



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Wednesday, 28th September 2022

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Present:

Ms J E Roland, Deputy Bailiff and Deputy Presiding Officer

Law Officers

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

People's Deputies

S. E. Aldwell	C. J. Le Tissier
C. P. A Blin	M. P. Leadbeater
A. H. Brouard	D. J. Mahoney
Y. Burford	A. D. S. Matthews
A. Cameron	L. J. McKenna
D. de G. de Lisle	C. P. Meerveld
H. L. de Sausmarez	N. G. Moakes
A. C. Dudley-Owen	R. C. Murray
J. F. Dyke	C. N. K. Parkinson
S. P. Fairclough	R. G. Prow
S. J. Falla	L. C. Queripel
P. T. R. Ferbrache	P. J. Roffey
A. Gabriel	H. J. R. Soulsby
J. A. B. Gollop	G. A. St Pier
S. P. Haskins	A. W. Taylor
N. R. Inder	L. S. Trott
A. Kazantseva-Miller	S. P. J. Vermeulen

Representatives of the Island of Alderney

Alderney Representatives S. Roberts and E. A. J. Snowdon

The Clerk to the States of Deliberation

S. M. D. Ross, Esq., (States' Greffier)

Absent at the Evocation

Deputy T. L. Bury (*relevée à 2h 30*); Deputy J. P. Le Tocq (*relevé à 3h 05*);

Deputy M. A. J. Helyar (*indisposé*); Deputy V. S. Oliver (*absente de L'île*)

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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

CONVOCATION

The Deputy Bailiff: Good morning, everyone.

5 Could I just remind all States' Members to ensure that they have actually signed into the simultaneous electronic voting system? There is still a large number of you who are listed as 'absent' when, quite obviously, you are not. A little reminder to make sure you have got your chargers so you do not run out of juice halfway through and cannot vote.

Can I also remind Members that if you do have a conflict of interest, they should be made clear at the beginning of any discussion as we go along through the very full Order Paper that we have
10 over the next three days?

Greffier.

The Greffier: Yes, madam.

STATEMENTS

POLICY & RESOURCES

Reform and transformation within the States of Guernsey– Statement by the President of Policy & Resources

15 **The Deputy Bailiff:** Let's start with the Rule 10(3) Statement from Deputy Ferbrache on behalf of Policy & Resources.

Deputy Ferbrache: Madam, I am very grateful for you giving me permission to make this Statement. This Statement relates to the important issue of the reform and transformation within the States of Guernsey.

20 As Members will be aware, public sector reform was agreed in 2015 as a 10-year plan to transform how the public sector is organised, how it is managed and how it delivers services including investment in the digitalisation of services. Central to that work was the delivery of savings, which will allow money to be released to be reinvested in the frontline services which need them

the most: hospitals, schools, our police force etc. as they cope with increasing demands and pressures. Today I aim to provide an important update on that work. Members are aware of the Committee's concerns and we have now reached a point that we must determine how we continue.

Firstly, can I say that there was a high-level mission underneath the detailed plan for public sector reform. That was to get to the stage where our services were being delivered online as well as in person, so that people could access them with ease at their convenience, not at ours, where we had removed duplication, and removed the need for Islanders to give our services the same information again and again depending on which bit of the States they were dealing with.

Alongside that, it was intended to allow us to concentrate our resources where they are increasingly becoming most needed. That is in health and care where the demands from our population, as it becomes older, will grow. That is still what we want to achieve, and it is more and more what people expect.

Now, I do not want my remarks in this speech to be misunderstood, so can I also say from the absolute outset that the staff right across our organisation working to deliver change, and those who have seen their roles changed already, have worked incredibly hard and we should thank them. They have been asked to undertake an enormous amount of additional work, on top of delivering their services day-to-day. I do not want anyone hearing this and what I am saying next to think this is a criticism of the very hard-working people in our public sector. Members, we all know from our own experience this term that in many areas those staff are very, very stretched.

So if the aim is right, and staff are working their socks off, why do I have concerns? And I have serious concerns. Because we are not seeing the results. We are not seeing the savings that were promised. We have not seen the removal of 200 Civil Service posts that was promised in the 2019 Budget. We have seen around 100 – in fact, 99 – and we know realistically we have removed as many as we can through efficiency alone. To remove more means cutting into the delivery of services themselves.

The Assembly's approval of the plan last term was made in good faith; the forecast returns justified the significant investment. The scale of the anticipated savings meant that the initial expenditure would be recovered – or should have been recovered – relatively quickly and there would be an ongoing benefit. Figures of £16.7 million for spend, £7.4 million for annual return of savings were mentioned.

However, in attempting to verify these figures, it has become apparent that the programmes of work were too complex, too ambitious, and simply not deliverable. This leaves us in a position where current expectations in terms of savings are pathetic compared to previous promises.

Every year, budgets have promised recurring savings and every year there has been a significant shortfall in these saving targets; and 2022 is looking no different. Some of that is down to the increased demands from COVID, but that cannot be used as an excuse because fundamentally the approach adopted last term, which was based on a big bang approach, was, if I am really honest, all wrong. Completely wrong.

This current P&R has inherited this problem and it has been complicated and time-consuming getting to a position where we can fully appreciate the extent of it. But it is clear now we cannot continue as we are. Some may not agree and argue if we keep going, keep pouring more money into it, it will eventually work out. But I do not think it will. We need a new direction now if we are going to successfully deliver the change Islanders expect without wasting significant additional sums. To do otherwise would simply be an unconscionable waste of taxpayers' money. It would also be unfair to those who are working so hard across the States to try to deliver results against the direction this Assembly sets, with no realistic hope of success. It is not right and it is not fair.

Getting it right is a responsibility for the whole of this Assembly. Many Committees have, perhaps understandably, not leant into the reforms in the way they should, and there has been a lot of pushback at a political level. Is that because of a lack of buy-in from Members, or a failure to secure political support by the leadership? In a sense it does not matter – it is not working – what matters is it is one more sign that we cannot continue with the current direction, it must change. When it does work we must work together, we must work with each other and with the whole organisation.

So what does the new direction look like? We need to be more focused. We allow service areas to introduce incremental changes in a way that it does not prevent them and their teams from delivering their services. Senior expertise will work with the subject matter experts to identify their, and their customers', core challenges and together they will work towards addressing these with clear, measurable – and realistic – outcomes. Staff will be upskilled and supported to lead teams through change and engage effectively with external providers.

The result of this work will be a smaller list of actions which prioritises suggestions from those with the practical experience based on urgency, achievability, benefits and the resources needed. This will allow informed investment decisions to be made based on value for money. These will be monitored and supported through to conclusion.

The new Head of the Public Service is working with senior colleagues to establish how they can support their teams to move into this new direction, where we make practical improvements without spending vast sums. I will provide a substantive update at my next routine Statement where I will provide examples of how this new way of working will practically support service areas.

What does this mean in reality for Members and for political committees? Short-term, committee priorities cannot take precedence over the longer-term needs of the States as a whole and we are simply moving nearer the day when we will need to start turning off services as we will not be able to afford them. I repeat that: we are moving nearer the day when we will have to turn off services. That is how stretched we find ourselves. We know that we face greater pressures on our public services in the coming years because of our ageing population, and we know we already face a shortfall in the tens of millions of pounds per annum. We cannot expect savings from transformation to help dramatically improve this situation. Transformation instead needs to look at modernising and improving services, using these efficiencies to help us off-set future cost increases.

We have what is the most difficult job of any States since my political career began in 1994. We must get our transformation back on track; we must deliver the sorts of services Islanders want; we must find a solution to our looming shortfall, and all of that against a backdrop of huge global economic uncertainty. But we, madam, Members of this Assembly, must rise to the occasion, and we must work with our public sector, we must work with our community and we must work together; and we can only do this if we are honest and stop chasing the ghosts of the previous term.

This subject will be discussed at my monthly meeting with Committee Presidents and, I and my colleagues, are happy to attend Principal Committee meetings to discuss more specific details if helpful. This is an open offer available to any Committee at any point. We are also arranging for a presentation and drop-in session for all States' Members with the Strategic Leadership Team of the public service, and invitations are going to be sent out today.

Madam, I know I have been the bearer of bad news this morning; well, I am sorry about that. What we inherited was the worst plan I have ever seen in all of my life, whether professional, business, or States-wise; we are trying to address that. I hope that my remarks will be seen as a positive, that we are recognising where things are not working, we are putting a stop to money being needlessly spent on unachievable targets, and we are getting serious about how and where we will deliver public services that our community expects and deserves.

Thank you very much.

The Deputy Bailiff: Thank you, Deputy Ferbrache.

We now have 15 minutes of questions in the context of the Statement.

Deputy Inder.

Deputy Inder: Sir – sorry, Madam Deputy Bailiff; apologies – part of the public service reform was a move to digital applications and what was known back then as 'channel shift' – in short, offline services to digital. That same promise was made through the FDS, the Future Digital Services, and that bill is around £220 million. Given what the Chief Minister has told us today, could he assure Members that there will be a serious reduction in the size of that £220 million over what was a 10-

year period to ensure that public services will be in good shape and we are not wasting money on a future digital services system that clearly is not working?

130 **The Deputy Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: Thank you very much, madam.

 I – together, I think, with Deputy Roffey; and I think he would agree with me – are probably the two least able people to speak about digitalisation in any material detail. But in connection with the question: the States approved a £200 million-plus contract with Agilisys; that is what I think Deputy Inder is looking at – he is nodding affirmatively. We are ensuring – and indeed, I spoke to the Chief Executive of Agilisys very recently and made it clear beyond any peradventure where we expect things to go. There have been improvements. It was a shambles, the digitalisation of the system was an absolute shambles. It was held together by sticky tape, it was Heath Robinson.

140 So there is an improvement but there is a long way to go.

The Deputy Bailiff: Deputy Dyke.

Deputy Dyke: Thank you, madam.

145 Perhaps the Chief Minister would like to know that the Scrutiny Committee is now putting in place a scrutiny arrangement for the Agilisys contract; he might be interested to know that.

 I and the Legislation Scrutiny Panel met last week to consider the Secondary Pensions Law, which has gone through that Committee with a few minor drafting amendments. With that in mind, are the Chief Minister and P&R minded now to look at the point of the Civil Service pension arrangements with a view to putting new civil servants into the States' Secondary Pensions Plan, on the assumption that it is approved, to put them on the same pensions wavelength as everyone else in the private sector? Presumably, that should not be too difficult if it only –

The Deputy Bailiff: Deputy Dyke, you do only have a minute to ask your question.

155

Deputy Dyke: Thank you, madam.

Deputy Ferbrache: I think there are three things there. Firstly, I was aware that Scrutiny are going to look at the Agilisys contract but I am very grateful for Deputy Dyke making that public. Secondly, the Secondary Pensions come back before the States, I think, due November and I hope it will be passed then and go through.

 The third thing in relation to Deputy Dyke's main question is that that issue should be addressed and is being addressed. I cannot give an undertaking. I am one person. I do not have executive powers in relation to anything that I do in this Assembly; I am one of 40 Members. But that is an issue that should be addressed. States pensions for States employees should be proper but they should not be markedly out of line with what is available in the private sector.

The Deputy Bailiff: Deputy Queripel.

170 **Deputy Queripel:** I rise to seek clarification on the practicalities Deputy Ferbrache referred to; I apologise if he covered this in his Statement. What is being done in relation to looking into departments possibly being overstaffed with a view to moving those staff to departments that are understaffed and struggling to keep up with their workload?

175 **The Deputy Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: That is a very fair point. It is being looked at, has been looked at, and lots of people have been moved within the Civil Service from A to B. Despite the public myth – and it is a

180 myth – in key positions, the Civil Service is under-resourced and significantly under-resourced; I
could name six or seven departments at the drop of a hat. So that is being looked at. But what we,
the Assembly, have got to do is move forward proactively with the resources that we have. There
is– and I know I use this every time but I do not apologise for doing it – no money tree that I can
see out of this window. Our fiscal resources are stretched to the extreme. More will be heard about
that when Deputy Helyar presents the Budget shortly.

185 **The Deputy Bailiff:** Deputy Gabriel.

Deputy Gabriel: Thank you, madam.

190 I would like to ask the Chief Minister: given the unrealised savings that have been predicted
through change – and here we are: you are telling us we need to change again – is the system agile
enough or is it too much of a behemoth – or like an oil tanker, going to take so many years to
change – and what sort of change management measures will we see?

The Deputy Bailiff: Deputy Ferbrache.

195 **Deputy Ferbrache:** I think that is an excellent question. I have never been noted for my patience
in life – in fact, I do not know if it is a strength or a weakness, but it is a fact – and I find dealing with
the public sector – and, I have got to say, dealing with some political colleagues – absolutely
impossible. There is no regard to reality, no regard to practicality, no regard to fiscal responsibility.
200 I could name 15 Members of this Assembly but I will not because I am a polite person as well as
being a forthright person.

In relation to these particular matters, we are looking at it. The savings will be modest. There will
be a figure for next year put in the Budget; I am not going to disclose that now because that is not
the convention. I still have doubts as to whether we will achieve that. What we are concentrating on
205 now is efficiencies.

As I said at the very end of my remarks, this was the worst-detailed plan I have ever seen, and I
have worked in the north for 40, 50 years, I have had businesses for a long time, I have seen lots of
things, I have been in the States for a long time. This was a plan of pathetic and insubstantial detail.

210 **The Deputy Bailiff:** Deputy Burford.

Deputy Burford: Thank you, madam.

I thank the President of Policy & Resources for the Statement – and indeed, the reality check,
which I think is always healthy. For clarity, could I just ask: does the figure of ‘99 posts removed’
215 that he refers to include the number of staff who were transferred out to Agilisys?

Thank you.

The Deputy Bailiff: Deputy Ferbrache.

220 **Deputy Ferbrache:** Very fair point: I could have read the schedule but Deputy Burford is right.
In fact, that is most of them; it does include the people who have been moved. Other than that, I
think we are talking about – I have got the exact figures: 30, 40 – it does include those people.

The Deputy Bailiff: Deputy Gollop.

225 **Deputy Gollop:** Madam Deputy President, I am possibly, on occasions, one of the irresponsible,
unrealistic Members that Deputy Ferbrache is thinking about. Not long after we adopted fair trade,
in the early days and the days of 1994, which Deputy Ferbrache will remember, we used to have a
tea lady who came round with our biscuits and coffees; that person was made redundant. With the
230 200, or whatever figure you choose, how is it that sometimes, it is 200 officers and public servants

at the lower end of the pay spectrum who go and yet we see more divisional, higher-level figures? My question is: make sure that the 200 is not just at the lowest financial payment level of members. How are you monitoring that?

235 **The Deputy Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: I think that is a good point. Deputy Gollop has referred to the 200 figure; that is not our figure, that is not achievable. We have gone just about as far as we can. But he is right: you should not always be looking at the tea lady at the bottom; you should be looking at the senior member of the leadership team – and some of those have gone – at the top. It is a good point well made.

The Deputy Bailiff: Deputy Kazantseva-Miller.

245 **Deputy Kazantseva-Miller:** Thank you, madam.

 The name of the Policy & Resources Committee, the clue is in the name. It is to co-ordinate senior strategic and financial direction for this Assembly to abide by. We have now gone through three Budget cycles with the next Budget to be debated in a month's time. So far, we have complete failure in terms of actual financial direction to set Committee cash limits to manage our affairs better. Would the President of the Policy & Resources Committee agree that actually, what this Assembly needs is more concrete direction and more complete direction with Budget responsibility and that is what actually lays at the core of the failure of this Assembly to grapple with this issue?

The Deputy Bailiff: Deputy Ferbrache.

255 **Deputy Ferbrache:** Let's wait and see how brave States' Members are in January, when we debate the tax review. Let's wait and see how many Members will then grasp that nettle. That is where the core of our activity needs to focus in relation to what we can do. You cannot do things without money: you cannot staff hospitals, you cannot build schools, you cannot mend the roads without money. So let's see how brave – because we will have a policy direction in January – this Assembly is then.

The Deputy Bailiff: Deputy Taylor.

265 **Deputy Taylor:** Thank you, madam.

 At the beginning of this political term, Members were invited to take part in a Government Work Plan process and then we voted on the Government Work Plan. We were advised in that process not to consider the 'people' resources and concentrate on the funding and what the actual projects or workstreams would be. Given the points raised in Deputy Ferbrache's speech, I wonder if he thinks that was a good approach in hindsight.

The Deputy Bailiff: Deputy Ferbrache.

275 **Deputy Ferbrache:** Yes, it was, because we have got to have a working plan. There are always going to be naysayers but most people have accepted that a Work Plan is the best policy document, if I can use that phrase, that the States has had in many a year. It is a practical document. It is difficult, and I know my able colleague, Deputy Soulsby, has torn her hair out on occasion trying to herd cats together. In relation to that – and it is not inconsistent with the other thing.

280 The 200 – in fact, there were higher figures mentioned apocryphally – was just a fanciful figure. It was irresponsible to mention that figure unless you knew how you were going to get to it. A did not have a clue how they were going to get to B.

The Deputy Bailiff: Deputy Parkinson.

285 **Deputy Parkinson:** Thank you, madam.

I am struggling to see the purpose of the Chief Minister's Statement. We are two years into this Assembly. What he appears to be saying is that the efficiency savings have not been achieved, that they cannot be achieved, and that we will now have to go in a new but unspecified direction. How are the public to have any confidence in this new direction when so little has happened and there is no clear path forward?

290

The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Isn't it difficult when you inherit a mess? You try and put the best – you have got to find out just how deep that mess is first, then you have got to try and rectify it, then you have got to try and move forward. We have realised how deep that mess was, how irresponsible the previous statements were, and we try to address it. We have got to move forward and I have said in my Statement that in the next update, which will be in about five months' time, that I make, I will be saying further things in relation to this matter.

295

I have also put out an invite – or an invite will go out – for all States' Members to co-operate. Now, Deputy Parkinson will know that I, a few months ago, put out an invite to see every States' Member individually or in groups. Thirteen people responded. First out of the tracks was Deputy Trott; second or third out of the track was Deputy Burford. Most people did not bother speaking to me. So let's have co-operation going forward.

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305

The Deputy Bailiff: Deputy Le Tissier.

Deputy Le Tissier: Thank you, madam.

Is the Chief Minister aware of anecdotal evidence that when people leave the Civil Service, they are quite often re-employed on contracts, which avoids the head count going up? We want to see it actually go down.

310

Thank you.

The Deputy Bailiff: Deputy Ferbrache.

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Deputy Ferbrache: I do not know the extent of it; I think there are some. I do not think it is done to avoid the head count; it is done because that particular person has a skill so they come in on a one-year, two-year, three-year contract which he or she then discharges. I do appreciate the point that Deputy Le Tissier has made but it is accountable. What has not happened, as far as I am aware, is you knock one off and then re-employ them on a contract basis so that you can say, 'I've reduced a post.'

320

The Deputy Bailiff: Deputy Haskins.

325 **Deputy Haskins:** Thank you, Madam Deputy Bailiff.

The President mentioned we are close to turning off services. Can the President offer some examples of services we could reasonably expect to turn off just to give some context to the shortfall he mentioned?

325

330 **The Deputy Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: Very good question: I could but I am not going to because I think that would be irresponsible because we need to speak to the Committees in question before I make a public statement. But we need to do it. The fact is, we are going to be moving – we already have a structural

335 deficit. We do not make enough money to invest in our infrastructure. We could actually, if one or two things go – we are living in very uncertain times worldwide, as Deputy Haskins know, we all know – we could move into a revenue deficit very shortly; I hope that is not the case but it is at least a possibility.

340 **The Deputy Bailiff:** Deputy Inder.

Deputy Inder: Just briefly, Deputy Bailiff, to the Chief Minister: it does strike me – and I think the Chief Minister has referred to it – some of the problem is almost within this Assembly by creating work itself. We create work for the too-few people that we have got.

345 Would the Chief Minister agree with me – with the exception of approving the Budgets, the Accounts, and the odd fiscal instrument, if the States did not sit for at least a year, creating that work, would the sun still rise and would the taps still run?

The Deputy Bailiff: Deputy Ferbrache.

350 **Deputy Ferbrache:** Yes.

The Deputy Bailiff: Deputy Queripel.

355 **Deputy Queripel:** Madam, I apologise to the Chief Minister for not keeping up with this issue. The reality is, of course, we have got far too much to keep up with. The previous Assemblies had a Financial Transformation Programme in place with an annual recurring saving target of £30 million. Can the Chief Minister please tell me if that programme is still in place? And if it is, is it actually hitting that target?

360 **The Deputy Bailiff:** Deputy Ferbrache.

Deputy Ferbrache: No, it is not hitting its target. As regards the transformation, which is the point of this Statement – but a question well made by Deputy Queripel – the previous P&R approved £8.9 million but the overall figure was £16.7 million. The previous P&R approved in 2019, £8.9 million, this P&R approved in 2021, £7.8 million. If my arithmetic is right – and if Mr [inaudible] taught me arithmetic down at the Grammar school correctly – that is £16.7 million. We have spent £11.5 million of that. In relation to that, the savings we were told we would achieve were £7.4 million per annum. I remember, during my tenure as President of P&R, all of a sudden getting a report that it was £3.7 million and I wondered why it had halved. I can say to Deputy Queripel and my colleagues and the public at large: if we could achieve £3.7 million now, I would be delighted.

The Deputy Bailiff: Deputy Murray. This is the last question.

375 **Deputy Murray:** Thank you, madam.

I appreciate and thank very much the honesty from the Chief Minister. I think it is about time we actually face the realities that we have here in Guernsey at this point in time – and I do not mean just in this Assembly; I think the public at large need to be told the truth. The sums do not add up. The Chief Minister has talked about perhaps having to stop services. The Members of the Assembly will know that most Committees have put forward suggestions as to where they perhaps could cut if they had to. They are going to have to be embraced, I have to say, because we cannot afford the future; that has been made plain this year. The Budget has made very plain we have a deficit –

385 **The Deputy Bailiff:** Deputy Murray, it is supposed to be a question and it is supposed to be a minute long.

Deputy Murray: Would the Chief Minister agree with me that it is about time that the public understood that we can no longer deliver even the level of services that we currently have?

390 **Deputy Ferbrache:** I absolutely agree with Deputy Murray. When we come to this debate in January, the tax debate in January, the tax reform debate, we will see how brave this Assembly is, we will see how frank they are because there are no easy solutions. There are no easy solutions. I have got lots of trees in my garden, as I say – oaks. I have got all kinds of trees. I am very lucky. I have even planted a couple of redwood trees; I hope they grow long and tall and well after me. But
395 I still have not been able to find the seeds to plant a money tree.

The Deputy Bailiff: I am not going to extend questions. At the moment, we have 16 amendments to the disability and discrimination legislation. We have got a very tight timetable.

COMMITTEE FOR EDUCATION, SPORT & CULTURE

General update –

Statement by the President of the Committee for Education, Sport & Culture

The Deputy Bailiff: So I am going to now move on to the next Statement, which is the Statement
400 by the President of Education, Sport & Culture, Deputy Dudley-Owen.

Deputy Dudley-Owen: Madam, until recently I intended to open this Statement by reflecting on what a privilege it was to celebrate Queen Elizabeth II's Platinum Jubilee in June. Despite recent events, I still think it proper to look back with pride on the celebratory events including the lighting
405 of the beacon at Castle Cornet, the Platinum Jubilee Arts Seafront Sunday, the community fete and screening of the Party at the Palace in the Grounds of Government House. The winning design in our Platinum Jubilee Flag competition was sent to Buckingham Palace as a gift from Guernsey as well as being flown around the Island.

And Madam, commenting as I feel I must on those recent events, I want to publicly thank staff
410 and the vast number of volunteers alike who came together to ensure that we, as one of the Crown's oldest possessions, were able to mark the death of Her Majesty Queen Elizabeth II with a 96-gun salute, and also mark the proclamation of King Charles III in London and in Guernsey with two 21-gun salutes. I am grateful to all those who played a part in ensuring these events were appropriately commemorated.

415 Madam, just three weeks before the Platinum Jubilee, Islanders commemorated and celebrated the 77th Anniversary of our Liberation. The morning saw the traditional parade, the Town Church service and wreath laying. Later, thousands lined the streets to watch the Island-wide Cavalcade and seven parishes put on a wide range of entertainment with music, singing, dancing, food and games, bringing communities and different generations together to celebrate. We welcomed the Duke and
420 Duchess of Wessex who enjoyed a special programme of entertainment at Castle Cornet before taking to the dance floor at the Liberation Tea Dance and later assisting in the planting of trees as part of the Queen's Green Canopy project – a living legacy to an inspirational monarch.

Madam, since my last statement I have honoured my commitment to host a presentation updating States' Members on the Education Strategy, where some of our senior leaders gave an
425 insight into several key workstreams.

The Committee has sought invaluable feedback from key leaders across the education sector and from a Cultural Values Assessment undertaken across the entire education workforce and was used both to shape the operational policy plans that our senior team is leading. The commitments and priorities of our Strategy now drive all operational activity within Education and inform our
430 understanding of where to focus limited resources.

A staff group in every education setting champions the Education Strategy, and core group of staff from the States' enabling services meet regularly to ensure that no one loses sight of the part those services play in realising our aspiration for excellence for all our learners. Our students are at the heart of all that we do, so we have also taken feedback from groups of young people and adult learners to make sure our areas of focus are the ones that matter most to them.

We will publish the Education Strategy Annual Report each January. This report is a key milestone as it will be the benchmark against which all future reports will be measured. The Director of Education recently wrote to the parents and carers of our students to promote the Education Strategy and the website where more information can be found. He reiterated the invaluable role of parents and carers as partners in their children's education, and I echo those sentiments.

I was thrilled to attend our third A Joyous Childhood Conference recently, along with 150 delegates ranging from childminders to college staff. The author Michael Rosen – of We're Going on a Bear Hunt fame – was the keynote speaker focusing on the power of play and reading for pleasure. Early Years specialists delivered workshops with topics including early brain development and sharing best practice in early childhood education.

Madam, in line with the priorities of the Government Work Plan, the Transforming Education Programme is delivering at pace. We are about to submit a funding request for the Digital Roadmap for Education and, in the meantime, work is underway to roll-out improved wireless and local area networks to all schools. This will significantly improve connectivity and make an immediate and tangible improvement to the educational experience.

The review of the Education Law is progressing. The foundational work started by our predecessor committee has not been disregarded but the landscape has changed, even in the short time our Committee has been in office, and we need to ensure our proposals will stand the test of time. Our policy development involves a range of stakeholders so that we understand issues created by the current legislation or, in some cases, by the absence of legislation, and we are on track to consult in both a general and targeted way in the new year.

One of the review's most important strands is the governance of our education settings. The Committee has a voracious appetite to genuinely understand governance at school level and to improve on historic governance practice across the Islands. We are determined to develop a governance model that fits the unique context of *our* Islands, including the wider structures of government, and allows settings-based leaders to properly lead: to use their professional skills to drive improvement; to make decisions about how best to do that; and to have the tools to make it happen, whilst at the same offering them appropriate support and challenge.

Any new governance model involves change for leaders and for centrally provided services and must be implemented with care. The Committee is investing time in actively providing governance to individual settings as an interim step – and I stress the word interim, as we explore the right fit for the future. This brings two advantages: firstly, we are holding leaders more closely to account for the outcomes of all their learners; and secondly, our 'on the job' learning is helping to develop the future model in a considered, evidence-informed way.

Work on the redevelopment of the Les Ozouets Campus is progressing well. We have planning permission following the technical design phase and the old buildings have been vacated. I thank everyone who so willingly moved into new, and in some instances temporary, accommodation to enable us to build Guernsey's state-of-the-art post-16 campus. The construction tender is well-progressed, and we anticipate commencing work on-site at the turn of the year. In parallel, we are ensuring that the Les Varendes site meets the requirements of our new secondary model, including bringing the site up to the modern standards of our other 11-16 schools; and progressing designs to repurpose the pool to be made home to the Music Service; Youth Commission and SHARE.

Madam, the pandemic put hold some aspects of the continuous professional development of the education workforce. I am pleased to report this is very much back on track. We are scheduled to deliver over 200 training sessions covering topics as wide ranging as safeguarding, mental health first aid and subject specialist development this academic year.

Despite the pandemic's disruption to education, the percentage of children finishing Reception Year who obtained a good level of development are the highest for several years. This reflects the positive impact of preschool funding and the improved oversight and support offered to this sector as a direct result.

Children in Year 2 and Year 6 of primary school have had their pivotal years of education disrupted by COVID, and results in reading, writing and maths reflect this. Schools are working hard to raise attainment levels, particularly where individual children have gaps in their learning, and we have secured additional funding to help bridge these gaps and to provide more health and wellbeing support for students.

In the main, this year's GSCE results held up favourably against 2019's, which is the last time there were formal public exams, and reflect the hard work of learners despite the disruption they have faced. Our sixth form students had a different challenge this year because, exceptionally, A level or IB exams were their first experience of sitting public exams. The proportion of young people achieving an A level pass grade exceeded that in England and the proportion achieving the top two grades increased from the last time exams took place.

We are beginning to see post-pandemic recovery across all areas of sport & recreation, not only across our own sites but Island-wide, and visitor numbers at our heritage sites have returned to near 2019 figures. Guernsey Museum will stage five exhibitions this year, including The People's Collection, which showcases some fantastic artworks held in the Museum's reserve collections.

We have played our part in enabling significant private investment in sporting facilities, and the refurbishment works at Footes Lane will enable us to showcase our Island facilities at the Island Games next year. I cannot mention the Island Games without passing on our grateful thanks to the Organising Committee, and their growing team of volunteers. The one-year countdown to the Games started as we hosted delegations from over 20 islands around the world to finalise arrangements. 2023 will be quite the year for sport, including establishing the next phase of Active 8: A Plan for Sport.

The Guernsey Language Commission has now been formally established and launched, and next month the Committee will again meet with the Arts Commission to review its progress towards establishing a local, sustainable 'Plan for Art'; we look forward to continuing to partner with both of these Commissions as their exciting work gathers pace and momentum.

And finally, Madam, it was a pleasure to welcome the Costa Rican Ambassador to the Island earlier this month to unveil a Guernsey Museums Blue Plaque for our own William Le Lacheur, recognising his invaluable contribution to Costa Rica's economic and educational successes – some few hundred years ago.

Thank you.

The Deputy Bailiff: Thank you, Deputy Dudley-Owen.
Deputy St Pier.

Deputy St Pier: Thank you, madam.

In light of Deputy Ferbrache's previous Statement, could Deputy Dudley-Owen outline what reductions in cost and services her Committee and its office could bear, particularly given the substantial increases in general revenue expenditure which have been recommended and approved by the current Policy & Resources Committee in the last couple of years? In other words, there have been substantial increases in budget for Deputy Dudley-Owen's Committee. Realistically, is there any scope for those to be reduced in the future, in light of the pressures which Deputy Ferbrache has articulated and outlined this morning?

The Deputy Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you, madam, and thank you for Deputy St Pier's question.

