



**OFFICIAL REPORT**

**OF THE**

**STATES OF DELIBERATION**

**OF THE**

**ISLAND OF GUERNSEY**

**HANSARD**

**Royal Court House, Guernsey, Thursday, 28th June 2018**

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**Present:**

**Richard J. McMahon, Deputy Bailiff and Deputy Presiding Officer** (Morning only);  
**Sir Richard J. Collas, Bailiff and Presiding Officer** (Afternoon only)

**Law Officers**

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

**People's Deputies**

**St Peter Port South**

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

**St Peter Port North**

Deputies C. N. K. Parkinson, L. C. Queripel, M. K. Le Clerc, J. I. Mooney

**St Sampson**

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

**The Vale**

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

**The Castel**

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

**The West**

Deputies A. H. Brouard, A. C. Dudley-Owen,  
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

**Representatives of the Island of Alderney**

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

**The Clerk to the States of Deliberation**

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

**Absent at the Evocation**

R. M. Titterington, Q.C. (H.M. Comptroller); Deputy M. P. Leadbeater (*absent de l'île*);  
Deputy V. S. Oliver (*indisposée*); Deputy L. B. Queripel (*indisposé*);  
Deputy J. A. B. Gollop (*relevé à 9h 33*); Deputy E. A. Yerby (*relevée à 10h 19*);

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# States of Deliberation

*The States met at 9.30 a.m.*

[THE DEPUTY BAILIFF *in the Chair*]

## PRAYERS

*The Greffier*

## EVOCATION

# Billet d'État XVIII

## COMMITTEE FOR ECONOMIC DEVELOPMENT

### III. States of Guernsey Economic Development Strategy –

#### Debate continued –

#### Propositions carried as amended

**The Greffier:** Article III – Committee for Economic Development – States of Guernsey Economic Development Strategy – Continuation of debate.

5 **The Deputy Bailiff:** Deputy Gollop, you have arrived while the Roll Call was being taken, do you wish to be relevé?

**Deputy Gollop:** Apologies, sir. Yes, please.  
Thank you, sir.

10 **The Deputy Bailiff:** Thank you very much.  
Yes, jackets can be removed, even though it is less sunny today.  
Deputy Dorey.

15 **Deputy Dorey:** Thank you, Mr Deputy Bailiff.  
I will support the Report but I have a few points I wish to make.  
Firstly I wish to correct a point made by Deputy Paint when he was talking about the subject of the political responsibility for the fishing industry moving from Economic Development to Environment & Infrastructure. Deputy Paint said that fishermen did not want the responsibility to move Committee and one reason he gave was that they wanted the bins at the Fisherman's Quay.  
20 E&I do not supply them, it is not in our political responsibility. I just want to make it clear that the operational responsibility for Harbour is the States' Trading Supervisory Board so it would not be for Environment & Infrastructure to provide such bins.

E&I have responsibility for agriculture and I think we have a good relationship with the fishermen which proves that we can work with a similar industry, although I declare a special interest, not a direct financial or beneficial interest, as my son recently has taken over a dairy farm.

On the export of vegetables which has been referred to in previous speeches. I do not believe it is viable. There are a number of reasons for that: the lack of land, that most of our farmed land is used in dairy farming; it is not high enough value product; freight charges; and we would have to compete with large farms in the UK which are extremely mechanised at growing vegetables. Some potatoes are grown for local consumption. There were two farmers growing vegetables for the local market but they have stopped, and I do not believe it is viable. I think there is very little currently grown or there is a small amount.

On the Open Market, I think the challenge is not just to bring wealthy individuals but to ensure they pay significant taxes as Jersey does, which has a minimum tax they have to pay to come into the Island.

Various people have made comparisons to Jersey, I do not think we can be directly compared with the recent economic activity. In 2001 the population of Jersey was 88,900; in 2017 it is 105,500. Compare Guernsey: one is using the old census and one is using the new electronic census – there are slight differences, but if you compare 2001 with 59,807, Q1 2017 with 62,163. We have had a population growth of 3.9% over that period; they have had a population growth of 18.6%.

The growth of population in Jersey might have helped economic growth, although considerable infrastructure investments have had to be made in Jersey, and I believe that they will have to continue to do that to service a far larger population. More interestingly, they have had a higher unemployment level than us for almost all of that period.

On the Seafront, I support the Seafront project. We have had various attempts which have stopped and started over a number of years, it has been called Eastern Seaboard and various other names, but I think it is really important that we take that opportunity and put the necessary resources to advance the project and get to a draft local planning brief which is then approved.

On the international university, that is one element I do not support. I do not support it because the private sector have already investigated it and concluded it is not viable. I do not understand why we continue with this project. We have scarce resources, which should be used on projects which are likely to succeed, not on projects which the private sector have looked at and concluded are not viable. **(Two Members: Hear, hear.)** The idea of bringing many students and lecturers to a small island is not an idea which I support. I think we have enough problems with supporting the existing population and the tourist population, to increase the population further with an industry which involves so many people coming to this Island I do not think is viable.

So with that I conclude my speech and thank you.

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

**Deputy Hansmann Rouxel:** Thank you, sir.

I will be brief as it is my birthday and I wish to get out of here today. *(Laughter and interjections)* It is always a good reason for being brief.

Thank you, sir.

I do not love this policy letter, but I will be voting for it, and like Deputy Dorey before me I have a few points that have not been made in debate so far.

There were some good points made yesterday by Deputy Langlois and Deputy de Sausmarez and various other good points raised in debate.

I would like to echo Deputy de Sausmarez's point about the creative industries. While Deputy Dudley-Owen did mention that the creative industries were part of the Digital Framework, or Strategy as it now is, and in questions to the previous Vice-President he mentioned a similar

premise, it fundamentally misses the point about the creative industries and I think it is something that we are missing as an Island.

Digital is only one small part of the creative industries and it fits in with Deputy Green's point yesterday about increased robotisation, along with the rise of artificial intelligence. If we are to futureproof the diversification of our economy we need to look at sectors which cannot be absorbed by increasing sophistication of AI. The clear answer lies in the creative industries, and this is not just me talking; this is internationally recognised. This is not addressed at all in the policy paper, and given the long list of actions it will not be addressed in this term, which I believe is an entirely missed opportunity.

There are some good things in this policy letter. However, as a whole it lacks cohesion, it hangs together like individual projects that come across as various Members pet projects rather than a crafted and collaborative plan. (A Member: Hear, hear.) As a result of this, there are missing synergies between different strands of the Strategy, never mind different strands of Government.

How does the Digital Strategy have a crossover with the Retail Strategy? Should the States be providing an online platform with all Guernsey retailers that can be accessed by locals and tourists? How can the digital sector help with innovative solutions to the retail sector, and basic areas where finance can benefit from digital innovation with our own Government systems? Simple things like open API, which is Application Programming Interface, on our States' platforms would allow access to publicly available information through digital platforms. Something like this should be available on the Guernsey Registry to make things like auto due diligence possible, and without open API there is no viable e-commerce on the Island. Surely we should be leading by example in our States' platforms.

I am disappointed that we have not had the opportunity to debate or scrutinise the digital framework which is now a digital strategy and it is not accessible. If anybody has tried to find it on our States' website you will be surprised. I could not find it, but I am a searcher and ironically it was buried in the news and press release section of the States' website, not under Economic Development, not under Digital Strategy. How does it look when our own Digital Strategy cannot even be signposted in a digitally accessible way?

Now the Telecom Strategy is published but not coming to the Assembly. Why? Economic Development does not happen in a vacuum and without the whole Assembly's buy-in and commitment to getting things moving, we will not be able to energise the economy. This does not happen if there is no input into the process, no consultation with the outside and the rest of the Assembly, Members cannot properly scrutinise what is buried in the bowels of the States' website. (Several Members: Hear, hear.) We all need to have ownership of this strategy.

This is why I voted for the amendment yesterday, this was why I believed the thrust was behind that amendment the desire to have a clear idea of the areas of priority and confirmation of what policy letter will come to the States brought back to the Assembly in October that we can debate and see it in action.

I did take on board during the debate the concerns of the President and the Members of the Committee about timelines and concerns that it would delay the progress. This was not the intention of the layers of the amendment and both have had experience in areas of the Committee as well as having consulted with the Committee before laying the amendment that the timescale and nature of the work was entirely doable.

I hope that the Committee will do as other Committees do and consult with Deputies Merrett and Soulsby so that we can move forward quickly and make the best use of the time we have left in this term.

It is not all doom and gloom. We do need to be positive and there are areas which I believe we will see significant movement on shortly. I would urge the Committee *for* Economic Development to reach out and communicate with the rest of the Committees and not just after the fact, but the whole Assembly's buy-in – no thank you, I will not be giving way – but I would urge the Committee *for* Economic Development to reach out and communicate with the rest of the

125 Committees and not just after the fact but get the whole Assembly's buy-in on the development plans.

**The Deputy Bailiff:** Well, as no-one else is rising to speak, I turn to the President of the Committee for Economic Development, Deputy Parkinson to reply on the debate.  
130 Deputy Parkinson.

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

Well, it has been a long and interesting debate with many useful contributions. But I will try and respond to as many of the points raised as I have noted and hope that I do not miss anyone out.  
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Starting with Deputy Lester Queripel, the first speaker, he raised a number of points. His first question was does the Committee intend to encourage more people to grow vegetables? Deputy Dorey has partly answered that and of course I think he brings out the point that agriculture actually sits within Environment & Infrastructure, although my Committee is responsible for horticulture. Now, as such, we are interested in people making good use of redundant glass houses and that is something that I think in principle we would encourage. Do we attach a high priority to that industry and that workstream? Probably not because as Deputy Dorey says it is quite low value added, very difficult for growers to compete with producers outside the Island, and in terms of our GDP is really trivial.  
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His second question was would the Committee oppose discrimination against – I think I am summarising this – people who are over 55? He was specifically referring to courses provided by Careers Guernsey, which apparently he says are available only to people under 55. I was not aware of that, it is clearly not within our mandate, but as a general response I would say that yes, we are interested in anything that increases the productivity of the working population of Guernsey and that includes people who are over 55. In this day and age, when people have multiple careers, there is no reason why people after 55 should not be seeking new jobs in new industries.  
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His third question was does the Committee recognise the value of sports and arts tourism? Yes we do. This point was later picked up by Deputy Lowe who asked why sports and art tourism are not in the workstreams that we have listed on our schedule, and that is because we are already doing them. We provide funds for sports and arts events through a mechanism which is currently under review, because some of us have concerns about whether the use of external agencies to allocate those funds is appropriate.  
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His fourth point was when we talk about amendments to the IDP, what do we have in mind? An example is the Committee as a whole believes that it should be easier for businesses to enter or leave the tourism sector, and the current restrictions on people either becoming B&Bs or deregistering hotels to become private residences seem to be over-restrictive and if the market was more open for people to come in and move out, we think that would be healthier.  
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He stressed the importance of customer service in the retail sector, and of course we would all agree with that, and asked if we would support the development of a retail apprenticeship at Skills Guernsey? Yes, I think we would.  
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He asked if we would support the creation of a Guernsey bank for business on the assumption I think that such a bank would not have to comply with FATCA requirements or the KYC requirements of other commercial banks. No I think that is unrealistic. Any bank in this day and age is going to have to comply with regulation and sadly that nowadays includes complying with FATCA because as a jurisdiction we have to be seen to satisfy FATCA standards, otherwise we could get into difficulties.  
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Deputy Langlois spoke eloquently on the philosophical underpinnings of the strategy, the meaning of growth, or the value of growth, and said he would prefer to see a strategy based on resilience and sustainability. Well, this is a long-term strategy, it takes a view of where Guernsey ought to be in 2030 and so we are very interested in sustainability as a concept and we certainly would not be putting forward any projects for further investigation if we did not believe that there  
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was a sustainable model for that project. These projects will have lives well beyond even the 20/30 timeframe that we are considering. You do not build a university for 12 years, you do not make changes to the Eastern Seaboard for 12 years. These projects, if they come to fruition, will have an effect on Guernsey for the next 50 or 100 years. So clearly sustainability has to be at the heart of what we do and what we bring forward.

Deputy Tindall stressed the importance of collaborative working and I certainly agree with her, but the Committee for Economic Development has only 13 staff, of which our Chief Secretary is shared with Policy & Resources Committee and this is a point I will come back to later with reference to the amendment that was passed yesterday. Because we are very resource constrained we have to work with other Committees and we do, we consult very widely and as Members of the Committee know, we have been engaged in discussions with other Committees throughout this process. We have only been doing it for six months and we have more importantly perhaps also engaged with the public very extensively.

Deputy Dudley-Owen also made the important point that the new strategy has a 12-year time horizon and that it requires Members to think long term and I could not agree with her more. She said we should be seen more as akin to a business development department and that our role is largely to bring together stakeholders, and that is also true. She commented that in improving productivity from people as we work longer and have multiple careers, Skills Guernsey has a vital part to play and that is certainly very important.

Deputy Inder asked how the Committee will ensure the delivery of better air and sea links when we do not have direct control over the carriers. The answer of course is that Guernsey is not a command economy, we will work with the operators both public and private sector to encourage them to match our ambitions and where we are able to we will provide financial support and advice contingent on the delivery of service levels. Government in Guernsey is a democracy with a mixed economy, and we cannot direct these businesses to cooperate with us if they choose not to.

Deputy Brehaut asked why Sea Fisheries had not been transferred to Environment & Infrastructure and this sparked a bit of a debate between him and Deputy Paint, who said that Environment & Infrastructure were not trusted by the commercial fishermen. My observation is that in many areas we separate the role of the promotion of an industry from the role of regulation, and it does not seem to me entirely illogical for Economic Development to have the role of promotion of the fishing industry and for Environment & Infrastructure to have the role of regulator. That seems to me reasonable. Economic Development as I have already mentioned has responsibility for horticulture and it is not completely absurd that we should have the promotional role at least in terms of sea fisheries.

Deputy Roffey commented that GDP growth in itself could not be the objective, which I agree with, and noted that a growing proportion of our population is now economically active, which is something we can all celebrate. But of course with our demographic profile we must expect this to unwind in future unless we allow some immigration.

I agree with him that pre-school education may have had a part to play in allowing young mothers to return to work, and I think that was a very strong reason for the States supporting that scheme (**A Member:** Hear, hear.) and that is a theme of course that Deputy de Sausmarez took up later.

Deputy Roffey had a number of other suggestions, he thought we could make better use of our seafront if we built a carpark at Sir Charles Frossard House and removed the cars from the piers. That is certainly a possibility and something that I am sure the Seafront Enhancement Area Working Group will consider.

He also suggested we should allow Open Market residents to deregister their homes in return for a licence to live in Local Market property so that the Open Market licences thus surrendered could be auctioned off to developers of new properties. Of course this would be similar to the process that we have seen many times in the respect of the MURAs, where the developers of the MURAs were allowed to deregister a certain number of Open Market properties so that properties

within the development could be inscribed on the register. In general, and this is a personal view, not something I have discussed with my Committee, I do not see a problem with that. I think the process of transferring Open Market licences to the MURAs has been a healthy one, which has rid the Open Market of a number of properties that probably should never have been inscribed on the Open Market Register in the first place.

I think we do have to recognise that tastes change, even properties which were once regarded as the most desirable properties on the Island, for example traditional long houses are no longer necessarily the kinds of property that the younger entrepreneurs that we want to attract want to buy and live in. From what I hear from Jersey the entrepreneurs that they have been successful in attracting want modern properties with sea views. A process which allows properties to move in a controlled way from one market to the other seems to me necessary to allow the system to breathe.

Deputy Lowe commented there are a number of unsold Open Market units in recent developments. That is probably true but that may be more a reflection of the products themselves or perhaps the pricing of them that clearly they have not been attractive to potential buyers.

Sports and arts events I have mentioned already are very firmly part of Economic Development's workstreams, not in the schedule of new initiatives because it is something we are already doing.

She said that the concerns of Open Market residents about the new Population Management Regime will be considered by the review of that Regime which is being led by P&R and that is true. So I think I will come back to that when some other Deputies contributions are mentioned.

I thank Deputy Brouard for his support and his comments on Open Market and paid parking.

Deputy de Sausmarez commented there is a lack of data concerning productivity because we do not collect information on hour's work that is something that Deputy Le Clerc mentioned later. This is true, we are short of data as a Government in many areas (*Interjection*) so we are always, in terms of economic management, somewhat trying to drive the bus in the dark, and it would be useful to have more data on productivity certainly because that is a key metric but there are many other areas where we are literally just blind.

She was the first who said the Strategy does not mention the creative industries and I accept the criticism that we could have put more in it about the creative industries, but as Deputy Dudley-Owen interjected, the creative aspects of the digital industry are firmly within the scope of the digital strategy and of course as already mentioned we do recognise the value of arts led tourism.

She asked whether investment could be made in arts courses and arts bursaries, well yes, of course it could and possibly should but that is outside our mandate and if she wishes to promote that idea she needs to do so to the Committee for Education, Sport & Culture.

She made some excellent points about the productivity of women and the need to modernise working practices and cultural expectations. Hopefully the younger generations are less inclined to assume that parenting responsibilities will always be discharged by the mother. But I fear there is little the Committee for Economic Development can do to encourage a shift in social attitudes of that nature.

My screen's just gone blank, here we go. Sorry about this, technology! Right, here we are back again. So where have we got to? (**A Member:** Digital.) Yes, with Deputy de Sausmarez – (*Interjections and laughter*)

**Deputy Brehaut:** You just said 'and finally'.

**Deputy Dudley-Owen:** Thank you to Deputy Parkinson for giving way.

I think, I will just take this opportunity just to interject, and I think it is useful at this stage to correct some of the statements that Deputy Hansmann Rouxel was saying before, potentially which may have given the message that the Digital Strategy has not been given an airing amongst Members. Having looked back through my emails to remind myself of the dates, Economic

Development did invite Members to an update on the Digital Strategy post the IOD meeting back in March, where we gave an initial statement to industry. We invited Members I think towards the end of March, which was close to the Easter holidays. We did not have a very good response to that from Members, we had four confirmed that they would come. We then moved the date to I think 20th April and we had six Members turn up to that digital greenhouse. I think it was Deputy St Pier, Deputies Lowe, Dorey, Brehaut, Inder and Parkinson who attended.

Deputy St Pier and Deputy Lowe did comment at the time how desperately disappointed they were that we had not seen more States' Members on that day and that the Digital Strategy was actually quite –

**Deputy Hansmann Rouxel:** Point of correction.

**The Deputy Bailiff:** Point of correction, Deputy Hansmann Rouxel.

**Deputy Hansmann Rouxel:** They were not the only Members that came to that. I did try and attend, but arrived and the digital greenhouse was completely black and dark, there was no signposting where the actual event was, and you can check with your Chief Secretary –

**The Deputy Bailiff:** Deputy Hansmann Rouxel, you cannot address another Member directly.

**Deputy Hansmann Rouxel:** Apologies, sir. Through you, you can check that that is the case *(Laughter)* that I was –

**The Deputy Bailiff:** I am not particularly interested in knowing but ... *(Laughter)*  
Deputy Dudley-Owen to continue.

**Deputy Dudley-Owen:** Thank you. I am not quite sure what the point of correction was there. I am just stating a fact that that is the sequences of events, that we have made quite a lot of effort to promote the Digital Strategy over the last year actually, since it was launched, and we will give updates and continue to give updates. I have asked the staff that I work with to make the Digital Strategy more accessible on the website and send a copy round to Members this morning. **(A Member:** Hear, hear.)

Thank you.

**Deputy Parkinson:** Right, thank you.

Deputy Trott spoke next and emphasised Guernsey's competitive offering, for example in wealth management, and stressed the importance of defining our States' appetite risk, which I agree with.

Deputy Fallaize underlined that improving productivity is key and mentioned artificial intelligence. Now artificial intelligence is both a threat and an opportunity for us. Obviously as artificial intelligence develops over probably the next five years or so, many jobs of a clerical nature will be automated and that to some extent poses a threat to employment in our finance industry as an example, but in many other areas too. But at the same time it is a tool by which we could increase the productivity of skilled workers who know how to use it, and if we manage to ride the transition properly, the artificial intelligence could lead to a more productive economy. So the challenge for the States in the face of disruptive technologies like this is to lead with the way with the private sector and try and get the economy to make that shift from old technologies and ways of working to new technologies and ways of working. This of course is why the skills strategy and indeed the international university project are so important.

Deputy Fallaize asked whether our strategy had been influenced by the Equality Working Group and I did mention this in my opening remarks, but perhaps he had fallen asleep by the time I got to that point. I said, and I will repeat it, that a meeting took place last week between

Deputies Tindall and de Lisle and officers of the Economic Development Committee, together with the Equality Working Group. The output from that meeting obviously came too late to be reflected in the States' Report that is in front of Members today, but in my opening speech I said the Equality Working Group set out how greater diversity and inclusion can also be a contributor to economic growth and increased productivity, and we will work with the Group to support their aims so as to create an inclusive as well as a successful economy.

