



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Thursday, 18th February 2016

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Present:

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

Law Officers

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

People's Deputies

St Peter Port South

Deputies P. A. Harwood, J. Kuttelwascher, B. L. Brehaut, R. Domaille, A. H. Langlois

St Peter Port North

Deputies M. K. Le Clerc, J. A. B. Gollop, P. A. Sherbourne,
R. Conder, C. N. K. Parkinson, L. C. Queripel

St Sampson

Deputies G. A. St Pier, K. A. Stewart, P. L. Gillson, S. J. Ogier, L. S. Trott

The Vale

Deputies M. J. Fallaize, M. M. Lowe, A. R. Le Lièvre, A. Spruce, G. M. Collins

The Castel

Deputies D. J. Duquemin, C. J. Green, M. H. Dorey,
B. J. E. Paint, J. P. Le Tocq, S. A. James, M. B. E., A. H. Adam

The West

Deputies R. A. Perrot, A. M. Wilkie, D. de G. De Lisle, Y. Burford, D. A. Inglis

The South-East

Deputies H. J. R. Soulsby, R. W. Sillars, M. G. O'Hara, F. W. Quin, M. P. J. Hadley

Representatives of the Island of Alderney

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

The Clerk to the States of Deliberation

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

Absent at the Evocation

H. E. Roberts Esq., Q.C. (H.M. Procureur);

Deputy R. A. Jones (*relevé à 9h 33*); Deputy E. G. Bebb (*relevé à 9h 46*);

Deputy P. R. Le Pelley (*indisposé*); Deputy D. B. Jones (*indisposé*);

Deputy Laurie B. Queripel (*indisposé*);

Deputy A. H. Brouard (*relevé à 9h 36*); Deputy P. A. Luxon (*relevé à 10h 02*);

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States of Deliberation

The States met at 9.30 a.m.

[THE BAILIFF *in the Chair*]

PRAYERS

The Greffier

EVOCATION

The Bailiff: Deputy Rob Jones, do you wish to be *relevé*?

Deputy Robert Jones: Yes please, sir. (*Laughter*)

Billet d'État III

SOCIAL SECURITY DEPARTMENT

XV. Proposed Development of a Secondary Pensions System for Guernsey and Alderney – Announcement of vote – Amended Propositions carried

Carried – Pour 38, Contre 2, Ne vote pas 1, Absent 6

POUR

Deputy Soulsby
Deputy Sillars
Deputy O'Hara
Deputy Quin
Alderney Rep. Jean
Alderney Rep. McKinley
Deputy Harwood
Deputy Kuttelwascher
Deputy Brehaut
Deputy Domaille
Deputy Langlois
Deputy Robert Jones
Deputy Le Clerc
Deputy Gollop
Deputy Conder
Deputy Parkinson
Deputy St Pier
Deputy Stewart
Deputy Gillson
Deputy Le Pelley

CONTRE

Deputy Hadley
Deputy Lester Queripel

NE VOTE PAS

Deputy Trott

ABSENT

Deputy Luxon
Deputy Sherbourne
Deputy Bebb
Deputy Ogier
Deputy David Jones
Deputy Burford

Deputy Fallaize
Deputy Laurie Queripel
Deputy Lowe
Deputy Le Lièvre
Deputy Spruce
Deputy Collins
Deputy Duquemin
Deputy Green
Deputy Paint
Deputy Dorey
Deputy Le Tocq
Deputy James
Deputy Adam
Deputy Perrot
Deputy Brouard
Deputy Wilkie
Deputy De Lisle
Deputy Inglis

5 **The Bailiff:** Well Members, before we start the business of the day, I can formally announce the result of the voting on Article XV; that was the Social Security Department's Policy letter on the proposed development of a Secondary Pensions Scheme system for Guernsey and Alderney. The voting on the three Propositions as amended was 38 in favour, with 2 against and 1 abstention. I declare those Propositions carried as amended.

10 Greffier, we move on.

HEALTH AND SOCIAL SERVICES DEPARTMENT

XVI. Proposals regarding Guernsey's Future Ambulance Service – Propositions carried

Article XVI.

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 30th November, 2015, of the Health and Social Services Department, they are of the opinion:

1. To agree the transfer of the budgetary and non-clinical oversight role for the Emergency Ambulance Service from the Health and Social Services Department (and its successor) to the Home Department (and its successor), at a future date to be determined but not before January 2017, thereby providing the Home Department (and its successor) with the combined oversight role for all 'blue light' emergency services as they work increasingly jointly to their 'best practice interoperability' agenda.

