

OFFICIAL REPORT

OF THE

STATES OF THE ISLAND OF ALDERNEY

HANSARD

The Court House, Alderney, Wednesday, 25th July 2018

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

Volume 6, No. 6

Present:

Mr Stuart Trought, President

Members

Mr Matthew Birmingham
Mr Mike Dean
Mr James Dent
Mr Graham McKinley
Mrs Norma Paris
Mr Steve Roberts
Mr Alex Snowdon
Mr Ian Tugby

The Greffier of the Court

Ms Deborah Burgess

Business transacted

Apologies for absence	. პ
Convener's Report of the People's Meeting held on 18th July 2018	. 3
Billet d'État for Wednesday, 25th July 2018	. 4
I. Legislation to introduce a new single Property Tax – Item approved	. 4
II. Elections 2018 – Item approved	. 8
III. The European Union (Brexit) (Bailiwick of Guernsey) Law, 2018 – Deferred to September States Meeting	. 9
IV. The International Trade Agreements (Implementation) (Bailiwick of Guernsey) Law, 2018 – Approved	13
V. Code of Conduct Review Panel – Item approved	14
VI. The Renewable Energy (Alderney) (Exemptions) Regulations, 2018 – Item approved	16
VII. Questions and Reports – Alderney Representatives – Update; representations made regarding transferred or other services	18
The Assembly adjourned at 6.30 p.m	23

States of Alderney

The States met at 5.30 p.m. in the presence of
His Excellency Vice Admiral Sir Ian Corder KBE, CB,
Lieutenant-Governor and Commander-in-Chief of the Bailiwick of Guernsey

[THE PRESIDENT in the Chair]

PRAYERS

The Greffier

ROLL CALL

The Greffier

The President: Thank you very much, Madam Greffier. Could you confirm for the record that we are quorate, please.

The Greffier: Yes, we have eight Members tonight, sir, we are quorate.

The President: Thank you very much.

Now we are fully formed I would like to welcome His Excellency, Vice Admiral Sir Ian Corder and Lady Corder to this evening's proceedings, welcome.

Apologies for absence

The President: We have apologies from two States Members, namely Monsieur Louis Jean and Mr Tony Barnes.

Convener's Report of the People's Meeting held on 18th July 2018

The President: Mr Tugby, could we start with the Convener's Report, please.

Mr Tugby: Yes, sir there were the President, three States Members, excluding the Convener, the Chief Executive and the Minute Secretary. There were 17 members of the public and two press, sir.

The President: Thank you very much, Mr Tugby.

Billet d'État for Wednesday, 25th July 2018

I. Legislation to introduce a new single Property Tax – Item approved

Item I.

The States is asked:

To resolve that the Law Officers be instructed to prepare the necessary legislation for the implementation of a new single Property Tax to be in place by 1st January 2020.

The President: Madam Greffier, could we move to Item I, please.

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The Greffier: Yes, sir.

Item I, legislation to introduce a new single Property Tax. The States of Alderney is asked to resolve that the Law Officers be instructed to prepare the necessary legislation for the implementation of a new single Property Tax to be in place by 1st January 2020.

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The President: Thank you very much, Madam Greffier.

Mr Tugby, were there any comments on this at the People's Meeting, please?

Mr Tugby: The following comments and queries were made: Mr Dent advised that this legislation will bring simplicity, efficiency and transparency to tax revenue collection which is appropriate to Alderney's economy, and not Guernsey. This will then lead on in future to the States being in a position where it could review the rates of taxation.

The Chief Executive stated that there are two elements of our taxation which are currently applied separately in Alderney and Guernsey. This legislation will bring those elements together under the control of the States of Alderney and it forms part of wider work for financial independence and more local control.

It was noted that transparency of what the States of Alderney are going to do with the taxes would be welcomed by the public – it would be good to know the process.

The President: Thank you very much Mr Tugby, as Convener.

Mr Dent, I believe you wish to propose this.

Mr Dent: Your Excellency, Mr President, colleagues, at its meeting on 12th June 2018 the Policy & Finance Committee agreed unanimously to an update report on the implementation of a new Property Tax. This followed the September 2017 States resolution which agreed that the existing Occupier's Rate and States of Guernsey Tax on Real Property (TRP) should be merged into a single Property Tax, payable by the property owner.

The proposed changes will, from 1st January 2020, pass property tax raising responsibilities and control over revenue to the States of Alderney. TRP will remain on the statute book but it will be levied at zero.

For those of you who are perhaps confused by some of the terms, it needs to be clear that although we call our levy a rate there is no direct relationship between what we charge and any specific services the States supply. Both the Occupier's Rate and the Guernsey Tax on Real Property are simply taxes that go into general revenue. TRP making a journey via Guernsey back to our own Treasury as part of the annual subvention the States of Guernsey provides to the States

of Alderney. The immediate intention is consequently to raise no more revenue than is raised presently by the two taxes combined.

A single Property Tax will clearly be simpler, more transparent, more efficient and cheaper to administer. It will also allow Alderney to adjust the charges on its businesses and domestic properties so that they best reflect the needs of the Island. Currently the charges on some property types better reflect the needs of Guernsey, many are unduly penalistic, reflecting a time past when certain business types were seen as an easy source of revenue. And while these business types may continue to be easy sources of revenue for Guernsey, I do not think it is the case in Alderney. I think anyone who looked at the present rates would find it hard to support the particularly penalistic rates on, for example, offices for the regulated finance industries and for legal services. It is fine to charge high rates when you have a cash cow in tow but when you are trying to attract new enterprises these 25 times the domestic rate are simply folly.

On a very personal level, I would like to see the over double charges on self-catering accommodation reduced to a normal domestic level. What is the point in penalising people for being honest? Surely we should be encouraging more people into this sector. I personally, would also like to reduce the charge on retail businesses who want a busy, dynamic Victoria Street and not to be pushing our business in the direction of Amazon. Amazon, as the international press will tell us, get quite a lot of tax breaks elsewhere.

