



**OFFICIAL REPORT**

**OF THE**

**STATES OF DELIBERATION**

**OF THE**

**ISLAND OF GUERNSEY**

**HANSARD**

**Royal Court House, Guernsey, Thursday, 1st November 2012**

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*The Assembly adjourned at 5.30 p.m.*

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## States of Deliberation

*The States met at 9.30 a.m. in the presence of  
His Excellency Air Marshal Peter Walker, C.B., C.B.E.  
Lieutenant-Governor and Commander-in-Chief of the Bailiwick of Guernsey*

[THE BAILIFF *in the Chair*]

### PRAYERS

*The Deputy Greffier*

### EVOCATION

### CONVOCATION

## Billet d'État XXI

### SOCIAL SECURITY DEPARTMENT

#### Benefit Rates for 2013

#### Debate resumed

**The Bailiff:** What we are debating, I remind you, Members, is amendment 'C', proposed by Deputy Le Lièvre and seconded by Deputy Brehaut.

5 Deputy Burford, do you still wish to speak?  
Yes? Deputy Burford, then.  
Sorry, Deputy St Pier?

10 **Deputy St Pier:** Sir, if I may, I think it is very important, before the debate resumes today, if I clarify a point which was raised late yesterday in relation to the Department's interpretation of Rule 15.(2) and the source of funding for these amendments.

I fear there is a significant risk of previous comments either being misunderstood or misconstrued.

15 **The Bailiff:** Yes, Deputy St Pier.

**Deputy St Pier:** This did keep me awake last night, quite literally.

I do not think it will take too long, sir, but I think it is important and, indeed, it may be *the* most important thing I have yet said in the Assembly.

20 In simple terms, to date, my Department's understanding of Rule 15.(2) has been that, if a member of a Department or Committee brings a proposal to this Assembly which seeks to amend non-formula-led spending, then it is incumbent on *them* to explain where the funds are coming from, but if a member of a Department or Committee brings a proposal which amends formula-led spending – which is what *these* amendments seek to do – then they do not and it is left to *my*

25 Department to find the funding.

That is what is being said, perhaps unclearly and clumsily in paragraph 100 of the Billet, and in the explanatory notes to the amendments, and that is what I was seeking to say yesterday, again perhaps clumsily and unclearly and, if so, I apologise, sir.

30 This may be because Rule 15.(2) does *not* deal with the distinction between formula-led and non-formula-led expenditure, or it may simply be that, because the rule has been misinterpreted or misunderstood, that that is the current position. We *will* need greater certainty on this point before the Social Security and general revenue budgets are debated at the *same* time in 2013, so that this point does not arise again then.

35 That does not mean that these amendments are cost free and it is incumbent on me to clearly explain how they will be funded if the Assembly chooses to accept them this morning. Probably the easiest way to do that is to explain, in turn, how each item will be funded. However, let us first be clear about what spending we are talking about. Contributory benefits paid from the contributory funds, such as the increase in old age pensions under the now defeated Le Lièvre amendment ‘B’ are outside the scope of fiscal and economic policy and rule 15.(2).

40 Increases to contributory benefits are, of course, not cost free, but you can choose to kick the cost can down the road and that is *precisely* what the Social Security Department have done for the last few years and are proposing to continue doing in their recommendation of RPIX plus increases in contributory benefits, whilst running an operating deficit on the Social Insurance Fund. What I am addressing *now* is those items which affect the general revenue budget and to which rule 15. (2) applies. These are, of course, subject to the States Strategic Plan’s fiscal and economic policy, which requires a real-terms freeze in *aggregate* revenue expenditure.

45 So, firstly, at page 2056 of the Billet, the anticipated £1,975,000 of in-year, formula-led overspend, principally as a result of supplementary benefit during 2012,

50 ‘...will [have to] be met from the 2012 Budget Reserve and underspends in other Departments.’

This is how my Department deals with in-year, formula-led overspends.

55 Secondly, as noted again on page 2056, the budgeted £2.25 million real-terms increase in formula-led spending in 2013 can *only* be accommodated by reducing non-formula-led expenditure cash limits for all Departments in the general revenue budget for 2013. The £2.25 million *includes* the £66,000 in respect of the increase in the benefit limitation at paragraphs 99 and 100 of the Billet. Recognising Social Security’s plans, T & R *have* taken this into account in preparing the draft 2013 Budget.

60 Thirdly, the £65,000 estimated cost of yesterday’s *successful* Le Lièvre amendment ‘A’ – that is the one in respect of classifying parents with children over the age of seven as jobseekers – will have to be taken into account in drawing up the cash limits for the 2014 general revenue budget.

65 Fourthly, if successful, the Le Lièvre amendment ‘C’ – the one that is now under debate – and ‘D’, will take effect from January 2013 and the Queripel amendment will take place immediately. The estimated cost of each of these are £373,000, £584,000 and £55,000 respectively, or a total of £1,012,000. Members, therefore, should be quite clear that, if these amendments succeed, the only way they can be funded, whilst adhering to the fiscal and economic policy of no real-terms increase in aggregate general revenue expenditure, *will be* to reduce other departmental and Committee cash limits for 2013 by an equal and opposite amount, i.e. £1,012,000, which is what I was seeking to say yesterday, sir.

70 As an aside, to me it would seem bizarre if the Assembly, having had, and rejected, the option of kicking the cost can down the road with Le Lièvre amendment ‘B’, in respect of contributory benefits, that it would now choose to approve the remaining amendments with their *immediate* consequences on other budgets, but that is the choice before the Assembly this morning. You *can* characterise it as fiscal conservatism, as Deputy Trott did yesterday, if you wish, but I do not. It is simply the reality on which most of us are elected to the Assembly.

75 If these amendments are accepted today, T & R will go away and redraw the 2013 general revenue budget. We do not have time to do that *and* meet the publishing deadline for this year’s Budget, but Members should *not* be under any illusion that these amendments are easily fundable; they are not. Other budgets will have to be cut to accommodate these rises and, given the pressures which Departments and Boards already feel under to accommodate the 2013 Budget, this is not a soft option by any means. In effect, therefore, these amendments will have jumped the queue of priorities in a good, old-fashioned, first-come, first-served manner.

80 Sir, I hope that clarifies the funding question for Members beyond doubt.

85 **The Bailiff:** Thank you.

Deputy Fallaize.

**Deputy Fallaize:** May I ask two points of clarification, following what Deputy St Pier has said?

90 First of all, in respect of 15.(2), did he not make it sound as if, inadvertently, Rule 15.(2) had omitted to mention formula-led expenditure? Would he not agree with me that the reason that formula-led expenditure is *not* included in the calculation which follow Rule 15.(2) is because the States has made a resolution that formula-led expenditure is outwith the aggregate expenditure policies of the Fiscal and Economic Policy Plan, as the result of an amendment moved successfully by one of his Board members in the last States. That is the first point; I think we need clarification on that.

95 The second is a question in relation to what he said, and it is this. Is the policy in respect of constraining aggregate revenue expenditure applied *before* or after financial transformation programme savings are taken into account? If it is after, is he taking those into account *first*, before he says that there will have to be reductions in other Departments' budgets, in the event that this amendment is successful?

Thank you.

**The Bailiff:** Deputy St Pier.

105

**Deputy St Pier:** Sir, the amendment in respect of formula-led spending deals with the in-year overspends, which is the point I addressed and that is why the 2012 overspend is dealt with in the way in which it is dealt with. In respect of the restraint on real-terms aggregate expenditure from general revenue, that is *before* the FTP, the targets are applied.

110

**The Bailiff:** Thank you.

Deputy Dorey, do you have a question?

**Deputy Dorey:** On clarification, he talks about the fourth amendment from Deputy Le Lièvre: that does not happen until 2015, so that will not affect next year's Budget, so you cannot add that number to the other numbers.

115

**Deputy St Pier:** Sorry, that is my error, but the principle still applies in terms of what would be required for the 2013 Budget.

120

The fourth amendment would be treated, I guess, in the same way as amendment 'A', which will, effectively, require us to take it into account in future cash limits. So you are quite correct.

**Deputy Le Lièvre:** So I might take it, sir, that that was half a million pound error on behalf of the Treasury Minister? (*Interjections and laughter*)

125

**The Bailiff:** Deputy Burford, do you *still* wish to speak after that? (*Laughter*)

**Deputy Burford:** Yes, I do, thank you.

130 Mr Bailiff, first of all, I do apologise for my confusion – which has probably increased now – over whether you were inviting me to speak or not at the end of yesterday afternoon. However, I am sure those Members who were keen to wait until this morning to hear what I have to say, I will be delighted that the interlude has given me the opportunity to expand my speech. (*Laughter*)

135 I was, in fact, moved to rise by the sudden vogue for manifesto quoting. Deputy Storey is right in his assertion. I, too, had the line in my manifesto about the need to balance the books, but in my manifesto, at least, the second part of the sentence was, 'not at the expense of the poorest in our society.' (**Members:** Hear, hear.) When most of us have sat in Department Board meetings, searching for the metaphorical loose change down the back of the sofa, in order to meet individual FTP targets, it can be difficult to approve a proposal costing hundreds of thousands of pounds, especially when we are promised a holistic review in due course.

140

Whilst I disagree with those who spoke against the idea of universal benefits on the last amendment, I do understand that, for such benefits to work most effectively, they need to be administered hand in hand with a progressive tax strategy, which we do not really have yet. But there is no universality here. This is a targeted benefit, so there is no excuse on that count and, as has already been stated, we are one of the wealthiest places in the world, yet we also have people who do not have enough to get by in the most basic of ways.

145

I cannot, in all conscience, vote against this amendment and then go home to my comfortable

life. The States has prudently chosen to cut an arbitrary 10% of our annual expenditure and planned to do this by finding efficiencies and by raising charges and fees, but there are other ways of achieving fiscal balance that we have not fully explored that are open to us, if we so wish. 150  
Whichever way we choose to fulfil the manifesto promises of balancing the books, I, for one, am not prepared to do it on the backs of the poor! (*Applause*)

**The Bailiff:** Deputy Stewart.

155 **Deputy Stewart:** Mr Bailiff, fellow Members of the Assembly, it is difficult to know what to say when so much has been said already but I felt I ought to put my two penn'orth in and, before Deputy Fallaize steps to his feet under Rule 15.(2), I have decided to take the two penn'orth from the Tourism budget!

160 It was good to have a break, as it has given me a chance to reflect on yesterday's debate. We have listened to some speeches made with some *real* heartfelt feeling. Deputy Sherbourne, for example, and, of course, Deputy Le Lièvre, who has done an enormous amount of work which, even if this amendment is lost, will not be wasted, as the Chief Minister has indicated. Deputy Lowe said she was surprised at the speech that Deputy Gollop made as 'disability champion': however, I think that Deputy Gollop has, as usual, thought very long and hard and carefully about what he said to the Assembly yesterday.

165 I do not need to tell you that, since 2008, the world is a very, very different place. We *cannot* divorce ourselves from the wider economic difficulties that are faced globally. The fact that we are still *relatively* wealthy is because we have some momentum, – momentum as an economy – but that is dissipating fast. We, as an Assembly, have to face reality. Over the years, the States did tend to do a lot of policy in a rather piecemeal fashion, with millions of surplus pounds sloshing around; the ability to stay on course and deliver social policy was somewhat easier without today's fiscal restraints.

170 At this time, above all, we need to have well-thought-through strategies that will grasp the very big nettles and deliver sustainable – and the word here is *sustainable* – social policies. Deputy Langlois described, in his opening speech, the difficulty of walking into a Board – that first Board meeting he described back in the middle of May – after so much had been pushed through by the previous States in the final five months. I know that feeling, as Minister, as you sit down with a new Board, new Members and you open up the business plan: you see where you are and start to think about what are the policies that we, as a Board, as a new Assembly, want to deliver. I think, initially, it is a bit like trying to start a supertanker and pull it round with a rowing boat. But the traction is there now. We are moving and, if SSD is anything like Commerce and Employment, I know how much work is currently going on behind the scenes, pulling together major pieces of policy and strategy, dealing with those big issues in the round, not tinkering with individual issues.

185 No matter how worthy at this time, I do not think that is the way forward. Deputy Soulsby's speech yesterday highlighted those big questions that SSD will have to answer. In my mind, piecemeal politics is not an option. If we continue with piecemeal politics, why even bother with policy planning at all, or even a States Strategic Plan? Why not – and we will do a slogan here for Deputy Duquemin's benefit, 'Bin the Billet!' – open every meeting to the floor and vote for whatever we think is the best idea on the day? Also, Deputy Duquemin, 'pension plus' is a great idea but what we need right now is '*policy plus*'. We *must* give Deputy Langlois, his Board and the team of SSD, the chance to deliver a Report that marks a step change and is affordable and is *properly* targeted to those in need.

190 I know how hard it is for Boards when undertaking these major pieces of policy work, there is not much you can say *publicly* when you are considering so many options and exploring numerous avenues of policy but yet you want to be seen by the public and fellow Deputies as being effective. But, and it is a big but, the *work is there*, the policies *will come through* and we have to be just that little bit patient at this time if we want to have fiscal and social policies that are fit for purpose, fit for this age and sustainable going forward.

200 And let us not shrug off the £300,000 and £600,000 here, and another £50,000 there, and say 'Well, it is not that much in the whole scheme of things.' *It is* and it undermines our over-arching policies. Someone, above all, who understood deprivation and social injustice was Charles Dickens and I am going to quote from 'David Copperfield'. This was the advice that Mr Micawber gave to David. I will not do the voice, I will just –

205 'Annual income twenty pounds, annual expenditure nineteen nineteen six, result happiness. Annual income twenty pounds, annual expenditure twenty pounds ought and six, result misery. The blossom is blighted, the leaf is withered, the God of day goes down upon the dreary scene, and — and in short you are for ever floored, as I am'



210 I urge you to vote with your heads and not your hearts. Support the SSD Board, of which I have great expectations. (*Applause*)

**The Bailiff:** Deputy David Jones and then Deputy Perrot.

215 **Deputy David Jones:** Thank you, Mr Bailiff, Members of the States.  
Well, follow that, as they say!

I rise, really, to take to task Deputy's Trott's contribution yesterday. I think yesterday we had a speech from the Deputy who has done the two major jobs in this States – that is, the Treasury Minister and Chief Minister – but I was disappointed when he got to the bit about priorities and, although I agree with some of what he had to say about the prudence and the staying on message, I can think of no bigger priority than the most vulnerable in this community. (*Interjections*)

220 I am very much taken with Deputy Burford's speech this morning. It is very uncomfortable to go home and sit comfortably in our homes, not having to worry about things like the water bill and other things, you just pay it as it comes because you have the ability to do so, when there are lots of people in this community who do not have that ability. So I do not think there is any bigger priority, Deputy Trott, than those who are most vulnerable. If we do not fight for them in this parliament, then tell me who will because, unfortunately, I disagree with Deputy Stewart, that the 'disability champion' had a duty yesterday to champion those vulnerable people and those with disabilities. While Deputy Gollop does give extensive thought to much of what he says, I think if you set yourself up in that role and you get elected to that role, then you are duty bound to support those people, even though, sometimes, it goes against your better judgement in other areas. That is what your job is if you are a 'disability champion'.

230 It is a bit like a knight on a charger at a joust, who is the King's champion, charging down the jousting field and getting half way down and going 'Do you know what, I cannot be arsed with this today', and turn the horse around and go somewhere else. (*Laughter*) That is how I consider that.

235 But the problem for this group – and I know I am sort of a lone voice sometimes on PC because I have a real, strong social conscience for this group of people – it is always jam tomorrow for them. I understand about the review, and I think that we have got an excellent SSD Board. They are doing their best to try and keep a sense of balance to all of this but this group of vulnerable people have been sitting there waiting forever. It is always 'jam tomorrow' and 'we have got a black hole'. We know that this targeted one is not going to come in until 2015, when the Treasury want to make everybody slim down their budgets to pay for it but, hopefully, if Deputy Stewart and his team can pull things together, the economy may improve, even by 2015. Who knows? But we cannot *keep* neglecting this particular group of people. We just cannot. They do not have the luxury of time, many of them, and that is why I think that they *are* a priority, through the Chair, Deputy Trott. While I understand your fiscal prudence and your wish to keep the FTP and everything else on track, this is one group of people that I do not believe we can neglect.

250 **The Bailiff:** Deputy Perrot.

**Deputy Perrot:** Could I begin by using that time-honoured phrase that I had not meant to speak at this debate. (*Laughter*)

255 Quite often, of course, Members use that phrase whilst picking up a pre-prepared speech, (*Laughter*) which has been very carefully honed. But, on the occasion of this debate, people have used that expression in the context of justifying what they perceive as their horror at the fact that some of us *dare* to speak against the amendment.

260 I say that it is wrong to portray those who speak against the amendment as a bogeyman or worse. Let me also say, at the outset, that it is transparently clear that Deputy Le Lièvre has done the most enormous amount of work, he has been honest and he is, again, clearly, a very caring Member of this Assembly but his political saintliness does not mean to say that we cannot disagree with him! We are all entitled to our opinions and some of us may have slightly different opinions than him, based upon principles that are just as worthy as his are.

265 Deputy Dorey went so far as to say, yesterday, that it was our *duty*, as Members of the States, to vote in favour of this amendment. No, it is not. Quite apart from the fact that it is not for Mr Dorey to sit in judgement as to what our duties are, I see it as one of *my* duties to vote in accordance with my conscience. My undertaking to the electorate was that I will not support a proposition if we do not have the money for it, and I will continue to conduct myself accordingly. In my view, it is right for *our* views to be heard without being denigrated.

270 Either the States, as a body, signs up to the Financial Transformation Programme or it does  
 not. Now there has been some froth recently, some political froth, about whether the Financial  
 Transformation Programme continues to bind us because that was something which was decided  
 upon by a previous session of the States. Well, so far as I can divine, it does. It binds us and it  
 continues to bind us, as any resolution of the States does, unless and until we decide to overturn  
 275 that decision. (**Several Members:** Yes.) So it seems to me to be reasonably clear that we are  
 bound by the precept that *there isn't new money*.

As the Treasury Minister has said, if these amendments go through, we are bound to find the  
 money from somewhere else by making cuts somewhere else. It is, however, clear to me – and this  
 280 is the great service I think which Deputy Le Lièvre has done in respect of this matter – that the  
 Social Security Department needs to come up with a different package of welfare benefits. When  
 it does, it needs to be *particularly mindful* of the fact that we need to protect the most vulnerable in  
 our society, so the *whole* of welfare needs to be looked at.

Certain things, such as universal benefits, in my view, do need to be looked at. I do appreciate  
 that those who have the higher income will pay a disproportionately higher amount into the Social  
 285 Security Fund. It does seem odd that they might not get a proportionate amount out of it but there  
 has to be *some* sort of balance, and it does seem to me to be absurd that those people who are in  
 the higher income bracket, every time they go to see a doctor for some primary care problem, are  
 having £12 (**Several Members:** Hear, hear.) paid to the doctor on their behalf, when they could  
 well afford to pay. Equally, it seems *absurd* to me that if I go in for the *numerous* medicaments  
 290 which I need for a person of my age, that all of that is funded by the States, when I can well afford  
 to pay it. It also seems to me to be absurd that the States will pay, on my behalf, a prescription fee.

I did take this matter up with Deputy Langlois a few weeks ago and I asked why universal  
 benefits continue to be paid and he said, not unreasonably, that one of the real problems about this  
 295 is that, if you have means testing, how are you going to arrange for that means testing to be carried  
 out. It does seem to me that this is an area where there could be liaison between the Income Tax  
 Department and the Social Security Department because, if we decide that there is a benchmark  
 income above which people do not receive these universal benefits, we could equally say that  
 those who wish to claim, who are demonstrating that their income level is below that benchmark  
 level, simply ought to get a certificate to that effect from the Income Tax Department.

300 I know there are practical problems about that –

**Deputy Dorey:** Sir, is this relevant to the amendment that is being discussed because it is  
 talking about 'universal benefits', where this is about an amendment to Supplementary Benefit?

305 While I am on my feet, may I just correct him. I think the words I used yesterday were: 'as a  
 Government we have a duty of care to the most vulnerable in this Island'.

**The Bailiff:** I think, in the broader sense, Advocate Perrot is addressing how some of these  
 matters might be funded.

310 I take it that he is probably speaking generally and will not wish to speak in the general debate  
 later.

Is that correct, Deputy Perrot?

**Deputy Perrot:** Yes, I am sorry if I have gone too far on this, sir.

315 The reason why I was talking about this was to try to demonstrate that I am not the bogeyman  
 that some Members would try to say that I am, in opposing this amendment. What I am saying is  
 that my justification is that the Social Security Department needs to come back to the States with a  
 package. I am saying that the package is not a matter of cherry picking something, it is looking at  
 the whole thing. And I *was* going to say that I think that the word 'holistic' is just a faddish new  
 word, but a new – an entirely new – package, needs to be put together.

320 I hope I have got out of that one!

**The Bailiff:** As I say, I thought you were talking generally as well as specifically on the  
 amendment (*laughter*).

325 **Deputy Perrot:** A couple more points before I am interrupted again by Deputy Dorey.  
 (*Laughter*)

330 Could I say that I thought it most unattractive for people to criticise Deputy Gollop (**Several  
 Members:** Hear hear.) in his capacity as a 'disability champion'. Deputy Gollop can be a  
 disability champion *but* have principles which he does not wish to be compromised in respect of a  
 specific matter and I suspect that this is one of those specific matters.

I will not continue that but, again, I think that these are *ad hominem* remarks which, simply, are most unattractive and should not be pursued. Could I mention something else, though, in relation to –

335 **The Bailiff:** If it is relevant.

**Deputy Perrot:** – because Deputy Le Lièvre came up with one phrase, which was ‘relative poverty’.

340 I merely wish to say that that phrase can be very misleading indeed because ‘relative poverty’ is a defined term. I think it is in the Townsend Report and it is defined as being 60% of median earnings. In a very wealthy society, if median earnings are very high, it could mean that ‘relative poverty’ actually means relative wealth. So, I am not persuaded when someone says that a body of people have remained in relative poverty over a three-year period because I think that the only way  
345 in which you can measure these things is in absolute terms, rather than a percentage of median income.

Finally, may I, to my astonishment, congratulate Deputy Stewart on what I thought was an absolutely cracking speech. I had not realised that he had so many literary pretensions! (*Applause and laughter*).

350 **The Bailiff:** Deputy Brehaut.

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

355 On a point of clarification, the Townsend Report – the analysis asks questions, ‘Can you buy your child a pair of shoes? Can you afford to buy your child a winter coat? Do you have two hot meals a day?’ It was more detailed than an observation or, if you like, a dilution, of the median earnings. It was a more thorough analysis than that.

Thank you.

**The Bailiff:** Does anybody else wish to speak on this amendment?

360 In that case, nobody is rising... Deputy Langlois, do you wish to exercise your right to speak on it immediately before Deputy Le Lièvre replies to the debate?

Deputy Langlois.

**Deputy Langlois:** Yes, thank you, sir.

365 Once again, let us join in congratulating Deputy Le Lièvre on the work that he has done on this.

370 I think the result of having this debate, as has been pointed out by the last couple of speakers, is that we have ranged around a whole set of issues which will assist us in the bigger picture review which is about to get underway. As with the earlier amendment, the problem relates to where this actually fits within the bigger picture.

375 Just let me repeat the figures once again. Our estimate, in terms of the *existing* claimants, was about £220,000. Deputy Le Lièvre has rightly, and very honestly, suggested that the chances are that this would extend in its range and I think we have sort of homed in... certainly the Treasury Minister has used the figure of around about £370,000 per annum for the cost of this amendment, if it were passed.

380 Sir, the position of the people affected by this proposed change is, of course, a matter of significant concern and let us not – as said by Deputy Perrot – pretend that any of us are trying to ignore them, the situation, or trying to deprive people, but when the Supplementary Benefit Review is completed and the Fiscal Review, which will find where other money is coming from, *then* the Department will be able to give *proper* consideration to how these sort of anomalies can be sorted out.

385 Remember that this issue was one small part of the overall set of proposals debated in March, in a debate entitled – and I think it is an important title on that Report – ‘Modernisation of Supplementary Benefits’. My Department has been instructed to, and has undertaken, to carry out the re-working of this review, or the revisiting of this review.

390 This decision on the amendment cannot be a piecemeal decision. A full review is a full review. It should not be pre-empted by one or two random decisions today. The big problem on finance is that political passion alone does not make pound notes grow on trees. This means that, when the benefits are taken from a pool of cash which is limited in size, difficult decisions must be made, as pointed out by Deputy Le Lièvre, and for those struggling with this today and being torn between hearts and the other thing, heads, then welcome to difficult decisions.

Many of us referred to difficult decisions during the election and, here we are – this is the reality. But, sir, it is the opinion of the Social Security Department that these decisions *must* be taken in the context of the bigger picture.

395 Can I comment briefly on some of the comments and answers and questions that were put during other people's speeches? I think we have to be very careful with the use of language on this and this is one of the problems that we faced. Deputy Fallaize, for example, *knows* something about what relative poverty is, and I am sorry, I have forgotten the precise sentence but he very firmly said *we know that*. Actually, what followed was a whole set of objective opinions, *not* knowledge. 'Relative poverty' has been used as one method of bench marking: another method

400 was proposed during the March debate on the Minimum Income Survey. Those are methods of benchmarking, they are not absolute knowledge.

Deputy Brehaut followed on by then producing *another* set of evidence because, for some reason, suddenly the Medical Officer of Health has become – with a particular authority of a report called 'Health Equity' – has become an authority on what is poverty and what is not poverty. That is fine and he is absolutely doing his job by reporting what he sees as the picture in relation to health but it is not *firm knowledge*.

405 Deputy Conder cannot believe that we cannot find the money. So is the logical conclusion to that, 'Well, let us just grant it now and if the bigger review means taking it away again, well, so be it – taking it away from somebody else, well, so be it?' It is a short-termism. So there are a number of occasions on which people use language when we have got to be very, very careful about distinguishing between pure fact and between this *highly, highly subjective* area.

410 I hesitate to say the next thing but I am going to, anyway. I challenge every other Department to find something that is so purely subjective as finding the benchmark for what this society is prepared to label as 'poverty'. It is absolutely fraught with difficulties and the evidence collection is in a soft area which I think will never be resolved. It certainly has not been resolved by any other jurisdictions.

415 I was concerned about something that Deputy Bebb said because it does not bode well if we take this line more broadly. He said 'Stop thinking that the review will happen'. Well, thank you for the vote of confidence! It is bizarre. I am sorry, are we actually going to stand here today and say, 'Well, the States will never do joined-up thinking, they have never done it in the past. You know, it is not going to work: it has not worked before!' Are we actually going to acknowledge that because, if we are, as Deputy Stewart said, let us just return to having one big pool of money and everybody pile in with their own ideas – first come, first served – and take it from there.

420  
425 **The Bailiff:** Deputy Bebb.

**Deputy Bebb:** If I may, on a point of clarification, I actually stated that the 'holistic review may not necessarily be passed'.

430 It is quite different to the fact that the 'holistic review will not be brought'. I have faith in the Department to do their work but it does not mean that it will necessarily be passed.

**The Bailiff:** Deputy Langlois.

435 **Deputy Langlois:** Thank you for that clarification.

I am absolutely sure that you are right that 'it may not be passed'. I await to see *Hansard* because I think I wrote down the first set of words correctly, but let us not fall out over that one.

440 What the review is about is not some sort of master plan that will answer every single detail but we have got to be clear about the principles and the direction in which we are going. I will, very briefly, refer to the comments made about Deputy Gollop. I have to say I thought they were out of order. They are a misunderstanding of what labelling somebody as a 'champion' of something is all about, because this is the States, this is a decision making body and, whilst Deputy Gollop is there to be a 'champion', he must retain his responsibility as a Deputy and as a Member of a Department and he must be respected for doing that. I am afraid I saw some disrespect in some of the comments.

445 Assurance to – a couple of questions to be answered – Deputy Duquemin. Yes, we will be encouraging claims. One of the issues that has been brought up in the past – and I refer back to yesterday's amendment, actually – a reference was made to me having met pensioners and what their expectations were, and so on. That was part of yesterday's debate but it is a very good example because, having spoken around in the middle of the summer to a group of about 55 pensioners in an association – quite a daunting audience, I told them that, as well – with members of my staff team, it was obvious, going round talking to them after, yes, people do get very

concerned about saying ‘Well, I really don’t want to come and ask for money, and so on’. We will be doing everything we can to make sure that people regard what is there as their right, their right that they have contributed to, and so on. So, yes, Deputy Duquemin we will be doing that.

Deputy De Lisle asked a question relating to ‘Does the 3.1% increase represent an *increase*?’ We are back into the inflation issue: it represents a standstill in *real* spending terms but it represents an increase. I think I am right in saying that the overall resolution regarding States spending is expressed in real spending terms. So it is not an increase in that context, but it *is* an increase in money terms.

Deputy Harwood, the Chief Minister, said are we listening. Yes, we are listening. That is the value of this kind of debate. Sorry, he did not put it quite so bluntly or impolitely, as I have. He said ‘Please make sure that SSD is listening very carefully to the points made in this debate because they must inform where various reviews go’.

Finally, Deputy Perrot’s reference to the universal benefits I find particularly timely and particularly useful because of the way the Supplementary Benefit Review has been brought about and follows on from the March resolutions. There is a danger that its boundaries are too tight and that we do not wrap, within that, some consideration of, if changes are going to be made and increases are going to be made, where that money might come from. I have made it public enough – my Board are very much behind this – to say that universal benefits for the well-off have to be a target as a source of money, so that is absolutely clear. It will, obviously, of course, also be part of the Fiscal Review.

Sir, I further – sorry, lost my page – yes, one other point. I further confirm that the Department will be giving full consideration – because it is one particular aspect of what Deputy Le Lièvre talked about – to the case for a higher requirement rate for home owners, as opposed to those renting property, to at least *contribute* to home maintenance. That, again, was a piece of feedback which was – sorry, it has been well known for ages – but it was a piece of feedback particularly confirmed by the pensioner groups who we have met. There *is* an anomaly between home owners – asset rich, cash poor people – who have to maintain their property.

So with that very small detail can I, once again, assure you that this is a case of needing to look at things *in the round* and I urge Members to vote against the amendment.

**The Bailiff:** Deputy Le Lièvre to reply to the debate.

**Deputy Le Lièvre:** Mr Bailiff, Members of the Assembly, I have *never* held Deputy Perrot in... viewed him as a bogeyman. Nothing could be further from the truth and I am particularly pleased to be canonised, in a political sense!