Deputy Fallaize asked for confirmation that the international university that we are researching will target largely off-Island students and therefore will not compete with the University College of Guernsey project that Education, Sport & Culture are promoting, and that is exactly my understanding. Moreover to avoid any further doubt in this area I can assure him that if we do proceed with the international university project it will not be funded by the taxpayer and so will not be competing with Education, Sport & Culture for funding, and because it would be highly specialised it would not be competing with Education, Sport & Culture for teaching staff. So personally I can see no conflict between these two projects and in fact possibly some useful synergies could emerge where we might be able to share resources. So I am a firm supporter of both projects and see no conflict between them.

Deputy Green emphasised the challenge of emerging technologies which I have already discussed, and Deputy Dudley-Owen again pointed out that this forms part of our future Digital Strategy as it does.

Deputy Green noted that our strategy is more interventionist than has typically been the case in Guernsey economic policy in the past, and I agree with him. He suggested this policy letter may represent something of a watershed and perhaps it will.

Deputy Ferbrache remarked that entrepreneurs do not see Guernsey as business friendly and quoted an individual with whom he was meeting on Monday. I have a feeling I know the individual that he was meeting on Monday and I suggest to him that that individual takes a particularly jaundiced view of the Island because of some unfortunate personal history. I do not believe that entrepreneurs in general find Guernsey unwelcoming, obviously we need to do more and it is the role of Economic Development Committee to put out the welcome mat and to actually be more proactive in trying to attract them. So there is always room for improvement but I do not think Guernsey is unfriendly to incomers.

He said we need to work with other Committees: yes and of course we are doing that.

I think that brings us to today's interventions. Deputy Dorey pointed out the export of vegetables was not viable and that the two farmers doing it have given up.

He said that the Open Market should pay a minimum level of tax. I think that is a radical suggestion which would be a big departure from the way that Guernsey has approached the market in the past, and might well put off some of the entrepreneurs we would like to attract, who would in any event make significant economic contributions.

He said the growth in Jersey GDP is due to the increase in their population and cited the figures. I think that is very true. In talking to my counterparts in Jersey their main concern is productivity because although Jersey has been showing very high rates of GDP growth in terms of GDP growth per capita, the performance has been much less impressive and it may in fact even have been negative.

Deputy Dorey supports the Eastern Seaboard initiative but is opposed to the international university because he says the private sector has concluded it is not viable. Well, I do not think that is true at all. There was a private sector project to create a university in Guernsey which was based on philanthropy. The promoter of the project wanted wealthy individuals to donate sufficient sums of money to allow the university to be established and unfortunately was unable to attract sufficient quantities of money. That is not the private sector saying the university is unviable; it would be possible to create a commercial university in Guernsey I suspect very easily. By commercial, I mean a university like the University of Buckingham which is a for-profit institution, because if it was a for-profit institution I do not think there would be any shortage of investors. The problem has been, where we are trying to steer this project is as a not-for-profit

385 institution which nevertheless will be self-funding and that is a model which I think can be viable but we have yet to reach our conclusions on that and we are still investigating.

Now we come back I think – oh no, Deputy Hansmann Rouxel I nearly forgot. Creative industries yes, I totally agree, this is an area that we need to major on and to which we need to give more emphasis in future and she had some useful ideas on how we could use digital  
390 platforms like the Company Registry which is within our mandate. I think quite a lot of due diligence can be done on the Company Registry already. So we are working in that direction, it may not be perfect but a lot of progress has been made on that. As for States' websites being inaccessible, that is within the mandate I think of Policy & Resources and the States' Chief Information Officer and I am sure that they will draw her remarks to his attention.

395 She referred in the end to the amendment that was passed yesterday and said the timescale was doable. I think at this point I need to sort of bring things back to basics for the Assembly on this issue. The mandate of the Committee *for* Economic Development tells us that our responsibilities are:

To advise the States and to develop and implement policies on matters relating to its purpose, including:  
1. the promotion and development of all sectors of business ...

400 Within that mandate, like other Committees, we do our own prioritisation. That is the system in the States of Guernsey. Now, what the amendment asks us to do is in fact consistent with that. It does not say that the States is going to reprioritise the work that is scheduled by the Committee; it says:

To direct the Committee *for* Economic Development to come back to the States ... with a report containing –  
a) an implementation plan [...] which clearly sets out an order of priority and time frames for reporting back to the States on all key work streams set out in that policy letter and  
b) confirmation as to which policies and strategies the Committee *for* Economic Development will submit to the States for debate, together with respective timelines.

405 And we can do that. It is not an invitation to the States to reprioritise the list of priorities that we will set out within our own mandate, but we can certainly do that, because part of our responsibilities are to *advise* the States of what we are doing, and that is what we plan to do.

The problem with all this extra work – which Deputy Merrett did not consider necessary back in December 2017 when she signed the Economic Vision that was to be presented to the States at  
410 that time, but which has apparently now become indispensable – is that it will take time and we have 13 members of staff engaged in policy making. Our Chief Secretary is shared with Policy & Resources he works for us part-time.

Now, the reality is that if Members choose to pass Proposition 3 we will go away and do this work but other work will have to be deferred because we are not superhuman and we cannot do  
415 everything all at once. So what will be deferred? I do not know. I am not going to try and speculate on the hoof. But something will have to give, because we have a very tight schedule as it is and we are now being asked to do a load of extra work which the majority in the Assembly for some reason think is necessary, and that means that other work will be postponed. So the effect of Proposition 3 is that the Schedule we issued on Monday will be withdrawn and we will go away  
420 as a Committee, we will reconsider it and we will reissue it with new timelines for the workstreams in it, taking on board the additional time commitment of this work that is being imposed on us.

So my position on this is that the history is that in November 2016 the States agreed the Economic Vision –

Deputy Tindall, I give way.

425 **Deputy Tindall:** Sir, I believe Deputy Parkinson is giving way, for which I thank him.

I would just like to add my initial take on what the amendment would do also, which is that when we bring it back to be debated that also may end up changing timelines which are clearly

very much interwoven and may throw quite a few things out of sync, which will also have a detrimental effect of the overall plans.

Thank you.

**Deputy Parkinson:** I thank Deputy Tindall for her interjection, and of course although we are supposed to report by some date in October, by October, the knock-on effects for this could well extend beyond that because work which gets deprioritised between now and October to absorb this task will have to be done at some point and that work may then be rescheduled for November, December which may in turn knock other pieces of work back. So it is a complex schedule and it would be rash of me to speculate here and now on which pieces of work will get shunted back but clearly something will have to give.

Now, as I was saying, the position is that in November 2016 the States agreed to the Economic Vision of the Economic Development Committee, in June 2017 it agreed that the Committee for Economic Development's prioritised policy objectives which set out a clear set of actions etc. and we have now brought to the Committee our plans for delivering on those priorities, which the States has already agreed, and we have been basically asked to go away and do some more work on it.

It is hardly surprising in the context that the States is acquiring a reputation as the States of inactivity. By October 2018 this Assembly will have a life expectancy of 20 months and that will be all that remains of this term in which to do stuff and whereas the Committee would like to be able to get on and do things, and in fact will have to get on and do things within its mandate. Instead we have more excuses for delay and prevarication.

So I will continue to oppose Proposition 3 in the final vote and would ask for a separate vote on that matter, sir. But would encourage Members whatever their views on Propositions 3 to support all of the rest of the policy letter that is before us.

Thank you.

**The Deputy Bailiff:** Members of the States, we come to the vote now. There are three Propositions. Proposition 3 is in any event dependent on Propositions 2 carrying, and therefore I am proposing to put to you, unless anyone requests anything different, that Propositions 1 and 2 be voted on first and Proposition 3 separately second.

So I am putting to you Propositions 1 and 2 – Deputy Yerby.

**Deputy Yerby:** May I be relevée, sir?

**The Deputy Bailiff:** You may be relevéed.  
Those in favour; those against.

*Members voted Pour.*

**The Deputy Bailiff:** I declare Propositions 1 and 2 carried.

Now the vote on Proposition 3, which is a result of the successful amendment proposed by Deputy Merrett seconded by Deputy Soulsby. Can we have a recorded vote in respect of that, please, Greffier.

*There was a recorded vote.*

*Carried – Pour 18, Contre 17, Ne vote pas 0, Absent 5*

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

**The Deputy Bailiff:** Members of the States, in respect of Proposition 3 there voted Pour 18, Contre 17, with 5 absentees. Therefore Proposition 3 is carried.

475 I should perhaps explain that the two Alderney Representatives are booked on a flight this morning, which is why they have left us during the course of that debate.

## STATES' ASSEMBLY & CONSTITUTION COMMITTEE

### IV. Amendments to the Code of Conduct for Members of the States of Deliberation – Debate commenced

*Article IV.*

*The States are asked to decide whether, after consideration of the policy letter entitled 'Amendments to the Code of Conduct for Members of the States of Deliberation' dated 18th May 2018 they are of the opinion:*

*1. To amend the 'Code of Conduct for Members of the States of Deliberation' with immediate effect as follows:*

*(a) To insert section 19B, 19C and 19D as set out in paragraph 2.4.*

*(b) To amend section 27 as set out in paragraph 3.5.*

*(c) To amend section 11 as set out in paragraph 3.7.*

*(d) To amend section 6 as set out in paragraph 3.8.*

*(e) To amend section 7 as set out in paragraph 3.9.*

*2. To note that Members of the States of Deliberation should be guided by the existing States' Whistleblowing Policy.*

*3. To adopt the guidance note entitled 'Anti-Bribery and Corruption Guidance for States Members and Employees' to cover all Members of the States of Deliberation.*

**The Greffier:** Article IV – States' Assembly & Constitution Committee – Amendments to the Code of Conduct for the Members of the States of Deliberation.

480 **The Deputy Bailiff:** I invite the President of the Committee, Deputy Roffey, to open debate.  
Deputy Roffey.

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

This is a policy letter in three parts really. One part announces the fact that the States' Assembly & Constitution Committee intend to carry out a root-and-branch review of the Code of Conduct during the second half of this year. That will cover everything from the content of the Code, what standards we do expect of ourselves and others have a right to expect of ourselves, and, perhaps more radically, how that should be enforced, what the complaints mechanism should be and how complaints should be considered.

To some extent, that has been overtaken by events because we have announced that publicly, we have started that review a couple of days ago and we are now in the period of asking for input from all stakeholders, from the public and also from Members of this Assembly, but respectfully I do not think this morning is probably the right time to get that input. I would rather that you make use of the period up to the end of August to approach us outside the States.

There are two aspects though that we felt could not wait for that general review and we had to bring forward. The first aspect is about private offices and just to explain what we mean by that, sometimes Members of the States want to use others to help them manage their States' business. Sometimes it can be a business person who wants to use their secretary or PA or somebody at their business. Sometimes it can be a family member or a friend and obviously we do not want in any way to interfere with Deputies running their political affairs in the most effective way for them, but there obviously needs to be some kind of control because that person or persons will be getting information that normally we would not be expected to share with other members of the public. So really these proposals in that section are just to facilitate that but in a controlled way that makes sure that those standards are maintained.

The third part is to really make sure that our Code is compliant with some international agreements that this Assembly have signed up to. When we do sign up and in this case we asked HM Government to extend two conventions to this Island, I think it is important that the Island does actually comply with its obligations that they have asked to actually be put under. I have to read them to remember them. The two conventions we are talking about is the OECD Convention on Bribery and the UN Convention against Corruption. Now both of these we have asked HM Government to extend to Guernsey, and they have been so extended, so we are subject to them.

We are advised by Policy & Resources and SACC that the absolute requirement that there should never ever be any consideration of an anonymous complaint is actually at odds with those particular conventions and obligations. But just for the sake of absolute clarity, we are not talking about routine complaints being considered on an anonymous basis. If Deputy Green thinks that I have muttered a very rude aside to him and wants to refer me, we would expect him to put his name to that and not do it anonymously.

The new wording is that 'in exceptional circumstances anonymous complaints can be considered'. Now I do not know what those are but I imagine what we are talking about is something like endemic corruption. If we had a P&R that were completely on the make, in cahoots with senior civil servants, or perhaps in the new world we are heading in to the ruling party of the States of Guernsey were absolutely rotten to the core and there was a middle – *(Interjections)* I have no idea who it would be obviously! *(Laughter)* But I understand Deputy St Pier is looking to set up a party! *(Interjection)* Sorry, I withdraw any implication – that was meant in levity and I apologise if that is taken seriously. *(Laughter)* Perhaps there is a middle ranking civil servant that had absolute documentary evidence of what was going on, they could actually be really scared of the implications of putting forward a complaint in their own name.

Now we know that that could never happen in Guernsey, but to the international conventions, to the people who are controlling it, they cannot say, 'Oh well, Guernsey is a nice place. Now Turks and Caicos went off the rails but we know that that could never happen in Guernsey because Guernsey is far more responsible than that.' They have to apply those sorts of standards.

So it is, I think, important just to have that backstop that where it is absolutely essential there could be in exceptional circumstances an anonymous complaint considered.

There is another part of the Code that says any complaint can only be considered with the proper evidence to suggest that it has substance. So you would not be able to just get vexatious



535 complaints put forward because if that substance is not provided, it will not be able to be taken forward.

I think that is far as I can go on that. We are more or less doing this at the request of P&R to make sure that we are compliant. If there are any further questions on that, I hope I will be helped out by the P&R Members, but that is my understanding of the situation.

540 Really, I think that is all I have to say.

**The Deputy Bailiff:** Deputy Prow, do you wish to move your amendment?

**Deputy Prow:** Yes, please, sir. May I read the amendment, sir?

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**The Deputy Bailiff:** Of course you can.

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

It is proposed by me and seconded by Deputy St Pier. It reads:

*Amendment:*

*To insert the following Proposition immediately after Proposition 3 –*

*'4. To amend the Rules of Procedure of the States of Deliberation and their Committees with immediate effect by inserting in the appropriate places in Rules 30(1) and 33 the following definition –*

*"special interest" means an interest from which the Member or other person concerned could derive benefit;"*

550 Sir, may I start by thanking the many Deputies who have contributed to the production of this amendment, not least the seconder Deputy St Pier. I also thank HM Comptroller for his invaluable advice.

Sir, the explanatory note provides the context in which the expression 'special interest' appears in the Rules of Procedure:

Rules 11(7), 17(15) and 49(1) of the Rules of Procedure of the States of Deliberation and their Committees ... provide for the circumstances in which Members must declare whether they (or certain persons connected with them, such as spouses) have a "direct or special interest" in a particular subject matter or business under consideration. If the obligation arises when a Member is asking or replying to a question ... or before speaking or voting on a proposition ... during the course of proceedings of the States, the obligation is simply to declare the interest. However, if the obligation arises during the course of business being considered by a committee of the States ... a Member must not participate in discussion or voting and must declare the interest and withdraw from the meeting during discussion and voting on the particular matter. In addition the Member is not entitled to receive any committee papers relating to the matter.

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Sir, I and as I said many Deputies believe the expression 'special interest' is drafted far too wide and open to different interpretations, and in practice the phrase is interpreted as having a wide application. As said, with regard to Members sitting on Committees making decisions in today's highly complex world, wrestling issues with far-reaching economic consequences that impinge upon our health, education, security, external relations with and our ability to do business with the rest of the globe and indeed many other important and knotty issues, Rule 49 not only requires a declaration but completely rules them out of making any contribution to the discussion and decision making.

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In these circumstances Members are effectively excluded from participation in some matters of committee business about or concerning which they have particular knowledge or expertise. This is the case where their participation could not provide or reasonably be seen to provide any benefit to them or any person connected to them. Access to that knowledge and expertise may well in some circumstances be of great value in the decision-making process. Consequently in

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some instances Committees are deprived of often valuable sources of information, experience and expertise without good cause.

Sir, I shall now explain why this amendment has been brought at this opportunity when we are considering the Code of Conduct Propositions contained in the States' Assembly & Constitution Committee's policy letter. Both the Code of Conduct and the Rules of Procedure are approved by Resolution of the States under the Reform (Guernsey) Law 1948. Sir, I believe and I think every Member of this Assembly also firmly believes that they have a general interest and a duty to act in the best interest of the public and to follow the general principles of conduct as laid down in the Code SACC are seeking to amend. This is an absolute given in a mature and modern democracy. The purpose of the Code of Conduct is set out in Part 1, section 1. Sir, that section says this:

The purpose of [this] Code of Conduct is to assist elected Members of the States of Deliberation ... in the discharge of their obligations to the States ...

May I stress the word 'assist', and I shall return to this point in a moment. Section 15 of the Code of Conduct specifically refers to the Rules of Procedure, which this amendment seeks to change in particular to and I quote:

... any relevant and material interest in any proceedings of the States of Deliberation, its Departments or Committees.

Sir, it cannot therefore be in any doubt that the matter of the declaration of interest and the Rules of Procedure is a matter upon which the Code of Conduct explicitly bites. It is therefore simply unfair on States' Members to be held to account on a set of Rules which are potentially ambiguous. The absence of the definition of exactly what a 'special interest' means and a vacuum surrounding any guidance does not go anywhere near the assistance required under Part 1, section 1 of the Code of Conduct. This is a matter therefore – this opportunity should be – for urgent debate, by inserting the definition, 'an interest from which the Member or other person concerned could derive benefit'.

Sir, 'a direct and special interest' as so defined crucially ensures that if there is good reason for a Committee Member to withdraw, they must do so. This therefore provides the necessary protection for both the committee and that Member against accusations of potential bias or conflict regarding their private interests.

A number of concerned Deputies wrote to SACC on 19th March asking for a definition of 'special interest' but SACC has ruled that it will not be suggesting changes to the Rules. The reply letter, for which I genuinely thank the President of SACC, is very interesting. In my view, the letter tends to be over-reliant on the advice of HM Procureur in justifying SACC's stance of, to quote, 'not being in favour of changing the Rules', and having made a policy decision favouring the continuation of a wide interpretation. But that advice deserves further analysis. Whilst the Rules of Procedure are primarily our parliamentary tools for us to decide and therefore not a strict legal matter, I found HM Procureur's advice outlined in the letter extremely helpful.

Sir, HM Procureur is quoted in the letter when asked if the existing wording could be clarified or improved, and she advised that the wording could be clarified. HM Procureur also noted that the Rule as literally interpreted could cause some practical difficulties which were perhaps unsurprising in a small jurisdiction. Crucially it appears that what HM Procureur has advised SACC to consider is the effect of the change. She advises it might be impractical to seek to clarify the Rule if the Committee's view was that rule should remain and should continue to be interpreted strictly. Their decision should be dependent upon whether the Committee wished to change the effect of the Rule. Furthermore HM Procureur continued that she would be happy to suggest alternative wording if the Committee decided they did wish to do so.

They did not so wish. But instead Deputy St Pier and I have sought the advice of HM Comptroller and the result is this amendment.

So, sir, to summarise the advice, it is this Rule that could be clarified if the Committee so wish and it confirms that it can cause practical difficulties. So it is SACC that do not want to change the

effect, and are content with holding Members to account on a Rule which is drafted too wide and which can preclude without proper cause Committees from benefiting from the added value of a Member's knowledge and expertise, whilst still excluding Members when it is entirely appropriate to do so.

It is worth noting that it is ironic that such a Member who declared an identical interest could take part in a States' debate.

Sir, I recently attended a Deputies' Presentation at Beau Séjour, fronted by the President of Economic Development, Deputy Parkinson. In his eloquent opening he twice referred to all the Committee Members' 'special interests' and outlined the subject matter on which they held that special interest. He touched upon their expertise on the various aspects of different economic sectors before inviting them to speak.

The Collins Dictionary definition of 'special' describes 'special' as distinguished from, set apart from, or excelling others of its kind, designed for a particular purpose, not usual or commonplace, particular or primary, and gives the example, 'His special interest was music.' It is quite a bizarre notion to have a set of Rules which seem to consider that those who enter the world of politics now and in the future will not be motivated or driven by their special interests. Without further definition, it is a totally unsatisfactory description of a declarable interest, which has the potential to exclude an elected representative from the participation in Committee work.

I submit that SACC are stubbornly holding on to an unsatisfactory set of words which do nothing to aid the course of good Committee governance, hinders democratic debate and discourages special knowledge and expertise that is so important in decision making. (**A Member:** Hear, hear.) I know many Members of the Assembly want this sorted.

Sir, just where is the logic that says, 'Hang on, this guy knows something special about all this and clearly he or she can derive no benefit from this. This is outrageous! Kick them out of the room.'?

Please support this amendment.

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

**Deputy St Pier:** I do, sir and reserve my right to speak, please.

**The Deputy Bailiff:** I am going to call Deputy Dorey, rather than Deputy Le Tocq. Yes, Deputy Dorey.

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

I believe that this amendment goes further than the Propositions and I would like a judgement on that please.

**The Deputy Bailiff:** Madam Procureur, can you assist at all?

**The Procureur:** Arguably it does on the face of it, sir, but it is a matter for you.

**The Deputy Bailiff:** Thank you very much. Arguably it does and I rule that it does, it goes further than the Propositions.

Yes, Deputy Dorey, do you wish to move a motion?

**Deputy Dorey:** Yes. I then wish to move a motion under Rule 24(6) that the amendment be not debated and no vote be taken, as it goes further than the Propositions.