2. To note that the Health and Social Services Department (and its successor) will return to the States of Deliberation during 2016 with Policy Letters proposing the more detailed arrangements to implement the strategy outlined in that Policy Letter and the Report of the Guernsey's Future Ambulance Service Steering Group, once those plans and Business Cases have been finalised between all parties.

The Greffier: Billet III, Article XVI – Health and Social Services Department – Proposals regarding Guernsey's Future Ambulance Service.

15 **The Bailiff:** I believe the Deputy Minister of the Health and Social Services Department will open the debate. Deputy Soulsby.

Deputy Soulsby: Sir, yes, this is my random act of kindness of today. (*Laughter*) I was not expecting to do this, but sadly our Minister is circling overhead somewhere and it probably will not be the longest opening speech, as my voice might give in before the end of it.

20 This policy letter results from an excellent collaborative work, from a cross-departmental, cross-party steering group, led by Mr John Hollis, who I think deserves a lot of credit for the hard work he has put into this. (**Several Members:** Hear, hear.)

25 Now, much of the report sets out the direction of travel and these include preparation of emergency services to support HSSD's transformation; the redesign of emergency services, with a focus on patient outcomes; and a non emergency patient transfer system. Sir, this is a distinct service separate from the emergency service contract. Further policy letters may need to be brought back to the States.

30 However, what we are seeking today is a transfer of budget for the non-clinical oversight from HSSD to the Home Department, which brings together responsibility for all the blue light services and this approach makes perfect sense. HSSD, or the Committee for Health and Social Care as it will be known, needs to be allowed to focus on its mandate, and that is health and social care. It also aligns well with what else we are doing in the department and I refer to the transferring of Land Law responsibilities to the Housing Department, or its successor, and the Institute of Health and Social Care Studies to the Education Department and its successor.

35 HSSD should be focusing on the clinical pathways and processes. Sir, that is all I have to say. I think it is, as I said at the start, an excellent document and I commend this to the Assembly.

The Bailiff: Deputy Brouard, do you wish to be *relevé*?

40 **Deputy Brouard:** Thank you, sir.

The Bailiff: Thank you. Does anyone wish to speak in debate? No?
Deputy Lowe.

45 **Deputy Lowe:** Sir, I wish to make it clear, I used to be a director of St John Ambulance and Rescue and resigned over 18 months ago. I just want to clarify that.

I also want to say, I will not be supporting any of HSSD's Propositions, even though I am a member of the Home Department. I shall explain the reasons why, and there are many.

50 The first question Members need to ask themselves is this: the emergency ambulances are currently based, as you know, at the top of the Rohais, at St John Headquarters. The Ambulance Service has the largest number of emergency calls per year, totalling over 4,000. Yes, over 4,000 emergency calls, plus everyday calls, so why would anyone want to move an emergency ambulance service, with currently reasonable access to the road network from the Rohais right across the Island, to a base in the middle of town in a one-way road system, that a lot of the time has congested roads?

55 The answer from HSSD is because ambulances have a blue light on top and they need to be based with the Fire and Rescue, keeping the two blue light services together.

60 As the over 4,000 emergency calls are around people in need of emergency response to their health problems, such as heart attacks, strokes and numerous other conditions, surely the HSSD mandate fits appropriately, as the clue is in the title 'Health', and should remain with HSSD – under the agreement with the States, ambulance emergency response times from call out to patient being eight minutes.

65 As an aside, for several years until quite recently, all the emergency services were likely to be moved to the Castel Hospital site, out of town and in a central part of the Island, which made sense.

So back to this wish, because an ambulance has a blue light on top of it, the place to base these should be at the Fire and Rescue Arsenal premises, the same premises that are already congested with difficulty to park if calling in – the same premises that are listed and took years to

70 get planning permission to change the floor surface. Quite how long it will take to seek alterations to this listed building to accommodate four ambulances, knock down outbuildings, garage workshop alterations and find parking spaces for the fire engines or equipment currently under cover which will in future be stored or parked outside; cost involved? No idea. We have not been involved at political level or told costs. We were told by the Chairman of the working group, the costs are known to T&R, but not released to us at this stage.

75 Of course the next States will be told, we approved this report and therefore they must approve the funding. Under 1.5 on page 868 to 869, it covers the ten points that will need to be actioned and require resources being submitted to the States for approval after May 2016. Perhaps T&R would like to enlighten the States on costs rather than vote blind on yet another report without costs known.

80 Indeed as the costs are known, why aren't they included in this report, so an informed decision-making process can be achieved? Why indeed? How disjointed!