It has not been a secret that this Committee has been working hard right since it took its seats nearly two years ago now to look at budget reallocation, because unanimously we recognised that continuing to do things in the way and deliver services and education in the way in which they had been was no longer sustainable. We have been undertaking a budget re-prioritisation exercise for the last two years. Clearly, there is a huge amount of budget lines which are within the Committee mandate in order to deliver just education, not necessarily sport and culture, which are delivered in a slightly different way.

There are certainly areas of our budget that we could look to see where there is scope to reduce but those are separate to the funding requests that we have made more recently which have been absolutely essential to invest into front-line educational services, mostly as a result of the pandemic and the lockdown, and also in order to upgrade our digital delivery, which is also essential for the success of our children coming out of the educational sector. But there is scope to look at our budget and certainly to re-prioritise. Unpopular – in this Assembly, at least – decisions, such as the tipping point at which different classes are split, were part of that decision-making. And those are not easy decisions to make – they should be made by our seat-setting leaders – but those are the types of decisions we have to make if we are going to be serious about reducing Government spend.

The Deputy Bailiff: Deputy Queripel.

Deputy Queripel: Madam, in regard to the blue plaque that was recently unveiled here in the Island recognising the achievements of yet another ambassador for Guernsey on the international stage, Captain William Le Lacheur, several people have told me since then they had never even heard of him up until that point. Does the President think there would be any value in at least teaching our children about the ambassadors for Guernsey – including, perhaps, a half-hour a week in the curriculum, or giving them homework which focuses on ambassadors for Guernsey? As well as Captain Le Lacheur, I am thinking of such people as Isaac Brock, Denys Corbet, Marie Ozanne, and sporting stars like Matt Le Tissier, Heather Watson, and Andy Priaulx.

The Deputy Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you, madam, and thank you to Deputy Queripel for his ongoing interest in the mandate of the Committee; I really do welcome that.

He is right: we need to be letting our children, our young people know about some of the amazing people who came from Guernsey in the past and have made a difference not just to Guernsey, but also elsewhere in the world, and Guillaume Le Lacheur is just one of those. He will be pleased to know that our schoolchildren are taught about our ambassadors. I sometimes wonder though whether we as adults underplay these people and we do not make enough of them. But it is certainly something that this Committee is committed to. We are obviously looking at the Education Law. We look at elements of what we think, in broad, generic terms, need to be taught to our children, and certainly, culture and history are up there amongst the Committee's priorities.

We do have a curriculum where local culture and history are actually articulated. I think 6,000 children went to visit our museums last year; we had a report and one of my colleagues will correct me if I heard that figure wrong – especially Deputy Haskins, who sits in that area, I am sure. A substantial amount of our local children are visiting our museums, are embracing our historical content. But it has to be understood that there is only so much time in the week of a school and so many subjects to deliver, but we do think that local history is a very important one – outside of the GCSE curriculum, which obviously takes over in Years 10 and 11 and before Sixth Form – that our younger children are taught more about our history and our legacy.

The Deputy Bailiff: Deputy Inder.

Deputy Inder: I thank the President of Education, Sport & Culture for the update.

585 I am just going to read something. St Sampson's School, 22nd and 23rd June:

The quality of education: Inadequate
Behaviour and attitudes: Inadequate
Personal development and welfare: Requires Improvement
Leadership and management: Inadequate

590 Could the President confirm whether another Ofsted inspection at St Sampson's will be held within a year? And will she further assure the parents and students of the north that significant improvements will be made by that time?

The Deputy Bailiff: Deputy Dudley-Owen.

595 **Deputy Dudley-Owen:** Thank you, madam, and thank you, Deputy Inder, for that question.
As part of the contract with Ofsted, we can request an interim inspection of schools where we have had a poor inspection report and that we have requested before the end of a 12-month period from the inspection date. I know that by the time those inspectors return, significant improvements, tangible improvements will have been made to the school. They are ongoing and have been happening for quite some time. It is a difficult inspection report to swallow. It was not unexpected.
600 The education of our children is absolutely key to the success of this Island. We must do better and we are doing better and we absolutely commit wholeheartedly to continuing improvement across all our schools, not just St Sampson's. We do owe this to our children.

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

Deputy de Sausmarez: Thank you, madam.
There was much to welcome in the President's update and I thank her for it. I was particularly glad to hear of the evidence of the positive impacts on Reception students' development thanks to the pre-school funding. Can the President please give us an idea of the bigger picture trends on literacy and numeracy notwithstanding any understandable impacts that COVID might have had in recent years? I am particularly focused here in terms of our state education. Would the President be able to, first of all, give us an idea of how our literacy and numeracy standards compare, and then, if it is something her Committee has discussed, whether they are content with those levels and any ramifications falling out of that?
615 Thank you.

The Deputy Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you, and thank you to Deputy de Sausmarez for her question.
620 I am not going to be able to stand here and give figures and facts and comparisons with previous years and previous jurisdictions, but I am happy to extrapolate that information to circulate it.
What we strive for is continual improvement because we know that what has gone before has not been good enough and we need to continuously look at the ways that we are delivering literacy and numeracy and also measuring the success and the outcomes there. We are not convinced, as a
625 Committee, that the way in which we have been measuring our literacy and numeracy levels has actually been as accurate as it could be. Are we measuring the right things in order to prove success or are we creating, sometimes, a little bit of a perverse incentive to push children in one direction whilst actually ignoring their greater possibilities for achievement? Those are all the types of things that we are looking at as a Committee.
630 As I mentioned right at the outset, the way in which education has been delivered previously – the costs attributed, the budgets attributed – was something that was very much up for debate. We are very well-served by excellent advisors and the advice that we are taking from them is that

measurement of outcomes in literacy and numeracy does need to change and certainly there needs to be continual improvement across all areas.

The Deputy Bailiff: Deputy Matthews.

Deputy Matthews: Thank you, madam.

Would the President of ESC advise me? St Sampson's School and Les Beaucamps School were previously part of a selective system where children in the catchment area who passed the 11-Plus went to the Grammar School or fee-paying colleges, but of course, with the end of selection, that no longer happens. The previous Committee envisioned this as a transitional stage before the two schools were transformed into much larger 11-18 schools. With the Ofsted report in mind and the planned Sixth Form Centre, can the President advise what measures are in place or planned to support students with higher prior attainment?

The Deputy Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you to Deputy Matthews for his question.

It is undoubted that with the removal of selection, we have been experiencing a higher amount of students within our state school sectors who are higher achievers and it is really important that we are maintaining stretch and challenge. In actual fact, I think Deputy Soulsby, there is a resolution that she had put through the States some years ago around this very subject. And it is a matter that has been exercised in the Committee and questions have been raised about ensuring that we have got policies that are fit for stretch and challenge.

But it also must be remembered that any schoolteacher who is in a classroom of mixed-ability children should be equipped with skills and technical knowledge to be able to attend to the different and varied capabilities of their students in front of them; it is one of the reasons why we feel that it is so important to have additional LSA, Learning and Support Assistants, in our classrooms, and also the role of the Special Educational Needs Co-ordinator being carved out as a non-teaching role so that those children can also be better supported so that higher-achieving children within the classroom setting can actually be focused on as well. This is all about a broad change in the way that we are doing things within education so that every single child counts and every single child is brought along their educational journey at the speed at which they learn.

The Deputy Bailiff: Deputy Gabriel.

Deputy Gabriel: Thank you, Madam Deputy Bailiff.

Given the Ofsted report for St Sampson's High which Deputy Inder has highlighted as being inadequate and the statement that you delivered – sorry, the statement that Deputy Dudley-Owen delivered – on 12th July and reiterated today that she is putting in some interim measures around the governance of school, how qualified or experienced is the Committee in providing governance over schools and how will the governance be measured as effective?

Thank you.

The Deputy Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: I thank Deputy Gabriel for his questions. That is a really interesting question, actually, and it is one that is close to my heart. Governance is so important of our settings, and as far as we are aware, it has not been undertaken in the approach by which we have been looking at it since forever, really.

In terms of qualifications, none of us, as far as I am aware, are qualified school governors – and that is a thing. I do have professional governance qualifications. What is key, and what I did say in my Statement, is that we are actually learning as we go, which is the right and proper thing to do;

685 we are undertaking the so-called 'on-the-job' training. I did sit as a governor for Blanchelande College for a couple of years when I was previously in Education, Sport & Culture and we are being advised by professionals who have a large amount of school governance expertise.

It is really important, though, that we do not just pick up a model from the UK and retro-fit it to Guernsey because then we will miss all sorts of things, which is why this is an interim model that we are executing at the moment. And we are learning as we go through. So if we felt that something did not quite work in one meeting or one set of meetings, we will tweak that and change it; we will take on-board feedback from our Settings Leaders, in fact, from our headteachers as to how they felt it went as well because this is a learning process. Only by actually doing this ourselves will we be able to understand what 'governance' truly means in the Guernsey setting and be able to hold our school leaders to account.

The Deputy Bailiff: Deputy Trott.

Deputy Trott: Madam, thank you.

Does the President of ESC continue to recognise the outstanding value for the taxpayer that the private colleges provide? And does she remain steadfastly behind maintaining a grant which benefits the taxpayers to the tune of £10,000 per pupil per annum?

Thank you, madam.

The Deputy Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you. And thank you, Deputy Trott, for reminding us of those figures, which I know trip off his tongue very easily when he asks this question.

The private colleges add a lot of enrichment to our Guernsey educational system, undoubtedly. They are a rich part of our history and our legacy and I value them as much as I value our state schools.

In terms of the grant, the grant is coming to a stage of negotiation, I think, in a year or so and I could not possibly comment on the details of that because we have not started conversations with the relevant colleges.

The Deputy Bailiff: Deputy Soulsby.

Deputy Soulsby: Thank you, madam.

Pursuing the issue of governance: can the President confirm whether there has been a new policy introduced to not distribute papers in advance of some or all of the school committee meetings? And if so, why?

The Deputy Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you to Deputy Soulsby for that question. I think that she is conflating a couple of issues here. The school committees, which are currently enshrined in our current Education Law, are not related to our interim governing board. I am not quite sure what she is alluding to in terms of the papers. Board papers for the school committees must be circulated within a given period of time in advance as you would expect for any meeting.

The Deputy Bailiff: Deputy Kazantseva-Miller.

Deputy Kazantseva-Miller: Thank you, madam.

The latest 'Facts & Figures' booklet that was delivered to Deputies yesterday now contains only two graphs that show attainment levels for students in Guernsey: that is of students in Year 11 and those students in A-Level or level 3 equivalents. Could the President of Education, Sport & Culture

tell the Assembly what kind of concrete data the Committee has and is also ready to publish to demonstrate the level of attainment of students before GCSE to ensure that we have assurance that our students are not falling behind compared to other jurisdictions?

The Deputy Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you. And thank you to Deputy Kazantseva-Miller for her interest in this particular area. I know that two years ago – at the same time, actually – Deputy Kazantseva-Miller noted concerns about the comparisons of literacy and numeracy levels in those years, and actually, it really illustrated well why certain figures, publishing them is really unhelpful because of the numbers in our education system. We are often talking about handfuls of children and the differences that their attainment makes overall to the average, which is another reason why we are looking at the type of data that we will publish and how meaningful that is in the absence of any data about the wellbeing of the child.

So it is all very well looking at measurements of how well can they count, how well can they read? But actually, how satisfied are those individuals? How happy are those individuals? How confident are they? How resilient are they? Those are all attributes and characteristics which, of course, we are trying to hone as well, yet we do not measure those and we do not publish those in our little helpful stats book. So I would caution Members about taking those figures and being reliant too much on those figures to demonstrate – ‘This is the only barometer and this is the only measurement that we can say about how well or how bad our education system is doing.’ We must be looking in the round and Education is working very hard to think about the type of statistics that we need to publish in order to show the success and the achievement levels of children in the round, not just how good they are at doing their times tables.

The Deputy Bailiff: Deputy Leadbeater.

Deputy Leadbeater: Thank you, Madam Deputy Bailiff.

Can the President update us on how the Committee is progressing with the recommendations from the Guernsey and Alderney SEND Review that was published in February 2021, please?

The Deputy Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you very much to Deputy Leadbeater for his question. As Deputy Leadbeater will know, he was part of a presentation from the Committee where we have talked to all Committees with relevant mandates for the nasen SEND Review. The Committee embraced and has accepted all of the 18 recommendations, some of which were implemented immediately and some of which are more long-term, which will be covered within our Education Law – for example, the recommendation to provide for ages 0–25 within the SEND requirement. So there is a lot of work that has been done. Some of the recommendations were quite easy to do and put in place and others have been met – for example, with non-teaching roles for SEND co-ordinators within our schools; that came through with funding that was approved by this Assembly not long ago. There has been progress made on some of the medium-term goals but some of the longer-term goals are yet to be realised and actually will take some years to be realised, but progress is good.

Unfortunately, what we have not done to date, which is what we tried to put in place quite early on, was – those Members, Madam, who very kindly offered to put forward their services to have a cross-committee working group, that has not come to fruition just yet, but it is a work in progress and we hope to see forward momentum on that soon.

The Deputy Bailiff: Deputy de Lisle.

Deputy de Lisle: Thank you, madam.

790 Given the Home Department's policy to increase the population in the future, has the Education Committee given any thought to extending the life further of the Mare de Carteret Secondary School?

The Deputy Bailiff: Deputy Dudley-Owen.

795 **Deputy Dudley-Owen:** Thank you to Deputy de Lisle for his question. There is a simple answer to that, and it is 'no'.

The Deputy Bailiff: Deputy Dyke. This will be the last question.

800 **Deputy Dyke:** Thank you, madam.

I thank the President for her interesting presentation. Could I ask her in the context, she mentioned that we do not slavishly follow what they do in the UK. Has her Department done any critical analysis of exactly how Ofsted put their reports together? I read a slightly alarming report in the UK press that they were marking down schools with high discipline and uniforms on the basis that that was oppressive. They seem to have some curious analytical processes going on here. Are you looking at that?

Thank you.

The Deputy Bailiff: Thank you, madam; thank you, Deputy Dyke.

810 I do not like to slavishly follow things from other jurisdictions because we are unique and we should celebrate our uniqueness, quite frankly. I think it is too often we are expected to pick up a template from elsewhere and absorb it.

In terms of Ofsted, however, the contract was negotiated by the previous Committee – it is not the ownership of this particular Committee; we inherited it – and there was very much a 'Guernseyfication' of that contract in terms of recognition of how our education system in Guernsey works; it is unique to the UK. It is very difficult to draw an awful lot of similarities between how the education system is run here and how it is run in the UK with their different local authorities and multiple academy trusts, etc. There was absolute recognition of that along with the guidance notes, which were very long in the drafting, in great consultation with staff and back-and-forth with Ofsted until it was rolled out. This has been a very long and arduous process to get Ofsted to inspect our schools, not least of all because of the lockdown periods and their inability to actually get into our schools and do their work, and we are really pleased that finally, we were able to get some validation on the progress of our schools and to continue with that.

COMMITTEE FOR THE ENVIRONMENT & INFRASTRUCTURE

General update –

Statement by the President of the Committee *for the* Environment & Infrastructure

The Deputy Bailiff: Thank you.

825 I now ask Deputy de Sausmarez, as President of Environment & Infrastructure, to present her general update Statement.

Deputy de Sausmarez: Madam Deputy Bailiff, the Committee has had a very busy six months since the last general update.

830 The Electricity Strategy workstream is running on full power. There's been constructive engagement from energy industry and business community stakeholders through workshops and the targeted technical consultation that ran over the summer, and political colleagues who attended

the presentations a couple of weeks ago will be in no doubt as to the expertise that supports this complex piece of work. The consultation feedback has been really useful and has brought to light some questions that need further exploration. This may slightly shift the timing, meaning the strategy may be debated in Quarter 1 next year rather than this December as originally hoped, but it is still moving at pace as there is nothing like a global energy crisis to sharpen one's focus.

Also progressing under the Energy and Climate Change policies is an important piece of work looking at the energy efficiency of Guernsey's buildings – and more specifically, what we can do to improve their standards and performance in that respect. This issue has a critical role to play in our transition to net zero – but it also helps deliver on the GWP priority to improve living standards and ultimately will inform options to address fuel poverty as well. We aim to bring a policy letter to the States in Quarter 1 next year.

Another GWP priority area is of course housing. Work has started on the Market Intervention Project, which includes the development of proposals for the agreed scheme to help first time buyers, as well as a review of the existing Partial Ownership Scheme. We are also doing some research to better understand and evidence the nature, cause and severity of the current problems in the housing market to give us up-to-date data and help us prioritise the delivery of any interventions.

The policy letter for the States' Strategic Housing Indicator will be finalised once the outcome of the Population & Immigration Review is known. This will recommend the number of additional units of accommodation that Guernsey needs to meet its projected housing requirements, broken down by tenure, i.e. private, social rental and partial ownership housing and property size i.e. the number of bedrooms. This additional level of detail and the fact the data can be kept much more current are advantages of bringing the modelling in-house, negating the need to commission the work out every five years.

To deliver on our housing requirements we need also to deliver the transport infrastructure necessary to support it. We are working with the GHA on a mobility plan for the north of the Island, which will identify opportunities for network improvements and options to improve transport choice, safety and convenience.

The Taxi Review, completed and published earlier this month, has delivered a comprehensive analysis of the state of the sector and, while we are working with industry and the report's author to determine the best course of action, we have already implemented some pragmatic changes that remove unnecessary barriers to entry for new drivers.

Our bus service has not been disrupted by the recent change in ownership of CT Plus. Tower Transit, part of the Kelsian Group, has bought the operation from the previous parent company, the HTC group, and brings with it a wealth of experience of operating in island communities internationally as well as a keen interest in innovation and decarbonisation. The shortage of bus drivers affecting our service is, as I have explained previously, a global issue so there is no silver bullet solution, but Tower Transit are well connected in the UK bus industry which should help extend the reach of CT Plus' recruitment efforts. They are also well aware of our need for live bus tracker data and a better journey planning function and assured me on the day they took over that they were looking into solutions for both.

Anyone who has felt that there have been more road closures than usual recently has not been imagining it: there has been a significant uplift in temporary traffic management measures in the last 12 months thanks in no small part to the fibre roll out. No road is ever closed for fun: the team process literally thousands of applications each year for various jobs affecting traffic management – from utilities to road repairs and cleaning to special events – and work hard to co-ordinate them to minimise inconvenience to the travelling public.

Anyone applying for a driving or vehicle licence recently will be aware that the DVL service has relocated from Bulwer Avenue to Edward T Wheadon House. This marked the launch of the new MyGov Customer Hub in June, the first step in the development of the initiative which is bringing together many of the States' customer facing services. Keeping business as usual running to a high standard through a physical move and major organisational restructure has been challenging. The

885 next step is making more services available online as well, which will improve customer choice and convenience and make more efficient use of States' resources.

Environment & Infrastructure is also supporting the wider programme of property rationalisation and the associated change in operating model – the result of which essentially sees more people working in fewer States' buildings. This increases pressure on parking, so we have been supporting
890 the development and implementation of travel plans to give people more viable transport options at each end of and during the working day – changes to enable and facilitate both car sharing and lift sharing, for example, as well as support for active travel and public transport.

There is a lot of work taking place on coastal infrastructure. In terms of routine maintenance, Havelet wall repointing is ongoing, as is the repointing close to Catioc. Rock armouring and
895 roadside wall repairs at Rocques Poisson are about to be commissioned. We have also been working with the Vale Douzaine to address their concerns over the erosion of the coastal path at La Fontenelle, which will involve carefully moving the shingle bank, monitoring the impacts on the ecosystem.

The work at L'Ancrese East is progressing as agreed by the States, so rock armour will be placed
900 at panels 8 and 9 once the tendering process has taken place in the next few months.

In terms of the capital projects, I am pleased to report that finally funding for work to the cliff and Napoleonic wall at Fermain has been approved. We are currently preparing for the environmental impact assessment necessary for the planning application.

The site investigation work on the Petit Port cliff has been completed and we are expecting
905 remediation work to start in the Spring, subject to planning approval and contractor availability.

We are still waiting for funding approval to make the cliff at the Cow's Horn safe and restore access to Clarence Battery. It will be neither cheap nor quick, but if P&R approve the funding, this project should be completed next summer.

The Bathing Pools have had a bumper season, particularly thanks to the fantastic Vive La Vallette
910 project which has proved immensely popular with locals and visitors alike. The E&I Committee was well represented in the Sea Donkey Challenge last month, contributing to fundraising efforts for improved wheelchair and reduced mobility access to the Ladies' Pool.

Last year, we launched the Strategy for Nature fund, which offers financial support for community initiatives that benefit our local environment through conservation, protection, and
915 enhancement. Projects that have flourished under this scheme include Grow Guernsey Natives, sour fig removal, equipment for invertebrate identification, dolphin research, bat conservation and the Lihou Island garden project.

We are also working in partnership with the Pollinator Project, Guernsey Water, Guernsey Waste, the Health and Safety Executive and other stakeholders to reduce the use of pesticides generally
920 across the Island and support more sustainable land management practices. The Health & Safety Executive's decision to restrict the use of glyphosate to professional and licenced use only from the start of next year should have a positive impact on the levels of that particular substance entering the ecosystem and our water courses, but the risk we are keen to minimise is that this very commonly used substance is simply replaced by other substances that have adverse impacts that
925 may be more difficult to manage. That is why our focus is on reducing pesticide use overall by promoting and supporting more sustainable alternative land management methods – not just alternative products.

Some of the Island's most important land managers from an environmental perspective are our farmers, and it will have escaped nobody's notice that that industry has faced a perfect storm of
930 challenges this year, culminating in a calamitously dry summer on top of eye-watering agri-inflation, severely affecting the cost of running our 12 dairy farms. We worked with farmers and the Dairy Management Board to understand and evidence the problem, and then with P&R to agree an emergency funding package. That is of course only a short-term measure: the long-term economic and indeed environmental sustainability of our dairy sector is the focus of a review that is being
935 undertaken now. Mindful of the urgency of this work, we hope to be able to take some recommendations informed by that review to the States early next year.

Last week's launch of the GFSC's Natural Capital Fund framework was a reminder, during Sustainable Finance Week, of Guernsey's ability to punch above our weight in supporting the global transition to the green and blue economies. Green finance is a key pillar of our Climate Change Policy for that reason. We are working with Guernsey Finance, the GFSC and industry groups to enhance our policy alignment to make the most of economic and environmental opportunities.

We are increasingly aware of the importance of our own natural capital – not just in terms of climate change mitigation and adaptation, of course, but also for all the other social and environmental benefits it supports – so I am pleased to report that we are in the process of dotting the 'i's and crossing the 't's and we expect to be able to build some real momentum behind the Nature Commission later this year and into next.

Finally, the Committee will be bringing a policy letter to the States in Quarter 1 to decide the future of Les Vardes Quarry. We have been working closely with both Guernsey Waste and Guernsey Water to understand the longer-term requirements and potential conflicts and opportunities. It is a chance to do that rare thing in politics: to look at an issue in the round and make joined up strategic decisions.

I look forward to answering any questions Members may have on any area of E&I's mandate.

The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: Thank you, madam.

I shall ask the same question to Deputy de Sausmarez that I asked to Deputy Dudley-Owen. In light of the pressures which Deputy Ferbrache has identified – notwithstanding, I think, her Committee is the only Committee last year, from memory, that had both a real-terms and a nominal reduction in its budget – to what extent does Deputy de Sausmarez believe there is scope for either a reduction in cost or services as a result of public service reform given the issues which Deputy Ferbrache identified?

The Deputy Bailiff: Yes, Deputy de Sausmarez.

Deputy de Sausmarez: Thank you.

This is, of course, something – we have been through an exercise, as a Committee, as all Committees have, to look at exactly that question, really.

I am going to expand, if I may take the liberty of doing so, on Deputy St Pier's question. Actually, there was another option that was put forward as part of that exercise. That was: in order to maintain services and make sure they are adequately funded, whether any could be chargeable or charges increased. That was something that we had to consider. I think there probably is scope for some potential charges that are not chargeable at the moment. I will give one small example: we currently levy no charge for closing a road even where that is for private gain. So if someone wants to put some scaffolding up to paint their house to increase the value of their house, then that road can be closed, causing quite a lot of destruction; we shoulder the cost of that. That is taxpayers essentially funding the private benefit that is incurred there. So that is one particular area. Unfortunately, we would need to change legislation in order to make that happen.

I would also say that we have been in a situation twice in recent months where we have had to incur increased costs because of decisions that other Committees – or indeed, sometimes, their officers – have made. Where those Committees are not responsible for the budget implications, we have had to come in and absorb additional costs because of those decisions. So I would urge all colleagues who are faced with this very real issue to look at these issues in the round and be aware of the problem of potentially displacing costs from one area to another and also be aware of unintended consequences, and furthermore, to be aware of externalities. In other words, I think what the FTP process showed very clearly was that sometimes things dressed up as efficiencies were actually very short-sighted cuts that caused additional costs in the longer term or in other areas, and that is something I do think we need to be very aware of.

The Deputy Bailiff: Deputy Vermeulen.

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Deputy Vermeulen: Thank you, madam.

The Guernsey Retail Group submitted a scheme to make Fountain Street one-way and provide parking along the side there by the market. When is this likely to be implemented?

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The Deputy Bailiff: Deputy de Sausmarez.

Deputy de Sausmarez: I would very much like to see it and perhaps, if Deputy Vermeulen has got it, he would like to share it with me and our Committee would be delighted to consider it.

Thank you.

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The Deputy Bailiff: Deputy Dyke.

Deputy Dyke: Thank you, madam.

1005 With regard to glyphosate, there is some concern out there amongst amateur gardeners as to why this is being done. I do not quite understand it. I believe it has not been banned in the UK, the US, or the EU, so why are we banning it at this point? It does not seem like –

The Deputy Bailiff: Deputy Dyke, I am afraid that is not Deputy de Sausmarez's mandate; that comes under Deputy Roffey's mandate.

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Deputy Dyke: She was talking about it.

The Deputy Bailiff: Yes, but she is not involved with the banning of it.

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Deputy Dyke: Alright, thank you.

The Deputy Bailiff: Deputy Leadbeater.

Deputy Leadbeater: Thank you, Madam Deputy Bailiff.

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In her update Statement, the President said – I am paraphrasing – that the Committee is seeking to fully understand the extent of the current housing situation – or 'crisis', whatever you want to call it – with a view to – I quote – 'prioritise the delivery of interventions'. Can she provide us with an example of the type of interventions the Committee has in mind, please?

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The Deputy Bailiff: Deputy de Sausmarez.

Deputy de Sausmarez: Deputy Leadbeater will remember that we did debate this quite recently. The programme that I was referring to is the Market Intervention programme. Now is not the time to go into any specific detail, but of course, this very Assembly discussed certain things around that in the recent debate. Basically, the reason we are undertaking that research is that the last time we had a major review done of the housing situation was – I cannot remember exactly how many years ago now; I think it was – maybe 2017, and obviously, the whole market landscape has changed very radically since then, so it is really important that we work with up-to-date, current evidence so that we can make sure that any interventions that we do decide to make are the right ones and that furthermore, we can do them in the right order – if indeed, there is more than one.

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So basically, market interventions, to put it very simply, are introduced if there are market failures or inefficiencies that we, as a Government, think need to be addressed. For example – and I am very nervous about saying anything because it is liable to be misreported as something that is definitely happening so I need to stress that no decisions have been made – if the States decided to provide support to certain cohorts of the community – maybe that is first-time buyers or people looking to

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downsize or whatever – market interventions are anything that basically are there to address any kind of market failure or inefficiency.

The Deputy Bailiff: Deputy Brouard.

Deputy Brouard: Just following on from Deputy St Pier's question: with the move for more and more electric vehicles on our roads, would it be possible to tax or have some sort of motor tax for electric vehicles that are actually using the roads?

The Deputy Bailiff: Deputy de Sausmarez.

Deputy de Sausmarez: Deputy Brouard will remember that, of course, this is something that the States has already debated in a great amount of detail in 2019 and we did agree in principle to move to a different system precisely to deal with this very problem. And it is not just about electric vehicles, I should add; it is about the fact that every 10 years, I believe, there is an average of a 30% efficiency gain in even internal combustion engine vehicles. What that means is that when you are solely reliant on fuel duty as a source of revenue, that you have to run in order to stand still, you have to raise fuel duty over and above the price of inflation in order to maintain a similar revenue level. This has a disproportionate impact on the people who can least afford to upgrade their vehicle to a more efficient type, be that a newer form of internal combustion engine vehicle or an EV.

So to answer Deputy Brouard's question, that is absolutely what the workstream on distance charging is all about: to make sure that that is achieved in a fair and equitable way but we have been talking with P&R as well about potential interim measures given the current fiscal landscape. But I can certainly assure Deputy Brouard that it is a very well-acknowledged problem and one that, obviously, we already have a longer-term plan to address and we may be able to make some very small adjustments in the interim as well.

The Deputy Bailiff: Deputy Taylor.

Deputy Taylor: Thank you, madam.

A recent Traffic Impact Assessment considered by the Development & Planning Authority received comments from the Traffic and Highway Services stating that the St Clair Hill signals and the Halfway filter are operating over capacity. With numerous additional developments in the vicinity, what concrete measures are the Committee considering to address the growing traffic issues at these junctions?

The Deputy Bailiff: Deputy de Sausmarez.

Deputy de Sausmarez: That was something I at least alluded to – I probably was not very obvious – in my speech; you may have noticed I rattled through it at a great pace of knots because I was worried about running out of time. There is a Mobility Management Plan that is taking place at the moment which is precisely to look at the cumulative impacts. Members, especially those who were in the previous Assembly as well, will know that I am very often on my feet talking about the 'cumulative impacts' and one of the challenges that we have got with the current planning process is that, very understandably, it looks at everything from a development-by-development, site-by-site basis and that does not take into account the kind of cumulative impacts of multiple developments taking place in a similar area.

Now, the very important thing about transport is, it ultimately is about connectivity and network. A journey is only possible if it is possible all the way along. So you do need to take that area-wide approach and that is exactly what is happening with this – I do not know exactly what it is called – Mobility Management Plan – probably. That will look at network improvement opportunities. So I am not in a position right now to be able to say what concrete measures may be introduced but I

can absolutely assure Deputy Taylor and everyone else that we are on the case and we are absolutely looking for those kinds of improvements to the network as a whole, as well as specific interventions that may be necessary, as well – as an aside – as at a range of other supporting measures which all aim to improve transport choice, safety, convenience.

The Deputy Bailiff: Deputy Falla.

Deputy Falla: Thank you, madam, and I thank the President for her update.
In terms of the ongoing increased popularity of cycling on the Island, could the President please tell me whether there are any infrastructure improvements in the pipeline for cyclists, both in terms of parking and also in terms of, potentially, cycle routes or lanes?
Thank you.

The Deputy Bailiff: Deputy de Sausmarez.