Having said this, any reductions in the tax take from one type of property will have to be met with increases on other types. The majority of our properties are, however, in some sort of domestic use. For Members information – information only – a reduction in retail property tax by 50% would cost us about £40,000, a reduction in self-catering property tax at the same level as for ordinary domestic uses would cost us about £12,000 but we can more than recoup both these sums with an increase in domestic property tax of just 10%,which would bring us £66,000. I do not want to prejudge what my colleagues would choose to do with such new freedoms, should we obtain them. But adjustments such as these, perhaps not to the extent I have just described, would seem eminently suitable to our economy. Any changes in the rates charged are not, however, for debate today. We would want to consult widely before we made any changes.

The only downside to this new Property Tax, that I can see, will be for landlords to adjust the conditions of their leases and rental agreement in advance of the implementation date, and I think they will have plenty of time.

Thank you very much.

The President: Thank you, Mr Dent.

Mrs Paris, I believe you wish to second this.

Mrs Paris: Yes, sir, thank you.

Your Excellency, Mr President, colleagues, Mr Dent has covered this topic fully and it is very important, as this is one of the most fundamental changes to our taxes for many years, and hopefully is a precursor to what may lead to some other quite profound changes in our financial relationship with Guernsey.

The setting and collection of this new tax, amalgamating Guernsey's TRP and our own Occupier's Rate, will become our responsibility, as Mr Dent has said. This will give us much needed flexibility to adjust charges in a manner better suited to our own economy, rather than Guernsey's one size must fit all. It does, of course, also bring with it the responsibility of managing the balance between how much revenue we raise and the maintenance of standards of services that the revenue has to pay for, and that is obviously going to be an ongoing challenge for future States.

But I do commend this as a first step towards a more mature phase in Alderney's financial future.

The President: Thank you, Mrs Paris.

Does any Member wish to comment on Item I? Mr McKinley.

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Mr McKinley: Thank you, sir.

Your Excellency, Mr President, really just a question actually. When I first arrived in the States, about four years ago, we were looking at a review of the financial relationship between Alderney and Guernsey, and indeed this was part of that review. For some reason ... and I think I do know the answer but I think it is worth actually, Mr Dent, if you could just clarity where we stand with the review of the financial relationship. Because when I raised the question in Guernsey some months ago they said, 'Oh, that has rather fallen aside because Alderney do not want to continue with it.'

The President: Mr McKinley, I am afraid I am going to stop you here. The matter under debate is purely to do with instructing the Law Officers to prepare the necessary legislation to for the implementation of a new single Property Tax and we are not (*Interjection by Mr McKinley*) here to debate the financial relationship with Guernsey.

Thank you.

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Mr McKinley: Now this is relevant to the financial relationship with Guernsey, it is part of the financial relationship with Guernsey (**The President:** It is.) and I therefore would like to carry on, if I may, and make one other point if I could, please?

The President: Provided it is to do with the Item on the Billet, please proceed.

Mr McKinley: It is to do with the Item. There are some questions about whether the TRP should be paid by the owner or by the tenant and I know that there are issues on some of the streets here as to who actually should pay them. Perhaps we could clarify those in the annual return.

Thank you, sir.

The President: Thank you very much, Mr McKinley.

Does any other Member wish to comment on Item I? Mr Tugby.

Mr Tugby: Sir, I am a bit more concerned than some of the other States Members on this because at the end of the day if we take it over from Guernsey what happens when they take our gambling money –

The President: Mr Tugby, I have just cautioned Mr McKinley for bringing wider things into this debate. We are here to debate Property Tax.

Thank you.

Mr Tugby: It is about Property Tax. We are going to be short of money, sir, if they take our money, and where are we going to get the money from? From putting up our own taxes – we cannot go back to Guernsey and say we are short of money because they will say, 'Put your taxes

cannot go back to Guernsey and say we are short of money because they will say, 'Put your taxes up.' I do not always believe what Guernsey politicians say because we have heard so much nonsense from them over the years, and that is why ... if I cannot debate it there is no point in talking about it, but I shall vote against it because I do not agree with it at all at the present time. You are going to charge some businesses less money but you have got to get the money from somewhere else and if things keep going up you are going to have to pile it on to the general public basically, to get the money back and at the end of the day, we have taken it, Guernsey seems quite keen on us taking it over, there is a reason for that I am sure —

The President: Thank you, Mr Tugby.

Mr Tugby: – because we do not have to go cap in hand.

The President: Any other Member? Mr Snowdon, would you like to comment on Item I on the Billet?

Mr Snowdon: Thank you.

It is really a query with this one actually. What is the admin cost going to be involved in this? Because obviously Guernsey is handling this for us at the moment so will there be an admin cost to the States of Alderney? Will we perhaps have to have more civil servants to deal with this matter, therefore it is costing more? I would really like some clarification on this.

I think Mr McKinley and Mr Tugby do raise some valid points. This is good for shops and businesses on Victoria Street because hopefully States of Alderney can set their own rates to help those businesses. However, Guernsey will turn around and say, 'Well, you have got a problem there, put your taxes up.'

Thank you.

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The President: Thank you, Mr Snowdon.

Does any other Member wish to comment on Item I? Mr Birmingham.

Mr Birmingham: Thank you, Your Excellency, Mr President, fellow Members.

I fully support this change. TRP was one of the major areas of concern when I was elected to the States almost eight years ago, so I have pushed for these changes over that period, alongside the review of the financial relationship.

As an aside, in my view, TRP is a tax on property, that is in the title, and by definition taxes on property are rates. And under the 1948 Agreement rates are supposed to accrue to the States of Alderney not to the States of Guernsey, so I am happy to see that these rates are finally going to be coming back to where they should be, which is to the States of Alderney.

The ability to flex our local tax rate to suit local conditions I agree is vitally important. We need to be able to set our tax rates on the conditions here, not the conditions in Guernsey, and that is essential going forward to create better opportunities, particularly in the retail sector which is under a huge pressure right across Western Europe. The last situation we want is to be putting greater business rates on retail businesses because they simply will fold under the pressure from the internet and that is being found in many places. Yes, that means somebody else will have to take up the slack but, as Mr Dent pointed out, the figures that you are talking about can be easily picked up because of the percentage of the pot that comes from the relatively small parts of the overall rate.

As I said, I fully support these changes. I think they will be of great benefit to the Island coming forward.