Point 2.4, in the Billet – I will just get to that page, thank you. Point 2.4 states here:

'the CCA initiated a project to review the existing service provision and to define service-delivery requirements for the future.'

– and it carries on here about a massive task. It is not really straightforward and you can see it there for yourselves, if you want to read it.

85 On page 873, on c., that also refers to:

'There should be transparency in any hybrid funding formula ...'

Well, we haven't got that. And:

'public understanding of States' financial support'

– well, we cannot tell them that, because we do not know –

'relative to private subscriptions to St John'

– well, of course we do not know how that will be affected by this report before us –

and ... about how the two sources of funding are used and might best be used moving forward.

We have no idea how that will happen.

90 As for section e. it states here:

'In undertaking a clearer 'commissioning role' with service suppliers, there needs to be a strengthening within HSSD of contract management capability so that both Home (post transfer of operational delivery responsibility) and St John (as provider) are set clear priorities and performance measures that are monitored appropriately.'

On page 874, HSSD have listed their evaluation criteria, before producing their recommendations. Quite how they came to the weighting they achieve we will never know. Suffice to say, I support option 2 and absorb emergency ambulances into HSSD. The recommendations at the end of their options and proposal, and I quote:

'Option 5 scored most highly and is the Steering Group's recommendation for progressing over the next 5 years. It does not imply that Home absorbs SJARS. It implies an enduring, evolving partnership.'

95 – whatever that means.

Health and ambulances go together – most would agree that. Under 5.3, HSSD state:

'Home will then work in a manner supportive of HSSD (effectively being commissioned by HSSD) to provide with SJARS the most effective service to meet HSSD's clinical and patient service performance objectives.'

So why pass the buck, HSSD? Health and ambulances go together. Why are you asking another Department to do similar?

HSSD wish to bring in changes in a phased manner over a five-year period. Why so long?

100 When I was on the St John Ambulance and Rescue board, all the directors made it clear that if the States were going to take over the St John Ambulance and Rescue, this could and would be achieved within six months, they did not sign up to five years. The make-up of the St John Ambulance and Rescue board has professional business people and six months was not unreasonable or unusual, in their view.

105 Some senior management wanted five years as it fitted their personal circumstances. The board wanted what was best for the service and patients. Though not ignoring certain staff's resistance, their duty was to look after all staff and make difficult business decisions. What happened next is well documented and I am sure others in here today will be reminding Members, and rightly so – how unnecessary interference by the CCA gazumped the HSSD, who were wishing and able to take in-house the Ambulance Service.

110 HSSD at one time appeared to be the villain. During that time I was a director of St John Ambulance and Rescue and I can assure you all, the message from senior ambulance staff, on paperwork here, stated, and I quote:

'there is a strong working relationship with HSSD staff.'

115 Senior staff at the ambulance station, only weeks before the CCA intervened, wished the paramedics to be based at A&E with ambulances on site for call outs, but in down time they could utilise their experience and their expertise more working in A&E and bring savings to HSSD, both working together. Both HSSD and SJAR, wanted this to happen.

120 When the HSSD board suggested they take on the service, potentially saving even more money, that was when SJAR senior staff objected. The Chief Ambulance Office then met with the States' Chief Executive and the CCA was convened. The rest, they say, is history.

125 So why would Home Department want to be commissioned by HSSD to overview a charity they have no say on the workload or service? What other charities would receive a grant, be charged rent for States' property – well, I am guessing the charity will be charged rent – and that charity will be carrying out a service direction by a different department from where they are based, but working alongside staff that come under the Home Department? Not sure if I can use 'barking', sir, because I am not quite sure if that is politically correct, but I struggle to think of an easy way to describe these recommendations.

There is not an attached letter from Home Department. We were not asked.

130 Paragraph 6.4 states that the Home Department is supportive, and a letter setting out concerns of lack of costs might have helped Members. As for the St John Ambulance and Rescue deficit defined pension scheme, I asked Members to note 8.5 on page 881, as the wording raises 'partnership approach', so where are we going with that?

135 So why would HSSD wish Home Department to take on the Ambulance Rescue Service? I will leave you to make that decision, but I shall be voting against.

The Bailiff: Deputy De Lisle. And Deputy Bebb, do you wish to be *relevé*?

Deputy Bebb: Please sir, thank you.

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

I have a concern with respect to the relocation to the Arsenal from the Rohais location, particularly for those areas that are more distant as we are in fact in the West. Time of course very important with respect to these services.