Deputy de Sausmarez: Thank you.
I can refer to my previous answer, actually: that is exactly one of the aspects that will be looked at. Actually, as part of that exercise, I did go on a really fun recce on a bike, exploring potential routes. It is really all about giving people more access by more means of transport; that is what it is all about. Deputy Falla is quite right.
We have also, separately from that, got a programme of increasing provision for cycle parking. Anyone who came via the sunken gardens today will see that as usual, there is ample evidence of overdemand and undersupply, so we do need to increase capacity for it. We do know that when we put in cycle parking, it does tend to fill up very rapidly. We do know that we need much more of it and that is something that the DPA – as soon as the Exemptions Ordinance comes through, that process should be a lot easier. At the moment, there is a huge amount of paperwork involved in applying for cycle parking, but once the Exemptions Ordinance comes through from the DPA, as per the States' agreed Resolutions, we should be able to make that process a lot more streamlined. And when it comes to the network improvements, the infrastructure, again, that is something that should come out – recommendations should come out of that Mobility Plan exercise that I referred to earlier.

The Deputy Bailiff: Deputy Le Tissier.

Deputy Le Tissier: Thank you, madam.
How often have we seen long queues of cars – maybe 20 or even more – chug along at five miles an hour behind a cyclist whom they cannot pass safely because they cannot leave the space, the roads, or because of oncoming traffic? We have all seen it. This is causing increased pollution, increased fuel consumption, and frustrated drivers – and that is ignoring the loss of productivity for Guernsey Plc when tradesmen, contractors, and delivery drivers arrive late; that is due to the increased journey times. Would the President agree with me that the increased number of bicycles on the road may not actually be the *panacea* for Guernsey that it is cracked up to be?
Thank you.

The Deputy Bailiff: Deputy de Sausmarez.

Deputy de Sausmarez: Deputy Le Tissier, I think what would be a really interesting exercise is if we took all the people who travel by bike – I know we have Better Journey Days and car-free days and all the rest of it; I think the opposite would be a really interesting exercise. I think if we took all the people who currently travel by that incredibly space-efficient form of transport, the bicycle, and put them into cars, Deputy Le Tissier would be horrified at the impact.

1145 I can share with Deputy Le Tissier reams of evidence that show that the vast majority of congestion and inefficiency is caused by motor vehicles, and this makes sense. If you think about it in terms of spatial efficiency, your average car – not even a Deputy Trott-sized car, (*Laughter*) but an average car – takes up about five metres. If you think about a set of traffic lights at a red light and you have got your typical Guernsey average of one person per car and you have got a row of 10 cars at those traffic lights, that is probably about 50 metres; if you put the same number of 1150 people on bicycles, you are looking at an awful lot less space. So moving around by car is a very space-inefficient way of getting around. And that, of course, in an island where space is an absolute premium, causes a huge amount of problems. Also, it is not just about transport; there is a whole load of knock-on impacts about the space required for surface parking, for example.

1155 So I can share with Deputy Le Tissier vast reams of evidence from everywhere, including Guernsey, that show how, actually, if we do want to tackle seriously the efficiency of our transport network, we need to make options like bus use and cycling and walking more viable for more people. However, even if Deputy Le Tissier is absolutely determined to stick to his views, I am sure he would support more separated and protected infrastructure so that we do not have to mix those modes.

1160 My last comment before I run out of time is: I just have to say that as someone who gets around primarily by bike and someone who drives, I am far more often held up on my bike by people in cars than I am in a car held up by people on bikes.

Thank you.

1165 **The Deputy Bailiff:** Deputy Kazantseva-Miller.

Deputy Kazantseva-Miller: Madam, the National Trust is running a campaign to invite private landowners to transfer their land into National Trust ownership so it could be managed for public good. Does the President – and her Committee, potentially – support that approach so land that 1170 might be in the ownership of the States and Environment & Infrastructure could potentially be transferred into management of charitable and other community organisations? This could be one of the ways to reduce the cost to public services.

The Deputy Bailiff: Deputy de Sausmarez.

1175 **Deputy de Sausmarez:** Thank you.

While I cannot answer the very specific question that Deputy Kazantseva-Miller asks because it is not something that the Committee has discussed, what I can say is that as a general principle, that is something – without referring to any particular organisation, I have to stress – the principle 1180 of transferring assets to the management of organisations who are well-equipped and have the necessary expertise to achieve really good environmental and other social outcomes is something the Committee does support in general. So I would be interested in learning more about this particular appeal or whatever it is. Certainly, I do feel confident, judging by the Committee's discussions on those points, that we would certainly be open to looking at it.

1185 **The Deputy Bailiff:** Deputy Blin.

Deputy Blin: Thank you, Madam Deputy Bailiff.

1190 May I ask of the President of the E&I for a comment on any sort of progress or measures and actions being taken towards the abatement of noisy vehicles and any other progress in that area? I appreciate part of the anti-social behaviour may come under Home Affairs but any aspect that she can do –

The Deputy Bailiff: Deputy de Sausmarez.

Deputy de Sausmarez: Yes, due to the constraints of the time limit, I was not able to put this in. My Committee did meet with Deputy Prow's Committee for Home Affairs a couple of week ago, I think, now to discuss the workstream that does contain that particular item. That is a piece of work that is actively progressing. I do not have much to report at this stage; it is not the time or the place to be able to do that. But I can assure Deputy Blin that that work is progressing, it is something that both Committees are looking at, and I look forward to being able to update everyone as and when we have something further and more concrete to report.

The Deputy Bailiff: Deputy Mahoney.

Deputy Mahoney: Thank you, madam.

Just very briefly: Deputy de Sausmarez offered to supply the 'reams of evidence' in answer to the question from Deputy Le Tissier; I wonder if I could request those reams of evidence, please.

Thank you.

Deputy de Sausmarez: Yes, I am more than happy. I am actually more than happy to put on a presentation, if Members would like. I know there is always a lot of interest. There is a huge amount of myth. I have got it; lots of it is referenced on *Hansard*. I am more than happy to package it up and send it to Deputy Mahoney and anyone else who is interested.

The Deputy Bailiff: Deputy Matthews.

Deputy Matthews: Thank you, madam.

The President mentioned the space efficiency of cycling – and actually, I walked in this morning, which I believe is even more space-efficient. However, not all roads in our Island have adequate footways and some can be very difficult to get past, particularly for young people, for the elderly, and for those who are vulnerable.

On our narrow roads, could a one-way system improve the situation for all road users, including Deputy Le Tissier's frustrated drivers?

The Deputy Bailiff: Deputy de Sausmarez.

Deputy de Sausmarez: I thank Deputy Matthews. I will remind him that I did tip my hat to walking as an even more space-efficient mode when I first referenced it.

Deputy Matthews is absolutely right: when it comes to walking routes, a walking route is only as safe and viable as its least safe point. If it has got really great pavements but there is one nightmarish crossing, people are understandably not going to want to use that as much as they would if it were a safe and continuous route. That is the whole reason that we have got this emphasis on connectivity, on networking. And again, that is exactly the kind of intervention that will come out of this Mobility Plan: recommendations around exactly those things.

I think he raises an interesting example of one of those: where a road is too narrow to easily accommodate two-way vehicular movement *and* a safe, protected space for people to walk – i.e., a footpath – one of the options that is looked at is whether you can take one direction of vehicle movement out of that and create a contraflow for bikes.

Obviously, the example that we are all familiar is around Baubigny. There was huge resistance to that when it was first proposed, not least from the residents of the area, but I know because I have spoken to some of them personally that even though they were very opposed to the idea, they were worried that their lives might be made less convenient, none of them – none of the ones who I have spoken to, certainly – who have lived in the area before that change and since then, would go back to how it was. Actually, I think one of the unintended bonuses – well, an intended bonus – was that it does make travelling not just safer, but actually more convenient for people driving as well

because they are not constantly having to reverse back down, reverse into driveways if there is a car coming the other way or anything.

It is a well-known solution and it is one of the options that I am sure will be given very careful thought in the Mobility Plan. It is something we have looked at in-house but we are fairly under-resourced in that particular area. I would have thought that if there are opportunities for that kind of network change, that is something that will be drawn out by this particular piece of work.

The Deputy Bailiff: Deputy de Lisle; this will be the last question.

Deputy de Lisle: Thank you, madam.

Can I ask why it is taking so long to get electric buses on the road and why the Department is continually replacing them with diesel buses? I have been asking this for some years and nothing seems to have been promulgated with respect to this. Please, can we have some action?

The Deputy Bailiff: Deputy de Sausmarez.

Deputy de Sausmarez: Yes, Deputy de Lisle has been asking the question for some years and I have been very patiently, I think, answering it for all those years; I will happily do so again.

Until very recently, Guernsey has got three fairly critical criteria when it comes to buses and electric buses, and they are: width – we obviously need an unusually narrow width of vehicle that just is not mass-produced as a general rule; with the right capacity – because we do have high passenger numbers; and we need the right range – especially range that can cope with the hills that we have on many of our routes. It is very easy, and has been for years, to find electric buses that meet one of those criterion; it is not uncommon to find electric buses that meet two of those criteria; but until very recently – and I know because I lay on the tracks over this issue – it was impossible to find any electric buses that met all three criteria.

However, as I have previously reported in this Chamber, that has now changed. The marketplace has expanded, innovation has taken place, so we know that there are now a small number of buses that do meet those criteria; we even trialled one on-Island. We have been through the procurement process; that is something that is kept at arms-length from the Committee. I understand that Procurement had some challenges about whether particular aspects ... how they were going to translate into real life, so I cannot speak for the delays that were caused by the procurement process. But what I can say is that Tower Transit and the Kelsian Group, which is the overall parent company, have got a lot of interest in and expertise in the electrification of bus fees and they have got really impressive contacts in that area, through their value chain. That is something that we discussed with them when we met with them; in fact, all the conversations that I have had with them have featured that.

So I am hopeful – I think I will go as far as saying ‘optimistic’ – that we should see a better range of options presented to us on this issue that I have been trying to get across the line for years and years. I think we are getting there. I have hopefully explained to Deputy de Lisle yet again – I look forward to giving the same response at my next update – why we have not been able to do it to date. I am hopeful that the overall context has changed, technology has moved on, and hopefully, we are at the point where that is becoming a much more realistic option for us.

The Deputy Bailiff: Thank you.
Greffier.

Billet d'État XVII

APPOINTMENT LAID BEFORE THE STATES OF DELIBERATION

Appointment of the Chairman and an ordinary member of the Guernsey Banking Deposit Compensation Board

1295 **The Greffier:** The following appointments are laid before the States: the appointment of a Chairman of the Guernsey Banking Deposit Compensation Board; and the appointment of an ordinary member of the Guernsey Banking Deposit Compensation Board.

The Deputy Bailiff: Thank you.

LEGISLATION LAID BEFORE THE STATES

The Aviation Registry (Eligibility) Regulations, 2022; The Plant Health (Amendment of Transitional Provision) (Guernsey) Regulations, 2022 The Beneficial Ownership (Definition) (Amendment) Regulations, 2022 The Parochial Elections (St Peter Port) (No.4) Regulations, 2022; The Sanctions (Implementation of UK Regimes) (Bailiwick of Guernsey) (Brexit) (Amendment) (No. 3) Regulations, 2022

1300 **The Greffier:** The following legislation is laid before the States: The Aviation Registry (Eligibility) Regulations, 2022; The Plant Health (Amendment of Transitional Provision) (Guernsey) Regulations, 2022; The Beneficial Ownership (Definition) (Amendment) Regulations, 2022; The Parochial Elections (St Peter Port) (No. 4) Regulations, 2022; and The Sanctions (Implementation of UK Regimes) (Bailiwick of Guernsey) (Brexit) (Amendment) (No. 3) Regulations 2022.

POLICY & RESOURCES COMMITTEE

1. The Income Tax (Guernsey) (Amendment) Ordinance, 2022 – Approved

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Income Tax (Guernsey) (Amendment) Ordinance, 2022", and to direct that the same shall have effect as an Ordinance of the States.

1305 **The Greffier:** Article 1, the Policy & Resources Committee – The Income Tax (Guernsey) (Amendment) Ordinance, 2022.

The Deputy Bailiff: Deputy Ferbrache.

1310 **Deputy Ferbrache:** Madam, I see the Public Gallery is fuller than normal and I am sure they are here to hear me talk about The Income Tax (Guernsey) (Amendment) Ordinance, 2022.

I will be brief in my comments because the explanatory notes say it all, really. It allows for an interim assessment and it changes the dates from half-yearly to quarterly in respect of which assessments would be part.

1315 **The Deputy Bailiff:** There does not appear to be anybody rising in relation to this Proposition. Greffier, would you open the voting? Has everyone signed in now? Can I just check? I thought there were some person – are we all in?

Carried – Pour 35, Contre 0, Ne vote pas 1, Absent 4

POUR	CONTRE	NE VOTE PAS	ABSENT	DID NOT VOTE
Deputy Aldwell	None	Deputy Burford	Deputy Bury	None
Deputy Blin			Deputy Helyar	
Deputy Brouard			Deputy Le Tocq	
Deputy Cameron			Deputy Oliver	
Deputy de Lisle				
Deputy de Sausmarez				
Deputy Dudley-Owen				
Deputy Dyke				
Deputy Fairclough				
Deputy Falla				
Deputy Ferbrache				
Deputy Gabriel				
Deputy Gollop				
Deputy Haskins				
Deputy Inder				
Deputy Kazantseva-Miller				
Deputy Le Tissier				
Deputy Leadbeater				
Deputy Mahoney				
Deputy Matthews				
Deputy McKenna				
Deputy Meerveld				
Deputy Moakes				
Deputy Murray				
Deputy Parkinson				
Deputy Prow				
Deputy Queripel				
Alderney Rep. Roberts				
Deputy Roffey				
Alderney Rep. Snowden				
Deputy Soulsby				
Deputy St Pier				
Deputy Taylor				
Deputy Trott				
Deputy Vermeulen				

1320 **The Deputy Bailiff:** Thank you.
Greffier, would you close the vote?
In relation to the first Proposition, there voted 35 Pour and one Member was not present for the vote. I declare the vote passed.

1325 I am hearing mutterings but nobody is actually saying anything.

Deputy Matthews: Can I request how many people voted Pour?

The Deputy Bailiff: Thirty-five.

1330 **Deputy Matthews:** Thank you.

The Deputy Bailiff: So 35 Pour, there was 1 absence during the vote, so I declared the Proposition passed.

1335 Thank you.

POLICY & RESOURCES COMMITTEE

2. The Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2022 – Approved

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2022", and to direct that the same shall have effect as an Ordinance of the States.

The Greffier: Article 2, the Policy & Resources Committee – The Income Tax (Guernsey) (Amendment) Ordinance, 2022.

Deputy Ferbrache: Madam, this is even more exciting than the previous one.

1340 This finishes off the various amendments to the Income Tax (Guernsey) Law, 1975 and completes the legislation needed to implement the 2018 Resolutions.

The Deputy Bailiff: Nobody appears to be rising.

I presume you do not wish to close the debate as well, Deputy Ferbrache.

1345 In that case, I would ask the Greffier to open the vote.

There was a recorded vote.

Carried – Pour 36, Contre 0, Ne vote pas 0, Absent 4

POUR	CONTRE	NE VOTE PAS	ABSENT	DID NOT VOTE
Deputy Aldwell	None	None	Deputy Bury	None
Deputy Blin			Deputy Helyar	
Deputy Brouard			Deputy Le Tocq	
Deputy Burford			Deputy Oliver	
Deputy Cameron				
Deputy de Lisle				
Deputy de Sausmarez				
Deputy Dudley-Owen				
Deputy Dyke				
Deputy Fairclough				
Deputy Falla				
Deputy Ferbrache				
Deputy Gabriel				
Deputy Gollop				
Deputy Haskins				
Deputy Inder				
Deputy Kazantseva-Miller				
Deputy Le Tissier				
Deputy Leadbeater				
Deputy Mahoney				
Deputy Matthews				
Deputy McKenna				
Deputy Meerveld				
Deputy Moakes				
Deputy Murray				

Deputy Parkinson
Deputy Prow
Deputy Queripel
Alderney Rep. Roberts
Deputy Roffey
Alderney Rep. Snowdon
Deputy Soulsby
Deputy St Pier
Deputy Taylor
Deputy Trott
Deputy Vermeulen

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The Deputy Bailiff: All the votes have now been submitted.

I ask you to close the vote, then, please, Greffier.

There voted Pour 36; therefore, the vote was unanimous. I therefore declare the Proposition passed.

COMMITTEE FOR THE ENVIRONMENT & INFRASTRUCTURE

3. The Public Highways (Temporary Closure) (Amendment) Ordinance, 2022 – Approved

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Public Highways (Temporary Closure) (Amendment) Ordinance, 2022", and to direct that the same shall have effect as an Ordinance of the States.

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The Greffier: Article 3, the Committee for the Environment & Infrastructure – The Public Highways (Temporary Closure) (Amendment) Ordinance, 2022.

The Deputy Bailiff: Deputy de Sausmarez.

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Deputy de Sausmarez: Thank you, madam. I hope I do not need to spend much time at all introducing this as we did debate it relatively recently. This is just the legislation that puts into effect the decisions of the States to basically cut the red tape around *al fresco* licensing and move to a system of permanence.

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The only thing I have to add, which is not strictly relevant to what we are voting on but I think is of interest and relevant, is that the period of consultation, if this is approved today, will begin tomorrow and that will include general consultation with members of the public as well as some targeted consultation with relevant stakeholders; obviously, all the relevant Committees; and parish authorities, etc.

I very much hope the States will support it. Thank you.

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The Deputy Bailiff: Deputy Queripel.

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Deputy Queripel: I will not be supporting this motion. That should not come as a surprise to anyone because I am sure they all recall I was the only Member of the Assembly to vote against the motion the last time it was laid before us, back in April of this year. I stand by what I said during that debate: that I cannot support the motion because this is all about removing cars and car-parking spaces in public areas and I am totally opposed to that. There are not enough car-parking spaces now in and around our Town so I do not think it would be very wise to take away any more.

Just as the policy letter told us the last time we debated this, we are once again told this time, in the explanatory memorandum, that the Committee will be given the power to grant *al fresco* permits and that the additional conditions can be applied by the Committee as they see fit.

Now, in relation to that, madam, I want to emphasise at this point: my voting against this motion has got nothing whatsoever with my not trusting nor having faith in my colleagues on E&I to do the job they have been elected to do. I trust all my colleagues in the Assembly implicitly to do the job they have all been elected to do. What this is all about, in my view, is the need to attain balance. As with every circumstance, balance is absolutely key. To state the obvious, madam, if balance is not attained in every circumstance and situation, surely, that means that unbalanced circumstances and situations prevail.

Now, that is a completely logical approach to take in my view; I do not see how anyone can dispute that. But in saying that, I am reminded of an occasion in a previous Assembly when a former colleague referred to my logic as being 'skewed'. I am not going to say who that colleague was, madam, but his initials were S O and he sat alongside Deputy Trott and I at the back here where our Alderney colleagues now sit. I am not revealing any confidential information in saying that because the comments of S O are available on *Hansard*.

I completely understand if some of my colleagues in this Assembly think my logic is skewed on this issue. They have every right to have an opinion just as I have every right to have my opinion also. We all have a right to have an opinion and express it should we feel the need to do so. And long may we all have that right to express our opinions. There are at least two sides to every issue. Everyone wants to accept whatever they stance they take there is going to be an opposing view and they have to respect that view.

In this particular case, a situation of imbalance will prevail if this motion succeeds today; that is my belief. In saying that, of course, I very much appreciate it is all about compromise and give-and-take. But this is focusing far too much on the 'take' bit: taking away car-parking spaces – not just in our Town, but in the whole of St Peter Port, as we were told in paragraph 3.6 of the policy letter we debated back in April.

On that note, I see we have now lost two more car-parking spaces on North Beach where those spaces have been given over to electric bicycles. Those electric bicycle spaces have been allocated out in the elements, whilst bikes that are not battery-powered have the luxury of being kept dry in the bicycle shelters that have been provided alongside. Isn't there an element of discrimination against owners of electric bikes there somewhere along the line? It is ironic that we will be discussing the Discrimination Ordinance later on in this debate with examples of discrimination right in front of our noses. If it is considered important to keep bicycles under shelters that are not battery-powered, shouldn't we be providing the same shelter for electric bicycles?

Madam, I am sure my colleagues in E&I have laid this motion in front of us with the best of intentions, as they did the last time. But I do not resonate with the vision of anyone who seeks to remove vehicles or parking spaces from anywhere near our Town – or any other shopping centre, for that matter. Doing that will only cause problems and will not actually provide any solutions to the parking problems we currently have.

In the speech I made during the April debate, I highlighted all the parking spaces that could be removed from the Vallette all the way past the bus terminus, the Albert Pier, Crown Pier, right through to the North Beach, lingering a while to mention that parking spaces have already been lost to *al fresco* dining along the Quay. Then I continued along the North Esplanade as far as The Red Lion. And whilst I was doing that, madam –

Deputy Taylor: Point of correction?

The Deputy Bailiff: Yes, Deputy Taylor.

Deputy Taylor: Apologies to my colleague Deputy Queripel but I do not believe any parking spaces have been lost along the Quay: unloading and taxi ranks but not physical parking spaces.

The Deputy Bailiff: Thank you.
Deputy Queripel.

Deputy Queripel: Thank you, madam.

1435 As I said, I was highlighting possibilities where car-parking spaces could be removed all the way
along the eastern seafront. Whilst I was doing that, Deputy de Sausmarez, I think she stood to ask
me to give way or she made a point of correction; I cannot quite remember. If it was to give way,
then I did give way because I am that kind of guy. She did say that in an attempt to truncate the
debate, she felt I had completely misunderstood and misinterpreted the intention of the motion.
1440 But as I said in response to her saying that, I very much respected her view but there is no way I had
misinterpreted or misunderstood the intention. The intention was – and it is perfectly clear – cars
and car parking spaces will be removed and replaced by *al fresco* dining; it is as simple as that. There
was nothing else that needed to be taken into consideration, in my view.

1445 Now, I am all in favour of diners being given the choice of either eating inside or out. But when
it comes to *al fresco* dining, we have to bear in mind that *al fresco* license-holders have the exclusive
possession of a specified area of the public highway. Seeing as I am in the privileged position of
being able to vote on this, I am not in favour of that, and the price to pay is the loss of car-parking
spaces when we do not have enough of them as it is.

1450 Moving towards a close, madam: as I said earlier, I was the only Member of the Assembly to vote
against the motion back in April. Deputy Taylor abstained from voting and our two colleagues from
Alderney were absent at that time. So it would be interesting to see how the vote pans out this time
now my colleagues have had more time to think about the issue. Some of them may now even
resonate with my concerns. Time will tell, but I suspect I will be the only dissenting voice once again.
1455 That does not bother me unduly because I have been a lone voice on issues in the past on several
occasions. What does bother me is that this speech will once again have been a soliloquy.

Thank you, madam.

The Deputy Bailiff: Thank you, Deputy Queripel.
Deputy Gollop.

1460 **Deputy Gollop:** It is not necessarily a complete soliloquy because I might be a minority voice in
another way.

1465 I actually support the *al fresco* programmes. As far as it goes, it will be discretionary as to how
they are applied in specific areas and it is quite operational and not one that we politicians will
generally see. I think Deputy Inder and Economic Development have been right that there has been
rather too much red tape and bureaucracy, with far too many agencies and barriers (**A Member:**
Hear, hear.) for small licensees, cafés, and others to get a bit of character going in the Town – and
business, too, maybe, in other parts of the Island – it could apply to the Bridge.

1470 That said, I have already had a heard of something very worrying this morning. The whole point
of *al fresco* is opening up the Town to the community. You also have to put in mind those who have
mobility issues – maybe those who are disabled; those who need transportation, not just cycles, not
just the car. The main line of Deputy Queripel's speech is the gradual erosion of car-parking spaces
in Town; that is an issue and I have got my own ideas about how you could improve parking,
throughput, etc.

1475 But we heard an idea Deputy Vermeulen raised which shook me; I have heard it before but it is
interesting. The Retail Group are talking about one-ways in Fountain Street. That could be good
from an accessibility or even a pavement point of view. But there is a down side: what about access
for public transport, buses, and taxis? I will write separately to Environment & Infrastructure and
Economic Development. We heard from Deputy de Sausmarez; she wants people to have mobility
1480 options – choosing the buses or cycles – even more important in an *al fresco* age; but if you end up
closing the bus routes due to ill-thought-out traffic schemes, that is a concern.

My point is: carry on with the freeing-up of *al fresco* and cafés but also be aware of the consequences of any changes to parking spaces, public roads, public transport links, and so on, taxi ranks, etc.

1485 I will support the legislation.

The Deputy Bailiff: Thank you, Deputy Gollop.
Deputy de Lisle.

1490 **Deputy de Lisle:** Thank you, madam.

One of the advantages, of course, of all of this is the fact that it is going to take away some of the red tape and some of the costs to the industry. Anything we can do, of course, to minimise and actually get rid of some of the costs to private sector businesses we should be looking towards and supporting.

1495 There are a couple of points that I would like to make on this: one, that I note that the Ordinance speaks of 'zones'. We did have an illustration of the zones and the mapping-out of the zones in the last debate but those zones are not included within the Ordinance and I just wonder whether that would not be something that we could provide so that we know exactly where these zones that have been identified are.

1500 The second point is that I have noted that some now are extending across the road to the middle of the road with their tables and chairs and so on. In this explanatory memorandum, it makes the point that:

... the licence holder to have exclusive possession of a specified area of the public highway without offending the law against obstructing the public highway.

I think extending to the middle seems to me to be obstructing the walkway or the driveway and I think we should be concerned about that particular aspect.

1505 But in all, it is going to assist the dynamism of the Town, which really needs to be looked at in many ways so this is good from that point of view. It is also good from the point of view of limiting the costs to the licensees in order to have this opportunity, whereas before, it was quite onerous in terms of the costings that these people would have to pay in order to have this privilege.

Thank you.

1510

The Deputy Bailiff: Thank you.
Deputy Inder.

1515 **Deputy Inder:** Madam, I did get a reference from Deputy Gollop. Normally, legislation is just for nodding-through, not rehearsing previous policy letters.

I will thank Deputy de Lisle, as a retailer in Town, for supporting it. He, like me, will have seen the good work I think E&I did along the front, seeing – I am not entirely sure about the plastic ivy along the front – in the main, the fact that the front of the quayside now looks an awful lot better than it did a year ago, with full establishments being able to provide service for an extended period of time overnight.

1520

1525 The only thing I would like to say is I would be careful worrying about getting into the detail of exactly how many car parks are going to be lost or how many spaces we are going to add or subtract because I genuinely do think we are missing something here. And this is something for Deputy de Lisle, as a retailer; Deputy Queripel, as someone who has got concerns over St Peter Port; along with Deputy Gollop as well, as previously, a Deputy for St Peter Port. And you can either look at it as an opportunity or a risk. If Leale's Yard goes ahead – and we really do hope it does; it is 388 houses – we are effectively going to have a new town two and a half miles away from a very ancient town. Now, the ancient town is built on a hill, it has not got an awful lot of accessibility. When you start building out those 388, you create a mass that inevitably will change how the Bridge looks.

1530 So if I was going to give any warning at all, I would not be worrying too much about yellow lines, double-parking, and the loss of disability spaces or the addition of; I think the greatest opportunity, potentially, or almost threat to St Peter Port is what happens in the north of the Island. That is going to be brand new, there is going to be lots of opportunities, and it will change and build out the north and the south side. It is a really good idea but it is a risk to St Peter Port.

1535 Thank you.

The Deputy Bailiff: Deputy Mahoney.

Deputy Mahoney: Thank you, madam.
1540 Very quickly, 12A of the legislation says:

Designation of "al fresco" zones

1. The Committee may, from time to time, by order -

(a) designate any area ...

I just wanted to check: in the guidance notes, which I think were in the policy letter – forgive me if I am wrong; they are somewhere – one of the restrictions is that *al fresco* zones cannot restrict vehicular access; I think that is correct.

1545 My question is in two parts. Does 'vehicular access' mean car parks? If Deputy de Sausmarez could just respond to that. And is it envisaged that those guidance notes can be amended by E&I or would the guidance around what can and cannot be done per those guidance notes be then amended by E&I, so E&I tomorrow can say, 'We don't mind about restricting vehicular access now,' and therefore, car parks might be back in the game? If those two things could be covered off by Deputy de Sausmarez, I would be grateful.

1550 Thank you.

The Deputy Bailiff: Nobody else is rising to debate so I will ask Deputy de Sausmarez to respond.

1555 **Deputy de Sausmarez:** Thank you, madam

Deputy Queripel is indeed entitled to express his views, but he is not entitled to his own facts. I am really sorry he cannot remember my previous intervention in the speech that he made on the policy letter because in that intervention, I did advise him, I thought *very* clearly, that, as referring to the policy letter that we were debating at the time, any application for sites within the *al fresco* zones that are currently in use would not be granted. So let me say it in this way before any hares are set running that no parking spaces will be harmed in the making of this legislation. (*Laughter*)

1560 To pick up a point that Deputy Mahoney has just referred to, he is quite right in his interpretation. Obviously, all the criteria maintain the access that is required for emergency vehicles and all the rest of it. But it speaks to Deputy Gollop's point as well, actually: we are not in the business – this does not give anyone *carte blanche* to go around interfering with access to the roadway or parking spaces; that is not what it is about. What it is about is making the system an awful lot simpler, less burdensome, quicker, less costly than the current system of applying for a licence through the Royal Court; it is as simple as that. Please, do not be alarmed at suggestions that this will encroach upon parking spaces; it will not. That is not its purpose. There are safeguards and mitigations in this. Any
1565 applications that do request that, permission will not be granted; that is made quite clear in the policy letter and that is the case in fact.

1570 I do not know to what extent it is worth going into any of the supplementary issues around parking capacity. Deputy Taylor is shaking his head and I agree with him. I would actually just like to confirm that he is quite correct: no parking spaces were lost in the initiative along the front. There was a small loss of some unloading bay space but that was only done after careful auditing of that space, lots of consultation with the businesses, and actually, it turned out unsurprisingly that much of that unloading space was not being used for its designated purpose and it was actually being
1575

abused, and so we thought it was worthwhile in that particular circumstance. We obviously maintained access to the unloading space that the neighbouring businesses needed and we thought it was reasonable in that case to redesignate some of that unloading space which was not being used for its originally intended purpose to this other use.

So I hope I can reassure everyone on that point. I would be really disappointed if that is a hare that is set running. I thought I had clarified that in debate on the policy letter. I am hoping that I have managed, if not, to reclarify that point now. Hopefully, that is not a concern that anyone needs to have.

Deputy Gollop raised a point about public transport: the same applies.

Deputy de Lisle talked about the zones and so did Deputy Mahoney. These, as I mentioned when I opened on this, are subject to consultation and that period of consultation will begin tomorrow. Deputy Mahoney is quite right: the proposed maps, as was, were included in the policy letter simply by way of example and the criteria were as well. Both the criteria and the maps of the proposed zones are going out to consultation. We very much encourage feedback on the specifics both in terms of where the red lines are drawn, where those zones are created, and on any particular aspects of guidance that people feel might not have been taken into consideration or they think might need to change in any way. I am pleased to take this opportunity to broaden awareness about the consultation process, which should begin tomorrow, and really encourage people to get involved and engaged. This is all about making things better and easier and the more engagement and feedback we have, the better we can make those permit zones.