I think it is fair to say that you know you are right when well constructed arguments and criticisms are replaced by flimsy, ill-founded excuses that are tossed at you with patronising platitudes designed to replace any real probing debate. Yesterday afternoon was such an experience. Deputies had ‘heavy hearts’ and ‘sympathy’. They praised the work I had carried out but said it was the wrong time. ‘Fiscal restraint’ and ‘economic prioritisation’ was the name of the game, along with the new panacea for everything, ‘holistic therapy’.

I wanted to hear somebody say that I had got it completely wrong, that there was no evidence of need in the area of the amendment or, alternatively, that Social Security were already *planning* to plug the *yawning gap* that has developed over the last twenty-four years within the Supplementary Benefit Scheme and that the States would very soon be presented with interim steps, aimed at ensuring that the poverty trap would be closed, and closed for good.

What was *actually* on the menu was a basinful of holistic fudge, mixed in with a bottle of sympathy, a healthy dose of patronising cream and a pinch of fiscal flavouring. The only key ingredient missing was a healthy helping of a desire to ensure that the Supplementary Benefit Scheme performed as it should, that, having identified need and the level of that need, it had attached to it a functioning system that deliver the goods and services that would satisfy that need.

But all of that appears now to be secondary to Social Security’s new found relationship with T & R, and let me make it quite clear, I do not want to demonise *anybody*. I do not have a *special* social conscience *at all* – none at all – and I do not like it when people might suggest that I have. I am the same as anyone in this Assembly, no different. But I do have concerns about the relationship between Departments. Social Security, in its passionate desire to hold hands with its new date, has covered its ears and closed its eyes to its own areas of responsibility and has adopted a new corporate approach to dealing with the poor. It has got out of its own silo and got into the same silo as T & R. They are, in fact, cohabiting in the most unhealthy manner. It seems to be lost on the new membership of Social Security that they are mandated to perform certain duties and that these duties do not include playing footsie with T & R. To demonstrate my contention, I have

515 drawn the following extracts from last month's debate. The extracts include references to the Members' views on both the new relationship with T & R and the attitude of individual Members to Social Welfare provision.

Deputy Langlois said:

520 'As I have already stated, my Board recognises the need for overall fiscal balance. The question is at what pace can that be achieved. We are not willing at this time to make any more dramatic changes and especially those that would affect the most vulnerable in our community'

and, during his summing up, he said this:

525 'Above all, we, as a Board, are conscious that, during this process of readjustment and fine tuning, which may be radical at some point, our job is the protection of the vulnerable here and *now*.'

Well, obviously, what he meant to say was 'not here' and 'not just now'.

530 Deputy Le Clerc is recorded as saying:

'I do believe that we must look after those less fortunate than ourselves but one Department cannot act independently of another. Now is the time to accept these proposals and the next step is for us to have a full discussion on our longer term social policy strategy and then work with Treasury and Resources to discuss how we can fund our decisions, going forward.'

535

In Deputy Le Clerc's role, it would appear that the disabled and the elderly poor are not less fortunate than her. Obviously, another Member is in the 'not here' and 'not now camp'. Oh, and by the way, in my opinion, the Social Security Department *can* act independently of another Committee and I *expect* it to do when the need demands it.

540 Deputy John Gollop said:

545 'but now is the time to very much not have the old, perhaps, disagreements we saw in the last Assembly between the Social Security perspective and the Treasury and Resources perspective. We wish now to very much integrate ourselves with Treasury thinking, as long as Treasury and Resources Members maintain a strong social conscience and social policy.'

I just want to remind these two Boards what their job is in relation to Government. SSD's primary responsibility, Social Security's primary responsibility, is to fight for social welfare. T & R should fight equally strongly for budgetary control. If there is a tension between the two – and there *should* be a tension between the two – it is the States that reserve the right to resolve the differences between the two.

550

Deputy Sandra James said:

555 'I would like to reassure the Assembly that the Board are absolutely united in working with T & R and the Policy Council, with a view to achieving a strategic financial position in order to maintain a sustainable welfare and benefit system.'

Another comment about T & R.

560 But there is a glimmer of hope however from Deputy Chris Green:

'I would like to emphasise that this Social Security Board is *absolutely determined* to protect the interests of the most vulnerable and disadvantaged in our society, both now and in the future.'

565 And he went on to say,

'We are very mindful of the fact that some people, including many pensioners in our local community, are living in relative poverty'

570 – his term not mine –

'and we are committed to protecting them in a way that befits any civilised society.'

575 Well, here is the opportunity for Deputy Green to demonstrate just how robust his determination is. Whilst I have used the words 'relative poverty', I am reminded of Deputy Perrot's comments on that and the definition in Townsend's Report, where it talks about relative poverty being 60% of median earnings, or less. Median earnings are £28,340, off the top of my head, and 60% of that is just over £17,000. We are talking about a benefit rate, at the moment, of just £12,000. Those are... I have not got a calculator, but my maths is not that bad, so there have

580 to be – and I understand that there are – benchmarks and they will fluctuate... I understand all of those things but there has to be some... There is a *very clear* difference between £12,000 and £17,000, in my book.

Remarkably, the Loughborough University figures, if I try and recall them, talked about the need of a pensioner couple being £344.00 a week, which is roughly, or just over, £17,000. I will let you work out that for yourself.

585 Let me remind the membership of Social Security, with the possible exception of Deputy Green, that it is *not* an arm of T & R. It has a responsibility, in law, to provide for the welfare of those persons identified in the Supplementary Benefit Law and, as much as it might like to, it cannot shirk that responsibility by holding hands with its new friends at T & R, whilst muttering some sort of mantra about fiscal policy determining social policy. The public must have faith that Social Security is going to fight for their cause. Yes, it *obviously* has to have regard to social policy but it must also maintain a healthy distance from T & R. They are not bedfellows. They should be healthy and friendly opponents, if you like, but certainly not locked in some unhealthy embrace, and that is what it appears to be at the moment.

595 This amendment is about targeting assistance in relation to the elderly and the permanently and substantially disabled. It is patronising to assume that the elderly or the disabled, for that matter, are vulnerable. Quite clearly, many are not. In that this amendment seeks to select a discrete group, it fits the bill entirely amongst the new faction that sprang up yesterday on pensions but seemed, late yesterday afternoon, to have lost the power of speech when it came to what is very careful targeting and I fully expect them vote in favour of this current amendment, due to its very specific targeting, although I suspect that will not be the case.

600 This amendment is about the first steps in closing a yawning and ever growing gap between the pension rates and the Supplementary Benefit rates, a very real and very deep poverty trap from which, for some, there will be no escape. Social Security Members cannot pretend not to be aware of this issue and yet they seem happy to walk on past, safe in the knowledge that, by chanting their new found mantra of ‘fiscal and social policy integration’, they are absolved of their duty to do anything about it. If it was not for the fact that two Members of the Board were female, I would suggest the whole Board went out and asked for a shot or two of testosterone!

605 For the Board’s information, just in case they missed it, the new holding exercise – the new holding exercise – has increased the pension benefit gap by a further £3. It is now, or will be – if this amendment is not approved – £53.00. I would seriously ask, through you, sir, of course, if any of the new Members of the Social Security Department actually understands what that means and, if they do not, then perhaps they could indicate as such and I will explain it to them. If the Amendment is approved, the gap will close to £44.00 – an improvement, but not much of one.

615 Sir, I would like to stress that this amendment cannot possibly cut across the development of any new future policy. It would be impossible. Perhaps if I had suggested that the increase should have been £40.00 a week, then maybe, just maybe, there would have been a slight risk but it would have been a very slight risk, even at that level – but I have not. I have proposed a very conservative figure of just £9.00 a week and for an elderly couple and for a disabled couple: not for single parents, or the long term sick, or the unemployed, and I have done so on the back of statements made by the Social Security Department itself, namely that the expenditure pattern of the elderly are different.

I am pleased to hear that Social Security are examining some of the finer points of the assessment process with regard to householders who own their property, but it needs to go further than that. It needs to look at the social rented and the private rented. It knows that.

625 This amendment, Ladies and Gentlemen, is not a *random* stab in the dark. It is not a random stab in the dark, it is a well founded, incremental step to achieving, ultimately, what Social Security want to achieve for those people in this Island on very low incomes.

Thank you, sir.

630 **The Bailiff:** Deputy Langlois.

**Deputy Langlois:** Can I just make one point of clarification of a phrase used there.

635 I am worried that Deputy Le Lièvre may have been misleading the Assembly by using the phrase that the Social Security Department *believes*, or has a new found mantra, that ‘fiscal policy determines social policy’. That is not the case and I apologise if my attempts to explain this joint working have been so clumsy that does not get through. It is a joint effort, it is not one determining the other.

**The Bailiff:** We come, then, to the vote on amendment ‘C’ proposed by Deputy Le Lièvre’ and

640 seconded by Deputy Brehaut:

1. To delete proposition 8 and substitute therfor;  
 “8. That, from the 4 January 2013, the short-term supplementary benefit requirement rates shall be as set out in table  
 645 (b) in paragraph 94 of that Report; and that, from, 4 January 2013, the long-term supplementary benefit requirement  
 rates shall be as set out in the column headed ‘2013’ in the table below:

Long-term supplementary benefit (after payment of short-term rates for 6 months)	2013	2012
Married Couple both over 65	£245.00	N/A
Single Householder over 65	£170.00	N/A
Handicapped Couple	£245.00	N/A
Handicapped Single householder	£170.00	N/A
Married Couple	£236.04	£228.97
Single householder	£163.31	£158.41
Non-Householder		
18 or over	£126.77	£122.99
*16 – 17	£68.81	£66.71
Member of a household		
18 or over	£126.77	£122.99
16 to 17	£107.38	£104.16
12 to 15	£66.43	£64.40
5 to 11	£48.16	£46.69
under 5	£35.49	£34.44”

\*Varied upwards in relation to single parents and significant disability

2. To delete Proposition 21 and substitute therefor:  
 “21. To agree that table 3 in the schedule of the draft Ordinance entitled “The Supplementary Benefit (Implementation)  
 (Amendment) (No.2) Ordinance, 2012” shall be deleted and replaced with the table below; and to approve the draft  
 Ordinance entitled “The Supplementary Benefit (Implementation (Amendment) (No.2) Ordinance, 2012””; and to direct  
 655 that the same shall have effect as an Ordinance of the States.”

Description	Amount
Husband and wife or other persons falling within paragraph 2(1) (“Couple”) where both partners have attained the age of 65	£245.00
Person not falling within paragraph 2(1) who is directly responsible for household necessities and rent (if any) who has attained the age of 65 (“Single householder”)	£170.00
Husband and wife or other persons falling within paragraph 2(1) (“Couple”) where one or both partners are handicapped persons	£245.00
Person not falling within paragraph 2(1) who is directly responsible for household necessities and rent (if any) (“Single householder”) and who is a handicapped person	£170.00
Husband and wife or other persons falling within paragraph 2(1) (“Couple”)	£236.04
Person not falling within paragraph 2(1) who is directly responsible for household necessities and	£163.31



rent (if any) ("Single householder")	
<b>Person who is not a householder ("Non- householder") –</b>	
Age 18 years or over;	£126.77
Age 16 years but less than 18;	£68.81
<b>Member of a household –</b>	
Age 18 years or over	£126.77
Age 16 years but less than 18;	£107.38
Aged 12 years but less than 16;	£66.43
Aged 5 years but less than 12;	£48.16
Aged less than 5 years	£35.49"

Note

Rule 15(2)

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In respect of Rule 15(2) the consequences of this amendment, if approved, can be addressed in exactly the same way as indicated at paragraph 100 of the Social Security Department's own Report.

**The Bailiff:** You are requesting a recorded vote, Deputy Le Lièvre?

665

**Deputy Le Lièvre:** I do, sir, thank you.

**The Bailiff:** May we have a recorded vote, please, Greffier.

*There was a recorded vote.*

*Lost – Pour 16, Contre 31, Abstained 0, Not Present 0*

670

	<b>POUR</b>	<b>CONTRE</b>	<b>ABSTAINED</b>	<b>NOT PRESENT</b>
	Deputy Burford	Deputy Perrot		
	Deputy Hadley	Deputy Brouard		
675	Alderney Rep. Arditti	Deputy Wilkie		
	Deputy Brehaut	Deputy De Lisle		
	Deputy Sherbourne	Deputy Inglis		
	Deputy Conder	Deputy Soulsby		
	Deputy Bebb	Deputy Sillars		
680	Deputy Lester Queripel	Deputy Luxon		
	Deputy Le Pelley	Deputy O'Hara		
	Deputy Fallaize	Deputy Quin		
	Deputy David Jones	Alderney Rep. Kelly		
	Deputy Laurie Queripel	Deputy Harwood		
685	Deputy Lowe	Deputy Kuttelwascher		
	Deputy Le Lièvre	Deputy Domaille		
	Deputy Dorey	Deputy Langlois		
	Deputy Adam	Deputy Robert Jones		
		Deputy Le Clerc		
690		Deputy Gollop		
		Deputy Storey		
		Deputy St Pier		
		Deputy Stewart		
		Deputy Gillson		
695		Deputy Ogier		
		Deputy Trott		
		Deputy Spruce		
		Deputy Collins		
		Deputy Duquemin		
700		Deputy Green		
		Deputy Paint		
		Deputy Le Tocq		
		Deputy James		

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**The Bailiff:** Once again, while the votes are formally counted, may I suggest that we move on with amendment 'D'.

Deputy Le Lièvre.

**Deputy Le Lièvre:** I think, sir, in the light of the overwhelming failure of both my amendments, it is my intention to withdraw amendment ‘D’, sir.

**The Bailiff:** Thank you, Deputy Le Lièvre.

In that case, the next amendment we have is the amendment proposed by Deputy Lester Queripel and seconded by Deputy Laurie Queripel.

Deputy Lester Queripel, do you wish to lay your amendment?

**Deputy Lester Queripel:** Sir, thank you.

My amendment to the fuel allowance is seeking a 9% increase, as opposed to the 3.2% increase Social Security are proposing:

1. In Proposition 12, to delete the amount “£27.93” and to substitute the amount “£29.54”, or, should this amendment not be carried, in the alternative
2. In Proposition 12, to delete the amount “£27.93” and to substitute the amount £28.70”

*Explanatory Note –*

*As noted in paragraph 108 of the report presented by the Social Security Department, the figure of £27.93 noted in part 1 of this amendment, represents an increase of 3.2% from the current fuel allowance provisions, which will cost (paragraph 109 of the report) in the region of £990,000 for the 27 week period for October 2012 to April 2013. However, if the fuel supplement is increased by 9% to £29.54, this would cost an extra £55,000 over the same 27 week period for October 2012 to April 2013 being in the region of £1,045,000. As regards part 2 of this amendment, if the fuel supplement is increased by 6% to £28.70, this would cost an extra £25,000 over the same 27 week period for October 2012 to April 2013, being in the region of £1,015,000. Having consulted the Social Security Department, it is anticipated that the funding for the proposed increased allowances (whether increased by 9% or 6%) will continue to come from general revenue, as is presently the case and it is not anticipated that either such increase would have any effect on the Fiscal and Economic Policy Plan.*

The reason for this, sir, is because the cost of electricity rose by 9% on October 1st. Social Security have done their best. Their proposals are based on figures up until June this year. They had no idea the cost of electricity was going to increase by 9% and, if you will pardon the pun, sir, the 9% increase in electricity came as a shock to us all.

Now, I can joke about it, Sir, because I can afford to, reluctantly, pay the increase but the members of our community who claim fuel allowance are *already* struggling and, unless they receive the full 9% increase, that struggle is only going to get worse and this winter to them will be anything *but* a joke. This, of course, is a basic living requirement at the coldest time of the year and the timescale for the fuel allowance runs from now until April 2013, a total of twenty-seven weeks and, eight weeks into this timescale, we need to factor in Christmas, an expensive time for us all, especially for parents with young families. It is young children and babies who need to be kept warm to ensure they do not become susceptible to viruses and become ill. A young child living in cold, damp conditions could develop respiratory problems and their parents will then have to take them to the doctor so that is why I refer to this as a spend-to-save amendment. I see it very much as a financial investment, as well as an investment in the community. The reason I say that is because, in many cases, anyone claiming Supplementary Benefit and Fuel Allowance can also claim for medical expenses, plus they do not have to pay prescription charges. Currently, 1,300 of our fellow Islanders find themselves in the position where they have to claim Fuel Allowance so, if we do not provide them with as much support as we can through the coldest twenty-seven weeks of the year, it could, quite possibly, cost a lot more in the end – and prevention is better and cheaper than cure.

Plus, in truth, we are already signed up to this via the Social Policy Plan and I would like to relay to the Assembly, through the Chair, three key objectives of the Social Policy Plan, which are: (1) ‘to attain a caring society which supports families and individuals’; (2) ‘to provide good standards of social welfare’ and, (3), ‘to reduce the gaps in provision for vulnerable groups’.

The gap, in this case, if we reject my amendment and support the SSD proposals will be almost 6% so we could then be justifiably accused of failing to honour the third objective and that would be a great shame but it would also be a major disappointment because, as I have said on a number

of occasions, I have a lot of faith in this new Assembly. I have also said, on a number of occasions, that I want to be a part of a Government that makes sense and I want to be part of a Government that is *proactive*. I think this is an opportunity for us, as a new Assembly, to be  
770 proactive and make perfect sense.

Everybody knows I am a heart-and-soul politician, sir, but I have attended more economics classes than I can remember so I realise the need to look at balance sheets and costs and, as I mentioned earlier, approximately 1,300 of our fellow Islanders currently claim Fuel Allowance and to do so you have to be ‘the householder’. Your name has to be on the rent book, so we are  
775 actually talking about *more* than 1,300 Islanders benefiting from fuel allowance because family members, both young and old, will also benefit. In fact, we could be talking about twice as many people. So whatever we decide today could affect *more* than 2,000 of our fellow Islanders.

Moving on to the financial side of the issue, sir, the figure for Fuel Allowance is currently £27.09 per week. Over the 27-week timescale, that makes a total cost of approximately £960,000.  
780 The SSD proposals of 3.2% would increase the weekly figure by 84 pence to £27.93 but that would be £1.61 *short* of the money needed to cover the 9% increase and the SSD proposals would bring the *total* cost of the Fuel Allowance to almost a million pounds – £990,000, to be precise. My 9% proposal would make the weekly figure £29.54 and would result in the overall total being just over £1 million at £1,045,000.

To summarise, sir, if *my* amendment is rejected, that would result in over 2,000 Islanders being affected and 1,300 Islanders being £1.61 per week *short* of what they actually *need* to cover the increase in the cost of electricity. I know £1.61 does not sound like a lot of money to someone who  
785 *has* it, but it *is* a lot of money to someone who does not have it. Over the 27-week timescale that person will have to find a total of £43.47 from somewhere. Where *will* they find it? The answer is, of course, they will not find it. So, where *will* they actually get it, if we do not provide it to them?

The way I see it, this is very much an emergency measure. The 9% increase came from nowhere and is yet another financial burden to Islanders who are already struggling and cannot afford to pay for the increase. How will *we* pay for it? How will *we* fund it? Fuel Allowance is  
790 funded from general revenue, as we all know, but to cover the cost of my amendment, perhaps we could consider the following: currently there are 32,467 people in the workforce and if we all paid an extra 3.5p per week in contributions, that would cover the cost of my amendment. An extra 3.5p per week would ensure that the most vulnerable, the most needy, members of our community were receiving as much support as we could possibly afford them.

Our GDP, formula-led budgets, median earnings, economic policies, all these things mean  
800 *absolutely nothing*, sir, to a person in front of a person shivering in front of a one-bar electric fire. That may sound rather dramatic, but that is *exactly* what happened to some of my parishioners last winter and will happen again this winter, unless we step in with a little bit of extra money that is desperately needed.

To conclude, sir, I want to emphasise that I realise the fuel allowance is meant to cover the cost  
805 of *more* than just electricity, because gas, coal and firewood, to name but three, are additional commodities to be paid for from the Fuel Allowance. The fact of the matter is, it is the cost of electricity that has increased by 9% and we use far more electricity during the cold winter months than we do in the summer. We put the kettle on a lot more for hot drinks and hot water bottles, we cook a lot more hot meals, we put on electric fires, electric blankets, central heating and we  
810 sometimes have to put lights on all day. Pensioners and children spend a lot more time indoors in the winter. There is a tremendous demand for electricity during the long, cold winter months and the 9% increase in cost will impact severely on the most vulnerable members of our community.

There are Members of this Assembly who *frequently* tell us that there is no money. In fact, Deputy Storey told us that in one of his speeches yesterday. Actually, that is not quite true,  
815 because there *is* money. There is money in the Insurance Fund and, anyway, we are not talking about a huge sum of money here; we are only talking about £55,000. Even the Social Security Minister himself yesterday, in his speech on increasing benefit limitation – if my memory serves me correctly – referred to the cost of £95,000 as – and I quote – ‘ain’t much money’. (*Laughter*)

I ask Members, please, to turn to page 2047 of the Billet, where the first sentence of paragraph  
820 99 tells us that:

‘Increasing the benefit limitation to £500 a week will increase supplementary expenditure by an estimated £95,000 a year.’

The Social Security Minister himself has already told us that £95,000 ‘ain’t much money’. So,  
825 to state the obvious, sir, if it is possible to find £95,000, because ‘it ain’t much money’, then it must be possible to find £55,000 which is a lot less...

830 **Deputy Trott:** It ain't as much!

**Deputy Lester Queripel:** Of course, if we need to, we could consider adding 3.5p a week – 3.5p a week! – to the contributions of every member of the workforce. On top of that, hopefully, we will actually have new money coming in, once we amend Zero-10 and the quicker we do that, the better, in my view. So not only is there money already there, sir, and available to use but, very  
835 shortly, we will have new money added to it.

Finally, sir, yesterday Alderney Representative Kelly told us that he would rather Alderney had been forgotten than considered and then disregarded. So I ask the Assembly to please neither forget nor consider and disregard the most vulnerable members of our community in their hour of need, especially when we *do* have the money at our disposal and also bear in mind that this is a  
840 temporary emergency measure.

The final two points I would like the Assembly to consider when they vote are these.

1. by *supporting* this amendment we will be honouring pledges made in the Social Policy Plan.  
2. This is a spend-to-save amendment and the money we spend now will save money in the  
845 long term.

Thank you, sir.

**The Bailiff:** Deputy Laurie Queripel, do you formally second and reserve your right to speak on the amendment?

850 **Deputy Laurie Queripel:** I do, sir, thank you.

**The Bailiff:** Thank you.

Before I call the first speaker, I will formally announce the voting on Le Lièvre amendment 'C'.

855 There were 16 votes in favour, 31 against. I declare the amendment lost.  
Deputy Gollop and then Deputy Trott.

**Deputy Gollop:** Sir, I think it is fair to say the amendment was discussed by the Board and the official departmental view, which I am sure the Minister would give very eloquently, is to oppose  
860 it for all kinds of reasons, the physical reason, the sense that this is work in progress and the fact that you have to have deadlines and clarity of systems...

As an individual Member, I will actually support this amendment (*Laughter and applause*) – and the Minister knew that I was likely to – because if you turn... even though there are a couple of things Deputy Queripel said which worry me: one is the assumption that the money could be  
865 taken from the Contributory Fund. It is a non-contributory benefit and we do not just raid people's pensions!

The other point is that it is a temporary measure: we are not going to increase our... a structured increase above that. As Deputy St Pier said, there will be a cost, albeit not a huge one, compared to the Le Lièvre amendments.

870 Nevertheless, once it is increased for this year, I think it would be likely to stay and we cannot have a crystal ball where energy prices are going to, anyway. I have been unpopular already in the last few weeks for putting on Twitter a view that I think energy prices are likely, strategically, to rise in the medium to long term in Guernsey. There are, actually, good policy reasons for that – to maintain our strategic generating capability, a flexible response of options, not over reliance on the  
875 French grid and also, most importantly of all, to stimulate not only constraint on consumption, especially by certain kinds of businesses, but to encourage so-called alternatives or renewables. For that reason, I think Guernsey Electricity has made the right move but, wearing my social conscience and disability hat, the last thing you want is a draconian energy rise which hits the most vulnerable and we have to admit the combination of weather this year and that price rise has  
880 created an unusual combination of circumstances. For those reasons, despite the flaws within the Queripel amendment and the menu of choices we have, I am going to support it as an individual, but it is not the right way forward for long-term policy to go.

If you look at page 2048 we, of course, bore in mind an increase of it, taking it from £27.09 to £27.93. This Report was drafted in June and July of this year and took on board the RPI issues, the  
885 cost of... in the year to June 2012 the cost of fuel, light and power increased by 3.2%. That will not be the case next year, but this is, really, from my point of view, an interim holding and is not the right way to structure policy in the long term.

Other remarks I will make, perhaps, in general debate.

890 **The Bailiff:** Deputy Trott.

**Deputy Trott:** Yes, I rise to ask a couple of questions, bearing in mind the comments of the proposer of the amendment and the other speaker. May I compliment Deputy Queripel on what I thought was a very balanced and reasoned argument.

895 As Deputy Gollop has just reminded us, paragraph 108 on page 2048 of the Billet states that:

‘In the year to June 2012, the cost of fuel, light and power increased by 3.2% –’

900 and, therefore, the Department has indexed the rise in the Fuel Allowance by that amount. So, clearly, there is a relationship between *that* rise and their desire to maintain the real effects of this benefit. However, it is quite clear there has been a very material increase in the electricity component of that price, as explained in Deputy Queripel’s opening remarks.

905 I have two questions and the first is: is the Department aware what the effect on the index *is* of this significant price hike in electricity over 9%, with effect from 1st October? Secondly, if it is, has the Department a mechanism in place, where it can reflect upon these price rises, let us say, around December time and make necessary adjustments, should it prove necessary?

910 It is quite clear that there has been a deconstruct, a breakdown, in the relationship between the historical indexation price and very significant price differences that are now in force. If it is the Department’s desire to maintain the benefit in real terms, the answers to those questions, sir, would be of benefit in helping me to decide how to vote on this amendment.

Thank you.

**The Bailiff:** Deputy Burford.

915 **Deputy Burford:** I have much sympathy with the motivation behind the Deputy Queripel amendment and accept that, in the grand scheme of things and relative to the existing cost of Supplementary Benefit – sorry, Supplementary Fuel Allowance, £55,000 is not a great deal of money, but spending it in this way represents a year-on-year sticking plaster approach to the problem of fuel costs.

920 Unlike the last amendment, there is another permanent way of helping to resolve this issue. Paragraph 109 of the Report states that the Social Security Department is ‘keen to explore’ the varying levels of energy efficiency of accommodation occupied by claimants, to see if a flat rate Fuel Allowance is, indeed, appropriate. The Housing Minister tells me that, whilst States housing stock, which accounts for approximately a quarter of supplementary benefit claimants, has largely  
925 been insulated, his Board intends to explore ways of increasing thermal efficiency of homes in the private rental sector, where many supplementary benefit claimants live. In this way, standards of comfort can be increased, while householder fuel costs can be constrained.

930 The Energy Savings Trust states that installing 270mm of loft insulation in a typical semi-detached property with an uninsulated loft would cost, at the upper estimate, £350 installed and would save up to £175 per annum. I realise that not all properties are of this type, but it gives one example of what can be done. Fully insulating the loft of 160 properties each and every year would be an infinitely better use of £55,000. Of course, there are many different ways of reducing energy consumption, which would not stop at loft insulation, but it is the single most effective, simple and non-destructive measure with a payback period of only two years. Thereafter it saves  
935 £6.50 each week during the heating season, 23% of the weekly Supplementary Fuel Allowance.

In my short time in the States I have become aware of how long things can take to get done. My view, formed from the two Departments I sit on is that there is *not* an overabundance of staffing resources. There is no need, however, to start with a clean sheet of paper, as grant schemes are commonplace in other jurisdictions. Jersey operates a scheme which provides for a range of  
940 energy-saving measures for households on Income Support and in other categories.

945 Deputy Lester Queripel is correct that cold, damp, draughty homes are responsible for increased illness, but the solution to this is not to pump more warm air into the atmosphere, but to remedy the *defects* in these properties, thus providing better living conditions and reducing the burden on healthcare costs. In the longer term, what is needed is measures to oblige private landlords to maintain their properties to a minimum thermal standard. I was pleased to hear the Housing Minister’s general comments in this regard yesterday. I hope, therefore, that, as both Housing and Social Security have expressed a desire to deal with this issue, Deputy Queripel will not need to stand here in a year’s time with another similar amendment.

Pending such developments, however, I fully support the Department’s increase of 3.2% on

950 Fuel Allowance for supplementary payments and in the light of what Deputy Trott has just said, I wait to possibly hear a reply from the Social Security Minister before I consider whether I will support the 6% option in this, or just support the Department.

Thank you.

955 **The Bailiff:** Deputy Kuttelwascher.

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

960 This is an interesting issue. Some weeks ago, just before the 9% increase or about the time it was announced, I was on the phone-in and I asked my colleague, Deputy Dorey, for some numbers, because he was on Social Security. I wanted to know what the formula was for calculating this benefit and he says the only information he has relating to 2005 was in that calculator – which included oil coal, gas and electricity – the electricity amounted to 40% of the calculator. A 9% increase in that would amount to about 3.6% increase in the total amount. I think 9% does not relate to what has actually happened. If that calculator is still in use – it is something that Deputy Trott alluded to – it would be nice to know what the latest update on that.

965 The other issue I have is, if you look on page 2049, you might have a look at the last sentence of that top paragraph. It says:

970 ‘In particular, the Department is keen to explore whether its flat rate for all strategy still holds good given that claimants’ fuel bills vary –’.

It was not that many weeks ago that T & R Board were asked to visit a particular social housing development that was run by the Guernsey Housing Association. What was interesting was one of the questions asked was: what is the typical electrical bill for the month? It was  
975 somewhere in the order of £50 to £60 per month.

What is obvious from this Report is that the benefit is actually going to pay the *whole* bill, never mind just the extra that one would expect to pay in the winter. It would pay the whole bill. It must really cover the whole bill for the year for the payment, because it is over £100 a month. If you have got a bill, normally of £50 a month, £100 a month seems excessive! That is why I think  
980 the Social Security Department is putting that point – there are a significant number of properties where it is not really a very big issue.

