with the objectives set out in phase 1 of the Plan, namely the statement that:

We will provide health and social care services that respect individual needs and promote independence and personal responsibility.

1525 **(A Member:** Hear, hear.)

11 – ‘There will be too few people taking advantage of assisted dying to bother.’ Based on the Oregon experience, after 20 years, assisted dying counts for about 0.37% of all deaths. That will translate into perhaps a couple a year in Guernsey. I accept that is a very small number. But it also ignores the fact that many times that number will derive considerable comfort from just knowing they have an option even if most never take it up. That fact was articulated particularly well at the meeting at Beaucamps last week, by Maureen in the video which had been sent to us, and by local resident Martin McIntyre – actually Martin is in the Public Gallery this morning and I am sure all Members here salute his courage and wish him well in the time that remains to him. **(Several Members:** Hear, hear.) *(Interjection from the Public Gallery: Thank you very much)* That is why only one in 23 of those in Oregon who ask about assisted dying proceed with it, and why 35% of those who are given a prescription choose not to use it.

In the first year of the new law, seven same sex couples got married. We did not say there are only seven couples a year who want to get married, it is too much trouble to create a legal framework for them, so let’s not bother. But given we know that two residents have travelled to Switzerland in the last 10 years and in that period we know not how many have either taken or attempted to take their own lives locally. I think it would be very sad if we abandoned this vulnerable group because we think there are just too few of them to bother.

12 – ‘Some would say we should not play God, others would say we should let nature take its course.’ It is a trite and easy phrase, but does anyone in the 21st century seriously believe that it is an option or remotely desirable. At the Cotils presentation organised by Deputy Dudley-Owen, we heard from Doctor Carol Davis the palliative care specialist from Southampton about the late stage options for the dying to ensure they are comfortable including nasal tubes, sub cutaneous injections and palliative sedations, basically induced comas. The truth is it is the doctors who play God, and actually given that we have no choice at that point we have to be very thankful that they do. So that can be no reason to reject this Requête.

13 – ‘Suffering is part of life.’ Whilst this is true, we all suffer at some point, it has to quite possibly be the worst and most obscene justification for denying an individual the choice of assisted dying, suggesting as it does we should all just learn to suck up suffering and get on with it. It is also arrant nonsense. I certainly cannot remotely get comfortable with one faith group that has contended that to learn to love we need to learn to lose and suffer. It is the same people who imply that suffering is an inherent necessity, who will in the next breath incoherently argue that suffering needs to be relieved with the best palliative care. It is a nonsensical argument.

14 – which takes us to palliative care. The argument here is that, ‘All we need is more and better palliative care and the demand for assisted dying will go away.’ This totally misses the point, intentionally or unintentionally.

Palliative care in Guernsey is excellent, including with each GP practice having a doctor with a diploma in palliative care medicine. Les Bourgs Hospice is an amazing place. No doubt palliative care could be increased and improved, no doubt the Hospice could receive States’ funding. All of these things may be true, but that does not negate the need for assisted dying. Palliative care has its limits, and most importantly even where it is effective it is not what everyone wants.

1570 The reality is that assisted dying or palliative care are on the same continuum of end of life
care choices, as Mark John Howe, the Hospice CEO, told us at Beaucamps last week. They are not
mutually exclusive. Our own Medical Director has said they can co-exist. This is evidenced by the
fact that 90% of those opting for assisted dying in Oregon are in a hospice. It is also evidenced by
1575 the fact that the top five States in the US providing the best palliative care all have assisted dying
regimes. For the vast majority of individuals, palliative care will be what they want and it will meet
their needs; for a few – a very few – it will not. One reason why it will not is that palliation is not
just about pain relief, which in the vast majority, but not all cases, can be relieved with medication.
Palliative care is also about the relief of suffering and that is a subjective experience. What is
1580 suffering to you is a walk in the park to me, and *vice versa*. Why do we imagine that it is an
acceptable solution just to regard suffering, perhaps manifesting itself as anxiety as just another
symptom to be treated with another drug, in this case frank anxiety, why don't we listen to the
patient and what they want, just like we say we are going to do.

1585 15 – 'We do not need an assisted dying regime as the few people who want it can travel to
Switzerland as the only jurisdiction in the world that will assist non-residents.' As an argument
about assisted dying this one saddens me, the idea that we can just export our problem to
someone else, maybe that way we can pretend it is not a problem. Of course the inequity of the
fact that it is only available to those who can afford cannot be ignored either. Discriminating
between rich and poor. It reminds me of how we used to treat those who needed an abortion, we
1590 put them on a boat and let the UK sort it out for us.

16 – 'We are too small to develop our own regime.' The Falkland Islands intend to debate this
matter in July and they are even smaller than us.

We did not regard ourselves as too small to develop world leading and ground breaking
image rights or protected cell company legislation for the finance sector.

1590 Sir, Members will recall that the independent Jersey Care Inquiry said:

While the States of Jersey has always been able to provide sufficient resources to keep pace with developments in
international financial law Jersey's Childcare Legislation has lagged behind other jurisdictions.

1595 I would hate to think that Guernsey acquires a reputation as being big enough always to meet
the needs of our business sector but too small to meet the needs of our community. (**A Member:**
Hear, hear.) No. Size is no excuse. We have Oregon, Montana, Washington State and DC, Hawaii,
California, Colorado, Canada, Victoria, and even tiny Vermont, with models we can adapt for our
own needs. We will not be recreating the legislative will of this particular policy area.

1600 17 – 'The judiciary do not have the experience to handle any issues arising from the
legislation.' Sir, you of all people will know better than any of us that you and other members of
the judiciary, including the Channel Island Court of Appeal and the Judicial Committee of the Privy
Council, will regularly need to engage and **opine** on difficult legal issues on which you may have
little experience at the beginning of the case. That is the nature of what the judiciary do.

18 – 'We should not be going it alone.' We are far from alone. New Zealand, Western Australia,
France, Spain and 24 US States, all have this on their agendas.

1605 19 – 'We will create a constitutional clash with the United Kingdom.' Bunkum. Former Lord
Chancellor with responsibility for Crown Dependencies, Lord Falconer, dealt with this issue in his
letter to me, which has been published. Even Lord Carlisle, in his letter to *The Press*, did not
challenge Lord Falconer's conclusion that there is no precedent for Her Majesty to withhold Royal
Sanction on matters of domestic legislation within our competence that do not breach UK's
international obligations. No one has suggested that assisted dying could fall into that category.

1610 That only leaves the matter of the extra territorial nature of the offence of British Citizens of
assisting a suicide under the UK Suicide Act 1961. It was Lord Falconer's view and, as Lord Carlisle
pointed out, it is only a view that any such prosecution would be an abuse of process if the act
had been decriminalised under our own law. This is an issue that will need engagement with the
UK, and we have never hidden from that from moment one. However, all constituents of the
British Isles and Overseas Territories face the same issue, we are not unique. I have already raised

1615 the issue with Lord Keen, the Minister of State at the Ministry of Justice responsible for the Crown
Dependencies. He was clear that this is not a matter on which the government has a party line, as
of its nature it is not a party issue, and he agreed that the government would engage if required
to do so.

1620 20 – ‘Assisted dying normalises suicide so increasing suicide ideation,’ in other words thinking
about suicide and therefore the number of suicides. As someone who has experienced suicide in
my family trust me I have no desire for such an outcome and have examined this carefully. There
is no evidence to support this. Suicide is not assisted dying, and assisted dying is not suicide.

1625 The American Association of Suicidology last year published a position paper on the
differences between the two including the fact that assisted dying is the control of an imminent
anticipated death, and that the vast majority of people who use assisted dying do not want to die,
they desperately want to live but just are not able to because of their condition.

1630 21 – ‘The public do not want it.’ We have had many emails on both sides of the argument, but
we all know these are not statistically representative of where public opinion lies. We have a pro-
lobby petition which was handed to me this morning with, I am told, 1,350 signatories on it. There
is an anti-lobby petition out there I believe with about 280, although I think that is solely confined
to Guernsey addresses implying 80% support. We have had online polls, the most recent one from
the *Bailiwick Express* with 69.6% support. We have not had any properly conducted polls, I have to
concede that. We do know that in the UK in the 2015 populace poll support was running at 82%.
1635 The Ministry of Justice has acknowledged the substantial majority of people agree the law should
be changed. The UK Social Attitude Survey has support at 75%. In the US similar polls have
support at 73%. So the social media polls and petitions locally seem to be on a par with opinion
outside the Island. (**A Member:** Hear, hear.)

1640 22 – ‘The doctors do not want it.’ We should keep in mind the advice of our own Medical
Director that this matter should not be decided by doctors who should be but one input into a
decision by wider society. Having said that, we certainly know that the BMA’s representative body
does not want it, but it has never polled its members. British Medical Journal has called on it to do
so, I know there are members of the BMA Council who do support assisted dying, because I have
been approached by them, and they are anxious that the BMA should consult its membership.
1645 From Medics in 2014, 57% of doctors feel that assisted dying with up front safeguards would be
the best way to protect terminally ill patients, and 37% – 37%! – believe there are already
circumstances where health care professionals in the UK actively assist terminally ill patients to
die. If this is true we are certainly fooling ourselves if we think the current legislative environment
is the best it can be to protect our community.

1650 We know too that while the Royal College of Psychiatrists is neutral they are a key group who
will need to be assessing individuals’ states of mind. We also know that the Royal College of
Physicians is presently opposed but intends to re-consult its members next year, and its President
has confirmed in writing that should there be a vote in favour of assisted dying in Guernsey we
would be able to support local physicians to develop safeguards that would be acceptable to
them and to support decision making in this complex area.

1655 Finally and most importantly, we know that the regulator, the General Medical Council has
confirmed that it is ethically neutral on the topic and regards itself as obliged to give guidance to
doctors as to how to operate within the law. They have said that if the law changes they will
change their guidance, this is what already happens for the very different abortion laws that exist
between Guernsey, Jersey, the Isle of Man, Northern Ireland, Scotland, England and Wales, and the
1660 GMC has expressly confirmed that it would be willing to have a further discussion. The Nursing
and Midwifery Council in advice circulated by the President of the Committee *for* Health & Social
Care has said that it has adopted an identical position, saying:

We do not consider it to be necessary or appropriate as a regulator to have a position [on what its role would be in the
event of any changes in the law], and we would be happy to work with your colleagues and regulatory partners to
explore the possible regulatory risks in the event of a change in the law in this area in Guernsey.

This is exactly what we have been saying all along, even the Union of the BMA, whilst remaining opposed, have said:

We would however anticipate being involved to some extent in the resulting consultation.

1665 The way the Abortion Law was constructed is instructive. Former Deputy Hunter Adam, whilst he was still in medical practice, was one of the two doctors on the panel that helped craft the limitations of that law to find a path through what was acceptable to most local health care professionals at the time, and I would expect something similar in this case.

1670 23 – ‘It is a breach of the Hippocratic Oath.’ The Hippocratic Oath has widely been replaced by the World Medical Association’s Declaration of Geneva. The so-called Physicians Pledge. In October 2017 the World Medical Association updated the Physicians Pledge with the line:

I will respect the autonomy and dignity of my patient.

The Pledge was also reordered so that patients’ rights appear first and the WDA commented that this change was made:

To highlight the importance of patient self-determination as one of the key corner stones of medical ethics.

1675 **(A Member:** Hear, hear.) Assisted dying would be completely in keeping with these revisions and the Physician’s Pledge as a whole, which is why doctors in jurisdictions where it is legal find no conflict between being involved in assisted dying and their role in the relief of suffering.

24 – ‘It will damage the patient-doctor relationship.’ Polling by populace showed 87% of people believe assisted dying will increase or have no effect on their trust in doctors.

1680 At the moment if you want to end your life you cannot have an open conversation with your doctor. If patients want to travel to Switzerland they often have to lie in order to get access to medical records they need. On the other hand, in California following the introduction of their End of Life Act, doctors have found themselves surprised that conversations about death and dying are better and taking place earlier with patients and in some cases leading to earlier hospice admissions. In other words, relationships between doctors and patients have improved rather than
1685 deteriorated as there are no no-go topics.

1690 25 – ‘Doctors will leave Guernsey or we will not be able to recruit doctors.’ There is no evidence to support this assertion. Similar arguments were presented around the abortion debate. On the contrary it could equally be asserted that some doctors may be attracted to the jurisdiction, and those who have a conscientious objection must of course be protected, as they are with the Abortion Law.

1695 This has been used to say that there will be doctor shopping and the patients will not be known to the doctor, but patients are already faced with that reality that they will be introduced to many new faces in their last few days and weeks of life, whether from the palliative care team or other specialities. Nobody suggests that compromises the professionalism, judgment or quality of care that those health care professionals provide.

1700 26 – ‘Doctors are fallible and there is a risk of misdiagnosis or getting prognosis wrong.’ Oh and, ‘New cures and treatments come along every day.’ All of this is true, but an individual should still be able to proceed notwithstanding all that if it is what they want provided they have the capacity and have given fully informed consent, for which there are plenty of protocols already existing across health care, including in respect of the process of an individual withdrawing from treatment. In practice the vast majority of people will want to keep going for as long as possible, by which time their terminal prognosis is beyond doubt.

1705 27 – ‘People change their minds.’ This is true, one day their mood might be up, the next day down, but also many do not once their mind is settled. My father certainly did not right up until the point the diamorphine dosages deprived him of his capacity 24 hours before his death. Why do we think that we can patronisingly deny a competent terminally ill adult their informed choice just because we think they might change their minds?

1710 28 – ‘It is incompatible with faith.’ The main organised groups Care for Life, Living Well Dying
Well, Care not Killing, are organised around or funded by faith groups, predominantly but not
exclusively Christian. On matters of faith there are others in this Assembly far better than I to
comment on this argument, but I would dismiss it two-fold. Firstly, it is clear that not all faith
leaders share the same view, with many supporting assisted dying. Secondly, your faith is your
faith, (**A Member:** Hear, hear.) it must be respected and the choices you make in pursuance of it
should be honoured, but the corollary is that you seek not to impose it on others, and so to deny
1715 them the choice which they want to end their own lives if they are unconstrained by their own
personal beliefs.

1720 29 – ‘This is the beginning of a slippery slope.’ Those arguing this often cite the Netherlands to
prove their point. So what! We are not the Netherlands. The law is the law it is only changed if
that is the democratic will of this Assembly not the Dutch parliament. The slippery slope argument
is wheeled out to resist change.

1725 In 1836 when civil marriages were introduced in England I am pretty confident the slippery
slope argument would have been used to resist it and would have run something like this: Jews
will want to marry gentiles, black will want to marry white, and before you know it man will want
to marry man, and thank goodness, 180 years later they were proved right, reflecting social
changes enacted democratically over that period.

1730 The slippery slope argument was also used to resist the Abortion Law: before we knew it we
would be allowing abortions to select eye colour or gender, but we have not, neither Oregon’s
Death with Dignity Act or the Abortion Law, both passed in 1997, have been changed in the 21
years since their passage.

1735 30 – ‘This law will devalue some members of our community, particularly those with
disabilities.’ This argument rests of the fact that some argue they want the right to end their lives
rather than experience the loss of dignity and autonomy that might come from their condition.
This is an argument presented by Liz Carr and Baroness Tanni Grey-Thompson that in approving
an assisted dying law society is perhaps unintentionally undervaluing the life and lifestyles that
many with disabilities endure daily by making it easier to use these grounds to end one’s life
permanently.

1740 This is a similar argument to that used by all the off-Island campaign groups ranged against
this Requête – Baroness Finlay, Robert Preston and Peter Saunders – that the law sends a social
message and in this case it would devalue life.

1745 Having an Abortion Law permitting abortion does not mean that every pregnant women thinks
society want me to have an abortion, neither does it change society’s views on when abortions are
permissible. What it has done is send a message that as a society we are compassionate,
understanding and supporting of those who are unable to continue with a pregnancy within the
ambit of the law.

1750 In 2013 *YouGov* polled among 1,000 disabled adults in the UK showed that 79% – much the
same as the general population – supported the choice of assisted dying for terminally ill people.
The same poll said that 82% felt that disability groups should either support or be neutral on the
matter. The experiences of terminal illness, living with disability, loss of autonomy or dignity is
entirely subjective. None of us should seek to project our own values on those that have those
experiences. In other words, what one person finds acceptable another may not. For those that do
not it is of no help to them whatsoever to hear an individual with disabilities say, ‘I am disabled.
My life is great so yours should be too.’ One person’s life worth living is another’s living hell.
Society should not say to the latter, ‘We do not recognise and therefore we invalidate your
judgement of your own life,’ for fear of devaluing that of the former.

1755 In short the terminally ill individual who has decided to end their own life should be supported
as much as the disabled individual who feels empowered by their disability. In neither case should
we paternalistically and patronisingly be telling either individual how they should feel and that
they should feel different.

1760 31 – ‘Most importantly, you cannot protect the vulnerable.’ This is an issue on which I know Deputy Hansmann Rouxel will speak passionately, not least as Disability Champion, and I will defer to her expertise on this. The term ‘vulnerable’ is easy to bandy around, but what exactly does it mean in this context?

1765 The Canadians have given this a huge amount of thought in designing their assisted dying regime with the development of a vulnerable people’s standard. This was because their regime followed the Supreme Court of Canada’s decision in the Carter case in which it unsurprisingly acknowledged the fundamental requirement and I quote:

To protect vulnerable persons from being induced to commit suicide in a time of weakness.

And the Canadian Standard states:

There are many important factors which contribute to a person’s vulnerability and which can often be alleviated by adequate or appropriate care. These can include psycho social factors and mental health issues causing distorted insight and judgement. These may include depression, hopelessness, loneliness, fear, grief, shame, coercion by others, and the psycho dynamics of the physician patient relationship. Lack of access to disability related supports that can improve a person’s resilience and ability to live with dignity, comfort and self-determination. Insufficient or inaccessible palliative care options which can alleviate pain and suffering and improve wellbeing of patients and their loved ones. Poverty and unemployment which can cause significant mental anguish, social stigma and a sense of hopelessness. Ongoing physical mental and emotional violence and the likelihood or experience of abuse and fraud, especially affecting elders and people with disabilities.