The President: Thank you, Mr Birmingham.

Do either of the two remaining Members wish to comment on this Item? In that case, Mr Dent, do you wish to exercise your right of reply?

Mr Dent: Your Excellency, Mr President, colleagues, I do not think there is much that I can really say.

Administration costs: there will obviously be a small cost in the beginning while we set the system up, but long-term I would very much hope that administration costs are reduced, that we do not have to keep passing money backwards and forwards between Guernsey and ourselves and we can collect it all in one go, we do not have to have two sets of cheques.

To Mr Tugby I say I think this is nothing to do with the increase in taxes whatsoever. It is simply about bringing it under the control of Alderney and I can mention the gambling money, I think, that is totally irrelevant.

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There has been a misunderstanding about the financial relationship with Guernsey, some people in Guernsey seem to think that we did not want to continue discussions. As far as I am aware nobody in Alderney has ever said that.

Thank you.

The President: Thank you, Mr Dent.

Madam Greffier, would you please put Item I to the vote, please.

The Greffier: Sir, the States is asked to vote on the implementation of a new single Property Tax to be in place by 1st January 2020.

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A vote was taken and the results were as follows:

FOR	AGAINST	ABSTAINED
Mr Birmingham	Mr Tugby	None
Mr Roberts		
Mrs Paris		
Mr McKinley		
Mr Dent		
Mr Snowdon		
Mr Dean		

The Greffier: That is 7 votes for, sir.

The President: Thank you very much, so that has passed.

II. Elections 2018 – Item approved

Item II.

The States is asked to approve:

i. the date of the Ordinary Election be Saturday 1st December 2018; and

ii. the Plebiscite be held on Saturday 8th December, 2018

The President: Could we move to Item II, please.

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The Greffier: Item II concerns the elections this year. The States of Alderney is asked to approve: i. the date of the Ordinary Election be Saturday 1st December 2018; and ii. the Plebiscite be held on Saturday 8th December, 2018.

The President: Thank you very much indeed.

Mr Tugby, as Convener, were there any comments on this at the People's Meeting, please?

Mr Tugby: Just one comment, sir.

The following query was made: could people who pay rates for 20 years but do not live here permanently be included on the electoral roll so they can vote and/or stand for election to the States?

The President: Thank you very much indeed.

Mr Dent, I believe you wish to propose this.

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Mr Dent: Your Excellency, Mr President, colleagues, I believe this Item really needs no comment whatsoever.

I will just move the Item, please.

The President: Thank you very much indeed.

Mr Roberts, I believe you wish to second this.

Mr Roberts: I do sir, and I have nothing to say.

Thank you.

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The President: Thank you very much, Mr Roberts.

Does any Member wish to comment on Item II? No one wishes to comment, Madam Greffier, Item II is approved.

III. The European Union (Brexit) (Bailiwick of Guernsey) Law, 2018 – Deferred to September States Meeting

Item III.

The States is asked:

To approve the Projet de Loi entitled 'The European Union (Brexit) (Bailiwick of Guernsey) Law, 2018' and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

The Greffier: Item III, the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018.

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The President: Thank you very much indeed.

Would you like to read out the full text at the end of the -

The Greffier: The States of Alderney is asked to approve the Projet de Loi entitled 'The European Union (Brexit) (Bailiwick of Guernsey) Law, 2018' and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

The President: Thank you very much indeed.

Mr Tugby, as Convener, were there any comments on this Item?

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Mr Tugby: There was no comment, sir, on this Item.

The President: Thank you very much indeed.

Mr Dent, I believe you wish to propose this?

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Mr Dent: Your Excellency, Mr President, there is an amendment. I wish to propose this legislation but to reserve my right to speak on the matter should the motion for a deferral be completed and I should like to speak on the motion to defer.

The President: Can you confirm that you are proposing Item III, please.

Mr Dent: I am proposing Item III.

The President: Thank you very much indeed.

Mr McKinley, I believe you wish to second this.

Mr McKinley: Yes, I do, sir, and I will await the result of the amendment.

The President: Thank you very much indeed.

Madam Greffier, we have an amendment to Item III, would you be so kind as to read it out.

The Greffier: Yes, sir.

Billet Item III, the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018 – the following amendment has been proposed to Billet Item III:

That 'The European Union (Brexit) (Bailiwick of Guernsey) Law, 2018' be deferred until the States Meeting on Wednesday 12th September 2018.

290 And this was proposed by Mr Dent.

The President: Thank you very much.

Mr Dent, can you confirm that you are proposing this.

Mr Dent: Mr President, I can confirm that I wish to propose it.

The President: Please go ahead.

Mr Dent: Mr President, colleagues, I have asked this change of tonight to defer consideration of this Item until our September meeting and I am doing this because there is one matter about which I am particularly unhappy about, and there is a possibility that it can be rectified. We need to understand that we have here tonight a test, broadly equivalent in scope and purpose to the UK's European Union (Withdrawal) Bill and because so much about the process of Brexit is still unsure and undecided the law has been drafted to provide as much legislative flexibility as possible for the Bailiwick.

You all need to understand four primary purposes of the legislation. These are: i. To repeal the European Communities (Bailiwick of Guernsey Law) 1973 and thus turn off the flow of European legislation which is directly applicable in the Bailiwick pursuant to Protocol 3. ii. To preserve in domestic law that directly applicable EU legislation which had effect in the Bailiwick immediately before exit day 'Preserved in EU law'. This will avoid a legal black hole on exit day. iii. To provide a suitable mechanism to amend and repeal both Preserved EU law and other enactments at short notice where that is necessary and expedient in consequence of the repeal of the 1973 Law or otherwise in consequence of Brexit and iv. To make appropriate provision in relation to the interpretation, and status, of EU law after exit.

In all of this, and in the transitional provisions the law makes, it is broadly consistent with provisions in the UK European Union (Withdrawal) Bill. In addition, the law makes provisions in respect of any withdrawal agreement which the UK may enter into with the EU and which has application in the Bailiwick.