The only issue I have got with that is they say they *might* review it. My view is they *should* review it. Instead of saying ‘might be reviewed’ they should say ‘*will* be reviewed’. So that, really, is the only point. It is another one of these issues of targeting, I think, why should you pay a  
985 benefit to somebody which is more than their whole fuel bill for the month, anyhow? Why should you? Because that is not their increase in cost. The increase in cost could be quite marginal, maybe £1. So it is another one of these conundrums for the Social Security Department to look at.

I cannot support the idea of increasing this amount by 9%, because certainly in those homes which we visited, there will be nobody shivering in front of a one-bar electric fire this winter,  
990 because they are well insulated and very low energy requirement.

Thank you, sir.

**The Bailiff:** Does anyone else wish to speak on the amendment?

995 Yes, Deputy David Jones.

**Deputy David Jones:** I am attracted to this amendment in some ways, but I do not think, to be honest, the fact that there has been a 9% rise in electricity prices can suddenly be calculated into a 9% rise in increase in Fuel Allowance. That just does not compute to me. I am far more attracted to Deputy Le Lièvre’s way of helping poorer people than this one.

1000 I just rise to my feet as an update on e-mails that have been exchanged between Deputy Burford and me on Housing’s opinion on insulation. It is coming to those new Boards on the agenda but, actually, it is an Environment Department issue and it would be, in our view, in discussions I have had with senior staff, for the Environment Department to decide whether grants should be given for that. It is something I promised you we will discuss at Housing and we will  
1005 keep that promise.

Thank you.

**The Bailiff:** Deputy Brehaut.

1010 **Deputy Brehaut:** Thank you very much, Mr Bailiff.

On Deputy Kuttelwascher's point regarding the GHA, of course, although there are growing numbers, there are not that many people in those properties that the GHA have built that are well insulated. I think they have about 15mm. Thermawood or something – they are warm even before you put the heating on, but they are certainly in the minority.

1015 I will be supporting the amendment, whether it is 6% or 9%, because I think Deputy Queripel is showing some courage here this morning. They say politicians are made of a rare commodity, or are a rare commodity. I think Social Security Department Members today demonstrated they were made of the rarest of metals, known as *afraidium*, which is unfortunate and, again, we have seen the brakes on social policy, so I will be supporting this amendment.

1020 I often wonder whether the Treasury Minister, Deputy Gavin St Pier, regrets the remark about the Arab spring – 'that the election of the 22 was Guernsey's Arab spring.' (*Interjection*) A *Sarnia* spring, I do beg your pardon. I do beg your pardon. I think, of course, it was an extension of the same phrase.

1025 The oasis has been drained, the tents have been rolled up and the camels have gone back to the hire shop and here we have it, the *same old* technocrats with their feet under the table, putting the brakes on social policy, year in, year out, decade after decade and we are waiting for reviews. We are waiting for reviews! We have no older persons' strategy, because we are waiting for that.

I appeared beaming, as Deputy David Jones did, at the Maison Maritaine and Longue Rue developments with brand new spades... There we were turning the sod, if we can say that, knowing full well that the only funding in place was the capital funding. There is *no funding mechanism* in place for the long-term care units at the Maison Maritaine and Longue Rue. That is how long this process takes. That is how long... but we criticise Deputy Le Lièvre for being bold enough to present something in isolation, with a remedy, with a cure, with an informed, effectively, minority report, yet at the very top of the policy chain we are progressing huge projects without any funding in place, so it is not the floor of this Assembly that is being irresponsible.

1030 Again, I will support this amendment, because I think, *sadly*, this is becoming about the law of averages, if you are unfortunate enough to be in the 16% in this community, because this Assembly is demonstrating there is no social policy outreach and if we are waiting for the reviews, the *mammoth* amount of reviews, the *mammoth* amount of work streams, we will not deliver anything. This amendment, whether it is 6% or 9%, gives you the opportunity to deliver *something* to help *some* members of the community today, sir.

Thank you.

1045 **The Bailiff:** Does anyone else wish to speak?  
Deputy Laurie Queripel.

**Deputy Laurie Queripel:** Thank you, sir.

1050 I am seconding and supporting this amendment, because policy proposals from Departments are not always born perfectly formed. Members have a right to attempt to amend them. History has shown that this can improve policy. If we are not careful, total rigidity and total high mentality thinking and compliance will result in a Government in stasis, painted into a corner, unable to respond, when and where required.

1055 This is a very simple amendment. There is nothing radical about it and it does not require a lengthy or complicated speech to support it. The cost implications are negligible and yet supporting this amendment *could* and *would* make a world of difference to some of our most hard-pressed fellow Islanders. I realise that, if this amendment is approved, it will benefit a wider group across our society, but my focus, in particular, is on the Island's pensioners. It may seem a slightly melodramatic or Dickensian phrase – and perhaps I have been reading the same book as Deputy Stewart – but for a number of our pensioners the choice between eating and heating is the starkest of realities. The words may rhyme, but they do not make for very pleasant poetry.

1060 I think, across the Island, the majority of Islanders will approve of this amendment. Many children and grandchildren would, I am sure, be pleased to see their parents and grandparents largely relieved of this most basic dilemma and at such a comparatively small cost.

1065 In the contemporary world we hear a great deal about Health and Safety and Human Rights. Indeed, these things are at the top of *most* political agendas. I will be the first to admit, sir, that I am not the greatest fan of the way that they are often applied, but today we have the opportunity to apply them in the most meaningful, substantive and appropriate of ways to allow our pensioners, in particular, to have access to sufficient nutrition and to stay warm throughout the coldest months.

1070 Surely these are basic human rights, something that most of us take for granted.

Members have the rare opportunity today to make a real difference. This amendment is not

calling for anything opulent or luxurious but, if approved, it is something that will, in fact, bring great comfort to some of the most vulnerable people within our society.

1075 As Deputy Lester Queripel said, this is a spend-to-save initiative, a preventative measure. I spoke yesterday of States Member's responsibilities. This amendment ticks both boxes, fiscally and social. If this modest amount can help to avoid many illnesses and ailments associated with the winter months, it will be money wisely spent and, sir, to borrow and very much corrupt Winston Churchill's saying, 'Never will so much have been achieved with so little'.

1080 Sir. I ask Members to support this amendment.  
Thank you.

**The Bailiff:** Does anyone else wish to speak.

1085 No? In that case, immediately before Deputy Lester Queripel replies to the debate, I invite the Minister to speak if he wishes to do so.  
Deputy Langlois.

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

1090 I am actually sure that most of us if not all when hearing the news of the 9% increase in electricity announced by Guernsey Electricity were very aware that this would mean a lot more to some than to others.

1095 The Deputies Queripel amendment can, therefore, seen as a very understandable reaction, as this Supplementary Fuel Allowance is paid only to those in need. My Department will almost certainly not be entirely united when voting on this particular amendment, as has been demonstrated already, and that is also understandable, as it shows a certain amount of, if you will pardon the pun, cold logic.

1100 The simple fact of timing of this announcement of the price rise, as Deputy Queripel has already pointed out, is that the rise was announced shortly after the uprating had been made and that more consideration would surely have been given if we had known about this figure at the time. However, that is *not* the whole story. The apparent logic of this amendment loses its way somewhat in a way that Deputy Kuttelwascher has hinted at and that is because I think we are in danger of missing the logic of, and the arithmetic... Funnily enough, arithmetic comes up again in this particular amendment – the arithmetic of indexation. Not everybody uses electricity for heating. Everybody has an electricity bill but not for heating – which is worthy of the *big* amounts hit – so the increase would be paid to *some* using alternative forms of heating and living in, as Deputy Burford points out – an important point – well-insulated properties already and, therefore, not experiencing the same proportion, or anywhere near the same proportion, of price rise.

1110 The simple fact is we do not have information about how many of those entitled to the allowance are reliant on electricity for heating. Deputy Kuttelwascher has pointed out – I would not dispute the arithmetic, I am afraid I cannot confirm it down to the last decimal point – that an earlier calculation was made that suggested that the 9% would turn into something like 3.6% in the overall energy index. I *can* check that. I cannot confirm it today, but it is not going to be that much different, it is in that sort of ballpark.

1115 The danger in accepting this apparently small total cost is that we would be asked, on *other* occasions, to react, as an Assembly, to *single* price rises and if we carry on reacting to *single* price rises, the overall principle of indexation comes into question and may come into either disrepute or into disuse. In particular, if this rise is approved, then we are definitely going to have to consider recalibrating any proposed uprating for *next* year and the whole complexity of index rises will get out of hand. When I say 'recalibrating', that is because, otherwise, we will end up double-funding some aspects of what is handed out because of the way the timing of the Budget works. So whilst it is a very small and, I am sure most people will see, a very worthy suggestion, it does actually lead us down a slightly dangerous path.

1120 In response to Deputy Burford, we have noted her thoughts about the insulation. I think it *is* a cross departmental thing. Just so that we put it in context, remember – I say remember, we do not consider – as a Department, that it would be our position to subsidise, particularly landlords, in that form of insulation, because I think that is a slippery slope to do with subsidising the private sector who are running rented property for profit, and so on. That would complicate matters and we have supplied some figures that, in terms of the eligible category, 135 are owner occupiers, 976 are in social rentals, either with Deputy Jones' Department or Housing Association, private rentals account for 500, rentals from charity bodies 58, and people living in lodging houses 63. Not all of those will receive Fuel Allowance. For example, the lodging house people would not because...  
1130 Some of them do not receive Fuel Allowance because they are paying for the heating within their rent.



1135 So, again, it suddenly breaks down, unfortunately, into a desperately complex issue as to whether you are going to introduce another... not a 'universal benefit' but it would be a 'universal benefit' amongst a much bigger group than actually need it. So you can see where *my* logic is going but this is my personal interpretation of all that. I do not think I will be supporting this amendment as a result of that and I think the logic for *not* supporting it applies even more strongly to the second option in the amendment because, if 9% is meant to match the rise, I am not quite sure where 6% comes from. Therefore, Deputy Queripel – both Deputies Queripel – have valiantly defended the reasons for the alternative but, in my opinion, it is going to be dangerously arbitrary ground if we go down this route.

1140 So an attractive proposition, carries risks – they may be minor risks – but I, personally, will be voting against it and I fully understand if certain people choose to vote, on this occasion, for it.

1145 **The Bailiff:** Deputy Trott.

**Deputy Trott:** Sir, I was listening very carefully and I think I may have missed an important figure.

1150 Did my good friend Deputy Langlois say that he believed the effect of the electricity rise on the indexation, all things being equal, would be 3.6% more than the 3.2% the Department is offering? Because, if that is the case, that is clearly where the 6% or more calculation comes from, which is why I suspect, sir, I did not hear my good friend clearly.

1155 **The Bailiff:** Deputy Langlois, can you clarify that?

**Deputy Langlois:** I am lost in percentages *now*. It is unusual to feel in opposition *vis-a-vis* my colleague over here.

The 3.6% was the calculation which was made, as I understand it, relating to the energy index. I am not talking about RPIX.

1160 What I am saying is it does not matter how you count it, it is going to be a lot smaller than 9%. I understand what you are saying, if that is the logic behind the 6%. I apologise for not having heard that logic in the argument. I had regarded the 6%, well, frankly, as a figure out of the air which would go some way towards it...

1165 **Deputy Trott:** And there was a small issue of the question I posed with regard to whether there was any emergency mechanism in place, sir, for the Department to react, should additional price hikes dictate that they need to.

1170 **The Bailiff:** Deputy Langlois.

**Deputy Langlois:** There are some options in place, in that we do have the ability under Supplementary Benefit to increase Supplementary Benefit payments for extra heating allowance for *particular* people who may suffer particular hardship, especially involving ill health, but that is a separate allowance from all of this.

1175 I cannot give an undertaking at the moment on a hypothetical case of whether, if there is a rise at a later date, we would return to it.

**The Bailiff:** Deputy Lester Queripel, then, will reply to the debate.

1180 **Deputy Lester Queripel:** Thank you, sir.

I do not think there are any questions, sir, so I would just like to respond to Deputy Burford who focused on loft insulation taking place in 160 properties. An excellent idea but is it going to happen *now*? One thousand, three hundred Islanders claiming Fuel Allowance are in need of support *now*, sir.

1185 I cannot emphasise the urgency of the situation enough so I would just like to remind Members of the two final points I made which are: (1) by supporting this amendment we will be *honouring* the pledges made in the Social Policy Plan and, (2), this is a spend-to-save amendment and the money we spend now will save money in the long term.

1190 Could I have a recorded vote, please, sir?

**The Bailiff:** Yes and the vote needs to be on the first option first, so we will have to have two, depending on the outcome of the vote on the first option. Obviously, if the first option is *carried*, then there will be no need to move on to the second option, the 6% option.

1195 **Deputy Lester Queripel:** That is right, sir.

**The Bailiff:** We will start first, then, with a vote on paragraph 1 of the amendment, that is:

1200 1. In Proposition 12, to delete the amount '£27.93' and to substitute the amount '£29.54'.

A recorded vote, please, Greffier.

*There was a recorded vote.*

1205 *Lost – Pour 10, Contre 37, Abstained 0, Not Present 0*

	<b>POUR</b>	<b>CONTRE</b>	<b>ABSTAINED</b>	<b>NOT PRESENT</b>
	Deputy Hadley	Deputy Perrot		
	Deputy Brehaut	Deputy Brouard		
1210	Deputy Gollop	Deputy Wilkie		
	Deputy Sherbourne	Deputy De Lisle		
	Deputy Conder	Deputy Burford		
	Deputy Lester Queripel	Deputy Inglis		
	Deputy Laurie Queripel	Deputy Soulsby		
1215	Deputy Lowe	Deputy Sillars		
	Deputy Le Lièvre	Deputy Luxon		
	Deputy Dorey	Deputy O'Hara		
		Deputy Quin		
		Alderney Rep. Kelly		
1220		Alderney Rep. Arditti		
		Deputy Harwood		
		Deputy Kuttelwascher		
		Deputy Dornaille		
		Deputy Langlois		
1225		Deputy Robert Jones		
		Deputy Le Clerc		
		Deputy Storey		
		Deputy Bebb		
		Deputy St Pier		
1230		Deputy Stewart		
		Deputy Gillson		
		Deputy Le Pelley		
		Deputy Ogier		
		Deputy Trott		
1235		Deputy Fallaize		
		Deputy David Jones		
		Deputy Spruce		
		Deputy Collins		
		Deputy Duquemin		
1240		Deputy Green		
		Deputy Paint		
		Deputy Le Tocq		
		Deputy James		
		Deputy Adam		

1245 **The Bailiff:** I think it is lost but let us all wait for the vote before we formally declare it lost.

*There was a pause.*

1250 **The Bailiff:** Members of the States of Deliberation, the result of the vote on Part 1 of the amendment proposed by Deputy Lester Queripel, seconded by Deputy Laurie Queripel, is 10 votes in favour, 37 against.

I declare *that* part of the Amendment lost and we move on to the second part, which is:

1255 2. In Proposition 12, to delete the amount '£27.93' and to substitute the amount '£28.70'

**The Procureur:** I did not know that Deputy Queripel had asked for a recorded vote on the second part, as well.

Could we clarify.

1260 **Deputy Lester Queripel:** Yes, please, sir.

**The Bailiff:** Yes.

1265 *There was a recorded vote.*  
*Lost – Pour 20, Contre 26, Abstained 0, Not Present 1*

	<b>POUR</b>	<b>CONTRE</b>	<b>ABSTAINED</b>	<b>NOT PRESENT</b>
1270	Deputy Brouard Deputy Burford Deputy Soulsby Deputy Luxon Deputy Hadley Deputy Brehaut Deputy Gollop	Deputy Perrot Deputy Wilkie Deputy De Lisle Deputy Inglis Deputy Sillars Deputy O'Hara Deputy Quin		Deputy James
1275	Deputy Sherbourne Deputy Conder Deputy Bebb Deputy Lester Queripel Deputy Le Pelley	Alderney Rep. Kelly Alderney Rep. Arditti Deputy Harwood Deputy Kuttelwascher Deputy Domaille		
1280	Deputy Ogier Deputy Trott Deputy Fallaize Deputy David Jones Deputy Laurie Queripel	Deputy Langlois Deputy Robert Jones Deputy Le Clerc Deputy Storey Deputy St Pier		
1285	Deputy Lowe Deputy Le Lièvre Deputy Dorey	Deputy Stewart Deputy Gillson Deputy Spruce Deputy Collins Deputy Duquemin Deputy Green Deputy Paint Deputy Le Tocq Deputy Adam		
1290				

1295 **The Bailiff:** Members of the States, that was a closer vote.  
 This is the result of the vote on the second limb of the Deputies Queripel amendment: there were 20 votes in favour and 26 against.

1300 I declare that part of the amendment, and hence the whole amendment, lost. We move on, then, to the next amendment, which is the amendment proposed by Deputy Bebb and seconded by Deputy Sherbourne.  
 Deputy Bebb.

**Deputy Bebb:** Thank you, Mr Bailiff:

1305 **Deputy St Pier:** Sir.

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

1310 **Deputy St Pier:** Sir, I believe both this amendment and the next amendment go beyond the proposition.

**Deputy Bebb:** I have not laid it.

1315 **The Bailiff:** It has not been laid yet, so .... (*Laughter*).

**Deputy Bebb:** Patience is a virtue! (*Laughter*)

I am amazed that amendments laid thus far that have not been funded have not been supported and I am wondering what chance an amendment that is funded has.

1320 Family Allowance is a universal benefit that was introduced in Guernsey back in 1950. The States, at that point in time, duly considered it appropriate to subsidise the cost of bringing up children and therefore promoting childbirth to replace the depleted population of the Island.

1325 When we talk of outdated policies, surely this is one of the starkest examples one could make. At the time, replacing a depleted population and encouraging childbirth came into stark contrast with population control methods that suddenly became widely available in the sixties with the introduction of much more effective contraception, allowing couples to control the number and timing of their families in ways previously unthinkable. Despite the revolution in birth control, the wide and varied form that currently constitutes family and the evident development of funding, Family Allowance remains a remnant of the past, unreformed, untouched and out of date.

1330 It is widely recognised that Family Allowance can no longer continue on this universal basis. No-one in the Assembly could agree to the same amount of money being paid to parents in Fort George and the Rougeval Estate and, in these constrained economic times, it is no surprise that Family Allowance has come to light as an ineffective distribution of tax. This untargeted distribution of money has a ‘splatter gun’ type approach that, in any other State Department, would be rightly condemned as wasteful and unfair.

1335 We should also consider the joined-up Government that we are all striving for. At the moment there is a policy to maintain the Island’s current population level. I do not think I need to say much on *this* topic, other than stating the obvious, that subsidising the cost of bringing up children is at a complete variance with that policy.

1340 There is a strong argument made that the continuation of universal benefits has an important role to play in removing stigmatisation of those in receipt of benefits, ensuring a communal feeling of ownership of the State system but we simply do not live in affluent times. Do we have the money to make people *feel good* or would we rather target the money at those who need it most? I am sure that most of us will be aware of the recent decision made by the UK government to cap Child Benefit – their version of our Family Allowance. This cap is affected by reclaiming Child Benefit through the tax system. It is timely and, in a recent poll in the UK, showed an 89% support for this cap system, proof that ending universal benefit is not only economically essential but broadly popular. I do not personally believe that the people of Guernsey are that different in their opinion on this matter.

1350 Given the current financial constraints that we face, it is only right that we consider all aspects of expenditure and ask whether they continue to be prudent and in the interest of the Island as a whole. Can we honestly consider a £9.5 million annual untargeted expenditure to be a *good* use of public money?

1355 Moving on to the provision of nursery and pre-school education, these provisions are currently available on the Island through the private sector and I believe that we owe a debt of gratitude to those institutions that have managed to set up nursery care and pre-schools, despite the uncertainty of the funding model that we have. The Social Security Department already provide funding, to some degree, for nursery and pre-school education but this funding is not formalised and has grown organically over a number of years. This lack of formalised funding has resulted in a number of uncertainties for the existing providers. The knowledge of secure funding would assist these facilities greatly, as they currently have children for which there is no certainty of the ability of the parents to pay the fees. This results in these schools and nurseries having to devote time and effort to secure funding through charitable organisations, rather than concentrating on their core business of ensuring solid foundations for our future generations. Pre-school education is an established aim of the States. It is widely recognised as one of the highest priorities of the British and Irish Council but, of all eight jurisdictions, Guernsey lags behind on funding and policy direction.

1360 Given that we have committed to developing pre-school education and that funding is in place, to some degree, this is the time to *formalise* the funding and ensure that we have a structured and *coherent* approach to this vital service. For those Deputies who are unaware of the benefit conferred on society from early intervention, it was timely that the *Sunday Telegraph* only last Sunday – and, yes, I did buy a paper on the Sabbath, which will come in in the next debate – had a large centre page article with a stark picture as its heading. The picture showed a scan of two brains. The one on the left was of a fair size, filled with grey matter and a few dark spots. Indeed, it could be described as ‘blooming’. The brain on the right was around two thirds the size of the left, had large dark areas: the outer parts displayed signs of what can only be described as ‘shrivelling’.

1375 This stark contrast was the difference between the brain of a child that was loved and cared for, on the left, and the shrivelling effect of neglect on the right. It does not take a neuroscientist to spot the difference. The long term effect of this neglect is a greater tendency for those members of society to abuse alcohol and drugs, a greater propensity for crime and a significant increased risk to suffer mental ill health. The effects on society of these problems are well known. The cyclical nature of these problems result in these children growing to be parents that partake in the same areas of neglect and so it continues. As well as these social problems, there are financial effects that are frequently overlooked. UK figures – and I must apologise for using UK figures but no such Guernsey comparable numbers are available – show that targeted expenditure of £1 in the first two years of life result in a saving of £8.

1380 It is understood by all here present that those members of society that fall into the care of HSSD or the Home Department have disproportionately heavy costs on the Island’s finances. Early intervention will reap great dividends but these dividends will not be visible for a minimum

1390 of fifteen years. In this respect, I would hope that we could show part of the spirit of former States  
in committing to expenditure *today* that will reap long term benefits for the Island.

Now, if I may turn to the amendment itself, it could, at best, be described as ‘inelegant’. By  
tying Family Allowance with early intervention and pre-school, throwing Supplementary Benefit  
1395 into the midst, it implies a link between families and Supplementary Benefit and neglect. I would  
like to emphasise to the Assembly, and to the wider community that, whilst there is a correlation  
between poverty and neglect, the amendment is worded in this manner to comply with the Rules of  
the Assembly on funding – something which was a hot topic earlier on this morning.

It is also an attempt – and for this I make *no* apology – to secure our current investment in  
1400 children through Family Allowance but redirect it in a targeted way. I do not propose that I have  
the answer on the appropriate cut-off point for receipt of Family Allowance. I do not propose to  
have the solution as to *who* should receive funding for nursery care and pre-school education and  
what model should be adopted. I do know that there is good work progressed by various  
Departments but that this is faltering, as a result of lower priorities and unclear sources of revenue  
for funding. The amendment, as it stands, would bring the issue to the fore, something which is  
1405 *essential*, given the pressing needs, freeing up funds to assist the Education Department and ensure  
coherent funding for existing nurseries and pre-schools.

If I may also expand on the explanatory note, you will note that the note makes reference to 35  
hours a week funding. This is generous, to Scandinavian standards. I am sure that neither the  
Social Security Department nor Education would suggest such a generous provision. I believe that  
1410 15 hours a week is more commonly expected *here* but what the figures show is the extent of the  
funding that would be available to progress this work. Nursery care *might* be suggested for less  
hours a week but for 52 weeks of the year. These details are exactly why the amendment asks  
Social Security to return with a working funding model, as I have great faith in the Department  
and its Board. But it also states, in no unclear terms, the priority for resolving the social need.

1415 I would like to finish by simply stating that these problems do not improve with time. It is not a  
fine wine. There is no benefit in acting like ostriches, with our heads buried firmly in the sand. The  
holistic approach is a ‘Holy Grail’, a wonderful idea but mythical and unattainable. Here is a  
funded amendment, targeted and timely.

The clock is ticking and I, therefore, ask all present to support the amendment to place the  
1420 priority on this work that it deserves.

Thank you.

**The Bailiff:** Deputy Sherbourne, do you formally second and reserve your right to speak?

1425 **Deputy Sherbourne:** I do, sir.

**The Bailiff:** Deputy St Pier, you now wish to make a challenge, do you?

1430 **Deputy St Pier:** I do, sir, and I apologise for my earlier intervention.

**The Bailiff:** Right, so this is under Rule 13.(6).

Are you asking that the amendment be not debated, or that the debate be postponed?

1435 **Deputy St Pier:** Not debated, sir.

**The Bailiff:** Not debated, right.

Members of the States, the proposition I am going to put to you, in a moment, is that the  
amendment be not debated and, if that is supported by not less than one third of the Members  
1440 voting on the motion, then it shall be effective.

So the proposition I am going to put to you is that the amendment be not debated.

I think we will have to go to a recorded vote so that I can be satisfied as to whether one third  
have voted in any particular way.

*There was a recorded vote.*

1445 *Carried – Pour 25, Contre 19, Abstained 0, Not Present 3*

	<b>POUR</b>	<b>CONTRE</b>	<b>ABSTAINED</b>	<b>NOT PRESENT</b>
1450	Deputy Soulsby Deputy Sillars Deputy Luxon Deputy O’Hara	Deputy Brouard Deputy Wilkie Deputy De Lisle Deputy Inglis		Deputy Brehaut Deputy Perrot Deputy Burford

	Deputy Quin	Deputy Hadley
	Alderney Rep. Kelly	Deputy Langlois
1455	Alderney Rep. Arditti	Deputy Gollop
	Deputy Harwood	Deputy Sherbourne
	Deputy Kuttelwascher	Deputy Storey
	Deputy Domaille	Deputy Bebb
	Deputy Robert Jones	Deputy Lester Queripel
1460	Deputy Le Clerc	Deputy Le Pelley
	Deputy Conder	Deputy Trott
	Deputy St Pier	Deputy Fallaize
	Deputy Stewart	Deputy Laurie Queripel
	Deputy Gillson	Deputy Lowe
1465	Deputy Ogier	Deputy Le Lièvre
	Deputy David Jones	Deputy Duquemin
	Deputy Spruce	Deputy Adam
	Deputy Collins	
	Deputy Green	
1470	Deputy Dorey	
	Deputy Paint	
	Deputy Le Tocq	
	Deputy James	

1475 **The Bailiff:** Members of the States, the motion was that the amendment proposed by Deputy Bebb and seconded by Deputy Sherbourne be not debated.

There were 25 votes in favour, 19 against: a total of 44 voting but a clear majority in favour of the motion. Therefore, the amendment will not be debated.

We move on to the next amendment, which is proposed by Deputy Inglis and seconded by Deputy Bebb.

1480 Deputy Inglis will open the debate in what I believe is your maiden speech in a debate. Is that right, Deputy Inglis?

**Deputy Inglis:** It is, sir.

1485 **The Bailiff:** Deputy Inglis.

**Deputy Inglis:** Mr Bailiff, Members of the Assembly, many of you will consider the submission of an amendment to be a significant challenge for a maiden speech. It is, but the subject is very important, both in relation to the funding of the future long term care provision and its inter-relationship with the HSSD.

I would like it if I could just recap on the wording of the amendment and that is:

*To insert the following between Propositions 16 and 17:*

1495 *'16A. To agree in principle that benefits equivalent to care benefit and respite care benefit under the Long-term Care Insurance (Guernsey) Law, 2002 should be payable in respect of persons who are resident in care establishments wholly owned by the States of Guernsey and would qualify for either of those benefits in every other respect, and subject to the same conditions and requirements as those benefits; and to direct the preparation of such legislation as may be necessary to give effect to the above decision.'*

1500 It is fundamental to note that, from the offset, issues around long term care do not form the core business of the HSSD Department but is very important for its provision of overall care in our community.

1505 The first move towards introduction of the Long Term Care Insurance Scheme for Guernsey and Alderney was in 1998 by a group formed to assess provision for funding of long term care for the projected ageing population. Principles detailed in that Report in 1999, which highlighted two particular comments; that there was a need to develop policies to address the challenges that *will* result from an ageing population, with over 65-year olds expected to double in the next 40 years and, (2), that it preferred an approach of funding of long term care through an insurance-based scheme.

1510 It is very relevant to note that A & F stated, in the 1999 Report, that exclusion of States long term care provision from the insurance scheme will distort how future provision would be secured. When the final proposals were presented to the States in a Report in the February Billet of 2001, the States own provision of residential and nursing care was excluded from the benefit of the Long Term Care Fund. However, it should be noted that the Report stated that the Social Security Authority was keen to structure a scheme that had flexibility to accommodate future changes in

demand and provision of services and included, in the Report, a recommendation which said ‘for the law to be drafted in such a way as to enable the future inclusion of public provision in the scheme, should that approach at sometime in the future be the wish of the States.’

1520 I recognise that HSSD needs to engage in a fundamental review of the long term health care programme including, most importantly, its funding. However, in view of this and in the light of the Department’s current financial situation, Deputy Bebb and I consider it an appropriate time to seek Members’ support of this amendment.

1525 So what is the rationale? HSSD provides 82 long term nursing care beds and 36 residential care beds which, based on 90% occupancy, the cost reclaimable is £3 million for nursing care and £1 million for residential care. But there is a shortfall of approximately £1 million, which comes *directly* from the Department’s general revenue budget. The only fee that can be charged is set at the level of the co-payment from the resident. It has been recognised that the payment from the LTC Fund, to *assist* with fees for residential and nursing care, requires an increase. The increases  
1530 over the years have usually been based on RPI or, more recently, RPIX, calculated on the July figure. The formula for this is not explained in the Report which, from a business management perspective, I find very surprising. The expectation is that the cost of States provision would be to increase in a similar way to the cost of private provision – SSD assumes an increase in cost of 3.6% and there has been no apparent consideration of an increase by the same amount in an HSSD  
1535 budget.

It is important to highlight that HSSD has, in fact, had the same cash spend for the last three years against the compounded difficulties of inflation, long term care and efficiency savings. To address the shortfall and to recognise the uplift considered necessary, it would be more reasonable for equivalent benefits to be paid to HSSD from the Long Term Care Insurance Fund, thus  
1540 maintaining a level playing field. As funding from the Long Term Care Fund and co-payment by the residents only covers the total cost of about 40% of beds available in the private sector, HSSD would still require to fund a considerable amount for the cost of their long term care provision from the revenue budget. I would like to stress that, in many cases, the complexities of the needs of *these* residents necessitates costs which tend to be very high.