And to answer another part of Deputy Mahoney's question, those zones can be changed from time to time. Originally, we thought about making it a set timeframe, so reviewing them every year or every six months. Actually, we did not want to predict or stipulate, be overly restrictive about when that review should take place. Obviously, there is the original consultation, but as and when the zones are agreed and formalised, if there are applications for *al fresco* outside of those zones or if we are aware of interest – through, for example, people applying for a licence – then that is obviously a trigger for us to review where the zones should be.

I hope that has clarified everyone's questions. I would draw people's focus back onto the original purpose of this legislation, which as Deputy de Lisle and Deputy Inder quite rightly pointed out, is to make things simpler, better, quicker, less costly, and ultimately, broaden choice for businesses and consumers, whether they are residents or visitors to the Island. I would really encourage people to put any misplaced fears about loss of parking spaces well and truly away and support this legislation.

Thank you.

The Deputy Bailiff: Thank you, Deputy – Oh, Deputy Taylor.

Deputy Taylor: Sorry, madam, just probably erring on the side of caution in accordance with Rule 15(b), I have a business that is located within one of the zones – to just raise that.

The Deputy Bailiff: I am grateful for that, Deputy Taylor.

Deputy Taylor: I should add that it does have an *al fresco* area now. *(Laughter)*

The Deputy Bailiff: Debate having finished, I will now ask the Greffier to open the vote.

There was a recorded vote.

1625

Carried – Pour 32, Contre 2, Ne vote pas 2, Absent 4, Did not vote 0

POUR	CONTRE	NE VOTE PAS	ABSENT	DID NOT VOTE
Deputy Aldwell	Deputy Le Tissier	Alderney Rep. Roberts	Deputy Bury	None
Deputy Blin	Deputy Queripel	Alderney Rep. Snowdon	Deputy Helyar	
Deputy Brouard			Deputy Le Tocq	
Deputy Burford			Deputy Oliver	
Deputy Cameron				
Deputy de Lisle				
Deputy de Sausmarez				
Deputy Dudley-Owen				
Deputy Dyke				
Deputy Fairclough				
Deputy Falla				
Deputy Ferbrache				
Deputy Gabriel				
Deputy Gollop				
Deputy Haskins				
Deputy Inder				
Deputy Kazantseva-Miller				
Deputy Leadbeater				
Deputy Mahoney				
Deputy Matthews				
Deputy McKenna				
Deputy Meerveld				
Deputy Moakes				
Deputy Murray				
Deputy Parkinson				
Deputy Prow				
Deputy Roffey				
Deputy Soulsby				
Deputy St Pier				
Deputy Taylor				
Deputy Trott				
Deputy Vermeulen				

The Deputy Bailiff: Greffier, would you close the vote, please?

There voted Pour 32; there voted Contre 2; there were 2 abstentions. Therefore, I declare the Proposition passed.

1630

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

4. The Reform (Guernsey) (Amendment) Law, 2022 – Approved

The States are asked to decide:-

Whether they are of the opinion to approve the draft Projet de Loi entitled "The Reform (Guernsey) (Amendment) Law, 2022", and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.

The Greffier: Article 4, the States' Assembly & Constitution Committee – The Reform (Guernsey) (Amendment) Law, 2022.

The Deputy Bailiff: Deputy Meerveld.

1635

Deputy Meerveld: Thank you, madam.

This legislation principally inserts a new schedule into the Reform Law to establish and confer powers on the Office of the Commissioner for Standards. This was previously approved by this Assembly and I hope all Deputies will support it.

The Deputy Bailiff: Deputy Gollop.

Deputy Gollop: I support it, as a member of SACC, but I do not know everything that is going on. What I would like to know from Deputy Meerveld – or indeed, if they are involved with this in any way, Her Majesty's Procureur or Her Majesty's Comptroller – is when this would take effect because we are involved potentially in a partnership with the States of Jersey, who have only recently reformed. I would be interested to know what the timeline and that, hopefully, it will happen by early next year, but I am not in the loop at the moment.

The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: Thank you, madam.

There is an important provision in this piece of legislation which I think risks passing the public by. It actually proves the public's right to complain and I fear that it could get lost in a technical piece of legislation so I want to take the opportunity of this debate to draw attention to it for the public – and indeed, the media. That is Section 15 on page 18, which is entitled 'Immunity of persons appearing, answering questions and providing documents'. It provides that:

(1) Subject to subparagraphs (2) and (3) –

(a) no civil proceedings or criminal proceedings may be instituted against any person in respect of any words spoken or written by that person –

(i) in a complaint to the Commissioner that a breach of the code of conduct has occurred, or

(ii) in the course of answering questions from, or appearing and giving evidence before, the Commissioner ...

Subsections (2) and (3) provide in particular that –

(3) [protection, that immunity] ... does not apply to a complaint that the Commissioner does not investigate ...

In other words, if there is something that, *prima facie*, the Commissioner believes warrants consideration and investigation, then the complainant will have immunity.

Now, of course, during this term, Deputy Ferbrache has previously said that he was going to take action for libel against, I think, one or two complainants against him. I have not actually seen any reporting to suggest whether he has progressed with that, but I think those kinds of threats do have a deadening effect on the public bringing complaints because they fear that they may themselves become a subject of such litigation and I do not believe that that deadening effect is in the interests of democracy in the 21st century. And let's face it, we know that democracy is under threat everywhere and we need, as elected representatives, to be subject to more, not less, scrutiny.

Most Members, myself included, either have or will pick up one or more complaints against them whilst they are in this place, in this Assembly. Most, of course, will be dismissed either before or after investigation. But I absolutely defend the rights of the public to bring complaints against any of us that they consider are worthy of investigation by the Commissioner. If they are clearly vexatious or there is no basis to them whatsoever then there will be no investigation and this immunity will not protect the complainant, but if they are worthy of investigation, it is quite right that the complainant should have the protection of this immunity from any legal action being taken against them by us, or indeed, anyone else.

So I commend Deputy Meerveld and his Committee for including such a provision in this legislation. It is an important protection that will enhance the rights of the public and I hope the public will take notice as and when, as Deputy Gollop has said, this legislation does take effect.

Thank you, madam.

The Deputy Bailiff: Deputy Inder.

Deputy Inder: I am glad Deputy St Pier pointed that out because I think he is right: the public should be afforded protection. I have never been a particular fan of what colloquially is – if I can recall the phrase – ‘blue-on-blue’. I do not like Deputies taking Deputies to code of conduct. I think there are better ways of doing it and much of it has been done either on this floor or, as we have seen recently, through social media or opinion columns.

But what I am interested in is when someone complains, as Deputy St Pier has pointed out there, is there a different definition for a Deputy complaining to a Deputy or does the complainant become just a member of the public? Ultimately, if it is the case that there is a blue-on-blue, one Deputy complains about another, can that Deputy effectively weaponise the process, which we have seen happen time and time again, and effectively be covered to say what he or she wants in the context of a complaint and then effectively use it for political motivations rather than what it should be used for?

The Deputy Bailiff: Deputy Le Tissier.

Deputy Le Tissier: Thank you, madam. I will keep it brief.

I support this amendment because I think appointing the Commissioner takes out any bias, either perceived or real, on the panel, so that certainly gets my vote. But I am a little disappointed that Deputy Meerveld could have put in here something about making non-States’ members subject to the code. Perhaps he could explain what the progress is on that.

Thank you.

The Deputy Bailiff: If nobody else is rising to their feet, I will ask Deputy Meerveld to respond.

Deputy Meerveld: Thank you, madam.

To Deputy Gollop, yes; he is on the Committee, he should know the schedule. This is obviously a joint working effort with Jersey. This legislation does not duplicate the Jersey legislation but is designed to dovetail with their efforts to introduce a new Commissioner for Standards towards the end of the year and we will be working closely with them; this is a work in progress towards that.

Deputy St Pier and the immunity issue: one has to remember that the existing code of conduct requires – people make complaints to keep them confidential, to submit them to what is now the Code of Conduct Panel and have them adjudicate whether or not it has merits to investigate. He is absolutely right that anybody making a complaint to the Commissioner for Standards cannot be charged with libel or – should not face libel or slander claims simply for making a confidential complaint to the Commissioner. But if that individual makes public statements about their complaint, then they may face those charges. It is a case of, if they follow the process and make a confidential complaint, then of course, they should not be discouraged or held liable for making a complaint which, as Deputy St Pier pointed out, is something we want everybody to be able to access. But if they make public statements, then I am afraid the normal rules will apply.

Deputy Inder’s comment about ‘weaponising complaints’: yes, I think there have been instances in the past. But again, it comes down to that confidentiality. A complainant, regardless of whether they are a Deputy or not, is meant to keep that complaint confidential. Sometimes it has –

I will give way to Deputy Inder.

Deputy Inder: What Deputies are supposed to do and what they actually do are two different things, as you are fully aware. In my own circumstances, I had two complaints laid against me, quite obviously politicised and one proven vexatious. By the time I had that laid by that Deputy, I was informed about the complaint; one hour later, I got a call from the media. My intention was to keep it quiet, but if you think I am going to sit here and allow that to be dribbled out to the media and not come out fighting, they are talking to the wrong person.

The Deputy Bailiff: Deputy Meerveld.

Deputy Meerveld: Thank you.

1735 I fully accept and I think it is something we discuss quite often on SACC. Rules do not necessarily change behaviour and using rules to try and change a behaviour is usually a wasted effort because somebody will find a way around them, if they wish to. What we are doing here is obviously providing the protection that somebody who follows the process should have. Normal rules apply if they start going public. Hopefully, I think, going forward, having an independent Commissioner will actually help avoid the incidences that Deputy Inder has referred to.

1740 Going on to Deputy Le Tissier, responding to his comments about non-States' members: this has been something that SACC discussed at length. The fact is that non-States' members, whilst performing a role linked to the States, are not elected on behalf of the public and are not expected to sign up to the same rulebook; it is a different set of rules. Whilst you want them to adopt similar standards of behaviour, you cannot really apply the rules that we as Deputies face. It was decided
1745 it was much better to handle that through a different process. Consultation has been done with Members; that is a work in progress. I know it is of concern to quite a number of Deputies and SACC will be coming back to this Assembly, hopefully in the not-too-far-distant future, with some suggestions on how we do that.

1750 With that, I say thank you and I hope that everybody will support the legislation.

The Deputy Bailiff: Greffier, would you open the vote, please?

There was a recorded vote.

1755 *Carried – Pour 35, Contre 0, Ne vote pas 1, Absent 4, Did not vote 0*

POUR	CONTRE	NE VOTE PAS	ABSENT	DID NOT VOTE
Deputy Aldwell	None	Deputy Brouard	Deputy Bury	None
Deputy Blin			Deputy Helyar	
Deputy Burford			Deputy Le Tocq	
Deputy Cameron			Deputy Oliver	
Deputy de Lisle				
Deputy de Sausmarez				
Deputy Dudley-Owen				
Deputy Dyke				
Deputy Fairclough				
Deputy Falla				
Deputy Ferbrache				
Deputy Gabriel				
Deputy Gollop				
Deputy Haskins				
Deputy Inder				
Deputy Kazantseva-Miller				
Deputy Leadbeater				
Deputy Le Tissier				
Deputy Mahoney				
Deputy Matthews				
Deputy McKenna				
Deputy Meerveld				
Deputy Moakes				
Deputy Murray				
Deputy Queripel				
Deputy Parkinson				
Deputy Prow				
Alderney Rep. Roberts				
Deputy Roffey				
Alderney Rep. Snowdon				
Deputy Soulsby				
Deputy St Pier				
Deputy Taylor				
Deputy Trott				
Deputy Vermeulen				

The Deputy Bailiff: Greffier, would you close the vote, please?

There voted Pour 35 and there was 1 abstention. I declare the Proposition passed.

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

5. The Prevention of Discrimination (Guernsey) Ordinance, 2022 – Debate commenced

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Prevention of Discrimination (Guernsey) Ordinance, 2022", and to direct that the same shall have effect as an Ordinance of the States.

The Greffier: Article 5, the Committee for Employment & Social Security – The Prevention of Discrimination (Guernsey) Ordinance, 2022.

1760

The Deputy Bailiff: Before I invite Deputy Roffey to open the debate with the Proposition, please may I remind Members that when we come to the vote at the end of general debate, the vote will be on a single Proposition: whether you do or do not support the draft Ordinance as amended by any of the amendments which you approve over the next day or so. I just wanted to make that clear so everybody understood the position at the end.

1765

In relation to the order of the amendments, I am afraid it is going to be a bit of a movable feast. We will deal with 1 and 2 first and thereafter amendment 3; and then, I am afraid, after that, we will have to see where we go.

I invite Deputy Roffey to open.

1770

Deputy Roffey: Thank you, Madam Deputy Bailiff.

Of the five bits of legislation on the order sheet today, we have reasonably rattled through the first four and the reason has exactly been explained by the President of SACC when he said, presenting his, all we are doing at the legislation stage is embodying in law policy decisions that have already been taken by the States after a lengthy debate. For that reason, we do not normally have that much debate on legislation because we have already made the decisions and the legislation just reflects them. However, I suspect that that is not going to be the way of things in relation to this particular bit of legislation so I imagine I had better say a few words.

1775

Madam Deputy Bailiff, it is about time Guernsey came into line with the rest of the civilised world in making it illegal to discriminate against its own citizens on the basis of certain core characteristics. Make no mistake: this is not about Guernsey somehow taking a lead in social policy and passing novel legislation and going where other comparable territories have not yet been. It is no jump in the dark, it is no jump into the unknown – quite the opposite. It is about Guernsey finally catching up with just about every other civilised country, territory, island in, basically, the world – I was going to say in the Western world, but in most of the world. This is not cutting-edge; it is simply mainstream and long-overdue anti-discrimination legislation.

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Madam Deputy Bailiff, this is also about keeping promises – in many cases, long-held promises. Perhaps the most extreme example relates to racial discrimination. I think it was about 60 years ago that the States became a signatory to the International Convention on the Elimination of All Forms of Racial Discrimination. They did not have to; they chose to sign up to that. And in doing so, there was a presumption – there is a presumption in that Convention – that all parties will make it illegal to discriminate on the grounds of race. Round about 60 years on, it is still perfectly legal to discriminate on the grounds of race in Guernsey. How shameful is that?

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Now, I know there will be people who pose the question 'Well, it may not actually be illegal to discriminate on the basis of race, but how much racial discrimination actually goes on?' There are two answers to that: the first is probably far more than some people may think and the second is that it is completely missing the point. Thankfully, in Guernsey, we have very few murders and even very few burglaries, but we do not hesitate to make both illegal. We do that for two reasons: firstly, to give the proper legal protection to the few people who may be at risk of being victims; but secondly and just as importantly, to send out the message loud and clear that Guernsey, as a community, deprecates such actions, that they are completely against our collective mores, and we will not countenance them. Exactly the same reasons are valid in making discrimination on core grounds such as race illegal. Those who may be victims need our protection, but equally importantly, Guernsey needs to send out that message loud and clear: we as a society do not tolerate it.

Just imagine the opposite message we would sent out today in the very unlikely event – I hope it is very unlikely, I believe it is – that this legislation was rejected with that single Proposition that we will vote on at the end of the day: it would be saying basically – the impact on Guernsey's reputation would be truly dreadful. So far, the fact that racial discrimination is perfectly legal in Guernsey has flown under the radar, but if the States actually voted to keep it that way, then frankly, our reputation as a modern, caring society would be shut, and rightly so.

Madam Deputy Bailiff, it is not just in regard to racial discrimination where the States has long-held promises that it now needs to keep. It is now many years since the Assembly passed unanimously the Guernsey Disability and Inclusion Strategy. As a part of that Strategy, the States promised to make discrimination both on the grounds of disability and carer status illegal. The Islanders we made those promises to have been waiting an awfully long time for the States to make good on them – in all honesty, far too long – and I genuinely apologise to them for that interminable wait. It should not have been that way. The States was far too slow to start serious work on it. I think their problem was they gave it to that odd body that used to exist called the Policy Council to actually do the work and it was really only when it came to ESS that the real work started.

Now, I know it has been said by some that if ESS had gone for a standalone Law just on discrimination on the grounds of disability and carer status rather than wrapping it up in a multi-grounds Law, it would have proved less controversial and come into effect sooner, but nothing could be further from the truth. Surprisingly, nearly all of the arguments and nearly all of the pushback has been on the disability grounds; there has been very little controversy regarding the other protected grounds.

Why is that? I think it is for two reasons. Firstly, there has been an awful amount of misunderstanding and even widespread myth perpetrated over the effect of the Law in respect of the disability ground. Secondly, I think a previous iteration of ESS was, with hindsight, maybe a bit too ambitious with their first set of draft proposals on which they went out to consultation in this regard. I certainly do not blame them for that. Their thinking was obvious, really: that with Guernsey coming very late to the party in terms of anti-discrimination legislation, it was incumbent on them to follow the very latest best practice. With this in mind, the first draft of the Law – or the first draft of the proposals; the 'strawman', as I think it was called at the time – was heavily influenced by the legislation of those countries which are at the cutting edge in this respect, countries such as Ireland and Australia. I think that was a very fair aspiration.

But Members, that early draft bears very little resemblance to the legislation before you today. The proposals which led to this Law, the proposals which were passed unanimously by this Assembly and led to this Law, are the result of one of the biggest consultation exercises ever carried out in Guernsey. And it was no sham consultation where the feedback was ignored, just gone through for the sake of the process; rather, countless reforms to the proposals were made as a direct result of what the community was telling us.

So Members, the Law before you today is no purist ideal. Rather, it is the result of compromise laid on top of compromise until it has become absolutely a mainstream example of the sort of anti-discrimination legislation seen widely around the world and in all of our competitors' jurisdictions.

In fact, I know from many of the civil society groups who have long been campaigning for this sort of Law – and we have seen how much they care about it by their presence outside the Royal Court today – maybe for many of them, we have perhaps compromised too far, not to the point they do not support its introduction – they most definitely do – but because they feel it really does not go far enough, falling short of the legislation in some other countries and perhaps even failing to fulfil our full future obligations under the UN Convention on the Rights of Persons with Disabilities as and when we sign up – and we have all said unanimously that we want to sign that Convention. If so, I understand where they are coming from, and in some ways, I apologise to them.

Maybe, in some ways, we did compromise too far. But I also say this: just as I said earlier in my speech, the one purpose of making things illegal was to send out a clear message about the mores of our society, so the opposite is true. In bringing in a major new Law, it is important for the States to make sure as far as we can that it is one that is taking most of the community with it, where most interest groups on all sides of the community and most individuals are reasonably happy. That is not to say that it is not sometimes the States' job to lead; I think it is. But often, that leadership is more effective if we do not get too far ahead of our community.

And I think, Madam Deputy Bailiff, that we have achieved that happy situation with this legislation thanks to the compromise that we have agreed to. Some will feel it goes too far in some individual respects, others will feel it does not go far enough in other respects – or even in the same respect! On the same bit of the Law, people will take opposite views. But overall, it has achieved broad community buy-in. The civil society groups are broadly supportive; most of the employer groups are broadly supportive; and I am convinced that the wider community is also broadly supportive. Is there any opposition at all? Yes, there is; but actually very little, certainly outside this Assembly. Madam, you can never please all of the people all of the time; I think somebody said that once and they were absolutely right. But this legislation is very much pleasing most of the people in most respects and I think it really is a Law whose time has come. Its time ought to have been a long time ago but now its time has come.

And that broad consensus support for this legislation as drafted leads me to make a plea to Members. Now I know – and I am not going to – this is not the time to talk in detail about any of the amendments that are not yet laid. But I do have a general point. Some of the amendments will be relatively minor in nature but others will radically change the nature of this legislation. They will water it down, they will emasculate it – if that is not an unexpectedly masculine term in the context of the Law – and make it far weaker than it is at the moment. They will radically change the nature of a piece of legislation which has been consulted on more than any other in my memory and which has achieved, perhaps against the odds, widespread support. If that happens, the issue will not go away, nor will the campaign groups – why would they? We will have unanimously promised them one thing and then we will have delivered them something completely different. Please, do not do that.

Two other brief comments before I close. Firstly, this legislation really is delivering an anti-discrimination regime on the cheap. No new equality and rights body, as originally intended; in many ways, I think that is tragic because I think it would have had a very positive role to play, but we have been aware of costs throughout so that went by the wayside. No standalone tribunal system; rather an adaptation and extension of the existing one that we have in Guernsey. At every turn, we have sought to strip out cost. The annual costs of administration will be very modest, at less than a third of that suggested by one group recently.

But what about the cost to the States as an employer and as a service provider? Madam, I hope that it will be close to nothing. After all, is there anything in the reasonable requirements that this Law imposes that we, as good employers and responsible service providers, would not be planning to do anyway with or without the legal requirements. I do not believe there is. I would be shocked. But if not, then where is the cost? The same is true for other good employers.

Now, I accept that the issue of cost could arise when we come to phase 3, which will not be in the lifetime of this States. That phase will deal with equal pay for work of equal value and depending on how it is implemented, it could push up payroll costs very considerably. But that is an issue for

another day and another Assembly. It is not in the least bit referenced in this legislation and there is no reason why this legislation should cost the States any more than they will spend without it – other, of course, than the simple operating costs, which will be below £400,000 a year.

What about the broader impact on Guernsey's economy? I suppose we could have commissioned a big accounting firm to do a £500,000 exercise. It is an enormously complex job to do, the outcomes would probably have been doubted, and there is very little reason to believe that it would yield different results from similar investigations carried out in bigger communities that have brought in similar legislation. In other words, the effect on the broader economy will range from largely neutral to significantly positive.

Finally, this Law absolutely reflects the precise policy decisions made both by this current States and the one before it. That is why I can speak in general terms today. I do not need to go through the individual clauses in my opening as they simply reflect the clear policy decisions we as a Government have already taken. It is also how I know that at least 50% of this Assembly fully support all elements of the Law, because they were sitting in the States which unanimously passed the policy letter which set out the drafting instructions. I know the other 50% also generally support it because of how they voted in two separate Government Work Plan debates.

But I will also entertain myself by assuring myself – because I was nervous for a while, I have to say – how much this Assembly is behind the Law as currently drafted by going to the election2020.gg website, where a specific question was asked to all candidates – not 'Do you support anti-discrimination laws generally?'; it was very specific – 'Do you support the Law that will flow from the decisions that the States have just taken?' I read the responses of every Member of this Assembly and that gives me great confidence that the Law will go through in pretty much its existing form. I know what you said at election time – not you, madam – what Members said at election time (*Laughter*) – you may have said something at election time, I do not know! (*Laughter*) – what Members said at election time: it is something that they will take great responsibility for and stand by.

What I will say in closing: this Law is, as I have said, long overdue. This Law is moderate in the extreme. It is shot through with the concept of proportionality and that consequently, no undue burden will be put on any individual or any business. No employer or service provider who does not actually discriminate has anything to fear from it. Training will be given to employers and to service providers at no cost to them to prevent any inadvertent breach. As a result of multiple compromises, it enjoys very wide support from our community and it is a Law whose time has well and truly come.

Lastly, if I have one hope for this legislation, one impact that I hope and I genuinely believe it will make, it is not about catching people out breaking the Law, it is not about seeing lots of tribunals. Rather, it is about changing attitudes, ensuring that we as a community embrace all of our citizens equally. I know that could happen. I know it can happen for this reason: I have been around long enough to remember when we first brought in legislation on sex discrimination and I can remember the howls of protest about 'unnecessary regulation' from some quarters and the apparently pernicious impact this would have on business in Guernsey.

Madam, none of that came to pass. Instead, the Law underpinned a really desirable change in attitudes to women's employment rights and actually, I believe, women in general. I can so well remember so many of those previously discriminatory work practices that are now so far out of date – and we are only talking about 20 years ago – that we would laugh at them and how the States' Members of the day demanded a continuation of an employers' right to discriminate on the grounds of sex. Thank goodness that lobby was not listened to because none of those fears proved valid and there is no way any of us would go back to the pre-legislation way of working.

Now, has all that change in practice been down to legislation? No, of course it has not. It has been down to all sorts of evolving attitudes in our community and in the wider world. But the legislation on sex discrimination has proved a bedrock to underpin that major and highly desirable social reform and one that, I have to say – I am not suggesting that everything is perfect in terms

of treating the sexes equally – has still some way to go yet. But exactly the same will be true, I am sure, of this legislation.

So returning to the Law before us today, I hope I can be forgiven for singling out just one of the five grounds for a minute: that is the disability ground in particular. I do so because – remember, it was back in 2013 when the process of drawing up this Law commenced that that happened following very clear promises to disabled Islanders made unanimously by the States of Guernsey. So I am going to single out that protected ground and say: I hope this legislation will spur a change in mindset and that we all, everybody in Guernsey, will start looking not at what our fellow Islanders cannot do, but focus on what they can do.

Madam, I commend this Law to the States.

The Deputy Bailiff: Greffier, in relation to the first amendment, that is an amendment by His Majesty's Procureur.

[Amendment 1](#)

- *At the end of the proposition, insert ", subject to the amendment indicated below".*
- *In paragraph 41(b) of the Schedule, for "sports term" substitute "sports team"*

The Procureur: Thank you, madam.

Amendment 1 is a Law Officers' amendment which, if approved, would have the effect of inserting at the end of the Proposition to approve the draft ordinance an amendment to paragraph 41(b) of the Schedule, and for the words 'sports term', there would be substituted the words 'sports team'. Madam, this amendment corrects a minor typographical error in the Schedule to the Ordinance.

The Deputy Bailiff: Thank you.

Is that formally seconded by you, His Majesty's Comptroller?

The Comptroller: It is, madam.

The Deputy Bailiff: Thank you.

Nobody is rising. Greffier, would you open the vote on this amendment?

The Greffier: Yes, madam.

There was a recorded vote.

Amendment 1

Carried – Pour 36, Contre 0, Ne vote pas 0, Absent 4,

POUR

Deputy Aldwell
Deputy Blin
Deputy Brouard
Deputy Burford
Deputy Cameron
Deputy de Lisle
Deputy de Sausmarez
Deputy Dudley-Owen
Deputy Dyke
Deputy Fairclough
Deputy Falla
Deputy Ferbrache
Deputy Gabriel
Deputy Gollop

CONTRE

None

NE VOTE PAS

None

ABSENT

Deputy Bury
Deputy Helyar
Deputy Le Tocq
Deputy Oliver

DID NOT VOTE

None

Deputy Haskins
Deputy Inder
Deputy Kazantseva-Miller
Deputy Leadbeater
Deputy Le Tissier
Deputy Mahoney
Deputy Matthews
Deputy McKenna
Deputy Meerveld
Deputy Moakes
Deputy Murray
Deputy Queripel
Deputy Parkinson
Deputy Prow
Alderney Rep. Roberts
Deputy Roffey
Alderney Rep. Snowdon
Deputy Soulsby
Deputy St Pier
Deputy Taylor
Deputy Trott
Deputy Vermeulen

1985

The Deputy Bailiff: Thank you.

Greffier, would you close the vote?

There voted for 36. Unanimously, I declare the Proposition passed.

Greffier.

The Greffier: The next amendment is amendment 2, madam.

1990

The Deputy Bailiff: Yes.

Deputy Burford.

[Amendment 2](#)

*In the draft Ordinance entitled "the Prevention of Discrimination (Guernsey) Ordinance, 2022"
(Article V of Billet d'Etat No. XVII of 2022)*

1. For section 5, substitute –

Religion or belief

5.

(1) *Religion or belief is a protected ground.*

(2) *Religion means any religion and a reference to religion includes a reference to a lack of religion.*

(3) *Belief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief.*

(4) *In relation to the protected ground of religion or belief*

(a) *a reference to a person who has a particular protected ground is a reference to a person of a particular religion or belief,*

(b) *a reference to persons who share a protected ground is a reference to persons who are of the same religion or belief.*

2. *In paragraph 5 of the Schedule, for "religious belief", substitute "religion or belief".*

3. *In paragraph 11 of the Schedule, for "religious belief", substitute "religion or belief".*

4. *In paragraph 17 of the Schedule, for "religious belief", substitute "religion or belief".*

5. *In paragraph 24 of the Schedule, for "religious belief", substitute "religion or belief".*

6. *In paragraph 25(2) of the Schedule, for "religious belief", substitute "religion or belief".*

7. *In paragraph 35 of the Schedule, for "religious belief", substitute "religion or belief".*

8. *In paragraph 39 of the Schedule, whenever it occurs, for "religious belief", substitute "religion or belief".*

1995 **Deputy Burford:** Madam, this amendment is, of course, about discrimination. But it is also very much about freedom of belief, and therefore, by extension, freedom of expression or freedom of speech, a principle which is as dear to me as it is, no doubt, to many of my colleagues in this Assembly. More than ever – and no doubt, exacerbated by social media – people are sometimes fearful to express legitimately-held and reasonable beliefs. Including the ground of belief in the
2000 legislation, although it is likely to be called upon extremely infrequently, will provide the assurance of a protected legal backstop for genuinely-held, serious, and respectful beliefs. This Assembly has already agreed such a reassurance to those holding religious beliefs. Is it not discriminatory of itself not to also provide for those whose beliefs do not involve a deity? (**A Member:** Hear, hear.)

Before I go any further, let me give Members a lightning recap of where we are on this matter.
2005 Last autumn, this Assembly voted to confirm the inclusion of the ground of religion in this Ordinance. That ground covers not just Christianity, but Judaism, Islam, Hinduism, Jainism, Rastafarianism, and Zoroastrianism, amongst others. But despite the overwhelming desire by this Assembly to protect all of those people holding any of those faiths from being treated less favourably because of their faith, at the very same meeting, half of this Assembly voted against the
2010 proposal to also include non-religious – or in other words, philosophical – beliefs. Our neighbours in the Isle of Man and the UK both cover religious and philosophical belief. Jersey does not cover belief; but then, neither do they cover religion. At least they are consistent. Many Members here have not unreasonably called for our legislation to be more in tune with jurisdictions like the UK, rather than Ireland and elsewhere, and this amendment would do that.

2015 Anyway, how did we get to a point before last November where we were only proposing to protect religious belief and not philosophical belief? The answer comes from the involvement last term of two Irish academics as consultants to the discrimination legislation process. Unlike the UK and the Isle of Man, Ireland does not protect philosophical belief and we followed Ireland. Indeed, Deputy Roffey has admitted with hindsight that initially following the Irish legislation generally was
2020 probably not the best idea, and all credit to him for saying that. I would go further and say that getting involved with the Irish model has had, to a degree, a time-wasting effect on the process of many parts of this legislation.

Last autumn, when the Committee tried to add in philosophical belief, despite the proposal losing narrowly, very few Members actually spoke against it, but I would like to address some of the
2025 arguments made by those who did. Firstly, my seconder, Deputy Ferbrache, spoke of his uncertainty about the proposal to include philosophical belief but he voted in favour after hearing the debate and the Committee's summing-up. Deputy Queripel discussed at length the meaning of the word 'philosophical' and I would point him to the range of criteria which I will discuss shortly which may help clarify matters for him.

2030 However, the one substantial speech against the idea was from Deputy Helyar, and it is that speech I would like to concentrate on, because Deputy Helyar raised many points which require addressing. He stated – and he must genuinely be given great credit for his honesty here – that his speech was going to be like Jasper Carrott reading out motor insurance claims, an analogy which possibly will only be understood by people of a certain age. (*Laughter*) But in other words, it was
2035 knowingly a collection of seemingly outlandish examples of belief discrimination claims played – very successfully, I might add – for comic effect. So I thought I would take a whistle-stop tour of the seven cases that he cited.