The standard goes on:

The Vulnerable Person’s Standard introduces a series of safeguards that are designed to identify and address these and other forms of vulnerability. In this way we can ensure that those accessing physician assisted death will do so without jeopardising the lives of Canadian’s who may be subject to coercion and abuse.

In short we have a template to which we can refer when designing our own safeguards.

1770 Now let’s deal with some of the specific forms of vulnerability. First, pressure or coercion from loved ones. The reality is of course that actually for many the pressure from family may be the other way. The family are not yet ready to say their final goodbye and let go. However, I will assume that there may be a small number of people of ill-intent who are motivated by money or some other reason.

1775 Now clearly good palliative care does not mean keeping people alive artificially, so at some point a person might want to refuse or withdraw treatment that is sustaining or extending their life. In the assisted dying debate some people have suggested pressure and coercion cannot be detected yet doctors have already got clear guidance when handling treatment withdrawal decisions, even where they will lead directly and imminently to death, such as the withdrawal of
1780 ventilation for a patient with motor neurone disease. For example, in this case the guidance published by the Association of Palliative Medicine states:

That doctors should evaluate and document that there is no coercion nor is the decision driven by mistaken kindness to the family, that is the settled view of the patient and that there should be a capacity assessment.

This guidance is endorsed by Hospice, Hospice UK, the Royal College of Nursing, the Royal College of GPs and the Royal College of Physicians. These protocols and skills can be transferred to assessing a request for assisted dying.

1785 Secondly, the issue of being a burden. Some people have suggested that assisted dying would be dangerous because people may feel a burden and this might influence decision-making, but research this year from Etkind suggests being a burden or fear of being a burden is already an influencing factor in existing end of life care preferences, and the decisions that result from them. For example, whether somebody goes into a home or not, or refuses treatment which we have
1790 just talked about. The presence of this complex emotion does not of itself invalidate the individual’s decision, but it does need to be examined alongside other factors in the wider context of the decision being made.

1795 However, there is one very important minority vulnerable group that have received little coverage in this debate so far. That is those individuals who commit suicide, attempt to commit suicide or travel to Switzerland to end their lives.

In evidence to the Victorian State Parliament, the Coroner of Victoria estimated that 8.7% of all suicides relate to individuals in this category, this is consistent with the estimate of 7% in the UK. In addition one person every eight days travels from the UK to Switzerland. If an individual in one of these categories were to be subject to coercion we would never know.

1800 The current law, for example, forces individuals to lie to their doctors about their intentions to obtain medical records, which they need if they wish to go to Switzerland. The current law prevent individuals having open frank conversations with loved ones for fear that they will be prosecuted for assisting their deaths.

1805 We as a society have or should have legal and ethical obligations to this small group who are so desperate to seek control at the end of their life, that they attempt to suffocate themselves, overdose on prescribed drugs, or jump off a building. We are seriously deluding ourselves if we imagine that the current law protects this group of dying people, surely the most vulnerable group of all.

1810 Robert Preston, speaking against assisted dying at the Cotils meeting, said that the first hurdle in his view was that the law was not working, we needed to establish that. This is the evidence that it is demonstrably flawed and not working. He also noted several times that the Director of Public Prosecutions in England has discretion on whether to prosecute or not.

1815 Firstly, we have to remember that guidance was only issued in 2009 following the Supreme Court's decision in the Purdy case that the law was not clear enough. Secondly, we have no such guidance in Guernsey, although H.M. Procureur has advised me that, and I quote:

In practice we will most likely look to relevant UK guidance.

But thirdly, I think it is totally unacceptable that we have that level of uncertainty in our law with each case needing to turn on its facts, leaving patients, their families, their health care team and their lawyers in a legal no-man's land. That cannot be a sound basis on which to protect the most vulnerable.

1820 I was particularly moved by Jean on *BBC's Sunday' Phone In*, who described how she had lost two daughters to cancer. One of them had suffered unbearably begged for help to end her misery but feared that her children would be left without a carer if Jean assisted in any way.

31 objections – 31 objections dismissed.

1825 Sir, this has been a very long speech. I suspect it is probably my longest to date in this Assembly, and I make no apology for that, it is entirely appropriate to open the debate on a topic such as this in this way.

But before I finish I want to talk about the Human Right's case for a change in the law.

1830 Over the years there have been many cases before the courts. Diane Pretty in 2002 established the right to private life under Article 8 of the European Convention on Human Rights, and established that it encompasses the right to make decisions about the end of your life and your death.

I have already mentioned the Debbie Purdy case in 2009 which led to the Director of Public Prosecutions to issue guidance on prosecuting assisted suicide cases. In 2015 the Supreme Court of Canada ruled in the Carter case, which I mentioned earlier.

1835 Importantly, the same legal principles apply in Guernsey. In essence the Supreme Court decision found that vulnerable people to be protected are all those individuals who are suffering from a terminal illness, and that many of those individuals do choose suicide, successful or unsuccessful, whilst they are physically able to make such an attempt because of the absence of legally assisted dying. In effect, the mechanism of the existing law forces them to choose to die before it is necessary and therefore breaches their right to life in their final months. The evidence considered by the court was extensive. The court concluded that laws against assisted dying are actually the cause of these early deaths, notwithstanding that such laws are, ironically perhaps,

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1845 intended to protect the vulnerable. It was determined by the court that the laws exist only to protect the vulnerable from undue coercion into an early death, which is a valid purpose, but in fact such an occurrence can be avoided by appropriate safeguards. A sledge hammer to crack a nut, so to speak. So, the court decided that an overarching law against assisted dying is not necessary, and critically that the overly broad and blanket use of that law is a breach of the right to life of an individual who wishes to freely choose an assisted death, leaving an early suicide as their only legal option to end their suffering, which is also a breach of fundamental justice.

1850 So there you have it, the established legal argument that laws against assisted dying are an attack on the vulnerable and can directly motivate suicide. This is illegal under Human Rights legislation and correctly identifies that fundamental justice requires a differentiation between vulnerable people in terminal illness with those who choose an assisted death needing to be supported and protected by the law, with a minority who may be subject to undue coercion being protected by safeguards.

1855 That in essence is the case for Noel Conway who wrote to all Deputies recently which was heard in the Court of Appeal two weeks ago. One argument for the defence was that he has the right to die by asking that his ventilation is withdrawn, as a result of which he would suffocate to death. How can that be an acceptable defence? (**A Member:** Hear, hear.) At the end of his letter
1860 Noel asks us to imagine ourselves in his shoes. I know that the Catholic Bishop of Portsmouth might, I quote, regard this as 'false compassion', but when I close my eyes and imagine that scene it is a very unpleasant one indeed. Now imagine his state of mind just knowing that he might have another choice even if he never uses it.

1865 Sir, in closing I will say this, pain is subjective, suffering is subjective, dignity is subjective. How one feels pain, suffering and dignity will vary from person to person; how one health care professional witnesses and interprets the patient's experience of pain and suffering will vary from professional to professional; how one family reacts to their loved one's pain and suffering will vary from family to family, and how one body responds to palliative relief will vary from individual to individual.

1870 Sir, for me Professor Bronwyn Parry's findings in the British Medical Journal last week are common sense, albeit disturbing. She said:

A striking finding of our research was that while some doctors were willing to give heightened levels of pain relief and sedation others were not, making the timing and manner of death a lottery.

Professor Parry goes on:

This also raises the question of how the lack of existing safeguards and effective legislation on assisted dying works to institutionalise practices that are commensurate with the term assisted dying yet do not benefit from the kind of active oversight or monitoring that such legislation could effect.

1875 Remember 37% of professionals believe there are already circumstances where health care professionals are actively assisting terminally ill patients to die – a point repeated at the Beaucamps meeting last week by Doctor Forrest based on her training and experience. Is anyone really surprised by that? It has gone on for generations, but as a community we now rely on the doctrine of double effect, where prescribing something in the knowledge that it will hasten death providing that it is not our primary intention we rely on that as the balm for our collective conscience and the legal fig leaf that we are not assisting death we are merely managing it.

1880 Sometimes in a restaurant people are grateful for someone else making their menu choice for them, sometimes they want to choose themselves. Put the patient at the centre of their care just like we promise, let the individual choose, 'My care, my choice'. (*Applause*)

1885 **The Bailiff:** Now for the benefit of those listening elsewhere, I just need to explain what the Rules of Procedure of this Assembly say about how a requête is to be debated.

First of all, Rule 28(2) says that upon notification of a requête the Policy & Resources Committee shall consult any committees appearing to that Committee to have a particular

1890 interest in the subject matter of the requête, and if considered necessary set out its opinion in a
letter of comment appending thereto the views of all committees so consulted. That has
happened and letters have been received from the Policy & Resources Committee, and the
Committees *for* Health & Social Care, Home Affairs and Employment & Social Security have all
been consulted.

1895 Rule 28(3) then provides that when a requête is laid before the States the President of the
Policy & Resources Committee and the President of each of the Committees referred to in the
preceding paragraph shall be entitled to speak immediately after a representative of the
requérants has opened the debate and immediately before a representative of the requérants
replies to the debate.

1900 So applying that Rule means that next it would normally be the President of the Policy &
Resources Committee who could speak but clearly he is not in a position to do so, so it will be a
Member of that Committee, Deputy Stephens, who will speak next, following the President of the
Committee *for* Health & Social Care, Deputy Soulsby, and then Deputy Lowe on behalf of the
Committee *for* Home Affairs, and Deputy Le Clerc on behalf of the Committee *for* Employment &
Social Security. I should say that they are not obliged to speak, they are merely entitled to speak
at this stage. Because the purpose of that Rule is to enable them to put the opinion of their
1905 Committee. I have directed in advance of this debate that they are not to express a personal
opinion if that does not accord with the view of their Committee.

1910 So that is just to explain. After those persons have spoken on behalf of their Committees we
will then move on to whatever amendments are going to be in play, and I am not quite sure at
this stage what that is, and it may be that we will have an adjournment, although possibly over the
lunch period we may be able to deal with that. So that is what happens next.

Just before we proceed, the two Alderney Representative have now been able to arrive in this
Island. Alderney Representatives Jean and McKinley, do you wish to be relevés?

1915 **Alderney Representative Jean:** Please, sir.

Alderney Representative McKinley: Thank you very much, sir.

The Bailiff: Thank you.

1920 Now I call Deputy Stephens to speak on behalf of the three Members of Policy & Resources
Committee who are not conflicted. Deputy Stephens.

Deputy Stephens: Thank you, sir.

1925 Individual members of committees will from time to time have differing views. On this occasion
the Committee is mindful that two of its Members are requérants, namely Deputy Gavin St Pier
and Deputy Lyndon Trott. They have fully recused themselves from the Policy & Resources
Committee's consideration of the Requête, consultee responses and all amendments.

The Committee has not considered amendment 5 submitted by Deputy Le Tocq and Deputy
Soulsby as it would not be quorate in doing so.

1930 The Committee acknowledges that this is a subject that stirs great emotion and is generally a
matter of personal conscience. However, it has set out its opinion in a letter of comment
appending thereto the views of all the Committees so consulted.

The Committee's opinion on the scope and timing of the Requête in light of the issues brought
forward by Committees consulted on the matter brings it to the following conclusions.

1935 Firstly, the Requête's ambition does not align with the current 23 priorities of the Policy &
Resource Plan and so the Committee cannot recommend its support.

The Requête will likely lead to resource intensive investigations, working parties, consultations
and similar, which given the finite resources of the States will draw from other prioritised areas
which will consequently have to be deprioritised.

1940 The unamended Requête is very general and many issues could require formal legal advice. The nature of a requête means that the Assembly is without the benefit of a supporting policy letter. It has not been prudent to undertake research into the many different and complex legal issues as the research might well depend upon any final States' Resolution. However, it is clear to the Committee that working through legal issues will be both lengthy and expensive.

1945 In summary it is the unanimous view of the Committee, sitting without its recused Members, that whatever one's personal beliefs on this contentious matter it would be poor governance to support the Requête and then not to discharge it because it is not resourced or funded, and these requirements are not quantified in the Requête. To resource and fund it appropriately will likely require de-prioritisation of other Government policy work streams which the Committee would need to bring to the States either through an amendment to the Policy & Resource Plan scheduled for debate on 5th June 2018 or subsequently and whenever that time arose.

1950 Thank you, sir.

The Bailiff: Next Deputy Soulsby.

1955 **Deputy Soulsby:** Sir, I do not wish to speak at this stage.

The Bailiff: Thank you.

Deputy Lowe, do you wish to speak on behalf of the Committee *for* Home Affairs?

1960 **Deputy Lowe:** Yes, please, sir.

The Committee for Home Affairs understands the sensitivity of this matter and the strong views many hold about it. It is undeniably complex and does not lend itself to quick or easy solutions. It involves a mandate of responsibilities of the Committee which include the preservation of life through emergency responses and the legislative structures of justice which lay down that no one shall take or assist in the taking of another's life.

1965 Despite various views expressed in public the advice from the Law Officers has remained consistent: regardless of what legislation the Bailiwick might choose to adopt it will not change the law in the UK. Under the UK Law the taking of a life by a British citizen can be investigated and if there is sufficient evidence upon which to justify a charge of unlawful homicide tried for that offence, and if convicted punished under UK Law, regardless of where in the world the killing took place. For nationality purposes most Guernsey residents are British citizens and any British citizen assisting another to die in Guernsey would remain at risk of contravening the criminal law of the United Kingdom.

1975 This illustrates that it would be extremely problematic for Guernsey to go down this path without the UK having already taken the same decision and amended its laws accordingly or amended its criminal law.

We must also recognise that to explore the proposal further will require significant staff and legal resources for a matter which is not one of the States' declared priorities.

1980 Due to the complexity of this matter and the points I have listed the consensus view of the Committee is that the Requête should be rejected.

Thank you, sir.

The Bailiff: Deputy Le Clerc, do you wish to speak on behalf of the Committee *for* Employment & Social Security?

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Deputy Le Clerc: No, sir, not at this time.

Thank you.

1990 **The Bailiff:** Well Members, it is now very nearly 12.15 p.m. You will be aware that a number of amendments have already been circulated. I have been advised by Deputy St Pier that another

amendment has been drafted, which has not yet been circulated and before we assembled this morning he asked whether we could have a brief adjournment at this point in order to enable that to be circulated and for people to consider the amendment before they debate.

1995 So as we are close to lunchtime what I am going to propose in a moment is that we rise now and I am actually going to suggest that we come back at 2.15 p.m. so that we get as much as we can done this afternoon. I put that proposal to you, we rise now and resume at 2.15 p.m. Those in favour; those against.

Members voted Pour.

The Bailiff: Well we will rise now and resume at 2.15 p.m.

2000 Is there anything that can be circulated to Members before lunch?

Deputy St Pier: Sir, an amendment has been circulated, there is a typo though in the sub-paragraphs so that needs to be corrected, but the substance is there.

2005 **The Bailiff:** There is also I think a hard copy sitting on the Greffier's table that can be circulated to those who do not have access to electronic instruments.

Deputy Dudley-Owen: Just for clarification, sir, is that amendment No. 6?

2010 **The Bailiff:** I do not know, I have not seen it. Is it amendment No. 6?

Deputy Dudley-Owen: Would that be amendment No. 6?

2015 **Deputy St Pier:** It is amendment No. 6, but the hard copy version is not the correct version because of the typos, so I suggest it is not circulated.

The Bailiff: So, how will ... well we need to get it corrected and then circulated to Members as soon as possible. Right. Well how quickly can that be circulated to Members, Deputy St Pier?

2020 **Deputy Fallaize:** Sir, we do, I think, if we are going to adjourn for lunch we need time to read the amendment over lunch. (**Several Members:** Hear, hear.) Can I suggest that we –?

The Bailiff: Perhaps we come back at 2.30 p.m. as normal.

2025 **Deputy Fallaize:** Well it would be better I think if we had the correct version now before lunch and then just came back two hours after then.

2030 **The Bailiff:** Yes. Well what I was going to suggest is that it be amended as quickly as possible, copied and made available to Members, which hopefully can be done by 12.30 p.m. and perhaps in the circumstances we come back at 2.30 p.m., which as you say would give Members time to consider.

Deputy de Sausmarez?

2035 **Deputy de Sausmarez:** Can I please clarify, sir, that the version that has been circulated electronically is the correct version?

The Bailiff: I do not know.

Has the correct version been circulated electronically, Deputy St Pier?

Deputy St Pier: No, sir.

2040 **The Bailiff:** No. So ignore the version that has been circulated, those of you who have read it. There will be another version to be circulated as soon as possible, which you can either receive electronically or hard copies will be available in this Chamber as soon as possible.

Thank you.

How long is it going to take Deputy St Pier?

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Deputy St Pier: The changes are only simple so it will only be a matter of minutes.

The Bailiff: Perhaps you could liaise with the Deputy Greffier to make sure that that is dealt with. So it should be as soon as possible.

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We will resume at 2.30 p.m. Ignore what I said earlier, resume at 2.30 p.m.

*The Assembly adjourned at 12.16 p.m.
and resumed its sitting at 2.30 p.m.*

**Requête –
Assisted Dying –
Debate continued**

The Deputy Greffier: Requête, Assisted Dying – continuation of debate.

2055 **The Bailiff:** Well, Members, hopefully you all have on your desk something marked amendment 6. The version that you should have is said to be proposed by Deputy St Pier and seconded by Deputy Soulsby. It is quite a long amendment. Deputy St Pier, do you wish it to be read for the benefit of those listening, or are you going to summarise what the effect of it is?

Deputy St Pier: Sir, I think I will summarise.

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The Bailiff: You will summarise, in that case I call Deputy St Pier.