1545 So why change? Some would say it is simply moving money between States Departments, some may ask why HSSD does not simply make a case for more money and some may question why HSSD does not make more efficiency savings. In answering these points, yes, it is moving money around but it also centralises money towards support for residential and nursing care in the Long Term Care Fund. It gives transparency in regard to the total amount, rather than having  
1550 different amounts from different Departments. And we clearly need to understand what is being spent and why.

If HSSD asks for more money, this would take more time and it could even mean less for other Departments, or do we just raise more taxation to cover the spending? And, of course, more  
1555 efficiency savings... currently, I believe we *have* achieved as much as we possibly can through efficiency, without compromising the service. Unfortunately, it is going to cost more over the ensuing years. We need to make provision for long term care but we must do something which will, ultimately, achieve a sustainable service. Plans need to be developed and more assistance to those who require extra support, especially in relation to necessary residential and nursing care...  
1560 Providing greater transparency is a clear target by the Department in determining the overall cost for those in residential and nursing care in Guernsey and Alderney. It would not be unreasonable for the Fund to cover all the extra support an individual may require.

In conclusion, and as seen yesterday, Members of the Assembly are keen to push forward amendments that appear to conflict with the Social Policy Group’s progress. Undoubtedly, there is  
1565 a realistic danger of Budget overspend if the current business model is maintained.

Thank you for listening. We now have to reach the first of *many* difficult decisions this Assembly must face up to. We need to show Members that we are determined to make decisions that count and not prevaricate. I therefore ask Members to support the Amendment.

Thank you. (*Applause*)

1570 **The Bailiff:** Deputy Bebb, do you rise to formally second this amendment?

**Deputy Bebb:** I do, sir, but I would like to reserve my right to –

1575 **The Bailiff:** Yes.  
Deputy St Pier.

**Deputy St Pier:** I would like to propose that the amendment goes further than the propositions.

1580

**The Bailiff:** Right

**Deputy Bebb:** If I may, I do not believe that this goes further than the proposition ....

1585

**The Bailiff:** Well we do not have a debate as to whether it does or not. (*Laughter*) I agree that it is perhaps more arguable with this amendment than it was with the previous one, but I will take advice from H.M. Procureur.

1590

**The Procureur:** The advice which I have given to Deputy Inglis is that this decision is one which only *you* can make, (*Laughter & applause*) but my view is that you would be likely to decide that it goes further than the proposition –

**The Bailiff:** Yes, and presumably –

**The Procureur:** – whatever Deputy Bebb thinks.

1595

**The Bailiff:** Presumably on the basis that the propositions are concerned at the level of benefits and this is dealing with eligibility for benefits. Is that the distinction you –

1600

**The Procureur:** It is not concerned with eligibility, is it? This one moves the responsibility for payments from the general revenue over to the contributory fund.

1605

The reason I am saying that it is *less* obvious that it goes further than Mr Bebb's is that there is actually a proposition in this about the funding of the... something to do with the long term care allowances funds. I thought you would probably think it goes further because it raises all sorts of questions, potentially, about the ability of the Fund to finance this in the longer term. People will put arguments to you about how there is enough money in it at the moment but, in the long term, with an ageing population, it is going to put extra pressure on the contributors and all those sort of issues, which are not really raised in the Report.

So, for those reasons, I thought it likely that you would so rule.

1610

**The Bailiff:** Thank you, Mr Procureur, for your advice. (*Laughter*)

As you say, it is my decision and your advice, as ever, is always very helpful (*Laughter*) but I do accept that, for the reasons you have given, this does go beyond the scope of the propositions.

However, Members can still debate it if they wish to do so. All they are being asked to do is to say... I take it that you are asking that the amendment be not debated, rather than the debate be postponed.

1615

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

**The Bailiff:** Yes.

1620

So it is up to Members to say whether they wish to debate the amendment or not and again I put the same proposition to you – the motion, sorry – I put the motion to you that the amendment be not debated.

We will have a recorded vote, please: so the amendment be not debated is the motion.

1625

*There was a recorded vote.*

*Carried – Pour 28, Contre 19, Abstained 0, Not Present 0*

1630

**POUR**

Deputy Perrot  
Deputy Soulsby  
Deputy Sillars  
Deputy Luxon  
Deputy Quin  
Deputy Hadley  
Alderney Rep. Kelly  
Alderney Rep. Arditti  
Deputy Harwood  
Deputy Kuttelwascher  
Deputy Domaille  
Deputy Robert Jones  
Deputy Le Clerc  
Deputy Conder

**CONTRE**

Deputy Brouard  
Deputy Wilkie  
Deputy De Lisle  
Deputy Burford  
Deputy Inglis  
Deputy O'Hara  
Deputy Brehaut  
Deputy Langlois  
Deputy Gollop  
Deputy Sherbourne  
Deputy Storey  
Deputy Bebb  
Deputy Trott  
Deputy Fallaize

**ABSTAINED**

**NOT PRESENT**

1635

1640



1645 Deputy Lester Queripel Deputy Laurie Queripel  
 Deputy St Pier Deputy Lowe  
 Deputy Stewart Deputy Le Lièvre  
 Deputy Gillson Deputy Duquemin  
 Deputy Le Pelley Deputy Adam  
 Deputy Ogier  
 1650 Deputy David Jones  
 Deputy Spruce  
 Deputy Collins  
 Deputy Green  
 Deputy Dorey  
 Deputy Paint  
 1655 Deputy Le Tocq  
 Deputy James

**The Bailiff:** Members of the States, the motion was that the amendment proposed by Deputy Inglis, seconded by Deputy Bebb, be not debated.

1660 There were 28 votes in favour, 19 against, so there will be no debate. The amendment, therefore, is not to be debated and is lost.

That, I believe, is the last of the amendments: it is certainly the last of the amendments that I am aware of. If anybody has an amendment that I have overlooked, please let me know. (*Laughter*)

1665 We can now move into general debate for those who have not already spoken in general debate. Does anybody wish to speak in general debate?

Deputy Gollop.

**Deputy Gollop:** Some of the issues I have, of course, are raised on the amendments but I would like to make one or two observations.

1670 I think we have all benefited from reading, re-reading and looking again at the scholarship and research that Deputy Le Lièvre has prepared before us (**A Member:** Hear, hear.) and I will find it extremely helpful working with the new Board at Social Security. I did an assessment this morning. I have been around the States a fair time now and I have actually served under – either as Chairman or Acting Chairman on States or non-States bodies – twenty-five different politicians and they are all past and present Members of this Assembly. Of all of those, I have not met *any* Chairman, not even Deputy Pat Mellor, who has been as keen to move things forward as Deputy Langlois, the new Social Security Minister. He *really* has set a task for us Board members and officers to quicken the pace, to look for efficiency, new solutions and move forward and I think the Assembly needs to bear that in mind. Indeed, we are going straight into a workshop very shortly on some of the issues raised in the last few days.

1685 One or two points I will make, though. Clearly, we have fifteen or sixteen voters who have wanted a change of approach to time-honoured Social Security practices, maybe. But it is intriguing to me that most of those Members chose not to stand for the Social Security Board when positions were available a few months ago. With the exception of Deputy Lester Queripel, none of them stood for the position of ‘Disabled People’s Champion’ and so, consequently, one has to move forward from where we are.

1690 In fact, I did a little bit of liaison with some elements in the disability movement prior to this debate and it has to be said that, although Deputy Le Lièvre’s amendments would, in the medium term, have brought some improvements in living standards, they were piecemeal. They segregated different kinds of... For example, amendment 3, that we debated at length, referred to the old Law – which should be reformed – about handicapped people, those with severe mental disability. That is not *all* people who are under the umbrella of the Disability Allowance, which includes those with mental health problems, behavioural issues and so on.

1695 The fourth amendment we did not get to debate, which was interesting, about the 95 – 100 ratio of Supplementary Benefit in relation to the old age pension. By definition, that was exclusively for those aged over 65, when we know that there are many instances of people in real need, with disabilities, who are in a younger age range than that. When we reform the system and take on board all the many interesting arguments from Deputy Advocate Perrot, right across to Deputy Burford – and others have said – we will have to look at this ‘holistically’. I used to be told off by Deputy Roffey for using that word, and it is now an in-word, but what we mean by that is we do not want to repeat the problems that the *old* Social Security and anti-poverty groups had, that they would come to the Assembly and lose, perhaps even by one or two votes. That turned out to be a waste of time. What we need is solidarity on the Committee, *partnership* with Treasury and Resources, so that, next time round, we *do* improve the lifestyles of those most vulnerable but without a significant political opposition which then proves the whole thing to be a waste of time.

So, trust us for the moment to get on and do the job.

**The Bailiff:** Does anyone else wish to speak in general debate?

Deputy Adam.

1710

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

I have some questions, basically, for SSD. First of all, on Page 2030 of the Report, it lists all the excellent work that is done by SSD in trying to persuade people to get back to work, or supporting them in the workplace, with kick-start basic skills training. Unfortunately, it does not give you any idea whatsoever what the costs of all these schemes are and no idea of how successful these schemes are and what benefit it is overall. So I ask for that – I did ask these questions beforehand so, *somewhere*, the Department should have the answers because I have them in my file here.

1715

The other thing is about long term funding, which raises some concerns, as you heard from Deputy Inglis, who was mentioning it in his maiden speech. Basically, in paragraphs 69 – 72 now the funding increases by 3.6% year on year, roughly speaking, but there is no indication how this figure is arrived at, except it is related to RPIX. HSS keep saying medical inflation is always higher than the average inflation; therefore, is this a reasonable amount or should it increase?

1720

My other concerns about the whole aspect of long term care is that it is only funding about 40% of beds and the individual then has to pay for the top-up, but who actually controls the profitability of these establishments? Who makes sure they are value for money? Where is the governance because this is a *lot of money* that comes out of this Fund – public money – yet have you seen any information in this document concerning is it spent in a sensible and value way? The whole scheme is an excellent idea but, unfortunately, it has got to its sell-by date because of the democratic situation of this Island and it has to be reviewed. The last actuarial reports which were done last year, and when appendices appeared in March 2011, I think it was, say that there will have to be increased funding by, approximately, over 2%, in the near future for the Fund to stand still and, by 2030, by about 3.6% for it to cover the cost, *as at present*, which, remember, does not cover cost of at least a hundred beds, which are paid for out of general revenue.

1725

1730

So you have got this difference: a certain amount comes from the Insurance Fund, a certain amount from general revenue of some Departments. Therefore, I would like to know what are the controls in place? Does SSD assess value for money of these establishments, in relation to the provision of services and activities for the residents? Is it value for money and, yes, I do know that the standards of care, cleanliness etc *are* regulated by HSSD but these other aspects cause some concern, since there is so much money going out and because it is *essential* that we reassess long term care funding overall. That work has to be done.

1735

1740

The business case of Maison Maritaine and Longue Rue, as you know, was accepted by the T & R Board in February or March this year so that that building could go ahead. That business case relied on the fact that the seventeen units were going to be provided to help people with disabilities to be looked after by HSSD. If that had not been in that business case, that business case would not have stacked up. But that aspect, long term care, extra care housing, care in the community, have to be assessed. I would like to know when this is going to go ahead – and I realise that, probably, it is lack of resources within HSSD to put this right because there is a lot of work.

1745

Thank you, sir.

1750

**The Bailiff:** Deputy Fallaize.

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

1755

I just have three points to make briefly, or perhaps three questions to ask.

Two are directed directly at the Social Security Minister and one more so to the T & R Minister who I do *not* think has spoken in general debate but he or you ....

**The Bailiff:** He has not.

1760

**Deputy Fallaize:** Okay, thank you Sir.

1765

The first issue is this comprehensive long term modernisation, or reform, of Supplementary Benefit which we heard so much about from those who opposed Deputy Le Lièvre's amendments. My question to the Minister is: when will the Social Security Department present a report to the States which contains concrete proposals to modernise and reform Social Welfare benefits, in particular, Supplementary Benefit?

Given the emphasis they placed on the work they are undertaking to bring that back to the

States, I am looking, not just for hope or an aspiration, at least an estimate of the *date* when they expect to be back to the States with concrete proposals.

1770 Secondly, could the Minister clarify, before we go to the vote, which of these propositions from his Department, if carried, will result in an *increase* in general revenue expenditure, but *do not* incorporate the source of funding? That, I think, is particularly relevant, given that amendments have been defeated largely on the basis of having not identified the source of funding, I am asking him which propositions will incur additional general revenue expenditure, but where his Department has failed to identify the source of funding – specifically, which propositions?

1775 That brings me on to the third point, which is in respect of the Treasury and Resources Department’s letter. I do not think there is anything wrong with their letter – and I rather take the view that Deputy Le Lièvre outlined earlier – I do think that there is some – misunderstanding may be perhaps putting it too strongly – but there is a need for us to decide exactly how we want Departments of the States to work in relation to this Assembly. *My* understanding – and the only way in which I think it can operate – is that we here, sitting as an Assembly, are effectively the Government. We have set up our sub-committees – States Departments – we have given them mandates to carry out tasks and develop policies and then report back to the States. We expect them to do that, working *with* other States Departments. We do not expect them to operate in silos, but we do not necessarily expect those Departments always to present proposals which all the other Departments agree with.

1780 The Social Security Department does have a mandate to deal with social welfare. It has to come to the States with what *it* believes are the right proposals for social welfare. If, on occasion, they are opposed by T & R, that is fine. T & R can come to the States, giving us advice in respect of fiscal matters and budgetary considerations. Social Security can come to the States with social welfare benefit and *this Assembly* – which is the Government – can decide exactly where the balance should lie between the two. I think that there has been something lost in the idea that Departments can *only* make proposals if all the other Departments are somehow in agreement.

1790 T & R’s letter of comment is fine. They are giving a perfectly honest, straightforward analysis of the impact on general revenue budget and, indeed, on the contributory budget, if the proposals from the Social Security Department are carried, but what I think is missing from the T & R letter of comment is a *recommendation*. This States should be in receipt of a recommendation from T & R.

1795 Is T & R actually suggesting that the States should vote *against* the propositions which would incur additional expenditure, but where the Department has failed to identify a source of funding? If they are not, I think they should make that clear in this Report. T & R and Policy Council are not set up as some kind of glorified house committee to pass comment on everybody else’s proposals. I think they should provide a steer to the States about whether *they* believe the States should vote in favour of proposals that come from Departments, or against those proposals.

1800 So I would ask the Treasury Minister: is he advising the States that we should vote *against* those propositions which would incur additional expenditure, but where no source of funding has been identified – and Deputy Langlois is going to help us out by answering my earlier question and telling us exactly which those propositions are. Also for the Treasury Minister, if those propositions *are* carried – and it says in the final paragraph of T & R’s letter of comment – that:

1805 ‘States Members should... be aware that if they support the proposals in this report there will be a real-terms reduction in the budget available for Non-Formula-Led spending of £2.25 million.’

1810 The next sentence says:

1815 ‘This reduction will be *in addition* to the Financial Transformation Programme targets.’

1820 I thought, when he clarified my intervention in an earlier debate, he said that additional expenditure incurred on general revenue was *not...* the policy on aggregate fiscal expenditure, not exceeding RPIX would be taken into account *after* FTP savings, so that FTP savings could contribute to allowing additional expenditure in other areas, without breaking the RPIX policy, but if he could just clarify that?

1825 If that is not the case, where exactly will his Department propose *cutting* expenditure, in order to fund the proposals that the Social Security Department has put in this Report? I ask these questions, because I am getting just a little bit fed up of amendments coming forward which propose quite small additional increases in expenditure and them being heavily criticised by people claiming that they will destroy the fiscal policies of this Assembly, and Rule 15.(2) being brought up; then Departments being able to come to the States and, basically, completely disregard

1830 the provisions of Rule 15.(2) and put proposals to the States which do incur additional expenditure! If the Procureur's advice is to be respected – the Procureur's advice from yesterday – then what is good for States Members laying amendments, has to be good for States Departments. I think answers, to all these questions which I have asked, will assist in understanding whether that is the case.

1835 Thank you, sir.

**The Bailiff:** Yes, Deputy Langlois.

1840 **Deputy Langlois:** Sir, would it be helpful, without prejudice to my summing up, to answer the question about which propositions –

**The Bailiff:** That would not be in accordance with the rules of debate, no.

**Deputy Langlois:** Okay, right.

1845 **The Bailiff:** Deputy Ogier, do you wish to speak?

1850 **Deputy Ogier:** In his statement this morning, the Treasury and Resources Minister described the Social Security Department as 'kicking the cost can down the road' by increasing pensions by 3.6%, while the contributory Fund was in deficit. It is not entirely fair, especially when one bears in mind it was the previous T & R which led the charge to defeat some of Social Security's proposals to keep the Fund in balance, in the first place.

1855 Social Security Department's proposal, amongst others in the Report, was to raise the employers' Social Security contribution rates by 0.5%. This did *not* find favour and this was *not* passed, resulting in the absolute inevitability of the deficit in the Fund's income and expenditure. For it to be said Social Security should increase pensions by RPIX *only*, while the Fund is in deficit, until the measures to balance the Fund are brought forward by Social Security, is incredibly twisted logic because, if pensions are uprated only by RPIX, then the entire problem of deficits goes away. If pensions had been uprated by RPIX, *there would be no deficit* in the Pension Fund.

1860 The graphs show, over the years, if pensions are uprated by RPIX, the Fund never runs out. So the exhortation to raise the pension by RPIX only would best have been made when Social Security brought the Report to fill the funding gap in the Pension Fund. At that point, such a move would have meant no deficit in the Fund whatsoever and to say such a statement now essentially means that we do not support above RPIX rises for pensions – full stop. Once you lose your RPIX, there is no growing deficit any more. You do not need to find measures to halt a growing deficit, because there would not be any. So to say 'uprate pensions by RPIX until the deficit has ceased growing' is its own self-fulfilling prophecy.

1870 After the debate at which this occurred, Social Security Department entered into correspondence with the Fiscal and Economic Policy Steering Group, of which the then T & R Minister was a member, so the two bodies could work together in order to bring forward proposals to put the Fund into balance and we see details of that in paragraph 12. The reason they agreed to do that was that the Department's proposals actually, at 0.5% increase in employers' contribution rate, was deemed to go beyond Social Security's mandate and into more fiscal and economic Island competition-type issues. The Fiscal and Economic Policy Steering Group agreed to do that as part of phase 2 of the Zero-10 Taxation Strategy and this Assembly and the Social Security Department have been waiting years for that, whilst the Fund has gone into deficit and the deficit in the Fund grows larger and larger.

1880 The Fiscal and Economic Policy Steering Group did not do anything on this, maybe because they were not yet at the Zero-10 phase 2 stage. In fact, some of the Fiscal and Economic Policy Steering Group members do not know anything about this. So we see Social Security Department looking at proposals to increase employers' contribution rates, in this Report, by 1.7%. If 0.5% sent this policy careering into the Fiscal and Economic Policy Steering Group area, 1.7% increase is going to do exactly the same.

1885 What this Assembly has done is just hand it to Social Security Department to fix, whose idea is a fix of such a significantly larger quantum than they originally proposed, that it surely has to propel it back to the Fiscal and Economic Policy Steering Group. We are just dawdling on this, handing this hot potato from one Department to another group, when it needs to be fixed.

We have overpaid pensions to the tune of millions in this Report. It shows us that pensions have gone up by 29%, whilst what it is pegged to has gone up by 24%. Social Security was

1890 supposed to uprate pensions in between RPIX and earnings, at the midway point, so that it does  
not keep pace with earnings, because the Fund would evaporate quite quickly, but at least it goes  
some way to doing something for the growing gap between those in receipt of pensions and those  
1895 earning in the community. This Report gives us sparse information on it. It does not tell us  
whether we are going to recover that overpayment, or leave a gap to be filled as part of the work  
Social Security Department has been tasked by the Assembly to do, to fill the deficit. I would like  
the Minister to explain the nature of the overpayment, what is proposed to be done about it and  
how long this fix will take.

1900 **The Bailiff:** We have a couple more minutes before lunch. Does anybody wish to make a  
shortish speech?  
Yes, Deputy Trott.

**Deputy Trott:** Yes, I will be very brief, sir.  
1905 We know that one third of all States recurring expenditure – the £110 million or so that comes  
out of the Social Security Department’s funds – is not covered by the fiscal framework. So, as we  
were debating yesterday in particular, and as the Treasury Minister reminded us this morning, the  
States’ decision to cap revenue expenditure at RPIX or less, does *not* include this very significant  
figure. What has been the effect?

1910 As I said yesterday, between 2007 and 2010 Social Security expenditure grew by a *staggering*  
23% – 16% in real terms. What does it mean? It means that if that rate of growth was allowed to  
continue, by the time this Assembly went to the polls – or if I am to be more accurate, a year into  
the next Assembly – Social Security expenditure *would have doubled* in real terms. That is how  
serious the issue is. Therefore, one of the numerous challenges for the current Policy Council and,  
1915 indeed, for this Assembly as a whole is to create a framework that captures *all* expenditure,  
because, right now, we are kidding ourselves that we have got expenditure under control: we have  
not and we will not have until such time as *all* of the recurring expenditure of this Assembly is  
held in check.

Thank you, sir.

1920 **The Bailiff:** It is now very nearly 12.30 p.m. I propose that we rise and resume at 2.30 p.m.

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

1925

## SOCIAL SECURITY DEPARTMENT

1930

### Benefit Rates for 2013

#### Debate concluded: amended Report approved

**The Bailiff:** Members, we continue now with general debate on the Social Security  
1935 Department’s Report on benefit rates for 2013. Does anyone wish to speak?  
No? Yes, Deputy St Pier.

**Deputy St Pier:** Sir, I rise in general debate only to respond to Deputy Fallaize’s questions.  
In our, no doubt, dangerous piece of inter-departmental co-operation over lunch with the Social  
1940 Security Department, (*Laughter*) I did agree to address this question to the Social Security  
Minister in relation to those resolutions – or propositions, I should say – which are effectively  
unfunded, and that is propositions 8 to 15, and also proposition 16 is the one that directs T & R to  
take it into account in preparing the 2013 Budget. It is *these* propositions which produce the £2.25  
million anticipated real-terms increase in Social Security on the formula-led side of the Budget,  
1945 and that is, as I said in my opening remarks this morning, what we have presumed and taken into  
account in preparing the 2013 general revenue budget, subject to those resolutions, and resolution  
16, being passed.

In relation to the second question on FTP and how that relates to the Fiscal and Economic  
Policy, cash limits are set after adjustment for expected inflation. We have to make an assumption  
1950 on the rate of inflation for 2013. The FTP targets then come off those departmental cash limits  
and, logically, that is the only way to deal with it, because what we are seeking to do is to... The

whole premise behind FTP, of course, is to extract £31 million out of recurring general revenue expenditure over the five-year period.

1955 Deputy Fallaize also asked for guidance from Treasury and Resources, given its comment letter, which he felt did not give any steer to this Assembly on how to vote. My Board's position is that we are *not* particularly happy with a 4.5% increase in real terms between 2012 – the Budget estimate – and the 2013 estimates on the formula-led side. We are *not* particularly happy with the operating deficit continuing within the Social Insurance Fund, for all the very good reasons and explanation which Deputy Ogier gave in his speech, *but* we do support this Report as a holding operation, although that is a much derided term in the debate on this States Report.

1960 I would say, in relation to the comments on corporate working between Social Security and Treasury and Resources, to be frank I find them very odd. As Deputy Fallaize said, we sit as one Assembly that has appointed sub-committees with the expectation that they should, indeed, be working together. Yes, there should be a healthy tension and people, Departments, should have regard to their mandates. I think you only have to take a look at the composition of the Boards for both Departments to realise that there is no reason why there would not be healthy tension between the two Departments. *(Laughter)*

1970 Social welfare... and, again, this is a... What I picked up, which I found very odd, was the suggestion that social welfare is the *sole* preserve of the Social Security Department. That strikes me as bizarre. A number of Departments have social welfare, effectively with their mandate: Housing; Education; SSD; and, yes, T & R, I would argue, has a social welfare role. If you look at the parts of the tax system that we have to consider – dependants' relatives' allowance, child or children's allowance, the old age tax allowance, whether we tax, or do not tax, universal benefits – these all have a role to play in social welfare. So you cannot look at them in isolation, which is precisely why Social Security and T & R have to work together to come back with a more effective system between the two Departments and, anything else, to me, seems very much as reverting to working in the silo mentality.

1975 In terms of timescale, again a lot of scepticism about whether *anything* would move, I sense, and maybe it is the naivety of a recently elected Member of this Assembly, but I believe there will be significant movement. My Board has directed that it wishes, by this time next year, when it is presenting its general revenue budget, to be able to be making some of the changes to the tax system which we would expect to be making as part of an integrated change in the social welfare provision. We are clearly not going to change the whole system of Social Security and the tax system within 12 months but, yes, we should be able to make some... We should be able to have a sense of direction and be able to make some changes in that direction, and that is very much what my Board wants to work towards. So I hope that that addresses the questions which have been raised.

Thank you.

1990 **The Bailiff:** Deputy Hadley.

1995 **Deputy Hadley:** Mr Bailiff, I am very interested in the comments that the Treasury Minister has made. My understanding is that, if we pass this Report today, we have got increases where the Department *should* have identified where the money was coming from but, in the light of the remarks just made, it is quite clear the increases will be funded by cutting the budgets for other Departments.

2000 Again, there has been considerable criticism of Family Allowance because it is not a targeted benefit, a lot of people who do not need it get it, but because the Department have *chosen* not to do anything about Family Allowance, they will be cutting the tourism budget and they will be cutting the budget for the Health and Social Services Department, because, I am told, the money has got to come from somewhere else. I think this should have been more clearly defined for Members of the Assembly.

Thank you, sir.

2005 I must also add that, having looked at this again, I wish I had moved amendments against some of this, but the problem is that there is a long history of amendments not getting through, and reducing Family Allowance might certainly have been on my list.

**The Bailiff:** Yes, Deputy Dorey.

2010 **Deputy Dorey:** Thank you, Mr Bailiff.

Firstly, as I will be speaking and voting on maximum rent allowances, I need to declare an interest as a shareholder and director of a property company.

2015 I spoke in last month's debate about the timing of this Report, and I will not repeat my comments but, without doubt, it has long been the case that it is bad practice that the legislation is debated at the same sitting of the States as the policy that is in a States Report. It is important that there is a Second Reading, to allow Members to reflect and, if necessary, reconsider the decision that was made at the previous sitting, but because this Report has been moved to October, we have both the Report and legislation at the same sitting.

2020 Deputy Trott commented this morning about the annual fiscal review. Members will see that this year's review, on 20th November, when there is a presentation – if necessary, I will comment when everybody has seen the latest Report. What I will say is that, when you have increasing unemployment and a post-war baby boom, of course Social Security expenditure is going to increase, and it will increase considerably in the future with the increasing number of pensioners. That is why we have the Fund, the buffer fund, to help us over that period. But if you include that money in the overall spending review, you will have a problem. You are either going to have to cut public expenditure within Departments even more, or you are going to have to restrict pensions or cut them. I do not think that is what I want to do, and I hope that is not what this House wants to do.

2030 I also wish to respond to the comments made by Deputy Gollop about progress compared to other Departments. I took that as a criticism, wrongly or rightly. I am rather proud of the achievements of the previous Social Security Department Board. With hardly any resources for policy development, minimal use of consultants, strong political leadership and political involvement of all five Members in the development of policies, we achieved some major reviews, many of which have been spoken about in this debate: completion reporting back on the review of income-related Family Allowance system; the pension puzzle, which is a review of the long-term sustainability of the old age pension and contributions, and reporting back to the States after extensive public consultation, and with some radical changes, not all supported by the States, unfortunately; a thorough review of the Common Investment Fund, which resulted in the appointment of new investment consultants, changes in the investment policies and the appointment of almost all new fund managers; and the biggest project we took on, which was a modernisation of the Supplementary Benefits system, which involved combining with the Housing Rebate system, as we had two benefits systems – one was more generous than another – which just cannot be defended, as well as moving some of the educational benefits into that one benefits system. It *would* have been supported by the Assembly if one Member had not been on holiday and another, who was not a Minister, had been persuaded to go on a BIC-ministerial meeting, so the House was very close to supporting it. It would have, if everybody had been there.

2040 I am pleased to see the continued success of measures and initiatives introduced by the previous Board. When Guernsey is compared to almost any other jurisdiction, and particularly our near neighbours, we should be proud of our economy and our very low unemployment rate – the current rate of 1.07%. I am sure most jurisdictions would be proud of that in a boom time, let alone in recessionary times although, of course, we always want to improve and do better.

2050 I am particularly proud of the previous Board's successes and initiatives with the private sector companies, initially with Prime Recruitment and now with Personnel Appointments, which has helped to keep that unemployment level so low.

2055 On page 2031, in the table in paragraph 25, it is satisfying to see that the measures introduced by the previous Board have resulted in a *decrease* in the long-term sick after many years of percentage increases. We worked hard to bring in measures to have that success.

2060 On page 2036, in paragraph 41, I support the removal of the minimum age for Bereavement Allowance. It is encouraging that the current Board has agreed the previous Board's decision, that the age limit was arbitrary and unfair.

2065 It is pleasing, also, to see that the SSD Department support the introduction of maximum rent allowances. It was one of the key proposals in the March Report on the modernisation of Supplementary Benefit, particularly as the now SSD Minister voted against that relevant proposition in March.

2070 It is also encouraging to see the proposed increase in benefit limitation, which the previous Board increased, but they have increased it further, and I congratulate them on that. It is so cruel, as it stops families receiving the basic amount they need to live on, particularly those in the private sector who pay high rents. Again, it was part of the March proposals, that it would have been a phased increase in benefit limitation. Again, it was one of the proposals which were not supported by the States, but this Department has gone ahead with it.

As an observation, I heard Deputy Langlois, in his summing up, saying they did not want a piecemeal approach and they wanted to do a holistic review – that is a word that has been used so often in this debate – but SSD has supported the Le Lièvre (a) amendment about the age of the

2075 youngest child of a single parent, they support maximum rent allowances, and they have supported the phasing increase in benefit limitation, so I am pleased that, actually, they have had a piecemeal approach and taken on some of the proposals, although I think they could have gone a lot further, as the States supported a number of proposals which they have not taken forward, and some would actually reduce benefit expenditure, which I think would have been appreciated.

2080 I understand that SSD has not used the model generated by the States statistical section of the Policy Council to calculate the costs of changes to the benefit limitation, the maximum rent allowances. As some Members of the previous Assembly gave such credibility to the outcome of that model – as I said in March, I thought it was flawed – can the SSD Minister clarify that, as a result of the increase in the benefit limitation, and also the maximum rent allowances, has the model been used to calculate those values, because I understand it has not been and does he consider the model was flawed and will he use it in the future?