**The Deputy Bailiff:** Very well. Shall I put that motion to the Members then?

**Deputy Dorey:** Is it possible just to say a few words additional?

**The Deputy Bailiff:** If you say a few words, Deputy Dorey, then everyone else gets an opportunity to say a few words.

**Several Members:** Hear, hear.

**Deputy Dorey:** Okay. *(Interjection and laughter)*

**The Deputy Bailiff:** Pragmatism, I think!

Members of the States, there is a motion by Deputy Dorey that this amendment from Deputy Prow, seconded by Deputy St Pier, to insert an additional Proposition numbered 4, be not debated and no vote taken thereon.

**Deputy Lester Queripel:** Sir, could we have a recorded vote, please.

**The Deputy Bailiff:** There is a request for a recorded vote from Deputy Lester Queripel. So Greffier, a recorded vote please.

*There was a recorded vote.*

**The Deputy Bailiff:** Well, Members of the States, I will declare the formal result in a moment, but it is clear to me that the motion moved by Deputy Dorey pursuant to Rule 24(6) has been lost and therefore debate on the amendment will continue.

Who wishes to speak? Deputy Roffey, do you wish to exercise your right to speak at this stage?

**Deputy Roffey:** On this occasion I think I will, sir, thank you very much.

First of all, I think I would like to explain why I voted Pour to that motion. It is not because I do not want this debated. In fact I think we all expected Deputy Prow to bring exactly this sort of motion sometime soon. It is simply because I just think as a guardian of process this amendment has absolutely no relation whatsoever to the Code of Conduct; whereas in two or three months' time we will be having a debate on the Rules of Procedure where it would have been utterly appropriate for this amendment to be brought. Having said that, I would not have been retentive enough, if I may use that word, to actually put the motion myself but as my colleague did, I felt duty bound to actually vote in that way.

Having said that I welcome this debate, I think it is important for this Assembly to decide what sort of Rules they want in respect of 'special interests'.

Sir, the first thing I want to refer to is something that is referred to in the explanatory note. Actually before that I think ought to declare a special interest I believe I was on the Rules and Procedure Committee under Roger Berry that first proposed this definition of 'a direct or special interest', but I do not defend it out of nostalgia. I do it because I think there are sound reasons for doing it. In the explanatory note it points out the fact that we have different Rules as far as the debate in this Chamber are concerned as opposed to Rules in Committee, as if that obviously must be wrong and completely out of kilter. I absolutely reject that, I think it is absolutely right.

What we do whether we are answering questions or in debate in this Chamber is subject to the public gaze and everybody can see exactly what we are doing and they can draw their own conclusions, once we have declared our interest, whether if we go on to make comments of contribute to the debate or vote, whether that is influencing our actions.

The vast majority of Committee work – there are some exceptions like SACC and I think the DPA when they have public hearings but the vast majority of committee work – is done behind closed doors where the public cannot see what is going on, and that is why historically this Assembly has always decided to have stricter Rules for what happens in Committees than what happens in this Assembly.

My own personal view is if you want to get rid of that distinction the way to go is to actually bring the Rules for what happens here in this Assembly in line and say that if you do have an interest in a subject you should not contribute to the debate and vote, rather than looking to liberalise what happens in Committee. But to some extent the explanatory note is nonsensical anyway because the amendment will leave us in a position where there are completely different Rules for what will happen in Committee to what will happen in this Assembly anyway, so I am not really sure what point it is trying to make in that respect.

The reason that we expected an amendment sometime along these lines was because we know that Deputy Prow has always been frustrated at the inexactitude of the terminology in the Rules and that it requires judgement in order to decide whether or not you have a 'direct or special interest'. He talked about the advice we got from HM Procureur and he quoted correctly but I think not exhaustively and I think to put it in context, the thrust of what we were told is that if we wanted to move to a more liberal position than we have now then certainly we could absolutely define far more strictly what the meaning of a 'special interest' was, but if we did not want to liberalise if we wanted to keep a fairly strict interpretation then we could not, we could not come up with one, the Law Officers could not come up with one. I am not saying it is beyond the wit of man, but we were not able to do that unless we wanted to liberalise. SACC does not want to liberalise the Rules we live by in this respect of making sure that we are not perceived ever to be influenced and able to influence committee output because of our special interests. We believe that the people of Guernsey would take a fairly dim view of that. So if that is not the view of this Assembly, that is fine.

The Rules are not SACC's, it is not something we impose on this Assembly. Sometimes it feels as if Members of the States think that they are. The Rules of this Assembly are the Rules of this Assembly, they belong to them, they are crafted by them, they decide what Rules they want to live by and if they decide they want to liberalise fine. SACC does not share that view but it is not like health or education where we will think, 'Oh my goodness, we have been overruled and they are asking us to do something completely at odds!' We simply propose the Rules, the Rules belong to this Assembly, but we actually advise strongly against liberalisation. We think that liberalising the Rules on special interests when we are sitting in private out of the public gaze in Committee making profound decisions will be dimly viewed by the public of this Island.

The other confusing thing, slightly, is that in an attempt to get rid of what is an inexact wording, the proposer has come up with a very inexact wording. What do they mean by 'benefit'? Now is it a pecuniary benefit, surely not, we are not going to liberalise to that extent. We are not going to have it where, I do not know, the President of the indoor horse riding club can be sitting on a Committee considering a huge grant to the horse riding club but they are not in a paid position so they will get no benefit whatsoever so they will be able to stay in there and discuss and vote in favour of it. Or the president of some charity that gets a grant from Employment & Social Security, because they are not paid in that role in the charity would be able to stay and say, 'Yes, we ought to double that grant because I am not getting any benefit.' Or does 'benefit' mean something wider than that? I think it probably does. I think we are going to be back exactly making the sort of judgement that actually as parliamentarians we should all be able to do. We should know when it feels wrong for us to be in a Committee. We should know when it just feels that no, I should not be influencing this decision; I have got a special interest.

The other concern I have with this is the new definition, what it says in this amendment is 'special interest' – this is going to be the definition in future

"special interest" means an interest from which the Member or other person concerned could derive benefit.

In a way that is far more strict than what we have at the moment, if you are going to replace what is the common dictionary definition of 'special interest' with this. At the moment if Members are P&R are discussing increasing tax allowances then they are clearly going to derive a benefit from that, but they can all stay in the room because their interest is not special. If you go back to

when this word was introduced, it was explained that this was an interest in which most people did not have an interest but you did. That is what made it special, that is why you had to leave. If you had something deriving a benefit but actually everybody is going to derive a benefit, or 80% or 70% of the population, that was not a 'special interest' so you could stay. But now we are being told it no longer means that, we are redefining. Throw away your dictionary, we are redefining what 'special interest' means. If you are going to derive or could derive benefit from it then you have suddenly got a 'special interest' –

Are you asking to interrupt or going for a fag? (*Laughter*) No, I do not think I am going to give way at the moment. I am sure Deputy Inder can speak later on and point out where I am ...

It does not have to be income tax allowances. I do not know, I hope that Health & Social Care sometime this Assembly will discuss how to make primary care more affordable. Well I do not know how wealthy they are or what system they will bring in, but they may all benefit from that, on this basis they will all have to leave the room and it will be the *Marie Celeste* on how to do it! (*Laughter*)

So if it had said 'special interest was one that most other people did not have *and* you derived a benefit', that is fine, but I do not think this has been thought through properly. We are redefining something to something that is completely impractical, in my view.

I would really be interested in some examples of why the wording at the moment has proved problematic in any way. Some examples out in the open, saying, 'I wanted to stay in the Committee but I had to leave because of the wording and it was wrong, I should not have to leave.' I presume if Members are wanting to change it – maybe it is just been an academic discussion, they have sat down and thought look with this Rule, it might have an impact, but I suspect there have been some real examples.

A couple of examples have been brought to SACC's attention and I have to say, in our view, the Rule was absolutely properly applied and our judgement was that the people should have withdrawn in those circumstances. Now maybe you feel we have been too strict, too puritanical that we should be far more 'anything goes' about who can stay in a Committee and discuss things, but that was our opinion. So we did not see a practical need to drive it.

Sir, actually I hope, I do not mind looking at changing these Rules. Just because I was on the Berry committee does not mean that I think it is perfect. But I definitely think the wording as currently drafted, with this bizarre redefinition of 'special' being anything you could derive benefit even if other people could as well, it just has not been thought properly through.

So I hope the States will reject it today, but if they do, I invite Deputy Prow to have another go in three months' time on the proper occasion, when we actually are going to be debating the Rules of Procedure and when an amendment to the Rules of Procedure could be brought forward.

But I close by saying it is entirely a matter of judgement for the States. SACC are not going to go home and cry into their pillows if you decide to redefine any of our Rules. The judgement I think will come from outside this Assembly. I think this is either a liberalisation or if it is exactly as worded here, it is an absolute absurdity that will not work at all and will lead to more people having to leave Committee rooms than do at the moment.

*Vote on motion under Rule 24(6):*

*Not carried – Pour 8, Contre 27, Ne vote pas 0, Absent 5*

**POUR**

Deputy Langlois  
Deputy de Sausmarez  
Deputy Roffey  
Deputy Brehaut  
Deputy Tooley  
Deputy Le Clerc  
Deputy Dorey  
Deputy Le Tocq

**CONTRE**

Deputy Brouard  
Deputy Dudley-Owen  
Deputy Yerby  
Deputy De Lisle  
Deputy Soulsby  
Deputy Prow  
Deputy Ferbrache  
Deputy Kuttelwascher  
Deputy Tindall  
Deputy Gollop  
Deputy Parkinson  
Deputy Lester Queripel  
Deputy Mooney  
Deputy Trott  
Deputy Le Pelley  
Deputy Merrett  
Deputy St Pier  
Deputy Stephens  
Deputy Meerveld  
Deputy Fallaize  
Deputy Inder  
Deputy Lowe  
Deputy Smithies  
Deputy Hansmann Rouxel  
Deputy Graham  
Deputy Green  
Deputy Paint

**NE VOTE PAS**

None

**ABSENT**

Deputy Oliver  
Alderney Rep. Jean  
Alderney Rep. McKinley  
Deputy Leadbeater  
Deputy Laurie Queripel

**The Deputy Bailiff:** Members of the States, the voting in respect of the motion moved by Deputy pursuant to Rule 24(6) was there voted Pour 8, Contre 27, and that is why the motion was declared lost.

Deputy Le Tocq.

**Deputy Le Tocq:** Thank you, sir. I will be brief.

I voted Pour for not debating this now because like Deputy Roffey perhaps and a few others I feel discipline about focussing on what is in front of us is pretty poor.

That said, now we are debating it. I have huge sympathy with the proposers of this. However, I do not think that the wording of this amendment clears that up to any great degree and that is why I think this needs to be taken more seriously off-line and if they can come up with better wording because all I think this does is replace one misinterpreted ... or wording that is open to misinterpretation either too strictly or too loosely by another set that is open to interpretation. So for us as effectively a committee of 40 or 38 or however many are left in here to decide upon that in this instance, when in fact the policy letter is to do with something totally different, in my mind is just undisciplined and inappropriate and does not do anything for good governance.

**The Deputy Bailiff:** Deputy Parkinson.

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

I rise in response to Deputy Roffey's speech. He asked for examples where the existing Rules give rise to problems and I can give him one from my own practical experience.

I am *ex-officio* one of two Members of the States that holds a share in Aurigny and in Guernsey Electricity, and it has been suggested to me on several occasions that because I am a shareholder in Aurigny and Guernsey Electricity that I have a special interest and should not participate in decisions relating to those entities. Now, in fact my economic interest in Aurigny and Guernsey Electricity is exactly the same as that of every other Member of this Assembly and indeed of every individual resident in Guernsey, but this has been a practical problem in that there have been

discussions at Committee level about whether I should be able to participate in decisions relating to those entities.

I therefore would actually welcome this amendment because it says 'an interest from which a Member could derive benefit'. Well that would make it very clear that this was not a 'special interest'. I cannot derive any benefit from the share I hold in Aurigny and Guernsey Electricity and which incidentally I will be very pleased to pass on to Deputy Ferbrache later today, but that will give him the same problem. He will, in the view of some Members, have a special interest in Aurigny and Guernsey Electricity and should not therefore participate in decisions relating to them.

**Deputy Roffey:** Can I ask whether the President of STSB did actually withdraw or did he use his judgement to decide that he did not have a special interest?

**The Deputy Bailiff:** Just a minute, Deputy Roffey, you cannot ask Deputy Parkinson anything unless you stand up –

**Deputy Roffey:** I am sorry, I was asking him to give way, and I thought he was and I –

**Deputy Parkinson:** Sir, I will give way.

**The Deputy Bailiff:** I think you have probably got what has already been said – *(Laughter)*

**Deputy Roffey:** I thank Deputy Parkinson for giving way.

I will be fascinated, sir, to know whether or not, or how he used his judgement in that respect and whether he participated in those debates or not.

**Deputy Parkinson:** Well, I can give the practical observation that on the Air Transport Licensing policy letter which will be coming to this Assembly in a couple of weeks' time I have withdrawn from Committee discussion on the Resolutions in that policy letter to avoid any appearance of a conflict of interest. More I think because the public might suspect that I would have a previous position either in favour or against Aurigny because of my relationship with them, than because of the technicality that I am a shareholder in Aurigny but nevertheless the issue of that technicality has been raised. Therefore I would welcome this kind of clarification because this should not happen, it is absurd that somebody who *ex officio* holds a nominee shareholding, a nominee means in name only should be in any way considered to be conflicted.

So on the face of it I am going to support this amendment, because it would give some clarification to a situation that I am personally aware of.

Thank you.

**The Deputy Bailiff:** Deputy Inder.

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

It is interesting that there are some very odd things that happen in how our Government is formed. Deputy Roffey has clearly got some knowledge of how we got to this point, he has mentioned people that I do not even remember, he has been around the States so long.

I am wondering how he could square the fact that when we look to form our Committees and our non-States' members, how we actively go looking for people as non-States' members with a knowledge or a special interest, but people as elected Members who might have similar knowledge or similar interests are basically precluded or seem to be precluded from meetings. It just seems very strange indeed. We actively go looking for people, for non-States' members, with specialist skills and specialist knowledge but it seems that us as elected representatives, who some have got the same voting powers, STSB being an example, somehow we are seen as dirty.



If you want an example of where 'special interest' might be used, I can give an example for myself: when I joined SACC, it was suggested to me that I had a special interest in something that was, I think it was item 7, and item 7 was the letter to SACC asking their views on the forthcoming requête, which was hugely successful. It was my requête that reduced the salary of the presidency of the SACC and it was successful in that everyone agreed with it but no one actually voted for it.

But in that instance, I got a call from Deputy Dorey out of the blue so I do not actually know at this point when Deputy Dorey sat with all of the Members to have this discussion, but I got a call from Deputy Dorey and he used the word 'marginally'. He called me at home and he said, 'Neil, you are presenting a requête. Quite clearly, Deputy Roffey will have a special interest inasmuch as he could benefit from being in a room when SACC was supposed to give a response to the requête.' So Deputy Roffey was quite clearly precluded because he could have potentially had a benefit, but there was a suggestion from Deputy Dorey – and I do not know how many people from SACC had discussed it – that there was a marginal thought that I might have some kind of special interest. The fact that I would not have even been in the Island, it was my first meeting – I was actually on holiday, the first holiday in many years for the family. There was a suggestion by Deputy Dorey, which I assume came from other Members of SACC, that I had a special interest. I was not even allowed to see the item for the response to the requête.

Now, I agreed with it, and we put the phone down, and then I thought about it again and I thought, 'What a load of nonsense! I am not even going to be in the room, I will not even be on the Island, I will not have a chance to vote on it'. So I wrote back to him and told him effectively, 'I have changed my mind, please send me item 7.' So there is an example of where I think the 'special interest' is so damn wide that it gets to the point of ridiculousness.

Thank you.

**The Deputy Bailiff:** Deputy Langlois.

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

This amendment at first sight looks quite succinct and elegant, but I think that it is *too* succinct. It is simply not comprehensive enough. To be comprehensive it would have to say, 'could derive benefit or suffer loss', to cover that, and suddenly it becomes less elegant and in fact rather clumsy because rather than having to decide what one means by 'special interest', as Deputy Roffey was describing, one would have to decide what one meant by 'benefit' and 'loss' and that actually would be a more complicated discussion.

To have an interest in something has two main meanings: you can mean 'interested in', as in 'I am interested in some object or some service' and because I am interested it implies that one has some kind of knowledge of it and that one could bring that knowledge to a debate. The other meaning of 'to have an interest in' is to have a stake in something, which is obviously what ... this Rule at the moment is trying to prohibit people participating in a debate on it if they have a stake in something. To me that seems quite clear and the use of the words, 'special or direct interest,' seems to me quite happily to define the type of interest one is talking about. There might be other ways of expressing it and if we are going to have this discussion about the Rules in a few months' time, it might be something SACC could think about. But in the meantime, just to use the words 'could derive benefit' without 'or suffer loss' is a classic bit of making policy, or in this case making Rules, on the hoof, and we will be regretting it fairly soon, I would have thought.

So I will not be supporting the amendment and I trust other Members of the States will not either for those reasons.

Thank you.

**The Deputy Bailiff:** Deputy Gollop.

**Deputy Gollop:** Increasingly, I am the kind of Member who will vote for change just because it is a change and that at least will bring back a whole new set of concerns, because clearly the

940 current Committee Rule on special interests, as SACC diligently interprets or rather has, that applies to the other Committees of the States, is not really working.

One of the issues that I have come across is that it is interpreted differently by different Chief Officers. Some, perhaps the older hands of the game, are stricter than some of the others. I can think of one officer who would not allow a Member to sit in a Committee if it was felt that they  
945 had a political interest in the subject; that political interest would be sitting on a different Committee where you had a different role.

On the other hand, I could think of other Committee senior officers that have been surprisingly liberal in their interpretation of the Rule and I have almost raised my eyebrows on occasions, but there you go. And, of course, ultimately it is not really the officers' decision; it is the Committee's  
950 decision and in some cases we have a President or Members who are very alert to the potential of these concerns, in other cases less so. So you have an element of confusion.

I certainly remember the great era of Roger Berry being our great political leader in many areas, as a Deputy Conseiller, and certainly his Rules of Procedure Committee, which evolved into the House Committee, which then morphed into SACC, set the ground rules quite clearly. But of  
955 course it was in a different era. In that era we had 57 Members in the Assembly, we had fewer perhaps full-time professional politicians and more people who did part-time work, who were really business men or women, growers, farmers, hoteliers, whatever. I think the Rule was clearly done to stop somebody who was pretty close to their line of business from having a direct vote.

I remember, when I used to sit in the public galleries there – I fell asleep once, but that was a difficult period! – I remember quite well, really, when the States had a completely different sense  
960 of perspective than today. It was at the other extreme wing perhaps of the plane, because in the those days the States was quite happy to elect a leading estate agent to run housing, a leading property lawyer to run planning, a leading hotelier to run tourism, and so on. And it was done on the basis that ... There certainly was not any implication of any vested interests. It was done on the  
965 basis that those gentlemen, in that case, knew what they were talking about and would bring something to the table.

This is I think the crux of the matter because we all here, for only one reason, stood as candidates and the electorate in our districts selected us. Now, in many cases that selection was based upon a mixture of policies and awareness of the candidate. Often the candidate's special  
970 interests were a factor in their success to the Assembly. It is also therefore a factor as to why they are eligible and are often chosen to sit on particular committees or departments. But then of course we get to the point of 'when is an interest a special interest?' because, as Deputy Langlois has already speculated, an interests could be a hobby or a specialism, or a specialist subject or an area where the person had once worked in but had moved on or retired. That is one issue.

Then you have the whole realm of being the member of a committee or fundraiser in a charitable body, which could be quite close to the subject matter. Then you have the situation where somebody is a former civil servant or employee of a department which they now sit on and therefore have some knowledge of the start which goes beyond the merely political. Then of  
975 course you have the difficulties of people having not just spouses, but partners or relatives in one way or another in a particular sphere.

We do need, I think, a greater degree of clarity. I will give you an example of one anomaly that is beginning to exist. For example, in the context of setting charges or tax rates, some Members of this House are in the fortunate position of potentially being able to save more tax in monetary  
980 terms than others, either because they come within a particular category of personal allowances or whatever, or because they are financially more successful than others. Does that give them a special interest or not?

I think the general view at the moment would be it does not, even though clearly a fiscally conservative tax strategy could be in the interests of some Members more than others. On the other hand, I have witnessed situations where Members who have young families are sensitive  
990 about the issue as to whether they receive family allowances or whether they can talk about maternity benefits or paternity benefits or issues of that nature, or legislative changes. Now, in a

way that is a curiosity, because increasingly a minority in our society, especially in this Assembly, have young children but a majority of society are property owners or boat owners – or used to be boat owners, I take that back, but that certainly seemed to be the case at one time.

995 So, if we have a situation where the available pool of talent for committees is predominantly that of a property owner, possibly even of a landlord, but is not predominantly that of a parent or maybe a mother rather than a father, then we have issues. Of course you probably need greater sensitivity to Committee policy guidelines and you also – dare I say it, chairing the DPA? – need more open meetings and a greater transparency of what goes on in Committees. Guernsey is  
1000 certainly a little behind the times, though, compared to many other places.

But I think a first step along this path towards a greater common-sense view of what is an interest or not is to support the Prow/St Pier amendment, even though it may not be perfect and will of course benefit from the legal advice of Her Majesty's Procureur, Her Majesty's Comptroller and other expert parties.