Amendment:

To delete all the propositions and replace them with the following:

1. To agree that effective capacity legislation, to which the States is already committed, is essential in any event but to further agree that an assisted dying regime shall not take effect in Guernsey until capacity legislation (and any relevant implementing provisions) shall have been enacted and is in force.

2. To acknowledge that the Human Rights (Bailiwick of Guernsey) Law, 2000 already gives statutory protection in relation to human rights and freedoms guaranteed under the European Convention on Human Rights but to further agree that an assisted dying regime shall not take effect in Guernsey until as a minimum:

a. a legal framework ensuring non-discrimination and equality for disabled people, consistent with the UN Convention on the Rights of Persons with Disabilities shall have been enacted and is in force;

b. the completion of outstanding work enabling the States to seek UK extension of the international human rights conventions to which it is already committed, in particular 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

c. an independent body concerned with islanders' equality and rights, consistent with the States' Disability and Inclusion Strategy has been established and is in operation.

3. To direct that the Policy & Resources Committee shall establish an independently chaired working party ("the Working Party") with such membership as it sees fit. The Working Party shall consult widely, for example, with members of the public, the Committees for Health & Social Care, Employment & Social Security and Home Affairs, the Guernsey Disability Alliance, relevant UK bodies such as the General Medical Council and the British Medical Association. The Working Party shall report back ("the Report") to the States of Deliberation as soon as reasonably practicable, cognisant that it will be necessary for the requisite resources to be sourced and prioritised in accordance with the normal prioritisation processes of the Policy & Resource Plan alongside competing policy priorities. The Report shall make recommendations for the development of a legal regime to permit 'assisted dying' i.e. available only to terminally ill adults resident in Guernsey with mental capacity and less than 6 months to live, based, for example, on the extant regimes in Canada or the State of Oregon. The Report shall include consideration of and recommendations pertaining to:

- a. how to ascertain the operational effectiveness of the capacity legislation referred to in proposition 2;
- b. legal and professional issues;
- c. the definition of 'terminally ill' and how that shall be determined in respect of an individual;
- d. the definition of 'residency';
- e. requirements to prevent coercion of the individual, protect 'vulnerable persons' and otherwise mitigate against abuse of the legislation, including:
 - i. a definition of 'vulnerable persons';
 - ii. the numbers and roles of any doctors, nurses or other health care professionals involved in the process; and
 - iii. whether prior judicial approval should be a requirement of the process;
- f. provisions for conscientious objection by any person; and
- g. any ongoing resource implications.

4. 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.

5. To instruct the Committee for Health & Social Care, in accordance with the resolutions of Article 12, Billet d'État XXIV of 2017 ("A Partnership of Purpose: Transforming Health and Care") and the resolutions of the States

contained within the Policy & Resource Plan, and in light of the ageing population and the substantial anticipated increase in health and care needs over the next ten to twenty years:

- a. To consider the measures necessary to improve quality of life and health outcomes for all islanders towards the end of their lives, including:
 - I. improvements in the provision, availability and/or affordability of community services, primary care, aids and adaptations, and long-term care;
 - II. greater investment in person-centered care for all who require health and care services on an ongoing basis, and recognition and support for the friends and family who surround them, especially those who have caring responsibilities towards them; and
 - III. possible developments in end-of-life care, such as increasing the hours of provision of specialist palliative care, the on-island availability of specialist consultants, the provision of counselling and support services, and/or the provision of alternative medication and technologies for pain relief;
- b. For the avoidance of duplication, to consolidate this work as far as possible with relevant ongoing workstreams under the Partnership of Purpose, the Supported Living and Ageing Well Strategy, and the Disability and Inclusion Strategy; and
- c. Having consulted with the Policy & Resources Committee and any other relevant States Committees, to report back to the States as soon as practicable, but by June 2020 at the latest, with recommendations and propositions for ways in which such improvements and developments could be implemented along with resource implications.

Deputy St Pier: Sir, thank you.

It is clearly very unusual for anyone, either committee or requérants, to seek to replace their own Propositions, but this is clearly a very unusual topic which does require sensitive handling. For 10 weeks the requérants have listened to feedback from the public and colleagues, and having listened to that feedback we felt that it was appropriate to seek to allay some concerns expressed by laying this amendment.

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Before I explain the rationale behind it, it is worth bearing in mind that of course it was always the case that there would be at least three substantive opportunities for this Assembly to consider the matter. Stage one being this debate; stage two being the debate on any policy letter presented following the working party's work setting out the policy recommendations on framing a new assisted dying law; and stage three being when the legislation is finally presented to the States for approval. This amendment does not change that process.

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Sir, I think as perhaps suggested in your opening comments, it would make sense to walk through the amendment.

Proposed new Proposition 1 seeks to explicitly strengthen the requirements around the introduction of a mental capacity law. We have always recognised the importance of this legislation being in place, but this new wording puts beyond doubt that it must be in force before any assisted dying regime could commence, and in proposed Proposition 3 the working party are asked to consider how the effectiveness of that legislation is to be judged in order that the States can consider this important issue at stage two that I have described.

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Proposition 2 must be accredited to Deputies Hansmann Rouxel and Merrett. The requérants are grateful to them for their open engagement to address their concerns, the States' commitments to improving the legal environment for those with disabilities, must also be honoured and in place before any assisted dying regime can take effect. This is an entirely reasonable position and one that we are very happy to endorse.

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Proposed new Proposition 3 makes a number of changes. Firstly, that the working party should be independently chaired, and thanks are due to Deputy Soulsby for that suggestion. It also makes clear that the resources required to secure this work must be prioritised through the Policy & Resource Plan, and that was obviously a question which Deputy Meerveld raised on the statement on the other matter, sir.

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That was always our understanding and expectation, particularly of course for Deputy Trott and I who have been so closely involved in the design of the Policy & Resource Plan process. However, the letter of comment from our three remaining colleagues on Policy & Resources caused us to reconsider how this understanding could be better reinforced through the wording of the Propositions and in particular by the removal of what would have been an arbitrary and possibly aspirational, if no resources are immediately available, 18-month consultation period.

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Proposition 3 also makes clear that the regime the working party are directed to look at is the North American model, such as exists in Oregon and Canada rather than the more liberal European model, namely only being available to terminally ill adults resident in the Island with mental capacity and less than six months to live. That was the basis of our entire public pitch from moment one, and we have accepted the criticism that the original wording was not so tightly drawn as to confine the working party to that model. Whilst we proposed the removal of the 'in principle' decision in the original Proposition 1 which I know Deputy Dorey is not happy about, favouring that the States should be expressly asked to make that decision. Nobody should be in any doubt that it is effectively the decision they will be being asked to make with new Proposition 3, albeit that it remains subject to the same stage two, namely the further debate on the working party's recommendations in due course.

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The proposed Proposition 3 also more clearly and expressly makes clear some of the issues that the working party needs to focus on, namely the definition of 'terminally ill', 'residency' for these purposes, and 'vulnerable persons' as well as the provisions for conscientious objection and consideration of whether a prior judicial approval should form part of the process.

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2115 Sir, we do not believe that the amendment substantially changes the nature of the decisions being asked of the Assembly, given both the Requête and the last 11 weeks' public debate and engagement, but we do believe that having listened to feedback from that process these proposed Propositions have addressed some of the concerns expressed, recognising that there are some who will remain implacably opposed in any event.

2120 Sir, Proposition – make sure I have got it right – 5, incorporates the wording and nothing more nothing less of the Le Tocq/Soulsby amendment. Effectively, sir, by incorporating the amendment submitted by Deputies Le Tocq/Soulsby, Soulsby/Tooley and Hansmann Rouxel/Merrett, this amendment has produced –

I will give way, sir.

The Bailiff: Deputy Prow.

2125 **Deputy Prow:** I thank Deputy St Pier for giving way.

I just think it would be helpful to the Assembly to attain absolute clarity of how this debate is going to proceed now this amendment has been laid.

2130 We have five amendments before us and this now a sixth, at least two of those amendments asked to remove all the Propositions in the Requête, as does this one. Deputy St Pier seems to be explaining what the amendments mean, which is helpful, but what I am grappling with, and I suspect other Members of this Assembly are grappling with, is how does the debate then evolve? Will Members of the Assembly stand after Deputy St Pier and start their substantive arguments around these Propositions.

2135 Just to clarify what I mean, this amendment, as do others, completely replaces the amendments in the Requête, so therefore it seems to me that Deputies will have the right or have the problem about how they then lay their arguments.

2140 To explain, last evening I have written two speeches around two separate amendments. So I now have a conundrum as to how I now proceed. If the process that we are going through now is simply one of explaining what these amendments are then that is helpful. What is unhelpful to me is that I do not know once Deputy St Pier sits down how this will progress, and I find this a totally unsatisfactory position (**Several Members:** Hear, hear.) on a matter of such importance to this Island. We have had emails, we have had letters, we have had to sit and consider this matter long and hard. I am not sure how this will proceed. Will we be allowed to vote on the amendment against each Proposition, or if this amendment is passed will we simply then vote on each of these Propositions at the end of the debate?

2145 What I am really asking, sir, is when will the substantive debate start, when will we get to know where we lay our arguments, and how we lay our arguments, and against which Propositions we lay our arguments?

2150 I do not know if the Procureur can help me, I do not know if you, sir, can help me, and I do not know if Deputy St Pier can help me, but that is the conundrum, and I think that a lot of the Members of the States feel the same way as I do.

Thank you, sir.

2155 **The Bailiff:** Well, Deputy Prow, I think at this stage Deputy St Pier is just laying the amendment. I think he should be allowed to do that and he may address those concerns while he is doing so. When he is finished if there are questions of that sort that remain outstanding I am sure that we will try to answer them at that point, but for the moment I think just allow Deputy St Pier to continue and he may be able in the course of that to give some indication as to how he perhaps sees the debate continuing and then at the conclusion of that we can see whether other Members agree.

2160 **Deputy Prow:** Thank you, sir.

2165 **Deputy St Pier:** Sir, I think Deputy Prow's intervention was probably timely because I was just getting to the bit of the speech where I was hoping to perhaps explain it, as I saw it anyway. So hopefully I will take that into account as I continue and we will see where we get to.

Sir, effectively as I was saying, by incorporating the amendments which have been submitted from Deputies Le Tocq and Soulsby, Soulsby and Tooley, Hansmann Rouxel and Merrett, this amendment has produced a consolidated set of amendments that ensures all the issues are discussed together.

2170 So to address Deputy Prow's question, sir, my understanding is that all the people involved, with the exception of Deputy Le Tocq, are happy that this amendment incorporates their amendments so that we can have a single debate on the replacement Propositions which appear in this amendment.

2175 Certainly, it is not the intention of the requérants to lay the Brehaut/McKinley, McKinley/Brehaut amendment which refers to judicial oversight. So that is out of play, and my understanding is that if this amendment succeeds then, as I say, Deputies Soulsby, Tooley, Hansmann Rouxel and Merrett would be happy, and obviously they will explain it themselves in debate, they would be happy to have the debate on the revised Propositions as set out in here.

2180 Now, if the Le Tocq/Soulsby amendment were to succeed on its own then that would effectively deny this Assembly the opportunity to debate and vote on the substantive issue at the heart of the Requête, namely assisted dying. That is not, I would suggest, sir, what the public would expect, having engaged vigorously in public debate in the last 11 weeks and risks the issue being brought back sooner rather than later, which cannot possibly be in anyone's interest.

2185 So this amendment is the responsible way to manage and conduct this debate, to allow all voices, concerns and opinions to be heard; Members who do not support assisted dying will have the opportunity both to speak and then obviously to vote against what would then become substantive Proposition 3 at the end of this debate.

2190 Sir, as Deputy Prow said, we have had very many emails on this topic there was one in particular that caught my attention, if I can find it, which came in earlier this morning, 6.15 I think this morning, from a member of the public, which was sent to all States' Members, and I thought this really summed up why this amendment is so important to ensure that we have a proper debate and we have a proper debate on the substantive issue of assisted dying and it said very simply in two sentences:

Please do not let this extremely debate be side-lined and only half debated. Do not politic this it is far too important.

2195 That is what this amendment is about, it is about ensuring that we can have a single debate with all the issues whilst allowing Members to then vote at the end on the substantive issues.

So, sir, we ask that the whole Assembly support this amendment, so allowing us to move quickly into substantive debate on all the issues which have arisen out of the public debate in the last 11 weeks.

2200 **The Bailiff:** Deputy Soulsby, do you second that amendment?

Deputy Soulsby: I do, sir.

2205 **The Bailiff:** Right. I do not know whether that has answered Deputy Prow's question, or whether he is still a bit confused as to how the debate might continue.

Deputy Prow: Sir, it does not really.

2210 **The Bailiff:** If he is I would not be surprised, because I am not clear how it is going to progress. There are a number of ways that it could progress.

Do you wish to speak at this stage, Deputy Ferbrache, or would you like me to give my view as to how it might progress then if you have got any questions after that?

2215 I think the first thing I would like to know is whether any other people who have given notice of amendments would still wish to lay their amendments if this one were either to carry or to be rejected. Deputy Le Tocq.

2220 **Deputy Le Tocq:** Yes. I would wish still to lay the amendment 5. I would like an opportunity to give my reasons for that separate to a speech on this amendment, but I know that is difficult. I know it is tricky when you have amalgamated everything that actually impinges upon one another into one main amendment and that is why I was in disagreement over this amendment. I understand the intention but I do not think you can do that.

2225 **The Bailiff:** Okay. Right. One way forward then would be to very quickly go to the vote on this amendment which then wipes out the other Propositions, replaces it with these. We could do that quite quickly. Then deal with any other amendments, but we would have to do all of that before we can go into general debate, because we cannot have general debate until we know what we are debating.

2230 So as I say, one option would be to go very quickly to the vote on this amendment to replace the original Propositions with these and then Deputy Le Tocq or anybody else who wishes to lay amendments can do so, and as I say, at the conclusion of that we can have general debate.

2235 The danger with all of these amendments is that there is inevitably going to be some general debate on them if we try to debate the amendments at the same time, and I think that is what Deputy St Pier has tried to avoid, and if there were not going to be further amendments one could take this amendment and general debate all together but we are not in that position so – Deputy Lowe, you are wanting ...?

Deputy Lowe: I am confused, sir.

2240 **The Bailiff:** Well so am I, so I am not surprised.

Deputy Lowe: Referring to what you said just now, I get all of this about consolidated amendments and you said if we go to the vote on this amendment and then Deputy Le Tocq can place his amendment, but his amendment is already incorporated in the consolidated one.

2245 **The Bailiff:** But what he wants to do is replace these Propositions just with the Propositions in his amendment. So the effect of his –

Deputy Lowe: Okay. I see what you are talking about.

2250 **The Bailiff:** Yes, that would be the effect.

Deputy Lowe: Okay. Thank you.

2255 **The Bailiff:** Then to answer Deputy Prow's question as to whether we would be voting individually on the Propositions, that would come at the conclusion of general debate. For the moment what you have before you is an amendment. You either vote for that amendment or you do not. At the conclusion of general debate you can vote for and against whichever Propositions you wish to support or otherwise. That is the way that I would see it progressing. Is that the way you see it, Deputy St Pier?

2260 **Deputy St Pier:** Yes, sir.

The Bailiff: Deputy Kuttelwascher.

2265 **Deputy Kuttelwascher:** Sir, just one more point.

Listening to Deputy Prow and others, I think the issue is if this amendment were to pass, amendment 6, would you be allowed just one speech to cover all the Propositions or would you be able to speak to each Proposition? I know that is not going to be an easy thing to do, but that is the problem I think where you may oppose four of them and support one of them and you have got to speak against four and *for* one.

2270 **The Bailiff:** It will be one speech. And in the one speech you would address each and every one of the Propositions (**Deputy Kuttelwascher:** All right.) if there are some that you (**Deputy Kuttelwascher:** Not easy.) agree with and some you do not.

2275 **Deputy Kuttelwascher:** Yes, thanks.

The Bailiff: We cannot have effectively six debates, or whatever it might be, on six Propositions with six speeches from everybody. It has got to be one set of speeches.

2280 **Deputy Le Tocq:** Sir, I wanted to make it clear that whilst I agree with that way forward in some ways, I think there are going to be some people like me in all conscience that cannot – whilst obviously I agree with item 5 here, in all conscience I cannot vote for the other ones, so as we are voting just on this amendment I have to vote against it on that basis, and that is my dilemma.

2285 **The Bailiff:** Yes, voting for this amendment does not necessarily mean that you agree with everything in the amendment, voting for the amendment would simply mean that you agree to replace the original Propositions with these Propositions for the purposes of the debate, and then at the conclusion of the debate you would vote for and against, so there may well be people who do disagree with some of these Propositions, but could still vote for them to enable a debate to take place on these Propositions rather than the original ones.

2290 So I think it would be understood that just because you are voting for the amendment it does not mean that you agree with everything in the amendment' you are merely voting to replace the original ones with these and reserving your right to vote otherwise at the conclusion of the debate.

2295 So Deputy Fallaize.

2300 **Deputy Fallaize:** Are we debating Deputy St Pier's amendment?

The Bailiff: I think I am just trying to clarify the way this debate is going to go, and I think it has been helpful, it has certainly helped me, and I think what I have suggested is that if people were so minded we could go very quickly to the vote on Deputy St Pier's amendment, and then have a further debate in general debate.

2305 Now, if people do not want that, then we will have to have a debate, you are entitled to have a debate on the amendment, but there is a risk of duplication because people inevitably may be debating in general to some extent, but if that is the wish of some Members that they wish to debate this amendment before it is voted upon then we will do so.

So I open the floor to those who wish to debate the amendment.

2310 Deputy Fallaize is quickly on his feet.

Deputy Fallaize: Thank you, sir.

I just wanted to say a couple of things.

2315 The first was really, through you, to Deputy Le Tocq. I think if this amendment is successful it would not help the debate at all if he then laid his amendment, because as Deputy Lowe has said, all of the terms of his amendment would be incorporated in the new Proposition 5, and the

advantage of this amendment, if it is approved, is that the States can then have one single debate on all of the issues, so we do not have to go through amendment by amendment.