(1) *Harron v Dorset Police*, the case about using money wisely in the public sector – claims dismissed. (2) *McElhinney v the Ministry of Defence*, the Scottish independence case – claims
2040 dismissed. (3) *Jackson v Lidl*, the Stoicism case – all claims heard to date dismissed. The judge who undertook the preliminary hearing said he believed Mr Jackson's remaining claims have 'little reasonable prospect of success'. (4) *Casamitjana v The League Against Cruel Sports*, the vegan case – claims withdrawn. (5) *Grainger plc v Nicholson*, the climate change case – claims withdrawn.

(6) *Hashman v Milton Park* – Mr Hashman won. He was sacked by the owners of a garden centre, who did not even bother to turn up to the tribunal to defend their decision to terminate his employment. He was sacked because he held contrary views to his employer on fox hunting. Should Mr Hashman have lost his livelihood for holding different views to his garden centre employer about hunting? I do not think so. (7) *Forstater v CGD* – Ms Forstater won on appeal. She lost her job because she believes that people cannot actually change sex. Now, whether Members think she is right or she is wrong in that belief, should she have lost her livelihood for holding different views to her employer? I do not think so.

So there we have the Jasper Carrott tour of belief discrimination claims: three dismissed or likely to be dismissed, two withdrawn, and two that led to successful judgments in situations where people's livelihoods were terminated because they held different views from their employer.

In the two successful cases, the law upheld people's rights to freedom of speech, thought and belief. That all seems like an eminently reasonable outcome to me. To be fair to Deputy Helyar, he did say that not everyone who gets to court wins, but there do not seem to be any outrageous outcomes here.

Before moving on, I would like to say a little more about two of these cases in particular. Firstly, the veganism case. In his speech, Deputy Helyar said:

... in *Casamitjana v The League Against Cruel Sports* the tribunal found that ethical veganism is a [protected] philosophical belief capable of protection under the Equality Act. So, woe betide you at your Christmas dinner if you do not provide something for your employees from the vegan menu, because you could be sued.

This framing of the case may have led Members to think, not unreasonably, that Mr Casamitjana sued his employers, the League Against Cruel Sports, for not providing him with a vegan Christmas dinner. Leaving aside the fact that surely, any reasonably sentient and considerate employer would not serve a side of beef to a vegan employee, the case actually had nothing to do with food at all.

Mr Casamitjana, whose veganism informed every aspect of his life, discovered that the organisation that employed him, the League Against Cruel Sports, was investing his pension deductions in firms that engaged in animal testing. His employers promised to cease this practice but then did nothing about it. Frustrated by this, he told his colleagues about it, and as a result of that, he was sacked for gross misconduct. No doubt, the charity, which is in the business of protecting animals from experiencing what they believe to be senseless deaths, was somewhat embarrassed by Mr Casamitjana telling other employees about the situation, but was that grounds to sack him?

Feeling rather unfairly dealt with, Mr Casamitjana took his case to a tribunal, where it was agreed that his ethical vegan stance was protected. But before the case could proceed to the next stage, a decision on the merits, the League Against Cruel Sports agreed that they had been in the wrong to sack him and stated that they had changed the default pension fund to an ethical one closer to their animal-related values – as you can see, nothing whatsoever to do with Christmas dinner.

Secondly, the case which established climate change as a philosophical belief. Deputy Helyar asked:

... what are you going to do if you own a business here ... that delivers fuel and you have an employee who holds that belief and he therefore refuses to go to a garage and assist with cars being filled up with fuel? That is where this is going. That is the kind of thing which this sort of legislation will allow people to bring claims against ...

But again, this is not correct. Section 22 of the legislation states clearly:

22.

(1) For the avoidance of doubt, nothing in this Ordinance requires an employer ... to

(a) offer employment ...

(b) promote ... or retain [someone] ... in employment

in circumstances where [that person] cannot fulfil one or more of the essential functions of the post.

Delivering fuel is quite clearly an essential function of the job of a fuel delivery driver.

2085 It was also stated by Deputy Helyar that in his chairmanship of Citizens' Advice, advising 11,000 individuals a year, no-one has ever sought advice for discrimination based on philosophical belief, and I can believe him. I too think cases will be vanishingly rare. But based on that, should we repeal all legislation, civil or criminal, which relates to things that rarely happen?

2090 Moving on, how would a claim made on the grounds of philosophical belief work? Firstly, there are two voluntary opportunities for conciliation, pre-complaint and post-complaint, which have a significant potential to avoid a claim moving on to the tribunal. If those are not successful, then a pre-hearing tribunal will decide if the belief in question qualifies for protection and it generally does this by applying five tests. Here are those five tests: (1) the claimant must be able to evidence to the tribunal that the belief is genuinely held; (2) the belief cannot just be an opinion or a viewpoint; (3) the belief must concern a weighty and substantial aspect of human life and behaviour; (4) it must attain a level of cogency, seriousness, cohesion and importance; and (5) it must be worthy of respect in a democratic society, it must be compatible with human dignity and it must not conflict with the fundamental rights of others. These are known as the 'Grainger tests' and all in all, they are a set of criteria which have the effect of weeding out at an early stage inappropriate, vexatious, frivolous, or simply ridiculous claims.

2100 The second stage, if a tribunal does decide the belief is protected, is a hearing of the case. Importantly, it still does not mean that a particular claim citing the protected belief will be found to have any merit – or indeed, that such a belief will always be considered protected for any claimant.

2105 In wrapping up, I am grateful indeed to have had the opportunity to discuss this matter with many of those Members who previously voted against the adding-in of belief and I thank them for allowing me to bend their ear. I also wish to thank St James' Chambers for their significant time in drafting this amendment. And last but certainly not least, thank you to Deputy Ferbrache for seconding.

2110 So before this starts to sound like an Oscars acceptance speech, I will simply ask Members to support this straightforward but important amendment that brings us into line with the Isle of Man and the UK and which removes the iniquity of only protecting a belief if it is a religious one.

Thank you.

The Deputy Bailiff: Thank you.

Is that formally seconded, Deputy Ferbrache?

Deputy Ferbrache: I do, madam.

The Deputy Bailiff: We will commence debate after the lunch break.

*The Assembly adjourned at 12.30 p.m.
and resumed its sitting at 2.30 p.m.*

The Prevention of Discrimination (Guernsey) Ordinance, 2022 – Debate continued

2120 **The Greffier:** This, madam, is the continuation of the debate on amendment 2.

The Deputy Bailiff: Deputy Bury, do you wish to be relevéed?

Deputy Bury: Yes, please, madam.

2125 **The Deputy Bailiff:** Thank you.
Deputy Leadbeater.

Deputy Leadbeater: Thank you, Madam Deputy Bailiff.

2130 I will be supporting this amendment. The previous definition of 'religion' does not capture
Buddhism because Buddhism is not actually a religion. Buddhism is not considered a religion
because it is basically non-theistic, it does not generally involve worship of a supernatural entity; it
is a philosophy. In its truest sense, the essence of Buddhist practice forms a perfect relationship with
science. Unlike other religions, Buddhism not does not have a central god. That does not mean they
are opposed to God; it just means they have no reason to have a god. Though every Buddhist
2135 understands and is grateful for the message that Buddha brought, they understand he is a man just
like them.

Thank you.

The Deputy Bailiff: Deputy Queripel.

2140

Deputy Queripel: Madam, thank you.

The last time the Assembly debated this issue, back in November 2021, it lost by 20 votes to 16,
as Deputy Burford pointed out in her opening speech – a four-vote margin: quite a close vote
compared to others this Assembly has undertaken. Four of the Assembly were not present at the
2145 last vote, so of course, there is every chance that this amendment could succeed.

The Deputies who voted against the motion last time were Deputies Aldwell, Blin, Brouard, Dyke,
de Lisle, Haskins, Helyar, Inder, Dudley-Owen, McKenna, Moakes, Mahoney, Meerveld, Murray,
Prow, Taylor, Vermeulen, and myself, along with our colleagues from Alderney. Every one of them
has every right to change their mind should they feel the need to do so; we live in a democracy,
2150 after all, so why shouldn't people be allowed to change their minds?

Some members of the media and some members of our community come down hard on that
and criticise the States for 'flip-flopping'. I certainly do not see it that way. Somebody might have
said something that you had not thought of before and then you change your mind because of
what you heard. Anyway, what I always say to anyone who stands on the side-lines, continually
2155 criticising the States, is: seeing as you think you know it all, why do you not stand as a candidate at
a general election and we will see how you get on if you are elected? They usually turn away in
disgust at that time because they cannot handle the truth. I have not said all that, madam, to smooth
away from myself because I am going to change my mind on this, because I am not. I am simply
saying, I would understand if some of my colleagues have because they have had a lot more time
2160 to think about the issue.

So why am I once again going to vote against this motion? As I said in my speech the last time,
I do not think replacing the grounds of religious belief with the ground of religion or belief is going
to be to the benefit of anyone; in fact, I truly believe it will be to the detriment of everyone at some
stage in their lives.

2165 The reason I say that is because if this amendment succeeds, we will be walking into a minefield,
and we all know what happens in minefields. Why on Earth would we want to put ourselves in that
position? Someone could argue that my saying, 'We will be walking into a minefield,' is an opinion
and not a belief; I would argue that it is a belief because that is what I believe.

So where do we go from there? We could try and brow-beat one another into submission with
2170 the person who can shout the loudest winning the argument. We could just carry on arguing and
the situation never gets resolved. We could walk away. Or we could agree to disagree. I believe the
last option is the best option. But the person who is arguing with me does not want to agree to
disagree so they carry on trying to brow-beat me into submission. And it is at that point that I
decide to walk away because I do not believe there is any point in our continuing with our argument.
2175 I have not actually admitted defeat at that stage; I am walking away because the other person is not
listening to a word I am saying and wants to carry on arguing and I do not see any point in that.

Just in case, madam, some of my colleagues are thinking to themselves, 'What on Earth has this
got to do with the amendment?', I would respectfully say, 'It has got everything to do with the
amendment,' because if they read 5(3), they will see it reads as follows:

(3) Belief means any religious or philosophical belief ...

2180 And if they read the last sentence of the explanatory note, they will see that it reads:

It will mean that a philosophical belief ... which is not based on religion has the potential to benefit from protection from discrimination under the Ordinance.

2185 Going back to the point I was making about my walking away from the person who wants to carry on trying to brow-beat me about the difference between a belief and an opinion: the other person does not like the fact I have walked away so they decide to take me to court in an attempt to settle the argument. This is where it gets really interesting because what criteria would be used in a court of law to settle the dispute? And what does the Law say about the issue? In paragraph 5.4 on page 21 of the Ordinance we debated in November 2021 – which in general, is exactly the same Ordinance – it said this:

The Law Officers have advised that, in human rights terms, there are competing rights at issue [here]. In basic terms ... it is not sufficient for the Committee's proposals to look solely to prevent discrimination on the grounds of religion or belief ...

I am sure I do not need to remind colleagues, madam, that the Committee for Employment & Social Security were proposing this themselves at that time.

2190 Paragraph 5.8 on page 23 of that previous policy letter said:

... there is [a real] ... risk of a successful legal challenge on human rights grounds, [and the ESS] Committee understands that it is hard to quantify the likelihood of [that] ... the Human Rights Law [would be] given effect to, so far as it is possible, in a way that gives effect to all of the Convention rights. If that is not possible, the Royal Court may ... declare a provision of it incompatible with the Convention rights.

What that all means is, as I said earlier, if this amendment succeeds, we will be walking into a legal minefield because this is an extremely grey, subjective area.

2195 I would ask my colleagues who intend on voting in favour of this amendment, please, bear all that in mind: (1) it is a minefield; (2) our own Law Officers have advised there are competing rights to consider here; and (3) it is extremely difficult to quantify the likelihood of a successful legal challenge. Surely, those three points alone should be enough to put doubt in the minds of Members who are thinking of supporting this amendment. 'When in doubt, leave it out' would be my advice.

2200 I want to take a moment to touch on the dictionary definition of the word 'philosophical' because it is absolutely key to this whole debate; in fact, it is the lynchpin, it is the foundation of this amendment. If we take the foundation away then we realise the whole amendment is built on sand. In saying that, madam, I want to emphasise I am not trying to discredit or demean Deputy Burford or Deputy Ferbrache in any way. They have their view, they have their belief, and I have my belief. What I am doing is building a case against their amendment, in my view, in a professional manner. I do not need to resort to baseline behaviour or below-the-belt tactics; that is not my style. I do not see the need for anyone to ever do that. I would ask members of the community who do resort to baseline behaviour and below-the-belt tactics to look at themselves.

2210 What I am saying is, the flaws in this amendment are plain to see, they are in full view; it is just that somebody needs to point them out in a civilised, dignified, professional manner, which I believe I am doing. Deputy Ferbrache, as we all know, has spent decades as an advocate, fighting battles in a court of law, so he will know exactly where I am coming from on this regarding interpretation and misinterpretation.

2215 The dictionary definition of the word 'philosophical' starts by saying 'to be calm in the face of trouble' – much easier said than done, but I think we all need to heed those wise words. Then it goes on to say that 'Philosophy is based on the study of the nature of knowledge' and also 'the principles of moral and aesthetic value' as well as 'the beliefs and attitudes of an individual or group'. With all that in mind, like I said earlier, the whole focus of this amendment is fundamentally flawed. It is fundamentally flawed because it fails to recognise the definition of the word. It does not

recognise that attitudes are included in that definition. And yet, we have all been told on more than one occasion – we were told several times in the previous policy letter on this, in fact – that for a philosophical belief to fall within the Equality Act 2010 it has to be ‘a belief and not an opinion or view ...’; it must ‘be a belief as to a weighty and substantial aspect of human life and behaviour ... it must: it must be ‘genuinely held’; it must ‘attain a certain level of cogency, seriousness, cohesion and importance’; it must ‘be worthy of respect in a democratic society’ and ‘not be incompatible with human dignity and not conflict with the fundamental rights of others’.

Every single one of those tests is open to interpretation, which of course, would be misinterpretation in the eyes of anyone who holds an opposing view. This is why I said this is a minefield. A belief being ‘genuinely held’ is subjective; the distinction between a view and an opinion and a belief is subjective; for a belief to be ‘a weighty and substantial aspect of human life and behaviour’ is subjective; for a philosophical belief to have attained a certain level of seriousness and importance is subjective. Anyway, what exactly is meant by ‘a certain level of seriousness’? That has never been made clear. Who decides what that level is and what criteria do they employ to enable them to come to that conclusion? To ‘be worthy of respect in a democratic society ... not conflict with the fundamental rights of others’ is also subjective. Every one of those tests is subjective, open to interpretation, misinterpretation, and challenge.

Even though I am not an advocate, I have sat alongside enough of them in a court of law or a tribunal as a McKenzie friend to an Islander who has been accused of assaulting their children or their partner, or a parent who refuses to go to mediation to resolve a parental dispute, to have seen for myself where interpretations have been challenged and referred to as ‘misinterpretation’. That is an advocate’s job: arguing against another advocate in a court of law. I am sure Deputy Ferbrache has witnessed that himself many times, madam, so he will know exactly what I talking about here.

When I was a practising complementary therapist a few years ago, I used to treat Islanders who had dementia. I also treated Islanders who I believed were displaying the onset of dementia. I believe that decades of repetition is one reason why people end up with dementia; that is my belief. **(A Member: A repetitive speech!)** Now, in a court of law, would that be determined to be a belief or an opinion? It may not appear to be that much of an issue to some people but it would be a major issue of contention and open to interpretation and misinterpretation if I had been taken to court by a client who had put a complaint in against me. Complementary therapists have to adhere to strict guidelines and regulation and they pay an absolute fortune for insurance policies, but that whole issue used to give me many a sleepless night. Again, this is all totally relevant to the debate, madam, because the whole focus of this amendment is on belief.

Today, I am wearing a black suit: a black shirt, black shoes, and a black-and-white tie. It is a black-and-white keyboard-signed tie to recognise the fact that there is no colour bar on a keyboard. I have utmost in mind the song which was a big hit for Sir Paul McCartney and Stevie Wonder in the 1980s entitled ‘Ebony and Ivory’. Always sitting in perfect harmony, as the song said. So my predominant colour is black. Now, some people might laugh at what I am about to say, madam, but it is no laughing matter: am I discriminating against white people when I choose to be predominantly black in my appearance today? I do not believe I am.

Years ago, when I laid an amendment that sought to equalise the Supported Living and Ageing Well workstreams, I wore this very outfit. Unfortunately, the amendment did not get the support it needed to succeed even though I said in my speech, the reason I had laid it was because the workstreams in place at that time and the ones being progressed discriminated against some of the very people the whole initiative professed to be supporting. After the debate, a colleague came up to me and said he believed the amendment would have succeeded – or at least, had a lot more support – had I not been wearing so much black.

Deputy Gabriel: Point of order, madam?

The Deputy Bailiff: Yes, Deputy Gabriel.

2270 **Deputy Gabriel:** Rule 17(6): I am not entirely sure why what Deputy Queripel is wearing is relevant.

The Deputy Bailiff: Deputy Queripel keeps telling the Chamber that it is relevant and he does keep returning back to the topic, so I think he is acutely aware of the need to keep what he is saying relevant to the particular amendments before the Chamber at the moment.
2275 Carry on, Deputy Queripel.

Deputy Queripel: I am, madam, and I thank you for your ruling.
I will just remind colleagues where I was – and I will just remind colleagues also, madam, that
2280 the more you interrupt a colleague, the longer a speech takes.

After that debate, a colleague came up to me and said he believed the amendment would have succeeded had I not been wearing so much black. That is how this subjective this would all become if we open the floodgates and include philosophical belief.

In the previous debate on this issue, the Employment & Social Security Committee said in their
2285 policy letter, paragraph 4.2 on page 13, that they believed:

... that just to protect people from discrimination on the ground of religious belief (or lack of religious belief) was too limited.

I realise, madam, that the Committee believe they came to that conclusion with the best of intentions, but I believe that they were wrong. I say that because we all know where we are when we talk about religious beliefs. If we broaden this out to any philosophical belief, as this amendment is asking us to do, then no one – including, I suspect, advocates – will have a clue where we are
2290 because it is such a grey, subjective area open to interpretation and misinterpretation. I believe court cases will increase dramatically, litigation will be rampant, and the cost of legal aid will go through the roof.

Moving towards a close, madam: Article 14 of the Human Rights Law states, under the heading of 'Prohibition of discrimination', that:

... the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground ...

2295 With that in mind, surely this amendment is somewhat superfluous to requirements?

But it is in play and it will lead us into a minefield if it succeeds; our Law Officers told us that in the previous debate. That is the question my colleagues need to ask themselves when we go to the vote, madam: do they really want to vote in favour of taking us into a minefield, into completely uncharted territory?

2300 In closing, madam, I felt the need to forensically pull apart this amendment in an attempt to sink it, seeing as it is awash with fundamental flaws. I have been respectful in my view, I believe, to the layers of the amendment. They have their belief; I have mine. I sincerely apologise to anyone who felt my speech was too long. In my defence, however, my speech could have been a lot longer as I have a lot more to say, but I chose to focus on the salient points. I can only hope those points have
2305 registered with my colleagues.

Thank you, madam.

The Deputy Bailiff: Thank you, Deputy Queripel.

2310 Just before I turn to Deputy Ferbrache, if anybody wishes to remove their jackets – I know it is getting quite warm in here – please do.
Deputy Ferbrache.

Deputy Ferbrache: Thank you, madam.

2315 I tend to speak in general debate so what I say in opening is not going to infringe upon that. But any kind of discrimination has to be abhorred, any kind of discrimination has to be cast asunder.

That is the purpose of the debate that will take place today and probably tomorrow: to define where the limits are in relation to discrimination – at least this stage of discrimination as brought forward by Deputy Roffey and his Committee.

2320 Now, I do respect the opinions of Deputy Queripel and I respect what he just said over the last 25 minutes or so; I respect it. That is his opinion, that is his belief.

2325 Let me tell you what my opinion and my belief is: as a lawyer of 50 years standing, 41 years in this jurisdiction, I do not believe, if we were to uphold and pass this amendment, that there is any 'minefield' at all. In any definition, it could be taken apart. I have had to construe definitions in my professional life in civil courts, in criminal courts, in administrative tribunals day in, day out. There is never any difficulty in relation to that and ultimately, a tribunal or a court will rule accordingly. Here, the explanatory note, which Deputy Queripel has already read in part, I will read in full; it is fairly short. It says:

This amendment seeks to expand the protected ground of religious belief to one of religion or belief ...

– my emphasis –

... which aligns with the equivalent definition in the UK Equality Act 2010. It will mean that a philosophical belief (or lack of a belief) which is not based on religion has the potential to benefit from protection from discrimination under the Ordinance.

2330 The words I emphasise, 'which aligns with the equivalent definition', under a UK statute that is now 12 years old, that has been tried and tested over a period of time with a lot of precedence. Precedence means that things can change, something else can create a precedent; that is the way that any judicial system, any legislative provision takes place. That has happened over a long time and will continue to happen.

2335 But my epiphany in relation to this matter came during a course of the debate that Deputy Burford referred to in her opening. I was going to take a different view, a similar view to Deputy Queripel. Then I thought, you cannot restrict it to that. Of course, people should have the right to have a religious belief or not have a religious belief. I do not see any real distinction in this context between the word 'opinion' and the word 'belief'.

2340 Now, Deputy Queripel read out the definition – or if you like, the outer limits, the boundaries – of what could amount to a philosophical belief. Those are pretty strong, pretty clear, and pretty well-tested. Somebody can argue A is B and B is A, if they like, but there is already a groundswell of common sense and definition in relation to this particular provision.

2345 I have no problem at all with people having a religious belief. I do not have one but I respect those who do. Equally, Deputy Burford, in her excellent opening speech, referred to one case where a lady who had a genuine belief – a 'belief' is an opinion – it was her opinion that gender was determined at birth. That is a belief that that lady was entitled to hold. And because she held it and because that belief was infringed – and I have no idea why the employer should have thought that it was his or her right to impinge upon that lady's belief – she was successful. Equally, if somebody had the belief that transgenderism could determine your sexuality as you move forward through life, that is a genuine belief, a genuine opinion, and if a person lost his or her or their job because they held that belief, that would be a clear discriminatory act against that particular person. We are all entitled to hold different beliefs.

2350 I was smiling this morning when I heard this very interesting debate earlier between Deputy de Sausmarez, Deputy Le Tissier, and others about whether you are best on a pushbike or walking or in a car. I thought this was perhaps a bit ironic because I only live at a modest residence at the corner of York Avenue and Ivy Gates and I drove down today. It took me 25 minutes to drive that distance; I wish I had walked! But I drove down. But what it did enable me to do was listen to an item on Radio 4. It was about China: it was about technology. It was hoped that 10 or 12 years ago – perhaps a bit longer now – when the internet came to China, that would allow people to express their beliefs and their views more clearly. But of course, what has happened is that the Chinese government, the one-party state, have evolved and created technology which stops people putting

2360

forward their beliefs: it blocks their beliefs and instead puts forward the diatribe and the rubbish that they put forward.

So I think that beliefs are important. We have all got beliefs. I do not want to be facetious. I believe that on Saturday, Spurs will beat Arsenal; that is my opinion. There are people at the back of the hall who might have a different opinion. We are entitled to insubstantial opinions like that or substantial opinions about religion, non-religion, and the other issues I have talked about. We cannot restrict that, we cannot restrict it. We cannot just have religious belief in the way that it has been defined.

In my view, this is both a harmless amendment and an important amendment. We are so fortunate in this Chamber, in this Island – and I really do not respect the view that Guernsey is a terrible place because we have not got discrimination legislation; it will have discrimination legislation at the end of this debate, it will and it should have it. I do not care that we are 346 out of 222 entities that are in a particular provision because we are a decent society. That is my belief, that is my opinion, I am entitled to hold it. I do not want anybody to be discriminatory against me because I have got a philosophical belief to that effect. This is an important amendment because we must protect in a proper way people's basic beliefs, their basic philosophical beliefs.

So although I respect very much what my able colleague, Deputy Queripel, said over a period of 25 minutes, in a slightly lesser period than that, I will respectfully suggest that perhaps, my word should carry, on this particular matter, more weight than his.

The Deputy Bailiff: Deputy Le Tocq, do you wish to be relevé?

Deputy Le Tocq: *Merci*, madam.

The Deputy Bailiff: Deputy Dyke.

Deputy Dyke: Thank you, madam.

I am slightly concerned that this debate on Deputy Burford's amendment is going slightly off-track. I will try to help with my analysis or possibly confuse it still further.

The reason that there is a distinction and we have in our current draft Law a provision relating to religious belief, in my opinion, is that religious belief is fairly easy to define. It is not perfectly easy to define whether Buddhism falls within or without – Deputy Leadbeater's point – I do not know. I guess that can be decided at some point. But it is reasonably clear and you have to accommodate people with religious beliefs. If you get on to other beliefs – I tend to agree with Deputy Queripel on this – the test is pretty much, 'How long is a piece of string?' It is absolutely impossible to say. Deputy Ferbrache correctly says that it will eventually be decided in a tribunal or a court but that is a lot of cost and expense to do it. Is that desirable? Is it necessary? I would say not. With that in mind, I think we made the correct decision at our last debate, that we should not include it. Certainly for now, we can always come back. If we are going to do a review on this in a couple of years, we can come back and add it in.

What I would like to go on to address is what I think Deputy Burford may be worrying about and thinking about in bringing this amendment, and that is the freedom of speech issue, which appears to arise in the Forstater case. I have not read all seven cases she referred to but I have looked at the Forstater decision in the tribunal. Forstater, in fact, was a difficult case. It was not an employment case of someone being fired; it was a case of a consultancy agreement which had come to an end, so it was in a slightly different area. I think, as a general rule – I am not an employment lawyer but – if someone is fired for expressing a view: (a) he or she may well have a claim for breach of contract; and (b) he or she will almost certainly have a claim for unfair dismissal. So in that employment case, if you are dismissed for disagreeing with your boss on an opinion or a point of view or anything like that, then there are other remedies in that situation.

In the Forstater case, I think the opinion that the lady consultant had concerned transgender issues where she disagreed with her boss and that has become a very problematic issue in terms of

views, debate, closing down debate, which is very serious. The area we are now going into with that is free speech and I think Deputy Matthews' amendment is more important in that regard. I am not
2415 sure we have all got it completely right even with that amendment, but that amendment is in the right area. We can talk about it later. We are talking about a freedom of speech issue here rather than the necessity to extend the protections given in respect of religious belief to other beliefs, which I think is undefinable. The trouble with this sort of Law, with major interventions into human relationships, is it is very difficult for a group of Deputies, however smart we might think we are, to
2420 actually get it perfectly right. I think we should avoid as many difficulties as possible as we set this out and as it beds in.

So I would respectfully disagree with Deputy Burford's amendment and vote Contre, as we did last time. But I think she has a point, there is a point behind why she has brought this, which I think should be covered rather differently, and perhaps she might comment on that when she sums up.

2425 Thank you.

The Deputy Bailiff: Deputy Murray.

Deputy Murray: Thank you, madam.

2430 I am a pragmatist, not an idealist. I do not know if that is a belief, actually looking through the legislation in front of us, because it might be a thought process, I might even be disabled; I am not entirely sure. I am not a philosopher; I know that. I have no idea why I am in politics, quite frankly. *(Laughter)* However, I am going to give it a go.

Some things are able to remind a new Deputy that actually, you have been through the apprenticeship and presumably you are now supposed to know what you are doing. This is
2435 especially evident when you see the same Proposition come back before you in a debate that has been dredged up from your own short time in the Assembly – and so it is today: a proposal that this Assembly debated less than a year ago which itself was brought because, as far as I understand it, the previous Assembly had not agreed to it either. Only the actors have been different in each
2440 case.

In today's go-round – with the greatest respect and because it provides a slight opportunity for levity in a very philosophical debate – we have the tag team of Deputy Burford and Deputy Ferbrache, a sort of Batman – or woman – and Robin – which is appropriate to either sex *(Laughter)* – who set out to right wrongs. I kind of hope that at least one of them will oblige with an exclamation
2445 of 'Holy Stoicism, Batman!', 'Holy Stoicism, religion, and belief!' Or maybe that is a true description of religious belief – probably a grey area and not one I will dwell on further.

But if memory serves, it was Deputy Helyar who regaled us last time this issue came back to us with a number of legal examples where the decision around a person's belief could become very complex and almost inevitably would require a lot of input from lawyers in each case. Deputy
2450 Burford has identified them again for us. I am not saying for one moment that Deputy Ferbrache's motivation is anything whatever to do with any possible professional benefit he might receive in due course if this amendment is successful. For one thing, he might sue me; but in reality, I know he holds libertarian views in the highest regard. Indeed, I frequently find myself with increasingly less concern for convention the older I become.

2455 However, what experience also highlights is that society – any society – exists successfully if there are generally accepted social mores which frame them over time. They may evolve, of course; they may be less pertinent to succeeding generations. But they remain a constant. Now, I doubt anyone would argue that religion is considered other than something of an institution in Guernsey. It comes in different flavours, with perhaps Methodism having quite a history, as indeed, has Catholicism – I
2460 am not a religious man – and many of the tenets of these religions, as it is with most, are about upholding widely accepted societal values. You may consider them a 'touchstone' for many people, regardless of whether they attend a place of worship for anything other than hatches, matches, and dispatches.

2465 But religion is not just about church; it is itself a belief system – one based predominantly on faith, perhaps, but one with worldwide adherents going back centuries. It has a history and not all of it is good, given that people have gone to war over it, killed one another, subjugated peoples. But it has that permanence that secular belief very rarely does or can trace itself back quite so far. And although the reference Deputy Helyar made last time to the origins of Stoicism being some 2,300 years old, I am not sure if any nations have ever gone to war, killed one another, or subjugated whole peoples in the name of Stoicism.

2470 But there is a gravitational pull about religion and it permeates society. It lessens the further out you are from it, undoubtedly, and there is nothing whatsoever wrong with that. But I do not see a secular belief of any nature being able to displace it or have that some worldwide, international, multicultural appeal. Religion evidences a weight that is very hard to match. It is therefore very hard to put secular belief on an equal footing with religion despite the fact that whatever that belief happens to be – and it might even be far more personally important to an individual – in the context of a society, it is likely to end up the little brother or sister.

2480 It would therefore be fair to my mind to say that belief is not equal to religion and when we start to award belief the same legal status, we open up a Pandora's Box of definitions of equality which just set a – I am not giving way – oh sorry, he is just leaving; I beg your pardon (*Laughter*) – pragmatic level, would give enormous burden on a tribunal, certainly would involve a considerable cost, and is likely to only benefit a very small number of people, if at all. I do not want a procession of Klingons, Jedi, or people who identify as Targaryens, or whatever else tying up the tribunal, employers, or the state and inevitably lining the pockets of lawyers particularly, even if they have little chance of success. (**A Member:** Hear, hear.) I would remind Members that we were recently invited to shout – and I say this with respect – 'God save the King!' It was not 'Obi-Wan Kenobi save the King!' despite there certainly being many who hold Star Wars in some sort of reverence. (*Laughter*)

We have been through this debate, and if you remain unconvinced, just vote the same way as you did last time.