I need everyone to know that this legislation is likely to be the most far reaching and constitutionally important piece of legislation that this Chamber has had to consider for some time. It is likely to have enormous consequences for Alderney, and indeed for the whole Bailiwick. The powers to be confirmed on the Policy & Resources Committee in Guernsey, and indeed in some cases on our own Policy & Finance Committee are quite frightening. I hope you have all noticed the text in section 6 which confirms that these Committees are provided by regulation with the powers I have just described. I repeat, they will be able to provide for the disapplication of any preserved EU law, they will be able to provide that any preserved EU law should have effect subject to such exceptions, adaptations and modifications as may be prescribed by the regulations and they will be able to amend or repeal any in that month, including this law. I do not doubt the

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fine intentions of those who drafted this law. Unwinding the legislation that has accrued since the UK joined the EU, preserving those matters that we want to preserve and replacing those bits that are now redundant with new regulations is an enormous task. The scope for the abuse of these provisions that I have just read is, however, also clearly enormous.

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When I first saw the draft of this legislation I had no quarrel with its original intention, it seemed the only sensible way forward and the UK, of course, was adopting a similar approach. It did, however, seem to me that Alderney, with its very limited resources, needed some protection, both from its big brother and possibly from itself. I was particularly concerned about words in paragraph 5(5) of the draft which stated that 'where the Policy & Resources Committee proposes to make regulations applying in Alderney, it shall consult the Alderney Committee, but a failure to comply with this subsection shall not invalidate any regulations made under this section'. Consequently, in January, when P&F formally considered the draft version of this legislation, and following presentations from the Law Officers, P&F resolved, by a majority, I must say with Mr Jean dissenting, to advise the Law Officers that the Committee had distinct reservations in respect of paragraph 5(5) and they looked forward to considering a final draft before giving approval.

The Committee also resolved, again with Mr Jean dissenting, to advise the States of Guernsey that the withdrawal of the UK from the EU could present Alderney with a number of challenges in regard to its transport links and they therefore wished to have assurances that the States of Guernsey would be doing all within their powers to preserve the lifeline nature of the Alderney-Gatwick and Alderney-Southampton air links and that they would be bringing the runway in Alderney to an international accepted width, and any other standards as soon as possible. I believe that the States in Guernsey have not properly addressed our concerns in regard to paragraph 5(5) which still allow regulations made under this law to stand should they have failed to consult with Alderney. It may be argued we do now have a limited period in which to annul the regulations but this retrospective power is only of very limited value given the disruptions to international business that would be caused were we ever to exercise such an option. It is far better to be consulted beforehand. Colleagues will no doubt also have opinions as to whether Guernsey have addressed our concerns regarding transport links, and perhaps Mr Jean can explain when he returns why he dissented from the general P&F desire to bring this matter, once again, to the attention of Guernsey.

My biggest concern tonight is, however, the fact that Guernsey failed in its obligation to provide us with a copy of their revised draft before it was sent to the Guernsey States of Deliberation. We have heard much recently in regard to Guernsey's own view of its constitutional position *vis-à-vis* the United Kingdom, but the matters I have brought up this evening are constitutional matters important to ourselves. Guernsey have, of course, apologised for this omission but their forgetfulness has been clear confirmation of the real concerns I have just expressed.

Tonight we are being asked by Guernsey to forgive and forget and to pass this legislation. I am, however, exploring some additional safeguards. As you know, this Chamber is frequently asked not to annul regulations that may come to it from P&F, from BDCC, from GSC, from the AGCC, from the Water Board. Indeed, we have one such item from ACRE tonight on the Billet. I believe a similar mechanism should be introduced with regulations that have come to us from Guernsey. If this were to occur, this Chamber could be assured that it was aware of all the changes in the regulatory framework.

If any of you are thinking that I am being overly cautious I would refer you to an example. In the UK and Guernsey they are likely to soon ratify the 1968 Vienna Convention on Road Traffic: if this were to be adopted willy-nilly by P&R in Guernsey, on our behalf of course, we might end up having to have MOT tests, we might also be required to adopt UK regulations on roadsides. And goodness knows what EU regulations there are on air transport that P&R might be able to manipulate. I, for one, would not like to lose the control we were sharing.

Mr President, colleagues, let us try and reach a better accommodation with Guernsey in regard to safeguards. I request that this Item is deferred to allow more time for discussion.

Thank you very much.

The President: Thank you, Mr Dent.

Mr McKinley, I believe you wish to second this amendment.

Mr McKinley: I do, sir, and I will just say one very simple sentence really in that every day it seems that the impact of Brexit on the UK and on us and on the Channel Islands generally changes, the whole format is changing every day. And so by delaying this by six weeks we might be able to be better informed as to the possible impact of some of the suggestions. So I would definitely support a delay.

Thank you, sir.

The President: Thank you, Mr McKinley.

Does any Member wish to speak on Item III, amendment? Mr Roberts.

Mr Roberts: I agree here, Mr President.

I do believe that this will give us more breathing time and a time to evaluate everything.

The President: Thank you, Mr Roberts.

Does any Member wish to speak on Item III, amendment? Mrs Paris.

Mrs Paris: Thank you, sir.

Your Excellency, Mr President, colleagues, we do our best to have a relationship of trust and understanding with Guernsey. Unfortunately it does not always work and sometimes they do not seem to understand us and sometimes we do not seem to trust them. But I have to say, in all fairness, they have been quite meticulous about the update that they have given us on progress that they are making and elements which are important in the Brexit negotiations and those which will affect the Channel Islands very seriously. But not only have they been meticulous, they have also made it clear to us, as we already know, that in several areas our interests do not lie parallel with theirs and I think that is the crux of the matter here. There are areas where we do not want the same things as Guernsey do and this seems to me a very necessary delay to make sure that we cannot be railroaded into things that, most likely, we simply would not be able to afford to do and would not suit such a small population as ours. So I am supportive of this amendment.

The President: Thank you, Mrs Paris.

The President: Does any other Member wish to speak on Item III, amendment? Nobody wishes to speak.

Madam Greffier, would you please put the Item III amendment to the vote please – can you read it out again so everybody is totally clear what they are voting on, please.

The Greffier: The Proposed amendment to the Item III Billet Item is that the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, be deferred until the States Meeting on Wednesday 12th September 2018.

The President: Thank you very much. We will put that to the vote now, please.