145 Now, I do note on page 869 that the policy letter states that a full evaluation of co-locating the emergency ambulance base from the Rohais location will be conducted. I would just like to make

the point that the West should be fully considered – and of course those other areas in the Island that are more distant should be given due consideration with regard to that.

150 There is a second point, sir. There is a second point here, in that I am worried about the resources that have been placed into this and the increased costs, and whether that might be passed then on to the subscriptions and so on, and the costs of emergency transport and that type of thing, because already some are concerned that the subscriptions are quite high for many people and also if they have not subscribed, then of course the one-off cost can be quite large, So, I would be concerned that, with all this change, there could be added resources and costs, which might then be passed down to people who unfortunately have an incident and have to pay up at some point.

155 So, can we then, first of all, make due consideration, before changing the location, for those areas that are more distant and also consider very carefully the increased costs that might result from these changes that are being made.

Thank you, sir.

160

The Bailiff: Deputy Brouard.

Deputy Brouard: Thank you, sir.

165 The Deputy Minister, in opening the debate, mentioned about clinical pathways, and how important it was for the Ambulance Service to be located with the blue light services.

For exactly the same reason is why I think they should be located with the hospital, because it is the *clinical* pathways where people are going, especially the ambulances which are taking road accidents and people that are involved in that, across to the hospital. That is where their main line is and if we are now looking at introducing the Ambulance Service to do greater things into people's home, that is all part of HSSD. That is nothing to do with the Home Department.

170 So, the critical path for me is the service to our community and the hospital, not so much with the location with the Fire Service, or with the Police, for that matter.

I think, in this particular case and particularly Deputy Lowe's experience of being on the ambulance board, I think counts for a lot. She has seen it from both sides and I would strongly urge Members to take into account what she says.

175 Now, I have been in business, I was in banking for many, many years and you see the cycles of the new management schemes come and go – one year it is going to be all for integration and the next year it is going to be for arm's length, and all the rest of it.

180 We have got the situation here, where we are going to be putting the chiefs in one area and all the Indians in the other. What idea is that? Wouldn't it be better if we had the chiefs, who are running the service, and the ambulance people, who are actually going out on the road, doing the day job, all together in one place? Because the Ambulance Service is not going to be working so closely with the Fire Service and the Police; it is going to be working with HSSD. That is the key path, so the idea of splitting the chiefs and the Indians up, I think it is ridiculous, I think it needs to be brought together.

185 And then we talk of savings and I know the previous board had a lot of research done, not by the board – the board did not do the research, it was the staff at the previous HSSD board who did the research – and the staff came back and said there are efficiencies here to be made by having the Ambulance Service integrated in A&E. Absolutely!

190 So I am really a bit concerned now that it is one of those things, it smells like a fudge, it looks like a fudge, it tastes like a fudge – and I think it is a fudge. (**A Member:** Hear, hear.)

I think we need to be a bit braver in the States, if we are really talking about efficiencies and services and we are trying to get clinical pathways that really work tight, we need to have HSSD controlling the Ambulance Service, for the service it is delivering out into the community. You cannot then have the management and the funding tied up in Home Department.

195 We look at the issues we have got with Home Department just the other day for £7,000 for the domestic abuse strategy. How is that going to play out with the Ambulance Service? Are they

going to pay over the money? Will they not? How much funding will they get and what priority will they give to it? It is a service that they are just holding, They are babysitting them. For why? Is
200 it because we have not got the strength in this House to come and actually cut a few Gordian knots and say, 'We need to have the Ambulance Service in-house – it is going to be a bit difficult at first, but that's where it lies'?

So I would strongly urge Members, do not have another piece of Guernsey fudge this morning. Let's bite the bullet and get the Ambulance Service integrated in with the paramedics and A&E
205 and the services that we are going to be running with our community from HSSD. All the linking is all with HSSD. It is not, I do not think ... There are some things for the Home, I am not denying that, but I do not see them as strong.

Thank you, sir.

210 **The Bailiff:** Deputy Bebb.

Deputy Bebb: Thank you, Monsieur Le Bailli.

Members, before I start speaking, I suppose I should actually outline my history in relation to St John Ambulance. Members will remember that there was a report commissioned by Lightfoot
215 and it was jointly commissioned by Treasury & Resources and HSSD. This report came out with a number of recommendations.

Following the report, as a Member of HSSD, I was asked to be an observer on the board of St John Ambulance and therefore, though not being a member of the board, I attended all of their board meetings and actually discussed matters with them.

220 During that time, as Members will remember, HSSD came to the conclusion that indeed, to be the most cost effective model, the option was best to bring in the service in-house.