2320 We can just have one single debate: those who are supportive of the concept of assisted dying can make their case, those who are opposed can make their case. Those who are in favour then at the end of that debate could vote for what would then be Propositions 1, 2, 3 and 4 and those who are against and who are in favour of the kind of ideas that Deputy Le Tocq had put forward in his amendment that he circulated can vote against Propositions 1, 2, 3 and 4 and in favour of Proposition 5.

2325 So I think structuring the debate in this way would overcome what otherwise could have become a complete mess, and we can just have a single debate on all the issues and then vote at the end of the debate and nobody's conscience will be offended because at the end of the debate every Member can vote according to his or her conscience.

2330 It does seem very simple and I hope Deputy Le Tocq does not lay his amendment.

The Bailiff: Deputy Soulsby.

2335 **Deputy Soulsby:** Sir, just to say I was quite happy to second the amendment because I do want to see a full debate, I do not want to see debate stifled and I would not be able to support Deputy Le Tocq's amendment if he wanted to lay it afterwards.

The Bailiff: Deputy Dorey.

Deputy Dorey: Thank you, sir.

2340 Deputy St Pier mentioned me in his speech just now, and I would just like to make the point that when they presented the Requête originally and he put forward the reason for Proposition 1 which was an 'in principle' decision I thought that was a very good argument.

2345 Too many times this Assembly has debated issues and has decided to have a report on it, when it is known that a lot of people who voted for the report it is just to put off the issue, and it has just been a waste of time because when a report came back they voted against it, so we have lost the opportunity to make an 'in principle' decision, which I think is key that the Assembly makes an 'in principle' decision because there is no point if Members are 'in principle' against it, going ahead with a report.

2350 I accept that effectively with the amendment you could do that – effectively, with Proposition 3 – but I think it was far cleaner and I distinctly went to that meeting in March at Beaucamps ... he particularly put forward that point for the reason why they were proposing it like that.

2355 My other point is I was disappointed because having been to that meeting on 22nd March it was very clear that the supporters who presented at that meeting were in favour of the Oregon model and their slides were very definitely on the Oregon model – in fact, the Oregon model-plus, as I say, as they had additional steps in in terms of psychiatric analysis of the person before deciding. They also talked about lawyers being involved at that stage. So it was very clear at that meeting that what was being presented by those people who supported the Requête was out of line with what the Requête said, which was very widely written.

2360 So I am just disappointed that, having had that pointed out very clearly to them, they waited so long before coming up with an amendment which was last Thursday, as I think it would have benefited the public debate if it was just concentrated on the Oregon model rather than the wider model which is proposed here.

2365 The other point I wish to make is that one of the implications of the amendment now which is proposed is that, in summing up, if Deputy Le Tocq's amendment was proposed he would have the opportunity of an opening speech and closing speech. I just wondered if it is possible – I know it is outside the Rules – if at least he could have a closing speech, because one of the implications of this amendment is that he gets one opportunity to speak and not to pick up the points and it is only the other side, which is Deputy St Pier who is proposing it has a chance to sum up. So I do

2370 think there is an implication because it is quite important to the debate, the summing up speech, so I just wondered if you would allow, if Deputy Le Tocq wanted to, to sum up before Deputy St Pier, as his amendment includes the original Le Tocq amendment and that would affect the way I vote on this amendment.

Thank you.

2375 **The Bailiff:** Deputy Meerveld.

Deputy Meerveld: Sir, yes, I would just like to comment on this.

While I appreciate Deputy St Pier's and Deputy Trott's attempt to clarify the debate by basically wrapping up other people's amendments into their own –

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Deputy St Pier: Sir, point of correction.

The Bailiff: Deputy St Pier, point of correction.

2385 **Deputy St Pier:** Sir, Deputy Soulsby, not Deputy Trott.

Deputy Meerveld: Sorry.

2390 **The Bailiff:** It was Deputy Soulsby. There was an amendment incorrectly circulated that indicated that it might be seconded by Deputy Trott, but it has not been seconded by Deputy Trott, it is Deputy Soulsby.

Deputy Meerveld: Yes, sir, I think, like many people here today, sir, I am getting rather confused.

2395 Just going back to my point though, whilst I appreciate the attempt to wrap up all of the amendments into a consolidated document, Deputy Le Tocq's amendment presents us with a very clear choice of whether we support assisted dying or focusing on palliative care. I personally would like to see that placed as a first amendment, and if that was placed in debate and debated it would then give us a clearer ... All the rest of the issues in this new amendment would fall away.

2400 Thank you, sir.

The Bailiff: Does anyone else wish to speak on ...?

Yes. Deputy de Lisle.

2405 **Deputy de Lisle:** Sir, I would like to support the last speaker with respect to that and I would prefer that Deputy Le Tocq actually places his amendment first.

The Bailiff: Deputy Roffey.

2410 **Deputy Roffey:** I would simply say to the last two speakers, if they, as I understand it, want to vote for the bits about palliative care and other end of life care in Deputy Le Tocq's amendment and do not want to support anything else that is involved in the consolidated amendment, that is fine, pass the consolidated amendment vote against everything apart from the bits in Proposition 5. I really do not see that there is a real issue here.

2415

Several Members: Hear, hear.

The Bailiff: Deputy Kuttelwascher.

2420 **Deputy Kuttelwascher:** I would be happy to second Deputy Le Tocq's amendment, now that Deputy Soulsby says she cannot, if he wants to lay it, so I would be happy to do that, but I still think the issue brought up by Deputy Dorey is that unfortunately Deputy Le Tocq would not get a closing speech on his amendment in this scenario, and I do not think that is quite right.

2425 If Deputy Le Tocq's amendment was to be taken first and failed, no problem, we can carry on with the rest of the debate. If it was to pass I think that is the end of the debate almost. And if it was to be passed that would be a definitive vote against what was the original purpose of the Requête. That is how I feel but I am happy to second it if it can be laid.

The Bailiff: Deputy Gollop.

2430 **Deputy Gollop:** Sir, if we are debating the latest amendment that Deputy St Pier has introduced, the difficulty that I am in, like many Members, is to look not just politically but also legally at the consequences that may arise out of it.

2435 For example, I am minded to reject Proposition part 4 of this because clearly it strongly implies a resource in committing to working towards assisted dying. I do support the fifth element which is more or less a rephrasing of the putative Le Tocq/Soulsby amendment about strengthening palliative care, but when we go to 1, 2 and 3 it becomes a little bit more complicated because, much as I might wish to see an independently chaired working party on looking at all of these questions, I do not believe that it would be best served at this time as a governmental body, that
2440 it is something best done by the private or voluntary sector.

Although I have strong sympathies for Propositions 1 and 2 because they do commit us not only to safeguards but to a legal framework assuring non-discrimination and strengthening our commitment to signing the Convention of Elimination of all forms of Discrimination against Women, CEDAW, CRC, CRPD, People with Disabilities, the problem is both 1 and 2 carry within
2445 them an implication that we will support effective capacity legislation which is contradicted by 4. So I do not really see how all this hangs together.

Deputy Oliver wants me to give way.

The Bailiff: Deputy Oliver.

2450 **Deputy Oliver:** Sir, is this not just general debate that Deputy Gollop is straying into –

Deputy Gollop: Well, yes it is in my view.

2455 **Deputy Oliver:** – on the amendment?

Deputy Gollop: Because I am talking about every issue under the sun because this amendment potentially covers almost every conceivable issue raised in the last eight weeks. *(Interjections)* So this is the general debate, if you want it to be.

2460 **The Bailiff:** Well I will allow you to speak later in general debate, but ...
Deputy Trott.

Deputy Trott: Sir, over the last couple of decades in this Assembly I have often wondered why
2465 we are not just a little bit more honest, not only with ourselves, but also with the Public Gallery and indeed the considerable number of people who will be listening.

A very last minute amendment has been placed by a senior Member of this Assembly in the knowledge that it went further than the existing Proposition in a manner that created an environment where there was a very significant chance that there would not be a debate, or rather
2470 more accurately there would not be a vote on assisted dying. Anybody in this Assembly who thinks that is clever is a fool because this community at the very least demands an open and

honest debate around assisted dying and the opportunity for every Member of this Assembly to record his or her vote for or against. To do anything else –

2475 **The Bailiff:** Deputy Trott, I am sorry to interrupt you but I think somebody in the Public Gallery may be filming you. He is holding his mobile phone – (*Interjection from the Public Gallery: I am reading an email*) Sorry, right, okay. Sorry, there is to be no filming within this Chamber.
Deputy Trott.

2480 **Deputy Trott:** Thank you, sir.
The point is that this is a far too important debate not to see if we can get some sort of closure on it. The only way we can achieve that in my view in the short term at least is to have a substantive vote on assisted dying. Now that is the right and proper way to proceed. Whether that is what this Assembly chooses to do is another matter. But I think it is essential that this
2485 community understands what is going on here. This is a game that is being played on a matter as serious as this. It is completely unacceptable and does not reflect well on this Assembly.

Several Members: Hear, hear.

2490 **The Bailiff:** Deputy Lowe.

Deputy Lowe: Deputy Trott has got me to a stand here, sir. I think that is totally out of order.
(**A Member:** Hear, hear.)

2495 The position that Deputy St Pier ... with all good intentions, I can understand why he has tried to consolidate this amendment with all the other amendments, but that is totally out of order because in my view by doing so denies the proposer and the seconder, especially the proposer, to set out their own amendment with their own words of how they want to sell their amendment and more importantly after the debate, to sum up and answer those questions. That has been denied
2500 of these States' Members, that is not playing games, that is actually where I believe this amendment has been totally unfair for those who in good faith have prepared amendments and wish the due process to take place by having their separate amendments debated in this Chamber for all Members to be able to contribute. That is not games.

The Bailiff: Deputy Ferbrache.

2505 **Deputy Ferbrache:** Sir, could the matter not really just simply be resolved by whatever suspension of the Rules, and everybody knows I love Rules so much, and agreeing that Deputy Le Tocq could make a closing speech before Deputy St Pier? Could we not agree that, then that would seem to me to solve everything. We have the debate, we have the innate fairness.

2510 I would just say in relation to Deputy Trott's somewhat surprising interjection, bearing in mind that he and Deputy St Pier put forward a significant amendment to their own proposals some 12 weeks and 12, no, 11 weeks and two days, from the original proposal ... So pot calling somebody
2515 black is a bit different. We should have a proper and full debate; we can have a proper and full debate on all these issues by allowing this composite amendment to go forward, by allowing Deputy Le Tocq to make a closing speech.

The Bailiff: Perhaps I could interject at this point.

2520 There is no need to suspend the Rules, Deputy Ferbrache. I know how much you would like to be able to do that, (*Laughter*) but under Rule 17(8) I can give leave for one person to speak more than once, and having heard the opinions that have been expressed, I am considering that. But I think perhaps it would be helpful if I made a decision, and I said, yes, I will allow Deputy Le Tocq to speak, then that would probably mean speaking right at the beginning and at the end.

2525 We will just have to think if we end up with general debate. If this amendment is passed and we then go into what is general debate, we will just have to think about the order of speeches at the end, because of course the Committee Presidents also have an opportunity to speak. That is just a detail; we can get to that. But in principle I can say that I will give leave for Deputy Le Tocq to speak more or less at the beginning as early as he wants to, it is up to him, and more or less at the end.

2530 Deputy Le Tocq.

Deputy Le Tocq: Thank you for that, sir.

2535 Just to confirm then, because you are talking about if this amendment passes then I would have an opportunity, or are you saying I could have an opportunity to speak in summing up on this amendment, because I have obviously prepared my speeches based on the amendment that I was planning to lay. I can speak to this particular amendment, but are you talking about allowing me extra ...

2540 **The Bailiff:** Well, I think the way this debate is going is that, now I have given that clarification that you can speak twice, I get the feeling that people are going to want to go to the vote on this amendment quite quickly and get this amendment in play so that all these Propositions are in play; then, once that has been voted on, once they are in play, Deputy St Pier has already opened I will then call you first if you wish to do so and then you can speak in what will be in general debate but general debate will then be on these amended Propositions.

2545 If they support the amendment. Obviously if people are going to want to go into an extended debate on this amendment then I appreciate you may want to speak on it, but if the mood of the Assembly, which is what I am picking up already, a dozen or so people have spoken, is that people actually want to go to the vote on this amendment sooner rather than later, let's do that, and it looks as if it will be carried, and if it is carried I will then call you next if you wish to speak.

Is that clear to people?

2550 So Deputy St Pier, nobody else is rising, do you wish to just reply at this stage really on whether people should vote on this amendment or not vote on this amendment at this stage?

2555 **Deputy St Pier:** Yes, I will very briefly, sir, because I think what you are suggesting is a very sensible way of handling this so that we do then have a single debate whilst allowing Deputy Le Tocq the opportunity to speak twice which he would have had had there been a separate amendment in respect of what is Proposition 5 in what is before us – proposed Proposition 5.

2560 I think Deputy Fallaize summed it up very nicely by saying that actually by supporting this amendment nobody is supporting the underlying Propositions when it comes to a final vote; that is subject to a final vote which deals with Deputy Prow's concerns. Also Deputy Le Tocq's conscience is not engaged at this point because that opportunity will come at the end with the final vote.

2565 Deputy Dorey's comments about ... as I said, I did seek to address that in my opening speech about the 'in principle' decision having been removed, but I think it should be very clear in what would be proposed Proposition 3, that to all intents and purposes an 'in principle' decision is being made and that is what people will be engaged in, I would suggest, through the debate and then making a decision on 3.

I think in relation to Deputy Gollop's points on 1 and 2, proposed Propositions 1 and 2 will obviously only be engaged if 3 is successful, otherwise they do not really have any standing on their own, so I think it does hang together as a result of that; they are linked.

2570 So really the choices are, I think, as was summed up, if we move to the vote this then becomes the substantive set of Propositions, Deputy Le Tocq speaks twice, we will eventually get to a final vote, those in favour of assisted dying will in essence have the opportunity to vote for everything, those against will be certainly looking to vote against 3.

2575 So more importantly, it will allow us on behalf of our community to have the debate which I think everybody is expecting us to have

The Bailiff: Deputy Soulsby.

2580 **Deputy Soulsby:** Sorry, just picking up on one thing that Deputy St Pier said, I do not think that 1 or 2 would fall away if 3 was not supported because it would just say that an assisted dying regime should not be brought in until we have capacity legislation and human rights ... whatever 2 says.

2585 **The Bailiff:** That point can be made in general debate.
Let's go to the vote then on the amendment proposed by Deputy St Pier, seconded by Deputy –

A Member: A recorded vote please

2590 **The Bailiff:** A recorded vote, amendment proposed by Deputy St Pier and seconded by Deputy Soulsby. We will have a recorded vote.

There was a recorded vote.

Carried – Pour 21, Contre 17, Ne vote pas 0, Absent 2

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

2595 **The Bailiff:** Well, Members, the voting on the amendment proposed by Deputy St Pier, seconded by Deputy Soulsby, was 21 in favour with 17 against. I declare that amendment carried, and for the benefit of those listening this means that the Propositions set out in that amendment are now the Propositions that are to be debated.

I will call first Deputy Le Tocq.

2600 **Deputy Le Tocq:** Sir, I would prefer to actually wait a little before speaking in this debate as I did not plan ... but I will obviously speak in due course.

The Bailiff: Thank you.
Does anybody wish to speak now?

Deputy Stephens.

2605

Deputy Stephens: Yes, sir.

If I could just clarify we are in general debate?

The Bailiff: We are in general debate now.

2610

Deputy Stephens: Thank you, sir.

The Bailiff: Because as far as I know there are going to be no other amendments, so we are in general debate.

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Deputy Stephens: Firstly, sir, I would like to say how grateful I am to the many members of the community who have contacted me on this particular matter, and to apologise that I have not responded to everyone personally because the volume of contacts made has been very great.

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Even today I received at lunchtime from St Sampson's Douzaine a letter hand delivered there addressed to me and it says:

Dear Mrs Stephens, I would like you to know that like many other people on Guernsey I am opposed to assisted dying. I hope that you are also.

This prompts me to say that no matter what claims are made on either side of the argument no one can definitively claim that the majority of our community supports one course of action. (**A Member:** Hear, hear.)

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So as I consider the Propositions of the Requête my difficulty is that in the community and in this Assembly there is no real shared truth – there is no foundation of shared truth for Members to rely on, because there are various opinions about the success of models of assisted dying in other places, and various opinions about the efficacy of palliative care.

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Faced with a divergence of view my strategy to establish firm grounds for decision-making is to seek a way forward that is firstly known and familiar. Well, palliative care is established on the Island and is understood.

I look for the option that is least extreme and is adaptable to circumstance. Assisted dying is a most extreme measure with an irreversible outcome, while palliative care should be adaptable to circumstance.

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I look for a way forward that will benefit most people and the requérants have been clear when they have suggested that the option of assisted dying will not serve the interests of many people.

I look for structures that can be built on and developed further and the requérants have assured the community that there will be strict criteria for access to assisted dying and do not anticipate further development to a service for more people.

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I look to take a position where there is potential for international recognition of our jurisdiction. I look for what will enhance our reputation the most, and I would far rather our Island be celebrated for the excellence of its palliative and end of life care here than as a provider of assisted dying or assisted suicide or euthanasia.

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So I have applied these criteria to Propositions 1 and 2. Yes of course I am attracted by these Propositions but I really do have to interrogate Proposition 2. Deputy St Pier made reference this morning to the Jersey Care Inquiry in his opening speech. Now Jersey has already embraced the UN Convention on Rights of the Child and it seems that Jersey children have rights but not necessarily protection, even though the Convention is in place. The Jersey Care Inquiry report demonstrates that fact. For the information of Members I would add that I am told that further contact will be made with the Ministry of Justice this month to check our status in our ambition towards that Convention.