A vote was taken and the results were as follows:

FOR AGAINST ABSTAINED
Mr Tugby None None
Mr Birmingham

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Mr Roberts

Mrs Paris

Mr McKinley

Mr Dent

Mr Snowdon

Mr Dean

The Greffier: That is unanimous, sir.

The President: Thank you very much.

The result of that meaning that Item III is now deferred until the States Meeting on Wednesday 12th September; there is now no need to debate Item III as presented on the Billet.

IV. The International Trade Agreements (Implementation) (Bailiwick of Guernsey) Law, 2018 – Approved

Item IV.

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The States is asked:

To approve the Projet de Loi entitled 'The International Trade Agreements (Implementation) (Bailiwick of Guernsey) Law, 2018' and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

The President: We will now move to Item IV, please.

The Greffier: Item IV concerns the International Trade Agreements (Implementation) (Bailiwick of Guernsey) Law, 2018. The States of Alderney is asked to approve the Projet de Loi entitled 'The International Trade Agreements (Implementation) (Bailiwick of Guernsey) Law, 2018' and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

The President: Thank you very much, Madam Greffier.

Monsieur Tugby, as Convener, were there any comments on this at the People's Meeting?

Mr Tugby: There were no comments on this Item, sir.

The President: Thank you very much, Mr Tugby.

Mr Dent, I believe you wish to propose this.

Mr Dent: Your Excellency, Mr President, colleagues, I do and I will support this.

As a result of the UK's withdrawal from the European Union the Bailiwick of Guernsey requires a suitable mechanism to implement any international trade agreements to which it is a party, whether due to its inclusion by the UK or in its own right. It may also wish to implement such agreements in the future where there is no connection with the UK's withdrawal. The purpose of this enabling law is to provide that mechanism.

Much of what I have said in regard to the previous legislation does actually apply to this other legislation, save that there is this time little pretence that we will be consulted. We do, however, gain the power to annul any Ordinance or regulations made under the terms of the law, though we have only a limited time in which to act, four months after Guernsey has imposed the ordinance.

In this case I do not have the same objections that I did to the previous Item. The dangers to Alderney are much less and for this reason I urge you to adopt this legislation.

460 Thank you.

The President: Thank you, Mr Dent.

Mr McKinley, I believe you wish to second this.

465 **Mr McKinley:** I do, sir.

And if I could briefly say that, of course, there is a possibility that the UK may not withdraw from the European Union, that is still hanging around as a possibility, so where do we go? I do not know, we could discuss it, if we withdraw then it is not relevant.

Thank you, sir.

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The President: Thank you, Mr McKinley. I take it that you are supporting the –

Mr McKinley: Yes, I am, sir.

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The President: Thank you.

Does any Member wish to speak on Item IV? No Member wishes to speak, Madam Greffier, Item IV is carried.

480 **The Greffier:** Yes, sir.

V. Code of Conduct Review Panel – Item approved

Item V.

The States is asked:

To approve that Mr Peter Allen be confirmed as a Member of the States Members Code of Conduct Review Panel until the next Annual January Meeting of the States of Alderney.

The President: Could we move to Item V, please.

The Greffier: Item V concerns the Code of Conduct Review Panel. The States of Alderney is asked to approve that Mr Peter Allen be confirmed as a Member of the States Members Code of Conduct Review Panel until the next Annual January Meeting of the States of Alderney.

The President: Thank you very much indeed.

Mr Tugby, as Convener, were there any comments on this Item?

Mr Tugby: Yes, sir, one comment was what is the process of choosing a member of the panel? The Chief Executive advised that the nominations are sought by the President.

The President: Thank you very much.

Mr Dent, I believe you wish to propose this.

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Mr Dent: Your Excellency, President, colleagues, the President has recently received a notice from Pearson of her resignation. As it is important to ensure that there are sufficient members

available to perform a Conduct Review Panel, and allowing for absences from the Island, it was proposed that Mr Peter Allen be appointed.

The matter was discussed at the Policy & Finance Committee meeting of 22nd June 2018 and I wish to propose him.

Thank you.

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The President: Thank you very much indeed.

Mr Roberts, I believe you wish to second this.

Mr Roberts: I do indeed, sir. I think Mr Allen is an excellent choice, an ex-magistrate, and I fully support it.

The President: Thank you very much indeed, Mr Roberts.

Does any Member wish to speak on Item V? Mr Snowdon.

Mr Snowdon: I would just like to thank Mrs Pearson for her involvement at this stage.

Thank you.

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A Member: Hear, hear.

The President: Thank you very much indeed, I will second those sentiments.

Does any other Member wish to speak on Item V?

Madam Greffier, for the record, would you please take the vote on that.

The Greffier: Sir, the vote for the Code of Conduct Review Panel, with Mr Peter Allen as the new Member.

A vote was taken and the results were as follows:

FOR	AGAINST	ABSTAINED
Mr Tugby	None	None
Mr Birmingham		
Mr Roberts		
Mrs Paris		
Mr McKinley		
Mr Dent		
Mr Snowdon		
Mr Dean		

The Greffier: That is unanimous, sir.

The President

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The President: Thank you very much indeed, that concludes Item V.

VI. The Renewable Energy (Alderney) (Exemptions) Regulations, 2018 – Item approved

Item VI.

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The States is asked:

To resolve that 'The Renewable Energy (Alderney) (Exemptions) Regulations, 2018' not be annulled.

The President: Could we please move to Item VI on the Billet.

The Greffier: Yes, sir.

Item VI concerns the Renewable Energy (Alderney) (Exemptions) Regulations, 2018. The States is asked to resolve that the Renewable Energy (Alderney) (Exemptions) Regulations, 2018 not be annulled.

The President: Thank you very much indeed.

Mr Tugby, as Convener, were there any comments on this at the People's Meeting.

Mr Tugby: There were no comments on this Item, sir.

The President: Thank you, Mr Tugby.

Mr Dent, I believe you wish to propose this?