Now, for reasons we all know, that did not happen and the rights and wrongs of that is not what we are here to debate, but what I would say is that that Lightfoot report, was quite explicit, in trying to increase the working relationship between HSSD staff, primarily at Accident & Emergency, and the St John Ambulance and Rescue Service staff.
225

I would also like to state that the one thing that no one ever, ever faulted St John Ambulance for, was the quality of their clinical services. The quality of the clinical services was seen to be excellent and I have not been advised differently – I assume that they continue to be excellent. So *clinically*, when we talk about the clinical governance, that was and probably continues to be
230 excellent.

So clinical governance still has the oversight by HSSD. Any clinical questions, any new developments, any new services that St John Ambulance might want to produce, those matters which will become matter of fact because the Ambulance Service, as with any other part of the Health Service evolves, best practice moves on. So all of that clinical governance will have to remain with HSSD. So what indeed are we doing involving another department?
235

Is it that HSSD are telling us, that, I believe, they have the second largest financial resources available to them in the States, second only to T&R – they have more finance people working there in HSSD than anywhere else – are we saying that we have no confidence, no faith in HSSD to be able to deal with the financial matters? Is that what HSSD are trying to tell us?

240 Or is it that we would rather actually create a situation where the Home Department needs to deal with the finances, but ask HSSD if indeed St John Ambulance are performing to an acceptable standard? Do we see financial penalties that might be worked into a future contract, that would have to involve two Government departments as well as St John Ambulance? No one can possibly explain to me why this model of involving an additional Government department –
245 because there will always have to be another one; you cannot take HSSD out of the clinical governance question – nobody has explained to me and nobody can explain, why this moving of one part of the review of the contract needs to be done by a different department.

Much as my question to the Home Minister yesterday, I do not believe that they are completely incompetent in financial matters, but I have to say are they *that* more competent than

250 HSSD? Do we honestly believe that that to be – ? (*Laughter*) Do we believe that the staff are actually *that* much better? If they believe that the answer is yes, then why aren't we moving some staff around?

The whole point is that we have an ambulance service, that for all of its failings, is clinically excellent. We have an ambulance service where there is a desire to see greater co-operation with
255 staff at HSSD on clinical delivery. That is the business of the Ambulance Service. What we do not seem to agree on is that the same people who look at the clinical governance might need to look at the financial governance.

Now, there has been a history between HSSD and St John Ambulance. I think it fair to say that at one point when I was attending the board meetings at St John Ambulance, that trust had
260 broken down a little, but I think that there was work done in order to regain trust between HSSD and St John Ambulance. I was of the opinion that things were moving in the right direction when I had to step down, and I needed to remove myself from the board because of course the intention was to bring in the service in-house and at that point it would have been wholly inappropriate for me to be around the HSSD table, talking about how we bring it in-house and to be around the St
265 John Ambulance table, in order to actually talk about those – how they relinquish their service. So I had to remove myself from the St John Ambulance board.

So, the point is that the working relationship was improving. I believe that HSSD have the ability and could continue to improve the relationship. So, I ask you, what is the big benefit here? I know that from the very beginning, as Deputy Lowe said, there were some senior members of
270 staff at St John Ambulance, whose desire had always been to actually move the service, so that it came under the Home Department. I remember being told that St John Ambulance no longer wanted to deal with HSSD, but wanted to deal with Home. Well fine, but as I said at that meeting, that may be so but that cannot be decided unilaterally by St John Ambulance.

So, it is slightly strange that I see that this report had those senior members of staff around the
275 table. Rather than having a dispassionate review by an independent 3rd party into what might be the best future option, everybody had their own say. Now that may be the right approach or it may be the wrong approach, but I think it is only appropriate for people to realise that that is the approach that has been taken.

There are examples around the world, and we should not deny it, of the ambulance service
280 working with other services. In America in particular, we probably know that ambulance and the fire service are always co-located. They are slightly different members of staff who work on one and the other, but they are always co-located – but they have had that model for generations. That is something that is ingrained and indeed, the clinical oversight is independent, because of course they do not have health services in the way that we do in Europe. It is the fact that the
285 clinical oversight is a completely independent part of the same service that makes that model more acceptable and more reasonable. Here, we are not being asked to take the clinical oversight out of HSSD and put it into another body.