2490 Thank you.

The Deputy Bailiff: Deputy Le Tocq.

Deputy Le Tocq: Thank you, madam.

2495 Those with long memories may remember me saying that I was not at all sure whether we should have religion included at all in one of the grounds. Possibly, madam, as the only minister of religion in this Assembly, as far as I am aware, part of my reasoning for that is that – and I am picking up, really, where Deputy Murray left off – I do believe that religion encompasses a very wide selection of things. The word 'religion' itself comes from the Latin *religare*, which means 'to bind'. It has not particularly, necessarily got to do with God; in fact, there are religions such as Buddhism that do not include a God. So in my mind – and I have studied Philosophy – it certainly could be broad enough to do that.

2500 My reasons for not supporting it were – slightly tongue-in-cheek – the Christian religion certainly has done better in times of persecution than it has when it has been the state religion and from that point alone, I think, sometimes it is a bit of a forced thing to look to the state for support. However, if we are going to have religion as a ground, then it seems to me, because of how people interpret the word 'religion' today, that belief ought to be in there as well. So I am minded to support this because I am conscious of the way in which it can be abused, but to be honest, that was my fear, really, about including religion at all: that could be abused as well. But if we focus only on the abuse, we do not actually look to the issues that are facing us in our world today.

2510 I do believe there is a crisis in terms of free speech. I do believe that people use such matters as weapons, they weaponise such things against other people. And I do believe we need to live in a society which respects one another. I am disappointed that we are having to regulate such matters; I would prefer to live in a society where the overriding culture is one of tolerance and of respect for other people's opinions in light of the fact that oneself might be wrong, because the only way in

which we learn is by engaging with other people who have different opinions to us. I have changed my views over the years, really, only on that basis.

So it is with a heavy heart that I think we have got to do this. This culture in the West is becoming, I believe, increasingly one which is an expert at regulating anything, everything, and not very good at initiating anything new. But we are in that position. We are in a culture where people are very quick to weaponise or to get offended by other people's views. And if this does at least enable someone who has a view that is not necessarily to do with a view in terms of faith in a god but has a particular standpoint in terms of the way in which they look at the world – their worldview, in other words – then I think we should, if we are going to regulate and support and defend religious rights, probably include that and be explicit about it in the way in which we legislate.

So on that basis, madam, I will be supporting it.

The Deputy Bailiff: Deputy Gollop.

Deputy Gollop: Thank you.

I too will be supporting the amendment, although I am interested, I think, in the freedom of speech arguments which have been made in this debate as a counter-balance.

I am sure Deputy Le Tocq is the only bona fide church pastor and minister of religion, although I remember going online once and signing up to the same church rock star Robbie Williams belongs to. You can join a California church online and conduct marriages in San Francisco or something. Certain American states, for example, do have strange laws about religion.

I agreed with some of what Deputy Queripel said, but Deputy Queripel and other speakers have been a bit worried about the cost of these ideas to the legal profession and legal aid. The reality is, we have been keeping a tight eye on legal aid and Deputy Roffey will probably confirm that actually, legal aid costs in some areas have not only been restrained, but have actually declined. Actually, I remember 20 years ago, in the human rights argument, we heard the argument that 'Legal aid will go up like Topsy!' It has not been quite like health costs; it has been quite restrained and lawyers' fees have not increased and all the rest of it.

I will give way to Deputy Roffey.

Deputy Roffey: I thank Deputy Gollop for giving way.

I might assist him if I were to tell him – and through him, the Assembly – that legal aid is not normally available for taking a case to a tribunal. If you meet certain levels of low income then you may have two hours, I think, of green-form advice from an advocate but that is as far as it goes. The legal aid thing, I think I may save him wasting some of the States' time by talking about.

Deputy Gollop: Thank you very much. Actually, Deputy Roffey has strengthened my argument that the legal aid is a red herring in this debate and some of the other costs for the reasons that have been identified.

I know we are in philosophical areas, and Deputy Murray is clearly, amongst others, concerned, but the best I can do with this is to say that much of the section is based on good global and European practice – in particular, the Gordon Brown government's Equality Act of 2010. That is now 12 years old and so there is a significant amount of case law and understanding of where, perhaps, the borders are. I have got here – I cannot say it is the greatest legal textbook in the world – Citizens Advice defining what the Equality Act 2010 is.

What's meant by religion or belief?

We are talking about the UK here.

The Equality Act says it's only unlawful discrimination if you're treated unfairly because of certain reasons. These reasons are called *protected characteristics*. Religion and belief are protected characteristics under the Equality Act. They cover people with a range of faiths and beliefs. Belief means both religious and non religious beliefs.

2565 The organised religions that are referred to, as defined here, would be not just ... we heard from Deputy Murray a description of the conflicts within Christian denominations that we all know about both in Guernsey and on a broader scale: Methodism, Roman Catholicism, etc. But it also includes religions such as Islam, Judaism, Sikhism, Buddhism – actually, to Deputy Leadbeater’s point – and Hinduism, The point is: some of those religious might not have many adherents in Guernsey but they are still covered. It can also mean:

... smaller religions or sects like Rastafarianism, Scientology or Paganism.

And it says:

You can also be discriminated against because you belong to a specific denomination or sect within a religion ... Protestants, Methodists or Jehovah’s Witnesses ...; Sunnis or Shi’as within Islam ...

And different forms of Judaism. An example they give is:

You’re a Methodist. You would be protected against discrimination both because you’re a Christian and because you’re a Methodist. The Equality Act protects you against discrimination because of your religious beliefs.

2575 Under this interpretation of the UK, you may well be protected, for example, by:

- the belief of some Christians that you should wear a cross as a symbol of your faith
- the belief within Islam that a woman should cover her head or her whole body

– and even –

- the belief in creationism or intelligent design.

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Some of those go beyond strict religion to wider philosophy. But then the issue is:

What if you don’t have any religion or religious beliefs?

An example given is:

2585

A shop assistant in a Christian book shop refuses to sell you a book because you’re an Atheist.

2590 I am a humanist, I go in. I am perhaps a radical Deputy and they do not give me one because they think that I might misuse it. That is a clear element of unfair discrimination because of religion or belief. Philosophical belief here includes things like humanism, secularism and atheism. It is a philosophical belief ‘if you strongly and genuinely believe in it and it concerns an important aspect of human life and behaviour’. This may include man-made climate change and spiritualism but a political belief is not defined as a philosophical belief. So us Marxists might be discriminated against, for example. (*Laughter*) I would argue, too, it is not just Christians with beliefs or other religions who caused people to die; there have been, obviously, well-known humanist – not humanist, but *atheistic* – philosophies like Marxism that perhaps have led to – fascism, as well – murders.

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The belief must also be acceptable in a democratic society and not conflict with the fundamental rights of others.

So for example, racist views would not be included.

2600 All we are doing, really, here, is putting into the ‘belief’ beliefs that may well concern some of the elements that are traditionally associated with religious beliefs, but people who cannot sign up to a conventional religion. I have read another definition that says religion also includes Bahá’í Faith; Zoroastrianism, the philosophy of – it is hard to say – Zarathustra; and all these other things. but this basically just extends it to humanism and secularism and related thinking. It has been around for over a decade in the UK and other places. There have not been all these wacky cases about the

2605 *Star Wars* religion or anything like that. It gives respect to people who do not necessarily have religious beliefs, but their conscience, their philosophy in life, their standards, their ethics are equally important to them as those who have, perhaps, an older faith. I think that should be respected and I think, on balance, although we did not put it in the draft because it did not make it last time, it is actually well within the spirit of greater respect and greater equality for everybody.

2610 So I support the Burford/Ferbrache amendment.

The Deputy Bailiff: Deputy Gabriel.

Deputy Gabriel: Thank you, madam.

2615 From my understanding, this whole legislation is about being inclusive of our population, some of whom put us where we are today: in this Chamber to represent them. I would rather be more ambitious than cautious at this time – in relation to this legislation, certainly – because I think we do need to demonstrate, particularly where younger people or those who are less able in Guernsey are losing out, a volition on behalf of the Government because no one else will act on their behalf.

2620 As soon as we start, by design, missing or omitting different sections of our society, we have failed them. As Deputies Burford and Ferbrache have pointed out, those with a legitimate philosophical belief or with or without religion count. They matter. We should be including them in our decision-making. We must not leave anyone behind.

I will be supporting this amendment and urge other Members to do so too. Thank you.

2625

The Deputy Bailiff: Deputy Matthews.

Deputy Matthews: Thank you, madam.

I was not going to speak on this, partly because I have got another amendment later on to lay.

2630 But as my name has been mentioned, I thought I would just mention that, as Deputy Burford has identified, there is a freedom of speech reason to support this amendment. But independently of this, it seems reasonable to include belief on an equal footing with religion simply because people can have views that are just as sincerely held regardless of whether they are part of an organised religion.

2635 For that reason alone, I shall be supporting this amendment. Thank you.

The Deputy Bailiff: Deputy Soulsby.

Deputy Soulsby: Thank you, madam. I will be brief.

2640 I think I really just rose on the back of Deputy Murray's speech, which very much followed the lines of Deputy Helyar in the last debate that we had. Really, it is that idea of the world according to the Daily Mail. We see occasionally the worry about 'If we bring this in, we'll get loads of people wanting to sue employers because their beliefs haven't been recognised and it's all over the place.'

2645 But I think the reason why these things are reported is that they are actually quite rare. They are actually rare in the UK. We just heard from Deputy Helyar seven cases which Deputy Burford updated us on what the situation was; that is seven. Remember that Guernsey is a 1,000 times smaller than the UK. We are talking about very rare situations. But for me, it is very important that we do not just stick to religious belief. Like Deputy Ferbrache, I do not have a faith. I do question why we all thought that it is okay to carve out religious belief and not others.

2650 This is all about freedom of speech, but of course – and I am sure Deputy Burford agrees – that that is always for speech that is not hateful and not harmful. But then, that is what this legislation is actually about: it is about treating people fairly and respect. I just think that is an extension of it, which is what the Committee wanted to bring in in the first place.

So I am happy to support the amendment.

2655

The Deputy Bailiff: Deputy Taylor.

Deputy Taylor: Thank you, madam.

I am not going to be supporting this amendment but I just want to outline the reasons why because I do not think they are reasons that anyone else has raised so far.

I am not afraid of Ewoks. I am not afraid of any crazy religions or the tribunal panel being swamped with these silly complaints. For me – similar to Deputy Le Tocq, although he came to a different conclusion – I would not necessarily have included religion at all. For me, the main reason is that I just feel it is a step too far. Looking at disabilities, race, the colour of your skin, or carer status, they are things that are not necessarily enforced upon you, but they are not lifestyle choices. For me, if someone chooses to join a religion or has a certain belief, that is up to them, that is fine. They have made that decision, it is a lifestyle choice. All the other things, I think, are real reasons that we should not be discriminating on. But if someone wants to have a certain belief, that is fine, let them have it; but for me, I do not think that is something that necessarily needs to be protected.

That is why I will not be supporting this amendment. Thank you.

The Deputy Bailiff: Deputy Le Tissier.

Deputy Le Tissier: Thank you, madam.

I want to start off by saying, I think this amendment is ill-conceived. For one reason – and members of the public have spoken to me about this – this is why the public, the ordinary Guernsey folk, hold the States in contempt sometimes. It has been decided: it was decided last year and even before that, but it did not go the way that some people wanted it to go, and so at the first opportunity, it has come back. When a decision is made, unless it is patently wrong, then it should be allowed to stand, as far as I am concerned, and not continually come back to try and get the result that you want.

I agree with Deputy Queripel; in fact, he used my term, 'minefield', so I am going to say it is a bag of worms – not quite the same. I do not think this has got any place in the Law. I am very happy with religion and I am very happy with how that can be interpreted widely. But philosophical belief just is a step too far, in my view.

As part of my research into this amendment, I had a look on the internet, various lawyers' sites. And rather than the courts, I decided to look at tribunals. Now, I know that they do not set precedents; they are merely persuasive. But there is no reason to suppose that a local tribunal would not come to the same conclusion. I will just go through a few of the things that I discovered.

Environmentalism and belief in climate change is protected, which to me is a little bit strange. Anti-fox hunting, that is another thing that is a protected belief. And surprisingly, a belief in Scottish independence is protected. Belief in public service for the common good – well that probably makes sense, but why is it protected? I will save the best one until last: a protected belief is that mediums can communicate with the dead. Now, fine: if someone wants to believe that, I have got no problem with that. But it is protected. So if your employee comes up to you and accuses you of [?? 15:34:20], then you will find yourself up with the tribunal and that is just crazy.

There are a number of other beliefs which cause me concern which are not protected. Put bluntly, if you have got one of these beliefs, then you can be sacked and you have got no right to go to a tribunal. Very topical at the moment: if you have a belief that there are only two sexes, male and female, irrespective of the stated gender, or sex is immutable, it is impossible to change sex, then your employer can get rid of you for that belief. It is no good going to the tribunal because if they carry on with the same interpretation as the UK tribunals, then you are on your own. There are others: belief that the Holocaust did not happen, belief that homosexuality is contrary to God's law, and belief that Jews are God's chosen people, none of those are protected – and some might say, quite rightly. I think it is extending this clause too far beyond religion.

I will just briefly cover what other people have mentioned: Jediism. I have found out that it is a religion in Texas. In the UK, it is not a religion; it is a philosophy. We have got to think about this: if your employee comes to you and wants room to put his lightsabre away somewhere and you refuse

him, then by his 'philosophical belief' clause in this Law, if this amendment gets passed, then you will find yourself up before the tribunal; you will probably get a 'hurt feelings' claim as well.

2710 So I am not going to support this. As I say, I do not think it has got any place in the Law. Thank you.

The Deputy Bailiff: Deputy Inder.

2715 **Deputy Inder:** I am not even too sure why I rose, actually. (*Laughter*) I might just sit down. But I think it is to Deputy Le Tissier's [*inaudible*] if Scottish independence can be protected as a belief, there is no reason the independence of Vale cannot be seen as a religion.

I can take or leave this, to be perfectly frank with you. I am in this weird position where I actually agree with Deputy Le Tocq: I do not think religion should have played any part in it. That is the reason he is voting for it moving on to belief. I equally agree with Deputy Taylor and that is the reason he wants to vote against.

2720 But we have gone down the path. If you actually do not see an established religion as any different to a belief just because one happens to have someone in a cloak on top of it and one might not, they are one and the same thing. One has a shedload of money – quite a few of them have a shedload of money – and a lot of them have no money. Some are structured; some are unstructured.

I could vote for this, I could vote against it, I could basically abstain. But I think, in this instance – because I am kind of losing the will to live on this a little bit, to be perfectly frank with you – I am probably going to vote for it.

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The Deputy Bailiff: Deputy de Sausmarez.

Deputy de Sausmarez: Thank you, madam.

2735 Just very briefly, I really wanted to respond to Deputy Taylor's point. I think it is an interesting argument and I have sympathy with his view. But I would say that, as the Deputy Bailiff outlined at the beginning, after we have dealt with all these amendments, we are going to have a single binary choice, which is to vote for or against the legislation as amended or otherwise. So really, it is a question of: because we cannot compartmentalise, Deputy Taylor is really faced with a choice, if he dislikes the fact that religion is in there at all, of rejecting all of the legislation on that ground or supporting it.

2740 So really, I would reframe his dilemma as whether or not he thinks that this amendment represents an improvement on religion; I would argue that it certainly does. I think other people have articulated very well why it is a bit of a nonsense to try to distinguish between religious belief and non-religious belief in that way. It could mean that if someone is discriminated against on their belief in pacifism because they are, for example, a Jehovah's Witness, then that is accepted; but actually, if they are discriminated against because of their belief in pacifism for some other reason, it might be just as deeply-held a conviction, but it would not then stand. So I do think it is a bit of a nonsense to distinguish in the context of this legislation between religious belief and philosophical belief.

2750 That leads me on to a point: I think we do have to be very careful to remember that this is not about how we define beliefs; we can dance on the head of a pin around that all day. This is about whether people can be discriminated against because of that belief and whether it is lawful or not to do so. I think we have to bear that in mind. I think Deputy Le Tissier has got completely the wrong end of the stick. He made a very cogent argument as to why he should absolutely vote for this amendment, but I will leave that to Deputy Burford to address when she sums up.

2755

The Deputy Bailiff: Deputy Moakes.

Deputy Moakes: Thank you, madam.

2760 There is a bit of a Groundhog Day situation here: a really good debate – do not get me wrong – but it was not that long ago that we had exactly the same debate. The Assembly voted, a decision was made, and we seem to be in a position where it did not go one way so it is being brought back to the Assembly. My fear is that despite all the good arguments that have been laid down on both sides, this potentially could set a precedent, which is: if something does not go your way, you wait
2765 six months, you bring it back. We could get into a cycle of debate after debate rather than doing what we should be doing, which is making a decision; whether or not we agree with it, we abide by it; and then we move on to the next thing and move forwards with the agenda that we have got.

Thank you – oh, sorry, Jon.

2770 **The Deputy Bailiff:** You had stopped, really, so you cannot really give way because you were sitting down.

You may want to ask Deputy Trott to give way because I think he is going to speak now.

Deputy Trott, why don't you start?

2775 **Deputy Trott:** I would be absolutely delighted to so. *(Laughter)*

The Deputy Bailiff: Deputy Le Tocq.

Deputy Le Tocq: It is like musical chairs in here, isn't it?

2780 I was going to just comment to Deputy Moakes that he is absolutely right that that could be the case; but certainly in my case, it is not. I voted against, including this last time, for the reasons that I said: I did not really want religion included at all. Perhaps I did not make the argument strongly enough: now that we have included religion, I feel we need to be specific about that because religion means different things to different people sometimes. I do think it is an opportunity to reflect on that. I have reflected on it and am going to support it.
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The Deputy Bailiff: Deputy Trott, would you care to continue?

Deputy Trott: Thank you, madam.

2790 I am going to support it too, as I did last time, but there are a couple of points that have been made that I think need to be challenged.

The first is: this Law is at its final reading. We have a right to bring amendments at this stage. In fact, in almost every other parliament, that happens repeatedly. We are unusual in the sense that we normally nod things through.

2795 But during Deputy Burford's opening remarks this morning, she made clear that one of, if not *the*, keynote speech the last time we debated this, delivered by Deputy Helyar, was inaccurate in a number of ways. Those inaccuracies were very eloquently explained. If ever there was a reason to challenge, that is it.

Now, I am not a religious man but I do believe that discrimination takes place because of it. I am
2800 not sure whether we are a dominantly secular society but there is no question that over the last few years, we have become an increasingly secular society. But for the purpose of my first example, let's assume that there are fewer of us who do not have strong religious beliefs than there are more; we are in the minority. Clearly, if you are in the minority, those minority views should be protected. That is right and proper in society. In fact, that is what has driven this initiative for so many years. But
2805 let's imagine for a moment that those of us who hold secular beliefs are in the majority. If that is the majority view, of course, in a democracy, that should absolutely be protected.

And if anyone believes that discrimination does not exist, let me give you a perfect example. I have a very close friend, whom I admire enormously. He thinks I am mad because I do not have a religious faith. I am not suggesting that he would go as far as to discriminate against me for it, but
2810 he holds the views that I am not of sound mind because I do not hold strong religious beliefs. I think that is a prevalent view amongst people of faith.

Now, for my part, I live by, I think, a fairly simple edict because I am, like Deputy Ferbrache, a fairly simple man, madam. I do not live in a modest house either, and I have not practiced law for 41 years or been a lawyer for 50. But I do listen and I do absorb details of this nature and it seems to me that we cannot be tolerant when it suits; we have to be tolerant on a permanent basis. And I am tolerant of other people's views. I live by the edict 'Do unto others as you would have done unto yourself.' And if people want to ... I do not know ... whatever. All of the things that some people frown upon, if that is what they want to do and it does not hurt anybody else, my view is that they should be allowed to do it.

So I strongly support this amendment. I think it makes complete sense. And the irony is, I think, to vote against it is an absolute nonsense and shows, in my view, the levels of discrimination and prejudice that exist among certain sectors of our community.

Thank you, madam.

The Deputy Bailiff: Deputy Mahoney.

Deputy Mahoney: Thank you, madam.

To pick up a point there from Deputy Trott, I guess, first: he is arguing that he is not a religious man – nor am I – and therefore, it is a lack of a belief that he has – which I share – that should be protected belief. 'My non-belief should be a protected belief.' That just seems rather odd to me. Deputy Gollop made the point about atheism being protected, blah, blah, blah, but again, atheism is, by definition, a lack of a belief. So we are protecting a lack of belief, which is rather odd. That seems to be free speech, to me. We have freedom of speech and that is what that should be talking about. So rather than making these 'protected grounds', isn't that what free speech legislation is for? That is rather odd.

Deputy Queripel noted that all of the five tests – I think he read them out; others have read them out as well so I am definitely not going to – are basically subjective. They are subject to the views and opinions of the day, whatever they happen to be. And of course, subjectivity changes. What was acceptable 20 years ago is not now – or vice versa, even. It is that range of subjectivity that worries me.

The point made by Deputy Moakes just a few moments ago: we did talk about this 10 months ago, I think it was – nine or 10 months ago – so like others, I do not see why we are having a do-over here – a 'mulligan', in golf terms, if you like. 'I didn't like the way that one went so I'm going to drop another one here and have another shy at this and see if that goes any closer to the hole.' It just seems odd. Maybe we should call these 'mulligan amendments' going forward. 'I didn't get it right first time; let me have another stab at it and see where that goes.'

Someone – and I cannot remember; I beg your pardon, whomever it was – probably a few people, have mentioned Jediism, this nonsense. In fact, of course, in the UK survey, famously, a lot of people – some perhaps, through joke, others through genuine belief – put down on the census that they were Jedi – I believe it was 0.8% – which was, of course, then rejected by the UK government as being a 'joke vote' and 'should not count'. But of course, I think in the same census, Sikhism was 0.4%; that was accepted. So in fact, there is your subjectivity: twice as many people said they were Jedi, believe it or not, than genuinely, presumably, held the belief that they were Sikhs; and yet, one was accepted and one was not. There is the subjectivity. I think once we start talking about that and start legislating for subjectivity, then that is a dangerous road, a dangerous path to take.

Thank you.

The Deputy Bailiff: Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you, madam.

I was not actually going to speak in this debate – famous words that we say here every single debate.

I am actually really pleased that Deputy Burford has brought this amendment, unlike others, because I think that given the debate today – the nature of the debate, actually – we are really questioning ourselves here. I am really enjoying this but I am finding this very difficult because I can definitely see two sides of the coin here. I can see the risks on one side, the benefits on the other side. You can look up online and see examples of where this has gone wrong for people and where it has been in favour of people. I think that every single person who has got a for and against argument is bringing up some really genuine issues around – if we accepted this proposal today and amended the law, everyone has got valid points to make.

I am very much still on the fence, I am afraid to say, and I am going to be waiting for Deputy Burford's summing-up because I can see some real merit in this particular amendment. But I do need to listen very intently right until the nth hour in order to make my mind up. But all I can say is I am very grateful to her for bringing this amendment, for making us think once again because it is in this Chamber that we need to challenge (**Two Members:** Hear, hear.) the proposals coming through, legislation coming through. It is our job to challenge. (**Several Members:** Hear, hear!) That is exactly what Deputy Burford has done, amongst others, today and I absolutely applaud their right to do so.

The Deputy Bailiff: Deputy Parkinson.

Deputy Parkinson: Thank you, madam.

Since the last time we debated this, I think there have been some unfortunate developments in the UK which have rather changed my perspective on this whole subject area. I think we would all agree, as a starting point, that people generally have the right to believe whatever they like but that there nevertheless needs to be some prescription against the way they take action in accordance with their beliefs in order to protect other people. This is reflected in Article 9(2) of the European Convention on Human Rights, which allows protection against the freedom of belief on the grounds of 'public order, health or morals, or for the protection of the rights and freedoms of other people'. There is a fundamental assumption that you can believe what you like, but any actions you might take in accordance with your beliefs have to be constrained by, in effect, the rights of other people and there has to be a provision in the Law for exceptions to allow that protection.

Unfortunately, in the UK, the tendency has been to interpret the right to freedom of belief into a form of a right to be bigoted and to act in a bigoted way towards other people – co-workers or customers. That, to me, is very damaging. The last time we debated this, I do not think this trend had become quite so obvious because I certainly do not believe that people have a right to be bigoted and take bigoted actions against other people. You can believe what you want but you have to respect the rights of other people and their rights to be offended, etc., by what you might say to them or about them.

So I think, while the amendment is well-meaning and in broad terms, I believe that the protection on the grounds of religion should be extended to other beliefs, I am concerned that the direction the policy and the direction the law is taking in the UK is evolving towards weaponising freedom of belief to override, to some extent, the positions of co-workers or customers whom somebody might be dealing with, somebody with relatively extreme views.

In the circumstances, I now find myself in a difficult position, because I supported this amendment last time Deputy Burford laid it and I am not very comfortable with it any more. I would be comfortable if I felt that the courts in Guernsey were not going to follow the direction that has been taken in the UK and that due regard would be given to the rights of other people. So like some other speakers, I find myself sitting awkwardly on the fence, but –

Deputy Dudley-Owen: Madam, a point of correction?

The Deputy Bailiff: Point of correction? Yes, what is your point of correction?

2915 **Deputy Dudley-Owen:** I hope it is. I do not believe that Deputy Burford raised an amendment previously. In actual fact, what the Assembly did was – the Committee brought the amendment forward and the Chamber actually voted down that amended Proposition from the sponsoring Committee; and therefore the previous Resolution from the previous term held fast. That is what I believe happened. I have been trying to get my head around it myself during this debate and I think that that is what happened.

The Deputy Bailiff: Thank you.
Deputy Parkinson.

2925 **Deputy Parkinson:** That clarification is helpful and if that is the correct sequence of events, I stand corrected. It does not fundamentally change my point: the issue has been before the Assembly before and at the time, I felt that the beliefs that should be protected should go further than religion. Unfortunately, I find that the way this has developed in the law in England, the freedom of belief has become weaponised and the rights of other people who might be offended by those beliefs and the expression of those beliefs have become eroded.

The Deputy Bailiff: Alderney Representative Roberts.

Alderney Representative Roberts: Thank you, madam.

2935 I was not going to say anything on this but when the religion part came into it, I believe that everybody has got the right to have their own beliefs.

I do not know how many people in this Assembly will never have prayed at some point in their life ever – I have got one hand; I was not asking for hands, Peter, but thank you. I never have. I have prayed through my life but I am not a religious man. I do not go to church but I believe there is something beyond and above; I do believe that very strongly.

2940 If Madam will permit me, I can give a little experience at my end. My wife was very ill a few years ago. It was a February day and we sat in the living room. She sat on one settee and I sat on the other – February, cold. We had the window open. She had got a terminal illness. A butterfly flew in through the window and the butterfly went straight to her lips and landed on her lips. It did not go anywhere else; it landed straight on her lips. And it opened its wings two or three times and sat. And she looked at me, Anna looked at me as if to say, 'What's happening?' This butterfly came in and landed only on her lips and then it flew out of the window straight away. It did not stay in the room; it landed on her lips and it went straight out of the window. This is as true as I stand here, and I witnessed it; it was only the two of us there.

2950 She died some time later, and when I went to the church service, we sat down with all the family. And all the family knew the story. It was an October day and it was freezing cold and it was hailing – again, out of season for butterflies – and a butterfly came in through the window and fluttered round and round her coffin until the service was over. After the service, it flew out of the window. From that day, I have really felt there was something there. That is my own personal belief.

2955 I think that people's personal beliefs should be protected. Thank you.

The Deputy Bailiff: Deputy Roffey, on behalf of the Committee.

Deputy Roffey: Thank you, Madam Deputy Bailiff.

2960 The Committee obviously supports this amendment because it extends the ground to 'religion and belief', which is what we proposed when we returned to the States following the Parkinson amendment. We did not feel we could put it forward because we had to respect the drafting instructions that have been given by the States. I hope everybody actually respects the drafting instructions that were given by the States when the original policy letter was debated. So we could not bring this forward but there is no way we cannot support it.

I think one of the reasons – in his very short opening speech, Deputy Leadbeater actually, in a way, summed it up. He talked about Buddhism and said that Buddhism – ‘Is it a religion or isn’t it?’ It is not theistic, it does not actually believe in a god. I can tell him that Buddhism is listed as an example of a religion and not a belief under the UK Equalities Act and therefore, probably, if we just go for religion, would be regarded as a religion under Guernsey’s anti-discrimination ordinance as well. Why? Why should one non-theistic belief be included whereas another person’s seriously- and passionately-held non-theistic belief system be excluded? It just does not make any sense whatsoever.

Deputy Queripel, I am sure he did not do it deliberately, but when he was talking about paragraphs 5.4 and 5.8 in the policy letter and saying, ‘The Law Officers were warning there might be a balance of rights,’ they were talking about something very specific. They were talking about the right of a parent to educate their child in a religion that they wanted, compared with our arguments about whether or not it was discriminating to say that a deputy head teacher and others at a Catholic school had to be of that religion. It was not talking about the general issue of religion or belief in any way so I do not think he needs to worry about that.

Deputy Dyke said, ‘We don’t really need this because if you’re unfairly dismissed’ – although of course, it is not just about religion; it is actually about services, access to services as well – ‘on the grounds of your non-religious belief, you could then go and claim unfair dismissal.’ If that is the argument, you could make exactly the same about religious belief as well – although I warn you: do not get sacked for it in the first year of your employment because then you will not be covered by the unfair dismissal law because it will not apply to you, whereas of course, this legislation will apply to you right from the beginning if you are discriminated against unfairly on one of the protected grounds. The question we are asking is on what the protected grounds should be.

I think I heard Deputy Murray say that this was rejected by the previous States, the idea of religion and belief; it was not. It was never included as a proposal in the previous States. What came from the Committee to the previous States was phase 1 having very few grounds, and religion was not in there. There was an amendment from Deputy Parkinson to then include some additional grounds, of which religion is one. When we came back to this Assembly, we suggested that should be ‘religion and belief’. So the last Assembly did not decide that belief should not be included.

Deputy Taylor, a bit like Deputy Le Tocq, felt that religion is a step too far; they would prefer not to have ‘religion and belief’, not to have ‘religion’, to have nothing about this. I respect their view, but to be honest, if you have been on the receiving end of vile anti-Semitism, either in work or being refused service on that basis – or any other religion; I just use that as an example because it is one that has been sadly too prevalent through history – I think you would regard religion as a perfectly legitimate ground to be protected against discrimination.

I could not understand Deputy Le Tissier at all, to be honest. A belief in Scottish independence: why should you be sacked for believing in Scottish independence? Why should you be refused service in a shop because you believe in Scottish independence? Why should you be sacked because you are an environmentalist or refused service somewhere because you are an environmentalist? He seems to think almost the opposite. He was saying, ‘If we put this in, you won’t be able to go to the tribunal for saying that you think that sex is pre-determined at birth and can’t be changed’; it is quite the opposite. It is only if we put this in that you will be able to go to a tribunal if you are sacked on those grounds. I am sure Deputy Burford will expand and maybe – I give way to Deputy Le Tissier.