2085 Finally, at a recent presentation a person with a significant position in the finance industry took their time to come and speak to me, and I think the previous Deputy Minister, and said that this person was poor once. The person said ‘I never want to see anybody in this Island poor again’. They said this Island can afford to look after its poor far better than we are doing now and I would encourage SSD to – I am disappointed they have not supported Deputy Le Lièvre’s amendments but you will be surprised how many people out there in the community are not proud of our benefit system, as it is. It is far too cruel to the poorest in our community and there is support, through all parts of society, to make the changes.

2090 I would encourage them, even though there has not been support for the amendment to go ahead, to increase the benefit system.

2095 Thank you.

**Deputy Gollop:** Sir, can I say, for clarification, I retract any inference I may have given to either of the two previous Ministers for Social Security here. The point I was making was just that the new Committee has got on with things at a very high speed in inter-departmental working and other workstreams.

**The Bailiff:** Deputy Brehaut.

2105 **Deputy Brehaut:** Thank you, sir.

It was just, really, for the record that there has been this enormous pressure on HSSD, on our budget. There are people that are not necessarily in what you could call a clinical environment within HSSD but in an all-care given environment which may not appear on any actuarial valuation. There are about 120 – 130 people cared for by HSSD that if, under the significant pressure that HSSD are coming under, we resolved that we would privatise those 130 beds then that would be a consideration for SSD.

2110 I hope that, in any actuarial evaluation in the future, somewhere written in the margins there is an awareness of the potential for 130 long-term beds at some point to appear, seemingly out of a clear blue sky.

2115 Thank you.

**The Bailiff:** Does anyone else wish to speak in debate.

Deputy Lester Queripel.

2120 **Deputy Lester Queripel.** Thank you, sir.

I have got a concern about the eighteen families we seem to have abandoned and I am hoping the Social Security Minister can allay my concerns. If Members turn to page 2047 of the Billet and look at the last sentence of paragraph 98, they will see what I mean, sir. The sentence reads

2125 ‘The remaining 18 families, for whom the impact of the benefit limitation is currently between £51 and £175 a week would still not receive the full benefit that they need but would at least be £50 a week better off.’

2130 So I am wondering: do SSD know where these eighteen families actually get the extra money from, that they need to live on, and are these eighteen families now considered to be living in poverty and, if they are, should we not be concerned about that, sir?

**The Bailiff:** Thank you.

Deputy Le Lièvre, were you wanting to rise to speak?



2135 **Deputy Le Lièvre:** It is just to ask the Minister of Social Security a question because, when I was a Civil Servant and working at Housing, there was a question when the Rosaire development was built, there was a question of the rent that was going to be payable for a one and two bed unit. I pointed out to my Chief Executive that they must raise issues with Supplementary Benefit and the rents they granted.

2140 Really, I asked the same thing when I was first a politician to my ex-Chief Executive and it was said, 'Don't worry, it will all be sorted out, Andy.' Well, we are still here. We have not... I was wondering, Deputy Langlois, if you could explain to me where we are with the funding mechanism and the charging and payment mechanism of the new Maison Maritaine and Longue Rue House complexes, in the light of the fact that when... because a lot of them, I believe, are going to be two bed units – perhaps Deputy Jones can correct me, if I am wrong – but somebody

2145 single, or a couple, who occupy a two bed unit will only get, as far as I am aware, £184, when the rent charged will be significantly higher than that.

They will be back in the old situation, where the rent allowance grant is less than the rent charged. They will eroding the very money which is given to them for living expenses and they will be rapidly in the same situation. There will be no rebate, I do not think, or maybe there will be, I do not know. I was wondering if Deputy Langlois could actually clarify for me how that would work in the charging mechanism that, presumably, has been calculated already for the new rebuilds of Maison Maritaine and Longue Rue.

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The *second* question I have is in relation to the benefit limitation. I forget what it is now but I notice that the £95,000 is the estimate and that includes the actual 3.1% uplift. But does that figure include new claimants that are going to come into payment as a result of the lift from £450 to £500, because there could be many, many more people out there who are ready to claim but will not do so at £440 a week because, 'Well, it is not worth it because it is only £10', but, of course, when it goes to £500 they will be attracted and they will also become £50 a week beneficiaries, or £2,600 a year – each and every one of them. Now I know, from my conversations with the Administrator or Chief Executive that – and we both smiled, I think, when he told me – when I asked the question a few weeks ago, how many new claimants came as a result from £405 to £450 – which was of concern to Deputy Spruce at the time, I think – the answer was one! I appreciate that 'one' has to be taken with a little bit of a pinch of salt, but no more than a handful... What estimates, if any, are there regarding the numbers that are going to be brought in by the new benefit limitation of £500 – because we just do not know and this, of course, was key to the failure of the last major Policy Report because we could not predict, other than huge numbers, and I wonder if Deputy Langlois can help me out here?

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2165

Thank you, sir.

2170 **The Bailiff:** Deputy Harwood.

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

I urge all Members to support the Report of the States Social Security Department.

2175 I am particularly grateful, and the Policy Council acknowledged this in the note we made on page 2057, that we recognise

'...the need for an urgent wholesale review of personal tax and social security contributions which will commence at the earliest opportunity to ensure that any changes to secure the sustainability of the [social insurance] funds is done with full consideration to issues of fairness, social objectives and the overall tax burden.'

2180

In this regard, on behalf of the Policy Council, sir, we greatly appreciate and welcome the co-operative stances that have been taken between Treasury and Resources and the States Social Security Department in order to address these issues.

2185 During the course of debate, we have referred on a number of occasions to 'targeting', comments have been made about 'means testing' certain allowances and, particularly, Family Allowances. I think it was Deputy Burford who actually suggested progressive taxation. Personally, I would favour a system of progressive taxation, if we are to achieve some form of charging of Family Allowances, rather than the alternative means testing. That, in itself, evidences the reason why it is so important for the two Ministers to work closely together because, *if* we are going to use, as an alternative to means testing, a system of progressive taxation, that has to be dealt with by Treasury and Resources through the taxation system, rather than by the Social Security Department through a means test.

2190

2195 So, it is with that as an example – the need to get the two Departments to work together – therefore, rather than *regret*, as a number of States Members have suggested, the fact that the two Departments are getting into – I think the expression used was 'holding hands together' – I would

actually welcome that approach and encourage that approach amongst these two Departments and also, where necessary and where appropriate, amongst other Departments.

Thank you.

2200 **The Bailiff:** Anyone else?

No? Well, Deputy Langlois, are you ready to reply?

**Deputy Langlois:** ‘Ready’ is quite a big word under that heading, sir! More or less.

2205 Thank you very much, sir, and thank you, everybody, for the input that you have given today. I will attempt, in this mass of information after seven amendments – I know those have been dealt with and so on – to piece together and answer the questions that have been asked. I will not be going for any great summing up because I think we have covered the ground very thoroughly. So, if I can pick these off, not necessarily in the same order as before.

2210 Deputy Hunter Adam asked about the cost and benefits of the various work initiatives. The main reason for not including those in the Report was the sheer mass of information and complexity. I know that does not always suit people. We felt that a summary was better than a mass of information. He has in his possession four sheets of paper: I can go through them item by item. There are roughly six or seven lines on each page and roughly twelve columns. I suspect our time might be better spent moving on. What I will do is give the undertaking, sir, that if Members would like this, we will circulate these to them. I would, however, say it will come with some caveat because, in one or two areas, there is a certain commercial sensitivity to the figures. I would also, when you get these, draw attention to what is, effectively, the weekly savings at the bottom of the final column which have been achieved and those, to us, are the most important figures because they are ongoing savings, so I hope that answers that question.

2220 Deputy Adam also asked about the long term care scheme. As far as the governance of the long term care scheme is concerned, there is no statutory control on total cost charged by care homes. That is simply the state we are in. We agree that there is a case here for taking a look at that, in the full knowledge of this being quite a delicate and difficult relationship between the private and the public sector because, if we are going to encourage people to go into this business... Once again, I draw parallels with the UK, the care sector, in financial terms, in the UK has not had the easiest ride, as I have known several people who have had involvements in it and there is a public/private partnership of a very perverse nature in some areas, with payment by results and all sorts of things, which is producing the *wrong* sort of results. So, if our relationship with the private sector is going to continue, then we have to do so very carefully.

2230 The long term care scheme is approaching its tenth birthday. I doubt we will be singing ‘Happy Birthday’ to it but it is there and it is an improvement on what it was before. When it was introduced, in 2003, it replaced what I believe, or understand, was a very dysfunctional and unfair model of arrangements of paying for long term care. The system we have here is much better than what we had previously but, of course, no system is perfect. No system is free of problems. I was very interested to note that, when we went to meet the Jersey Social Security Department they are extremely interested in the way *we* have gone about the funding mechanism and so on, and I believe – obviously, I cannot speak for them – they are likely to be following suit in the fundamentals of the model. As Deputy Adam has referred to, whilst some residential and nursing care beds are available for the standard co-payment, and the standard long term care benefit, other beds are charged at a higher rate, which then calls for a top-up payment from the individual in care or their family.

2240 It is an obligation of being an approved care home for the scheme that annual accounts are submitted to the Administrator of Social Security. You cannot provide that service without submitting annual accounts. This allows a view to be taken on profits and financial viability of the individual homes and, of course, there are variable levels of profit depending on a number of factors including the charges, the level of borrowing undertaken by the private home, or *lack* of borrowing obligations of the home, the running costs and whether the home is a commercial enterprise or a not for profit organisation. It was an objective of the long term care insurance scheme that the rates of benefit would be such as to allow the private sector homes to make *reasonable* levels of profits. Now I accused somebody of using imprecise language this morning and yet I come up with a phrase like ‘*reasonable* levels of profit’. Can we please not debate the ‘reasonable’ word today because that is *hugely difficult*, and that is what I was talking about – the sensitivity of the relationship with private firms providing services of this sort – to home in on that ‘reasonable level of profit’ is a very difficult one.

2255 In addition to trying to establish something which produces a reasonable return for this sort of business, it should also encourage the private sector to put in *additional* beds because, again, we

are looking at, probably, an increasing demand and, because of that, this demand is unlikely to be fulfilled entirely in the public sector. There *was* an immediate need to encourage more nursing beds to ease the bed blocking at the time in HSSD's acute beds. That was a big issue at that time and yet now it gets little mention, for various reasons. There is also a number of known medium and longer term need for additional beds to accommodate the needs of the ageing population.

There will, almost certainly, have been a shift in thinking over the last decade and ten years, well, is a long time in politics – two days is a long time in politics, sometimes! – ten years *is* a shift, the changing economic circumstances and so on and, in the last couple of years, in particular, there is more attention being directed towards extra care beds and care in your own home, partly because of the embryo strategy which is being developed by HSSD and supported by other Departments. This is likely to be a shift from residential beds and there will be an ongoing and expanding need for nursing care beds and beds for people with dementia. We *need* the private sector and we *need* it to be profitable – and then the crunch, but not *too* profitable, not *extraordinarily* profitable, not *rip off* profitable, because that is when public money runs into problems. So, again, it is a delicate balancing act and the overall view of that means that I believe we are going to have to move the regulatory side of it – and I am very reluctant to use the word 'regulatory', but regulatory at the softest touch, of where at the moment we receive accounts, but I suspect that may have to expand somewhat, extend somewhat.

The whole area of long term care is – as Deputy Adams knows, as well as any of us – undergoing review and, to date it has not developed to a stage where it has reached the agenda of the new SSD Board but I am sure it will very soon. The reason I say that is on one of these pieces of paper here, but not the obvious one – because Deputy Adam also, at some point, suggested – sorry, asked – us to confirm for you the state of play about the long term care project and the current involvement of SSD, HSSD T & R and Housing. It has been referred to before but, if I can remind, particularly for the benefit of new Members, it was all to do with the authorisation of the building of the two new homes. There was a special working party formed which, ironically, Deputy Le Lièvre and myself and Deputy Parkinson and Deputy Gillson and Deputy – sorry, I apologise to him, the gentleman from the Castel... (*Interjection*) Mike Garrett, thank you very much. And apologies, Sean, if you are listening to this and me forgetting your name! – We were part of that working party and moved the business case forward for the two homes. That has led on to – sorry, that was complementing – what was emerging as the Supported Living and Ageing Well Strategy which, I understand, now is called SLAWS, I am afraid. It is progressing but, to date, it has not actually come up with any work on the funding dimension. SSD's participation, consequently, to date, has been relatively minor but we know that we will be fully involved when the work extends to that area. So, hopefully, that deals with Deputy Adams' questions.

We move on from there. Deputy Fallaize, I think the answer to your second question, to do with which propositions were supplied by the Treasury and Resources Minister, so we have dealt with that one. Our intention is very much that, by September or October next year, the Supplementary Benefit Review will be back in this Assembly. I, like many others – and we have had a conversation over lunchtime, probably not worth repeating or not appropriate to repeat – was somewhat surprised by the comments about co-operation because I *do* have a concern that, if we go down too much of a route of moving *every* major decision for this Island into an adversarial confrontational debate in this Chamber, then I do not regard that as efficient decision-making. I *really* do not want to open up questions of 'executive government' and all those other things today. In reality, we have got to work together if we are going to progress and all my experience tells me that is the way to progress.

Deputy Ogier: he focused very much on an unchanging long term policy and I am suggesting to you that, in fact, it has been traditional, within that long term policy, every year, to come back to this Assembly and approve the operating. Therefore, I think there has been some difference of perception this week about whether the RPIX plus 1% was a long term policy which you had to justify moving from, or whether it was a guideline, a central path, which would then be adjusted according to shorter term perceptions.

I think there is one very important move-on we have made because Deputy Ogier referred all the time to the role of FEPG in the past. FEPG now includes both myself and my Chief Officer and that is a very important gesture towards the fact that the financial dimension of the whole financing of my Department is so important and has got to fit with what everybody else is doing.

I have to disagree with Deputy Ogier with his use of one term and that is, to such an extent, that I would not particularly want to go to try and quantify things because we could be into heavy actuarial cost to do so, but I do not understand his concept of '*overpayment*' of pensions in the past. Pensions have been paid at a rate of need on an annual basis and such is life. That is what has happened, so his use of that term 'overpayment, I think, is somewhat strange because, in reality,

2320 every successive Board was working with the best possible information they had at the time and it is *only* with hindsight that you can start saying ‘Well, actually, perhaps we should not have given them that much five years ago’. We could spend an awful lot of time going round in circles if we went down that route with every spending decision.

2325 Yes, Deputy Hadley, I will try not to dwell on this one but I think it is possibly unfortunate that we did not debate the Bebb amendment because that went straight for Family Allowances. I have said it a number of times: we are going to look at universal benefits. Right? So, again, it is a little bit like my rant yesterday, how many times have I got to tell you, we are going to, we are doing it, but you cannot do everything at once. On the Family Allowances one, we, in fact, as a Board, considered a very rapid and fairly draconian change relating to taxation, and so on, of Family Allowances and we rapidly came to realise that an amendment such as the one that was going to be placed, or our earlier proposals – which I do not particularly want to go into detail now – would actually really hurt low income families who are making their way without benefit.

2330 So if we take as an example a single earner family on £25,000 a year, or two earners on, say, £30,00, or even nearly £40,000 a year, in each case with two children, then the proposed rate of Family Allowance next year is £15.90 per child per week and we are talking about reducing that family’s income *at a stroke* by £1,654! For that reason, again, the devil is in the detail. That sort of move, it sounds *very attractive*. It takes money away from the people who actually do not need it, and all the rest of it but, around the middle, there is a huge piece of work to get that balance and that sliding scale right. I hope we will be coming back to you again next year with some proposals for a simplified system that could cope with that sort of move. So I am very pleased that Deputy Hadley, on this occasion, did not spot the opportunity for an amendment because we might have been into another slow but rather circular pattern.

2340 This is an answer to somebody, but I cannot remember who asked it... Ah, yes, Deputy Dorey: was the statistical model used? The model was not used because these are marginal changes. They are small changes, they are marginal changes. We are very much intending that the States Economist will further refine his model and it will be used when we come back with more radical suggestions.

2345 Going further on, to Deputy Dorey’s comments, I take his point about legislation at the same sitting. We all know the circumstances how this has come about, all relating to timing to do with the Budget and so on. If it is a real problem, then we can happily apologise for that but it is where we are.

2350 I congratulate, as always, Deputy Dorey’s simple outline and interpretation of the *fundamental* issues that are being faced and I am glad that Deputy Gollop has cleared the air. I was going to double guess what he was thinking but suggest that he was absolutely, in my perception, *never* intending his comments to be a criticism of what went before. The present Board gives absolutely full recognition of what has gone before. The Supplementary Benefit Review – and I can give you a very precise example of this – the Supplementary Review which, as I have said, is a particular event happening next week, to start that, really start that rolling, induced a certain level of concern – I almost said panic but I did not want to embarrass any members of staff – but a certain level of concern about resourcing it, and so on and so forth, because an initial assumption was made that the new Board would like to have a nice clean, blank sheet of paper and pretend that they had a country which did not have any welfare system at all. ‘If we did not start from here and we started from scratch, *this* is what we would do, and *that* is what we would do and, then, oh, everything would be wonderful...’ If, at any time, that picture appears to have been painted over the last two days, then forget it. We are starting from the excellent work that led up to the March States Report. A number of those resolutions were passed and we are working on those, or we have been instructed to work on those, within a particular timescale now – or one of them within a particular timescale – and we are intending to start from that base and then work onwards, *not* ignore everything that has gone before. Certainly, there is nothing further from our minds than suggesting that the previous Board did nothing or did the wrong things. Sorry, but the follow-on from that obviously is, yes, we will do things differently because we are a different bunch of people.

2370 Deputy Brehaut, thank you for the numbers. I appreciate the numbers. What you are saying is a worthwhile point putting in there.

2375 Deputy Queripel, I do, I totally appreciate the reference, the turn of phrase, saying ‘Why are we abandoning 18 families?’ We are not abandoning them. We have to draw a line somewhere because, otherwise, you get into this dependency culture which Deputy Gollop referred to earlier and you extend that and, if you do not have a limit, then, potentially, you actually create more claims and so on. But we feel that the limit we are suggesting actually minimises the concern in that area.

The charging mechanism from Deputy Le Lièvre: no, we have no solution to report at this

stage.

2380 Thank you for the question. It is one of those which has not been answered yet. The current  
homes on that site are only just being demolished and we agree that that will have to be resolved in  
the right timescale. On your question about the benefit limitation, then, the £95,000 estimate, your  
question was ‘Does it include new claimants?’ If you look again at the detail, I *thought* it was in  
2385 there. I have not gone back to it because I was shuffling paper here but if you go back to the detail,  
it talks about, I think, a 20% contingency which underlies that. We have made a small allowance  
and covered that in the introduction. Remember that the newcomers to the scheme – if  
‘newcomers’ is the right word – but any additional claimants, by definition, the incremental  
increase only comes in small amounts. Again, I am being advised – and I am being advised by  
2390 those who are currently dealing with the situation – if you go back to my opening speech, I think  
you will find the phrase ‘we do not expect a flood of claimants’ in that area.

So, there you are, ladies and gentlemen. Sir, we have got to the end of quite a long and windy  
path here over the last two days. After this long run into the debate, I now, on behalf of my Board,  
ask you all to provide maximum support for these resolutions.

2395 **The Bailiff:** Deputy Ogier.

**Deputy Ogier:** I did not want to interrupt in the middle of Deputy Langlois’ speech but he  
expressed some confusion as to what I meant when I said an ‘overpayment’ of the pension.

2400 Social Security’s policy was to uprate pensions at the midpoint between RPI and earnings. We  
have seen that, in the last six years, RPI, or RPIX, has gone up by, say, 3% per annum, so let us  
take a figure of 18% over the last six years... We see from the figures that earnings have gone up  
24%, so pensions should have gone up by the midpoint between 18% and 24%, which is 21%. In  
fact, however, they have gone up by 29%, so there has been an 8% overpayment of pensions in the  
2405 last six years because we uprated *above* earnings when we should have uprated at the midpoint of  
RPIX and earnings, so there has been 8% over the last six years paid out of the Pension Fund than  
should have been and that results in about £6.4 million overpayment over the last six years.

**The Bailiff:** Deputy Storey.

2410 **Deputy Storey:** Sir, I appreciate that I spoke generally yesterday and the Minister may well  
have forgotten about the points I raised but, during my speech, I did ask for some sort of  
confirmation from him that his Department would give serious consideration to delaying pension  
age further than is currently being considered and I hope that, perhaps, he could give me that  
2415 assurance that the Department will give serious consideration to that option.

**The Bailiff:** Deputy Langlois.

**Deputy Langlois:** I will answer those two points very briefly in reverse order.

2420 Yes, I did forget. It was on another piece of paper, buried in the heap. Yes, we will give serious  
consideration to that. I did, at the time, though, in terms of giving a flavour of that one, ring the  
alarm bells because of other involvements I have had on the pension scene in the recent past. I  
*personally* feel that it might be a bridge too far when we have already got a plan in place to go to  
67 but that is not going to prejudice my discussions about whether it should go further.

2425 For Deputy Ogier, I take the point. I take the accounting and *arithmetic* of what he is saying. I  
was only really disputing the term ‘overpayment’ because it implies some sort of error or crime on  
the part of the Department, or somebody, that it is absolutely wrong for us ever to have paid that  
money out. We have done it, that is how well off pensioners have become, that is very much, that  
was very much in our thinking when we said we will, as it were, take the foot off the pedal a bit.

2430 **The Bailiff:** Deputy Lowe.

**Deputy Lowe:** Could I just ask for clarification, please, sir.

2435 I said yesterday the difficulty we face having the Reports last month and this month and that  
they would, hopefully, be together in future and the point picked up by Deputy Dorey about  
Legislation being at the same time...

The question I would like to ask is: will we have both Reports in September, how we used to  
have them – in which case, if you are getting on so well with Treasury and Resources, they might  
even bring the Budget at the same time in September and, therefore, the legislation will be in  
October – or are we going to face the same again, with legislation with the October debate, if you

2440 are going to put both Reports together in October to be the same time as the Budget?

**The Bailiff:** Are you able to answer that, Deputy Langlois?

2445 **Deputy Langlois:** I have not spoken in sufficient detail to my friend at Treasury and Resources, my new found friend, (*Laughter*) about this.

2450 If it *were* possible to bring it in September then I know, for a fact, that on one aspect of *my* Department's work on it, that would be very desirable because of the contributions difficulties in terms of getting the work done by January. I do not think it is insurmountable if it goes to October but we still have to ascertain that. We will take note of the comments and we will look for the least of all the evils because, sometimes, that is a compromise you have to make, to say 'Well, yes, if bringing the legislation at the same time is not perfect and not ideal, but if it is the least of all the evils, that is what we will do.'

2455 **Deputy Lowe:** I thank Deputy Langlois for that because it has been discouraged, in the past, by previous Bailiffs having it at the same time.

**The Bailiff:** Deputy Lester Queripel.

2460 **Deputy Lester Queripel:** Thank you, sir.

I have still got concerns about these 18 families fallen between the cracks. One family would be enough of a concern but 18 families really, genuinely do concern me so maybe I could follow that up with the Department and have a meeting, at some stage, to clarify the situation with these 18 families.

2465 Thank you, sir.

**Deputy Langlois:** You are one step ahead of me with the suggestion, Deputy Queripel.

2470 Yes, certainly, if that is a very specific concern and you want more details within, obviously, the realms of all sorts of confidentiality and so on, but more explanation all I would say to you is my understanding of Social Security systems on a much broader basis is that you will *always* have these – hopefully not cliff edges – but step functions where you cannot absolutely push everybody through the same system. But please do contact my team and I am sure we can provide a more detailed explanation.

2475 **The Bailiff:** Members of States we come, then, to the vote. The propositions are set out on pages 2057 through to 2059 of the Billet. There are 23 printed Propositions and, of course, a new Proposition 24 has been added as a result of the successful Amendment 'A' proposed by Deputy Le Lièvre.

2480 Unless anybody wishes to take any of the propositions separately, I would propose to put all 24 of them to you together. Does anybody wish any of them to be taken separately?

No? In that case, I put all 24 propositions to you together:

1. That, from 7 January 2013, the standard rates of pension and contributory social insurance benefits shall be increased to the rates set out in that Report.
- 2485 2. That the requirement in the Social Insurance (Guernsey) Law, 1978 that the 'qualifying spouse' must be over 45 years of age at the time of their spouse's death in order to qualify for bereavement allowance be removed.
3. That, from 1 January 2013, the prescription charge per item of pharmaceutical benefit shall be £3.20.
4. That, from 7 January 2013, the contribution (co-payment) required to be made by the claimant of care benefit, under the long-term care insurance scheme, shall be £182.98 per week.
- 2490 5. That, from 7 January 2013, nursing care benefit shall be a maximum of £756.98 per week for persons resident in a nursing home or the Guernsey Cheshire Home and residential care benefit shall be a maximum of £405.44 per week for persons resident in a residential home.
6. That, from 7 January 2013, elderly mentally infirm (EMI) care benefit shall be a maximum of £534.24 per week for qualifying persons resident in a residential home.
- 2495 7. That, from 7 January 2013, respite care benefit shall be a maximum of £939.96 per week for persons receiving respite care in a nursing home or the Guernsey Cheshire Home, an elderly mental infirm rate of £717.22 for persons receiving respite care in a residential home and a maximum of £588.42 per week for persons receiving respite care in a residential home.
8. That, from 4 January 2013, the supplementary benefit requirement rates shall be as set out in paragraph 94 of that Report.
- 2500 9. That, from 4 January 2013, the weekly benefit limitations for supplementary benefit shall be:
  - (a) £500 for a person living in the community;
  - (b) £501 for a person who is residing in a residential home; and
  - (c) £720 for a person who is residing as a patient in a hospital, nursing home, the Guernsey Cheshire Home or as an elderly mental infirm resident of a residential home.
- 2505 10. That, from 4 January 2013, the amount of the personal allowance payable to persons in Guernsey and Alderney

residential or nursing homes who are in receipt of supplementary benefit shall be £28.70 per week.

11. That, from 4 January 2013, the amount of the personal allowance payable to persons in UK hospitals or care homes who are in receipt of supplementary benefit shall be £48.34 per week.

2510 12. That a supplementary fuel allowance of £27.93 per week be paid to supplementary beneficiaries who are householders from 26 October 2012 to 25 April 2013.

13. That, from 4 January 2013, maximum rent allowances be introduced for single people and couples without children living in rented accommodation and people living in shared accommodation.

14. That, from 7 January 2013, family allowance shall be £15.90 per week.

2515 15. That, from 7 January 2013, the rates of attendance allowance and invalid care allowance and the annual income limits shall be as set out in paragraph 123 of that Report.

16. That the Treasury and Resources Department be directed to take account of the 2013 estimates for Social Security Department Formula Led expenditure when recommending, as part of the 2013 Budget Report, Cash Limits for Departments and Committees.

2520 17. To approve the draft Ordinance entitled 'The Social Insurance (Rates of Contributions and Benefits, etc) Ordinance, 2012', and to direct that the same shall have effect as an Ordinance of the States.

18. To approve the draft Ordinance entitled 'The Social Insurance (Guernsey) Law (Amendment) Ordinance, 2012', and to direct that the same shall have effect as an Ordinance.

2525 19. To approve the draft Ordinance entitled 'The Health Service (Benefit) (Amendment) Ordinance, 2012', and to direct that the same shall have effect as an Ordinance of the States.

20. To approve the draft Ordinance entitled 'The Long-term Care Insurance (Guernsey) (Rates) Ordinance, 2012', and to direct that the same shall have effect as an Ordinance of the States.

21. To approve the draft Ordinance entitled 'The Supplementary Benefit (Implementation) (Amendment) (No. 2) Ordinance, 2012', and to direct that the same shall have effect as an Ordinance of the States.

2530 22. To approve the draft Ordinance entitled 'The Family Allowances Ordinance, 2012', and to direct that the same shall have effect as an Ordinance of the States.

23. To approve the draft Ordinance entitled 'The Attendance and Invalid Care Allowances Ordinance, 2012', and to direct that the same shall have effect as an Ordinance of the States.

2535 24. To direct the Social Security Department to present to the States of Deliberation by no later than October, 2013 any changes to legislation which are required in order to give effect to their Resolution 1(d) on Article 6 of Billet d'État V of 2012, which established that parents whose youngest dependent child is aged seven or older should be classified as a jobseeker (that is to say a person who is actively seeking employment).

Those in favour: those against.

2540 *Members voted Pour.*

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

That concludes the legislation in this month's Billet.

2545

## COMMERCE AND EMPLOYMENT DEPARTMENT

2550 **Aircraft Registry  
Report approved**

*Article V.*

2555 *Whether, after consideration of the Report dated 7th August, 2012, of the Commerce and Employment Department, they are of the opinion to direct the preparation of such legislation as may be necessary to give effect to the proposals.*

**The Deputy Greffier:** Article V, Commerce and Employment Department – Aircraft Registry.

2560 **The Bailiff:** The Minister for Commerce and Employment Department, Deputy Stewart, will open the debate.

Deputy Stewart.

2565 **Deputy Stewart:** Mr Bailiff, fellow Assembly Members, this is a fairly straightforward, in my view, piece of economic enabling legislation.

2570 Just to bring you up to date with where we are, just a tiny bit of history. It was back in September 2011 where the States Resolution directed the Commerce and Employment Board to work with the Law Officers to identify the necessary legislative requirements for the establishment of an Aircraft Registry and then report back to the States, outlining the legislation. That is what you have in the Report before you today.

The Department was also directed to work with Jersey to establish a Channel Islands Registry and, if this was not possible, then to establish a Guernsey Registry. A joint working group on this is due to report back this month and, in the meantime, though, work has commenced, at quite a

pace actually, and has been continued by the Department to maintain the momentum that we have managed so far and this is where we are now with this resolution.

2575 A commercial partner, SGI Aviation, has been appointed, in line with the resolution, and they are working with the Director of Civil Aviation at the moment on this project to complete the full business case for the establishment of a Guernsey Aircraft Registry and to develop all the necessary policies and procedures that we need in place. The Director of Civil Aviation has also  
2580 been working with the legal drafters – and the legislative proposals are mainly as follows, but you have got quite a detailed Report in front of you – to take the opportunity, formally, to incorporate the States Resolution on 28th July 2011 to extend the function of the Director of Civil Aviation to cover regulating aviation security within the Bailiwick, an amendment of the Aviation (Bailiwick of Guernsey) Law, 2008, which includes the review of Part II, the details of which are in the States  
2585 Report and contains amendments, as are necessary, for the establishment of the Aircraft Registry. Part III, which is provisions relating to air navigation, will be repealed: the provisions of this Part will provide the foundation for the new Air Navigation (Bailiwick of Guernsey) Law, as well as incorporating relevant updates that need to be made for air navigation rules.