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So of the requérants I ask why is the progress of the adoption of UN Conventions now somehow bundled up with assisted dying? Is assisted dying the trigger for moving some of these

long neglected matters forward more quickly? But more importantly, how will these Conventions act as safeguards?

2655 Then when I read Proposition 3, I wonder is there an assumption here that the Assembly have given their agreement to the implementation of an assisted dying regime before the production of a consultation report? I think Members really do need some clarity on at what point it is that we agree that assisted dying should be brought in. Surely that consultation may return with a view that this regime is not a good thing for the Assembly to adopt.

2660 Proposition 3 returns me to the questions on the plans the requérants have to deprioritise work streams either under the P&R mandate or any other Committee's mandate to allow the work to be done. Please give me some detail on this rather than the high level, 'Oh well it will be fine' reassurance. And although time scales have been removed in this amendment, I also would like to know what realistic time frame will they be promoting, or will this be another project to join the queue with other matters that we do not have the resources to progress?

2665 In Proposition 3 the phrase, 'The report shall make recommendations for the development of a legal regime to permit assisted dying,' triggers my personal objections to this course of action, which in very general terms are firstly the necessity for the involvement of others in an individual's decision to end their life. Arguments have been made that assisting in the process of dying is an act designed to show love and professional concern because it is what the terminally ill person wants. It is their right, we are told, to choose this option. This is a truly desperate position to be in and to include others in, but the act must involve assistants who agree with the judgement that a particular life is worthless and that concerns me.

2670 A second objection I have is the potential for the extension of scope once the gateway to assisted dying is opened. At the first public meeting at Les Beaucamps School the second question from the floor was about the extension of any regime to include degenerative conditions, and later another questioner wanted dementias included.

2680 Now Members may know that for several years I worked with the Island's most disabled children. I and others provided schooling for them in what was then a segregated system. The children I knew had the most physical cognitive and sensory challenges of children of a similar age on the Island at that time, and they needed the full-time care of parents and carers and teachers and supporters. Should a gateway to assisted dying be opened, then I have to ask if that move will cause us to begin more generally to weigh up the value of lives – some being seen as more valuable than others. If it is okay to provide assisted dying for people who decide to end their own lives how long will it be before it becomes okay to decide for another that their life should end. The children I worked with, even though faced with enormous challenges, had lives worth as much as the lives of any other people I met. The proposal before us may well threaten such children's rights to choose life.

2685 So clearly I am concerned about the possible abuses of any system that might be established. It is important not to be sensationalist but to be realistic. People are not always well meaning, people do not always put the welfare of others before themselves; people do not always follow procedures and sometimes make judgements for reasons that might shift their behaviour from assistance to dying to initiation of death without the agreement of the person who is to die. There are no safeguards that I can think of for the dying person or the practitioner that are secure enough for me.

2690 In this debate the concept of living wills or indication of preferences for end of life treatment might well be offered as safeguards. I might indicate my wishes in advance by using all of those things, but I still might not want to die on the day and at the time when other people think I should.

2700 Along with others in the community, I do not want to accept my personal responsibility as a member of the public of Guernsey if assisted death is to be an option available here. I ask Members to consider the recent issues arising from the Guernsey way of birth at the Maternity Unit, or the failing standards in the high schools. Best practice can slip and shift towards poor practice without there being much that a member of the public can do about it. Our processes of

2705 complaint are in no way independent enough and our options for regulation too unclear to guard
against a decline in any protocol in practice for assisted dying. We should not and must not
develop a Guernsey way of death. I will not willingly agree to become someone powerless but
implicitly responsible as a member of this community for the deaths of others in a Guernsey
2710 scheme. Neither will I agree to putting others in the position of administering through writing and
filling prescriptions or referring patients to licenced practitioners to assist death here in this Island.

Of course my sympathies are with people who suffer, but the outworking of that sympathy
should be to make all efforts to help everyone to a good death and kill the pain not the patient.

I have less objections to Proposition 5 in regard to the intention of the amendment to align
with existing SLAWS and Disability Inclusion Strategy work streams, this is helpful it saves setting
2715 up and duplicating an entirely new work stream. SLAWS itself does not make any direct references
to assisted dying but it does talk about the importance of person centred care and having a
greater focus on providing care in the community.

Finally, I want to deal with an issue that has worried me in the days before this debate. In the
Town Church service on Liberation Day I was thinking about freedom, as were many I suppose,
2720 including Deputy St Pier. My thoughts centred on how much I value the freedom of expression
which is mine and the privilege I have as a Member of this Assembly of having the freedom within
a defined framework to express my views, but I did question briefly if I had an equal right with
others to comment on this Requête at all as I am a member of a faith group.

Clearly the requérants are not of this view as they promoted the views of people with religious
2725 allegiance. But some might think that a profession of faith downgrades the value of what I think
and what I say. I found my solution to this matter in the words of the late Senator, soon to be
President, John F Kennedy, in a speech he made in the US Presidential Campaign of 1960. He was
a Roman Catholic and he felt that because of his religious affiliation his bid for the White House
would be compromised by the prejudice of the Protestant Lobby in the Southern States of
2730 America; many felt he would be unable to make decisions independent of the Church. He decided
to directly address the assembly of Protestant Bishops gathered in Houston on September 12th
1960 and he said in his opening:

It is apparently necessary for me to state once again not what kind of church I believe in for that should be important
only to me, but what kind of America I believe in.

He did speak about his aspirations for his country and he did win the State of Texas and he
won the Presidential Election. Yes, he was in this instance commenting on the tension between
2735 religious bodies in America at the time, and yes he did have a political agenda. But in a similar way
I am speaking in this debate not from a position of my religion or my church, because I too am a
Roman Catholic, I want to say, as Kennedy said, that whether or not I belong to a church and what
I do or do not believe is a matter that should be important only to me. In this debate I am talking
about the kind of Guernsey I believe in and that makes my view as valid as anybody else's. (**A**
2740 **Member:** Hear, hear.)

So I ask Members to reject the Requête in the knowledge that this Assembly can, and maybe
should, return to the subject of palliative care at another time. Here it is a distraction from the
dangers of the Requête.

Thank you, sir. (*Applause*)

2745 **The Bailiff:** Deputy Lester Queripel.

Deputy Lester Queripel: Thank you, sir.

I can see the value and the merit of improving all palliative care providers for people here in
2750 the Island – I get that, it makes perfect sense – but improving all palliative care providers will be of
no value at all to those who no longer derive relief from it. So surely what we should do in tandem
with improving quality of care is at the very least agree to work being undertaken and a report
being written and presented to the States for them to then debate on the issue of whether or not

2755 we should introduce assisted dying here in the Island to provide choice for those adults who have been diagnosed with a terminal illness who have capacity to decide for themselves whether they want to opt for it or not.

2760 Sir, I ask colleagues to put themselves in the place of someone who has been diagnosed with a terminal illness and been given six months or less to live, and the time comes when you can no longer do the things that you need to do, let alone the things you want to do and really enjoy doing. You are bed bound, or you may be fortunate enough to make it to an armchair, or you can sit and observe a change of scenery for an hour or two before you eventually have to go back to bed. You do not have any quality time with your partner or your children or any member of your family or any of your friends. You are on the highest dose of medication possible to ease the pain but it is not really having a great deal of effect, all it does is take the edge off the pain. Plus of course as we all know, sir, in some cases medication can have the most horrendous side effects.

2765 You have a tube inserted into your arm permanently which provides you with supplements and proteins in an attempt to keep you alive, and you have that tube – another tube – in your arm because you can no longer enjoy food, you can no longer eat or digest food. Even if you could eat it you cannot taste it because you have lost your sense of taste and you have also lost your sense of smell. So you can no longer enjoy the smell of food cooking, or the smell of your favourite coffee or the taste of your favourite coffee, you cannot enjoy the smell of the flowers in the garden or your favourite perfume, aftershave.

2770 You can no longer toilet yourself so you have a tube inserted into your stomach that extracts your bile and your waste, and that all goes into a bag of some kind, some kind of container that is either emptied or changed by a member of your family or your care team on a regular basis. You most certainly cannot bath or shower or even wash yourself, so you are given a daily bed bath, again by a member of your family or your care team. You have tubes in your nose to provide you with oxygen which also helps to keep you alive because you are not able to breathe unaided. You can no longer have any fun or even laugh; you might get to the point where you cannot even speak because you are much too weak. In fact you cannot even lift a pen to write a message so you have no way of communicating with anyone. You have not got the energy or the inclination to smile and all the time all you want to do is die.

2775 Sir, there are a number of other things I could focus on that a person suffering the indignation of a terminal illness would struggle to do, like sleep, for example, even though you take sleeping pills you cannot get to sleep. I am sure, sir, my colleagues can think of all manner of other things themselves, whilst they imagine themselves being in the position where they have been diagnosed with a terminal illness, and how they think they would cope whilst slowly losing all of their faculties on the long, slow, painful journey to their death.

2780 I have watched two family members, and two of my dearest friends, slowly disintegrate on their protracted and painful journey toward their inevitable death after having been diagnosed with a terminal illness. They did eventually come to the place where they could no longer do the things they needed to do let alone do the things they wanted to do. They could not do any of the things they enjoyed doing, the things that gave them pleasure or fulfilment or satisfaction. So death for them was a most welcome relief and a release from their suffering.

2795 The reality is it took far too long to arrive. They all had to endure weeks, and in some cases months, of unnecessary suffering and not just physical pain but spiritual and psychological as well. In other words, total pain where everything was gradually deteriorating. Their light had gone out and their lust for life had been completely eradicated long before they actually died. One of those family members was my dear mum, and the other was one of my cousins, and both of them were very much in love with life. In fact two people more in love with life would be hard to find. The two friends I referred to were also very much in love with life. They loved meeting new people and making new friends. However, once they had both been diagnosed with a terminal illness their light went out, their lust for life completely disappeared and they wanted to die. Total and absolute demoralisation set in along with the all-encompassing feeling of hopelessness and utter

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2805 despair. They were both poets and artists and eventually came a time when neither of them could lift a paintbrush to paint or a pen to write.

I will finish my speech in a moment, sir, with a short poem written by one of my dear friends Fred Williamson two months before he died last September. He wrote it at a time when he had already had to endure several months of suffering and his quality of life was diminishing.

2810 Through the chair, sir, I say to my colleagues: how many times have we said in speeches in this Chamber that quality of life needs to be uppermost in our minds when it comes to doing our absolute utmost to ensure the wellbeing of our fellow Islanders?

I move on to the issue of our community being divided on this issue because they are of course with any issue, some people are for it and some people against it, and some people for assisted dying and some people are against assisted dying. Even those of religious faiths and beliefs are divided on it. All the focus on a letter published in *The Guernsey Press* recently written by Marguerite Talmage because there was a paragraph in that letter that read as follows:

I am a Christian and I believe that a compassionate God has given us free will, I value my life and I also believe that should I become terminally ill and find that life is intolerable I should have the choice to end my suffering peacefully, not just for myself but for my family and friends who would not wish to witness my pain, my indignity and my distress.

In another letter published in *The Press* recently readers were told by Helen McGregor that her mother often says she has had more than enough and wants to be gone. She does not want to be dependent on others for her every day care which results in her feeling as though she is merely existing. Helen McGregor finished her letter by asking those who were opposed to assisted dying to please have mercy on those who have been diagnosed with a terminal illness and allow them to die and access assisted dying if that is their wish.

2825 Surely, sir, that is what we are talking about here – having mercy, having mercy on those whose suffering has become so great that they are no longer able to endure it. Sir, I ask my colleagues to please have the word 'mercy' uppermost in their minds when they come to vote.

On that note, Rabbi Jonathan Romain echoed that sentiment in the media recently when he said:

There is nothing sacred or holy about agony or suffering.

2830 So, sir, through the chair, I ask colleagues who intend opposing this Requête to ask themselves this question: why do you want to deny choice to any of your fellow Islanders, and I include your loved ones, who seek the release of death due to their having to endure constant unbearable suffering every single second of every single minute of every single hour of every single day when it is their wish to die. Surely the hastening of death to enable someone to be free of unbearable suffering should be the choice of the person who is actually suffering.

2835 Before I move on to the final part of my speech, sir, I just want to focus on the issue of inflammatory language, because there are those who are of the view that – and I say this because I am a signatory on the Requête and I have been accused of this – those who say anyone who is in favour of assisted dying is advocating murder. So I am in favour of assisted dying and I am certainly not advocating murder. What I am doing is advocating choice.

2840 There are those who have said Guernsey will become known as Suicide Island if assisted dying is introduced. Well to me, sir, that is just sensationalism, and I really do not think there is a place for such sensationalism in a discussion on an issue as sensitive as this.

2845 Also some of my colleagues, sir, have said prior to this debate in the media, there is no way they are going to vote in favour of assisted dying because the safeguards will *never* be robust enough. They are saying that before they have never even *seen* the safeguards, and the reason they have not *seen* the safeguards is because they have not even *been written*, so how can they justifiably say that the safeguards will not be robust enough when they have not even been written? Like a lot of things in politics, sir, that just does not make any sense at all.

2850 Anyway, if they are that concerned that the safeguards will not be robust enough then perhaps the sensible thing to do would be for them to offer to help to write the safeguards that will need

to be in place. I will leave that sensible idea with my colleagues to ponder, sir, those who are opposed to assisted dying on the grounds – their words not mine – that safeguards will not be robust enough.

2855 I would just remind colleagues, though I am sure they do not need reminding, but I would just say to those who are opposed to the idea of assisted dying this amendment is all about research being undertaken, those safeguards being written and a report being compiled which would be laid before this Assembly to debate, then they can decide if they are satisfied with it or not. If they are not satisfied with it they can try to amend it or reject it, so let's at least have the report in front of us so that we can then debate and vote on it. I cannot see why any of my colleagues would
2860 want to vote against a report being compiled and debated, because it would not be set in stone, it could be amended or rejected.

I would just like to remind colleagues, sir, ask them to bear in mind, those in particular who are opposed to assisted dying – Deputy St Pier referred to this in his opening speech early on this morning – I want to remind colleagues that assistance is available for any women who struggles to give birth. That displays understanding and compassion. Should we not also display that understanding and compassion in an end of life choice as well?

2865 So I want to finish my speech by reciting a short poem I referred to earlier, written by my friend Fred Williamson two months before he died and I just want to emphasise this was written by a man who was once incredibly gregarious, he had friends all over the world, he made those friends whilst travelling all over the world for nearly 10 years, he loved travelling and making new friends but he had to eventually return to Guernsey when his health began to deteriorate in 2016.
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He was diagnosed with a terminal illness and he became a resident at Grand Courtil where he received excellent palliative care at all times. He had the utmost respect and admiration for all the staff at Grand Courtil and he said it felt like everyone was part of the one big family there, but there came a time when he was beyond all that palliative care could do for him due to his suffering becoming unbearable, and he actually said to me he felt he was in a living hell, and I have not seen many men cry in my lifetime, sir, but I saw Fred cry several times because he was in so much pain and absolute despair. When he died he was six stone; prior to becoming terminally ill his normal weight was well over nine stone, so he literally wasted away before everyone's eyes.
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2880 A once proud and dignified and cultured man ended up, in his own words, an empty shell.

Fred's poem is only four lines long but those lines say so much and portray the sentiments of many who find themselves in the position Fred was in, diagnosed with a terminal illness and very much wanting to access assisted dying here in the Island but being denied that choice. The poem is entitled *Pain Free is what I long to be*.

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

2885 **The Bailiff:** Deputy Prow.

Deputy Prow: Thank you, sir.

We finally come to debate assisted dying. There was a requête laid which is now the subject of an amendment proposed by Deputy St Pier and seconded by Deputy Soulsby.

2890 I first want to make a simple but important point. The amendment 6, now passed, does not change one word of the substance of the three-page Requête set out in 10 numbered paragraphs. It simply seeks to replace all the Propositions which are currently laid without a conclusion. Sir, this is important: we must consider the substance of the Requête which is so far ranging for us as a jurisdiction its intent, purpose and direction of travel. Sir, all the new Propositions do is alter the mechanisms of how it aims to arrive at the intended destination. Sir, it must be our duty to
2895 scrutinise that destination. Where we end up is really important. Where does this journey end? Whether amended or not, if passed it ends with a government that allows assisted dying.

So I ask the question where has this expression come from and what exactly is it? I did not find Deputy St Pier's opening too helpful in this regard.

2900 Is it a concept that has appeared in manifestos penned by anybody in the Assembly at the last election? Sir, the answer I believe is no. Is it a priority of the States enshrined in the Policy & Resources, a senior Committee's, centre piece underpinning the P&R plan? No, sir, it is not. There is a letter attached to the Requête from that Committee which completely endorses that this is not included; in fact there is no mention of it whatsoever. Clearly the letter and the speech from
2905 Deputy Stephens rightly explains there are no resources allocated for research or to execute such a fraught, complex and fundamental life and death issue at a time when we are struggling to deliver on 23 high priority issues which affect our economy and ability to survive the external pressures heaped upon us, and we heard about some of those in Deputy St Pier's excellent statement this morning.

2910 The amendment only offers a totally unsatisfactory working party fudge. Is it a concept found within any of the Bailiwick's structures of justice? No, sir, it is not. In fact, sir, it is currently clearly laid down, and we heard from the President of Home Affairs, that no one shall take or assist in the taking of another's life. Furthermore, it is not within the framework of those jurisdictions where our law courts would customarily take guidance.

2915 More particularly, sir, is it a concept found within the United Kingdom, and can this Requête change the laws of the United Kingdom? No, sir, it cannot. Under the laws of England and Wales the taking of a life by a British subject can be investigated, tried, determined and punished. For British nationality purposes, Guernsey folk are British subjects. Therefore, sir, in assisting another to die, a Guernsey resident might well find themselves at risk of punishment.

2920 Sir, was it a matter which was contained or debated within the Health & Care's flagship Partnership of Purpose policy, unanimously approved by this Assembly, which aims to develop and transform our provision over the coming years? No, sir, it was not.