The Deputy Bailiff: Deputy Le Tissier.

Deputy Le Tissier: I was reading out the findings of a UK tribunal and they were actual occasions where those, including Scottish independence – and I can refer you to the website – were deemed to be a protected view.

Thank you.

Deputy Roffey: Exactly my point: if they are a protected view, then you cannot be sacked or refused service for holding that view, and I think it is absolutely right that you should not be. I will leave it to Deputy Burford, I think. *(Laughter)*

I would comfort, though, to Deputy Le Tissier; he is worried about employers having to make room for lightsabres. Actually, there is only one part of the Law where you have to make reasonable adjustment and that is on disability grounds, not on religion or religion and belief, so they will not have to make room for anybody's lightsabres. I hope that is a weight off his mind.

He did make one really good point: he said, 'Once a decision has been taken, it should be respected and stuck to' – absolutely. All the policy decisions that have given birth to this legislation, this Ordinance as drafted, have been taken by this Assembly, so the logical extension of what Deputy Le Tissier has said is, really, let's throw out all of the amendments. I would be sad because I think this one is right, but nevertheless, that is the logical extension of what he was saying.

Deputy Mahoney said, 'Why should a lack of belief be protected?' It is by the current definition. It says a religious belief or lack thereof. This is not about that; it is a question of beliefs – not lack of beliefs – that are not religious. That is what this would extend it to.

He said we are mixing it up with free speech but we are not! We can pass all the Laws and you can say what you genuinely believe. I know it was not Voltaire who said it but I believe it was much along the lines of what Voltaire was alleged to have said: if somebody genuinely believes something, they should be free to express it. It is not to do with freedom of expression; it is whether or not you are sacked after you have exercised your right to freedom of expression or told, 'No, you can't come into my restaurant,' after you have exercised your right to freedom of expression. Unless we extend the grounds, that will be still perfectly legitimate to happen – unless there is an unfair dismissal; but then again, as I say, that is only after a qualifying period.

So I think the logic is to extend it. It will be a matter for the States but I think it is a very odd dividing line. As I said, we have religions that are really on the edge of whether – they do not have a belief in God, necessarily; and yet, you have other belief systems that are just not deemed religions. It will become an argument over what is a 'religion' and what is not a 'religion' and I think that that is actually more of the minefield that Deputy Queripel was talking about than saying, 'Let's protect all valid, deeply-held, and meaningful belief systems.' The tests that Deputy – actually, it has been round twice – both Deputy Burford and Deputy Queripel mentioned will filter out the frivolous nonsense. It will filter out that 'You can't touch me because I believe in' some spurious thing; it has to be serious, it has to be something that respects other people's rights.

I am definitely going to support this amendment.

A Member: Hear, hear.

The Deputy Bailiff: Deputy Burford.

Deputy Burford: Thank you, madam.

Right, I shall make a best job of summing up 90 minutes of debate but please bear with me if I just have to try and decipher some of these notes on the way.

Deputy Leadbeater, first of all: thank you for your support.

Deputy Queripel. I have got a whole page of notes in response to Deputy Queripel's speech – 25 minutes, I believe, according to Deputy Ferbrache. In fact, Deputy Ferbrache did manage to pick up most of the points that Deputy Queripel made and respond to them in the same way as I would have done, but I will just make a few other points.

The first thing to note is that it is a really high bar for a belief to qualify under this legislation. And it is also linked to the individual so just become someone has a belief in something, it does not mean that someone else with that belief, where it is a much more lightweight or frivolous belief, would actually qualify. This is the whole purpose of the Grainger criteria: to really get to that point where it is solid, serious, cogent beliefs that qualify. The next point to make is that even if they do qualify, you still might not win the tribunal; that is another stage.

3070 You talk about the point that Deputy Roffey made, where you were talking about the risk of challenging legal rights: that was in relation to Catholic schools and it did not relate to this, so that is not actually relevant to what we are discussing today.

3075 Another point that Deputy Queripel made and which was also made by a couple of other speakers was that the criteria are very subjective and open to interpretation. I think you can say that about much in law. That is the only way, in many ways, that the law can be constructed. What helps us in that regard is a body of case law that builds up, so therefore decisions can become more consistent. I think that is really important. That is the other reason ... again, another point made by other people about this was that we just do not know what we are letting ourselves in for, it is a 'minefield'. One of the reasons, when I went to see the Law Officers – and again, I will thank them because this was quite a task for them, writing this amendment, because obviously, it has consequential changes through the legislation – was that I wanted it to be drafted exactly the same as the UK Equality Act 2010 because, as other speakers have pointed out, that has been in operation for 12 years, it has given rise to some case law, and we can see that it has been operating satisfactorily; and in fact, when I talk about the points Deputy Le Tissier raised, I will underline that point.

3085 Deputy Queripel also said that the court cases will increase dramatically; I just really do not think there is any case for that. If we look at the number of cases they have had in the UK and we scale them down to Guernsey, it is going to be pretty infrequent. I think we looked at possibly a case a year or something. This is not going to be a dramatic increase in court cases. And as has already been mentioned, it does not impinge on legal aid either so it is not going to be an increase in costs in the legal aid budget.

Deputy Ferbrache, thank you to him for his support and for the points that he made in debate.

3090 Deputy Dyke, I think the – sorry, let me just catch up on this. It was similar points, actually. It is about the fact that he was saying we cannot get it right because we do not know what is going to happen. Again, we have got these 12 years' experience in the UK under the same ground.

3100 The other thing is – I am not quite sure if it was Deputy Dyke who said this – what a lot of Members seem to be missing out is that for this to even be invoked in the first place, discrimination has to have taken place, someone has to have been treated less favourably – and it is only in employment, goods and services, and clubs. It is not in every aspect; those are the limits, it is simply within those. Again, that is narrowing it down. It is not just a case of somebody having a disagreement with their neighbour. That does not fall under this discrimination Law.

3105 Deputy Murray and some others say, why have I brought this back? I thank – I think it was – Deputy Trott for really picking up on that point. The vote was quite close last time, for a start: it was 16-20. For the 20 people who voted against, I think there were only three or possibly four speeches and only one of any length and substance, which was the one by Deputy Helyar. Deputy Helyar raised, I think, seven cases. In the course of that debate, it is impossible for any other Member to suddenly research those seven cases. It has taken me days to research all those cases and every time I looked at one, it perhaps was not quite what it had seemed in the debate. I felt, on that basis, it was really important to come back and to set that record straight and to give Members the opportunity to reconsider their votes.

3110 There was another important point that came up here. If you have read – I know you have all read the legislation – it says, "Religion" includes a lack of religion and "belief" includes a lack of belief. Members were wondering quite how a lack of belief would play out. The important part is, if someone is working in an environment where, let's say, many people are religious, their employers are religious, but they do not actually have a religion and they are discriminated against because they will not go along with this religion or whatever else, there is an opportunity, if they are subsequently sacked for that, to be able to bring a case on the basis that they have a lack of religion. That is where not holding a belief or religion would come into play.

3120 Deputy Le Tocq, I have a great deal of sympathy with Deputy Le Tocq's point and I have wondered whether religion should have been included on the basis that religion, like belief – and like, perhaps, some other aspects of this law in due course – is less tangible, shall we say, than things

like disability, like age, like race. But I think the point that Deputy Roffey made on that really does bring it into focus, particularly on the anti-Semitism point, as to the reason why I think it is entirely valid to have religion and also secular belief included in this overarching discrimination Law.

3125 I thank Deputies Gollop, Gabriel, Matthews, and Soulsby for their support. I think also the points I have already made cover the points that Deputy Taylor has raised so I do not need to repeat that.

Deputy Le Tissier, I have got a whole page here, again. I did wonder, I have to say, with all due respect, whether Deputy Le Tissier did actually listen to my speech this morning, because he listed, in order, from his Google that he has had since then five of the seven cases which I raised, which
3130 originally came from Deputy Helyar, saying that belief in climate change is protected, fox hunting, Scottish independence, and public service. They were all beliefs that the complainants in those cases – it was deemed that those could be protected under the law because in each case, they were sufficiently serious, held sufficiently fervently. But in some of those cases – three of those four – they did not lead to a successful outcome in the case. The fox hunting one was, which is the one I
3135 talked about this morning where the chap who worked for the garden centre was sacked because he had a different view to his employers on the subject of fox hunting.

He also said that the belief not protected is about sex being immutable. I think it is really important on this particular case to say that whilst the person who was sacked and who actually was deemed by the Courts to be an employee, her case was upheld, but equally, people could still
3140 have their case upheld if they believed the opposite. It is about having your cogent belief; it is not about saying that the belief that has been judged on there is the only correct belief. It is a belief that is personal to somebody, you could say, in the same way that a religion is personal to somebody. Both sides of the argument are protected. The crucial part goes back to, 'Was that person discriminated against because of that?' Without that happening, nothing else happens. It
3145 comes down to an act of discrimination taking place in the first place.

Deputy Roffey has dealt with the Jedi lightsabre, for which I am grateful. Thank you, Deputy Inder for your speech, and Deputy de Sausmarez. Deputy Moakes, same debate, 'We might set a precedent.' I think words like 'incinerator', 'runway', and all that come to mind with me so I am not going to trouble myself too much on that account. *(Interjection and Laughter)* Bay parking, yes. No,
3150 do not say bay parking!

Deputy Mahoney, yes, a lack of belief is protected. I have already gone through that. Yes, the test is subjective, but I have also covered that.

Deputy Dudley-Owen, I hope I am doing well here in swaying her off the fence onto the side of supporting this amendment.

3155 Deputy Parkinson, I emailed Deputy Parkinson about a week ago asking him if he was likely to support this amendment because he had supported the Proposition from the Committee before and he said he would. I take note of the comments that he has made today. I am not sure if there is anything in either direction, in addition to what I have already said in response to other people, that I can say to persuade Deputy Parkinson in either direction. One thing I would say is: one of the
3160 Grainger criteria is that any belief must not conflict with the rights of others and it must be respected and worthy of respect in a democratic society. I fully support all the criteria within the Grainger criteria.

Alderney Representative Roberts, thank you for your touching story on that and thank you for your support.

3165 That is all I have to say. Thank you to everyone who participated in what I think was a very interesting and helpful debate. I would urge Members to support this amendment.

Thank you.

The Deputy Bailiff: Thank you.

3170 I think, in relation to the amendment, because of the length, you might need to scroll down to the bottom of the amendment page that you should now have in front of you.

I am now going to ask the States' Greffier to open the voting on this amendment.

There was a recorded vote.

Amendment 2

Carried – Pour 23, Contre 14, Ne vote pas 1, Absent 2

POUR	CONTRE	NE VOTE PAS	ABSENT	DID NOT VOTE
Deputy Blin	Deputy Aldwell	Deputy Prow	Deputy Le Tocq	None
Deputy Brouard	Deputy de Lisle		Deputy Oliver	
Deputy Burford	Deputy Dyke			
Deputy Bury	Deputy Haskins			
Deputy Cameron	Deputy Le Tissier			
Deputy de Sausmarez	Deputy Mahoney			
Deputy Dudley-Owen	Deputy McKenna			
Deputy Fairclough	Deputy Meerveld			
Deputy Falla	Deputy Moakes			
Deputy Ferbrache	Deputy Murray			
Deputy Gabriel	Deputy Parkinson			
Deputy Gollop	Deputy Queripel			
Deputy Helyar	Deputy Taylor			
Deputy Inder	Deputy Vermeulen			
Deputy Kazantseva-Miller				
Deputy Leadbeater				
Deputy Matthews				
Alderney Rep. Roberts				
Deputy Roffey				
Alderney Rep. Snowden				
Deputy Soulsby				
Deputy St Pier				
Deputy Trott				

The Deputy Bailiff: Thank you.

3175 States' Greffier, would you close the voting?

In relation to the second amendment, there voted Pour 23, Contre 14, there was 1 abstention. I therefore declare the amendment passed.

We will now go to Amendment 3 and ask Deputy Murray, as the proposer of the amendment.

[Amendment 3](#)

- *At the end of the Proposition add: ' , subject to the amendments indicated below'.*
- 1. *In section 75 -*
 - (a) *delete '(1)',*
 - (b) *for paragraph (c) substitute— "(c) shall not have effect unless and until approved by a resolution of the States.",*
 - (c) *delete subsection (2).*
- 2. *In section 67 -*
 - (a) *in subsection (1), after "codes of practice" insert "or guidance",*
 - (b) *delete subsection (2), and renumber subsections (3) and (4) accordingly.*

3180 **Deputy Murray:** Thank you, madam.

This is purely a technical amendment which primarily seeks the opportunity for this Assembly to be given the chance to endorse or debate the numerous regulatory provisions throughout the Ordinance prior to their eventual introduction. It may seem to some Members an unnecessary burden on both the Employment & Social Security Committee to have to do so and, potentially, on the Assembly itself to be given the option of debating such regulations whenever they eventually surface.

3185

Let me address the first issue. The Committee will be creating these regulations anyway. There is no additional burden that this amendment would bring to that particular concern. As to the impact on the Assembly, these same regulations would be brought before us in the ordinary course

of events, but the difference is that without this amendment, our choice would be a binary one: simply to endorse or annul. That choice would still remain available with this amendment, but the real difference would be to permit some debate and the possibility of amending if it was felt necessary to do so.

Why would Deputy Haskins and I feel the need for the safeguard of giving the Assembly the ability to review any of these regulations? There are a number of reasons, not least the sheer number of them which are detailed in the explanatory note. There will be other legislation with more and with less regulation. However, bearing in mind that this legislation has been drafted in something of a composite fashion and therefore represents a bit of a hybrid, I hope Members will appreciate the opportunity to have the ultimate decision. Importantly, a key concern is that we obviously have no sight today of what those regulations might contain in practice so we are being asked to blindly assume that they will not introduce anything contentious or onerous.

Ordinarily, I would be prepared to give the Committee – indeed, any Committee – the freedom to put some of the simply practical issues of implementing an ordinance and associated legislation into regulations. Why, then, the reservation today? Let's roll back to the origins of the legislation. The Committee, and Deputy Roffey in particular, have been very open with us and explained that the first drafts of this legislation started in a very different place, a much more contentious place. Why was that the case and why does it matter today? Madam, a scrutiny hearing into progress on the disability project itself in January 2018 interviewed the GDA – and as it happens, Deputy Roffey was on that panel, being the Vice President of Scrutiny at the time. The video of that hearing is available and it is also recorded on *Hansard* and can verify my foreshortened version of a key part of that discussion.

The GDA made it very clear that they were intent on a social model for disability, as opposed to a medical model, and the then-UK model was therefore not acceptable to them, being based primarily on a medical approach. Their hope for the Canadian model proved not compatible with Guernsey's lack of a constitution. They did not believe the Jersey model was a sufficiently social model, so that was not a preference either. Consequently, they and the Committee at that time began to look elsewhere – Ireland and Australia in particular. The GDA's aspirations, in my opinion, then, would therefore appear to be a contributing factor as to why we did not simply copy the UK or Jersey and potentially why we did not have a disability Law in place some considerable time ago. I do not think it inappropriate to remind Members that the early draft of the resulting legislation, following all that research, caused considerable consternation in the business community and the draft was subsequently amended to quite a degree, which Deputy Roffey has been at pains to point out.

The point I am making is that the GDA – who remain partnered with Employment & Social Security today, as far as I am aware, on the continuing evolution of the discrimination project – appear to have considerable ambitious intent in this whole arena.

To what extent that might manifest itself in future Committee regulations is impossible to say, but I can give one instance in which the Committee's aspirations clearly went too far, in the view of this Assembly. In November of last year, we debated the proposals from the Committee in relation to religion or belief, which was subsequently amended and is now reverted, and sexual orientation. Deputy Burford and Deputy Ferbrache brought a successful amendment to overturn the delegation of a key aspect of the legislation: alterations to the descriptions and definitions of the protected grounds, which was to have been within the Committee's ability to alter under regulation. Without that amendment, that particular aspect of regulation would have surfaced at some point and in the ordinary course of events, have presented us with the choice to approve or annul. Now, of course, to the benefit of both the Committee and, indeed, the Assembly, any such change will now be debated, which is entirely appropriate.

For Deputy Haskins and I – and I suspect, many Members of the Assembly – since that amendment was passed, this raised a significant red flag about the Committee's future intent, howsoever it was influenced or not, and their desire to not have to be constrained by the States

over something as fundamental as the definition of 'protected grounds', which is a founding principle within this legislation.

Where does the foregoing leave us? What are we to draw from it in terms of lessons today for the future regulations proposed in a multitude of places in the Ordinance before us today? Firstly, I hope we can now be in absolutely no doubt that the legislation that we have before us did have very controversial origins. That notwithstanding, the current media furore, which the GDA, Equality Guernsey, and Liberate have actively instigated since we have presumed to bring some amendments, is testimony to the strength of feeling –

Deputy Roffey: Point of correction, please?

The Deputy Bailiff: Point of correction, Deputy Roffey.

Deputy Roffey: I am afraid Deputy Murray is wrong. ESS never had any power to amend the definition of any of the protected grounds by regulation.

The Deputy Bailiff: Deputy Murray.

Deputy Murray: Thank you, madam.

I wonder what the amendment was for, then, at the end of the day.
However, moving on –

Deputy Roffey: I can tell Deputy Murray if he wants me to.

Deputy Murray: Please do.

The Deputy Bailiff: Sorry, it is not supposed to be a conversation between the two of you, Deputies Murray and Roffey.

Deputy Roffey, on your continuing point of correction, have you got something further you wish to add?

Deputy Roffey: It would be useful, maybe, to explain that it was to do with exceptions and not to do with the definition of 'protected grounds'.

The Deputy Bailiff: Deputy Murray.

Deputy Murray: It included exceptions, I seem to recall, in the actual amendment itself, but let's let that lie for the time being.

Moreover, it emphasises, in the case of the GDA, that their continued involvement with ESS, in any likely situation, is to continue a very ambitious agenda – which they are entitled to do but which might very well prove to be controversial. Therefore, I do not think it at all unreasonable for this Assembly to have the opportunity to be able to debate the content of regulations which we currently have no sight of, especially given the considerable extent listed in the explanatory note.

Now, I will certainly concede that some of these would appear to be very minor and administrative in nature. And frankly, if they come to us as such, I am sure they would be fully and quickly endorsed – and as I commented earlier, they would do anyway. So I think the Committee can take some comfort from that. Deputy Haskins and I are not seeking to intervene in merely administrative regulations. Unfortunately, however, had it been necessary to pick and choose which we considered worthy of debate and which we did not, the Assembly would have been burdened by numerous amendments and we did not think that desirable or practical.

However, whilst no doubt, the Committee will argue to the contrary, there remains some import in the scope for many of the regulations which I believe Members need to be cognisant of when

considering whether to support this amendment. As a general comment, however, I would highlight that these regulations range all over the Ordinance and affect many of the stakeholders, including employers, the public sector, landlords, educational providers, and even down to the ability to prescribe who is qualified to be a dog-trainer.

I do not propose to go through each of the instances individually, you will be pleased to hear, but I will make brief reference to the second Law, 67, that we propose a change to as well. It wraps guidance within the scope of the particular regulation of the first two and it removes the present reference to an open-ended promotion of equality, which we believe is already intrinsic and therefore unnecessary.

In conclusion, madam, I would therefore strongly urge Members to give serious consideration to supporting the amendment in order that any unintended consequences of regulation – or indeed, resulting actions that might be taken by ESS before this Assembly has had the opportunity to at least debate the thing – cannot come into force by their hands or in the form of guidance to a tribunal.

Thank you, madam.

The Deputy Bailiff: Deputy Haskins, do you second this motion?

Deputy Haskins: Yes, madam, I do.

The Deputy Bailiff: Deputy Gollop.

Deputy Gollop: Madam Deputy President, we are often told in this Assembly that States' Members' idle hands make work for them to do and that maybe there are too many of us, maybe we interfere in Committees' mandates too much. We have certainly had a strong message in the last year or two from Education, Sport & Culture that less political involvement and more work within the Committee and their officers has been a good thing. We have had that message from Economic Development too: for example, powers over bank holidays were transferred. Perhaps we were reluctant to go down a particular route with planning recently for the same reason.

That philosophy of working collegiately seems to be a bit the opposite to elements of this amendment because this amendment calls for the whole States to be involved proactively. You have elected the members of ESS to do a job. And weirdly enough – in hindsight, possibly a mistake – I sneaked back on the Committee because there was no competition. There were no candidates from one of the newer parties, perhaps. So there you go. We have a Committee and we work well together. We will not do anything particularly radical because it would come back to the States at a later point. The only thing this amendment really does: yes, there is a slight increase in communication to the public, but that can be done with gov.gg or ESS – and of course, the very active voice we have heard for Equality, We Are Guernsey, Liberate and the groups. They can actually do all the communication for us.

The only bad thing about this is: firstly, why is it being put to us? There is an implication that there is a lot of radicals, a lot of leftists, a lot of people who care too much on ESS so you need the balance of the States to question and overturn it. So it is a right of veto. That is one issue. The second issue potentially extends our debates. Other Members may think differently, but it adds a month or two of delay. So if we wanted, for the sake of argument, to change the rules over guide dogs or pets, maybe extend it because the notion of pets are expanding – that is an interesting area of case law – if we wanted to do that or something that was even more important, critical because an issue, an anomaly had come up through a complaint, through officers, through a tribunal, we would actually be several weeks, several months behind.

This really is not some kind of buffer; it just adds time, it adds delay and makes us less agile. So I am not going to support this amendment.

The Deputy Bailiff: Deputy Falla.

3345 **Deputy Falla:** Thank you, madam.

I believe that to vote for this amendment would be to take a retrograde step. This Assembly is often called to sanction an 'action this day' approach, to empower Committees to deliver their mandates, and to reduce red tape. This amendment, if successful, would involve the minutiae of the regulations and could bog down the Assembly in endless debate on every detail.

3350 I think Deputy Murray's suspicions are unfounded, respectfully. We are not talking about exceptions being decided without referral by the Committee. They will need States' approval anyway before they can be put into place and the proposed way of working is far from extraordinary. And in any case, as Deputy Murray has mentioned, the States can annul a regulation made by the Committee if the majority of States' Members do not support it.

3355 Moving on to the part about the issuing of guidance, by its very nature, a code of practice is a very much lighter touch than regulation. And so is guidance: guidance does not have legal effect. It is intended to be a helpful measure to give a clearer explanation of people's rights and duties under the Ordinance. It will introduce nothing new. Its purpose is to simplify what is in places a highly technical piece of legislation – Anti-Discrimination for Dummies, you might say. To prevent
3360 the Committee from facilitating this guidance without coming back to the Assembly is nonsensical to me.

Madam, we are going to be hearing the word 'proportionate' a lot over the next day or so; this amendment is a disproportionate response to the legislation, the content of which has already been agreed by the Assembly in 2020. It is an unnecessary amendment and I urge Members to vote
3365 against it.

The Deputy Bailiff: Deputy Inder.

Deputy Inder: Just briefly, madam.

3370 This is a brand-new Law and a brand-new process that we are going down. This is not education, this is not – and I am going to choose my words carefully – a known quantity on which a Committee believes that it has got a better form of governance; this is brand-new legislation. I am surprised two Members of ESS – and I assume, the rest of them thinking as one – are scared of coming back to the Assembly. What is the problem? There is no problem at all.

3375 I do reject – unfortunately, he is not here at the moment – Deputy Gollop's terminology. No one used the word 'leftism', no one used the word 'radicalism'. There is only one person who has actually spoken, and that was the lead on the amendment. But already, we are getting into this politicisation of basically 'It's us and them,' driven mainly, in part or in portion, by some Members in the Assembly who have got a slightly strange view of how the world works.

3380 Now, we are going to probably hear from most members of ESS and they are going to tell you to reject this. This is too important. Once the Ordinance is in place, the tribunal is set up, the training has been done – two or three years – the comfortability and confidence is set up, maybe, post-this Assembly, a different ESS, a different Government can make a different decision; but this is too new. This permeates every single bit of our society. And right now, because it is so new, because I have
3385 got some concerns over the output of social media – and some of those are in the Gallery now – I saw – I was going to say it at some point so I may as well say it now – '#H8TE' directed at Deputy Blin, Deputy de Lisle, and – included, for some reason – Deputy Meerveld; and you wonder why I am worried.

3390 Absolutely every single piece of this legislation and regulations needs to come back to the Assembly, because right now there is a distinct distrust within the community, and until we are comfortable with it, we cannot leave that entirely in the hands of five people, whatever shape that they may be.

The Deputy Bailiff: Deputy Matthews.

3395 **Deputy Matthews:** Thank you, madam.

In a previous debate some time ago, there was some discussion and commentary about how much detail used to come to the States and how much is now delegated to Committees. In the past, even the price of a litre of milk was debated in this Assembly; much more is now delegated to Committees. Now, I may be in a minority, but I believe too little comes to the States, particularly as this Assembly is an open debate, whereas Committees are not. This is a potentially controversial area of business so I am minded to support the amendment.

I do have concerns it might be too much, but in many ways, I would rather too much than too little. I am advised that Deputy Murray at one stage contemplated bringing 27 separate amendments for this purpose so I am grateful that at least it is combined into one amendment.

Thank you.

The Deputy Bailiff: Deputy Soulsby.

Deputy Soulsby: Thank you, madam. I will be very brief.

I just do not know if people have actually misunderstood the process in the States. People can actually, once regulations have come to the States, vote to annul them and do whatever they like with them, just like Members have laid loads of amendments to this legislation. It is not as if it is all-or-nothing. 'Oh, my goodness! If we pass this now, it will then be up to this really – this Committee could do whatever it likes at whatever time and we have no influence on it!' I just think people need to understand.

It is the right place to do it because the Committee has been delegated by the States to do that job. That is what we do at the start of the term: we say, 'We want this Committee to do this work.' If we brought everything back, we would be here every day of the year, particularly with all the things that we have got at the moment. But we do not; we delegate. There are other things that probably should come here which do not need to at all: we have no chance on certain strategies that have not come to this States that should possibly come to this States but there is no requirement in the procedures to do so. In terms of regulations, they are, so Members will always have that opportunity to do something with them as they see fit at that particular moment in time.

So I cannot support this amendment.

The Deputy Bailiff: Deputy Bury.

Deputy Bury: Thank you, madam.

I was not actually going to speak on this but I am brought to my feet by Deputy Inder, who expected that all of ESS would speak on it and now we may.

Actually, I think, despite Deputy Gollop's comments – and I think everybody will accept that ESS is not in control of Deputy Gollop's comments; no one is! (*Laughter*) – I do not actually think that Deputy Inder has got the right end of the stick from ESS. I do not really think we will die in a ditch about this one. It is not ideal. It will add red tape and a bit of extra time. That is probably the most resistance, actually: the officer timing of this will actually add quite a lot of pressure onto the resources that we have. But they have started to look at how that will work if it happens and I am sure they will manage it.

So I do not think that ESS are scared of bringing this back; it just seems unnecessary. I think it is one of those things that right now – because there is nervousness around the legislation, I can see the point of view. However, I can certainly see in two, three, four, five years' time, it is going to be one of those things that we do see come across our desk quite often. Why are we looking at this? Hopefully, at that time, it might be something that could be amended, but because we know we at ESS do not have any plans to do anything radical and they would come past the States anyway, we do not see it as necessary; but I can see that point.

I just wanted to temper that view tabled by Deputy Inder that we are strongly opposed; we just do not see it as necessary. And I am quite surprised, from a colleague, Deputy Murray, whom I have

joked with before – I can sense and see his impatience a lot of the time when we are in the Chamber – that he would want to add this to our Billets.

3450 Just one last point about social media and the comments made by Deputy Inder, that is not something that is in ESS' control and neither will it be by approving this amendment.

Thank you, madam.

3455 **The Deputy Bailiff:** She cannot give way, now, Deputy Inder, she has stopped speaking. Deputy Kazantseva-Miller.

Deputy Kazantseva-Miller: Thank you, madam.

3460 I think this amendment is completely inconsistent with the way we have tried to approach in this States' Assembly how Laws and regulations are made. We have given huge amounts of delegation to certain Committees, such as P&R with the Government Work Plan and financial spending and so on. Just recently, we have passed, for example, a huge piece of legislation, the Lending, Credit and Finance legislation, without a squeak of opposition or concerns from this Assembly about, actually, a huge piece of legislation which will have really serious consequences and, hopefully, opportunities for this Island: nothing, complete silence, even though I know Members in this Assembly had
3465 concerns and did not speak about it. But now, the Committees will have delegated authority to pass those regulations.

3470 So I think we have to be consistent. We have, really, much bigger – Deputy Ferbrache spoke to how much work is on our agenda and actually, how stretched we have continued to be for resources. So the choice is: do you want to micromanage certain Committees' workloads – and I think it is quite politicised because it is only certain Committees that want to get this type of micromanagement – while other Committees get away with huge delegation of responsibility? We cannot have it both ways: either choose one or the other. So far, we have chosen to be hopefully trusting the Committees with their delegated mandates.

3475 I really do not see that this is some kind of secret way to sneak in legislation and certain rules. We really have many priorities and big debates coming our way and that is what we should be focusing on, not the details.

The Deputy Bailiff: Deputy Burford.

3480 **Deputy Burford:** Thank you, madam. I will be brief.

As the proposer, together with Deputy Ferbrache, of the amendment that was mentioned earlier in relation to protected grounds and the exceptions thereof, which I believe strictly related to the exceptions thereof, yes, we brought that amendment which was passed and this is in the same vein – but to my mind, to a whole raft of things of much lesser importance and of much lesser
3485 interest to the general public as well.

I would have been quite happy for Deputy Murray to bring 14 amendments. He could take them all together and then we could sort, perhaps, the wheat from the chaff – indeed, if there is any wheat amongst this list of things. I think it is going to be too onerous on matters that are quite trivial, and as such, I will not be able to support this amendment.

3490 Thank you.

The Deputy Bailiff: Deputy Ferbrache.

3495 **Deputy Ferbrache:** I take note of the comments. I am very much a delegator: I have delegated all my life, as the Deputy Presiding Officer will remember! (*Laughter*)

The Deputy Bailiff: Likewise! (*Laughter*)

Deputy Ferbrache: I have delegated all my life. But frankly, it is a point really made – why I am going to vote for this amendment: (a) I commend the industry of Deputies Murray and Haskins to go through this and find 25 instances, as they have done; and (b) the ethos of it.

But it is really the point made by Deputy Inder. He made the point about social media and the comment of a 'H8TE' figure. Also Equality Guernsey have posted this today: 'It's time the white privileged man's bubble is burst.' What on Earth does that mean? How intolerant and discriminatory and abusive is that? (**Several Members:** Hear, hear.) And yet, I have not heard Deputy Roffey in any of his speeches or any of the other members of the Committee get up and say, 'We abhor that, we are against that, we do not like that kind of communication.'

Therefore, in this instance, I am very sorry to say, I do not trust the Committee and I will be voting for the amendment.

The Deputy Bailiff: Deputy de Sausmarez.