The Aircraft Registry (Guernsey) Law – and this will be an entirely new piece of legislation – will contain the provisions that will be necessary for the establishment of the Aircraft Registry in  
2590 Guernsey. It will not be a Bailiwick Law, as the Registry will be located in Guernsey. The agreement of the States to the Law drafted for proposals in this Report will maintain the current – and it really is, we are moving at quite a pace with this – momentum of the project and enable us to bring forward the draft amendment to the Aviation (Bailiwick of Guernsey) Law and the draft Air Navigation Law in December this year, so we are only a month away from that. The Aircraft  
2595 Registry (Guernsey) Law will be ready for the February 2013 meeting of the States. That will keep us on track to commence the operation of the Registry and we are looking at a start date of summer 2013.

I would just like to point out the economic benefit of these are difficult to gauge. However, the money is not in the Registry itself. It will – watch this space – maybe make a small amount, but  
2600 where the economic benefit is to Guernsey is for the corporate service providers who will be facilitating the legal entities and all the work that goes on behind the scenes. That is where the economic opportunity for this is going to be, going forward.

Just an update to the Report: it does say we have not received – just going to the page here – no issues. I did, in fact, just reply to Mr Llewellyn half an hour ago – it is one of the letters I was  
2605 signing off here – Mr Llewellyn, who is the Deputy Chairman of the Policy and Finance Committee of the States of Alderney, has raised with me, as have the Alderney Representatives, to see whether there might be some back office work for people in Alderney. Most of the Registry work will be done by SGI – they are the people we are contracted to. The real opportunity is for advocates and corporate service providers so, in that respect, there will be some work, hopefully,  
2610 for people in Alderney, as well.

So, I would ask Members to approve the drafting of the Law, as outlined in the Report, sir.

**The Bailiff:** Deputy Gollop.

2615 **Deputy Gollop:** I know, I think we already looked at a bit of this on Legislation the first time it came round but I have got three queries, perhaps, to raise about this.

I am supportive of any new industry, any new sector but I think what we want is a *genuine* industry, a *genuine* facility, rather than something that is seen to work within a loophole and I think it is important to very much say that we are actually wanting to raise our game in the  
2620 aviation and leisure field. To that end, I am a bit surprised to see, in this Policy Letter, that we are moving away from the original principle of having a generic law that would have covered larger aircraft at some point. It is ironical that, here we are in Guernsey, we, as a Government, even *own* an airline, but those planes will, by definition, not be able to be registered locally, because they will be commercial or passenger planes.

My *second* point is, the connection with Jersey, I know Deputy Kuttelwascher and others were  
2625 *always* sceptical of how well we could work with our brothers and sisters overseas, but I did hear Deputy Luce, I think it was, part of the new team there, still saying he would like to see movement with Guernsey and Jersey on this one and, if only to save some elements of administrative and legislative support, a joint connection may be useful, as well as an international projection.

My *third* question is a technical one, really, about the process. I read, in the Report, that there will be a certain cost to doing this, including the drafting of legislation and the working of aviation security but, at the same time as all of this work is going on, there will be a full and robust  
2630 business case made to Treasury and Resources, but I thought, *why?* If we as an Assembly are



2635 going to vote for it and you are working on those expensive work streams, then if Treasury and Resources say yes, job done, what is the point? If they say 'No', then not only will they be second guessing *us* but, worse, they will say 'No' at the point when a lot of money and time have been spent on it, so I cannot quite see the logic of the process there.

Aside from that, I think we should give this a go at this stage.

2640 **The Bailiff:** Alderney Representative Arditti.

2645 **Alderney Representative Arditti:** Thank you very much to the Minister for mentioning Alderney at that moment. We do not have too many advocates in Alderney. We have wonderful corporate service providers but, as you rightly pointed out, this is very much going to be a Guernsey registry and I imagine that those benefits will come to Guernsey. Alderney, as you mentioned, will play its part, I am sure insofar as one can ever predict what a fellow politician is going to do, I am pretty confident that Alderney will play *its* part in enacting all that Bailiwick legislation that will be required to enable Guernsey to have this registry and we shall all hope that it does well.

2650 I just ask, if the Minister remembers that, in addition to assuring us that he would do what he could to provide jobs, not necessarily the monetary flow, but jobs in relation to the maintaining of this Registry and, failing that, whether the assurance he gave that he would look to other operations by and on behalf of Guernsey, where back office work might usefully be done in Alderney?

2655 **The Bailiff:** Deputy Kuttelwascher.

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

2660 A question for the Minister, relating to paragraph 3.1. This Report was dated 7th August: has there been any progress on discussions with Jersey on a joint Registry since this Report was published and what is the status of those discussions?

Thank you.

2665 **The Bailiff:** Does anyone else wish to speak?  
No? Deputy Stewart, then, will reply.

**Deputy Stewart:** I will take them in order.

2670 Deputy Gollop, this *is* actually a genuine industry, it is providing services to the aviation industry and, in many ways, it is one of the most tax-neutral... The reason why we are not looking at registering, although the law *will* enable us, should we wish to in future. The reason we are not registering larger aircraft is really that is a question of risk assessment. In the event of any accident, if we were registering A3180s with 400 people on board and that happened through some disaster to fall in the middle of the Atlantic Ocean, we might be liable for the accident investigation costs, so this is a real matter of risk assessment, what we can reasonably obtain insurance for, so that is why, initially, this is for private aviation only and, basically, this is all part of the risk assessment and the business plan that we are going to put forward.

2675 You did ask about Jersey, but I will handle that, if I may, in conjunction with Deputy Kuttelwascher's question.

2680 I cannot really comment on the actual process, but I will confer with T & R outside of here and will endeavour to answer that question, but your third question I cannot answer at the moment, Deputy Gollop.

2685 Deputy Arditti, you know we have spoken and I have said if there is any way that some 'virtual' working can be obtained for Alderney within this Registry, if there are jobs available, you have my word that, if I can facilitate that, I will try and make some offer to you, but, as you know, we have talked generally – and this is not this subject – but I do have a view that the States, perhaps, as many other Government bodies do, now allow a certain amount of home working, which allows people living remotely, married mothers perhaps, who have children, but cannot get into a normal place of work, can work virtually, so that is perhaps something my Board is going to look at in future. I cannot second-guess that, but *I* would certainly like to look at it.

2690 Where we are with Jersey at the moment: we were proceeding quite well with them. There was basically a period when they wrote to my predecessor, saying they wanted to tie this up with a category 1 shipping register. We wrote back to say there was no appetite to get involved with a category 1 shipping register, we felt that the aircraft registry should go through on its own as a single item. We did have a lot of communication with Jersey and we did not get any replies and it

2695 was only recently that it seems they have picked the ball up again. However, we have been moving and I have been encouraging, let us move on with this, because this is economic enabling. We have moved to sign a contract, as you know, if you have already received your December Billet, there is a great thick document of air law for us all to read through, which will be fun. We made a huge amount of progress at this.

2700 This is the sort of thing that C & E needs to be doing, bringing through economic enabling legislation and I am not going to sit around waiting for everyone else to join in. I want to move forward, I want Guernsey to take the opportunity, but I *have* left the door open to Jersey, but since I have said to industry already, that we were going with this alone, I have spoken with Jersey and said that we will consult with industry *first* before we do anything. This is really a law for industry, this is the law for the corporate service providers and that consultation is now in place and, on the results of that, I will then confer with my fellow Ministers and will go back to Jersey with our answer, but where we are at the moment is waiting for the results of an industry consultation on that.

2710 I think that answers the questions, sir.

**The Bailiff:** Members of the States, there is a single proposition. It is on page 2067 of the Billet:

2715 Whether, after consideration of the Report dated 7th August, 2012, of the Commerce and Employment Department, they are of the opinion to direct the preparation of such legislation as may be necessary to give effect to the proposals.

Those in favour; those against.

2720 *Members voted Pour.*

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

2725 **ENVIRONMENT DEPARTMENT**

**Environmental Pollution (Guernsey) Law, 2004  
Part VI – Water Pollution, approved**

2730 *Article VI.*

*The States are asked to decide:*

*Whether, after consideration of the Report dated 21st August, 2012, of the Environment Department, they are of the opinion:-*

2735 *1. To approve the proposals set out in that report –*

*(a) To amend The Environmental Pollution (Guernsey) Law, 2004, to confer functions in relation to regulation of water pollution on the Director and to extend the power to issue anti-pollution notices and related functions in relation to water pollution, or a risk of water pollution, outside the water catchment area, and to include exclusion of liability provisions as set out in Appendix 1 to the Report.*

2740 *(b) To commence Part VI of The Environmental Pollution (Guernsey) Law, 2004, and repeal The Prevention of Pollution (Guernsey) Law, 1989, subject to the savings outlined in Appendix 1 to the report.*

*(c) To set standards for the Island's water resources as set out In Appendix 2 to the report.*

2745 *(d) To implement an integrated management approach for prescribed operations discharging into receiving waters in accordance with proposals set out in Appendix 1 to the report.*

*(e) To provide an exemption from the licensing requirement under the Food and Environment Protection Act 1985 (Guernsey) Order, 1987, for operations depositing substances into the sea, within the territorial waters, which are prescribed under The Environmental Pollution (Guernsey) Law, 2004, so as to avoid a need for 2 licences for the same deposit.*

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**The Deputy Greffier:** Article VI, Environmental Pollution (Guernsey) Law, 2004 – Part VI, Water Pollution.

2755 **The Bailiff:** The Minister, Deputy Domaille, will open the debate.

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

2760 The purpose of this Report is to recommend the commencement and implementation of Part VI of the Environmental Pollution (Guernsey) Law, 2004. The provisions within the Report concern the prevention and control of water pollution and the drafting of the necessary legislation to give effect to the proposals.

2765 The Environmental Pollution (Guernsey Law), 2004 was introduced by the States in 2004. Parts I – IV and parts IX and X of the Law were commenced in 2006. This created the office of the Director of Environmental Health and Pollution Regulation and put in place various administrative arrangements and enforcement provisions. Part V, which dealt with waste pollution, was commenced and implemented in 2010. It was anticipated that recommendations about Part VII, air pollution, will be reported to the States in 2013 and Part VIII, pollution by sound, light etc, will be reported to the States in 2014.

2770 Turning to the specifics of *this* Report, within the proposals are a number of amendments to, and repeals of, existing legislation that are necessary to bring the new regime into force and the transfer of the regulatory and enforcement functions from Guernsey Water to the Director, which is consistent with the rest of the Environmental Pollution Law and was agreed by the States in February this year.

2775 Implementation of recommendations would allow the Director to regulate the prevention and control of pollution of *all* water resources, *including* the marine environment of Guernsey. Importantly, the proposals include the drafting of regulations to introduce standards for the quality of water resources. These standards have been developed by the Director and Guernsey Water, in partnership with our expert advisers, to ensure the protection of Guernsey's *unique* drinking water catchment. The expert adviser, actually, comes from the World Health Organisation and comes over every year.

2780 The proposals will ensure that a proportional approach to legislation is taken, which is cost effective and targeted at high-risk activities. Certain activities that have the ability to cause *significant* pollution, e.g. sewage discharges into receiving waters, will be designated as 'a prescribed operation' and, as such, will be subject to licensing conditions to ensure proper control.

2785 I should highlight that, while all operators must comply with the Law, very few will be licensed. The licensing system is designed to capture large polluting operations that regularly engage in activities covered by the Law. Smaller operations, which may only irregularly engage in controlled operations will *not* be required to obtain a licence, but will be given advice and guidance on how they should operate to comply with the Law. As an aside, in fact, the current requirement for 'permitting' will be removed altogether. These are development permits for things like cesspits, catchpits, oil tanks etc. These permits will be replaced by a general requirement to follow the standards of good practice to prevent water pollution. This will remove a current burden on businesses and residents.

2790 Members, these measures are essential to ensure that we protect health and wellbeing, ecosystems *and* the environment from pollution to Guernsey's unique water resources.

2795 Please support the proposals.

**The Bailiff:** Is there any debate?

Deputy Laurie Queripel, then Deputy De Lisle.

2800 **Deputy Laurie Queripel:** Thank you, sir.

2805 When I first caught sight of this Report, I thought that it might just be a routine matter, one of those rare Billet items that one could skim through – not that I do, of course! (*Laughter*) – but, as I read through it, my interest and concerns began to mount. The Director is a very powerful individual. For example, the Director has the ability to close the tip at Mont Cuet or even shut down the power station. Now it is being proposed that we arm the Director with even more power, albeit for very good reasons.

This is where my concerns come in and I do not expect Members to turn to the page but, on page 2072 of the Report, paragraph 9, we are told that the Director will have powers,

2810 '...enabling the Director to enter land to take samples...

I believe the same power could be conferred upon her officers.

2815 I want to ask the Minister: will the Director have to justify these actions, before proceeding, or can this action be taken as and when? In other words, is the Director accountable to anybody and does she have to justify her actions to anybody?

My point is that, being as the Director is appointed, not elected, the Director is not accountable

to the public, so who is the Director accountable to? Does the Director have to show good cause before taking any significant action?

2820 On page 2073, paragraph 16, it says:

‘In concordance with other recent legislation, it is proposed that this amendment includes an exclusion of *personal* liability for the Director.’

2825 I realise that it is *extremely unlikely* that the Director would act inappropriately, disproportionately or irresponsibly but, if such an occasion arises, and there are consequences and costs as a result, where does the liability rest? Does it rest with the States and will there, actually, be some consequences to the public purse, if costs are involved?

So I would like the Minister to answer these questions, before I can vote *Pour* on this Report.

2830 Thank you, sir.

**The Bailiff:** Before I call the next speaker, there is an amendment proposed by Deputy Domaille, seconded by Deputy Spruce which should, perhaps, be laid at the moment.  
Deputy Domaille.

2835 **Deputy Domaille:** Thank you, sir.  
This amendment –

**The Bailiff:** Has it been circulated, by the way?

2840 **Deputy Domaille:** Yes.

**The Bailiff:** Yes.

2845 **Deputy Domaille:** This amendment is a quite simple amendment; it is intended to remove any possible misunderstanding regarding the drafting of the legislation:

*At the end of proposition 1(b) to insert the following:*

‘and to repeal the *Ordonnance relative au depot de décombres de carrier, d'immondices et d'autres debris sur les Cotes de cette Ile, 1932*’

2850 *After proposition 1(e) to insert new propositions 1(f) and (g) as follows:*

‘(f) To carry forward the current prohibition in the *Prevention of Pollution (Guernsey) Law, 1989* against causing or permitting water pollution or a risk of the same breach of which would be an offence under the *Environmental Pollution (Guernsey) Law, 2004*.

2855 (g) To replace the current permitting and other provisions under the *Prevention of Pollution (Guernsey) Law, 1989* relating to potentially polluting works or activities, with provisions requiring the same to comply with listed requirements breach of which would be an offence.’

*After proposition 1 to insert a new proposition 2 as follows:*

‘2. To direct the preparation of the necessary legislation to give effect to those proposals.’

2860 **EXPLANATORY MEMORANDUM**

*The amendments are required to –*

(a) provide for the repeal of the 1932 Ordinance as referred to in paragraph 15 of Appendix 1 to the report. This is not covered by the existing wording of proposition 1(b) as the Ordinance is a customary law Ordinance and not made under the 1989 Law,

2865 (b) add new propositions 1(f) and (g) –

a. to provide for the carrying forward of the existing prohibition in the 1989 Law against causing or permitting water pollution or a risk of the same; it will then be an offence under the 2004 Law to breach this prohibition so that the provisions would prevent risk from harm and protect water resources as set out in Appendix 1 to the report, and

2870

b. to provide for the replacement of the current permitting regime under the *States Water Supply (Prevention of Pollution) Ordinance, 1966* and current provisions relating to burial of animal carcasses as set out in paragraph 13 of Appendix 1 to the report, and insert the usual proposition directing the preparation of legislation to give effect to the proposals.

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The amendment will give St. James’ Chambers an *explicit* instruction to draft the Ordinance

and repeal some unused legislation. It will also ensure the new legislation will enable us to deal with the *risk* of pollution, as opposed to only being able to deal with actual incidents.

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**The Bailiff:** Deputy Spruce, do you formally second the –

**Deputy Spruce:** Yes, sir.

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**The Bailiff:** Does anybody wish to debate the amendment?

No? In that case, let us go straight to the vote on the amendment.

Those in favour; those against.

*Members voted Pour.*

2890

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

We will, then, get back to general debate and, Deputy De Lisle, I was going to call you next, followed by Deputy Jones.

2895

**Deputy De Lisle:** Thank you, sir.

I support bringing in standards, which are long overdue, although I understand, of course, that other aspects of the Law in general have been worked on over the last few years. Of course, I support extending the Law beyond the current catchment areas in and around Guernsey and working to comply with EU Directives in this area of environmental pollution controls.

2900

I am pleased to support the commencement and implementation of this Part of the Environmental Pollution Controls, in terms of water pollution – that is, Section VI of the Environmental Pollution Law – and to see repealed the outdated legislation limited to the current water catchment area only.

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I am also pleased to support, of course, the ‘risk’ of pollution that is coming through the amendment that was mentioned just a moment ago. But I am *especially* pleased to see the standards brought in for water quality, which will protect both water catchment areas, ground and surface water and also regulate discharges – and the discharges at sea of substances would require a licence.

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The Report notes there are, currently, no local standards that can be applied which take into consideration the protection of human health, ecosystems and the environment in general. Also, without the legislation, water pollution will lack modern standards for the Island’s water resources on- and offshore and to comply with the EU Water Directives. I think it is important to note that we cannot turn a blind eye to the new European Marine Strategy Directive, which aims to restore European marine waters to their natural, biological condition by 2020. Now this will have to be applied to our waters. There will be international pressure for Guernsey to implement this Directive.

2915

There was some concern, I think, a moment ago, about the Director’s role and the fact that we are moving this overall requirement and regulation to the Director, but I would view this as a big responsibility, really, that requires concentrated review and an area of the Government to look specifically in this area. Well, of course, we have already gone through that, in terms of providing for that change into the future. I am also pleased to note the adoption of the standards for PFOS and the standards of Minnesota, of 0.3 parts per billion, given the similarity of environmental spillages that have occurred there, where similar ground water contamination had leaked into streams and reservoirs. I have had concerns over the high levels of PFOS in the reservoir and still have those concerns. Levels over the last four years have *exceeded* 0.3 parts per billion and the need for blending in order that the water is fit for human consumption...

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2925

I would also ask the Minister that the actual levels of pollutants – and I know this is through the Public Services Department because they provide the data at the moment with regard to actual levels of pollutants in our waters – are regularly reported and easily available in the public domain, available for scrutiny and reported against the set standards that we are putting in and that were described in the Report. This is currently lacking. These should be available to all on the website, or regularly provided in paper form so that we can all see what the standards are and we can also see to what extent the *actual* levels of pollutants comply with those standards. So I would ask for regular reporting, please, of those. It is not good enough to have to continually go out and request numbers, as I have had to do recently – but I still have not got a reply.

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So I would very much support this and, of course, I am looking forward to the air pollution being introduced, as well – another Part of this Legislation – coming forward quickly. I am a little disappointed that it is going to take another quite long time because, in reality, we have to work

2940 hard on these environmental measures to seek some controls with respect of pollution in Guernsey because this will help to promote a more positive image of the Island and restore the quality and cleanliness of our local waters and, of course, our coastal waters, in particular. So we have to redress – and we have had a lot of negative publicity with regard to offshore waters, particularly. We have had negative publicity, too, with respect to the water contamination in the reservoir. We have to redress the negative publicity that the Island has received in the international press, all over the world, to this pollution problem as quickly as possible.

2945 I am very supportive and view, with hope, that we will be more proactive through the introduction of these new regulations and standards.

Thank you, sir.

2950 **The Bailiff:** Deputy David Jones.

**Deputy David Jones:** Thank you, Mr Bailiff.

2955 First of all, we do not need any advice from the EU. They cannot run their own selves properly and we have been looking after our water courses and our pollution issues for tens of decades without too many problems, which brings me to this point: here we are again, with more and more legislation coming before this House, for reasons I cannot fathom. Has there been a major problem with the way that we have dealt with these issues in the past? Has the Water Board not dealt with these issues as they have come up and sorted them out?

2960 Can I just refer you – and, by the way, just while I am on my feet, any negative publicity that we have had, in the past, about the pollution of our seas has been completely exonerated by the programme on this and every Friday night called ‘Island Hospital’. Anybody that has seen that programme has seen the Island from the air and what a beautiful place it really is. I can tell you the numbers of people that have rung and e-mailed our Department, who have seen that programme, and wanted to come and move to Guernsey are numerous. Unfortunately, we have had to disappoint a lot of them! (*Laughter*). But that is the nature of our Laws.

2965 If you go to Page 2069 – you do not have to bother, because I am going to read it to you, anyway:

2970 ‘Need for legislation  
(a) [to] transfer the responsibility for water regulation to the Director to avoid a possible conflict of interest or perception of bias or unfairness for the current regulator, the Guernsey Water Division of the Public Services Department.’

2975 I do not understand that. What possible *bias* would the water company have in making sure that we have got clean water and no pollution? How can they be possibly biased about something that they are mandated to do? So why are we forming yet another empire? No offence, because I know Mrs. Cameron, our new – I have got to get the title right, now – Director of Environment, Health and Pollution Regulation – it seems like we thought of a title and then thought of some way of making that title work by giving him something to regulate – the Department something to regulate, rather. I apologise to Mrs Cameron because it is her job as Director, but to give the Department something to regulate. I, too, am a bit like Deputy Queripel, a bit worried about some of the powers now that are being given to Government officials to do almost anything they like.

2980 If you look at the planning officers and planning inspectors, they can walk on your land and go and inspect what you are doing. We have got other powers now that are coming along in legislation. There are too many powers being given to Government officials, to interfere in the everyday lives of people. If there is somebody breaking the law, because they are doing something that they should not be doing, in a small Island like Guernsey it shows up very quickly – very, very quickly. If a watercourse is polluted, it will show up very quickly. We have got reams of Douzeniers who do stream inspections and the Water Board, who have men out all the time doing the same thing.

2985 So what is all this legislation for? We seem to be building more and more bureaucracy for very little reason and very little justification and what will happen is, as a Department grows, we will find more and more things to licence and regulate and, in the end, we will go back to the days of the Germans! (*Interjections*) Well, we will! We will be so regulated, the ordinary Guernsey person will not be able to do *anything* without having a licence to do it: we will be regulated in the things that they do. That is the problem and this is how this mission creep happens and all this legislation, I do not know what it is for.

3000 *Has* there been a major problem in the past? I keep asking that question and, no, there has not. Well, if there has, they have kept it a secret because I do not remember the numerous cases and problems about watercourses and all the rest of it coming to the attention of this States, or other

officials in the Water Board. So I am struggling with this, I have to say. Again, the licences will carry fees. This is getting a more and more familiar way now of funding all kinds of things. We seem to be bringing in fees so we can pay the people to regulate the industries, for things that I did not think we need to be regulated for in the first place, a bit like the OUR again.

3005 Here we go *again* and I want it to stop. I do not see why we are doing it. If I could read, anywhere in here, a really good reason why it has been so bad in the past that we need all these regulations, then I could live with it and I would happily vote for it, but this, to me, is just legislation for legislation's sake.

3010 Thank you.

**The Bailiff:** Deputy Gollop, then Deputy Brehaut.

**Deputy Brehaut:** Sir, I will –

3015 **The Bailiff:** Deputy Brehaut!

**Deputy Brehaut:** – remind the Minister for Housing. No, no, I will because he speaks about...

3020 The most 'intrusive' law for the population of this Island is the Housing Control of Occupation Law which has been to this Assembly on four occasions and been boomeranged round because we are waiting for the population – but it asks people: 'Where do you live?', 'How long have you been there?', 'Who do you live with?', 'In what capacity, married or single?', 'When did you get here?', 'When will you leave?', 'How much do you earn?', 'How many children do you have?', 'What age are they?' – and you may get a call from the Housing Officer –

3025 **The Bailiff:** Are you coming to the relevance of this?

**Deputy Brehaut:** I am coming to the relevance, sir.

It is that the Housing Minister *must* hold a mirror up to himself, because he oversees incredibly intrusive legislation.

3030 Thank you.

**Deputy De Lisle:** Can I answer that, sir?

3035 **The Bailiff:** No.  
Deputy Gollop.

3040 **Deputy Gollop:** I will not get into the housing issues, because it is a different thing, but Deputy Jones is a well-known person with a strong view (*Laughter*) on regulation, especially European regulation, but it has to be said by many of the people who attack the European Union, that a lot of the regulation that comes out of there would happen anyway in a Western society. It would happen in many parts of the United States, Canada, Switzerland, elsewhere. It is the way we are moving towards and this is a natural development of that. We cannot afford, for legal reasons – as well as ecological and health reasons – to have lower standards than similar places.

3045 Think of the things we *have* had – alright, nothing major perhaps, but we have had PFOS, we have had slurry, we have had leachate... Fortunately, we have not had a crisis bigger than that, but they were worrying enough. There *is* a conflict of interests with the Public Services Department and Water and the conflict, *hypothetically*... I am sure it has not existed in our time, but it *could* happen that a future team running Water would be under some profit maximisation incentive, *or* to make surpluses – even it were in State ownership and stayed that way – *or* there was a foul up of some sort and the persons concerned were worried about their career prospects, litigation or whatever. That is why you need the separation and all of this is either parallel standards with the United Kingdom or better.

3050 The only two concerns I have about it, would be, *firstly*, the point that has been made by the Minister about the time it has taken – eight years is a long time – but, at the time, of course, we did not have a Director of Environmental Health and Pollution. The *other* concern I would make relates to an issue Deputy Laurie Queripel raised that, really, by definition, we have had to create a new team of statutory officials. Deputy Kuttelwascher, last month, made the point that politicians only have to get elected here. There is no qualification for office, in terms of passing an examination, or having a degree to be a politician or any so-called experience or whatever. If you have a system where politicians decide these sorts of questions, you are effectively empowering lay people, whose reason to be there is that they represent the public in their district. Maybe we *do*

3065 need a ministerial override for certain matters, but we should think about that *very cautiously* and carefully, when you consider some of the mistakes the United Kingdom government have made with that kind of provision. The whole point of statutory officials is you are appointing somebody you trust, who is experienced, is a specialist in the role and a qualified expert who has greater understanding of relevant issues than a politician or a general administrator can be expected to have.

3070 This is the way society is going and we should support and endorse the proposals today. If we have further concerns, that can be looked at at the legislative stage.

**The Bailiff:** Deputy Trott.

3075 **Deputy Trott:** Sir, did Deputy Jones actually say ‘we have been drinking water passed by the management for years’? (*Laughter*)

If he did, sir, the case is clearly made for the need for regulation! (*Laughter*)

**The Bailiff:** Deputy Perrot.

3080 **Deputy Perrot:** I had not meant to take part in this! (*Laughter*)

I have to say – no-one else will admit this – but I rather skim-read this, when I went through it the first time round.

3085 Deputy Jones has really opened my eyes about this. When I think about it, yet again, going back to the Election campaign, one of the things that I kept prosing on about was the fact that we have got far too much legislation, we have got far too much regulation, purely for the sake of it.

3090 Clearly, we have got to have water standards. That must go without saying. I cannot, for a moment, think there will be any point of conflict, such as would require us to pass responsibility to a Director. In any case, of course, the Director, as is common now with a lot of legislation, will have an exclusion of any liability – this excludes personal liability – but the fact that the Director is excluded from liability does, actually, make life difficult for anybody wishing to bring a claim. So, although Deputy Jones was laughed at, I think he has got a *very valid* point. Although we are bound to be the bogeymen in here, we are bound to be outvoted, if things went *my* way, this would actually be looked at again and it would come back as being a responsibility for Guernsey Water.

3095 **A Member:** Hear, hear.

**The Bailiff:** Deputy Bebb.

3100 **Deputy Bebb:** I, equally, did not intend to be speaking on this particular matter, but I think that it is fairly important. My understanding is that we need to separate the regulator from the provider, in this instance, because there may be *future* reasons that we need to separate the two. I think it is only a matter of evolution and not revolution, the fact that this is a continuing model of ensuring that the regulator is separate from the provider.

3105 We have the GFSC for very good reasons, that we would not want the banks to be regulating themselves. I think that the economic reasons in the UK have actually shown where regulation sometimes goes wrong. I think, in this case, all that is happening is that we are merely continuing in good governance with regard to water which, obviously, is of *much* greater importance, to the whole community, than our finance industry.

3110 **The Bailiff:** Does anyone else wish to speak?  
Deputy Storey.

**Deputy Storey:** A brief observation, sir.

3115 I may be completely wrong in this but, when I read this Report, I had *assumed* that the reason we need a regulator to stand aside from PSD is that PSD is not only responsible for the drinking water, but also the sewage. It could well be a situation in the future, where the two get mixed up (*Laughter*) – and it has got to be somebody’s fault! Not only that, but it needs somebody to be able to crack the whip and make sure something is done about it, pretty damned smartish.

3120 That, to me, is the only genuinely good reason why we should have a Director of Environmental Pollution in the Island. If it were purely a matter of making sure we maintain the standards of our drinking water, then I think Guernsey Water is quite capable of doing their own job and reporting on a regular basis on how pure the water is, against standards, and there would not be any need. I think it is this potential risk of conflict in the region of drinking water, as



3125 against sewage, which is the only saving grace for me agreeing that there should be some form of independent regulator, who can make sure that things get put right pretty smartish and actually act on the matter.

Thank you, sir.

**The Bailiff:** Does anyone else wish to speak?

3130 No? Deputy Domaille, then, will reply to the debate.

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

3135 I think, perhaps, the place to start, if I tackle some of the comments that have been made, it is important to remember that actually the transfer of these powers to the Director was agreed by States in February this year. So, to a degree, that has gone. Nevertheless, let us look at it again. If you are going to have regulation, that regulation has to be *independent*, it has to be *competent*, it has to be *accountable* and it has to be *transparent*. Importantly, you have got to use the *right* touch, which is in my opinion at least, what these proposals do and you target high-risk areas – this refers to these prescribed operations.