It is easy to say that there are models around the world that have the ambulance service and the fire service co-located, but just remember that there are an awful lot of other matters that are
290 also in different places. Here we have much more in line with what you would call a UK model, and I am sure that we will all be aware that the UK does have a separate ambulance service. There is a desire by the UK now, in order to move ambulance services as and when they rebuild the stations, so that they are co-located. Well, I see no reason not to agree with that. I see no reason why we cannot co-locate the Ambulance Service with the Fire Service, that can quite happily
295 happen, but why on earth would we move the financial governance and the financial considerations? It simply adds an additional layer of bureaucracy that is unneeded.

Therefore, Members, I would urge you to think very carefully as to whether or not we want to add another department into what has been a difficult relationship in the past. It is not assisted by having more deputies involved. I do not see a situation where five deputies is improved by having
300 ten of us involved, and if anybody thinks that to be the case, then fine, please vote for these

proposals, but if you feel that the best solution is to simply leave things as simple, then I would say that this report needs to be rejected.

Thank you.

305 **The Bailiff:** Deputy Luxon, do you wish to be *relevé*?

Deputy Luxon: Thank you, sir.

The Bailiff: Thank you. Deputy Dorey.

310

Deputy Dorey: Thank you, Mr Bailiff.

I would like to concentrate on efficiency. On page 868, at the beginning of the report, it says:

'There are no financial implications for the 2016 States Budget arising from the recommendation.'

Well, we should be in a very different situation. I would ask Members to turn to page 900 and there is the 'Applying Evaluation Criteria to Options?'

315

When I saw this report, I just was amazed. Option 1 and Option 2 – Option 1 is basically no change and Option 2 is absorb into HSSD, as was the conclusion of the HSSD Board in 2014. Both get the same number of points. Those options are so different, it made no sense.

But let me just explain why I reached that conclusion, why I lost confidence in the report for those scores and evaluation criteria.

320

If you look below that table, in paragraph 619 of this appendix, it says in the middle of it:

'Interestingly, we did not see 'direct absorption by HSSD' as being the best route to achieve efficiency, cost savings or value-for-money.'

The Lightfoot report had identified over £500,000 worth of savings over the rates that St John had given HSSD, based on their 2015 rates. In addition to that budget saving, HSSD, with the help of a very experienced manager, who had worked extensively in health services in the UK, as well as working at that time in Guernsey, with the help of two people who had run ambulance services; one a small limited geographical area and one a larger one, identified a further £300,000 worth of savings, if it had been absorbed into HSSD.

325

So, how they can reach the conclusion, after having the Lightfoot report, that 'we did not see direct absorption as being the best route to achieve efficiency', I do not know. If I go to Lightfoot report, it looks at alternative providers of the service in the future and one of them was HSSD. The first benefit it lists is the ability to integrate with other HSSD services and maximise efficiencies.

330

So everything – the actual numbers we worked on – all said that that was the most efficient option. The Lightfoot report, which was an expensive, extensive report, which was done by experts, concluded that the ability to integrate into HSSD and maximise efficiencies was one of the benefits of HSSD. So then to conclude that they both get the same score and could not see it achieve cost savings and value for money, I do not know how they could reach that conclusion. Therefore that is when I lost confidence in this report.

335

It must have been put forward for other reasons, because I cannot believe that if you had looked at those options, you would reach that conclusion. So I cannot support this proposal, because it is not in my view the best, most efficient solution. Others have mentioned about clinical pathways, I am not going to repeat those arguments.

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So from a clinical point of view, from a logical point of view and from a financial point of view, it does not make sense to put it in with the Home Department.

Interestingly, I think Deputy Lowe referred to the costs, in terms of capital. If Members could turn to page 921, paragraph 10.2.2, it talks about 'Co-location of Emergency Ambulance with Fire Service' and possible investment costs of £8 million. I just do not understand why we are going down a path which will involve possibly spending £8 million of capital, when we are so short of

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capital for other projects. Why we are embarking with this policy letter on a solution which is not the most efficient one ... Every piece of work that I have seen apart from this one – sorry, I just do not have confidence with their scoring, because I think they scored it to reach a conclusion, rather than accurately scored it based on the criteria.

So I ask Members to reject this report and vote against the Propositions.
Thank you.

The Bailiff: Deputy Le Clerc.

Deputy Le Clerc: Sir, just to pick up on a couple of points and I think the first thing is to say, that there is no proposal at the present time to move the ambulance station to the fire station. I think that the public need to be aware of that.

It was just to fully evaluate that co-location and if we pick up, on page 921, on the point that Deputy Dorey made. The £8 million, I took that to include part of the evaluation of also including and extending that to include the Police as well. So I do not know, I might be wrong on that, but I took it that was co-locating all the three, and again that was to be assessed as part of the evaluation.

Just picking up on Deputy Lowe's point – Sorry ...