1005 I also think that we need to find a new balance between the obvious dangers and the concerns and risks which are ably pointed out of unfairness in judicial review on the one side and the rights of the public who surely have a choice to elect the politicians they choose. We can all look across at other jurisdictions and possibly be open-mouthed that somebody with extraordinary business interests is given an elected office; but that is ultimately the nature of that democratic system and  
1010 I think, whilst we have candidates from the charitable sector, from the business sector, from all kinds of areas of our community, we need to find the best way of utilising their talents and allowing them the chance to speak, or even vote where appropriate in not only this Chamber, but in Committee meetings too. A situation we saw last year, where it depended perhaps on what schools your children were likely to go to as to whether you had a voice or not on a particular  
1015 policy, I would not like to see it repeated. If people are concerned about the private-public balance then the Assembly is the place to air those concerns.

**The Deputy Bailiff:** Deputy Dorey.

1020 **Deputy Dorey:** Thank you, Mr Deputy Bailiff.

The reason why I brought the motion not to debate it now is, as others have said, SACC have a report coming back to this Assembly, which we think will be in about four months' time, the Assembly will be when we are debating it, and it will cover this particular subject. There will be paragraphs on this particular subject.

1025 I think that as an Assembly we should be discussing a particular item when we have the information in front of us and not trying to jump it by four months – totally unnecessary. It is not something that needs an immediate decision, so I think that it is poor governance for this Assembly to be discussing this at this time.

For that reason, I would urge Members to reject this and wait till we have a proper debate with the information in four months' time. But as we are debating it, I do feel I need to participate.  
1030

I did some research and, as Deputy Roffey mentioned, it was 25 years ago, in January 1993, when 'special interest' was first mentioned in a report about procedures for this Assembly. I will for you from the report – it is a quite yellow report:

The Committee therefore recommends that in addition to the written declaration Members who have a special interest as opposed to an interest of a general nature in the subject matter of any propositions submitted to the States shall declare their interest when they speak on the proposition or, if they do not speak, before a vote is taken.

1035 So it has now been 25 years that that point has been established in relation to this Assembly. That was in relation to debates in this Assembly.

Continuing, it was not until 2002, now 16 years ago, that the Rules for Committee meetings were then changed and it goes on to say:

A Member of a States Committee or Sub-Committee (or whose spouse, or any of whose infant children or any company in which he has a controlling interest on his own or their behalf) has a direct or special interest in the

business under consideration by that Committee or Sub-Committee shall, as soon as practical, declare their interest and withdraw from that Committee or Sub-Committee meeting during consideration of and voting on the matter concerned.

So, I strongly urge Members to consider why, 25 years ago, it was introduced in relation to this Assembly and 16 years ago into Committee meetings and why we still have it today.

1040 If you look back, there were various rumours about States' Members' involvement in various commercial activities and it was necessary for public confidence to bring in such rules. They were not done because somebody just decided, 'Oh, I want to bring this rule in.' It was a reaction to rumours that persisted in relation to various States' Members and it was to ensure that there was public confidence in debates in this Assembly and very importantly, debates which are *in camera*  
1045 in Committee meetings. So, if we are going to change it, I really strongly urge you to think, and it will not happen immediately, but those rumours will start coming back and public confidence will be lost. So, I urge you not to change these Rules.

Let me give you a couple of examples – other people have given examples – one in relation to me: I sit on Environment & Infrastructure, and as I mentioned, my son has recently taken over a  
1050 farm. By the Rules, I do not have a financial or beneficial interest, but I think I have a special interest.

Say we were discussing about – which there is – there is a cycle grant which goes to farmers in relation to the environment. I do not think I should be participating in that, but if we changed the Rules to as been proposed, I would be able to because I would not have a beneficial interest.

1055 Let's look at another one, this purely hypothetical: if a close relation of mine, say, applied for a particular job and was unsuccessful and then I sat on a Committee and that successful person's contract came up for renewal, shall I then be – ?

I will give way.

1060 **Deputy Tooley:** I thank Deputy Dorey for giving way,

I was just wondering in the example he has just given, whether indeed if he would consider he had a *direct* interest?

1065 **Deputy Dorey:** Under the Rules I do not, because it specifically says, 'Spouse or infant children,' and therefore I do not.

If you want to interpret the Rules I would not have an interest, so I can participate in that. I think that would be wrong. I would not. But then somebody in a similar position to me might say in the future, 'Well, I am going to participate,' and they would be able to because if we change the Rules that are proposed today, they will be able to.

1070

**Deputy St Pier:** Sir, a point of correction.

**The Deputy Bailiff:** A point of correction, Deputy St Pier.

1075 **Deputy St Pier:** Sir, in the example which Deputy Dorey has given, by his own admission, under the current Rules, another Member could reach exactly the opposite conclusion which he reached. The changing of the Rules would not change the conclusion to that particular decision. That was a personal choice of his; any other Member would have to make a similar decision.

1080 **The Deputy Bailiff:** Deputy Dorey to continue.

1085 **Deputy Dorey:** I think that I have a special interest and that would be my judgement, and of course, that is the whole thing – the words 'special interest' can be interpreted in any way. But they were introduced, and I think – Deputy Langlois spoke about a stake in it – that when you see a special interest, you know it. It is not the fact that say, Deputy de Sausmarez is interested in travel plans and we were discussing travel plans at E&I. That is not what the Rule is about.

You have to have an intelligent interpretation of it, but if you remove it, then you remove the situation which I have outlined.

1090 Let me just go on to the purely hypothetical one which I was speaking about. If a close relation applies for a particular job and was unsuccessful but another person was then successful, and then I sat on the Committee and that particular person's contract was coming up for renewal, who was successful and was not a relation of mine, but my relation had originally applied, I might say that I have got a special interest in that, and I think I would. But under these Rules, I do not have a financial beneficial interest, so I would be able to stay. I might feel aggrieved that this close  
1095 relation of mine did not get the job, but I would be able participate in whether the person who was successful gets a renewal of contract.

The existing 'special interest' gives that interpretation that allows me not to participate, and that is, I think, very important. It has been there for a very long time, and there are very good reasons. I urge you to think very carefully before you think about changing it.

1100 If we can find better words to clarify it, we will. We have looked at it at States Assembly & Constitution Committee, and perhaps as a reaction to this debate we will re-look at it. It is extremely difficult to define it, but when you see it, you know it.

Deputy Inder spoke about the situation which I have to reply to. I was, as the States Assembly & Constitution Committee did not have a Vice-President, because it was in between ... Deputy  
1105 Peter Roffey had just been elected President and we had not had a meeting to elect the Deputy President. The staff member then contacted me, as I was the most senior member of the Committee by service in the Assembly, and they alerted me that there was possibly a special interest. I thought it was marginal. I thought I will speak to Deputy Inder, which I did. I said to him, 'There is the situation, it is marginal,' and he agreed he had an interest, so at that point, I went  
1110 back to the officer and said that. He then came back to me afterwards and said, I don't think I have.' So I said it was marginal and 'Okay, I am happy for you to have the papers', but where I have been on Committees before, if a Member has a separate proposition which is in relation to that Committee's mandate, the Committee's view on that, it would not be normal to discuss it with the person who is proposing the alternative proposition. That is just perhaps normal decency.

1115 But the fact that Deputy Inder was going to be at the meeting or not at the meeting was not the matter of concern at that point, because if you follow the Rules, the papers in relation to that item should not be sent out so it was at that point that the member of staff contacted me.

So I will conclude by just asking Members to reject this amendment. If you want to change it, the right time to have this debate is in four months' time when the States' Assembly &  
1120 Constitution Committee bring their review of the Rules, and there will be some paragraphs on this particular Rule.

But if you do not agree that and you want to do it today, I urge you to think very strongly about why 25 years ago we introduced these words into debates in this Assembly; 16 years ago into debates in Committee; and think very carefully what the effect will be on the public  
1125 confidence of this Assembly and Committee meetings if we change it.

Thank you.

**A Member:** Hear, hear.

1130 **The Deputy Bailiff:** Deputy Tooley.

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

I voted against debating this today, not because I do not think that there is a need for resolution of this matter, but because it comes here when there is already a clearly signposted  
1135 right time for the debate. Had there not been, I might have felt differently.

I do have much sympathy with the reasoning behind the amendment. We do need not liberalisation of this Rule, but a clearer definition of what it is and how it should be applied.

Yes, we are all capable of exercising our own judgement, but often we are instructed that we do or do not have an interest. In this very Chamber, Members have been required to declare that they are in receipt of Family Allowance, because for some this could be interpreted as a special interest. For others, that is *not* interpreted as a special interest.

I have too a story not unlike that of Deputy Inder. I was excluded from all discussion at HSC about the future of secondary education in the lead-up to the debate. I saw no papers, I heard no discussion, and I read no minutes, because it was perceived that I held a special interest. I willingly complied. Like Deputy Parkinson, I had no intention of allowing any perception of potential wrong-doing. But in that case, my special interest can only really be described as having had a particularly strong feeling in the issue which has led me to seek to amend what was proposed. Is that a special interest?

I am not claiming that my judgement is always perfect, but I do not think it is entirely lacking either, and I still do not really know the answer to that question. I know, from talking to lots of other people in this room, that there is no clear black-and-white opinion in this room as to whether I have a special interest or not. In fact I would say the room is almost a fifty ... No, no, but other people – I am responding to people shaking their heads and nodding their heads, in the room with me right now, about whether or not that was a special interest!

I made the decision that from a public perception point of view, it was absolutely right that I stepped back from the discussion, as Deputy Parkinson has done over Aurigny. But while we have this question mark over what is and is not ‘special interest’ in these cases, there does need to be a clear definition placed. There needs to be a commonly accepted description. We cannot have as situation where we are reliant on the good nature of Deputies such as Deputy Dorey, who would exclude himself from discussion, but lay ourselves open to the possibility of a Deputy Willoughby-Smith-Jones-Duprez – I am trying to go for something that cannot possibly ever have been at any point in history! – (*Interjection and laughter*) that they do not have an interest in something. We cannot lay ourselves in this position where it is very difficult to know whether people are acting for the best or for their own best, all within the Rules.

But I will vote against this amendment, because I do not think it is the *right* solution. Unlike Deputy Gollop, I do not think it is worth changing it to something which is equally wrong.

Let’s have this discussion. Let’s have a proper definition of what is a special interest. Let’s have it include, as Deputy Langlois says, not just things that might benefit you, but things that might disbenefit the individual. Let’s have it done properly. Let’s have a change to this. But yes, let’s have it properly, let’s have it done at the right time, and let’s all have something that we can agree and sign up to as correct.

Thank you, sir.

**The Deputy Bailiff:** Deputy Yerby.

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

Until Deputy Roffey’s speech, I had been intending to support this amendment, not because I thought it changed anything, but in fact because I thought it brought some comfort to those who were concerned with the current wording, without materially changing the situation which I do not think is particularly wrong, for reasons others have outlined.

When Deputy Roffey spoke and pointed out that the definition changes it from a special interest to a benefit which could be a benefit that all of us enjoy, it made me realise that the wording of this amendment is far too loose, and if it is passed today, then I am sure that in perhaps the next policy letter we will see an attempt to re-open this debate with an alternative form of wording that is more viable.

Similarly, Deputy Roffey pointed out that it does not resolve the Committee situation which has always been at the heart of concerns about the reference to special interest and I think that that is something that we need to see addressed directly, so this is a sticking plaster on a wound for those who are concerned about that.

1190 Finally, it is not necessary particularly, I don't think, contrary to what Deputy Langlois says, to specify benefit or loss in the definition – so long as one realises that any decision that a person is making, if decided one way, could benefit them and if decided the other way, could result in a loss.

1195 So Members taking the position, for example, that it was wrong that they were not permitted to participate and debate on a certain item because actually it was ultimately going to result in a situation more detrimental to them, is by the by. Had Members been in the room, they could very well have made the decision in the opposite direction. So any debate that could lead to a benefit is a debate that could also lead to a loss. But it is wrong for us ourselves to think that, well, since I am going to decide in a way that is to my detriment, I should be entitled to be part of this conversation. That is immaterial because you could just as equally decide in a way that is to your benefit.

1200 Finally, in response to a point made by Deputy Gollop, I would have no problem with an experienced property lawyer heading up Planning. I would just have a problem if he or she were also in practice at the same time and was benefiting from the decisions that she was making. This Assembly is very well placed to use people's skills, and to put skilled and experienced people into jobs where they can be effective without them falling foul of special interests. That is not a difficult conflict to manage and I think we can do it perfectly adequately within the current rules.

**The Deputy Bailiff:** Deputy Fallaize.

1210 **Deputy Fallaize:** Thank you, sir.

There are two issues here. One is whether the current Rules require amendment; and the second is if they do require amendment, does Deputy Prow's amendment amend them in the right way? My answer to both questions is no, and I will explain why.

1215 First of all, do the current Rules require amendment? This is a question of what standards the States wish to set in relation to integrity and probity for States' Members and States' Committees. This is a small community. We are amateur politicians, in the sense that we are not people who have been party researchers 30 years ago and have worked our way up through a party system – maybe there are some people in Deputy Meerveld's organisation who, in a few years' time will be in that position, but at the moment, that is not the position of States' Members. So in a sense, candidates are walking in off the street onto the ballot paper and then are elected to the States.

1220 In a small community, with politicians who find themselves in politics that way, it is inevitable that many of them will have very close links to other areas of Island life, including business. Now, that is not a bad thing. In fact, it is a very good thing – it is healthy – but it creates a certain set of conditions in our parliament in a small community which are perhaps less likely to be relevant in larger jurisdictions.

1225 We are operating in an era where scrutiny – public scrutiny and scrutiny of the media – has greatly increased. So without wishing to suggest that there was anything untoward done previously, theoretically it is true to say that what a States' Committee might have been able to get away with, without anybody finding out, a few decades ago, would be much harder today. That is also a good thing, but we have to take it into account, when debating this type of issue.

1230 Compliance has generally become much more prominent and more people care about it more than they previously did. I think these are not the circumstances and this is not the time to liberalise Rules designed to prevent actual or perceived conflicts of interest. I think Deputy Dorey asks a very relevant question: why in 2018 would the States wish to liberalise Rules around conflicts of interest which the States of 1993 felt it necessary to introduce, when in the intervening period scrutiny has increased, focus on compliance has increased and the need to demonstrate probity and integrity has increased?

1235 Now, I know it is frustrating for a Member who is very interested in a matter to find themselves removed or excluded from a committee meeting, where that item is being discussed. I have felt that myself. In the role I hold now, I am very interested in the subject of States' grants to the

grant-maintained colleges. I am very interested at a policy level in it, but I have had to exclude myself from the Committee's consideration of the issue – not because I am about to send my son to Elizabeth College, because despite what is said on some ill-informed social media forums on that subject, I am *not* about to do that, and he will continue to be educated in the States' sector – but because my wife is employed at Elizabeth College, and therefore has ... Even then it would be a fairly peripheral interest. I do not think that her wages, or our family income, is going to be affected much by small changes in the grant paid by the States to Elizabeth College. Nevertheless, there is an interest clearly, under the way the Rules are currently drawn, and so I have to exclude myself from consideration of that subject.

That is inconvenient to me, but the point is that the convenience of the individual Member is not the main point here. It is clearly ... I know the case that Deputy Prow has particularly been aggrieved by, because he brought it to the States' Assembly and Constitution Committee when I was a Member of that Committee, and I understand why he has been inconvenienced and annoyed by ... I will give way in a moment, Deputy Prow, but I just want to finish this point. I understand why he has been aggrieved at having been excluded from that. Deputy Meerveld, who was much more public about his grievance, having been excluded from debate when he was on Education, Sport and Culture, on funding of the grant-aided colleges – I understand why they wish that those Rules did not exist. I understand why they wanted to contribute to the discussions which they were interested in. But that is not the point. I would much rather have a Member occasionally inconvenienced or aggrieved by having been excluded than I would have them in the room with the inevitable increase in suspicion of conflicts of interest having influenced their judgement which would inevitably arise if these Rules were liberalised.

I will be happy to give way to Deputy Prow.

**Deputy Prow:** I thank Deputy Fallaize for giving way.

Please can I just correct the point that he had made.

I was very grateful to be invited to a SACC meeting but my objection is around the interpretation. It is nothing to do with me feeling inconvenienced or any other Deputy feeling inconvenienced. It is about being held to account on a Rule which is ill-defined and unsatisfactory.

I made that point clear when I was at SACC, and in correspondence that I have had with SACC we have been careful not to mention individual Deputies' positions. It is about pointing out to SACC about the lack of definition and being held to account on the Code of Conduct, which is part of the paper before us today, and against an ambiguous definition.

Thank you, sir.

**Deputy Fallaize:** Yes, I accept that Deputy Prow's concern here is his perception that the current wording is insufficiently clear. He made that clear to the Committee from the first moment he engaged with the Committee, but I think he would agree with me – because he raised his own example initially in discussion with me – that his attention was drawn to what he now perceives as his ambiguity by a particular set of circumstances where he was considered to have a conflict of interest on the Committee for Home Affairs.

I am not passing any comment on whether he did or whether he did not, but the point is that if a Member feels aggrieved that they have been excluded – or indeed if any Member feels that the current wording is less clear than they would like – that is a consideration, but in my view it is not the central consideration. The most important consideration is that we uphold the highest standards of probity and integrity throughout Government and that we do not allow the perception to be created that there have been actual or perceived conflicts of interest which have unduly influenced how a Member has contributed to a discussion or cast a vote in private.

I do think that there is a significant difference between acting in private and acting in public. It is one thing for a Member to declare an interest in the Assembly which is broadcast and is clearly a matter of public record and then to go on to contribute to the discussion and vote; it is quite another for a Member to say ... The equivalent would be to say in private, in a Committee



meeting, 'Look, I have a conflict of interest here. No one outside this room is going to know about it, but I am going to remain in the room. I will contribute to the discussion and I will cast a vote. The minutes will never be published and the record of the meeting will never be published.' There is a fundamental difference between those two things and the extent to which they are capable of undermining the integrity of the States and Committees.

Now, it has been suggested that Committee members who have particular knowledge or expertise in a subject area are required by the current Rules not to participate in discussion in that area. Now, this is simply not true. Knowledge does not require exclusion from meetings under the terms of the Rules. Deputy St Pier would qualify as an accountant, I think. If there are matters – and I presume he does not have any business interests in that area any longer, but if he does not – if there is a matter before a States' Committee of which he is a member which relates to the profession of accountancy, he does not need to exclude himself, even though he has more knowledge about it than most of the rest of us would have.

I do not know if Deputy Inder is still involved in a taxiing, PSV business, but if he is not – and he used to be – and he is sitting on a Committee where there are policy matters arising in relation to PSV licences, he does not need to exclude himself simply because he has more knowledge about that than the rest of us.

Deputy Paint, who has more knowledge than the rest of us put together in relation to some maritime and port issues, does not need to exclude himself from Committee meetings where those issues are being discussed simply because he has that knowledge. If he had business interests in that area, he would have to exclude himself. But he does not need to simply because he has knowledge.

I will give way to Deputy Gollop.

**Deputy Gollop:** I will give a scenario which is an intriguing one: supposing I was not conflicted any more by being a member of the DPA and I was lucky enough to sit on Deputy Brehaut's Environment & Infrastructure Committee, and Policy & Resources severely cut back their budget so the bad news is we have to make a decision hypothetically of axing half the bus routes and doubling or trebling the fare. Now, there are five members on the Committee, three of them are motorists, one of whom is an able cyclist and myself, who is more reliant on the buses, arguably, than the other four members. Do I have a special interest in deciding whether the taxpayers' grant survives or not? Clearly I am in a minority of non-motorists in this Chamber, and I am also in a minority of benefiting disproportionately, arguably, from that particular policy that the States collectively chooses to endorse.

**Deputy Fallaize:** I do not think I can give way without saying some more words, but I have just said some, so I can give way to Deputy Dorey. *(Laughter)*

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

I was just concerned that what I said might have been slightly misinterpreted by something you said earlier. The text I read from 1993 was from the Report. The actual Rule change proposed in 1993 was: 'a Member with a direct or special financial interest in the subject matter'. So the actual text, which we did not refer to – 'a special financial interest'; just a 'special interest' – was slightly different from what was actually the Rule change. Just to make sure that was clear.

**Deputy Fallaize:** There is an example of someone upholding the highest standards of integrity in not wanting to be misled, and I am sorry if I misinterpreted what Deputy Dorey had said earlier.

To go back to Deputy Gollop's point, I do not wish to be disrespectful to Deputy Gollop, but the very fact that he has to ask this question sort of goes to the heart of what I think actually is the problem here, which is not the wording of the Rule, but the need for Members to apply the Rule in an intelligent way.

1345 *Clearly* Deputy Gollop is not excluded simply because he has a particular interest – I am not giving way at the moment – in one area of transport policy. That would be a nonsense to have a situation where any politician who holds particularly strong opinions in any area of policy inevitably excludes themselves from contribution in that area of policy. We are not in the business here of trying to create some kind of technocracy *par excellence*.

1350 **A Member:** Yes you are!