3140 Some comments have been made about the regulation and about the Director and the Director's service. I think it is *really* important to say that the service provided by the Director is not *purely* a matter of regulation and punishment; it is about advice, and sound professional advice, across the States. One Deputy, I think it was Deputy Jones, said 'We have never had a problem'.

3145 Just recently we had the *e.coli* at Cobo. *That* was a problem. Deputy Gollop mentioned slurry: we need expert intervention to prevent ill health in these matters.

Again, still talking about the Director's service, I think it is important to highlight the fact that the Director – and to a degree I am addressing some of Deputy Queripel's things here – is appointed by the Policy Council. She *acts* on behalf of the States; she is *accountable* to the States and she can be *directed* by the States. I think we have to bear that in mind.

3150 I also say that the service itself is due to be subjected to a peer review by the Scottish Environmental Protection Agency. This is actually quite good, because there is a German connection – (*Laughter*) they have just completed a review of the German pollution regulator. That is going to be in January 2013. I know it is right. (*Laughter*)

3155 Turning now to the points that were made. Deputy Laurie Queripel, you made some valid comments and I think you were centring on justification of action before receiving and who is the Director accountable to, if they go to a property to carry out an inspection. The answer to that is they do it in consultation with the Law Officers – which I will find it in a moment, amongst all my... Sorry, they do that in consultation with the Law Officers: any action is discussed with the Law Officers and it follows the regulatory policy of that Office.

3160 Again, I will just put the over-arching thing in this. We must remember that the Director is responsible to the Policy Council and, through the Policy Council, to the States. I think it is fair to say that, when my Board questioned the Director on this, we sought the assurances that *we* were happy with, at least, that the light touch on this approach would be followed and there was not going to be a draconian action. Much of the work is carried out through advice, rather than imposition.

3165 I think you raised the question of personal liability, as well? Yes? Personal liability is there to protect the Director and his common cross-regulators.

3170 **Deputy Laurie Queripel:** Sir, can I just –?

**The Bailiff:** Yes.

**Deputy Laurie Queripel:** I accept that, sir from Deputy Domaille.

3175 Who, then, is liable if there is a serious consequence of something the Director has done? Who, then, is liable, or has to take responsibility for that action? If there are cost implications, who pays the costs?

**Deputy Domaille:** I will ask H.M. Procureur to answer that one. (*Laughter*)

3180 **The Procureur:** Thank you!

**Deputy Domaille:** It is a pleasure!

3185 **The Procureur:** I am learning a lot.

I did not know Mrs Cameron before today. It is nice to see her in the gallery here and I am delighted to know that Mrs Cameron will always ask the Law Officers before exercising any of her powers. I hope Treasury and Resources will give us an extra member of staff to deal with that! (*Laughter*)

3190 We have not yet seen the provision that will be included in the Ordinance, excluding liability and I think the precise wording of that will have to be very carefully worded. For example, a lot of such clauses do not exclude liability where the action is undertaken in bad faith, for example. We would have to look at that.

3195 We would also have to look – and this is a point which has not been made – at the Human Rights Law, to please Deputy Jones no end, because the Director is a public authority for the purposes for that law. Therefore, people who allege that she is acting, or threatening to act, in a way which is inconsistent with the Human Rights Law, that great protector of us all, can bring proceedings before a Court, not *necessarily* for damages but for directions or control.

3200 So she is overseen by the Courts, she is overseen to an extent by the States, and the States *can* give directions, albeit I think of a general nature of how she is to exercise her powers. This is all a system of checks and balances, which is quite common in the sort of modern society that Deputies Jones and Perrot do not like.

**The Bailiff:** Deputy Perrot.

3205 **Deputy Perrot:** Sir, there was no call for that final remark from the Procureur.

**The Procureur:** I take it back.

3210 **The Bailiff:** Thank you.  
Deputy Domaille.

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

3215 Deputy De Lisle, thank you for your support. You raised the question of reporting? The information will be reported *annually* and that will be reported initially (I will just confirm this) – yes, initially to the Policy Council.

I will come back to Deputy Jones in a minute.

Deputy Trott: yes, I noted your comment about passing water. Thank you for your support.

3220 Deputy Perrot, too much Legislation: that also links to the points that Deputy Jones was making. I think the point here is that if you have got – Deputy Bebb made the point – we have a Public Services Department which is responsible for Guernsey Water. It is also responsible for liquid waste and sewage discharges: if you left the powers sitting with Guernsey Water, it would be very difficult to demonstrate the openness and transparency and the independence of *them* trying to monitor the actions of the sewage discharges, even if they were empowered to – and they are not – so what this is doing is it is bringing our regulatory control of water pollution into the

3225 twenty-first century. That is all I can really add to that.

I hope I have answered all Members' questions.

**The Bailiff:** Deputy Hadley.

3230 **Deputy Hadley:** As a point of information, Mr Bailiff, the suggestion that the Department... [*Inaudible*] I think Members should be aware that the Legionnaire outbreak in hospitals was... [*Inaudible*] we have had the PFOS contamination because of the airport fire appliance.

3235 **The Bailiff:** Is this a speech? I think this is a speech, Deputy Hadley, and the debate is now closed.

**Deputy Hadley:** What I wanted to mention is the importance of the role ...

3240 **The Bailiff:** I do not think you are correcting a misleading statement.

**The Procureur:** The Rules say that the debate should be concluded by the speech of the Minister responsible.

**The Bailiff:** Yes.

3245

**Deputy Domaille:** Thank you, sir.  
I would merely say I think the Director provides an *excellent* service.

3250

**The Bailiff:** Thank you.  
I think the debate is concluded. [*Mobile telephone rings*]  
I have been told that, in the States of Jersey, they fine anyone £10.00 and give the money to charity! (*Applause*) Not that I am suggesting we should copy our sister islands. (*Laughter*)

3255

**Deputy David Jones:** Sir, we used to.  
One of your predecessors, I believe it was Sir de Vic Carey, had a fund, a fine of £10.00 for mobile phones that went off in the Chamber and that money, I understand, went to The Bailiff's Relief Fund – (*Laughter*) and we would often go out to the Members' Room and ring Members' phones, (*Laughter*) to see if we could get – (*Laughter*)

3260

**The Bailiff:** Anyway, returning to the debate, (*Laughter*) we come to the vote on the proposition, which is on Page 2079 of the Billet:

3265

1. To approve the proposals set out in that report –  
(a) To amend The Environmental Pollution (Guernsey) Law, 2004, to confer functions in relation to regulation of water pollution on the Director and to extend the power to issue anti-pollution notices and related functions in relation to water pollution, or a risk of water pollution, outside the water catchment area, and to include exclusion of liability provisions as set out in Appendix 1 to the Report.

3270

(b) To commence Part VI of The Environmental Pollution (Guernsey) Law, 2004, and repeal The Prevention of Pollution (Guernsey) Law, 1989, subject to the savings outlined in Appendix 1 to the report.

3275

(c) To set standards for the Island's water resources as set out In Appendix 2 to the report.  
(d) To implement an integrated management approach for prescribed operations discharging into receiving waters in accordance with proposals set out in Appendix 1 to the report.  
(e) To provide an exemption from the licensing requirement under the Food and Environment Protection Act 1985 (Guernsey) Order, 1987, for operations depositing substances into the sea, within the territorial waters, which are prescribed under The Environmental Pollution (Guernsey) Law, 2004, so as to avoid a need for 2 licences for the same deposit.

Those in favour; those against.

3280

*Members voted Pour.*

**The Bailiff:** I declare the proposition carried.

3285

## HOME DEPARTMENT

### 2011 Data Protection Annual Report laid

3290

**The Deputy Greffier:** Billet d'État XXIV.

**The Bailiff:** I think we just need to mention the Appendix in the other Billet, do we, just before we conclude that Billet? Sorry, we could do that later, could we?

3295

**The Deputy Greffier:** The Appendix at Billet d'État XXI is the Home Department, Office of the Data Commissioner Annual Report 2011.

**The Bailiff:** I have not had any notice to debate the Report, so that concludes that Billet.

3300

## Billet d'État XXIV

3305

### REQUÊTE

#### Sunday Trading

## Debate commenced

3310 **The Deputy Greffier:** Billet d'État XXIV of 2012 – Requête, Sunday Trading.

**The Bailiff:** The lead requérant, Deputy Hadley, will open the debate.

3315 **Deputy Hadley:** Mr Bailiff, this Assembly spends much of its time passing Laws for the benefit of Islanders but which necessarily restrict their freedom and I was glad to hear that Deputies Perrot and Jones were, themselves, very much incensed by the unnecessary legislation (*Laughter*) that we have on this Island. It is a refreshing change. I would hope Members realise that I am suggesting suspension of a Law to give greater freedom, even if only for a trial period, so that we can assess its impact.

3320 The concept of suspending a law for a trial period may, at first, seem strange and, indeed, it is probably unusual but, for the avoidance of doubt, if this Requête *is* passed, then it would be a genuine trial because the Ordinance restricting the opening of shops on a Sunday would be suspended for a trial period. We would need a *further* debate and resolution in this Assembly for the suspension to be made permanent.

3325 The reason I am suggesting a trial period is because, however much research and consultation is carried out with all the stakeholders, we will never find out what the effect is until we actually allow shops to open and give the people of Guernsey the freedom of choice. Research will only be an opinion of the likely effects. A trial is the only way that we will *really* be able to tell.

3330 Some have suggested that, in suggesting a trial, I am being devious. I am only suggesting a trial because I have not got the nerve to suggest a complete repeal of the Law. They say that I know it will never be reversed. Well, that is just not the case. I have no idea whether this Requête will be successful or not. It may be a close-run thing. If it *just* passes and the character of Guernsey *is* adversely changed and people *are* disadvantaged, then I am pretty sure the suspension will not be made permanent. Those that oppose suspension will say 'We *told* you the effects would be adverse and we will not extend it'. If, however, as I suspect, there are no adverse consequences, then I would hope that the suspension would be permanent. So both the proponents of freedom and those that oppose freedom should be pleased at this to settle the issue.

The effect of the trial is that, for a period of *one year*, all shops would be able to choose whether or not they open on a Sunday. There is no *compulsion*, they do not *have to* open. They can make their decision purely for commercial reasons, whether it is good for their business or not.

3340 At this point, I would like to refute the suggestion that I am trying to make Guernsey follow and copy the United Kingdom. I am not. If this Requête is passed, we will be leading the way, as the Island has done on a number of occasions before, because the United Kingdom does not allow unrestricted opening of its shops on a Sunday. We would be. If we are successful with this Requête, and if it has the result that I would expect it to have, I would not be at all surprised if the United Kingdom copied us in the not too distant future.

3345 I believe we *should* be giving people as much freedom as we possibly can. I think that Government should only interfere in people's lives if there is good reason to do so – a view echoed by Deputy Jones and Deputy Perrot. (*Laughter*) I do not believe, for one minute, that the Government should dictate to the people of Guernsey whether or not they should shop on a Sunday.

3350 I read today, for the first time, a petition signed by, I think, over a thousand people and I am surprised at the arguments deployed, because it said that Sunday alleviates stress – sorry, stress! (*Laughter*) Now, what evidence is there for this? I think giving people more freedom will *reduce* their stress. Hopefully, Saturday will be less busy and less stressful for shoppers because the load is spread across to Sunday. Parents can attend sports matches on a Saturday, with the knowledge that they can shop on a Sunday and giving more quality time with their parents. I think that relaxing, giving more freedom, may increase the quality time that children have with their parents.

3355 I am told that not passing this is because of protecting vulnerable, low paid employees. Earlier on in this session, we passed an item which will give more people the opportunity to work. Opening on a Sunday will *increase* the opportunity to work. Some people who currently cannot work will be able to work on a Sunday. Closing shops on a Sunday gives people, I am told, the opportunity for religious activity, but opening shops or closing them would make no difference or not as to whether I go to church. So it is quite clear that the petitioners wish to force us to take Sunday as a day of rest and to avoid other activities. They are trying to organise *my* life and the lives of other Islanders to fit in with *their* cultural and mainly religious beliefs. Well, I do not think they should have that right.

3360 It has also been suggested that I am not acting corporately in bringing this Requête, that I am

not a team player in acting against a decision by the Board of C & E. Well, I refute that. The Board agreed that it would not instruct its staff to carry out a full review on the issue of Sunday trading because it had more important priorities – I agree with that – and also because it was not likely that any review would persuade members of the Assembly one way or the other – and I agree with *that*. However, when the Department made its views known on the original decision not to go forward with the review, it became apparent that a number of Deputies and the media thought that, with some justification, the decision to kick this into the long grass was wrong. Shortly after that decision, one of the large stores applied for permission to open on one or two Sundays before Christmas and the Board rejected that application.

I used to own a modest size private pharmacy which, incidentally, opened for two hours every Sunday and I know only too well the difficulty in dealing with the huge increase in business before Christmas. Opening on those two Sundays was a very modest request. It was not asking for a permanent change in the Law but opening on two Sundays for the benefit of the store, the staff and, more importantly, its customers. That refusal made me think again how unreasonable the restrictions on Sunday trading are and I did make – at an early stage – Deputy Stewart aware that I was likely to bring a Requête. He asked me to think again about doing this which, in fact, is why the Requête originally missed the deadline and would have gone to November but for the fact that the Policy Council agreed to bring it back to this meeting.

I am not the first Member of this Assembly to bring a Requête which might be thought to be the responsibility of his or her Department, and I am certainly not going to be the last. Even if I *were* acting against the resolution of the Department, that is part of our system of Government, which is an excellent, better system of Government than they have in the UK. If this Requête is agreed, I will have saved the Department a lot of work in not needing to carry out a detailed review. (*Laughter*) Instead, they will just have to monitor the effect of suspension.

But that is not the only saving. The Trading Standards Department of the Commerce and Employment Department has to advise and process licences for shops which are issued by the Parish Constables. Although the time is not separately recorded, it is thought that half the time of a fairly senior civil servant, no doubt, with some help around the Department, is taken up by the legislation and licensing of shops, so you could guess that, with that salary and pension provision and other costs, it is probably a £60,000 a year cost. So it is a fairly expensive bit of bureaucracy.

If this Requête is successful, I do not think there will *actually* be a cash saving but, because they will be able to progress legislation for consumer protection – which we do not have on the Island and which is part in the work programme for the Department... Again, if the Ordinances *are* suspended, I do not think it will have much effect on the lives of those that object to Sunday opening. I would expect the largest supermarkets to open, and B&Q to open, and very little else. Le Friquet Garden Centre will be able to sell stock that it currently ropes off and, when you put this against the large number of shops that are *already* open, the effect will be negligible and, of course, this is what makes the whole system so *silly*. We have got so many shops open at the moment and, in St. Martin's, it is extremely busy around one particular shop that is open, yet we are selecting... we have this arbitrary rule that, if you are above a certain size, you cannot be open.

There are considerable benefits to Islanders if we allow the largest stores to open because most of us get the bulk of our groceries from one or other of the large supermarkets which are, at present, not allowed to open – and so many Islanders working full time have to do the bulk of their shopping on a Saturday. If the shops were open on a Sunday, it would give an extra day for them to organise their lives. There is *also* a benefit because of the people who *would like* to work on a Sunday and, in another country which I will not name, when they made the opening of shops on Sunday a little more liberal, they found there was a 5% increase in single mothers working and a 13% increase in lone parents. There was also, of course, an increase in students working on a Sunday because that provides an excellent opportunity for them.

Allowing shops to open on a Sunday gives all of us greater flexibility with what we do with our lives. To illustrate this, one man rang me up to say that, because there were no big stores open on a Sunday, he could not do the weekly shop with his wife because he was occupied with his children on a Saturday. So, all these arguments saying... interfering with family life in one way or another, there can be benefits to other people. There is the other issue that, if people cannot get out of it and they do need to shop on a Sunday, then they are often buying things at much more expensive prices than they would do if the larger retailers were to open. Again, listening to the comments of retailers, I was also surprised to find that, in fact, the largest stores *do* employ their staff on a Sunday, filling up the shelves *and* throwing away food that they could be selling, if they were allowed to open the doors.

Talking to someone who works in the shop at one of these stores, they are saying they are surprised how much of the produce does seem to go out of date on a Sunday – and a lot of us here

3430 care about the waste stream, recycling and getting rid of rubbish. The *biggest* single item in the waste stream is food. So, again, allowing stores to open on a Sunday will reduce the amount of food being sold. [*sic*]

It is possible that I am wrong and some of the shops, other than the large stores, will open and, as I have said, I used to own and operate a retail pharmacy. I know only too well it is not easy making a profit running a small shop and, if I were an owner today in some sorts of the retail outlets that we have on this Island, I just might think to myself that it might be worth opening on a Sunday because of the loss of business to the Internet. Certainly, the Chamber of Commerce, in supporting the idea of Sunday opening, were saying that *they* think that this is an important factor, that shops that want to survive locally, survive against the Internet, have to think of other ways of retaining and getting business because *they* can only survive by offering the service that local customers want.

3440 The argument *against* Sunday opening really falls into three areas. The first is the Christian argument, with the Bible often being quoted, and, again, I would say I am not restricting what Christians do and I would hope that they do not try and restrict what I do.

I am told that the change in the regulations will change the character of the Island. Well, I do not think you can freeze the character of this Island at any single point in time, otherwise we would still have horses for transport and we would not be travelling in aeroplanes. (*Laughter*) Indeed, I did not notice any great change in the character of the Island in 2003, when I could suddenly buy petrol on a Sunday. I do not expect any change in the Island character if this Requête is agreed because we have already got about a hundred shops open.

3450 There is a worry that some people might be *forced* to work on a Sunday against their will and, again, as a former retailer, I do not see that this is a real problem. I never forced my staff to work on a Sunday. You make the conditions attractive – that is the best way to get your staff to work on a Sunday. However, there is a law on the Island to protect employees against being forced to work on a Sunday against their will and the civil servant responsible at the Commerce and Employment Department told those of us who attended the briefing session that all employees must be given a contract of employment which must specify the hours and, more significantly, the days on which they are required to work. If the contract does not specifically *say* that they have to work on a Sunday, they can refuse to do so. If the contract *does* say that they are required to work on a Sunday, then they can give three months' notice that they do not wish to work.

3460 So the only people who are *likely* to be affected by this are people who have got, in their contract, that they are required to work on a Sunday but have not worried about it because their particular employer or organisation does not open on a Sunday. So, then, if the shop changed its policy and decided to open, *in theory* there are some people who could be forced to work on a Sunday because they would not have time to give the three months' notice that the Law requires, so that is why I am suggesting an amendment reducing that period to two weeks for the interim period.

I know that Deputies Stewart and Brouard are seeking to lay an amendment to delay the start until March, so this gives time to shops to prepare, but that is *unnecessary* because they do not *have* to open. If they want three months to prepare, they can take it. They can open next March, and they can open next July. The *whole point* of this is that businesses and people should be allowed to do what they want. *We do not need* to be told what to do. And, importantly, if that amendment is not carried and the Requête *is* carried, shops will be able to open this Christmas.

3470 So that sums it up, really. If shops want to open, they can. If they want to stay closed, they can. If you want to celebrate Sunday with your religion, you can. If you do not want to see shops opening, then do not go near them. In July, 2002, this Assembly directed the preparation of legislation which would allow the holding of referenda on important issues and this legislation is still waiting to be drafted by the Law Officers. This is probably an issue where a referendum would have been a good idea because the only polls that have been conducted on any large scale, have shown that about two out of three people are in favour of de-regulation – and that does not surprise me. In fact, I am more surprised that a third of the population want to restrict the rights of the majority, when it is going to have so little impact on their lives. It is like saying I do not like going to the cinema so, therefore, we will not give you planning consent to open one.

3480 So I urge Members to allow suspension of the Ordinances restricting Sunday trading for a year, starting in December. It is the wish of the majority of the electorate, it will not change the character of Guernsey, it *will* have a positive economic benefit and it is only for a trial.

Thank you, Mr Bailiff.

**The Bailiff:** Members of the States, just to clarify what the order of debate will be. Under Rule 17, the Chief Minister is entitled to speak next, followed by the Ministers of each of the

3490 Departments who have commented on the Requête so, after the Chief Minister, I will be calling the Minister for Commerce and Employment Department, then the Minister of the Environment Department, followed by the Minister of the Treasury and Resources Department. Then I propose that we will lay the two amendments that have been placed.

3495 So I call, next, the Chief Minister.

**The Chief Minister:** Thank you.

In my capacity as Chief Minister, and on behalf of the Policy Council, I have no comments to make at this stage.

3500 I will, however, reserve my personal right to speak in the debate.

**The Bailiff:** You have a right to speak at the end of the debate, as well.

Minister of Commerce and the Employment Department, Deputy Stewart, do you wish to speak at this stage?

3505 **Deputy Stewart:** Yes, sir.

Sunday Trading was something where my Board originally met – this was even before we met officially – and decided that it was *not* a merit of economic importance to spend the Department's time on, doing a review or looking at it again. This has been discussed many, many times.

3510 A lot of people say the Sunday Trading Law is an old Law. Actually, it was... The current regulations were brought in during 2002.

When, originally, I joined the C & E Board, I was actually in favour of de-regulation, personally. After my in-box was overflowing and I had to ask ICT to extend my memory – (*Laughter and interjections*) I can tell you that I have got a better memory than Deputy Hadley!

3515 **Deputy Brehaut:** Could I ask that they remove the going forward element of his memory!

**Deputy Stewart:** With all the e-mails that I have now had, I am actually in favour of keeping the *status quo*. (**A Member:** Hear Hear) I have *not*, as Minister of Commerce and Employment, had *one* e-mail, or one letter, or one phone call, from a business that is in favour of a change to this Law – and *that is material*. I think the biggest – and I think Deputy Hadley, who lives in this world where everything seems, oh, so simple... It is not because the biggest damage, from speaking to shopkeepers, seeing, reading their e-mails, listening to what they have to say – and these are the small, independent, mainly Guernsey-owned businesses, these are the Valpy's, these are the Bougourd and Harry's, who will feel that they will lose business out to these bigger shops, such as B&Q, should they open – and, incidentally, B&Q have not been in touch with me, they have not expressed an interest to me, as Minister of Commerce and Employment, that they would even wish to open on a Sunday, so I do not know whether they would – the general feeling is that there would be a huge amount of damage to small, independent businesses.

3520 Deputy Hadley says there will be an economic benefit. Well, I cannot find any research whatsoever to stand that up. There is no research that will support that. He is right, apart from the polls, actually, because it depends what poll you want to read. They are not particularly scientific. Having spent thirty-five years of my life interpreting consumer data to make radio stations more successful, I always ask what is the methodology, how is it surveyed, who has carried out the survey? Polls are polls.

3535 For information, Island FM carried out a poll – they are the biggest broadcaster on the Island, with the biggest audience, much bigger than the BBC – and their poll came out 61% in favour of keeping the Law the same. Is the Island split down the middle? I would say that, actually, no, it is not; I think that it is probably more like that 60%/40%. That would reflect, certainly, my in-box.

3540 And also the amount of work. I have two petitions which were given to me: this one from Roy and Maddie Sarre, which I know they have had more e-mails come in supporting, but they have 1,700 and nearly 50 signatures on *their* petition here: this one which has been collected by Mrs Meadows in St. Martins with, well, we did actually have 245 signatures on it but Deputy De Lisle grabbed it at a Board Meeting, so we have now got 246 signatures on it! (*Laughter*)

3545 There is a *huge* strength of feeling. We, actually, have already had to undertake a huge amount of work, as a Department, and Trading Standards have been having to pull together presentations for Deputies – and I do thank Deputies for attending those and their very positive feedback – because it did seem that some of the Law was not quite clear in a lot of people's minds and we felt it was only right, particularly in view of the Employment Law for shop workers, that the Employment Protection (Sunday Shop Working) (Guernsey) Law was made clear to people and what the provisions of that Law were for.

3550

3555 So, instead of working on consumer protection law, which I would say, in my mind, is more important, no, we are messing around doing this! My time has been taken up, other staff's time has been taken up, at a time when we are bringing together a very important strategy for ICT for this Island – the infrastructure for broadband – looking at ways of bringing the cost of broadband and connectivity down for this Island, which will be a huge economic enabler, putting together an overarching economic strategy. *Those* are important issues – putting together a proper written strategy for the Finance Sector.

3560 So the point is, do we want to, now, have this Requête go through and then, somehow, we are going to try and measure the success or not of putting the Ordinance parked for a year? Maybe it is a good idea, actually, for the Treasury Minister – maybe we could have a year's trial of 22% income tax and see what happens. (*Laughter*) Maybe, Deputy Jones, we could bring the death penalty back for a year and see if that reduces crime, (*Laughter*) or bring back birching for six months and see if that helps. (*Laughter and interjections*) We could do, 'Let's run Guernsey and have a go at it and see what happens. Oh, if not, we stop it after three months!'

3565 It is not a way to run Government, is it, really? Let's face it. (*Laughter*) There is no economic benefit. There *will* be damage to small independent business and either we go through running this Assembly in a proper manner, which is that we bring Reports that are well researched, well looked through, people *properly* consulted about this, including these small independent businesses, *or* we just have a bit of a laugh, try it for six months and see what happens.

3570 I hope you vote against this Requête. (*Applause*)

**The Bailiff:** Minister of the Environment Department, Deputy Domaille, do you wish to speak?

3575 **Deputy Domaille:** Thank you, sir.

At this time I have nothing to add to the comments we made on pages 2114 and 2115.

**The Bailiff:** And the Minister for the Treasury and Resources Department?

3580 **Deputy St Pier:** Likewise, sir, I have nothing to add.

**The Bailiff:** At the outset, I omitted the Minister for the Home Department, who was part of the Report, and also Scrutiny Committee had commented, so I will call Alderney Representative Arditti in a moment.

3585 First of all, Deputy Le Tocq

3590 **Deputy Le Tocq:** Sir, I will not make any of my personal comments now, except to say I will be reassuring Members a little later on in the debate that I, for one, do not believe that Deputy Hadley is an agent of Satan. I have stipulated that he is probably more of an agent of Santa. (*Laughter*) So could this be a spelling error or mistake in the *Press*, I am not sure.

3595 However, with regard to the Home Department's comments, they are set out on page 2116 and I would just like to draw Members attention because we have had a number of enquiries at the Home Department about the effects or otherwise of the Requête being successful and it is pointed out there, first of all, with regard to liquor licensing that, as a result of changing the law some years ago, Sundays are treated no differently than other days of the week. However, should the Requête be successful, then it may well be that some of the traders that do not open on a Sunday may choose to do so and apply for liquor licenses, which may have some impact there, of course.

3600 The other thing is with regard to gambling legislation and, of course, this Requête does not affect that at all, as some people have been concerned that bookmakers would be able to open on a Sunday, as a result of this Requête being successful. Well, I am afraid there would not be any freedom as a result of that for a trial period, either, so just to make that clarification, sir.

**The Bailiff:** Chairman of the Scrutiny Committee, Alderney Representative Arditti.

3605 **Alderney Representative Arditti:** The Scrutiny Committee was only consulted under the automatic provisions and I can say that we took the view that, at *this* stage, there was nothing to scrutinise.

3610 **The Bailiff:** Thank you very much.

I think that has covered all the Ministers and Chairmen of Committees who commented.

So, next, we come to the amendments. I will take, first, the amendment proposed by Deputy



Hadley, seconded by Deputy Kuttelwascher, which you have already spoken about. Do you now wish to formally lay the amendment, Deputy Hadley?

3615 **Deputy Hadley:** Yes, I formally move the amendment:

*After Proposition 2 to insert a further Proposition as follows –*

3620 *'3. To direct the preparation of such legislation as may be necessary to amend the provisions of Part IIA of the Employment Protection (Guernsey) Law, 1998 ("Protection for Sunday Shop Workers") to enable employees to seek the protection available under that Part of the Law in an appropriate and timely manner during the course of the trial period proposed in Proposition 1 and, in particular, so as –*

3625 *(i) to substitute the period of "two weeks" for "three months" wherever appearing in sections 15F(3), 15G(2) and 15G(4) of that Law,*

*(ii) to substitute the period of "one week" for "one month" where it is referred to in section 15G(2) of that Law and*

*(iii) to substitute the period of "one week" for "two months" where it is referred to in section 15G(1) of that Law, and*

3630 *(iv) to make such other temporary supplemental and incidental provision as may be appropriate.'*

*Explanatory Note*

3635 *Under the Employment Protection (Guernsey) Law, 1998, as amended by the Employment Protection (Sunday Shop Working) (Guernsey) Law, 2001 a shop worker who, under his or her contract of employment is, or may be, required to work on a Sunday (provided they are not employed to work only on Sundays) has the right at any time to give their employer notice that they object to Sunday working (an 'opting-out' notice). They then have the right not to work on Sundays once three months have passed after which time they will be protected as an 'opted out' shop worker.*

3640 *These rights apply irrespective of age, length of service or hours of work. During the 3 month notice period the shop workers noted above still have to do the Sunday work required under their employment contracts, if their employer wants them to, but they may not be dismissed or subjected to any other detriment by their employer, for giving an 'opting-out notice'. In addition, employers must give every shop worker who is, or who may be, required by his or her contract of employment to work on Sundays, a written statement explaining the right to opt out. This statement must be given to the worker within 2 months of the date that, under their contract, he or she may be required to work on a Sunday (provided they are not employed to work only on Sundays). If the employer fails to do this, and the worker gives the employer an 'opting out' notice, then the period of that notice is reduced from three months to one month. This means that the worker can stop working Sundays after only one month instead of after the usual three month period.*

3655 *Should the Sunday Trading Requête be successful, in order to ensure that shop workers (who are not already automatically protected) who might wish to 'opt out' of Sunday working can do so before the 1<sup>st</sup> December 2012, it is proposed that the respective notice periods referred to above be shortened: from three months, to two weeks (for the opting-out notice); from one month to one week (for the employer to give a written statement explaining the right to opt out) and from two months to one week (for the opting-out notice where the employer has failed to give that statement).*

3660 *In short, by reducing the required notice periods during the trial period of suspension of the Sunday Trading Ordinance, it is intended that protection under the Employment Protection Law will continue to be available for employees in an appropriate manner and so as to coincide with the duration of the trial period.*

3665 **The Bailiff:** Do you wish to say anything further at this stage.

**Deputy Hadley:** As I said before, Mr Bailiff, there is a very *slight* risk that somebody might be caught in working for a couple of months against their wishes. It is a highly theoretical risk.

3670 There might not be anybody on the Island that affects and I sincerely believe that most employers are fairly responsible people and would not impose changes to their employees unnecessarily. Of course, as I said before, this would only apply if the contract they had signed specified they had got to work on a Sunday, anyway.