Mr Dent: Your Excellency, Mr President, colleagues, the regulations before you today amend section 1(2) of the Renewable Energy (Alderney) Ordinance, 2008. This subsection provides for an exemption from the licensing requirements for renewable energy systems which heat water for the sole use of premises in which they are installed or which generate electricity, not fed into a network for public supply, and have a rated maximum output of no more than 20 kilowatts. The effect of the amendment is to extend the exemption from systems, any part of which are located at sea, to all systems including solely land based systems.

The Alderney Commission for Renewable Energy made the above regulations on 2nd July 2018 and they came into operation on the same day.

Under section 30(5) of the Renewable Energy (Alderney) Law, 2007, any regulations made under this law must be laid as soon as practicable before a meeting of the States.

I would therefore commend that these regulations not be annulled.

The President: Thank you very much indeed.

Mr Tugby, I believe you wish to second this.

Mr Tugby: Yes, sir, I will second it and reserve my comments.

The President: Thank you very much, Mr Tugby.

Does any Member wish to speak on Item VI, Renewable Energy (Alderney) (Exemptions)? Mr Snowdon.

Mr Snowdon: Thank you President, Your Excellency.

It is just a question, really. Has AEL been consulted on this? I think there is a bit of an issue if everyone went off grid, if they took too much power away from basically AEL, the cost of generating electric, so I just wondered if AEL have actually been consulted on this Item.

Thank you.

The President: Thank you, Mr Snowdon.

Does any other Member wish to speak on Item VI? Mr Birmingham.

Mr Birmingham: Thank you, Your Excellency, Mr President, fellow States Members.

As Director of AEL I do not believe we have been consulted specifically here but it is an issue that we have been aware of for quite some time. I think the intention of the law when it was put in place was actually this is one of these technical examples of something which was put there and it was not actually an intention to stop an individual putting some electricity themselves around properties. In fact, I think the 1953 Concession Law which Alderney Electric works under actually says that specifically, that while AEL have the right to distribute electricity it does not take away the power of the individual to create electricity. So, for example, whether it would be charging batteries for a garage, that sort of fell into a little bit of a crossover here.

You make a point about what would happen if everybody went off grid. Yes, that is a problem. AEL obviously have had the view that if you had a large number of people going off grid, producing their own electricity, what would actually happen over a period of time is the cost of the rest of the infrastructure would get lumped on to the remaining individuals on the Island and that would actually force up everybody's electricity price, which is not an ideal situation. However, we obviously hope on AEL to do as much as we possibly can in the long-term to try and keep electricity prices down to a level where people obviously we would not do that.

This does also rule out, at the moment, the idea of micro generation being fed into the grid. Again, that is problematic for AEL because it can lead to significant fluctuations in the voltage in the system around the Island and actually can put stress on the system. We have looked at some sort of modelling where, for example, one house that may have solar panels feeding into the grid if it was an extremely hot day, and the weather that we have had today, in certain areas of the grid on the Island it could actually overload it, so there are some very technical questions that have to be answered when we deal with microgeneration.

I would point out one thing, with my other hat on, which is Chairman of PDCC, that while the ACRE amendment here allows for an individual to look at putting their own supply, whether that might be a small windmill or solar panels or whatever form they have got, that does not exempt them from the planning laws. Yes, there are certain exemptions under the planning laws relating to solar panels in certain areas but in certain areas there are not. So I would always advise anybody who is considering stepping into the area of going off grid that they should definitely consult with AEL and they should definitely consult with the Planning Committee before rampaging off into their own sort of light universe.

Thank you.

The President: Thank you, Mr Birmingham.

Does any other Member wish to comment on Item VI?

Mr Dean: Your Excellency, Mr President, fellow States Members, I do echo some of my colleagues concerns. I did have some concerns myself regarding this, although I did spend an hour with one of the Commissioners this afternoon to satisfy my concerns.

At the moment it is a tidying-up exercise. It used to cover land-based schemes and when the laws were redone for them that was omitted, that is why it has now come back. At the moment a licence fee is currently £100 for each 10 kilowatts of rated output so it was explained to me today that the cost for 20 kilowatts would be £200, but it would actually probably cost ACRE far more to actually implement and do all the work to issue the licence, so that is one of the reasons for doing it, but I do share my fellow States Members concerns that if everybody started going off grid the costs of the electricity for everybody else could rise, so a word of caution.

However, as Mr Birmingham has pointed out, certain items will require planning permission so there is some backstop there for us at the States.

Thank you.

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The President: Thank you, Mr Dean.

Does any other Member wish to comment on Item VI? There being no other Member wishing to speak on this Item, Mr Dent, do you wish to exercise your right of reply?

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Mr Dent: Mr President, I simply wish to thank my colleagues, Mr Dean, and Mr Birmingham for their explanations, they were very useful.

Thank you very much.

The President: Thank you, Mr Dent.

Madam Greffier, would you please put this to the vote.

A vote was taken and the results were as follows:

AGAINST	ABSTAINED
None	None

The Greffier: That is all 8 Members for.

The President: Thank you very much indeed.

VII. Questions and Reports – Alderney Representatives – Update; representations made regarding transferred or other services

The President: Then I move to Item VII, please.

The Greffier: Item VII is Questions and Reports.

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The President: Thank you very much.

I believe we have a question from the Chairman of P&F for the Alderney Representatives. Mr Dent, would you please care to rise and ask your question to the Alderney Representatives.

645 **Mr Dent:** Mr President, thank you.

To our Alderney Representatives in the States of Guernsey, Mr Graham McKinley and Mr Steve Roberts, who stood in for Mr Louis Jean at the last meeting, would you like to comment on (i) any matters relevant to Alderney raised during the recent debates in the States of Guernsey; and (ii) on any recent representations you have made to Guernsey politicians or officers in their Civil Service concerning our transferred or other services.

The President: Do you have a second part to your question? You said you had two questions.

Mr Dent: That was the second part, on any recent representations –

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The President: Thank you.

Mr McKinley, would you care to respond to that in the first instance, please.

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Mr McKinley: Your Excellency, Mr President, fellow States Members, I am delighted and privileged to be able to give the first of this type of report to the States. I think it is very important that, not just States Members here and people in the Public Gallery, but people listening on the radio also should have some idea of what is discussed in Guernsey at the Guernsey States meetings because it is always highly relevant, but we do not often get the chance to speak about it.