**Deputy Fallaize:** This is a Government, and Members who hold strong opinions in areas of policy are desirable. In fact that is what politicians are *meant* to do, believe it or not! (**A Member:** Hear, hear.) So Deputy Gollop would not be excluded.

1355 I hold strong opinions about comprehensive education and I am not excluded from shaping policy in that area. Deputy de Sausmarez occasionally holds opinions about road transport matters, and she is not excluded from contributing to discussion in Committee in that area.

1360 The Rules do not exclude Members who have knowledge of a particular area. They exclude Members who have special interests – and I will now give way to Deputy Dudley-Owen.

**Deputy Dudley-Owen:** I am very grateful to Deputy Fallaize for giving way to me, thank you very much.

1365 Deputy Fallaize mentioned that Members must intelligently apply their judgement in these matters; but I think the point is that it is taken out of the Members' hands in Committee. It is taken out of the hands of the Members: it is put to the Chief Secretary who in my experience has then put it to the Law Officers to opine on, and then the advice – it completely goes out of the Members' hands to be able to give that intelligent application.

1370 So that is incorrect in my experience and the experience that I have heard of from others, that that is what can happen.

**Deputy Fallaize:** Sir, that is just incorrect. It is a matter for the Committee. Under the Rules of Procedure, it is a matter for the Committee to determine whether there is a special interest, and the Committee constitutionally is defined as the elected Members of the Committee.

1375 Now, this brings me on to another point I was going to make. Yes it is true that there are occasions when the advice of the Law Officers is sought about whether there is such an interest, and the Member concerned is aggrieved that the advice of the Law Officers is that that person should be excluded. But the advice of the Law Officers is *advice*. Funnily enough, it is not handed down on tablets of stone.

1380 It is no good, if a Member says, 'I went to the Law Officers for some advice. The Law Officers gave me some advice. I did not agree with their advice, but I decided to abide by it anyway, and now I am very aggrieved about this.' I am afraid the beef is with the Member. It is not with the Rules.

1385 There are occasions – I will give way in a moment, twice – when the Law Officers give advice which is not infallible. I know there are occasions when Members ... and I do not think the Law Officers would dispute that! They have a very difficult task, because there are all sorts of circumstances in which conflicts of interest may arise, and they have a very difficult task, often in reaching quite marginal judgements about whether the Rules engage any particular conflict of interest and they do their best, using their expertise and experience, to offer advice. But it is only *advice*. The decision about whether to exclude a Member on the grounds of interest is a matter for the Committee concerned.

1390 I will give way to Deputy Inder.

1395 **Deputy Inder:** Deputy Fallaize ... It is a bit strange. I come from an advertising background, I come from a marketing background, I come from a web firm background. If I am given advice on something, which has been effectively escalated up to people a lot brighter than me in certain

1400 areas, like Comptrollers and various other people up there ... You talk about probity and integrity. You are making the argument that the Law Officer advice is only advice. Now, if I went against the Law Officer advice, as a web developer, as an advertising man, and if that decision I made was questioned, how on Earth would that look in the public domain? 'The Law Officer has told you left, Neil, and you went right!'

'Oh well, I always go right!'

1405 It just would not look right. So in terms of the integrity and the probity that you talk so much about, it is not right for me – through you, sir – to on what is effectively a fairly small area, and it is a judgement call, there is no way on Earth that someone with my background is going to ignore the advice of the Law Officers.

**Deputy Fallaize:** Well, I do not agree with Deputy Inder about that.

1410 You could say you have people who are senior officers serving States' Committees, professionals who have years of experience in their area: weekly, they are advising Committees. Is Deputy Inder going to say, 'Well, in that case, me as a lay person, I really cannot challenge that advice. I must follow that advice'?

**Deputy Inder:** Of course not!

1415 **The Deputy Bailiff:** Deputy Inder, you are not allowed to interrupt another Member when they are speaking. Deputy Fallaize, please continue.

1420 **Deputy Fallaize:** Elected politicians who are lay people are faced daily with circumstances where they are receiving advice from professionals, but they still have an obligation to weigh that advice and sometimes there is different advice from different officers which conflicts. That is fine. That is quite healthy actually. But it is ultimately up to the Member to weigh up the advice and to reach a judgement, and I am afraid you cannot get out of the need to reach your own judgement by subcontracting your decision to somebody else. Whether the person is a Law Officer or a Chief Secretary or the Bailiff (**A Member:** Consultant.) or a consultant or anybody else. What is amusing in some respects here is that some of the Members who rail most of all against these Rules and say they feel pushed into a corner because of the advice of the Law Officers, are the very Members who are most frequently telling the public, 'We stand up to the advisers because we are the elected politicians and we will make the judgements! And it is not up to the officers and it is not up to the Law Officers, it is up to us as the politicians.' Well, why are they reluctant to make their own judgements in this area?

I will give way to Deputy Prow.

1435 **Deputy Prow:** I thank Deputy Fallaize for giving way.

I must go back to the point he made around section 49. It is quite clear under 49(1) that it is the Members' responsibility, which is part of the point that he is making.

1440 But it also gives a Rule under 49(4)(a) where if the Chief Secretary believes that there is a special interest, that Member does not get the papers. So I appreciate that you have moved on in your speech, but I think that needs to be clarified.

There is a question whether the Member has no opportunity to weigh up whether they have a special interest or not, and my major point is about the fact that we are held to account against a set of rules that are ambiguous.

1445 Thank you, sir.

**Deputy Fallaize:** Well, sir, I do not have the Rule Book in front of me, but I am not sure that Deputy Prow's interpretation of that is correct. Deputy Roffey is shaking his head, so I will give way to Deputy Roffey.

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**Deputy Roffey:** Sir, I think Deputy Prow referred to Rule 49(4)(a), which says:

when an interest *has been declared* pursuant to paragraph (1) of this Rule, [then] the officer of the Committee concerned

shall not despatch the agenda papers. But that is predicated on the individual having made the judgement and having declared the interest, so it cannot be done automatically.

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**Deputy Fallaize:** I thank Deputy Roffey. Some Members say that is not how it happened. Well, my view is: instruct your Chief Secretary, then, that that is how it should happen. Make a policy inside the Committee that if the Chief Secretary believes there is an interest engaged, the Chief Secretary must first of all consult with the most senior Member of the Committee for whom the interest does not apply.

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That is the answer! Do not just assume, 'Well, that is the judgement the Chief Secretary has made and I am not happy with that.'

I will give way once more, to Deputy St Pier.

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**Deputy St Pier:** Sir, that provision is already in the Rules: that is precisely what is provided for.

**Deputy Fallaize:** Right, exactly, so we ought not to blame officers or blame the Law Officers for the judgements they are reaching or the actions they are taking when it is entirely in the hands of the elected Committee to determine what should happen in this area. (**Several Members:** Hear, hear.)

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Now, Deputy Inder gave an example in relation to his membership of the States' Assembly and Constitution Committee, where there seemed to be some discussion about whether he should be excluded from debate in that Committee –

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**Deputy Inder:** Yes, I was not in that discussion.

**Deputy Fallaize:** – on I think his requête on the remuneration of the President of that Committee. Well, that has nothing to do with special interest. I will come on to that in a moment. That has nothing to do with special interest; that has to do with common sense.

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If I am laying a requête on ... I don't know, higher education – in fact this did happen, when I was first elected to the States. I was laying a requête to scrap the agreement of the States to introduce a student loan scheme and go back to student grants.

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I excluded myself from the Education Committee's consideration of my requête. They were required to produce a letter of comment to my requête. I excluded myself, because I said, well this is a nonsense, because I am the lead signatory of the requête and what the States want is some kind of objective and impartial advice from the Committee on my requête. Deputy St Pier, I think, did the same when he brought his motion in relation to assisted dying. He did not influence the letter of comment that was produced by the Policy & Resources Committee. That is not because he had a special interest in the matter. It is simply because if he had influenced that –

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**Deputy St Pier:** Sir, point of correction.

**The Deputy Bailiff:** Point of correction, Deputy St Pier.

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**Deputy St Pier:** Sir, Deputies Trott and I excluded ourselves because we had a direct interest in the matter under discussion in the Committee.

**Deputy Fallaize:** So, is Deputy St Pier saying that if the Rules are amended in the way that he Prow/St Pier amendment envisages, he would not have excluded himself from the Policy & Resources Committee's consideration of his own motion?

1500 **Deputy St Pier:** Sir, I am grateful for Deputy Fallaize giving way.  
If the Rules had existed in this form, we would of course have excluded ourselves.

**Deputy Fallaize:** Exactly! So you are left with exactly the same set of circumstances under the kind of example that Deputy Inder gave: where a Member is bringing a motion to the States which  
1505 relates to an issue under a Committee on which that Member sits, and that Committee has to produce a letter of comment, of course it is sensible for that Member to exclude himself or herself from the Committee's consideration of the matter; otherwise the States are not going to receive from that Committee, or risk not receiving from that Committee, the kind of reasonably objective and impartial advice on policy grounds that the States require. But that is not an issue of special  
1510 interest or an issue of probity or integrity. It is simply common sense.

Now, Deputy Inder says, 'Well, look, that is what happened.' I accept that. He is relaying that he was advised that there may be a special interest. Well, I think that advice was wrong, and so did he, and he challenged it and he got the papers! So, actually, the Rule never bit in the example he gave. So you cannot use that as an example and say, 'The Rules are somehow flawed because of  
1515 my example,' as he says, because actually he received the papers and he was able to contribute to the discussion on that item.

So that was a false example to give. In fact it was an example which demonstrates that the Rules *work*, if anything.

Deputy Tooley's example: she was excluded from an HSC discussion about the future of  
1520 secondary education – I don't quite know why HSC was discussing the future of secondary education (*Laughter*) but if they haven't got enough work to do, I am happy to give them some other items they might want to consider!

I do not have any idea why Deputy Tooley was excluded from that kind of discussion. I am sure she got the wrong end of the stick, because Deputy Soulsby would have intervened and ensure  
1525 that such nonsense did not happen. So I do not know what has gone on in that particular example, but I feel absolutely certain that Deputy Tooley's holding strong opinions in the area of secondary education should not exclude her from consideration of any matter which could legitimately come before the Committee for Health & Social Care. She definitely would not be excluded on the grounds of the Rules as they exist.

1530 So I do not think – if it was not clear already – that there is any reason to change the Rules as they are currently drawn.

But the second issue, about which I will not spend anywhere near as much time, is even if there is a case for changing the Rules, is the Prow/St Pier amendment the correct way to do it? Well, obviously it is not. It is quite poorly drawn and the amendment does nothing to remove the  
1535 'inexactitude', to use Deputy Roffey's word, because in the implementation of this Rule, there would continue to be the need for judgement. There would continue to be a grey area, and I am afraid it is going to require the judgement of Members and Committees to resolve those grey areas, those marginal areas, irrespective of the wording which is adopted.

The actual effect, as has been pointed out by Deputy Roffey, Deputy Yerby and others, is that  
1540 the effect of this amendment is that it liberalises conflict of interest Rules in some areas, and it makes them more restrictive in other areas, where there are general interests, which at the moment do not bite on Members.

So I think the amendment is quite confused. If the current wording is insufficiently clear for Members, the amendment if it is passed, if anything, will create wording which is even less clear.

1545 In conclusion, I have a suggestion for SACC – I am full of good suggestions for SACC, now that I am no longer on the Committee. I think what is needed here, and I have been thinking about this, listening to the debate, what some Members are saying is, 'We want greater clarity so that we

understand whether a particular set of circumstances engages the conflict of interest Rules.' Well, that is just going to be impossible. You cannot come up with a list of all the circumstances in which the conflict of interest Rules may be engaged, whether you have got the current wording, or the Prow/St Pier wording.

But I think what SACC could do – it would not necessarily be an exhaustive list – is they could come up with some examples of where the Rules are not engaged. I think that would help some Members. So for example, where you have a Member who has a particularly strong background or interest in an area of policy, that Member is not excluded. Just because they have knowledge in the area, they are not excluded from participating in Committee discussions. I think that could be included in a list of examples where the Rule is not engaged.

I think where perhaps Members have some professional expertise, but no current special or direct interest, that could be included on a list of items where the conflict of interest Rules as they are currently drawn are not engaged. I think there are probably quite a few examples, some of which have been given by Members today, where they either have been excluded or feel there is a risk where they might be excluded – Deputy Tooley's example would be another one; Deputy Inder's would be one – where clearly, they should not be excluded.

I would say, when SACC comes back with their general report on the Rules of Procedure, they should give consideration to starting to draw up a list of examples of where the conflict of interest Rules would not apply, and I think that would help provide Members with greater clarity and guidance, which clearly at the moment, some Members feel is lacking. That would be a much better way of going about this than introducing the words of the Prow/St Pier amendment, which are at least as unclear as the current Rules.

**Deputy Lester Queripel:** Sir, I rise to invoke Rule 26(1), please.

**The Deputy Bailiff:** Very well. Deputy Lester Queripel is invoking Rule 26(1), so in the first instance, those Members who would still be entitled to speak and who intend to speak in the debate, will you please stand in your places.

Deputy Lester Queripel, in the light of the number of people standing up, and possibly the people standing up – I do not think you have to stand up, Deputy Prow, because you are entitled to reply to the debate! *(Laughter)* But anyway, do you still wish to move a motion under Rule 26(1)?

**Deputy Lester Queripel:** I do, sir.

**The Deputy Bailiff:** In that case, Members of the States, I will put to you that debate on this amendment be closed, subject to the normal winding up. Those in favour; those against?

*Members voted Contre.*

**The Deputy Bailiff:** I declare that lost.  
Deputy Ferbrache.

**Deputy Ferbrache:** Sir, Deputy Roffey brought to my consciousness, and actually it should have been in my consciousness, that we are going to have a debate on these Rules in three or four months' time. I was looking forward to a sunny summer, and the fact that we are going to have what will be a tortuous debate on those issues in three or four months' time has cast a black cloud over the summer. *(Laughter)*

The only good thing is that with Guernsey not making the World Cup finals this time, and I am not English, but I do support England, albeit I fear that that may end at the quarter-final stage, so there is some joy in my life, albeit that may be relatively short-lived.

But goodness me! I thought the age of Puritanism died not with Oliver Cromwell, but with the second Lord Protector, his son, Richard, who managed to reign for about 10 months or so.

Puritanism and integrity are not the same thing. Everybody wants – everybody in this room, everybody outside of this room – wants States’ Members, both present and future, to be people of integrity and act at all times with integrity. But they do not have to be Puritans.

We have got, as usual, as very able speech from Deputy Fallaize, but what on Earth did he say for 30 minutes? He spoke for 30 minute on a topic that he should have spoken for 30 seconds on, if he should have spoken at all (**A Member:** Hear, hear.) in relation to this particular matter. (*Interjections*) I am not taking the chunterers from the side. The point is that ... I am not giving way to Deputy Fallaize, he spoke long enough –

**Deputy Fallaize:** Point of correction, sir.

**Deputy Ferbrache:** If he has a point of correction, then I will sit down.

1610

**The Deputy Bailiff:** Point of correction, Deputy Fallaize.

**Deputy Fallaize:** Deputy Ferbrache is saying that I should only have spoken for 30 seconds. I think he said that about two minutes into his speech. (**Deputy Ferbrache:** I did.) (*Laughter*)

1615 But I did not speak for 30 minutes. I think if he calculates the period of time that was taken up by interjections, it would have been much less than 30 minutes.

**The Deputy Bailiff:** Deputy Ferbrache to continue.

1620 **Deputy Ferbrache:** Thank you, sir. I fully accept that, but it was still a bit too long. (*Laughter*)

In relation to it, he is explaining what the Rules might be, where they could go, what they possibly could be, and we heard from Deputy Langlois saying, ‘Well look, the amendment is flawed, because it talks about benefit when it could have added, for example, that somebody could suffer a loss.’ Well, hang on! If somebody could suffer a loss, they get a benefit, so I am not quite sure why that would need that kind of amendment.

1625 But what the people of Guernsey want us to do – and Alderney, etc. – they want us to govern with a phrase that Deputy Fallaize used, within a context that I did not understand – they want us to govern with common sense. Deputy Dorey talked about 25 years ago, the issue being raised, etc. and then 15 or 16 years ago, it moved on to the next stage. Actually, what I would like to see – I am going to support this amendment because it is common sense and it is a step forward. It does not take us to the finishing line, but at least it takes us a bit further forward in relation to common sense, because I would actually like us to have the same Rule in Committee that we have in the States. We have all got to give a declaration of interest every May – quite rightly so – which says we own this or we do not own that – most people do not complete anything because they do not own anything – but there is no problem with that. But you have got to do this and you have got to declare your interests.

1635 That should be good enough, because then in a Committee meeting you should say, ‘Look, we are about to discuss some hospitality matter and I have got an interest in hospitality,’ and you declare what that interest is. That should be minuted and documented and referred to, but if I have got an opinion on that, I give that opinion, in the light of that declaration of interests that I have made.

1640 Now, I know that those minutes remain private – the Committee meeting is private – but they are open to scrutiny if somebody abused their position. It may be that there should be something else and those meetings should be more transparent and more open, and those minutes should be available for public scrutiny. (**Two Members:** Hear, hear.) That may be the case, but even with the current Rules – Deputy Fallaize said something and I sympathise with him completely – there are a number of people, and there will always be a number of people ... There were people who

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wrote to the Germans about people having radios in the Occupation; there have always been people who will tell and always look on the worst of people. He talked about his son's education which is entirely, in my view, private to him and his family, but I understand the angst that he has suffered on social media in relation to that. And for those idiots, I would like to apologise, because they are idiots and they will make silly comments about somebody else.

Somebody actually accused me of being Freemason once – I was appalled! (*Laughter*) But there are some people ... I took that on ... I lived with it. They would not even accept my denials, but never mind!

Where we are is: I have not heard, in the 30-minute speech with about 20 interruptions, or the other people's speeches ... or before today, which is important, I have heard Deputy Fallaize and Deputy Roffey struggle with what is meant by this particular Rule and where their limits are. Now, if they struggle with it, then particularly Deputy Fallaize – Deputy Roffey gets the silver medal; Deputy Fallaize gets the gold medal by 300 yards in a 400-yard race – but they understand the Rules better than anybody, and they cannot draw the limits as to where this Rule ends and this Rule begins. We should not be a States where there is dancing on a pin! We should not be worried whether we may or may not breach a Rule. We should not be excluded where not necessarily excluded. We all heard what Deputy Tooley said, and we have heard what other people have said, that they have excluded themselves in circumstances where – and I mean this most respectfully – the oracle has said they should not have excluded themselves. But those intelligent people thought it was best that they said what they said and excluded themselves, as people of integrity.

So we are in a position whereby we are living in an unreal world. We are living in a world where people could get into a trap, inadvertently breach a Rule, inadvertently do things that they should not do, albeit they would not be doing it with any malcontent.

I fully accept Deputy Inder's point that he is a lay person and if the advice is given by a Law Officer, he is not going to ignore it. I am quite happy to do it, because I know that I have dealt with Law Officers over the last 37 years: they are all good people but they have all made mistakes, and they have sometimes disagreed with me, and they are allowed to. They are allowed to be wrong on occasions, but in relation to all of that, I am able to do that because I have been a lawyer for a very long time. Most States' Members have not. They would be cowed – and I do not mean that in any derogatory sense, because the Law Officers' advice is always given most courteously, civilly and in a balanced way – but they would still be cowed by the fact that they have had advice from a Law Officer saying, 'You can't do this.' I appreciate the Law Officer would give that advice with absolute good intent, but sometimes that may be wrong.

So really, although I do not think this takes us to the Promised Land – we are only at Damascus and not Jerusalem – it at least takes us a bit further. It does give some credence and some light and it takes us to where we could be.

I do not know why we have always got to wait for four months for this and three months for that. If something is so patently illogical, unclear, ambiguous and dangerous as the current Rule, something that commonsensically amends it should be dealt with today.

**The Deputy Bailiff:** Deputy Trott.

**Deputy Trott:** Sir, I rise briefly and to speak exclusively on the amendment, and I suspect I may have to speak in general debate on another matter later. I want to talk about public perception, because I think Deputy Roffey was right to talk about public perception.

I think there is some evidence that the public perception of our current Rules is they are considered far too onerous. The example I shall give is Guernsey Finance. Members will probably be aware – it is declared on my interests – that I am Chairman of Guernsey Finance. Now, Guernsey Finance is a joint government-industry-funded initiative, so it receives public money and it also receives money from the Guernsey International Business Association's members.



1700 The Guernsey International Business Association, sir, are experts in governance. They are experts in related-party transactions. They are experts in disclosure. It is what they do for a living, by and large. And yet, sir, they have absolutely no problem whatsoever with me being Chairman of Guernsey Finance.

I do not take the fee. My predecessor did. I chose not to accept any compensation for the role. But what is clear is that because of the interests that I have that are all properly declared, which include extensive interests in financial services, it is possible that there could be some benefit to me as a consequence. They are *not in the least bit* bothered! We are far too troubled by public perception when it comes to these sorts of things. (**Two Members:** Hear, hear.)