Deputy Dorey: Sir, point of correction.

The wording is very clear: 'Co-location of Emergency Ambulance with Fire Service'. There is no mention of Police in there. I do not know how it – (*Interjection*)

Deputy Lowe: Paragraph 10.22.

Deputy Gillson: Point of correction.

It does actually mention it. It says it is:

'to be assessed as part of existing SCIP evaluation during 2016 ...'

That is our HOST programme, where we are looking at the possibility of co-locating Police, Fire, Les Vardes House and possibly Ambulance into one, possibly two sites. It would be like a capital cost but it would release costs from other sites. That is all being evaluated this year.

Deputy Le Clerc: Thank you, sir.

And again, it was just to pick up on Deputy Lowe's point about Home and the consultation. On page 879, paragraph 7.1, it says the Steering Group has worked closely with the Home Department. And on page 878, it was setting out the clear reasons why that this would work and emerging best practice and it is working in other jurisdictions.

When I was on the Home Department, I was part of the JESCC working party. JESCC is the amalgamation of the Emergency Control Centre, and I had the opportunity to go to Wiltshire and they have co-located all of their emergency blue light services in Wiltshire. I think that is the emerging trend and as the UK government come under more and more pressure to look for efficiencies and cost savings, that that is the way that people are moving.

I give way.

The Bailiff: Deputy Bebb.

Deputy Bebb: I thank Deputy Le Clerc for giving way. Would she agree that co-locating is a different matter to moving the governance and the responsibility?

Deputy Le Clerc: Yes I agree, it is different.

Deputy Lowe: Can I just do a point of correction or clarification for Deputy Le Clerc.

400 She actually said, that they were not moving the ambulance service across. No, but they are moving the emergency services – the full Ambulance and Emergency Service going across to the Home Department. If it was the voluntary side and the side that was not an emergency, I would have more sympathy. But it is definitely the emergency service that is going to the Fire and Rescue.

405 And secondly it says that they have worked very closely with Home Department – that is only at staff level sir. The political Members have not been involved.

The Bailiff: Deputy Gollop?

Deputy Gollop: Thank you.

410 I think you have to see this, package of possible reforms as part of a wider holistic approach to HSSD in the States, because clearly it is only beginning to dawn on us, maybe, that for those who in the next Assembly, the role of politician and member of a board will slightly and subtly change.

415 We are living in a culture at the moment of one service, one organisation, with interconnected paths and there will be, probably, less opportunity or even motivation for Deputies to have an operational role as board members in some areas.

420 So some of the concerns we have heard today from Deputy Bebb and others are perhaps less relevant. I mean, we have already seen – and I do not understand the reasons for it – but out of the blue a couple of years ago, there appeared to be an issue at HSSD in their negotiations with the St John Ambulance Service and the emergency authority became involved and senior figures from other parts of the States.

425 Now clearly, that was an example of two lots of Deputies, if you want to put it in those terms, getting embroiled. In a way, we need a new structure that is able to redefine the role of St John's for a new, more integrated health care system. I am very impressed with the new Chief Executive and the approach that they are taking because the organisation really evolved over many years. Sometimes it was in the vanguard of change, sometimes perhaps not, but it was a very complicated organisation of many facets and I think, maybe, it is time to separate to a greater extent the emergency blue light side of the operation from the patient transfer and other services. Indeed, there may well be more cost effective or other ways of providing the latter, and I think that this goes some way towards that.

430 **The Bailiff:** Deputy Bebb.

Deputy Bebb: I thank Deputy Gollop for giving way, but could he explain how he removes the blue light service of the ambulance from delivering patients?

435 **Deputy Gollop:** Yes, they do two different roles. The emergency ambulance service is there for casualties or calamities, whereas a non-emergency patient transfer system has a completely different role, in facilitating movements to and from hospitals and so on.

440 I think the purpose of these reforms, is to work with – as Deputy Le Clerc has said already – the emergency integration and will make far more rational sense, because we all know that for many years there have been proposals to look at integrating more the emergency services, and it is obvious that we reached a bit of an impasse a few years ago and that we do need to look at a change even in a way that we manage the health services. HSSD need to focus more on patient outcomes and less on running an empire that involves all kinds of contracts, property and other areas.

445 So, it is a case really of not complicating, but simplifying the different roles of the committees for the future.

The Bailiff: Deputy Adam.

Deputy Adam: Thank you, sir.

450 Like Deputy Lowe, I should declare that I have had an interest in St John Ambulance, probably since about 1984, as a member of the voluntary side for 25 or 20-odd years, and commander of the voluntary side and thus on the board of Ambulance and Rescue Service, up until 2012.