No, assisted dying has arrived as a bolt from the blue. It was delivered leftfield in the three-page Requête before us today, with its original proposals now torn out and replaced by the
2925 successful amendment.

Sir, I would like to examine what the Requête tells us about the definition of assisted dying. However, I cannot find much guidance at all. Amending the Propositions as we have done does not help one jot. It does get a mention at paragraph 4, which simply says:

... that Guernsey should legislate to facilitate assisted dying, utilising a system similar to that in force in the state of Oregon in the United States of America.

2930 There is a reference at paragraph 6 to Lord Joffe's Assisted Dying Bill in 2003, Lord Faulkner's Bill in 2014 and Rob Marris's Bill in 2015. For me this was only helpful in that all these attempts to introduce this concept have been unsuccessful in the UK Parliament, and the words found in the last sentence, the aims of the Requête would be and I quote:

... fundamentally different [both in terms of] policy and legal approaches to [that of the United Kingdom].

2935 Paragraph 7 tells us effective capacity legislation – which we do not yet have in place – may be necessary. This therefore is completely cart before horse and a matter to be resolved before we consider any of the amended Propositions.

2940 Sir, we need to know more and the concept must be completely explained. We just have two words, 'assisted' and 'dying'. We might be a mature independent jurisdiction but part of that maturity must be a full realisation of what we seek to do and the consequences. It is also acceptance that we are a very small jurisdiction which is not currently at the forefront of the implications and challenges posed either medically, ethically or legally.

Sir, now I take the word 'assisted'. Currently nobody shall take or assist in the taking of another's life. Although nothing of great help appears in the body of the Requête, the amended

Proposition, now 3, talks about roles of doctors under any, and I quote: any proposed assisted dying legislation and the possibility of conscientious objection

2945 Clearly then the assistance means that the actual acts of assistance will be in the hands of medical professionals so enabled by the State.

2950 Sir, I shall now visit the word 'dying'. It could be explained as the process where a person ceases all biological activity permanently and ceases to exist. How this will be physically achieved is again not really articulated. The amendment to the Propositions sheds no light. The Requête merely postulates whether it shall be required that the individual shall physically administer the final act themselves or whether it shall be permitted for others to assist. Sir, I repeat the words 'final act'. This act must mean the administration of a lethal substance which will kill that person. This act cannot be achieved without the lethal substance being prescribed and made available by a medical professional. Neither could it become lawful without the sanction of the States when administered to that person who will die as a result of those actions. The limitation to this, and I quote, is 'to include consideration of:

... the definition of 'terminally ill' and how that shall be determined ...

A good question in my view and quite a conundrum. Individuals who are terminally ill are still alive. Some have even been known to recover, some live for many years despite their prognosis, others die before the predicted forecast.

2960 Sir, outside of the legal position and potential litigation there will be additional difficult issues in this for our medical staff who must practice in an environment overseen by the various UK legislation bodies, and broader regulation guidance and governance regimes, such as those of the NMC and GMC. This is a dilemma this Assembly must face up to, the burden of all the legal complexities and challenges, ethical questions, the Hippocratic Oath, protecting the vulnerable, mental capacity, will be placed upon Government, our courts, our caring doctors or consultants, that formally would have put the preservation of life and the structure of justice to preserve life and change health and care service philosophies which encourage medical advances, provides hope and the very best palliative care to those who are reaching the ends of their lives. We are being asked, by agreeing to this amendment, to start a lonely journey as a tiny common law jurisdiction with limited resources all tied into a Policy & Resources Plan. At this juncture it amounts to a dangerous and expensive leap into the dark.

2970 Sir, I now turn to the proposals around palliative care and what I think it means in Guernsey. I respect everybody. Deputies and the public have expressed views on this matter which demonstrate compassion and face up to the subject of dying, especially in the circumstances of suffering and distress as just outlined by Deputy Queripel. I hope that above all else this debate has raised awareness of the importance of palliative care and provided some reassurance.

2980 As said, in November last year this States unanimously approved the HSC Partnership of Purpose Propositions. I find it significant that none of the petitioners raised the question of palliative care or made out a case where assisted dying was needed in that debate. Those Deputies that attended the HSC presentation on palliative care were provided a leaflet from the care team. Sir, it contains a quote from Atul Gawande a US surgeon and public health researcher which says this:

The ultimate end is not a good death but a good life all the way to the end.

The World Health Organisation describes palliative care as:

An approach that improved the quality of life of patients and their families facing the problems associated with life threatening illness through the prevention and relief of suffering by means of early identification and impeccable assessment and the treatment of pain and other problems physical, psychological and spiritual; it provides relief from pain and other distressing symptoms; affirms life and regards dying as a normal process; intends neither to hasten or postpone death; integrates the psychological and spiritual aspects of patient care; offers a support system to help patients live as actively as they possibly can until death; offers support systems to help families cope with a patients

illness and their own bereavement; uses a team approach to address the needs of a patient and their families; will enhance quality of life and may also positively influence the course of the illness.

2985 Sir, I do believe that our outstanding palliative care team meet and respond to the World Health Organisation definition. Sir, I do absolutely. I admire and respect all those who work so hard with such compassion who look after the sick no matter if they are rich or poor or vulnerable, have mental health issues or are just old. As a Member of HSC I am confident in those professions who day in, day out provide this care. I am also confident that medical advances will develop palliative care medicine and techniques.

2990 The amendment now in Propositions for me is an opportunity to clearly put palliative care specifically tied in to HSC's transformational programme in a way that it is not at the moment, firmly embedding this service as part of our transform of patient work which looks holistically at the very many challenges facing us with the money allocated to us by this Assembly. The amendment clearly in the provision can be developed, the Partnership of Purpose policy letter
2995 clearly sets out how an ageing demographic will affect our population, and dealing with this must be an imperative. It ties in these initiatives more closely with the Supported Living and Ageing Well Strategy and will propose a reporting requirement for HSC to return to this Assembly by June 2020 with a report with recommendations and proposals for action around these recommendations.

3000 Sir, I for one will take into account and have been moved by all the concerns expressed on all sides of this debate. However, if Proposition 3 is unsuccessful but the Requête is successful the principles of palliative care will change forever.

In closing, I say this to Deputies: throw out the substance of the original Propositions, the timing is incredibly bad, the case is confused and not laid out; vote only for Proposition 5, be proud of and put trust in the doctors, consultants, nurses, carers and all those fantastic people who look after the sick and those who need their care. I aspire to the World Health Organisation's principles which offers hope, affirms life, neither hastens nor postpones death, regards dying as a normal process with the best palliative care system we can provide, not some sort of right bestowed by politicians granting sick people an assisted choice of death.

3010 Thank you, sir. (*Applause*)

The Bailiff: Deputy Roffey.

Deputy Roffey: Thank you, sir.

3015 It is absolutely not a choice between assisted dying and excellent palliative care, the two are not mutually exclusive.

It was betrayed as that choice 14 years ago and it has been again over the last few weeks and it completely and utterly misses the point. People who claim that if you invest more in palliative care the demand for assisted dying will simply melt away are 100% wrong. But it does help avoid
3020 a difficult moral choice.

I hope every Member of this Assembly wants the very best palliative care which Guernsey can possibly afford, I am sure that they do. That impacts not one jot on the arguments to permit assisted dying. It is not an either/or. In fact the evidence from other territories – and there are a number of them – where assisted death is now permitted is not that it militates against good
3025 palliative care, in fact quite the opposite is true. Palliative care has improved since assisted dying has been permitted.

At this point, sir, while talking about palliative care there is one thing I really have to get off my chest. I have always tried to be respectful of the arguments on both sides of this emotive subject – I was 14 years ago and I am trying to be again today – but the scare tactics of one or two of those
3030 opposed to assisted dying has at times made that really quite difficult. Occasionally things have been said that make my blood boil.

For instance, the irresponsible rubbish we heard from Baroness Findlay when she argued against this Requête on the *Today* programme a week or so ago was quite shocking and the

3035 record needs to be set straight, not on my behalf, but on behalf of Guernsey. She claimed
Guernsey wanted to *impose* this measure on its people – I think that was her expression – because
we had poor palliative care provision. We do not. We have very good palliative care provision.
(Several Members: Hear, hear.) Of course everything is capable of improvement, it always has
been, it always will be. That is why I brought a comprehensive report to this Assembly some years
ago – I think it was 2007 – when I was Minister of HSSD to boost palliative care. The States backed
3040 it, the then HSSD – or actually more their successors – implemented it and as a result Guernsey
now has very good palliative care.

She also claimed, wholly falsely, that the States has refused to fund its hospice. We have not. I
remember when I was at Health on multiple occasions offering financial support to Les Bourg and
understandably they always turned it down, wanted to maintain their independence. I fully
3045 understand the choice, but it is utterly wrong to portray to the contrary via national radio that we
have declined to do that.

So I think those sorts of remarks really let down her side of the debate and I hope we can be a
bit more respectful of each other today.

I give way to Deputy Le Tocq.

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Deputy Le Tocq: Sir, I am sorry to interrupt, but I just want to put some of that into context.
Would Deputy Roffey agree with me that at the time we had the debate in 2004 we did not have
any palliative care really available on the Islands and it was only after that; we were debating it
then with effectively none of that option at all?

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Deputy Roffey: No, sir, I do not agree with that, we had palliative care nurse teams that went
out and looked after people. What we did not have, and what was proposed at that time, was a
specialist in palliative care, and when we looked at it actually we did not have the workload to
support that properly so what we did instead was to encourage the three private practices all to
3060 have lead people with diplomas in palliative care and that was the proper response. And we
strengthened our community palliative care team of nurses. But it is completely untrue to say that
we had no palliative care at that time.

Sir, the fact remains that no matter how good palliative care may be these days it does not
offer a guarantee against intolerable suffering. It cannot. Firstly, no palliative care regime can
3065 relieve all pain. Some people do still die in agony. However, more importantly is that
uncontrollable pain is actually not the main reason for people wanting to die very slightly earlier
than they would do if their conditions ran their full course. Far more often the judgement that
their lives are no longer worth living, that their existence has become completely intolerable to
them is down to loss of bodily function, distress at the limitations their illness has imposed on
3070 their existence, and fear of the sort of death which they know their illness will bring.

Now we may or may not agree with their judgement that their life is no longer worth living,
that it has become something hateful to them. But that is not our judgement to make. It is not our
life, it is *theirs*. Who are we to tell the motor neurone sufferer that they must just continue until
the messages between their brain and their body fail to the extent they can no longer swallow. I
3075 have to say it was evidence from the Guernsey Motor Neurone Disease Society the last time this
was looked at that absolutely convinced me to go the way that I did in 2004. It was telling.

Now if they want every last second of their lives then of course we have to respect that
autonomous choice. I am supporting autonomy on both sides of the coin. We should do whatever
it takes to keep them alive, but if they decide otherwise, then so long as they have mental
3080 competency we should respect that autonomous choice too. We surely owe them that. Illness
should not mean powerlessness, but all too often it does.

I well remember an artist, who I knew very well, with terminal cancer photographing herself
naked and in the foetal position a few months after her diagnosis. Why? Because she felt the loss
of autonomy that she had experienced as a result of her condition had reduced her level of self-
3085 determination back to that she had last experienced during infancy. As an independent spirit the

worst thing about her condition was not the radiotherapy, was not the chemotherapy, was not the baldness or the extreme pain, rather it was the assumption by those treating her and everybody else around her that they knew best and should take decisions on her behalf. We should not be so condescending or so patronising.

3090 A tendency to patronise and take control over the terminally ill, depowering them dreadfully has frankly spilled over into the public debate running up to this debate. Typical of that outdated approach was one comment at the debate at the Cotils. One woman there opined there was no need to offer anybody assisted dying as terminally ill patients could always be put into a palliative coma. Yes, they could, but what if the idea was an absolute nightmare to them, as it would be for
3095 me? Who are we to force people down that route and deny them the end that *they* desire. Complete medical control freakery which has no place in the 21st century! (**A Member:** Hear, hear.) If this debate is about one thing it is about autonomy. (**A Member:** Hear, hear.)

Now some people say that people cannot have the right to avoid those few days of agony at the end of their lives because that decision affects other people too. If I can characterise it, it is the
3100 'with rights comes responsibilities' argument. Well even as a liberal I agree that individual rights do sometimes have to be trumped by the collective needs of society. But to force others through agony or degradation at the end of the lives so that the rest of us can feel comfortable, that our historic taboos have not been eroded, thank you, that is just too much for any society to ask of its individual members. In fact it is downright cruel and immoral. It may originally be religiously
3105 inspired, but it is still barbarism.

Now turning to the law itself. There are many models now that we could follow, but I think the much discussed Oregon model is a very sound starting point, and when I looked at this many years ago I was at once struck by one thing about Oregon's experience. As has been said many times, anyone diagnosed with a terminal condition and a prognosis of six months or less to live
3110 had the right to be prescribed fatal medication. Now many of those who asked for it never actually used it. Only a very small fraction of those who enquired about it at the beginning when they had been diagnosed actually got to use it or even be prescribed it, but nearly all of them described it as a great comfort to know that if it did all become too much then they had this way out available to them. What it did was put them in control. When somebody gets a terminal
3115 diagnosis two fears come immediately into their brain, the first one is a fear of dying, because we are all programmed not to want to die, and the second one is a fear of the manner of that death. What this measure would do would take away the second of those two fears.

So please do not anybody dismiss assisted dying in Guernsey because it would only help one or two a year. That is not true. Only one or two a year may finally select that option, but the
3120 knowledge that the option was there if things became too much would be a comfort and a relief from anxiety and fear for so many more, and we have seen that clearly displayed by one outstanding witness I think that has been speaking throughout this whole process who is terminally ill himself. (**A Member:** Hear, hear.) This is what lies at the heart of this debate. Not the person with the illness necessarily deciding they want to hasten death, but the patient being in
3125 control, the patient having the autonomy that they should have as a competent adult, moving away from the situation where the doctor decides everything on their behalf, to one where the patient has a final say. Having a terminal illness should not reduce our power back to that of a very young child where everyone but us decides what is in our best interest.

Please do not believe that deaths have not been brought forward by doctors hitherto for the best of all possible reasons to avoid intolerable and utterly unnecessary suffering. Now I am not
3130 accusing anybody of illegality, certainly not, but the doctrine of double effect medication is a murky area. Doctors can prescribe medication which will hasten death just so long as that is not the primary purpose of their actions. So long as their main aim is to relieve pain they can write prescriptions which they know are actually quite likely to end their patients' lives.

3135 So what is wrong with that? Why do we need to make any change, can't we just reply on that? No, we cannot for two very good reasons. Firstly, it is of no help at all to those patients who wish to end their lives slightly early for suffering other than pain, and that is probably the majority. But

3140 secondly and most importantly, the wrong person is in control, the wrong person is making the value judgements; it should be the patient not the doctor. This current depowering of the patient and empowering of clinicians might have seemed right once, back when doctors were regarded as gods. But for decades it has been clearly hopelessly behind the values of modern western society.

3145 Mr Bailiff, I said all of this 14 years ago, I have not just reprinted my speech by the way, (*Laughter*) but I said something similar 14 years ago, and I believe it even more today, partly because I have seen society evolve and become more liberal and secular, both in Guernsey and elsewhere, and partly, I confess, through personal experience.

Now I know some say we should not ever reference our own personal experiences in wider political debate, but the reality is that all of our views on all subjects are shaped to some extent by experience.

3150 Sir, when my stepdaughter was diagnosed with a brain tumour and given a year to live I was completely devastated. The prospect of, out of the blue, facing the loss of someone who you love very deeply is always hard to come to terms with, but when it is someone who is a generation behind you and you fully expected to be alive long enough that you had gone from this world, it is doubly hard to accept because it seems so unnatural. I was a completely broken man.

3155 But then as time went by and she outlived her prognosis I confess I went into complete and irrational denial. I thought that somehow she would be the exception who survived this incurable condition. I dared to hope. I say this as background so that Members realise that the very idea that I in any way wanted to hasten her death was about as far from the truth as it possibly could be. I was desperate for her to live. But even with that mindset I really could not see the point of her last few days and I still cannot.

3160 Basically *Azy* was dehydrated to death because apparently it was considered ethical to withdraw everything that she needed to keep her alive, but it was deemed completely immoral to actively intervene in any way to end her life a day or two earlier. I still feel today that I was an active participant in an act of calculated cruelty, outwardly caring as I swabbed her lips and her mouth with damp cotton buds to relieve the obvious signs of her deliberate dehydration while knowing all along that the care package – that is probably the term that is used, I am not so sure about it – that she was on was no longer predicated on trying to save her, because it could not, or even help her to die well, but rather helping her to die slowly.

3170 Actually she, and we, her extended family and friends that were around her, were relatively lucky because she was only on this so-called care pathway for a couple of days before she slipped away, and she was unconscious before she died. She slipped into unconsciousness when, in response to an awful spasm of extreme pain, I gave her a very large dose of the morphine which the PEH had supplied us with when she came home to die. Whether my actions brought forward her death I do not know, I do not think so, but if they did I feel not a frisson of guilt about it. For those who think our modern palliative care can somehow remove all suffering I wish they could have been there. Actually I am glad they were not, such insufferable smugness and self-righteousness was probably the last thing that any of us needed at that time.

3180 The point is that our short experience of this zero food and fluid regime was enough for me to understand and emphasise what those go through for whom the process is much longer and the dying person may be aware throughout. I knew, sir, my stepdaughter very well indeed, we were soul mates, and I still feel a deep sense of guilt in being complicit with the manner of her death. I cannot know she would have chosen assisted dying had the option been there, actually, I very much doubt it, simply because of the way the events unfolded militated against it. But what I do know, without any doubt, is that she would have taken huge solace towards the end of her life from knowing that option was available to her. I know because in her typical way she told me so in no uncertain terms.