1710 That is the sole reason I rose, sir, because I think these sorts of debates do not appear to be particularly dignified to those who listen to them, but I think the point that I want to make, and I hope I am making it reasonably well, is that it is us ourselves who are overly concerned by these things. Our disclosures, our Rules of Procedure for the declaration of interests is extensive. That is the purpose, and in depriving debate from informed and intelligent contributions is precisely the opposite of what we should seek to achieve. (**A Member:** Hear, hear.)

1715 Thank you, sir.

**The Deputy Bailiff:** Deputy Tindall.

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

1720 My first point is really raised from Deputy Fallaize's speech. He keeps saying 'conflicts of interest'. The problem I see, sir, that this amendment is seeking to address, is that in Rule 49 of the Rules of Procedure of the States of Deliberation and their Committees, it is headed 'Declaration of Interest at Committee Meetings'. It prevents Members from participating where there is not a *conflict* but only the *interest*.

1725 What is this Rule trying to avoid? Is it benefiting or merely *having* an interest? Having an interest – is that evil? Is that wrong, for contributing?

I consider it sensible to discuss this, as we are still attending Committee meetings for the next four months, and this additional definition I hope will assist. If in four months SACC considers it should be removed, they can recommend it and then the Assembly can consider whether it should be amended, removed, etc.

1730 It is also connected, in my view, because of section 6 of the Code of Conduct, which says, under the heading of 'Personal Conduct':

• Honesty

Members have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

1735 This amendment is including the accepted way in which interests are dealt with in the world of business, as indicated by Deputy Trott. An interest is identified; it is then considered if there is a conflict in respect of the subject matter being discussed; then the conflict is managed. I do not agree that by removing anyone from the Committee discussion is managing that conflict, and that is what I would seek to achieve.

I do agree with the additional wording, but I do not think it goes far enough. As Deputy Roffey said, 'benefit' can be widely interpreted.

1740 I do not agree that we all know, sir, when we should not be involved. Deputy Parkinson gave an example: well, I agreed that he had no direct or special interest. More often than not, it is not down to the individual's judgement on the interest, but it is on whether or not the Chief Officer or indeed the Committee should err on the side of caution. It is a practical problem we are trying to address here, as much as anything. It is not always a case of intelligent analysis, but pressure and perception.

1745 I disagree that the inexactitude of the Rules is not the real problem. It is the inconsistency in which their effect is applied. When I was on the Transport Licensing Authority, now on the

Development and Planning Authority and on Economic Development, all occasions were pointed out to me that I might have an interest – a direct and special interest. Perhaps due to my ability to argue the point, I have not been removed from the Committee.

1750     Whilst the amendment is not sufficiently defined or worded, it still is a start. However, I believe it should be combined with training. Deputy Fallaize again has indicated various examples and I am sure most of us have learnt from those examples; but I think it is important to have that training to understand what we are trying to achieve and how we can achieve it. A sensible approach, as Deputy Trott indicated that business takes, towards these three steps I have outlined  
1755     would actually achieve a great deal. I do agree that there are wrongs that need to be prevented, but this is not the way forward.

1760     I think training is also required, if I may say, not only on this specific Rule, but perhaps on Rules in general, including conduct in this Assembly. I disagree, that 'when you see it, you know it' is not relevant due to other pressures and views. This is the reason that I am going to vote in the favour of this amendment, and I hope that others will do the same.

Thank you, sir.

**The Deputy Bailiff:** Deputy Meerveld.

1765     **Deputy Meerveld:** Thank you, sir.

I thought that, as usual, Deputy Fallaize's speech was very eloquent, but I picked up on two magic words that he mentioned during his rather long speech: 'common sense'.

1770     I have issues with this Rule 49, which are public knowledge. We have an expectation that Members will be intelligent, articulate, honest and honourable. I believe that this should be liberated. I am going to support this amendment, and I think it should be left to the discretion of the individual Members and their Committees to decide what is an interest that requires them to be removed from the room, rather than having a very, very vague Rule in place, which I have spoken to Law Officers previously about, and they have indicated to me that the breadth of this Rule does not allow them to come down with any other judgment than, in most cases, an interest  
1775     of any type ends up in an exclusion.

I would like to see this amendment supported and four months' time, when the general review comes back, if in SACC's opinion it has gone too far, or any further amendment of this Rule is required, then it can be looked at, at that time. But let's take a step in the right direction today and support this amendment.

1780     Thank you.

**The Deputy Bailiff:** Deputy Merrett.

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

1785     Whereas I can see that this should be a matter of Members' judgement, but in reality, sir – that is what I live in, or try to – under Rule 49 (b), if an officer in the Committee thinks there is an interest to declare, they can ask the Committee President to decide, purely in the context of Rule 49 (b). so it is not actually, in reality, an individual Member's decision.

1790     We have this amendment because SACC have confirmed that they would not look at changing this Rule, so Deputy Prow has tried to address this and he has tried to define it. If any Members do not like the wording, then they could and have, or maybe they should have discussed it with Deputy Prow or amended it themselves.

If there is – and there clearly has been in the past – ambiguity, then maybe SACC should have covered it during new Members' induction, and I agree with Deputy Tindall on this.

1795     I have an example where a Chief Secretary advised me that I had a conflict of interest regarding an item for discussion. I questioned how, and was advised of something that he knew that I did not know. It was concerning an item of discussion that my partner had an interest in, but because I have very strict Chinese walls, my partner had not even told me that he was working on

this project. But the Chief Secretary knew, so the Chief Secretary said to me, 'You have a conflict; you need to leave the room.'

I was thankful at the time to the Chief Secretary, and I actually think I still am because I would have unbeknown to myself have had a conflict, and if I had known, I would have actually declared the conflict and I would have left the room. But that is a clear example where maybe the officers also need some training, because under the Rules, that officer should not have said that I had an interest; they should have waited for *me* to state I had an interest. So there is obviously a bit of confusion there.

The most obvious answer to me, sir, and I think Deputy Ferbrache just brushed on this, is to have the same Rules in the Assembly as we have in Committee and to have the Committee sitting in public, in an open forum. (**Two Members:** Yes. Hear, hear.) If something is commercially sensitive and really we cannot let the public know what we are discussing on their behalf, then obviously we can have a separate meeting or a closed meeting, if the premise of that closed meeting is purely because it is not in the public's interest for them to know, it is commercially or sensitive in some manner. But other than that, there are *many* meetings that I attend, sir, where I see absolutely no reason at all why some of these meetings could not be open, transparent and easily accessible that we serve. (**A Member:** Hear, hear.)

Thank you, sir.

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

**Deputy St Pier:** Thank you, sir.

Deputy Roffey, when he spoke, said that this amendment bears no relation to the Code of Conduct, and I beg to differ, sir. Of course, if a Member breaches the Rule then they potentially will be subject to the Code of Conduct, so that is the first point I wish to make.

I agree with Deputy Roffey that actually, the current position is that there are stricter Rules in Committee, and the rationale for that has been laid out by both him and Deputy Fallaize, in that they are held *in camera*, and so on. I think Deputy Ferbrache, and now Deputy Merrett have questioned whether that is the case, but I accept the rationale for that current position; and also that this Rule as currently drafted, and indeed if amended, requires judgement, absolutely. Indeed if this amendment is lost, much as Deputy Roffey is not going to die in the ditch over it being won, I am not going to die in a ditch over it being lost, in the sense that I raised this issue I think three or four years ago, during the last Assembly, in a similar manner through an amendment and it was lost, and life has continued, and we continue to manage within the existing Rule, because we have to continue to apply judgement to it. That will still be required if this amendment passes. There is no way we can ever have a set of Rules – unless they are going to be even longer, which will upset the Mother of the House – that seeks to provide a black-and-white response to every single situation. That is simply a utopia which is not going to happen.

I want to just give some examples of when I have been in and out of the room, when I have chosen to exclude myself. One has already been mentioned: the direct interest which Deputy Trott and I had on the requête. There are, of course, many matters which Treasury & Resources and Policy & Resources need to consider, particularly in relation to budgets, when we do need to engage whether we do have any kind of direct or special interest, in seeking to distinguish between that as Members of the Assembly, members of the Committee or just members of the public.

In that case, for example, changes affecting Retirement Annuity Trust Schemes, of which I have a declared interest, I have excluded myself. Of course, Members may remember at the last Budget, there was an issue in relation to distributions from companies, from which I excluded myself, even though I disagreed with the judgement of the Committee ultimately and of course voted against the Proposition which they had recommended.

But I remained in the room when mortgage interest relief was being discussed, because of course I have no more of a special interest than any other person with a mortgage. That is a

judgement call, and of course the recommendations which came forward were directly contrary to my own interests.

I think we really have to come back to 'what is the purpose of this Rule?' and surely the spirit and purpose of it, going back to Deputy Dorey's comments, is the public's expectation that we should not use our position in public office to benefit ourselves, whatever that term means. I think it is as simple as that. The public have that expectation, that we do not exploit our position to benefit ourselves, and I think this amendment seeks to move us to provide greater clarity on that point.

Just to give another couple of examples where the issue has possibly been engaged: Deputy Kuttelwascher will remember this, that every year we had the question of tobacco duty. Former Deputy Adam was the only Member of the Committee who smoked: did that give him a direct or special interest in the matter?

If Policy & Resources were to consider marine fuel, if you have a small diesel boat, perhaps for pottering around to pick up a few crab pots, is that a direct or special interest? (**A Member:** Yes.) But on the other hand, actually if you have a huge 50-foot boat (*Laughter*) which consumes a lot of diesel, you might take the judgement that actually that does give you an interest which should exclude you.

I was really seeking to make the point that this will always be subject to personal judgement.

The argument that we should wait four months: sir, I am beginning to feel a little uncomfortable, because I think this is the second time which I have agreed with Deputy Ferbrache, in less than two months, so it is beginning to become a bit of a habit (*Laughter*) Why wait four months for this? The Members of SACC who have spoken have made it quite clear that they do not favour a change. They are not going to bring forward any recommendation for change, which is exactly why Deputy Prow was forced to bring this amendment forward.

So if we adopt this, it will simply be a further improvement. It does not take us, as Deputy Ferbrache said, to the Promised Land, and I think Deputy Tindall recognised that as well. But I think it does reflect better the spirit of what the public expect, that we should not be benefiting ourselves. The current Rule is, frankly, far too ambiguous and I do encourage Members to support it.

I want to leave Members with one final example, which happened only on Monday this week, sir, when Policy & Resources needed to consider a policy letter which will be laid and debated later this year, in relation to the Anti-Money Laundering Handbook. The developing international scene requires that actually at the moment, the Anti-Money Laundering Handbook does not apply to us as domestic politically exposed persons; that position will change.

Now, clearly when presented with that, every single member of the Committee had a direct interest in that matter. The problem was, had we excluded ourselves, the next five people who came in the room to consider the matter would have been in exactly the same position as well. In other words, it is impossible for us in that particular matter not to have a direct interest in that particular outcome. That comes back to the question of well, do we have a direct or special interest compared to any other politician, or to members of the public? This is where of course advice is required, and the advice will always be on the side of caution, understandably so.

So, sir, I do urge Members to support this. This is not compromising, this is not a liberalisation of the Rules as Deputy Fallaize suggested. It is simply, as Deputy Ferbrache said, a common-sense clarification.

**Deputy Dorey:** Point of correction.

**The Deputy Bailiff:** Point of correction, Deputy Dorey.

**Deputy Dorey:** I think Deputy St Pier said that, by the speeches of the Members of SACC, we would not change; but I think only three Members of SACC have spoken – two against change

and one in favour of change. The other two have not spoken, so I do not think you can conclude that.

1905       **The Deputy Bailiff:** Well, Members of the States, the States will now adjourn until 2.30 p.m.

*The Assembly adjourned at 12.35 p.m.  
and resumed at 2.30 p.m.*

[THE BAILIFF *in the Chair*]

**Amendments to the Code of Conduct for Members of the States of Deliberation –  
Debate continued –  
Propositions carried**

**The Greffier:** Article IV, States of Assembly Constitutional Committee – Amendments to the Code of Conduct for Members of the States of Deliberation – continuation of the debate on the Prow and St Pier amendment.

1910       **The Bailiff:** Deputy Graham.

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

I have to say at the start of this debate, I really regarded this amendment as somewhat benign. How could it not be when it is proposed by Deputy Prow and seconded by Deputy St Pier? But  
1915 something that Deputy Roffey pointed out in his speech alerted me to the fact that there could be a danger of unintended consequences in this and the more I have listened to the debate and have tried to relate it to my own brief political career, I can see that actually it would make substantial changes to the two occasions where I personally have recused myself in matters of the Committee *for* Home Affairs.

1920 Forgive me the anecdotal, but one can only draw on one's own experience in these things. In 2016, as Vice-President of the Committee *for* Home Affairs, and in the absence of the President and on behalf of the Committee, I initiated a certain action. Now the outcome of that came before the Committee a few weeks ago and because I was clearly involved in it and had an interest in it, I had no difficulty at all in recusing myself from Committee discussion of it and indeed I did so. Had  
1925 I not done so, I suspect my colleagues would have reminded me that I ought to.

Now there was no way that, by recusing myself, I released myself from anything that might have benefited me personally in the way that this amendment suggests. There was absolutely no way that the outcome would benefit me one way or the other. But it was of special interest to me. I was involved in it and on that basis –

1930 I will give way.

**Deputy Prow:** I thank you for giving way. I would just pose the question whether that interest might also have been described as a 'direct interest', which would remain in the Rules?

Thank you, sir.

1935

**Deputy Graham:** I cannot really answer that. As far as I am concerned, I could not have had more direct an interest in the outcome than I had and probably still have. I have to say that should the amendment succeed, I would feel free to ask for access to the minutes of the meeting and the discussion that took place from which I had recused myself.

1940 Similarly, more recently, the issue was really my status as a non-executive director of a small  
local company and on that basis I did have a particular interest in the issue, because it directly  
impacted on the potential fortunes of the company. But there was no way that I personally stood  
to benefit in any way whatsoever. There is scarcely any remuneration involved; I am not on a  
bonus package or anything like that and certainly in the timescale involved I shall no longer be a  
1945 non-executive director by the time this particular thing might come to fruition.

Again, I would feel free, should this amendment succeed, when this matter next comes before  
the Committee, to really insist that I am not recused from it because I do not stand, personally, to  
benefit from it. I am sorry to regale you with two personal anecdotes but I think for me it  
illustrates that perhaps the unintended outcome of a seemingly benign amendment. In my own  
1950 personal experience, it would be a game-changer. Because of that, I would actually favour the  
States pausing at this moment and giving it further consideration at the appropriate time in a few  
months' time.

**The Bailiff:** Deputy Soulsby.

1955 **Deputy Soulsby:** Yes, I will be very brief, because I think this debate has gone on long enough.  
I had wished that Deputy Fallaize would have been in the Chamber because I just wanted to  
respond to his question as to how a Member of HSC would have an interest in anything relating  
to ESC. Well, it goes back to, people may have forgotten, that a policy letter and an alternative  
1960 report at the start of this year that were being debated.

Just to follow the Resolution of the States in December, that we should be considering health  
in all policies, HSC put together a letter of comment on both the policy letter and the alternative  
model and clearly as Deputy Tooley is one of the architects of the alternative model it was  
thought wise that she should recuse herself from that letter of comment.

1965 Thank you.

**The Bailiff:** Deputy de Sausmarez.

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

1970 I too will be brief because I sense there is enthusiasm for this part of the debate to come to an  
end and I suspect also a lot of people have already made up their minds one way or another. So I  
am not going to spend a lot of time reiterating arguments, just to respond briefly to a couple of  
points that have been raised more recently in debate.

It seems more apparent to me, through the course of this debate, which in many respects has  
1975 been quite helpful in fact, that one of the key problems that is being discussed is not actually the  
Rule as it is currently written, but how it is interpreted and implemented and so that is not about  
the wording of the Rule itself and I think that is something that SACC can certainly take forward  
and look at before the appropriate policy letter.

Ultimately, as Deputy Fallaize described, this is about integrity and probity and public  
1980 perception and faith in the States and I do not think we should underestimate it. I think Deputy  
Trott suggested that actually no-one outside really cares how we make our decisions and I would  
challenge that.

I am happy to give way.

1985 **Deputy Trott:** I said those who were professionally involved on a day-to-day basis with regard  
to governance, related party matters, they see no issues with the way we operate at all. Within our  
community, it is those who just have brief relationships with governance who are concerned.  
Those who do this for a living have no issues whatsoever.

1990 **Deputy de Sausmarez:** I think Deputy Trott makes the point that our current Rule is doing a  
very good job, in that case. But I do not think we should underestimate the importance of that

probity that Deputy Fallaize talked about and the need to be able to demonstrate that there is no undue influence taking place behind closed doors.

1995 It is that point. There is a very clear difference between the interest that can be declared during a States' Meeting, which is open to public scrutiny, and committee meetings, which do take place behind closed doors. So I think it is right that there are two levels, two different types of Rules that apply.

2000 Deputy St Pier was quite right in his example not to recuse himself from discussion on the topic of mortgage relief, but it is quite an interesting example to use, because if this amendment is successful then he probably would have to recuse himself, as would anyone else who has a mortgage. It does come down to this idea of benefit. Benefit is, in itself, a really ambiguous term and I am surprised, because Deputy Prow in his opening speech, has made it quite clear that his central concern is that States' Members are being held to account to a Rule that is ambiguous. Well, this amendment is not going to help, it is going to make things even more ambiguous, in my opinion.

2005 What do we mean by benefit? If in our Committee meetings E&I were discussing measures that improve road safety, am I going to benefit, if the roads outside my house are made safer? Yes, arguably I would. But also, more broadly than that, you take that to its logical conclusion, we all make decisions that we believe will benefit this community and so this wording does actually encapsulate far more than the original and current wording does.

2010 If I am a business person sitting on a committee and, as Deputy Yerby rightly pointed out, if there is a decision that impacts a rival, one way or another, perhaps positively, I might not be benefiting, my business might not even be benefiting, but if it impacts a rival in a positive way then should I really be having an influence on that decision? The wording suggested in this amendment, as so many people have pointed out, is a very long way from perfect, but I do think it actually throws up problems that do not exist under the current wording.

2015 So I think in summary I would agree with Deputy Ferbrache in that we just need to apply common sense. There needs to be more clarity and consistency on how this Rule is interpreted and implemented, but I certainly do not think this amendment is the panacea that perhaps its proposer assumes that it is. I do think it is worthy of proper scrutiny and at the appropriate time, as well. Ultimately I think this amendment is a move that makes us less transparent and less trustworthy, so I would urge people not to accept this amendment.

2025 **The Bailiff:** Deputy Lowe.

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

2030 There seems to be a bit of confusion as well with this one. SACC have already said that they are coming back in four months' time, but equally today and previously, they have said that they cannot come up with an answer with a definition. So those who are hanging on by saying, 'We will reject it because they are going to come back with a definition,' no they will not.

2035 They have been asking that for the last few years, not just this term, definition of 'special interest'. They cannot get one; have not been able to get it. 'Direct interest' is different, but the 'special interest' they have struggled with for quite some time and I think it has not helped that it is not consistent against some of the committees and indeed amongst Members as well. There has been that inconsistency of the interpretation.

2040 The safeguard for me is that we have not got ministerial government. If we had ministerial government and you have got one person as a minister against a member of staff and you are making these decisions where there may be a conflict or a direct interest, that is where it becomes dangerous. We have a committee system, we have five Members sitting in those Committees and indeed some Committees have got non-States members as well.

There is your safeguard, because if it operates as was said earlier where, in Committee, Members declare an interest, the rest of the colleagues sitting around that table will be fully aware of that, but equally the public are already aware of it anyway, because it is all on the website. We

have to declare an interest. Providing Members have got it up to date it is on the website, you have to have it on the website to be open and transparent for what interests you have got.

Certainly, many years ago, and I think in hindsight it was better, we utilised the experience in the States. Now we are looking over shoulders all the time, as Deputy Trott said, and people are actually questioning themselves a little bit too much. If we had a hotelier in here, he would put on tourism. If we had somebody involved with travel, they would put on tourism. That is the place to go to get that expertise.

If you want to shut out that expertise you are not, in my opinion, as the States, doing the Government much good. Of course, as we are reducing in numbers, we are shutting out again that expertise with – what have we got now? – six Committees. Again it is very difficult to get that knowledge and that expertise within a committee.

As I say, my safeguard is that actually while you have got a committee system it is very safe to make sure that Members declare. If they do not declare – and I am sure they will, I do not think there is anybody in this room who would be sitting there and not declare, for their own good and indeed to protect their colleagues as well, that they have not misled them – the public would soon find out anyway, because it is on the website that they are on that committee and something has come forward and they have not declared it that time.

For me the public confidence, I believe that with the website, because we have got that and because we are open and we have to say where we have got out conflicts, that is fine. The rest, I believe, is down to the common sense and the credibility of the rest of the Members on those committees to make sure that everything is above board and those declarations are declared at the beginning and indeed they are minuted.

I have not got a problem with this amendment, because I have seen the system before we have got ourselves in this pickle and where we are now. To be honest, do you know what? It is like a spider's web, because it is not consistent, it is a bit of a mess. SACC cannot even unravel it, so not much chance for everybody else, really. They have made these Rules, let us actually try and see what we can do.