It was a great sadness, of course, that Louis Jean was not able to come with me but it was also a great pleasure that Mr Steve Roberts was able to join me and I think he will have something to say at the end of this, if he is allowed to, but he certainly made new friends down there, which is excellent.

A lot of the Billet Items down last week were actually not entirely relevant to Alderney, they were to do with waste disposal in Guernsey, they were to do with housing in Guernsey, but there were a number of Items that were relevant, the first of which was an amendment to the Alderney Adoption Law and that really is bringing us in line with Guernsey and following the Law on same-sex marriage, allowing same-sex couples and civil partnerships to adopt children, so I think that that has certainly passed in Guernsey but whether it has to be passed here or not, I am not quite sure of the mechanics, but anyway it will have to go through here if it has been passed in Guernsey. There is one link to this which actually ... it is relevant, but it is something which has been ongoing. As you know, there is a same-sex couple here of two ladies who are having a baby and they would like them to be categorised as mother and mother rather than mother and father, and this is something which we are discussing in Guernsey with a hope that it will be passed. I believe it was passed in Australia, where they had their first child, and I am hoping it will be passed in Guernsey also and we can reflect it up here. I am in discussion with various committees on that issue, it is not just the Home Office, it is Health and Social Care and others as well.

There was a report from Deputy Mary Lowe on the Home Office and the one issue that did not come up, which is actually relevant to Alderney, was an amendment to the Population Management Law allowing Alderney-born-and-breds to go down and work and live in Guernsey. You may recall that Deputy Roffey and Mr Louis Jean raised a Requête some time ago, that Requête was passed and I believe the age limit was 30, that anybody who was born and bred here or of Alderney origin, of course they are now born in Guernsey, but they are of Alderney origin, can go down and work there but that law has not yet been passed and we made that point in a brief comment. Actually Deputy Peter Roffey made it as well so he is very strongly supportive of this.

One other matter that came up again was the date of the Alderney Annual Report, which is actually in January next year, which is possibly a little bit close to our election date, we could probably amend it. But if you will recall I was privileged to be able to give the first Alderney Report this year and that will continue now and I think it was well received and made Guernsey Deputies aware of some of our concerns. I will mention more about that in a moment.

Of course, the main topic that came up was the review of the Air Transport Licensing and the open skies and it was a long and lengthy debate with a number of amendments, but in the end it passed. Interestingly, Mr Andrew Haining, the Chairman of Aurigny, was in the audience listening to us and we spoke afterwards and he was really quite happy that it was passed.

What it did reveal ... and there were a number of issues which we were slightly concerned about raising during this debate because they did not appear to be totally relevant, and we did actually receive a letter from Policy & Resources before the debate which mentioned comments which were totally irrelevant to the Air Transport licensing, such as the review of the 1948 Agreement, such as the review of the financial relationship, such as the upkeep of the breakwater. We were able to say actually, when that question came up about the review of the 1948 Agreement, that it was going to be discussed at the next Policy & Finance meeting here in

Alderney, which happened to be yesterday. And it was discussed yesterday and it was passed and we are now looking into how we can bring about such a review.

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More importantly – well, that is terribly important, but also something that came out was the Public Service Obligation or PSO on our airlines and the categorisation of lifeline routes. Now, Guernsey are quite clear that in their minds there are only two lifeline routes: Guernsey-Alderney and Guernsey-Gatwick. However, we did receive some support in a way from Deputy St Pier in fact, who did say that he understood fully the views of the Alderney people when we wanted to categorise the Alderney-Southampton route as a lifeline route. Now, although he was certainly in favour and understood us, the question really is whether they are prepared to finance that also. The PSOs incidentally will only, as I understand, and I am sure I will be corrected by Mr Dent if I have got this wrong, but will only apply to the lifeline routes. So when it comes to a PSO, which I believe may happen next year, it really will have a PSO hopefully on the Alderney-Guernsey route and the Alderney-Southampton route. They will have one on the Guernsey-Gatwick route.

It also raised in the margins a question that was debated of the maintenance of our runway and the maintenance of our airport really, and whether we could continue to allow routine maintenance to be delayed and delayed and delayed, and the latest I am hearing is that it may not happen until 2020. We did have some very strong support from the Chairman of the Economic Development Committee, Mr Charles Parkinson, who believes — and going back to the 2014 Requête that was raised by Mr Paul Arditti and Mr Louis Jean — that this should happen as soon as possible. That was in 2014, we are now talking about possibly having it enacted in 2020 — six years — that is too long. They have fully understood. I think we now have a much stronger support level in Guernsey than we have had in the past. A number of people came up to both myself and Mr Roberts and mentioned their full support for the PSO and for the runway maintenance.

The other issue, as I did say actually, was the 1948 Agreement which is being reviewed, the review of the financial relationship which they claim we fell out of. We did not fall out of it, they just put it on the backburner and I think the reason they put it on the backburner is that they do not want us to take excise duty, duty free and other such things which might benefit us and not benefit them.

That, basically, is the brief report on what happened in Guernsey last week.

On other issues: we are in contact at the moment – and I think Mr Dent may be able to speak about this later – with the Health & Social Care Committee we are very concerned about the present situation regarding medevacs. I know a letter is being written to Health and Social Care, possibly Mr Dent and Mr St Pier also, highlighting the need for 24 hour medical evacuation capability, which we do not have at the moment.

The other concern for Health & Social Care is the business of medical appointments and missed flights, rebooking medical appointments, being able to go down either by air or presently, for the next few weeks, by ferry also, but quite often the people who are affected by this are those that are not able to use computers in the way that the young people are these days. The Data Protection Act has made this particularly difficult for a number of people. Booking their flights, rebooking their appointments, not being able to get down has caused an awful lot of issues and we have raised this with the Health & Social Care people and they are looking into it. They are also looking into the provision, possibly, of a community psychiatric nurse, not one that would be resident here but one that would come up here regularly, hopefully. We have a number of people who are mentally ill, who do need the care and protection that they deserve. There is a video-conferencing facility in the Hospital but it is very rarely used and it is of such a type that it is actually rather difficult to see face-to-face and deal face-to-face with it and so we are looking at the possibility of doing it on Skype, so that is one other issue on Health & Social Care.