3185 So when I hear about hypothetical greedy relatives everywhere wanting their family members to go more quickly for their own mercenary ends, I do not deny that possibility or the need for legislation to guard against such scenarios, but let us make our decision today not based on that 1% that we have to guard against, but rather the 99% who are desperate for their loved ones to

3190 carry on living, simply because they do love them, but who actually love them enough to support them when they reach the rational and autonomous decision that going through the final hopeless days of a terminal condition is too much for them to bear.

I have been told at times over the last few weeks we should not rely on anecdotes, well a lot of usually sincere people have contacted me with very similar experiences to mine and some far worse. These are not anecdotes, these are Guernsey people who have been put through this, so 3195 the question is whether we want other Guernsey people to be put through it in future. There is nothing wrong with taking cognisance of anecdotes.

Sir, I actually believe that the greedy relatives wanting to bonk people off are very much in the minority. Certainly the people who have spoken to me in favour do not fit that category at all. I 3200 have to agree with Deputy St Pier when he said how moving it was when on the *Phone-In* last Sunday somebody, I think, called Jean phoned in who had actually lost two daughters to cancer; one of them in absolute extreme pain and had wanted her mother to help her die but said, 'You cannot because they might lock you up and then who is going to look after my children, your grandchildren?' Neither of us had an answer. I think because there was no answer that was both 3205 logical and compassionate. Now if you cannot say anything about a situation that is both logical and compassionate I think you should question your starting point where you are coming from.

Although I have to say – no I am not even going to say that. I was just going to say before moving on, my views on assisted dying have not been born out of my personal experience, they 3210 have just been reinforced. I think they were always there because of the ethos of autonomy that I had always believed in.

Let me come on to religion. I agree with Deputy Stephens: people with religious faith have got every right to influence this debate as much as anybody else. I respect people who would never 3215 ever consider assisted dying for themselves because of their religious convictions and the rights of any clinician who wants no part in the process for the same reasons. But I do tend to say to those guided by their faith exactly the same as I did over Sunday drinking, Sunday trading, legalising homosexual acts, equal marriage, abortion, and a whole tranche of other similar debates: live by your credo, by all means, I will totally respect that, but please do not impose it on those who completely disagree with you. Respect our belief system too, freedom of conviction cuts both ways. (**A Member:** Hear, hear.)

I happen to be a strict vegetarian, together with a million or two other people in the British 3220 Isles. I regard the eating of animals absolutely abhorrent and immoral, but imagine the reaction of Members of this Assembly if I tried to impose it on them through a legislation, 'Thou shall not eat meat'. They would say, 'You live by your credo, Roffey, we are going to do what we want and tuck into our steak.' Well I think sometimes religion has to understand that other people have different 3225 belief systems to them.

I know most opponents say actually their opposition is not religiously inspired at all, and I am sure they believe that, but the fact remains that the majority, not all but the vast majority, lobbying against have been religious while pointing out that their faith has not been their 3230 motivation in this case. I wonder what a statistician would make of that.

Then there is the issue of public opinion. It has been said earlier, it is almost an empty argument about how many Guernsey people support or oppose. But I personally am in no doubt that not only a majority but a massive majority are in favour, and that is not because of any internet polls or any petitions or anything of the sort but because I actually do not think Guernsey people's morals are that different to those in the British Isles. So when I see constant scientifically 3235 controlled sampling of the UK, 75%-80% favour assisted dying, I say I do not think we are that different. If it would have been 55%-60% I know Guernsey is a different community and it might have been the other way round, but I find it very hard to believe on this particular issue that beliefs are that different.

Actually I very much doubt that the majority of States' Members do not feel that way as well if 3240 they follow their genuine beliefs. Because I know there are people in here who passionately philosophically support the idea of assisted dying and are going to vote against today. I hope

they are comfortable with their reasons. I am sure it will be the workload is too high, the economy has to come first. There is a side of me that says it is actually who is bringing the Requête that is going to influence their vote. So I say to them vote with their conscience not with any party line engendered by who maybe behind this Requête, (**A Member:** Hear, hear.) because it will be fascinating to analyse the voting at the end of this debate and see whether or not any political alliances or groupings – we seem to have any number of them these days – have indulged in block voting, on what clearly should be an issue of conscience.

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3250 Sir, I am coming towards the end. Honestly if I ever needed a firm reason to support assisted dying being formalised, formalised in law, because it happens now, it was provided by Mr Robert Preston when he appeared as a witness against it at a debate in the Cotils. His suggestion, his big idea was that the strict law against assisting anybody to take their own lives should be upheld, but when it was breached for compassionate reasons the authorities should use their discretion over who and when to prosecute. No. No! The worst of all possible worlds.

3255 Of course there needs to be a public interest test when bringing prosecutions, but widespread discretionary law enforcement in this or any other area to my mind hugely undermines the Rule of Law, but what is worse than that is what it would mean for the dying person who is asking for assistance, knowing it was putting those offering that assistance at risk of prosecution of a very serious offence; depending on how that discretion was used they may not be prosecuted but they may be. How is that compassionate? How is that kind? There are already in pain, they are already deeply distressed over their loss of bodily functions and now we are going to cause them mental anguish too by the uncertainty of whether those they leave behind will be prosecuted for their compassion. Simply cruel.

3260 Indeed it will stop many – maybe that is the intention – from doing what they desperately want to do, but worse than that it will also lead to a number of episodes of homemade suicides that are not assisted and may well be botched. It happens now. It is the assisted dying equivalent of back street abortions and why was abortion legalised, why was it codified, why was it made safe? Because it was happening anyway, it was happening in a less safe fashion.

3265 Sir, the very fact that Mr Preston suggested this approach showed that one of the key witnesses against assisted dying actually fully accepted that there were cases when society should understand that it might have been done for the best possible compassionate reasons. He was right in that, but to suggest that the proper response was exercising discretion on a case by case basis instead of what we should be doing, properly adjusting the law and embedding safeguards against abuse, is so far off the mark as to reveal the paper-thin basis of his argument.

3270 People say safeguards can never be 100% perfect. They are probably right, I have not come across anything looking around this Chamber. I definitely have not come across anything in this world which is 100% perfect. But what we have now is far *less* perfect. People are taking their own lives, people are! Double effect medication *is* being used by kind-hearted clinicians, and the safeguards are almost non-existent because we are turning a blind eye to it. We are making it a grey area. So if the safeguards are only going to be 99% certain it is a heck of a lot better than the 10% that we have at the moment.

3275 Sir, then we have the utterly irrational and contradictory arguments of some opponents who have said that on one hand we should not be discussing this issue at all because it diverts resources from more important issues, but on the other hand claim that usual resources should have already been put into this debate to draw up a really detailed report so that we all know exactly what we are voting on before we vote on anything at all. So they know exactly how any new law might be structured before even asking Members to vote 'in principle'.

3285 If I can come to Deputy Dorey's point, he wants a vote 'in principle'. Well I actually agree. I think that is what he is going to get. Those who say that we should not be diverting resources but we should have done it already, I mean what oxymoronic nonsense is that? (*Laughter*) I stress *oxymoronic*. Where would have been the sense in squandering resources on a detailed investigation if Members were going to vote against it anyway at the end of that process no

matter how beautifully crafted the regime that the panel came up with, because they were against as a matter of conscience, as I suspect Deputy Dorey may be?

3295 This Requête has got it spot on. First, find out if there is support 'in principle', so long as the regime can be worked up properly, then do the detailed work afterwards. If there are devils lurking in the detail the final package can still be rejected. Members are not being asked today to make an irrevocable decision. But neither, to my mind, are they being asked to simply set up an investigation. Doing that without some kind of indication of support 'in principle' would be the
3300 real waste of valuable resources. The wording 'vote in principle' may have been removed but actually what is being asked is for somebody to bring back a package along the lines of the Oregon model to actually put to the States. It is not just 'Let's have an investigation and look at the whole thing'. So you are really being asked to decide whether or not 'in principle' you agree.

3305 Mr Bailiff, I actually do not believe there will be insurmountable problems at the detail stage because so many other territories have now managed it. What's more, they have not been wild places on the edge of civilisation with scant respect for human rights. Have you been to Portland, have you been to Canada, have you been to San Francisco – with or without flowers in your hair? These are not really places that are wild-west towns; well one is certainly on the west, but they are not. They are really civilised, caring places.

3310 Finally, the question is asked: can we do this ahead of the UK? Well, of course we can. Of course we can. In the response to Deputy St Pier's statement this morning about the almost trampling over our constitutional position by the UK government, we have people living here saying, 'I am a card-carrying nationalist. I am not having this. They can go take a hike.' I hope those same people today are not going to say, 'Oh, we cannot do it until the UK go first.'
3315 *(Laughter)* 'Let's wait for them and then we can follow suit,' because that would be so supine and wimpy and goes beyond belief. Actually my own personal belief is that as a family of territories the British Isles will probably debate this all independently as sub-group parliaments, but the likelihood is that we will end up moving quite closely together. Whether that be in two years' time or 20 years' time, I do not know. But we will probably do it within a few years of each other. But
3320 someone has to have the courage to show the lead. Someone has to have the moral courage to point the way.

I remember when we voted to ban smoking in enclosed public places and work places ahead of anywhere in the UK or the other Crown Dependencies. Albeit it was behind the noble example of the Irish Republic, I should say that for the record. I was told it could not possibly work. It would
3325 cause chaos, we would not be able to draw up a regime. It did, and within a very few years the rest of the British Isles had followed suit.

I know this is a very different issue and it is a more complex issue but I actually expect the outcome to be similar. If we have the courage to lead today others will be close behind. Let's do just that. Let's have the courage to show Guernsey in an excellent light as a caring Island, an
3330 ethical Island, a moral Island, where we believe in the principle of personal autonomy. I see nothing sacred about suffering.

Just as importantly in this particular time in our history, let's assert our own parliamentary autonomy. Never has it been more important to show to the outside world that we are a self-governing jurisdiction. How great it is that we can assert our parliamentary autonomy by bringing
3335 in personal autonomy. It is a win-win.

We can sort out the fine details. If people do not like them they will be able to reject it down the line, but I am positive we will receive massive help both from within Guernsey, from the UK and beyond. What today is all about, though, is what is right and what is wrong, not how difficult the detail may or may not be.

3340 I am 100% sure that the current law is wrong; that it is cruel; that it is self-defeating; that it is more dangerous than what is being suggested, and I am sure that the Requête is right. I am not only happy to support it but I am very proud indeed to do so.

I really hope it wins today, but if it does not I am not going to be completely downcast. My cat will not have too much of a kicking – I have not got one actually, *(Laughter)* but metaphorically

3345 speaking – because I know that this change to allow compassionate autonomy is actually the way
the tide of western society is going and it will happen soon. The choice for Members is if you want
to follow on behind everybody else because it is easier, easier and safer, or do you want to do
what this Island has so often done in the past, actually put ourselves at the forefront and show
some gumption?

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Several Members: Hear, hear. (*Applause*)

The Bailiff: Deputy Paint and then Deputy Hansmann Rouxel.

3355 **Deputy Paint:** Sir, I was not going to say much on this Requête, but I feel I have to now.

If I can just use three or four things to start. It is old sayings that say ... The first one is, 'The
road to hell is paved with good intentions'. Another one which is very close to me, having been a
sea farer all my life, 'If you hear the sound of the siren a sailor is sailing into danger and that may
cost the lives of himself and his crew,' and the final one is a very well-known and famous song
3360 which is 'Help is [*inaudible*]' The meaning of that one, as I read it, is if you do not bring something
up it will not be a problem.

But so far this Requête has done so much, it has divided the whole Island community, it has
driven Deputy against Deputy which was quite obvious before but has made it worse, and the
consequences of what will happen are only a guess. We do not know what is going to happen if it
3365 is passed.

The divisions between if this Requête is passed will take a very long time to heal. Guernsey
people do not forget. We will be voting on something that is not necessary now, it may be
because our palliative care is improving very quickly.

3370 Many in this Assembly are trying to change just about everything from what has become the
norm, because of their ideology, and that cannot be correct. The Islands have to evolve, we all
know that, but nobody wants to be forced into something that they may regret in the future.

Many also forget of the horrors that took place 80 years ago in Europe. Luckily, we mostly got
away with it, and other places around the world, and these are still taking place today. We do not
know what a later Assembly's parameters will be, they may extend this, and actually go beyond
3375 what is being tried for now.

I was not going to actually say anything like this, but being as Deputy Roffey has said it, as you
all know my daughter died three and a half years ago. She did suffer a little bit, but with good
palliative care it was left to a minimum until the last two days of her life when they put her in a
coma. Now obviously nobody likes to lose a child. In fact I told her when we knew about six weeks
3380 before that if I could exchange my life for hers to allow her to live I would gladly do it, but that is
not possible.

My worry is that we have stopped capital punishment – no matter what you do or the horrors
you might do, you will not get killed for it, right – but if you want to kill innocent people where
palliative care could keep them alive for a little bit longer, I would say what is being proposed is
3385 not exactly the right way.

What I am saying as well is where will it all lead to? Where will we find us in 10 years? Another
States that may not be as good or bad as this one might extend it and what will happen then? Will
children that are born with a defect ... somebody will make sure that they are going to be put
down? I am not sure things might change.

3390 Finally, I would like to say on this subject that I always grow wary and suspect anybody that
sings like a skylark but carries the talons of a dinosaur; that worries me. So when you speak please
remember if you overstate your case, as some have already, people will go against that.

Sir, I leave you with those thoughts.

3395 **The Bailiff:** Deputy Hansmann Rouxel.

Deputy Hansmann Rouxel: Thank you, sir.

3400 I would just like to start this speech by thanking the many hundreds of people who have taken the time to write to us and share their experiences and their stories with us. I do not think there is one person in this room that has not been moved by some of the deeply personal experiences that we have been made privy to, and also to thank the many jurisdictions around the world that have tackled this complex issue and as a result of open and transparent government, and the wonders of modern internet, have allowed me to pursue countless reams of research into the processes of how they have made the decision around this uniquely sensitive topic.

3405 This debate requites both deep compassion and intense logic. Although I may express my emotion through this debate please do not for one second believe that the brain is disengaged. It is possible to have two juxtaposing states in one person at a time. Just like complex decisions that have seemingly opposing concepts, these can and do coexist.

3410 When making this decision one cannot make a purely emotional one, nor one based purely on facts and data alone. There is a delicate balance to be found. When we are debating today, in many of the emails people have referred to *the vulnerable, the disabled, the elderly, the terminally ill*. This is characterising people; they are people, people *with* disabilities, people who *are* elderly people who *are* vulnerable, people who have brown hair, who wear glasses, and they can be a person who has all of those things. When we categorise people and lump them into a group it is easy to see them as one homogenous group that are all the same. They are all treated the same and they want the same things. But we are all individuals and our individuality is intricately bound and protected in human rights.

3415 When the Assisted Dying Requête was laid it was around the time that we were looking at the four jurisdictions short-listed to potentially base our disability discrimination legislation on – Canada, Australia, New Zealand and Ireland. We did look at the UK and chose not to adopt their deeply flawed legislation.

3420 So when I began looking at the subject of assisted dying Canada jumped out at me because of how disability rights are embedded in their society. They are not perfect, nobody is, but they are a lot further than we are. What better logical place to start than to examine how their rights are being protected, and how the assisted dying regime came into being in Canada.

3425 Like many other jurisdictions, it started with a person with disabilities wanting the right to die if and when the time came: Lee Carter and Gloria Taylor. It was first ruled on by Justice Smith but went all the way to Supreme Court where her decision was unanimously upheld at that point. Justice Smith after a lengthy review of the history of the Criminal Code and Provisions, expert opinion evidence on medical ethics and medical end of life practices, evidence from other jurisdictions, the feasibility of safeguards for physician-assisted dying, concluded that safeguards could be put in place to protect against the risk associated with physician-assisted dying, that the evidence did not support an increased risk for elderly individuals, and that the risk inherent in permitting physician-assisted dying could be very substantially minimised through the carefully designed system imposing stringent limitations that are scrupulously monitored and enforced.

3435 She found no compelling evidence from other permissive jurisdictions that legalising medical aid in dying had opened the floodgates or placed vulnerable patients at risk. She also rejected the contention that unconscious bias by physicians would undermine the assessment process. She found there was no impact on socially vulnerable populations and in some cases palliative care improved.

3440 We can look at the judgment in New Zealand that is leading them to change their end of life options. Again a judge examined the evidence from both sides and concluded that a regime is possible, but it was not for them to design it, it had to be developed by parliament. It is now in its Second Reading.

3445 In Victoria in Australia there was extensive examination of the evidence in the inquiry into end of life choices.

There are many rulings around human rights which we can examine. We can look at how rulings and how human rights changed how jurisdictions develop end of life options. The UN

3450 Human Rights Committee has emphasised that laws for euthanasia must provide effective procedural safeguards against abuse if they are to be compatible with the States' obligation to protect the right of life. The European Court of Human Rights has confirmed that the right to respect for private life included an individual's right to decide by what means and at what point his or her life will end, provided he or she is capable of freely reaching a decision on the question and acting in conscience, and the right of each individual to decline to consent to treatment which might have the effect of prolonging his or her life.

3455 In Canada Justice Smith stated the evidence shows effectiveness of safeguards depends upon, among other factors, the nature of the safeguards and the cultural context in which they are situated.

3460 New Zealand has recently passed the First Reading of the End of Life Choices Bill. The Human Rights Commission submission to the Parliamentary Health Committee said:

... a legal framework permitting assistance could be acceptable with the following provisos, that the system must be delivered in a manner consistent with core human rights principles.

In Victoria, the Human Rights Commission said:

It would be incumbent on the Commission to advocate for a model with the best practice safeguards which meet human rights standards.

3465 The United Nations Human Rights Commission emphasised that laws allowing for euthanasia must provide effective procedural safeguards against abuse if they are to be compatible, and the Convention of Rights for People with Disabilities makes clear that all people with disability have an inherent right to life, and states:

... that necessary steps to ensure people with disability enjoy equal protection under the law is clear.