As was said previously by some of the other speakers, it is coming back in four months, SACC have already said they cannot do anything about it, they might reflect on that and come back, or other Members may come back with an amendment in four months' time, to amend the report that is coming forward. So in the interim period, as I say, I suggest that the amendment is actually supported and we get rid of this complex, confusing, 'special interest', that does nothing really.

**The Bailiff:** Deputy Kuttelwascher.

**Deputy Kuttelwascher:** Sir, I will do one of my one-minute speeches. I am supporting this amendment because at the time that it was initiated, the process, SACC had decided not to look at the issue. So the amendment has come forward. Now I am not really bothered whether the wording is better or worse than what we already have. (*Laughter*) No, I am not, because I see the problems with both of them.

What it will do is focus the attention of SACC onto trying to come up with the best possible solution and it may be that it will not be that much better. But it needs to be resolved one way or another.

Thank you, sir.

**The Bailiff:** Deputy Le Clerc.

**Deputy Le Clerc:** Sir, I am a Member of SACC and the reason that I cannot vote for this and the reason I said I was not prepared to bring forward in our policy paper that is coming up is because I do not think we could ever find the right wording. If SACC had come up with the wording, half the Assembly would say, 'No, that is not what we want.'



2095 So I think you have asked us to do the impossible, in coming up with some wording. We sought some legal advice. We got that legal advice and again it was not clear on the advice that we received. I am slightly frustrated when people talk about 'they, they, they'. It is not just in this debate, sir, it is in almost every debate: 'they, they, they'. Actually it is 'we, we, we' because it is our decision, it is the States' Assembly, it is not for SACC to come up with a solution.

2100 We have got a consultation period. Whatever the outcome of the debate today, I would ask that people put forward their views and the wording that they think will resolve this problem during that consultation and I am very prepared as a Member of SACC to come back with the results of that consultation and whatever amendment is required to this Rule. But I would just ask people to use the methods available to them. I think it is just an impossible answer for this one.

2105 Thank you, sir.

**The Bailiff:** Deputy Brehaut.

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

2110 Perhaps even less than a minute. The Rules are in place to protect States' Members from themselves. That is what it is there for. It is to protect you in the case that people outside this Assembly – what I am saying now will appear on *Hansard*, when I declare an interest it will be on *Hansard* – when you are behind closed doors it is fundamentally different.

2115 I think the Rules provide that assistance for States' Members. I happen to serve on E&I and I have served with Deputy Dorey for years on Housing. Deputy Dorey makes it clear he has an interest in the private rental sector. He removes himself, recuses himself at every opportunity – depends how much water he has drunk, obviously! – but it is crucial at times just to step back, because if you do have an interest I think sometimes you get lost in the foreground, rather than seeing the complete picture.

2120 I think at the earliest opportunity, States' Members should just check themselves and step back, because the Rules are there. Before today, accusations were made on a fairly constant basis about impropriety. We know it was in the 1990s that individuals in this Assembly who were prominent were frequently criticised for having too many fingers in too many pies. The Rules are there to prevent that type of false accusation. But please do not suppose this amendment  
2125 because it is a step backwards, when every other organisation that we can think of is actually moving in the opposite direction to ensure that there are robust, rigid mechanisms in place.

Thank you.

**The Bailiff:** I see no one else. Deputy Prow will reply to the debate.

2130

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

I thank all the Deputies who have spoken on all sides of this debate. As has been clearly laid out, these are our Rules of Procedure and our codes of conduct, that rightly hold us to account. It is important that we get them right and there is clarity about their effect and they do the job for  
2135 which they were intended.

This amendment is about providing a definition to a highly unsatisfactory set of words which HM Procureur has noted as a cause of difficulty. It is about seeking to ensure that our democratic process is protected, by ensuring that direct and private interests which Members or other persons concerned could derive benefit are declared in this Assembly and would rightly cause  
2140 withdrawal at committee.

The codes make it abundantly clear that Members must declare private interests relating to their public duties and avoid conflicts. It is right that we should. But it is wrong to be held to account where the interpretation is too wide, ill-defined and causes us difficulty. It has been a very long debate concerning the words 'special interest'. I will not therefore, for the sake of brevity,  
2145 refer to all who spoke and I apologise in advance. I should start perhaps with the comments of

Deputy Le Tocq, which were echoed in some other speeches, which questioned the timing and I understand the point he made.

But the motion not to debate was heavily defeated by 26 to 8 and this has been a very long debate. I think I counted 21 speeches. Obviously this is a matter of great concern, for a debate to have lasted this long and for all the issues surrounding the words 'special interest' to be debated seems to me that this was an important matter and an opportunity to change. We have that change now. The words 'special interest' need defining. As it stands, it is not fit for purpose. We can improve upon it and if, in four weeks' time, there is an even better definition, I challenge either SACC or other Members to come up with it.

Deputies Roffey and Fallaize, and others, rightly pointed out as I have that the Rules face two ways. In the States we declare interests, in Committees we exclude. But the amendment does not seek to change that. It is simply about 'special interest', which has no definition but to which we are all held to account, which Deputy Tindall very ably drew our attention to and rightly referred to in section six.

Both Deputies Roffey and Fallaize said the Rules by which the codes hold us to account are a matter for Members. That is abundantly clear. The question has been rightly raised about transparency in Committee, but sir I would suggest that is perhaps a matter for another day, perhaps in four months' time.

During the debates, many examples were given where 'special interest' has caused difficulty and that is the point. It has caused difficulty. That is why this debate has taken so long. Deputy Parkinson gave, in my view, an excellent example of where 'special interest' served no purpose. Deputy Tooley gave us an HSC example. Deputy St Pier a P&R example. It is simply drafted too wide.

We heard from Deputy Dorey, very helpfully, about the 25-year history around the inception of the code, following a report which actually, if I understood him rightly, recommended the words 'special financial interest'. Most Deputies have overwhelmingly stated it needs clarification, it lacks common sense, it is open to challenge. These are words that I have noted.

Again, certain Deputies have expressed dissatisfaction with the wording that we have suggested and that it could be even better defined. It is, however, nonsensical to suggest that the amendment as it now reads could include universal benefit. It is suggested that universal benefit is included in 'special interest' now. Or is it? I am not sure. If not, then why would it then fall under the amended definition?

As Deputy Tindall reminded us, this is about the purpose, a conflict between a private interest and a public interest. Clearly the universal benefits are in the public interest and knowledge. Deputies Inder and Ferbrache, and others, spoke about the value of Members having special expertise and knowledge, which must fall into the wide wording and the dictionary definition of a 'special interest'.

The point is that 'special interest' is not currently defined. Deputy Gollop stated the interpretation is 'wide' and interpreted by those who advise us on a wide-ranging scale, and this is important, between liberally or strictly. Deputy Fallaize said we must not blame those who advise us and it is a matter for us. I never suggested otherwise, but we are held to account against the wording that we have now, which is ill-defined and does not meet the conflict test that Deputy Tindall spoke about and we are all rightly bound by that.

Deputy Roffey read part of Rule 49, but not 49(4)(b), which I shall read now:

when an interest has not been declared but the said officer has reason to believe that a member may have an interest in the matter to be discussed, he or she shall request the President to make inquiries of the person concerned, following which the President shall direct whether agenda papers relating to the matter should be withheld from the member.

So it is therefore, by the construction of the Rules, that civil servants and the Law Officers are asked for an interpretation and the decision has to be made around those words, 'special interest'.

Deputy Ferbrache mentioned the resistance to change and I think there is. Those that have become involved with these Rules year on year are not looking at the Rules around their effect and what their purpose is seeking to achieve and he called for common sense and to use this opportunity. It is very clear to some 20 Deputies who spoke that we are all struggling with this.

I have done some research around other parliaments, particular Jersey and Westminster. Rightly the greater focus appears around the register and declarations of interest and none of the speakers who spoke on the SACC position mention this. The only Deputy that mentioned it in any detail was Deputy Ferbrache. Interests are well-defined in the register in Jersey and Westminster and as far as researched do not include the vague expression 'special interest'.

You will sometimes hear MPs say in committee and in the House, before speaking, 'I declare my interest as set out in the register of this House', rather than making a specific reference. This is where our main focus and concentration should be, if we are talking about transparency. Not on the probability of *ad hoc* challenges happening from time to time, seeking to exclude Members from the democratic process of committee government, because they perceive some apparent special interest.

Interests must be tangible and exclusion rules fit for purpose wherever possible, relevant to private interests transparently entered onto the register, before taking the Deputies' Oath or as and when a declarable interest is taken on thereafter. That is where the duty in the codes to declare any such private interest should be mainly discharged. The register is where we must be open and transparent.

Like other parliaments, we currently have a register of 12 parts that teases out those proper interests of private, personal nature, which might perceive to conflict with the public interest. Interestingly, the register does not call for 'special interests'. How could it? It is not defined; its interpretation is too wide and it goes beyond the ambit of areas properly defined in the register.

I would ask all Members to please support the definition of a 'special interest' by supporting this amendment.

Thank you, sir.

**The Bailiff:** Members, you vote now on the amendment proposed by Deputy Prow, seconded by Deputy St Pier. There is a request for a recorded vote.

*There was a recorded vote.*

*Not carried – Pour 17, Contre 18, Ne vote pas 0, Absent 5*

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

**The Bailiff:** Members, the voting on the amendment proposed by Deputy Prow and seconded by Deputy St Pier was 17 in favour, 18 against. I declare it lost.

2225 We come to general debate. Deputy Green.

**Deputy Green:** Sir, I only rise because the Scrutiny Management Committee is mentioned in this policy letter, although there has not been much debate on the actual policy letter so far in this day of debate. So, on behalf of the Scrutiny Management Committee, I just want to say a few  
2230 words in connection with section (4).

First of all, the SMC is making progress with the drafting of legislation to provide the committee with powers to send for persons, papers and records. We have decided to engage a former Law Officer to draft the legislation required outside of the usual formal channels for the drafting of legislation and we can expect to see that legislation in draft form later on this year.

2235 We expect to issue a further policy letter in that connection, also in due course, to include one new matter in addition to the question of powers, which was not actually canvassed when the original States' report was discussed on this in the last political term. There is that one matter, which is the issue of protection, of absolute privilege for non-States' members when taking part in public scrutiny sessions, which was not canvassed previously in the States' Resolutions and  
2240 therefore there would need to be a fairly brief policy letter to allow that to be covered in the legislation as well.

Secondly, we would certainly support a development of the code of conduct for Deputies in order to strengthen the Scrutiny function whilst we await that new Ordinance being drafted. In our view, there should be a general obligation upon a Member of the States of Guernsey to co-  
2245 operate and to assist with all reasonable requests from the Scrutiny Management Committee or its panels and failure to comply with such a reasonable request should *prima facie* be, in our view, a potential breach of the code, which I am sure my colleague, Deputy Roffey, will agree.

We look forward, in any event, to working with SACC on this. I am sure the President, from his previous involvement with Scrutiny earlier in this term, is fully aware of the issues and we will be  
2250 more than happy to explain any issues. Having set this out this afternoon, hopefully the issues are relatively clear. We are making progress with the drafting of the Law. We do feel that the code of conduct can be strengthened in the meantime.

I am taking off my Scrutiny hat now and talking as an individual, I just wanted to say something very briefly about the issue that Deputy Roffey did refer to when he opened debate  
2255 about – how can I put this? – removing the blanket ban on anonymous complaints against Deputies, which is the current position under the code of conduct. As I understand it, that is seen to be inconsistent with various international norms and whistle-blowing guidelines. The idea is to try to bring these two together.

I do have some concerns about the idea of allowing any anonymous complaints against  
2260 Deputies. I understand that it will be by exceptions and this is not going to be a general Rule. Anonymous complaints will be allowed in exceptional circumstances. I know that will mirror up with the whistleblowing guidelines.

I do still, nonetheless, have concerns about that and the way it will work in practice. It is all very well having something set out in writing, but it is the way in which it will be interpreted. We just  
2265 spent most of the day talking about the interpretation of Rules. The same concerns may well apply to this as Deputy Prow tried to argue before in respect of the Rule about 'special interests'.

I listened to what Deputy Roffey said when he opened this debate. I do take his point generally. It is not really for SACC or anybody necessarily to set out in particularity what those exceptional circumstances might be, but I still feel a bit in need of some further assurance before I  
2270 can actually vote or support that. I just think it is one of those areas where there needs to be some indication of what specific circumstances might justify somebody being able to make a complaint with complete anonymity and I do want a bit more detail on that before I am convinced that that is acceptable.

That is all I propose to say, so thank you.

2275 **The Bailiff:** Deputy Yerby.

**Deputy Yerby:** Sir I just wanted to make a point very briefly in respect of the proposal to support Members or to make it possible for Members to create private offices. I am not opposed to the proposal. I think it is the right thing to do. But I would like to point out that there will be many of us in this Assembly who could never afford to establish a private office to help us do our work. If that is supposed to help us do our work more effectively and more efficiently, then that would be for the benefit of certain Members but not of others.

2280 If we add that to conversations that we have recently been having about data protection and the added burdens on the States' Members that the new GDPR will pose, we have to be careful that we are not moving back towards a situation where community members of lower resources are excluded from becoming States' Members. We have got to be careful that is not the general trend that a pile of successive States' decisions leaves us towards.

2285 If we think that is observably becoming the trend then we need to think about what are the resources that we need central, is there a kind of parliamentary service that we need? Is there some support that should be available equitably to all States' Members to enable us to perform effectively in role, so there is not this retrograde exclusionary effect and we are going back to the bad old days of only the wealthy?

**The Bailiff:** Deputy Gollop.

2295 **Deputy Gollop:** Some might say it was the good old days when only the wealthy were Deputies, but I will come onto that at a later point. I would not necessarily endorse that. My first point is about the Scrutiny Management Committee, that Deputy Green has rightly reminded us is alluded to almost in passing on page 6, because it is more of a rain check to say there is a Law pending but in the meantime maybe there will be a strengthening of the code of conduct.

2300 It is actually a bit weak, this, because it is not specific. It says it could be strengthened, so it is a work in progress. I personally have always supported the power of Scrutiny and, formerly, the Public Accounts Committee, to compel witnesses to appear, maybe even in public, because I think we have seen in the past grandstanding politicians refuse to turn up and that will be a joy to see that strengthened.

2305 I thought, though, the reference to Scrutiny might actually refer also obliquely to the era when I was on the Committee, in the first term of Scrutiny's existence when, amongst other things, I believe we did a review into complaints which ended up with a sub-section of special interest both in Guernsey and in Alderney, on whistle-blowing, because whistle-blowing was very much at the time rather a radical concept in the Civil Service. Of course, as we know, we do have now a specific States of Guernsey Employees' Handbook with a whistle-blowing policy. It makes clear that whistle-blowing is to be encouraged, or at least not discouraged, and it is a vital check and balance of the system.

2310 Of course, it mentions that, if you raise concerns, no States' employee will be penalised, as it says on page 6, 8.2, Protection Against Victimisation. The States will do 'everything possible to protect employees who raise concerns of victimisation'. No detrimental treatment and detrimental treatment that could be included but of course would not be allowed would be dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern.

2320 I accept best practice is both implied and achieved there, but in reality a person who whistle-blowers can sometimes find themselves going against the cultural norm. They could be isolated personally if not officially and it is probable, possible, anyway, that they might not be the first in the queue for promotion. So that is always a concern.

2325 Of course, in the context of being a States' Member, we are neither employee nor employer. We are self-employed people who are really holding an office and I think we are particularly vulnerable to perhaps anonymous allegations but of course some Members would say the

opposite, that the complainant is vulnerable to being pilloried by the Member or Members' friends or associates.

I think we have to be careful here. I will certainly listen to other Members with concerns about this measure and fear that sometimes, with the best will in the world, what is meant to be a robust code of conduct ends up as a little bit of a political football that people on different sides of a heated debate or alliances, making complaints which perhaps in the light of day might not be as appropriate as they could be. So I have reservations about that.

The other one I have motivations on is precisely the issue Deputy Yerby raised about the private offices. She has interpreted it as a facility some Members might enjoy and others would not, linked to their social and economic and commercial status and many other factors. I have been quietly campaigning, perhaps not as vigorously as I could have been, for 10 to 15 years, for the rights of States' Members to have more support.

We have seen an element of that. We saw a ground-breaking situation with Policy & Resources last year when they supported individual Members who had a view different from an established Committee. We have seen the Members' Room being developed. Use it or lose it, with the facilities there. At one time the IT there had too many cookies; now it is perhaps a little too fortified to use easily. That exists as a facility.

What you cannot do is make the Civil Service political. What I think could be looked at, by this SACC or its successor, will be the facilities available to Members in terms of research, secretarial support, information technology support. If we want – and we do need – a diverse Assembly that reflects every conceivable identity, age range, social range, wealth range, in our community, then having facilities whereby only a minority can potentially benefit from is wrong.

Of course when this policy first hit the newsstands, one or two Members interpreted it as being a policy, perhaps, for SACC to enlarge the public expenditure by providing private offices to everyone in the Assembly, or at least the top bench, with their names on the door and so on. I do not think that is the intention but that in itself would create a them and us culture.

I have other issues, because the problem with the policy that is put before us, although it is actually proportionate and it is actually sensible at a time when we are needing to be much more careful because of data and the way we maintain confidentiality and high standards of public integrity, the problem is that it actually does not create new offices, nor does it even particularly open the door to lucky Members who have the private resources to have offices in apartment buildings, or office blocks or even garden sheds, dare I suggest? No, I will not say that. In fact, there was a Conservative member of an assembly who recently had to resign because he was using a shed rather than an office, but that was a completely different context, where you were paid money to do so.

I move on from that. The problem I have is I have known over the years many Members having help with their emails from their technologically literate son or daughter, or husband or wife, or boyfriend or girlfriend, or PA or secretary, because their other life is as a business person or lawyer or accountant or whatever.

Clearly, under the new Rule, those people would need to be scrutinised and have express permission via SACC, from the Chief Executive. Now that is kind of sensible. Over the years I have had one or two helpers. I remember one of them had had a brush with the law when they were young and I was told not to use that person. Ironically enough, they later became a parish official. That raises other issues. Many years ago.

I will just give a 'for instance'. It is an area full of problems. Even the use of joint emails, which has been tightened up on with the new, more cyber security atmosphere. So you have a situation, relatives are being used, professional people who ran committees with emails from their offices, on occasion.

It is not clear from this letter, although I think it clearly spells out the issues regarding confidential emails and documents that are e-friendly, how does it apply to paper documents and paper piles and bits and pieces in presentations that have not been in the public eye? It is not

entirely clear. Does it apply to cleaners, potentially? Does it apply to file managers? More and more issues there.

Then of course we have the code of conduct staring us in the face. We all know that a Member is rightly subjected to questions if they breach the code of conduct by accidental or deliberate disclosure of confidential or sensitive information. What about a secretary, assistant, researcher, employee, husband, wife or whatever? I am not at all clear on whether they are liable because they are not States' Members, but is the States' Member using that person liable for their associate's misdemeanours? I am not sure about that.

I do think that this is actually a piece of work SACC needs to do, but I am not sure all the answers and a complete analysis of the wider context is here today. So if I support it I reserve judgement for another look at it in the autumn, very much so.

**The Bailiff:** Deputy Merrett.

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

I rise briefly to completely support what Deputy Gollop has said and what Deputy Yerby has said. When I stood for office, I declared to the electorate that I would only have this as my source of income for this political term. I do not know which planet other Deputies are living on. I cannot afford a cleaner for my own house, I do not know about for a private office.

How I ever potentially afford this on my salary I really do not understand. That really is my main concern. I believe quite strongly that we do need to have some apolitical researchers, that we do need to have a library which we can access easily. We do need to have extra support as independent Deputies.

However, the other side of that is that we do have many civil servants and if we do contact them, and they are meant to give us apolitical advice, they actually do try to do so. So in fact we do have many civil servants available to us. My concern is, I do not want to make it an accusation, when a Deputy does contact officers with their concern, or a question, quite often the other political Members sat on that Committee seem to be made aware of or have knowledge of those particular questions, which does concern me because I do want to be able to contact civil servants, whether a chief secretary or whatever their job titles are – and I am well known for being rubbish with job titles – that I should be able to approach that person to have independent, confidential and apolitical advice given to me.

So far in this political term, I have really struggled at times to receive that advice, confidentially, apolitically, and certainly at times in a timely manner. Therefore, I will request a separate vote on 1a, because I do not feel that every Deputy in this current Assembly, or potentially in future Assemblies, would be able to, if they are purely working as a Deputy, that is their only income. I really do not understand how Members would be able to afford such a private office.

In my first reading of this, I thought it meant, in my naïvety, that it would be an office in Sir Charles Frossard House. A room, other than the Members' Room, which I could use to meet members of our community, to have independent, confidential, apolitical officers with me to discuss things with members of our community.

That is what I thought it meant. I am not convinced that is what it does actually mean now. If I can have some reassurance from the President of SACC at all of exactly what his intention is, if it is intended that I have a private office, independent from Sir Charles Frossard House, that I then have to have somebody in there to actually help the office, because we can in theory work anywhere, I personally, as a Deputy on this salary, could not afford that. That is my concern. If the President of SACC could give me any reassurance of what the actual intent is of 1(a), I would be appreciative. Either way, I would like a separate vote on 1(a), if that is possible, sir.