Deputy de Sausmarez: Thank you, Madam Deputy Bailiff.

I very much echo Deputy Bury's sentiments in that I am not in any way strongly against this; I am just very surprised that this is something that the Assembly is keen to support. As the briefing pack that was circulated on behalf of the Committee points out, regulation-making powers are in no way uncommon; they are very common, and in many cases, to a considerably broader extent than is outlined here. I think on Income Tax, for example, there are 65 regulation-making powers. And indeed, both the proposer and the seconder are, of course, on Education. I think it is extraordinary that we would want, if we transferred this into that context, if we look at the regulation-making powers under that Committee for things like school attendance, independent school registration, pupils' registration, to be treated in the same way.

But really, my main point is that this amendment does not change an awful lot except the timing in respect to part 1. It does not substantively change the Assembly's options: the Assembly will still have an option either way to say, 'Yes, go for it' or 'No, don't.' This really is a binary option either way and this amendment does not change that position. All it does is add delay.

Just to give a couple of examples, which does also slightly underscore the level of detail that we are talking about here: Deputy Murray, when he opened, referenced guide dogs or assistance dogs and who is approved to be a trainer. It would simply mean, because of the time lags involved in lodging it in the way that the amendment suggest, that we would not be able to add a suitably qualified trainer to the approved trainers list for the however-many weeks – six weeks or whatever – before the Assembly has had a chance to say 'yes' or 'no'. So really, that is the difference. The only difference this amendment makes is in timing in terms of part 1.

In part 2, as Deputy Falla explained, it is a little bit different. It puts the guidance into legislation. This is something I cannot really understand why anyone would want to do. The guidance does not change the Law at all; the guidance is simply a way of explaining in clearer language what the Law is. So it seems extraordinary to want to make the legislation bigger by encompassing the guidance into the legislation's orbit. I do not understand what we would gain from that: it is just adding red tape. I am really pleased that earlier on, we managed to slash a bit of red tape; this is the opposite.

So I do not really understand why the Assembly would want to go down this particular path. The first part of the amendment simply adds delay and the second part simply puts guidance into the scope, into the orbit of the legislation, which just seems a bureaucratic, unnecessary step.

Thank you.

The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: Thank you, sir – thank you, madam; apologies.

The Deputy Bailiff: That is right.

Deputy St Pier: Madam, I think the most revealing speech so far has actually been Deputy Ferbrache's, where he concluded it with the line 'I do not trust the Committee and that is why I will be voting in favour of the amendment.' That, I think, was implicit in Deputy Inder's speech and I think is implicit in the proposer and seconder bringing this amendment, that it is about trust in the Committee. And it is a little bit of irony because I think it is – Deputy Ferbrache, from the seat that he currently occupies, has spoken frequently of the need to trust those to whom the States have delegated authority through the Committee system. Personally, I rather abhor the language of 'trust' because it implies distrust, as Deputy Ferbrache has admitted himself in relation to this particular Committee. I do not think we should be talking about trust and distrust; it is about scrutiny. It is about how this Assembly can effectively scrutinise and hold Committees to account.

I would be interested and my question, madam, for the Comptroller is whether he is aware of any precedent where such regulations are brought to the Assembly to be debated and approved, rather than merely laid, subject to the option for a motion to annul. I am certainly not aware of any, but of course, there are thousands, I suspect, of extant regulations and no doubt hundreds of powers extant within legislation.

But I think the point which has been made well by others is, this Assembly does have sufficient power to scrutinise, whether it trusts or distrusts the Committee, and hold Committees to account and to move a motion to annul – I have moved several myself over the years – regulations. It is, as Deputy Murray has said, a binary choice, but then the Committee would be faced with having to go away and bring back a completely fresh set of regulations if the Assembly chose to annul the set of regulations that have been laid before them.

So I, subject to the Comptroller commenting on whether he is aware of any other precedent, do think this does set an unfortunate precedent based on very personal questions of distrust which have been articulated by Deputy Ferbrache and that makes me very nervous, because I think we have sufficient powers to scrutinise whatever this Committee – or indeed, its successive Committee, which will be comprised of completely different individuals in due course – brings to this Assembly under this legislation.

Thank you, madam.

The Deputy Bailiff: Mr Comptroller, are you able to answer that question now or do you want some time?

The Comptroller: Madam, I would like a little bit of time. I think the minimum wage regulations are approved by the Assembly, actually, just thinking on my feet now; I am not aware of very much else, though. I think Members will recall they have to approve the minimum wage regs before they have effect.

The Deputy Bailiff: Perhaps I will come back to you, Mr Comptroller, before Deputy Roffey speaks, just to see whether you revise that opinion.

The Comptroller: Thank you.

The Deputy Bailiff: Thank you very much.
Deputy Leadbeater.

Deputy Leadbeater: I would like to invoke Rule 26(1), please, madam.

The Deputy Bailiff: Deputy Leadbeater has asked that we invoke 26(1), which is the guillotine motion.

Those who still wish to debate, would they please stand in their seats?
Deputy Leadbeater, do you wish for a vote to be taken?

Deputy Leadbeater: Yes, please, madam.

3605 **The Deputy Bailiff:** As it is a motion, this will be au voix.
Those who support the 26(1) motion to guillotine debate, say Pour; those against.

Members voted Contre.

The Deputy Bailiff: I am afraid the motion was not passed, Deputy Leadbeater.

Deputy Queripel: Could we have a recorded vote, madam, please?

3610 **The Deputy Bailiff:** Yes, we can, Deputy Queripel.
Yes, States' Greffier, would you start the vote, please?

There was a recorded vote.

The Deputy Bailiff: Does anybody need assistance with ... has everybody seen the 26(1) proposition reference?

3615 We are almost there.

Rule 26(1)

Not Carried – Pour 8, Contre 27, Ne vote pas 2, Absent 2, Did not vote 1

POUR	CONTRE	NE VOTE PAS	ABSENT	DID NOT VOTE
Deputy Cameron	Deputy Aldwell	Deputy Burford	Deputy Helyar	Deputy Bury
Deputy Le Tissier	Deputy Blin	Deputy Taylor	Deputy Oliver	
Deputy Le Tocq	Deputy Brouard			
Deputy Leadbeater	Deputy de Lisle			
Deputy Mahoney	Deputy de Sausmarez			
Deputy Parkinson	Deputy Dudley-Owen			
Deputy Queripel	Deputy Dyke			
Deputy Trott	Deputy Fairclough			
	Deputy Falla			
	Deputy Ferbrache			
	Deputy Gabriel			
	Deputy Gollop			
	Deputy Haskins			
	Deputy Inder			
	Deputy Kazantseva-Miller			
	Deputy Matthews			
	Deputy McKenna			
	Deputy Meerveld			
	Deputy Moakes			
	Deputy Murray			
	Deputy Prow			
	Alderney Rep. Roberts			
	Deputy Roffey			
	Alderney Rep. Snowdon			
	Deputy Soulsby			
	Deputy St Pier			
	Deputy Vermeulen			

The Deputy Bailiff: Would you close the vote, please, Deputy Greffier?

There voted for the motion to guillotine the debate 8, against 27, there were 2 abstentions and 1 person was absent, so the motion still has not passed.

3620 Therefore, I will invite Deputy Meerveld to continue debate on this amendment.

Deputy Meerveld: Thank you, madam.

Deputy Ferbrache obviously alluded to trust. Deputy St Pier mentioned scrutiny. I come down more on the side of Deputy St Pier on this one. I will be supporting this amendment. I do not particularly, as a businessman, like the idea of micromanaging any process. But it comes back to the question of why do we have so many amendments to this Ordinance in front of us today?

The fact is that we started down this road in 2003 with the decision to bring in an anti-discrimination Law but it has evolved and grown since then. Definitions have broadened, areas we cover have broadened. It has turned into something that does not mirror any jurisdiction near us. As we heard on Deputy Burford's amendment, the original definitions were copied from Ireland, as was 'religious belief': 'religious belief' does not exist in Jersey. We have now cherry-picked a definition for 'religion and belief'. 'Religion' does not exist in Jersey; it exists in Ireland. We just cherry-picked a 'religion and belief' definition, effectively, from England to insert. This Ordinance before us does not duplicate anything out there already. It is very far-reaching, it has a lot of implications.

I think the desire for this Assembly to have more scrutiny over changes coming into force is a concern just to be able to have that level of monitoring. I think, as Deputy Bury pointed out, within a couple of years, once this is bedded down, I suspect that ESS will come forward with a policy letter wanting to assume these responsibilities for taking it forward and I suspect I would support that if they did at that time. But I think it is just a measure of the – the number of amendments is all derived from concern that has been expressed not just Deputies in the room, but these Deputies as representatives of our community.

Therefore, I will be supporting this amendment. Thank you.

The Deputy Bailiff: Deputy Dyke.

Deputy Dyke: Thank you, madam.

I will also be supporting this amendment. This Law does potentially, and will, burrow into many aspects of commercial life here in particular with regard to employment; that is where it is going to have the most effect. It is likely to have a considerable effect on the finance sector, which is why I have brought an amendment for later on.

Perhaps it is unfortunate that Deputy Murray did not actually bring a broken-down amendment so that we could vote on each one. Some of them, admittedly, are trivial; some of them are vitally important. The last one, Section 46 of the Law, would allow the amendment by regulation of all the exemptions. The way the header has been set out is misleading: it applies not just to accommodation, but to all the exemptions, and the exemptions are an absolutely key part of the Law. As you all know, we had a big discussion about the religious schools debate.

So that is absolutely vital. I do not think we can have those done by regulations that can only be annulled; I think we must be able to debate them and change them for the time being. I agree with Deputy Meerveld that at some point, as we begin to work out how this is going to work, ESS can come back to the States with a policy paper to pull some of these things, the more trivial things, back to them. But as things stand at the moment, I think we do need to leave the States firmly in control of the most serious matters, including basic drafting of the Law, which otherwise, we will lose control of.

So I will vote for this amendment. Thank you.

The Deputy Bailiff: Deputy Haskins.

Deputy Haskins: Thank you.

In response to Deputy St Pier, I was less thinking about trust and more of the ability to debate. Deputy Soulsby mentioned we have the ability to annul the legislation if we do not like it; yes, that is fine but there is no ability to change or to steer. I think it is reasonable to allow the Assembly to debate many of these instances that we have highlighted. One does not need to debate, and often,

as Deputy Trott said, things just get nodded through. But some areas are especially emotive. Again, being a new, unique Law, I think it is reasonable. I note Deputy Bury's and Deputy de Sausmarez' views and I thank them for providing them. In time, it might well be best to amend that, but in the meantime, I ask the Assembly to support this.

The Deputy Bailiff: Mr Comptroller, have you got any further views on the issue of whether or not this is something that happens frequently or infrequently?

The Procureur: Madam, I have. The only example I can think of is the minimum wage regulations. I am not aware of any other subsidiary legislation which is approved by the States.

The Deputy Bailiff: Thank you.
Deputy Roffey, on behalf of the Committee.

Deputy Roffey: Thank you, Madam Deputy Bailiff.
In the last amendment discussion about religion, there were several references to Jediism and whether it was a religion. And I would like to start this response to amendment 3 by quoting a Jedi Knight who sadly went over to the dark side: 'I find your lack of faith disturbing.' (*Laughter*) It really comes as a bit of a shock when Guernsey's senior politician gets up and says he does not trust my Committee; I will return to that in a minute.

First of all, I want to deal with what are clearly some misconceptions that have been put forward. Deputy Murray almost said in his opening speech that he did not trust the Committee to make the regulations and lay them to be annulled because he did not trust the GDA not to have a pernicious influence. I have to say, the GDA has no particular role or favoured status with ESS; they are simply one of a range of consultees. They have no more influence than the Chamber of Commerce, nor do Equality Guernsey have any more influence than the IOD. In fact, in the lead-up to this legislation, I would say those employers' organisations – and I am sure that the civil society groups would tell you this – had far more influence. We bent over far more backwards to accommodate their requirements. So to suggest that we are somehow having our strings pulled by groups that Deputy Murray does not like is just so far from the truth that I really do need to lay that to rest now.

Likewise, Deputy Inder may not like the campaigning style of some of these groups. It has absolutely nothing to do with ESS. I am not even aware of everything that happens on social media but I have no control over it. What on Earth has that got to do with ESS? I have to say, compared with some of the incoming I remember from anti-abortion groups and everything, it is probably fairly modest. Maybe, campaign groups – because that is what they are – sometimes go over the top when they feel passionate about things, but ESS have got no relationship other than them being a consultee.

I give way to Deputy Dyke.

The Deputy Bailiff: Deputy Dyke.

Deputy Dyke: I thank Deputy Roffey for giving way.
I would make one point: that one of his non-Deputy members of ESS does seem to be all over social media on this and the pressure on Deputies is really rather bad – I mean Deputy Blin has even had his business threatened, so there are concerns.

Thank you.

The Deputy Bailiff: Deputy Roffey.

Deputy Roffey: Feel free to give those references to me; but if he is talking about Mr Ross Le Brun, I have examined his output and it is robust and it is supporting the Committee position and I do not think he has said anything that is necessarily offensive or inappropriate, but I may have

3725 missed a lot because I am a child lost in the woods when it comes to social media. All I can say is ESS should not be judged by any of their consultees. We have a broad range of consultees.

If that is your reason for wanting the most miniscule decisions to be held up while this Assembly discusses them previously ... Deputy de Sausmarez gave the one about maybe authorising another organisation to be able to train assistance animals. I will give you another one. There is a special status in this legislation for bodies that provide supported employment. There are two written into the regulations at the moment, if we pass this Law on Thursday of next week, or whenever it would be – no, not next week because we do not do that; we would come back in a couple of weeks' time. One is Get and the other one is Grow. It may well be that in 18 months' time, there is another organisation providing supportive employment. We will not be able to pass that regulation and bring it to you to say, 'Do you approve of this new organisation?'; we will have to wait and bring it back and then have it annulled or otherwise.

That is the other misconception here. Listening to Members, you are saying, 'We must have more than a binary choice. It must not be just 'yes' or 'no'; we need to be able to debate it and change it.' Nothing in this amendment will achieve that! You will still only be able to say 'yes' or 'no'. There will be no power to amend. It will be a binary choice of 'yes' or 'no'. It is just that we will have had to wait and keep those desirable tweaks on ice until you have actually done so.

People talk about 'The legislation has evolved,' actually, it is probably stronger than what was originally proposed and actually it has moved a lot closer to the countries around us. But we cannot, by regulation, change the nature of the Ordinance or the regulation or the legislation. It is very small powers indeed. And if you are really worried about ESS having these powers, then I have bad news for you because ESS, under their own Law, has at least 85 discreet regulation-making powers, some of them on things far more far-reaching than the ones we are being given under this piece of legislation. As I think was mentioned earlier, the Income Tax law has got 65. This is entirely normal.

As for bringing guidance notes to the Assembly, we all see how complicated a bit of legislation like this is so it is a bit unfair on an employer to say, 'There's the Ordinance: work out what it means, mate.' So if you get a team of employment lawyers, they cannot interpret, they cannot say, 'No, it shouldn't be this, it should've been that' ... want to change anything; they just give a layman's guide saying, 'This is what the States have passed. This is what it means.' And we are going to bring it to the States for debate? Absolute nonsense.

As for Deputy Ferbrache, I listened to him yesterday. He is right: we have got really big stuff to decide. We have got taxation, we have got population, we have got all sorts of things to decide. And yet, he is supporting getting down in the weeds and discussing these miniscule items before they can be implemented – still the same binary choice. I find that really hard to fathom.

I am with Deputy Burford. Actually, in relation to this Law, when we walk away at the end of however many days' discussion, will it really make a big difference? Will it make a difference to the people who need to be protected by the Law, whether we have to bring all of these things to be discussed before we can make a regulation? No, it will not! It is just bad governance. Just imagine if all of the Committees that have got these regulatory powers did that: the whole parliamentary process would become constipated. However, if that is what you want to do, that is what you want to do.

I give way to Deputy St Pier.

The Deputy Bailiff: Deputy St Pier.

Deputy St Pier: Madam, I am grateful to Deputy Roffey for giving way.

[inaudible] ... to make a couple of additional points with which he may wish to agree. The first is: he commented earlier in relation to the consultation with some of the disability and equality groups. And of course, there is an international obligation on us, as a jurisdiction, to do that, and that, I think, is probably worth noting.

Secondly, in relation to the matter of Deputy Ferbrache's comments: of course, later in this meeting, whether it is this week or in an adjourned meeting, Policy & Resources will be asking this

Assembly to give considerable delegated power to P&R in relation to free trade agreements, which will grant extraordinary discretion to P&R to make agreements which will have a significant impact on the jurisdiction. Wisely, I think it is the right thing to do. But in that case, of course, nothing
3780 would come back to the Assembly at any point: there will be no requirement for any regulations to approve or disapprove or annul such agreements as P&R in their discretion agree are appropriate.

I mention that in contrast to what has been described as the 'micromanagement' of these very detailed regulations. Within the same meeting, we are going to go off in completely different directions on issues which are extremely significant, which will never come back to the Assembly,
3785 versus those which are very detailed, which this amendment would force, as you say, only to annul or approve, not to amend in any event.

Deputy Roffey: I would go further than that: this Assembly has given delegated powers to sign off spending of hundreds of millions of pounds on capital projects without them ever having to
3790 come back to this Assembly, to P&R. Luckily, I am not going to persuade like-for-like and say, 'That's not right, I don't trust them!' We have elected them to do it! I actually think, on the really massive things, there should have been a limit and it should have come back; but to a large extent, I trust – and I trust the other Members Committees that we have elected to do things to actually get on with the small matters in their delegated power. This Assembly probably delegates less to its component
3795 parts than just about any other Assembly that I have ever come across; and yet, we are wanting to move backwards! We are wanting to move the other way! I find it quite extraordinary.

Deputy Dyke said, 'Look at the solicitor regulations' – well, here are the ones about exemptions; that can be done by regulation. Keep up, please – through you, Deputy Bailiff. If we had passed an amendment brought by Deputy Burford, we would only be able to make a regulation in relation to
3800 exemptions after a positive vote from this Assembly. We are not talking about that; if we were, I would understand it. We are talking about tiny minutiae. It is feeble, it really is feeble.

Just coming back to Deputy Ferbrache's throwaway comment, I hope that later in this ongoing debate – maybe in general debate at the end – he will explain why he is so distrustful of ESS. I think we have picked up a ball, we have picked up a really difficult ball with lots of stakeholders. As I said
3805 in my opening speech, we have managed to find consensus, we have made compromise. I think we have done a responsible job in this Assembly. I do not hurt easily, I have got a very thick skin; but I really find it stunning that our senior politician should get up and say, having done that task – and I think, done it well – that he just does not trust us. I would like to understand more, later in the debate. On this one, it is down to matters of the – as I say, it will not scupper the Law in any way. If
3810 you really want to create work, set a precedent – we heard from Deputy Moakes about precedence – of every tiny, little jot and tittle that is normally done in Committee to come back to this Assembly, that is what you will do. We are going to oppose it because we think it is just bad governance.

The Deputy Bailiff: Deputy Murray.

Deputy Murray: Thank you, madam.

Debate has gone off in some different directions to what I was expecting and no doubt, we will return to that at a different time.

I think there has probably been quite a few misconceptions at this point. My concern, really, is
3820 that in an effort to make things probably more streamlined, despite the procedural issues, whereby ESS could have more confidence in bringing things forward and not having to go back when they were annulled and start again, the intention with this was really to give a steer, basically, so that regulations could be enacted in the best possible way. I think there has been a misunderstanding about why we wanted to bring this. I probably, in retrospect, wish perhaps that we actually had
3825 brought 20 or so different amendments – although we have 16 as it is already. We thought we were actually doing the Assembly a favour by not actually bringing them individually. That perhaps was just a little bit too much operational. However, we have done what we have done.

In terms of comments by individuals: Deputy Gollop talked about getting too operationally involved. I have to say, Deputy Gollop is very well-known for having an opinion on everything that comes to the States. It is his right – I do not disagree with that – but it is rather ‘pot, black’, I think, to be honest, to actually accuse us of trying to get too involved in operational issues. It is not the intention to impede here; it is actually the intention to try to ensure the Assembly is able to endorse something and not send something back because we annul it because we have got no other choice; that was the intention.

Deputy Falla: ‘minutiae’, I think he mentioned. ‘Guidance needs a light touch.’ The guidance, obviously, is also part and parcel of the understanding given to the public, to employers, to the tribunal, so it does need to reflect a consensus, ultimately. It is something that we wanted to include and we did take advice from the Law Officers on that.

Now, Deputy Inder, I think, probably hit the nail on the head. I did try to explain this in my introduction: this has had a very controversial passage over many years. This is not a simple bit of legislation. There is concern, there has been concern; we would not have so many amendments if there was not concern. Some of those may be misguided, they may be misinterpreting what, actually, we are being asked to approve; but nevertheless, there is concern. And it does concern me that actually, this is the second go-round of the draft proposals. The straw-man that was referenced to by Deputy Roffey was actually substantially amended, having had discussions with interested parties.

I think that, perhaps, is what gives me some concern, because if we are going to say, ‘We were reaching for the moon and we ended up at Sark so you should be thankful,’ that is a negotiating tactic, in my mind. Okay. It is not enough to say, ‘Well, we were going to cut your arms off, but actually, we’re going to cut a finger, so you should be grateful’. That is not the approach here. You cannot say that. It just does not make sense to me, frankly, to assume that, ‘Because we’ve let you off, you should be grateful;’ that does not wash. **(A Member: Hear, hear.)**

Deputy Matthews, I think he is probably right that in the past, maybe there was too much information. But I think it is a question of picking and choosing the ones that really matter, the ones that actually, we have to get right. As Deputy Bury mentioned, I am probably quite impatient. Ordinarily, I am not that keen on getting into that minutiae. But where it counts, you have to, and I think this is one of those occasions where you have to simply because of the history of the passage of this legislation.

Deputy Soulsby says, ‘You cannot annul or approve’. The problem, as I said before, is if you annul, you give instructions that have got to come back, you have got to go and do more work. That is what we are trying to avoid. We are trying to ensure that you do not have to do that: you get a steer, you know where you are going. **(A Member: Hear, hear.)**

Deputy Bury was – quite surprisingly, as a member of the same Committee – taking a very relaxed view, not prepared to die in a ditch, which really is the kind of froth I am hearing from Deputy Roffey over this. He does not seem quite so relaxed as, certainly, Deputy Bury does and that is unfortunate, but Committees obviously have disagreements. But I would tend to agree: I would not get so excited about this. I think several Members have already said that with the passage of time – and that could be a relatively short passage of time – we will be satisfied that the regulations cover and have the power that everybody is comfortable with, they are reasonable, they are proportionate, and that will then be just basically endorsed thereafter. But at the moment – I think, as Deputy Inder mentioned – the history to this is perhaps too controversial just to assume we can just do without this and then eventually, if we are not happy, we have to send ESS back to the drawing board again; what would be the point of that? I do not understand that. Wouldn’t they want to ensure that this would actually go through successfully?

Deputy Kazantseva-Miller mentioned the credit legislation, and she is quite right. I made a mistake with that. I endorsed it and I have subsequently heard how some of it is having now ramifications for some traders that I did not appreciate would happen. I did not do my homework; I should have done, but I did not do my homework, because it was thick. I should not be admitting

that, but that is a fact. You assume that the Committee bringing it obviously has done all of that work, and they probably did not –

The Deputy Bailiff: Deputy Moakes.

Deputy Moakes: Can I make a –?

The Deputy Bailiff: Are you giving way, is it a point of correction, or a point of order?

Deputy Moakes: Point of correction, actually.

The Deputy Bailiff: Oh, a point of correction, right!

Deputy Moakes: I just want to make it clear that there is a very specific process to follow with legislation like this. The GFSC goes out to industry and asks them for input; it then takes that input in, considers that input. The deadline for receiving that input was last week, I believe. They will then look at that and they will revert back. There is a process which is underway at the moment so we need to wait and see what happens as a result of that process before we start saying it was a good decision or not. There is a process.

The Deputy Bailiff: Deputy Murray.

Deputy Murray: Fair comment – I think probably, Deputy Kazantseva-Miller and myself then are putting more import into the decision we have already made because we are going to have another bite of the cherry – which is pretty much what I am saying at this point: we will get another bite of the cherry.

Deputy Burford, yes, maybe I have some confusion over what you actually managed to get amended. I certainly read the amendment several times and exceptions were certainly in there. They certainly were in reference to something very fundamental, which is right at the heart of that legislation.

Deputy Ferbrache, obviously, a very strong opinion. I think the point being really, there are concerns obviously – and given his earlier address to us this morning – we have to be very careful. Things are very tight at this point. All of the legislation that we keep heaping on has a cost. This one has a cost – I believe it is something in the region of about £400,000 – I am sure several people will say it is entirely justifiable. From my perspective – and I did say I am a pragmatist – I would like to know what we knock £400,000 off in order to make it possible, because we cannot keep adding legislation indefinitely. This will add cost; it is up to the Assembly whether they feel it is a justifiable cost.

Deputy de Sausmarez, surprisingly, mentioned Education. We get a lot of scrutiny on Education about decisions that we may or may not have made. I understand where she is coming from: 'If you're going to scrutinise me, I'm going to scrutinise you.' That is absolutely fine, we do not have a problem with being scrutinised. The point is, we have got an educational Law coming back and I very much imagine there will be regulations in that and you will be at pains to tell us whether or not you approve us having the ability to conduct those regulations at Committee-level or not.

Deputy St Pier, I think actually, unusually, I have got some sympathy for his position. This is about scrutiny and I think scrutiny is very important, as Deputy Meerveld said. This is not about trying to get in the way, it is not; it is about trying to make sure that we make the best decisions possible in the right order and that we do not actually add more problems simply because we just assume it will be done in the way that we would hope it would be done. So it is about scrutiny and making sure that what we actually have to make a decision about is as robust as we can possibly make it. If, as I have said before, we were to annul anything coming before us because we had no other choice – sorry, I am not giving way – I just think that would actually add more work and more time, which

has been described as, basically, a downside of what I am proposing with Deputy Haskins today. I am trying to avoid it. I am trying to make sure we are comfortable because there is too much that can go wrong with this legislation, in our opinion.

3935 Deputy Dyke said that – if I can read my own writing here – some of the legislation could possibly have unintended consequences and some of the regulations would enhance that, so we need to try to avoid unintended consequences at every stage. (**A Member:** Hear, hear.)

3940 Deputy Haskins, whom I thank for his support, again has underlined the fact that this is a very emotive Law – and it *is* an emotive Law. We have a very full Gallery, for a start. We have the road closed. For anyone who does not think this is an emotive law, I think they are misguided. It matters to a lot of people and I understand that, so we need to make those right decisions. (**A Member:** Hear, hear.)

3945 Deputy Roffey got quite excited, I think. And I must correct something that he said: I never said that I did not trust the GDA; in fact, I think he said my assumption was, they were pernicious. I think he got that mistaken: I said they were ambitious – and they have every right to be ambitious at this point. My concern is, in joining the dots, that it was their ambition that potentially gave us the first draft of this legislation, which was just purely not acceptable. Now, I may be wrong in that, and he will correct me, I am sure, at some stage if I am wrong. But having seen the scrutiny investigation, it certainly makes a lot of sense that there was very little room for compromise. Subsequently, compromise has been made; I completely accept that. But again, I think we have to be very sure that the direction of travel that we are going in is going to be successful for us as a community.

3950 So I think, in conclusion, I would like to say that perhaps, we are getting ourselves somewhat wound up for the wrong reasons here. I know it is unusual to come forward to try to ensure that regulations come back to us with some form of endorsement; it is unusual. And ordinarily, I would not be looking at it, I really would not. I am all for a pragmatic approach. But I think, on this particular occasion, we are in danger of actually giving ourselves more work, because I suspect, too many regulations would come back and be annulled, and I do not want that. I want successful regulation to come through as quickly as we can make it, but I want to make sure that we have got the checks and balances to make it happen.

3955 I hope people will support this. Thank you.

3960 **The Deputy Bailiff:** Before we go to the vote, Deputy Roffey, you have got a question for Mr Comptroller.

3965 **Deputy Roffey:** Yes, I just wanted clarification because I think there seems to be some confusion here. If this amendment is passed, my understanding is that there would still be no ability for this Assembly to amend regulations brought by ESS; they would still only be able to say 'yes' or 'no' to them. Is that right?

3970 **The Comptroller:** It is a very good question. (*Laughter*) We are in uncharted territory.

I must say, my initial reaction when I thought about this was that the States would be faced with a binary choice in the same way as they are for motions to annul: it is either to annul or it is to approve. However, the legislation is silent as to whether an amendment to a Resolution to approve something can be brought, and it is not dealt with in the Rules of Procedure at all. So I must say, I do not know.

3975 My gut reaction is that an affirmative Resolution is a binary choice, but I have no authority on which to base that, because the legislation, if it is amended, will be silent on the point. The Rules of Procedure do not deal with it. So I would have to give it some thought. But my gut reaction is that I am not sure it would give the latitude that some of the Deputies think it would to amend the regulations themselves, particularly as the power to make the regulations will have been given by the States, under the legislation, to the Committee.

3980 That might not be very helpful. And it may be that if the amendment were to succeed, the matter may have to come back to this Assembly so that Rules relating to this can be dealt with, because I

think – this is very much off the top of my head – that for example, in the United Kingdom, there is legislation which provides for what can be done on an affirmative Resolution procedure.

3985 It is probably not very helpful but it is the best answer I can give.

The Deputy Bailiff: Thank you very much, Mr Comptroller.
Greffier, would you open the vote on amendment 3?

There was a recorded vote.

Amendment 3

Carried – Pour 18, Contre 17, Ne vote pas 2, Absent 3, Did not vote 1

POUR	CONTRE	NE VOTE PAS	ABSENT	DID NOT VOTE
Deputy Aldwell	Deputy Brouard	Alderney Rep. Roberts	Deputy Helyar	Deputy Bury
Deputy Blin	Deputy Burford	Alderney Rep. Snowdon	Deputy Oliver	
Deputy de Lisle	Deputy Cameron			
Deputy Dudley-Owen	Deputy de Sausmarez			
Deputy Dyke	Deputy Fairclough			
Deputy Ferbrache	Deputy Falla			
Deputy Haskins	Deputy Gabriel			
Deputy Inder	Deputy Gollop			
Deputy Le Tissier	Deputy Kazantseva-Miller			
Deputy Mahoney	Deputy Le Tocq			
Deputy Matthews	Deputy Leadbeater			
Deputy Meerveld	Deputy McKenna			
Deputy Moakes	Deputy Parkinson			
Deputy Murray	Deputy Roffey			
Deputy Prow	Deputy Soulsby			
Deputy Queripel	Deputy St Pier			
Deputy Trott	Deputy Taylor			
Deputy Vermeulen				

3990 **The Deputy Bailiff:** Would you close the vote, please, Greffier?

There voted Pour 18, Contre 17, there were 2 abstentions, and there was 1 absentee. Therefore, the amendment is passed.

It is now 5.30 so we will bring today's meeting to a close.

Greffier.

The Assembly adjourned at 5.30 p.m.