In Article 25, it says:

... care of the same quality to persons with disabilities and to others and to make it very clear it would prohibit voluntary euthanasia because of a person's disability.'

So the idea that this would become the norm if we have those protections under Human Rights under the Conventions that we are seeking to get to, that is not the outcome. We would be protected against that.

3470 The General Medical Council guidance for treatment and care at the end of life, good decision making; in Principle 8 it says:

Equalities, Capacity and Human Rights Law enforce your ethical duty to treat patients fairly.

As human rights is embedded in jurisdictions so is person-centred care. That is the result of individual freedoms for all people and not just some groups.

3475 I would like to add in something about Proposition 2 just to highlight why that was originally devised by myself with the help of Deputy Merrett. It reads:

To acknowledge that the Human Rights (Bailiwick of Guernsey) Law, 2000 already gives statutory protection in relation to human rights and freedoms guaranteed under the European Convention on Human Rights but to further agree that an assisted dying regime shall not take effect in Guernsey until as a minimum: a legal framework ensuring non-discrimination and equality for disabled people, consistent with the UN Convention on the Rights of Persons with Disabilities shall have been enacted and is in force; the completion of outstanding work enabling the States to seek UK extension of the international human rights conventions to which it is already committed, in particular the Convention on the Elimination of all forms of Discrimination Against Women, Convention on the Rights of the Child, and Convention on the Rights of People with Disabilities; and an independent body concerned with Islanders' equality and rights, consistent with the States' Disability and Inclusion Strategy has been established and is in operation.

We cannot talk about individual freedoms at the end of life if we are not ensuring the freedoms of every individual during life are equally upheld.

3480 There are recent rulings where cold facts have been intricately examined and I do not think we are going to find anything new in the facts. But as I said at the beginning we need to do more than just examine the facts, we need to be able to engage our compassion not just for the dying but the living.

3485 In Canada the ruling required safeguards to protect vulnerable people and the abuse of the new law. One of the key pieces contributing to the development of those safeguards was, and is, the Vulnerable Persons Standard. The Vulnerable Persons Standard defines a series of safeguards and requirements which can help ensure that Canadians requesting assistance from physicians to end their life can do so without jeopardising the lives of vulnerable persons who may be subject to coercion and abuse.

3490 It is internationally recognised as the first of its kind evidence-based standard that provides clear and comprehensive guidance to law makers by identifying the safeguards necessary to protect vulnerable persons within a regulatory environment that permits medical assistance in dying.

3495 If I were to only apply logic then surely that is a slam dunk. There is ample evidence out there, it has been examined clinically by jurisdictions with far more resources than we have, and a set of comprehensive safeguards, but where is the heart. There is no person at the centre of the debate here in Guernsey. Looking at the cases that have been brought forward around the world there is quite often a person with a disability who is asking for their right to choose the manner in which they die, to exert some last control in their last weeks or days. There was Gloria Taylor in Canada, Lecretia Seales in New Zealand and Noel Conway in the UK right now. Remember, my brain is still engaged.

3500 Equally there are many voices from disability and rights groups that are deeply opposed to the possibility of assisted dying, and again there are opposing views amongst that community in our own disability alliance. Guernsey Disability Alliance, with no resources or time, was unable to consult in the matter and asked that we pause and protect but acknowledge that there are many opposing views on the matter.

3505 Liz Carr, when talking about the UK Bill, said:

We believe that if the Assisted Dying Bill passes that some people's lives will be ended without their consent, through mistakes and abuse. No safeguards have ever been enacted or proposed that can prevent this outcome, which can never be undone. The only guaranteed safeguard is not to legalise assisted dying. The Assisted Dying Bill will establish medically assisted suicide as an acceptable societal response to pain, disability, life-limiting conditions and terminal illness.

In contrast Joan Tollifson writes:

Much of the opposition to physician-assisted dying comes from the Disability Rights Activists, who falsely assume that legalising the right to die poses a danger to them and undermines the value of their lives. Some people with disabilities fear that physician assisted dying is a slippery slope, and that if we legalise it in any form soon it will be killing all disabled babies at birth, people will be bumping off their ageing grandparents to get out of caring for them, and everyone in a wheelchair will feel obligated to kill themselves so as not to be a burden. Some people with disabilities hear in the right to die movement the old message that we disabled folks will be better off dead and that our lives are not worth living. I understand from my own life experience where these fears come from, I am an older person and I was born with a disability, my father was offered the chance to smother me at birth as a result. I have also had many friends over the years with severe disabilities, as well as friends who have lived well with the serious chronic pain and incapacitation, but in the case of right to die I feel that these concerns are enormously exaggerated and actually quite profound and misinformed.

3510 So with these two opposing views how do we access the compassion to really understand what is being said. There is concern on two levels, on the one level is concern that there needs to be safeguards to protect vulnerable people from assisted suicide. The other is more complex and is often misinterpreted or invisible to those who advocate assisted dying.

We bandy around the term 'vulnerable people', but we should understand what we are actually talking about is that in life we have defences; a vulnerable person is someone who has diminished defences. Most of us take our defences for granted, simple things like food, shelter, enough

3515 money to live on, education, health care, and more complex defences such as having laws and
protections which promote our interests. This is not the case for everyone, and in Guernsey until
we have protection from discrimination for people with disabilities we are already failing to give
access to this defence to people with disabilities.

3520 There is research that shows that people with diminished defences, which are often called the
social determinants of health, are more likely to get sick, suffer and have lower life expectancy. A
stark and depressing example of this can be found in the recently published Learning Disabilities
Mortality Review Programme Report, which showed the life expectancies of people with learning
disabilities is 26 years lower than the general population and was even greater for those with
multiple disabilities – 44 years. I have got no data for Guernsey – it is something for Health &
Social Care to answer – but it is a stark reminder how vulnerable people are being failed in our
3525 systems.

3530 So when this concern is raised it comes from a place of deep mistrust and experience of
institutions that people with disabilities have lived with. Part of this concern is that we are so
influenced by the experiences that we have through life and these decisions at the end of life will
be profoundly affected by those factors surrounding them. Even the General Medical Council, in
their guidance for treatment and care at the end of life, a good decision-making guide, makes
reference to this. The eighth principle states:

Some groups of patients can experience inequalities in getting access to health care services and in the standard of
care provided. It is known that some older people, people with disabilities, and people from ethnic minorities have
received poor standards of care towards the end of life. This can be because of physical communication and other
barriers and mistaken belief or lack of knowledge about those providing services about the patients' needs and
interests. Equalities, Capacity and Human Rights Laws reinforce your ethical duty to treat patients fairly.

3535 This second, often misunderstood, level of concern, or hard-to-define concern, that some
disability rights groups opposed to assisting dying is around the terminology that we use when
we are talking about why somebody might want an assisted death. They fear losing their
autonomy, having to rely on someone else to do anything. These are the realities that some
disabled people live with on a daily basis. Some have described this as a slap in the face. For some
it cuts to the bone when we talk about assisted dying and they are desperately trying to get
assistance to live. We should not shy away from this reality. We need to be open and honest
about this from the start.

3540 When someone is reaching the end of their life and they are fearing losing their autonomy,
losing control, we need to be honest that some of that fear is linked to how they see disabled
people being treated in their society by the government, by the health care system, or how they
perceive them being treated. We need to be able to say to them that these perceptions are not
true – and *mean* it; that we really *do* support people with disabilities to participate in society and
3545 live in the community with equal access to quality health care and support; have equality before
the law; have their family life's respected; have access to an inclusive education a decent standard
of living; accessible physical environments and information. These are the core principles of the
Convention of the Rights of People with Disabilities and we need to demonstrate that we are not
just paying lip service to them, but actioning them.

3550 These form part of the work streams of the Disability Inclusion Strategy which is more than just
about the legislation. We are seeing the results of these slowly, but we are not there yet. A key
principle of the Convention is also to allow people with disabilities to make their own decisions.
We also need to be honest about the decisions we make at the end of our lives. These need to be
made in the most honest way, because it is the most intimate of human experiences leaving this
3555 world.

In any debate it is about winning the argument, both sides present the facts according to their
view and leave out or do not acknowledge some things, but in this debate both sides need to
stop debating and start laying all of their cards on the table and that is that life costs, and dying
costs, the whole ugly truth from both sides.

3560 We have to do everything to support the living, but equally we need to acknowledge that the decisions at the end of life are ours to make, not the doctors, not the family, and certainly *not* the government. This is why an increasing number of jurisdictions are recognising this and looking at end of life options with assisted dying as one of those options; person-centred care with all of the options.

3565 But in all of the decisions based on evidence and fact there needs to be a clear demonstration of how we are supporting the living. We cannot ignore that those decisions at the end of life will be influenced by how we see disabled people being supported, and it is our duty to support the living as well as we support the dying, allowing them to make their own decisions and supporting them to live as long and as well as they can. Supported living and assisted dying are not an either/or. We need to support people to live their lives to the full and give them the support, the full support, when they are dying.

3570 Thank you. (*Applause*)

The Bailiff: Does anyone else wish to speak?

3575 Yes, Deputy Tooley.

Deputy Tooley: Thank you, sir.

3580 First I want to say something about what I consider are my responsibilities to the Bailiwick and to the people of St Peter Port South, in particular when I vote on this and indeed any issue. The nature of our system of government where we are all independent, political associations notwithstanding, un-whipped Members, is that people vote for those they think they can trust to vote either as they would or at least according to standards, beliefs and tenets that they themselves hold dear. The beauty of this is that every single debate is one which is, should, or at least could be, a matter of conscience for Members and no more so than this when our mail boxes, both virtual and in reality, are filled to overflowing with considered passionate and often compassionate pleas to vote this way or that from those on both sides of the debate. I can vote only as I believe to be right.

3585 I did not want us to have this debate now; I would not have chosen this timeframe; I doubted our readiness; I doubted our ability to go first; I remain unsure of how exactly we will adequately protect vulnerable people and those perceived as strong; I was afraid of the impression we would send that we had for some reached the point of no hope. Surely there is always hope.

3590 On a personal level I did not want this debate now. It comes at a time which is acutely difficult for me. My mother, not a Guernsey resident, and not someone who would ever be directly affected by the legislation we are debating today in this Chamber, has corticobasal degeneration and is nearing the end of the usual prognosis. This has affected her ability to move, to speak and so on, but has in no way affected her cognitive function. Ten days ago in the midst of reading and replying to emails about assisted dying I received a call from her best friend. 'I feel like she is disappearing,' she told me. Plane tickets bought at midnight, hire cars booked in the wee small hours and I was with her next day.

3600 Like Deputy Roffey, I make no apology for speaking personally. Our very system calls for me to vote as I believe, and I believe as I do because of the events which have informed my life. This is one of those. The woman in the bed, tiny and wasted, skin gossamer gauze thin, acknowledged me with her eyes but could not lift her head. The woman in the bed, my mother, does not cling to life, her grasp on life loosened with each slip of control over her own life. Was it when she had to ask to use the loo, when she had to be helped to the bathroom door, to the seat, to sit, to stand, to wipe, when that was no longer possible at all. When she could no longer food shop, cook, cut her own food, move it to a fork, move it to a spoon, raise the spoon to her own mouth, no longer chew, no longer swallow. When she could no longer shift herself in her chair.

3605 She has the very best in palliative care, until recently she received that in her own home, with my father as her main carer and visits four times a day. More recently, since Good Friday, she has received that in an excellent nursing home, where somebody responds to the bell within seconds

of her pressing it. She is losing the ability to press the bell. She probably would not choose an assisted death if it was available to her. She is hedging her bets though because she thinks that God might be for or against it, and if he is for it then that is cool. But she told me in a whisper, the words taking almost a minute to deliver, that this was purgatory. Well she said perjury, but I know what she meant, and I did clarify. She does not cling to life, it has snagged her, like a bramble barb on a fine woven cardigan it traps her and drags her back. It is not death which is undignified, but living after what you prized in life is stripped away as you slowly draw towards an inevitable end.

This is not a debate I wanted to have; this is not a timeline I would have sought, but my arguments are not arguments against assisted dying, they are only arguments for good planning, strong safeguards, careful management. We do not vote today to make this law tomorrow. We vote sometime this week for an investigation into the best way to deliver such a regime if the States should decide to accept it on its return, and I am grateful that this States has replaced the Requête and the earlier suggested amendments with the St Pier/Soulsby amendment which, for the avoidance of doubt, I will support in all five Propositions.

Thank you.

The Bailiff: Deputy Le Clerc.

Deputy Le Clerc: Thank you, sir.

This is a very difficult decision for me, walking through the two lobby groups today brought home to me the enormity of any decision I make. I have friends in both camps and therefore I have to accept that whatever decision I make I will upset some of those friends.

If I were making only a personal decision I would have no hesitation in voting for the Requête, but I have a greater responsibility as an elected Member of this parliament to the Island as a whole, which has made a decision much harder to reach.

Many speakers will have made very personal statements, and I think this has been the trend in emails we have received, perhaps the pro lobby giving personal accounts of their own experience, recounting painful experiences and deaths of their loved ones; those against often having a strong faith. I have some faith but I know that it has not been strong enough on this occasion to give me a clear path to travel along.

Moving on from personal issues, I am pleased the amendment acknowledges the work Government is undertaking on the Disability & Inclusion Strategy as well as the work on the Equality & Rights Organisation. I hope, irrespective of the outcome of this debate, support with financial and staff resources required to complete this work and the wider equality work we would like to pursue will be forthcoming.

I am also pleased to note that consideration and thought has been given to the ongoing resources that will be required to meet the care needs of our population, including the need for increased palliative care over the next 20 years. We will need the additional resources, staff as well as financial, again irrespective of the outcome of today's debate, and if nothing else this debate has at least brought this issue to the forefront of people's minds.

Now, sir, like every good soap opera I have two endings, but unfortunately this is not a soap opera, and I have to make a decision. I am not a strong speaker and many in this Assembly are far more eloquent than I. I have kept this speech short. I will have to decide how to vote at the end of this debate, as ultimately it is my vote that will count and not the length or content of my speech.

Thank you.

The Bailiff: Anyone else?

Deputy Le Tocq: I can speak but I have got about 45 minutes to an hour, so I do not want to start now really.

The Bailiff: Well, does anyone have not more than 12 minutes?

3665 Deputy Langlois.

Deputy Langlois: Firstly, I would like to thank Deputy St Pier for his catalogue of issues raised in the course of the last 11 weeks. I found that very useful, but I got slightly complacent as he worked his way through them, I was getting quite pleased that the two issues I had analysed and was intending to speak on were not on his list, so I was looking forward to them being fresh, and then they popped up at 29 and 31. (*Laughter*) So I had to scrap them.

3670 I have supported the concept of assisted dying for a long time. I believe someone at the end of their life and suffering traumatically should not be denied assistance in choosing the time and the nature of their demise, and that option is the key aim of Proposition 3. That does not mean that I am unaware there are certain consequences that must be avoided in the granting of that right.

3675 From that standpoint, clearly I welcome the idea of setting up a working party to make recommendations as to how assisted dying could best be introduced. Inevitably, it will address the issues about which there is concern and that will enable us to have a much more focussed debate than this one.

3680 Whilst acknowledging confirmation bias cannot be completely eliminated, it was still a pretty overwhelming experience listening to the cases made for Proposition 3's key aim by the two professionals, and even more so by the two terminally ill people who presented at Les Beaucamps last week. I have rarely felt so convinced that I am on the right track about anything.

3685 Then last Sunday I received an email from a younger brother who six years ago was diagnosed with throat cancer, prompted by a news report about this assisted dying debate on an Australian TV station, my brother wrote:

To have personal control over your death does not encourage ending your life, it assists living your life. Only those who have actually confronted a real life threatening illness can begin to understand what facing the void means. It is unimaginable to others. After the inevitable and overwhelming panic subsides the first clear thought one has is how and in what circumstances your life might end. To know you have control over your death allows you to concentrate every ounce of your remaining energy into cheating it. To deny that to anyone is to misjudge our core instinct to survive.

Reading that passage I realised the Requête is as much about life as it is about death. For me that was a key point and listening to some of the speeches I think it came out in Deputy Roffey's speech and Deputy Hansmann Rouxel's speech that what we are doing is enhancing life and not overly concentrating on death.

3690 The 31 comments that Deputy St Pier catalogued: I went to a lot of them and thought about a lot of them, and to be honest they made me yearn for the days when the argument against assisted dying centred on the sanctity of life; at least that had a solid theological justification, really much preferable to the myriad reasons given today, and in particular the preoccupation with suicide.

3695 As I said, I have had a belief in the benefit of assisted dying for a long time and nothing I have read or heard today probably could ever shake that basic belief. I think I have known that ever since the Requête was first published, but it has been a rather extraordinary experience, and I will be supporting all the Propositions in the amended Requête.

3700 Thank you.

The Bailiff: Does anyone else wish to speak now?

Deputy de Lisle.

3705 **Deputy de Lisle:** Sir, I wanted to say that this Requête has caused a lot of distress to Guernsey people and detracted at the same time from the real problems we are facing as a community. But the Requête has upset a large proportion of the Guernsey population and I think that has to be firmly understood in this Assembly.

3710 I would support, sir, more resourcing for medical care and efforts to improve further palliative care, rather than introducing legislation allowing assisted dying.

3715 The current law is there to protect life, the vulnerable, the sick or the depressed, and the vision of life is something precious and to be treasured, and it is the philosophy that I have grown up with on this Island and I would not want Guernsey to be known otherwise. Guernsey needs to be seen as an Island that celebrates and values all life and cares for the most vulnerable in society, not one that permits and legislates in favour of early death.

So I would ask Members to reject the Requête.

Thank you, sir.

The Bailiff: Anyone else?

3720

A Member: I have got a speech but it will take 10 or 15 minutes at least.

The Bailiff: Well, shall we rise now and come back in the morning?

We will be back at 9.30 a.m.

The Assembly adjourned at 5.25 p.m.