Education, there is one major concern at the moment within a school – there are a number of concerns – but one that has come to our attention is the lack of a senior or mathematics teacher. We have raised this with the relevant Committee and with the civil servants in Guernsey and hopefully they are looking into it. There are also concerns with the Committee for Employment & Social Security. There are a number of people here who are not receiving the sort of benefits or

increase in pensions that they should be receiving and I have had a number of complaints on that. I think also the States' Office have also received a number of complaints and I have spoken with the relevant Deputy, Deputy Michelle Le Clerc on this issue.

Of course, the question of the breakwater and the runway will always come up and we are now in quite good contact and have quite a good relationship with the Environment & Infrastructure Committee and Mr Barry Brehaut has been over quite frequently. The States' Trading Supervisory Board which, if you like, overlooks some of the major projects has now been taken over by Mr Peter Ferbrache, who has taken over from Mr Charles Parkinson. Mr Peter Ferbrache is a strong supporter of Alderney and indeed, as I said earlier, we are getting the feeling that a lot of people ... I am not going to mention any names of those who are clearly not our best friends or seem to be not too friendly towards us on the Island, but there are a number of Deputies down there who are very strongly in favour of us and are doing their best to help us.

I think, sir, that is all I have to say. I am very happy to take any questions. If I cannot actually answer them here I will get answers for them later.

Thank you, sir.

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The President: Thank you very much, Mr McKinley.

Mr Roberts, do you have anything to add to the questions that were asked of the Alderney Representatives?

780 **Mr Roberts:** Yes, sir.

The President: Please do so.

Mr Roberts: Your Excellency, Mr President, States Members and members of the Gallery.

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The President: You are addressing States Members only; the Gallery is not to be addressed.

Mr Roberts: I do apologise, sir.

The President: Thank you.

Mr Roberts: I told them that I had worked for 21 years at Aurigny and I could say, without any doubt in my mind, that without the Southampton connection Alderney, with our sick, struggling economy, would go to the wall. I said I would guarantee that fact and I guaranteed it to all in the Chamber.

Mr McKinley spoke very well on this subject and I congratulate him, but our runway has still not been upgraded. I reminded the States of Guernsey of the words that Deputy Fallaize spoke back in 2014, when the Requête for the runway upgrade was lodged. Briefly he said, 'Sir, I know there has been some criticism of the Requête, for its rather ambitious timetable of action to be taken in support of Alderney but what Alderney does not need right now is a whole series of investigations, reports and protracted analysis over the next several years.' I also reminded him he had been correct, that was the last thing Alderney needed but unfortunately his warning turned out to be a prophecy of exactly what Alderney got. I again reminded him, four years later, nothing had been advanced and it was not what the States of Deliberation had decided either. I reminded them then that it was not just Alderney's view, it was the view of Mr Parkinson, Chairman of Economic Development and in a letter to the States of Alderney on February 26th he wrote, 'It was clear from discussions that the completion of the rehabilitation of our runway will be an important factor in any PSO agreement.'

He added, 'I am confident that if we and our colleagues work together constructively we can ensure both projects run on time.' I asked if we could indeed do what Deputy Parkinson is advocating: let's work together in sync, let's work together on time. I reminded them of the

implications of a pot hole on the runway appearing at the wrong place at the wrong time – implications to life risk, implications to huge financial litigation to Guernsey States.

I commented on the 1948 Agreement: if it is to be reviewed it must have the involvement of the UK, no one can mark their own homework. I then addressed the States of Aurigny losses, that consideration should not be based on losses incurred by poor management. These losses should be stripped out of the accounts, only then I said would the true figure be revealed of the support that Alderney would indeed require. I said there should have been an impact assessment on the changeover to Dornier from Trislander, as it has ruined the service as nobody can get medical appointments or any extra service for the next month. I myself have had to wait three weeks for medical treatment now.

I praised the Aurigny staff whose job now is much harder; staff turnover is much higher in Alderney now. As you go to the airport you will see a lot of different faces. I concluded that this is much deeper than balance sheets that we argue over. It is about people, not politicians. It is our survival. I asked us to move forward together and let's stop these attacks on my Island, we are friends and family. I urged more conversation and working together for mutual benefit, a move on from petty blame and to fix ourselves and I thanked the Chamber for listening.

I met with many Deputies in my time in Guernsey and I forged good, warm relationships with some lovely people — now, I believe that is the way forward. Alderney has got problems in the States of Guernsey, I agree, but I will tell you this: there are more warm and friendly Deputies that sympathise with us on just how Alderney has been treated than you could ever have imagined. I made many new valuable connections. I also received advice on the way forward, with a possible list of action on our runway from several Deputies, they actually pointed the direction that I should go. Open skies was commented on by Deputy Ferbrache, he said, 'Do nothing and Guernsey will stay the same.' Well, I agree with him, as long as Alderney is protected, which I know is his own personal wish.

Thank you.

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The President: Thank you, Mr Roberts.

Does any Member have any secondary questions as a result of the responses which have been given by either of the Alderney Representatives? Mr Dent.

Mr Dent: I have two points of order.

The President: Are these points of order? I just asked if you have any secondary questions.

Mr Dent: I wish to make a correction to two minor points that Mr McKinley made.

The President: Please do so on this occasion. In future, if you wish to make a point of order, you make it at the relevant time.

Continue.

Mr Dent: My apologies, Mr President, but I did not want to interrupt Mr McKinley at the time because I think he was saying some good stuff.

My two points are: firstly, the Committee for Economic Development in Guernsey have clearly indicated that it is up to us to declare the Southampton-Alderney route a lifeline route, and we have done so.

I also understand that immediate repairs are to be undertaken *before* the major repairs you mentioned and which are now scheduled and need to be finished by 2020.

Thank you for your indulgence.

The President: Thank you, Mr Dent.

Does any Member have any secondary questions as a result of the responses given by either of the Alderney Representatives to Guernsey?

If there are no further questions, that brings to a close the business of the States of Alderney tonight. Madam Greffier, would you please close the meeting.

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PRAYERS

The Greffier

The Assembly adjourned at 6.30 p.m.