Thank you.

**The Bailiff:** Deputy Prow.

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

2430 First, may I say that I fully support Propositions 1(c) and (d) and Proposition 3, which relate to our obligations to committing the States of Guernsey to conducting business ethically, honestly and with integrity. Those responsibilities are well-defined in appendix two.

2435 The policy letter rightly, in my view, at sections 3.1 and 3.2, on page 4, also fully outlines where we as a jurisdiction must and be seen to fulfil our international obligations, as set out in the relevant standards on bribery and corruption and in particular the international OECD Conventions on Bribery and the UN Convention against Corruption and I declare a special interest, sir, as at both of which I did some work in my former professional life.

2440 I therefore commend the work the States' Assembly and Constitution Committee has done in bringing this to the Assembly. They are important and need supporting. It is vitally important that this Assembly ensures the highest standards of conduct expected of States' Deputies in discharging their parliamentary duties. This is beyond question.

2445 I however have difficulty and I agree with all the Deputies that have spoken so far. In particular, the sections of policy letter found at 3.5 and 3.6 on the same page. Whilst I do wholeheartedly support the foregoing underpinning principles, the way the Proposition at 1(b) seeks to further address a Code of Conduct for Members, I believe, may be ill-conceived and does not comply with natural justice requirements of a mature, international democracy.

They seek to impose additional and far-reaching provisions upon elected Members of the States, but they lack the proper process of checks and balances, ensuring they are fair, reasonable or proportionate.

2450 I would recommend all Members of this Assembly to study the Jersey Standards Statement, which is dated 14th November 2017 and is published on gov.je which gives procedural guidelines to their code of conduct to elected members. This document refers to the interests of natural justice and makes provisions for a fair process. In Guernsey we do not benefit from such guidance, a lack of which has already been raised in this Assembly when Code of Conduct matters have been subject to debate.

2460 I would go further. Yesterday, the day before we were here to debate this policy letter, we were informed that SACC have published their scope and terms of review for the Code of Conduct. We were told this includes a procedure for complaints and the investigative process. I think, therefore, unless I can be persuaded otherwise, we have a cart before horse situation, to be changing the Rules around complaints before that review and establishing the investigation process and procedure.

2465 In particular, sir, the Propositions at 1(b) do not in my view meet the natural justice test and this Assembly should reject them and ask for SACC to come back with propositions that do. It is reasonably technical, but I will endeavour to explain why. Proposition 1(b) seeks to amend section 27, which relates to unsubstantiated allegations.

Complainants are required to supply the Chairman of the Panel of with supporting evidence ...

2470 This is absolutely key. Anybody can make an allegation but it has no worth or value if not substantiated with evidence. In a democratic society, there must be a presumption of innocence. Both criminal and civil courts and tribunals have rules surrounding what amounts to evidence and what does not. An anonymous allegation cannot in its own right amount to evidence. Evidence must be in the form of a written statement or an appropriate equivalent, where it is clear who is making such a statement and how they can substantiate it, or verify the information contained within it.

2475 There are very limited occasions where the identity of a witness might be protected in a hearing, but that is different from the test of the admissibility of evidence. In my view, this principle is sacrosanct and must be also to a complaints process for elected Members. Currently section 27 of the Code excludes, with the words 'will not be considered', anonymous complaints. I struggle with the amendment as I am not comforted by the words 'will only be considered in



exceptional circumstances'. Deputy Gollop has alluded to this. It is incongruous with the evidential requirement, as an anonymous complaint cannot reach an evidential standard on its own.

2480 This leads on to Proposition 2. This asks Members to note the existing the States' whistle-blower policy. This is a policy which places obligations on employers and employees within the public sector. The policy is within a structure which must be GDPR-compliant, designed around management protocols, human resources process and internal audit structures.

2485 It is, in my view, inappropriate for elected representatives who hold independent office and take an oath, working to a Members' Code of Conduct, to be any way associated with a policy designed to manage an organisation where there is a hierarchical structure, designed to tease out bad practice or worse.

2490 Anonymous reporting has value, but it must be regarded for what it is. It is simply intelligence, not evidence which can, within such a structure, be verified, investigated and, if substantiated, potentially evidenced. So not only are the background circumstances of elected representatives entirely different, parliamentarians are subject to clear separations of powers and responsibilities. It is therefore necessary to distance States' Members from the public sector's code for its workforce.

2495 Anonymous information is very low-grade intelligence – confidential free-phones, whistle-blowing, reporting and the like – and requires a rigorous verification process even before it is investigated. It cannot be of use unless evidence can be obtained through such an investigative process.

2500 However, if such information is of a criminal nature, then that is entirely the province of law enforcement and that is how it must be handled, whether the allegation concerns a member of the public, a public servant or a States' Member. A piece of evidence such as a document also requires evidential providence, usually a witness needs to speak to it. Any document which stands evidentially in its own right might be considered by the panel to fall outside the ambit of section 27 and be subject to an investigation but, as said from the outset, we have no underpinning guidance to assist us.

2505 Returning to section 27 of the Code and States' Members Complaint Panel, I submit the Proposition 1(b) makes section 27 somewhat unworkable. Noting a whistle-blowing policy cannot square the circle of the admissibility of the evidence to the standard required for a complaint to be considered for investigation. What would be very wrong, even in exceptional circumstances, is for the endorsement of the panel to go off on fishing expeditions, based entirely on  
2510 unsubstantiated complaints. This fails all the natural justice tests.

2515 If SACC was to introduce a system of anonymous complaining, it needs to recognise the separation of functions, greater respect for the unique circumstances and the independence of elected Members. The ability of the panel to investigate non-evidence-based complaints and the appropriateness of such investigations and holding and processing sensitive personal data under GDPR around an unsubstantiated allegation made against a States' Member. We have as written something that is neither fair, reasonable nor proportionate. I should therefore ask if we can separate out the Propositions because at this moment I am minded to vote against Proposition 1(b) and Proposition 2.

2520 I shall be brief in closing. I am also not overly keen about a Civil Service-run arrangement for correspondence for elected Members, Proposition 1(a), not least as Home Affairs has suffered two leaks of confidential information this term. I also want to know what is meant by 'officers operate in accordance with States' policies and procedures'. This again raises the question of the separation of functions. Elected Members are not States' employees but, by implication, does this mean we are subject to the same policies as public servants?

2525 I need to understand much more about the implications. Do I want my political affairs handled by a private office? I am not sure. Unless I can be persuaded otherwise, I shall be voting against Proposition 1(a).

Thank you, sir.

2530 **The Bailiff:** Deputy Dudley-Owen.

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

I was not going to speak on this because I found it quite perfunctory actually. But it seems to me and I really hope that Deputy Roffey can clarify this, provide absolute clarity, because I did not have any problem with what was written because I bear no judgement at all about Members who choose to work and continue their career outside of the States and those who choose not to. It is absolutely entirely a matter of choice, or entirely a matter of whether they need the money to pay the mortgage or not.

Therefore if you have a job outside the States and if you choose to use the administrative resource of that office outside of the States, I understood that this particular change – excuse me, I am going to have to ask Deputy Dorey to borrow his paper – in Proposition in 1(a) was merely to allow Members, as certain Deputies have done, to use their administrative resource or assistance that they might be able to from that external office. Nothing more, nothing less. This is just about not forcing anybody to have an office, it is merely a matter of accommodating those who have the luck to have an administrative resource and nothing more.

I really hope that I have got that understanding right, because I would like Members to vote for that, because I think it is a very useful tool if you are lucky enough to be able to have that resource.

Thank you.

**The Bailiff:** Deputy Tindall.

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

Just to deal with a couple of points that have already been raised. Private office, for example, is a term certainly understood in the finance industry and obviously for me it is clear that it refers to employees. Using such a phrase, as has been demonstrated by Deputy Merrett's comments, may not have been quite appropriate.

That said, whilst I do have a part-time role outside this Chamber, mainly because I cannot afford to feed my cat without it, if anything else, I could not afford to employ anybody. I just find it irritating that this is being discussed to help this lucky few when actually I would have preferred to be discussing provision of support for Members at an earlier stage.

I think it would be extremely beneficial to all of us. We have such a wide amount of information to digest. I am not just saying that because I do have this part-time role, far from it. It is for the benefit of everybody, that independent advice, that support and I hope that will be brought before the Assembly at some future point.

The other comments that were made by Deputy Prow in respect of the whistle-blowing policy, I too agree that I have serious concerns about the way this is being introduced. I know it is temporary and I know it is not intended to be there other than as a guide. The point is that whistle-blowing is very much a specific aim of this policy. Are we being asked to contact the whistle-blower who obviously is somebody within an organisation for which we have no other direct connection?

Obviously, a whistle-blowing policy is very important. Certainly I am glad to see, for example, the GFSC took my suggestion of setting one up many years ago. Again, I find it difficult to know that we are guided by this when it really is so inexplicable.

Finally, the anti-bribery and corruption guidance for States' Members and employees, it covers all Members of the States of Deliberation and I think that is very sensible to draw it to people's attention. Perhaps I should have started at the beginning by saying that we all have direct and special interest in this particular policy letter. I am assuming it is because we all do have that, we do not to declare it specifically.

Thank you, sir.

**The Bailiff:** Deputy Brehaut.

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

2585 When my mother-in-law used to introduce me to people, Lord rest her soul, she used to say to people, 'This is Barry and he is on the local council.' I used to have an opportunity to single people out and used to tell them just how important and fundamental my role was in the running of a small island community.

2590 Actually, in truth, and I am talking parliamentary terms here, I think small councils and councillors get more support than we do in this Assembly. I do not mind so much the constituency bit because you take that on. We all know that you can get an email and just in responding to that email, you realise that you have effectively signed off for a number of hours' work in trying to resolve this matter for a constituent. The job I have as President of E&I comes with a lot of these considerations that I think I am adequately paid for, by the way.

2595 Where I feel we are let down is in parliamentary support more generally. This is just an example, I am not saying it is drafted incorrectly, Deputy Kuttelwascher has placed a Requête recently. It instructs the STSB. Does it also need to instruct E&I, because we have the strategic obligation?

I will give way but I am not necessarily saying it does need to, by the way, but I will give way.

2600

**Deputy Kuttelwascher:** All I want to say is it does not need to.

**Deputy Brehaut:** Thanks. Actually it is a really good example, because this happens. People draft requêtes, people come to this Assembly and then we find that actually a fairly fundamental piece of what could be that really does impact on policy, sends a Committee down another drill, compromises a workstream simply because the wording is not agreed.

2605 The point I am making is you would expect that when an amendment is placed in this Assembly, whether it is compliant with a Rule or not, should be known even before it is tabled. So even earlier today, we were debating an amendment and we then decided whether it could be debated or not; whether we should debate it. What I am saying is there should be a parliamentary source back there somewhere that tells us.

2610 Another example, because I am waffling. How frequently during debates are amendments of real significance placed? We then have a lunch hour where we may be lucky enough to meet with a Law Officer, to correct the drafting, for eight, 10, 15 minutes. That amendment comes back in here. Does it still do what we think it is going to do?

2615 What there should be is many more people involved in that. Ideally, would it not be fantastic if there were people listening to the States' debate in real-time, working on the amendment for you; real staff support so when you walk out of this Assembly, there was, 'This is the intention, this is what you wanted to do, it is drafted'; rather than people in huddles trying to get the wording correct, when actually it changes the workstreams absolutely fundamentally? So I think I would like personally at times – and I am not casting aspersions on what exists already because we have what we have – but I would like much more parliamentary support to make this Assembly, at times, a little slicker than it is.

2620 Thank you.

2625

**The Bailiff:** Deputy Roffey will reply.

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

2630 It has really been quite a long day. Longer than I expected. A small amount of it has even been connected with the Code of Conduct, which is what we brought for discussion today. Far more has been to do with either the Rules of Procedure or support services for States' Members, neither of which are anything to do with the Code of Conduct.

Never mind, we would have a lot more on the Rules of Procedure in a few months' time and actually I am not particularly looking forward to that. I am not sure I believe those who protested today, though, because they have created more or less a day-long debate on an aspect of the Rules of Procedure, so I think they are closet fetishists for Rules. Maybe a natural successor to me as President of SACC.

Now the other bit that did not really have to do with the Code of Conduct was the numerous calls for greater support for Deputies. Beginning of Tuesday morning, we had Deputy St Pier introducing the accounts, saying he would like to take the people of Guernsey over to Brussels, or wherever it was, and show them what big government meant. We were at the opposite extreme, we were probably the most stingy, parsimonious parliament that you could possibly imagine.

I think that might be just beginning to slip a little bit, because I agree with everybody here. I have never been able to afford any assistance whatsoever in the way I have done my job. I have been a one-man act, apart from serving on Committees of course, when we get support of the Committee officers. But in my own role, I have always been a one-man band with no exterior support at all.

But it is a question, I suppose – I know we are one year back into a surplus, so we have all got money to spend suddenly – of resources and how we can do this cost-effectively. I know there is at least one Member of my Committee that would be very strongly in favour of us moving significantly in this direction.

For myself I think yes, it is really quite easy. We cannot really afford to spend more money because we need to spend it on things like health and education. But if we only had 30 States' Members and used the money saved to employ 10 secretarial support, we would all become so much more effective in our jobs, we would get the work done just as well and we would have the support services. Some of us would not be here, but so what?

Perhaps the most positive response I can give to all of those calls comes through Deputy Brehaut's at the end when he was talking about should we have help with requêtes and with amendments and all the sort of parliamentary support that he wants to see. As you are well aware, sir, SACC is considering the possibility of some sort of what other communities would call a parliamentary clerk, what we call here, perhaps, a States' Greffier role.

If we could do that on a not particularly expensive way, through reorganising the furniture, we believe it is true, perhaps because of our historic inter-relationship between the court and the parliament in Guernsey, that parliamentary support, although we are brilliantly supported by people like the Law Officers in giving us assistance when we want them to. Maybe some more basic parliamentary support is something that is missing from the States of Guernsey, which just about every other Assembly would have.

So we are actively looking at that. I have to say we are not actively looking at a pool of secretarial and research assistants and whatever else. I do not rule that out, but it is not top of my list of priorities if we do not have money to spend over the next few years. But requêtes are always possible if that is what people want.

Now, answering some specific questions. Firstly I was delighted, I had not been aware at all that Scrutiny Management Committee were drafting a new Law, powers to call people or papers before Scrutiny hearings. I am very pleased with that. And I glad that he supports the Code of Conduct doing so too. The Code of Conduct, of course, will only bind on States' Members. What I hope the Law will do will be on other people. I understand SMC can call anybody in receipt of public money in front of them. That is not always States' Members, so I think that is the right route to go down, but as a stop gap we are going to consider that.

He, like Deputy Prow, and a couple of others, still has some concerns over removing the absolute blanket ban on anonymous complaints. I understand that, that was my first instinct too. It does not really feel quite right. But I do think perhaps we should have thought of that before we signed up to international obligations – that blanket ban is not just out of kilter with international norms; it is not living up to our obligations under those conventions.

I think I am being asked to give way, so I will.

2685 **Deputy Prow:** Thank you, Deputy Roffey, for giving way.

Just to clarify what I am saying, I am not against anonymous complaints; what I am saying is it must be underpinned by a fair, proportionate and reasonable check and balance. I am only against it because there is no underpinning guidance around it.

2690 **Deputy Roffey:** I am not completely convinced of that, sir. Deputy Prow said there should not be fishing expeditions on the basis of unsubstantiated complaints. No complaint, without the *prima facie* evidence, goes any further. The fact that we are removing the blanket ban on anonymity does not remove those other sections of the code that say without evidence up front – and I accept his point, it is quite hard to have firm evidence from an anonymous source – but he  
2695 he did even accept that occasionally that does actually happen from his experience, but not often. It is low-grade but sometimes it will happen.

I go back to what I said at the beginning. I do not think it is likely to happen in Guernsey but of course we cannot ask to be an exception when we are under an international set of rules. I do say that if there is endemic corruption within a government, it would be an incredibly difficult and  
2700 courageous thing for a middle-ranking civil servant to actually produce the evidence that he or she has and give their name to it, because there are going to be in a very difficult situation.

Under those circumstances I, with a degree of reluctance, feel that this is the right way to go. If we do not, then I do not know what we do. Do we ask for the UK to somehow withdraw the extension of these conventions to the Channel Islands? What sort of message will that send out to  
2705 the rest of the world? I think it would be a fairly poor one.

I think that is probably just about it. Just to correct Deputy Gollop, let us come back to exactly what these private offices are. This has always happened. People said, 'Why are you bringing forward a facility for private offices before bringing forward secretarial support?' People have always used their business resources, their whatever else. Yes, it is a minority, the rest of us are  
2710 jealous because we do not have those sorts of resources. But it has always gone on. In the new world I think we have to have more regulation because there is data protection, there is a real obsession about not allowing whoever that is, not the actual Member of the States, to actually see all the documentation that comes through without some form of control.

Deputy Gollop is wrong. SACC will not be controlling it. We are suggesting actually the Chief  
2715 Executive should approve those things. This is not us accelerating this to try and help people to do this. It has always happened and we think that it needs some regulation today, otherwise there are potential problems with that.

I think that is about all. I have confirmed the answer yes, I think, to Deputy Dudley-Owen. I do ask for your support and I do ask as well that over the next six months, particularly over the next  
2720 two months when we are calling for people's views, that the more fundamental review of the Code of Conduct, there are probably no greater stakeholders than the people sitting in this Assembly today, so we would very much like to hear from you before the end of August.

Thank you very much.

2725 **The Bailiff:** Members, there have been requests for separate votes on Propositions 1(a), 1(b) and 2. Does anyone require any other separate votes? No. Well, we will take first Proposition 1(a), the one concerned with private offices.

**A Member:** A recorded vote, please sir.  
2730

**The Bailiff:** We will have a recorded vote on Proposition 1(a).

*There was a recorded vote.*

*Carried – Pour 24, Contre 9, Ne vote pas 0, Absent 7*

**POUR**

Deputy Brouard  
Deputy Dudley Owen  
Deputy Yerby  
Deputy de Lisle  
Deputy Langlois  
Deputy Soulsby  
Deputy de Sausmarez  
Deputy Roffey  
Deputy Ferbrache  
Deputy Tindall  
Deputy Brehaut  
Deputy Tooley  
Deputy Parkinson  
Deputy Lester Queripel  
Deputy Le Clerc  
Deputy Trott  
Deputy St Pier  
Deputy Stephens  
Deputy Fallaize  
Deputy Smithies  
Deputy Hansmann Rouxel  
Deputy Graham  
Deputy Green  
Deputy Dorey

**CONTRE**

Deputy Prow  
Deputy Kuttelwascher  
Deputy Gollop  
Deputy Mooney  
Deputy Le Pelley  
Deputy Merrett  
Deputy Meerveld  
Deputy Lowe  
Deputy Paint

**NE VOTE PAS**

None

**ABSENT**

Deputy Oliver  
Alderney Rep. Jean  
Alderney Rep. McKinley  
Deputy Leadbeater  
Deputy Inder  
Deputy Laurie Queripel  
Deputy Le Tocq

**The Bailiff:** Members, the voting on the Proposition 1(a) is 24 in favour and 9 against. I declare it carried.

Next, Proposition 1(b), which is concerned with unsubstantiated allegations. Those in favour; those against.

*Members voted Pour.*

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

We will take Propositions 1(c), 1(d) and 1(e) together. Those in favour; those against.

*Members voted Pour.*

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

Next, a separate vote on Proposition 2. Those in favour; those against.

*Members voted Pour.*

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

Finally, Proposition 3, those in favour; those against.

*Members voted Pour.*

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

**POLICY & RESOURCES COMMITTEE**

**V. Schedule for future States' business –  
Proposition carried**

*Article V.*

*The States are asked to decide:*

*Whether, after consideration of the attached Schedule for future States' business, which sets out items for consideration at the Meeting of the 18th July 2018 and subsequent States' Meetings, they are of opinion to approve the Schedule.*

**The Greffier:** Article V – Schedule for future States' business.

2745 **The Bailiff:** Deputy St Pier.

**Deputy St Pier:** Sir, the schedule for future States' business, I think, is self-explanatory, it is worth noting that the business to be covered is considerable and is going to require a considerable amount of self-discipline for us to get through it all before the end of the Meeting, after which of course it will be deferred to September.

2750

In section (b) on statements, I am hoping that, with your permission, to make a statement on the financial performance up until the end of June and also, possibly, a statement in relation to our relationship with Jersey. In terms of the substantive business, we have sought to arrange it in order of priority, in particular the Customs issues, including Home Affairs, are absolutely essential, in respect of Brexit as the legislation needs to be drafted.

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The Air Transport Licensing is next in terms of order of priority, without which the public service agreement process comes up for Alderney, the revised Waste Management Plan is essential and then SACC's relatively straightforward letter on dates for statements is required in order to schedule statements for September onwards and the rest thereafter follows. So that is the logic behind the arrangements which P&R have recommended to the Assembly, sir.

2760

**The Bailiff:** I have not received notice of any amendment to the schedule, so that means we go straight to the vote. Those in favour; those against.

*Members voted Pour.*

**The Bailiff:** I declare it carried. I believe that closes the Meeting.

*The Assembly adjourned at 3.57 p.m.*