**The Bailiff:** Thank you.

3675 Deputy Kuttelwascher, do you formally second and reserve your right to speak on the amendment?

**Deputy Kuttelwascher:** I do thank you Sir.

3680 **The Bailiff:** What I was going to propose is that we take both amendments together, and together with general debate so, in other words, we deal with everything together. Does anybody wish to suggest otherwise?

No? In that case, Deputy Stewart, do you wish to lay your amendment?

3685 **Deputy Stewart:** Yes, sir.

**The Bailiff:** And do you wish to speak in – ?

**Deputy Stewart:** Oh yes! (*Laughter*)

3690 **Deputy Fallaize:** Sir, before he does, may I ask what is your opinion in respect of whether the Hadley amendment goes further than the propositions?

3695 **The Bailiff:** Yes. (*Laughter*) It is not something I had previously considered but I can see why you are suggesting that. Once again, in the absence of H.M. Procureur, I will turn to H.M. Comptroller and ask what advice H.M. Comptroller might wish to give, if any?

**The Comptroller:** Thank you, sir. I will just reflect a moment, if I may.

3700 **The Bailiff:** No doubt, you will make the same comment in respect of the Deputy Stewart amendment, as well, will you, Deputy Fallaize?

**Deputy Stewart:** I think you will find my one is alright but I am a little bit worried about Deputy Hadley's! (*Laughter*)

3705 **The Bailiff:** Actually, no. Sorry, no. That would not be... That would not go further because that is just altering the commencement date. So, no, that would not go further.

3710 **Deputy Fallaize:** Well it might, sir, because does it not *extend* the validity of licences to 28th February 2013, which had previously been issued only until 31st December 2012.

**The Bailiff:** Yes, I suppose, in that sense, it might be considered.

Well, perhaps, while Deputy Stewart lays *that* amendment maybe the Comptroller and I can both reflect on the question of whether these amendments do go further than the propositions.

3715 Deputy Stewart.

3720 **Deputy Stewart:** If I can say, first of all, this amendment – although my name is on the amendment and the Deputy Minister of Commerce and Employment's name is on there – is actually resolved by the Board. We decided, as a Board, by a majority, that we should lay this amendment for *one* good reason. The amendment itself is Sunday-trading neutral and I would ask you to vote for this amendment. Whether or not you vote for the Requête is a matter for your own conscience, but this amendment is Sunday-trading neutral:

*In Proposition 1 –*

3725 (i) to delete the date '1st December 2012.' and to substitute the date '1st March 2013' and (ii) after the substituted date, '1st March 2013', to insert the words 'and to provide that any Sunday opening licences granted under that Ordinance which are due to expire on 31st December 2012, shall remain valid until 28th February, 2013.'

*Explanatory Note*

3730 Under the Employment Protection (Guernsey) Law, 1998, as amended by the Employment Protection (Sunday Shop Working) (Guernsey) Law, 2001 a shop worker who, under his or her contract of employment is, or may be, required to work on a Sunday (provided they are not employed to work only on Sundays) has the right at any time to give their employer notice that

3735 *they object to Sunday working (an 'opting-out' notice). They then have the right not to work on Sundays once three months have passed and will be protected as an 'opted out' shop worker. These rights apply irrespective of age, length of service or hours of work. During the 3 month notice period the shop workers noted above still have to do the Sunday work required under their employment contracts, if their employer wants them to, but they may not be dismissed or subjected to any other detriment by their employer, for giving an 'opting-out notice'. In*

3740 *addition, employers must give every shop worker who is, or who may be, required by his or her contract of employment to work on Sundays, a written statement explaining the right to opt out. This statement must be given to the worker within two months of the date that, under their contract, he or she may be required to work on a Sunday (provided they are not employed to work only on Sundays). If the employer fails to do this, and the worker gives the employer an*

3745 *'opting out' notice, then the period of that notice is reduced from three months to one month. This means that the worker can stop working Sundays after only one month instead of after the usual three month period.*

*If the Sunday Trading Requête is approved in its current form then those shop workers who might wish to opt out of Sunday working will not have time to give three months notice of their wish to opt-out before the 1st December 2012. Under this amendment, by delaying the trial period proposed under the Requête until 1st March 2013, shop workers who are not already*

3750 *automatically protected by the provisions of the Employment Protection (Guernsey) Law, 1998 will have an appropriate period of time within which to decide whether they wish to opt out of working on Sundays and employers will have adequate time to give those shop workers relevant notice of Sunday work.*

3755 *In addition, because the Constables and Douzaines of the relevant parishes have already granted Sunday opening licences to certain shops this year, this amendment will enable those licences, which would normally expire on 31st December 2012, to remain valid until 28th February 2013, which is intended to ease any administrative problems that may otherwise*

3760 *arise.*

We are basically bringing this amendment, as a form of insurance, in case the Requête may, by some chance, be successful. It is, really, to tackle the problem of the Employment Protection (Sunday Shop Working) (Guernsey) Law, 2001. If the Requête is successful and, from 1st December, people can change, this only gives a period of one month. This was not thought through at the original laying of this Requête. I did point this out, at a Board meeting, to Deputy Hadley and he then... off he went and they are now bringing their own amendment because what happens is that staff who will need to give three months' notice will, of course, be disadvantaged because they were only there a period of one month. Therefore, they would not be able to opt out.

3765

3770 So, no matter how small that number is, or not – we do not know what the number is – some people could find that the rights they enjoyed under the Law right now, tomorrow they do not enjoy it any more. They would have to be *forced* to work over the Christmas period and into the New Year without any redress whatsoever.

3775 So the reason why we are asking to change the start date to 1st March: first of all, we do not have to tinker with the Law originally because I think three months is a reasonable period for both the employer and the employee. I know Deputy Hadley had his pharmacy in Manchester-on-the-Wold, or somewhere like that but, for some companies that have to have board meetings, that have company handbooks, that may want to amend their contracts of employment, a month simply is not long enough. I worked in an industry where we worked seven days a week and I had something like eighteen radio stations, where we were managing all these staff working seven days a week. You do not suddenly introduce, or change, the rota like that. You have to consult with the staff and you have to work through a rota. If anyone has ever done a rota that runs seven days a week, full time, you will know what I am talking about! So (1) to introduce it is quite tricky. It may need changes to the contract of employment or the company handbook, and (2) that should be done in negotiation with the staff and a month simply is *not long enough* for a lot of companies.

3780

3785

Companies that have already got the contracts ready, and all the rest of it, they are fine, they can open but, then, you are going to get another disadvantage, when some companies, who cannot get those negotiations through, find themselves, 'Well, we would like to open but we cannot because we can't agree it with the staff.' Also, if we are going to employ more people – which Deputy Hadley said – we have got to recruit them. All this has got to be done in a month and, frankly, I do not think it can be. Not fairly.

3790

So all we are suggesting is that, if you support this amendment, what we do is we move the date to 1st March and, guess what, it is going to miss Christmas! It will be next Christmas but it

3795 *does give* the staff their rights under the current Law, without having to tinker with it or change it, and it *does give* companies a chance to fully consult, fully consider, the proposals and give them a chance to get themselves ready.

I do not know about many shops. However, I did actually have a retail shop and I used to know the late Eric and Margaret Mahy, who had Aladdin's Cave for many, many years. They used to do their stock buying back in June so, if they are hoping to get some more sales, I hope these shops have enough stock! So that is why I propose – or my Board propose, through this amendment – to move the start date to 1st March to give everyone a chance. I did consult with the Douzaines and, if it is helpful, I can just give you their response on the licensing issue. Would that be helpful, sir?

3805 **The Bailiff:** Yes.

**Deputy Stewart:** St. Sampson's Douzaine said: 'There is no point in beginning the process of inspections at the moment but it could be very manic at the end of November, beginning of December. Deputy Hadley obviously did not do sufficient research prior to placing his Requête/can of worms.' (*Laughter*)

**Deputy Brehaut:** Excuse me, sir. I do not think references to individual... derogatory references to individual Members of this House are entirely necessary.  
Thank you.

3815

**The Bailiff:** Do you withdraw that? (*Laughter*)

**Deputy Stewart:** I withdraw that comment by the Douzaine, sir.  
'The Douzaine of St Pierre du Bois has this evening considered your e-mail regarding Deputy Stewart's amendment to Deputy Hadley's Requête. Douzeniers were unanimous in their response confirming their original decision to reject completely Deputy Hadley's Requête and extending their rejection to include Deputy Stewart's amendment, which would only serve to complicate matters.'

3820  
3825 So that is why I am assuring you when I have stood up today to say this is *just insurance*. If the Requête goes through, then all we are doing is moving the start date.

St. Andrews say: 'I can confirm that we do not foresee any practical difficulties in the intention to extend 2012 licences to cover the first two months of next year.'

3830 In the Castel, they say: 'Following last night's Douzaine meeting, the Douzeniers and Constables are still firmly against the Hadley Requête. However, the Stewart amendment, if it can follow the Hadley debate, would be supported.'

And, just finally, one that came in this morning. This is from Torteval. Their reply is: 'Torteval does not foresee any difficulties in the intention to extend 2012 licences to 1st March 2013.' So that is all I have to say on the amendment, sir.

3835 **The Bailiff:** Thank you.

That amendment has been seconded by Deputy Brouard. Do you formally second and reserve your right to speak?

3840 **Deputy Brouard:** Yes, sir, thank you.

**The Bailiff:** Madam Comptroller, do you wish to give the States the benefit of your advice?

**The Comptroller:** Sir, thank you, yes.

3845 Strictly speaking, sir, I think it is arguable that the amendment goes further than the proposition.

**The Bailiff:** Are you talking about the first amendment, Deputy Hadley's amendment?

3850 **The Comptroller:** The first amendment – in the sense that, in order to *amend* the Sunday Trading Ordinance, as is proposed, one does not *have* to amend the Employment Protection Law.

3855 *However*, that being said, if the Assembly considers that an amendment of the Employment Protection Law is critical and is necessary, in the sense that one considers the existing protection that is afforded by the Employment Protection Law should continue, then the Assembly *may* consider that it is necessary, in the sense of continuing the provisions of the Employment Protection Law, by which I mean, sir, yes, strictly speaking, one could argue that it is not... it is

going further. However, if Members consider that the status of the Employment Protection Law is of such importance that that protection ought to be continued, if they are minded to approve this Requête, then they may want to consider that more widely.

3860 **The Bailiff:** Then they would vote to debate it.

**The Comptroller:** Exactly that, sir.

3865 **The Bailiff:** But it would still... The point is... Your advice is, and advice which I gratefully accept, that the amendment does go beyond the original proposition.

**The Comptroller:** That is my conclusion, yes, sir.

3870 **The Bailiff:** And in respect of the second amendment?

**The Comptroller:** In respect of the second amendment, sir –

3875 **The Bailiff:** And the point in particular that Deputy Fallaize raised, that extending the lifetime of the existing licences that were granted for twelve months, to continue those for fifteen months does go beyond the terms of the original proposition.

**The Comptroller:** Sir, yes, I wonder whether it might be possible to split that part of the amendment but, of course, it then leaves what one does with the licence open for a further –

3880 **The Bailiff:** Well, it would mean that people would have to apply for fresh licences.

**The Comptroller:** Exactly, sir, so the administrative problems which the amendment was designed to resolve.

3885 **The Bailiff:** I mentioned this and Deputy Stewart wishes the amendment to be taken as a whole and not split in that way.

3890 **Deputy Stewart:** It needs to, sir, otherwise the Douzaines will have considerable administrative problems.

**The Bailiff:** In which case, dealing with the Deputy Hadley amendment first, Deputy Fallaize, are you asking then that the amendment not be debated?

3895 **Deputy Fallaize:** Well, no, actually. *(Laughter)* No, I was just interested. *(Laughter and applause)*

3900 It seems to me, sir, that there seems to be an enthusiasm to move amendments which I particularly support, that they are beyond the proposition, so I thought I would try it with someone else's amendment! *(Laughter)* Actually, in fairness, sir, since we have now had this clarification and H.M. Comptroller has gone to this work, I am prepared to move that the amendments be not debated, rather than postponed.

**The Bailiff:** Not debated, rather than postponed and you say both amendments, do you?

3905 **Deputy Fallaize:** Yes.

**The Bailiff:** Yes. In that case, I will put to Members of the States, first of all... I think we need to take the two amendments separately.

3910 I will put the first amendment first, so the motion I am putting to you is that the amendment proposed by Deputy Hadley, and seconded by Deputy Kuttelwascher, be not debated. That is the motion, the Deputy Hadley Amendment be not debated.

Vote *Pour* if you do not want it to be debated, vote *Contre* if you wish it to be debated. We will have to have a recorded vote.

3915 **The Greffier:** Yes, sir.

*There was a recorded vote.*

*Lost – Pour 20, Contre 25, Abstained 2, Not Present 0*

	<b>POUR</b>	<b>CONTRE</b>	<b>ABSTAINED</b>	<b>NOT PRESENT</b>
3920	Deputy Perrot Deputy Brouard Deputy Wilkie Deputy De Lisle	Deputy Burford Deputy Inglis Deputy Soulsby Deputy Sillars	Alderney Rep. Kelly Alderney Rep. Arditti	
3925	Deputy Luxon Deputy O'Hara Deputy Quin Deputy Harwood Deputy Langlois	Deputy Hadley Deputy Kuttelwascher Deputy Brehaut Deputy Domaille Deputy Le Clerc		
3930	Deputy Robert Jones Deputy St Pier Deputy Gillson Deputy Le Pelley Deputy Fallaize	Deputy Gollop Deputy Sherbourne Deputy Conder Deputy Storey Deputy Bebb		
3935	Deputy David Jones Deputy Spruce Deputy Collins Deputy Paint Deputy Le Tocq Deputy Adam	Deputy Lester Queripel Deputy Stewart Deputy Ogier Deputy Trott Deputy Laurie Queripel Deputy Lowe Deputy Le Lièvre Deputy Duquemin Deputy Green Deputy Dorey Deputy James		
3940				
3945				

**The Bailiff:** Well, Members, I remind you the proposition was that the amendment proposed by Deputy Hadley, seconded by Deputy Kuttelwascher, be not debated.

3950 There were 20 votes in favour and 25 against, with two abstentions. What Rule 13.(6) provides is that if the motion is supported by not less than *one third* of the Members voting, then the motion has effect. So there were 47. Sixteen Members is not less than one third: there were 20 votes in favour, so the amendment will not be debated.

We move on, now, to amendment 2 and what I put to you is the same motion, or a similar motion, rather.

3955 The motion is that the amendment proposed by Deputy Stewart, seconded by Deputy Brouard, be not debated.

Again, vote in favour if you do not want it to be debated, and vote *Contre* if you do wish it to be debated.

3960 *There was a recorded vote.*  
*Lost – Pour 9, Contre 36, Abstained 2, Not Present 0*

	<b>POUR</b>	<b>CONTRE</b>	<b>ABSTAINED</b>	<b>NOT PRESENT</b>
3965	Deputy Hadley Deputy Bebb Deputy Gillson Deputy Le Pelley Deputy Fallaize Deputy Lowe Deputy Le Lièvre Deputy James Deputy Adam	Deputy Perrot Deputy Brouard Deputy Wilkie Deputy De Lisle Deputy Burford Deputy Inglis Deputy Soulsby Deputy Sillars Deputy Luxon Deputy O'Hara Deputy Quin Deputy Harwood Deputy Kuttelwascher Deputy Brehaut Deputy Domaille Deputy Langlois Deputy Robert Jones Deputy Le Clerc Deputy Gollop Deputy Sherbourne Deputy Conder Deputy Storey Deputy Lester Queripel Deputy St Pier Deputy Stewart Deputy Ogier	Alderney Rep. Kelly Alderney Rep. Arditti	
3970				
3975				
3980				
3985				

3990 Deputy Trott  
Deputy David Jones  
Deputy Laurie Queripel  
Deputy Spruce  
Deputy Collins  
3995 Deputy Duquemin  
Deputy Green  
Deputy Dorey  
Deputy Paint  
Deputy Le Tocq

4000 **The Bailiff:** Members, may I remind you that the motion was that the amendment proposed by Deputy Stewart, seconded by Deputy Brouard, be not debated.

There were nine in favour, 36 against, with two abstentions, so that motion did not secure one third in support, therefore the Deputy Stewart amendment will be debated and I propose that it be debated as part of general debate, rather than have a separate debate on it.  
4005

**Deputy Stewart:** Thank you for that, sir.

**The Bailiff:** Deputy Duquemin has asked to speak and then Deputy Kuttelwascher.

4010 **Deputy Kuttelwascher:** Sir, I do not wish to speak. I just want to invoke Rule 14.(1) and guillotine the debate.

**The Bailiff:** Right, I will remind Members what Rule 14.(1) says:

4015 ‘A member who has not already spoken in the debate –’

and Deputy Kuttelwascher has not spoken in debate

4020 “...may at any time request [me] to close a debate on any matter (including an amendment or a sursis)...”

I assume you are proposing it in respect of both the Requête *and* the amendment?

4025 **Deputy Kuttelwascher:** Yes, I suspect it is a bit of an unusual case. I suspect we would have to do the vote on the amendment first and then do it together.

**The Bailiff:** No. I think if you are proposing that we do not debate either the Amendment or the Requête, that can be taken together.

4030 **Deputy Kuttelwascher:** You are going straight to the vote?

**The Bailiff:** Yes. I immediately put that request to the vote and, if two thirds or more of the Members voting support it, then, subject to certain qualifications, the debate shall be closed.  
Deputy St Pier.

4035 **Deputy St Pier:** Sir, could I suggest that we just move to curtail the debate on the amendment and deal with that, make a decision in relation to that: subsequently, if Deputy Kuttelwascher would like to move to close debate on the substance, that that is dealt with separately?

4040 **The Bailiff:** Yes, we could do it that way.  
Comptroller, I do not think that causes any difficulties, taking them separately, does it?

**The Comptroller:** Sorry, sir, to take them separately?

4045 **The Bailiff:** Well, we could end up with a situation, could we not, where Members vote to close debate on the amendment...?

**The Comptroller:** Yes.

4050 **The Bailiff:** Then go straight to the vote?

**The Comptroller:** Yes

**The Bailiff:** I guess that is what you are wishing, isn't it?

4055 **Deputy St Pier:** That is what I did suggest. I thought we would have to do the amendment first, and then –

**The Bailiff:** I see, yes. Right, I am with it now. *(Laughter)*

4060 **Deputy Ogier:** Sir, so, theoretically, we could close debate on the Requête but continue on the amendment? *(Laughter)*.

**The Bailiff:** That was what was worrying me, but I think it will work out. I think it will work out alright.

4065 So what I am putting to you, Members, is the motion that we immediately close debate on the amendment, that is the Deputy Stewart/Deputy Brouard amendment.

So if you wish to close debate on the amendment now, vote *Pour*; if you wish debate to continue, vote *Contre*.

4070 Greffier, we need a recorded vote, as well, because we need to see if two thirds support it.

*There was a recorded vote.*

*Carried – Pour 41, Contre 4, Abstained 2, Not Present 0*

	<b>POUR</b>	<b>CONTRE</b>	<b>ABSTAINED</b>	<b>NOT PRESENT</b>
4075	Deputy Perrot Deputy Brouard Deputy Wilkie Deputy De Lisle Deputy Burford	Deputy Hadley Deputy Gollop Deputy Duquemin Deputy Dorey	Alderney Rep. Kelly Alderney Rep. Arditti	
4080	Deputy Inglis Deputy Soulsby Deputy Sillars Deputy Luxon Deputy O'Hara			
4085	Deputy Quin Deputy Harwood Deputy Kuttelwascher Deputy Brehaut Deputy Domaille			
4090	Deputy Langlois Deputy Robert Jones Deputy Le Clerc Deputy Sherbourne Deputy Conder			
4095	Deputy Storey Deputy Bebb Deputy Lester Queripel Deputy St Pier			
4100	Deputy Stewart Deputy Gillson Deputy Le Pelley Deputy Ogier Deputy Trott Deputy Fallaize			
4105	Deputy David Jones Deputy Laurie Queripel Deputy Lowe Deputy Le Lièvre			
4110	Deputy Spruce Deputy Collins Deputy Green Deputy Paint Deputy Le Tocq			
4115	Deputy James Deputy Adam			

4120 **The Bailiff:** I am going to ask the Comptroller for further advice as to how the Rules now... If debate is to be closed, who has a further right to speak on the amendment before we go to the vote, under rule 14.(1) – and how that interacts with the other Rules? We are dealing only with the amendment, not with the Requête at this stage.



*There was a brief conference.*

4125 Is it correct that Deputy Hadley, as the lead requérant, would have the right to speak on the amendment and then the proposer of the amendment who, in this case is the Minister, would have the right to reply?

4130 **The Comptroller:** That would make sense, in the context of the other Rules, otherwise they do not seem to work together in this circumstance.

**The Bailiff:** Exactly, but when we get to the Requête, of course, all the Ministers and Committee chairmen who spoke first time round will have a right to reply, before we go to the vote, *if* that is how Members wish to proceed.

4135 **The Comptroller:** If that is how they wish to proceed, sir, then yes.

**The Bailiff:** Yes.

4140 Well, Members of the States, the proposition was that the debate on the amendment proposed by Deputy Stewart and seconded by Deputy Brouard be closed. There were 41 in favour and 4 against, with 2 abstentions.

Therefore, debate is to be closed, but it will not be closed before the proposer of the Requête has the right to reply to the amendment, or to comment, to speak on the amendment and the proposer of the amendment will have the right to reply.

4145 Deputy Hadley, do you wish to speak on the Deputy Stewart amendment?

**Deputy Hadley:** I just need to respond to some of the points Deputy Stewart made and there are three points, basically.

4150 If people have not e-mailed him, saying they want to open on a Sunday, then what is the problem, because they will not be opening, will they? If the Law is changed, you cannot have it both ways, you cannot tell me that opening on a Sunday is a major problem and then tell me that nobody wants to open.

The economic benefit comes from the increased activity because you would need to employ more people. In other areas, there has been a lift in the amount of –

4155 **The Bailiff:** Is this on the amendment, or are you...? We are only dealing with the amendment.

**Deputy Hadley:** These are points that *he* made.

4160 **The Bailiff:** On the amendment?

**Deputy Hadley:** On the amendment.

**The Bailiff:** Right.

4165 **Deputy Hadley:** He also said, when he was speaking on his amendment, that Island FM, at 61%, did not want shops to be open on a Sunday – deregulation.

Well, I was listening to Island FM and I think he has got it the wrong way round but, of course, I have no way of checking that at this point.

4170 So those are the three points to refute.

**Deputy Stewart:** Sir, I was speaking on the Requête at that point.

**The Bailiff:** Right.

4175 Is there anything further you wish to say in relation to the amendment?

No? Deputy Stewart, do you wish to.

4180 **Deputy Hadley:** Well, the point I am going to make again... It is no point because, if shops do not want to open for three months, they do not have to open for three months! The number of people affected is negligible. It is a pointless amendment.

**The Bailiff:** Deputy Stewart, do you wish to reply?

4185 **Deputy Stewart:** Just to say that this is Sunday-trading neutral. It is just insurance.  
 Whichever way you vote on the Requête, this means that, at least, everyone will have the chance to get their ducks in a row, to get staff contracts right, for staff to have their rights under the Law that they currently enjoy. So 1st March would be a date which would be appropriate and the Douzeniers will be able to then continue this licensing through and we would not put them into an administrative muddle.

4190 **The Bailiff:** In that case, we come now to the vote on the amendment proposed by Deputy Stewart, seconded by Deputy Brouard.  
 Those in favour; those against.

4195 *Members voted Pour.*

**The Bailiff:** I declare the amendment carried.  
 The next thing we have is the request under 14.(1) to close debate on the Requête.  
 I think that was being laid either by, or asked for, by Deputy Kuttelwascher – yes, it was Deputy Kuttelwascher asking to close the debate.

4200 **Deputy Kuttelwascher:** Yes, it seems like a long time ago. *(Laughter)*

4205 **The Bailiff:** So, again, I put to you the motion that we do not debate – sorry, I put to you the motion that we close debate on the Requête.  
 If you wish to close the debate, vote *Pour*; if you wish the debate to continue, vote *Contre*.  
 Again, we will need a recorded vote.

4210 **Deputy Trott:** Sir, you may wish to do this by a show of those standing, rather than an *appel nominal*.

**The Bailiff:** Yes, unless anybody wishes there to be an *appel nominal*. If we can have an indication by people standing.  
 Those who wish to close the debate –

4215 **A Member:** Excuse me, sir, those sitting should not be counted one way or the other! *(Laughter)*

**The Bailiff:** I will ask those who wish to close the debate –

4220 **Deputy Fallaize:** But sir, it does make a difference. If there are Members who abstain, it has to be among those present and voting.

4225 **The Bailiff:** That is why I was going to ask those who wish to close debate to stand and then I think we will have to have those who do not wish to close debate to stand.  
 It is two thirds of those voting... Yes, we do need to know how many... We would have to have those who...  
 It is going to be quicker to have to be an *appel nominal*! *(Laughter)*

4230 *There was a recorded vote.*  
*Carried – Pour 27, Contre 18, Abstained 2, Not Present 0*

	<b>POUR</b>	<b>CONTRE</b>	<b>ABSTAINED</b>	<b>NOT PRESENT</b>
4235	Deputy Perrot Deputy De Lisle Deputy Burford Deputy Inglis Deputy O'Hara Deputy Quin	Deputy Brouard Deputy Wilkie Deputy Soulsby Deputy Sillars Deputy Luxon Deputy Hadley	Alderney Rep. Kelly Alderney Rep. Arditti	
4240	Deputy Harwood Deputy Kuttelwascher Deputy Domaille Deputy Langlois Deputy Le Clerc	Deputy Brehaut Deputy Robert Jones Deputy Gollop Deputy Sherbourne Deputy Gillson		
4245	Deputy Conder Deputy Storey	Deputy Le Pelley Deputy Fallaize		

4250 Deputy Bebb Deputy Laurie Queripel  
 Deputy Lester Queripel Deputy Lowe  
 Deputy St Pier Deputy Le Lièvre  
 Deputy Stewart Deputy Duquemin  
 Deputy Ogier Deputy Dorey  
 Deputy Trott  
 Deputy David Jones  
 Deputy Spruce  
 4255 Deputy Collins  
 Deputy Green  
 Deputy Paint  
 Deputy Le Tocq  
 Deputy James  
 4260 Deputy Adam

**The Bailiff:** Members, the motion was that we close debate on the Requête.

There were 27 in favour; 18 against; 2 abstentions.

4265 Under Rule 14.(1), for the motion to be effective, there would have had to be two thirds or more of Members voting to support it. That would have required 30 people or more supporting it. It did not secure the two-thirds majority. Therefore, debate will continue.

The next question, then, is, it might be useful to see how many people are proposing to speak in the debate and then we can take a decision as to whether we, perhaps, continue a bit longer this evening, or rise and continue tomorrow morning.

4270 Can I have an indication of how many people are planning to speak in debate? That is quite a lot, (*Laughter*) so we have four minute available this evening. Does anybody wish to speak for four minutes in debate? (*Laughter*)

Yes, Deputy Bebb.

4275 **Deputy Bebb:** If I may, in relation to Sunday trading, I am sure the debate will have a number of people who will choose to speak from certain viewpoints, but I think one that I am not sure if people will hear is the viewpoint of the Christian community here in Guernsey.

4280 The first question I would like to ask Deputy Hadley is whether he is not the spawn of Satan because he failed in his job application on that particular occasion or, (*Laughter*) indeed, could he confirm that Satan has an equal jobs opportunity? It is that kind of comment, which I think came from certain members of the community, that has been unhelpful towards the argument. One would hope that there was a more eloquent way of stating it.

4285 The practice of *not* working on a Sunday is not necessarily a *Christian* practice. It comes from the Jewish Sabbath, which has very strict rules. It has been continued through Christian tradition, not working on a Sunday, and I recognise that, in this day and age, I would fully agree that there is a question as to whether we *should* continue to regulate according to a Christian tradition, but there is the general point that to take a day of rest is considered to be a *good* practice within society.

4290 I know that people will consider *whether* Sunday *is* their day of rest and, for a number of members of our community, it simply is not, but I think it is important to note that a number of people do take offence to the current number of trading that there is on a Sunday. Therefore, I would ask Members just to bear in mind that there is a large number within the community who simply do not actually make a song and dance of this, they simply do not make representations. They quietly get on with their lives, they quietly continue to pay their taxes and they are very helpful members of our society – but they do take offence at a continued erosion within what they consider to be the tradition in this Island.

4295 I would ask Members just to bear in mind that those people are mindful, and do take offence sometimes, when we belittle their beliefs.

Thank you.

4300 **The Bailiff:** Deputy Brehaut, do you have a very short speech?

**Deputy Brehaut:** It is probably the shortest, sir. It was very unfair for Deputy Hadley to be accused of being spawn of the Devil – I mean, he's from Dudley! (*Laughter*)

4305 I rise in support of the Requête, sir, and having done that, I will sit down.  
 Thank you.

**The Bailiff:** Is there anybody else wish to speak, very... Yes, Alderney Representative Kelly.

**Alderney Representative Kelly:** Just a short... As someone who came from not too far away

4310 from Dudley, I shall not be voting.

I will let my colleague explain that if he wishes – why he is not – because I believe it to be a purely Guernsey matter. It has no impact at all on anything to do with the Bailiwick, sir, and it is *My je ne vote pas*.

4315 Thank you, sir.

**The Bailiff:** It is now very nearly 5.30 p.m. I propose we rise –

**Deputy Brehaut:** But sir I was going to... I wanted... I just wondered if there was any appetite to sit until 6 o'clock?

4320 That is all I wanted to say.

**The Bailiff:** Having seen the number of people planning to speak, I formed the impression that we would not finish by 6.00 if we continued. That is why I sought a show of hands. There were quite a lot of people who put their hands up and I can see one or two prepared speeches around, so I think we would not finish by 6.00 p.m.

4325

**Deputy Le Tocq:** Might we not try and see how far we get?

If the speeches were as short as Deputy Brehaut's, then I think we would finish by 6.00 or 6.30 p.m.

4330

**The Bailiff:** I do not think we will finish by 6.00 p.m.

Under the Rules of Procedure, I can propose an extension of the meeting, if I consider the business of the meeting, or a particular item, can be concluded before – in this case – 6 o'clock. I do not consider we will conclude it by 6 o'clock, so I am not able to invoke that Rule.

4335

So we rise now and come back at 9.30 a.m.

*The Assembly adjourned at 5.30 p.m.*