Sir, I fully support this report. I think that as Deputy Gollop says, one has to look at it under a holistic approach.

455 All blue light services supply a statutory requirement to our community of emergency services – Police, from a legal point of view; Fire Service, from a fire point of view; Ambulance from a clinical support and health point of view. Sir, Fire Service also provides help and support.

The Ambulance Service and the Fire Service have worked together, for many years and this has helped improve a closer working relationship. I often do see, going out to an accident, you see an Ambulance there and a Fire thing there and Police there, while sometimes all you need is a Fire Service vehicle there with someone in that Fire Service who is trained in first aid and supportive help to a patient, so that they can be there first and then decide what do they need? Do they need an ambulance, paramedic, or both, and if we can get more efficient response to accidents around Guernsey.

465 Therefore, it is valuable for blue light services to be under one roof and as Deputy Gilson said, investigation is to look at, should you co-locate all three services or just the two services?

Deputy Lowe suggested at one stage, that the C atel site was considered reasonable for having Police, Fire and Ambulance working together, from one centralised point. Another site that has been suggested is Best’s Quarry site where the water board is, to have the service there. Again it has got quite good roads.

470 Deputy De Lisle was asking about location. Location has been discussed many times within the Ambulance Service, because the Rohais is fairly convenient, because it is on a main road and it depends if you going to St Peter Port or to the West or to St Sampson’s, you turn left or right coming out of there.

475 Deputy Lowe, quite rightly said is the Fire Service point as good a location? On balance it may not be. That is why we have to investigate where is a reasonable location for all these services to be. It may be Castel, it may be Best’s Quarry. That may mean more capital expenditure, but long term, is it sensible to keep all these services in different sites? I suggest no, it is not sensible.

480 Remember, an ambulance service consists of several aspects. We have heard from Deputy Bebb and Deputy Lowe about clinical pathways, working closer with HSSD. I fully accept that and agree with that. That is a clinical medical aspect of what the Ambulance Service is excellent at doing. We have very well qualified people, with paramedics etc.

It was considered, something like six years ago, that we should be using the paramedics in A&E department, to maintain their skills. They are extended scope practitioners – they could do stitching etc. and provide a clinic, a first aid station up at the hospital, for patients to go to and get treatment at a much more reasonable cost – plus, as I say, maintaining experience.

485 But also the other part of the Ambulance Service is actually things called vehicles. Their vehicles must be maintained up to a high standard. Now should that be done by the Ambulance, as a separate unit? Should it be done by the hospital? Are they going to maintain all the vehicles and running of the vehicles? Or do we use the Home Department because they are running vehicles as well and have the facilities to maintain the vehicles and keep them in a good condition, so they could be used effectively and efficiently at all times?

495 Is that part of the HSSD mandate, because that is an essential part of Ambulance and Rescue work at the present time. They had their own garage and facilities at the Rohais, therefore it seems sensible to co-locate that with the Home Department, because ambulance and fire services work together all the time. Therefore from an operational or vehicle point of view, it is logical. From a clinical point of view, it is sensible to keep it – as Deputy Bebb said – with HSSD as overseeing clinical governance and the clinical aspect, working together closely with the paramedics.

500 This report, as it states, has no resources at present. It is putting forward a holistic viewpoint, as a way forward to get our emergency services working together.

Deputy Dorey mentioned the Lightfoot report and the savings it suggested. Also the Lightfoot report suggested, what standard of service do you want to be provided? It had various aspects of whether you use paramedics on the vehicles going out, or whether you use paramedics as
505 separate going out if necessary and things like this, and it depended which aspect on the service level you accepted was reasonable, what was going to be provided and what cost.

Many of the aspects of Lightfoot have been addressed and sorted out by the Ambulance and Rescue Service and this obviously, or one of the main ones, was co-location of the 999 service, you might call it, with JESCC and this is working from the Police, Ambulance and Fire Service point
510 of view, very efficiently. It allows filtering, it allows making sure what is needed etc. and that had been a cost-efficient way of running, instead of having three separate centres. Likewise using Home for running the vehicles is cost effective. You have one centre, therefore there are possible savings there.

The other aspect is as far as rescue services of Ambulance and Rescue Service. The idea is that, what we should be talking about here is purely Ambulance Service, the ambulance emergency
515 services. The rescue services, that is cliff rescue, that is inshore rescue service will be taken over by the voluntary side of St John, with the *Flying Christine* being partly voluntary and partly personnel supplied by ambulance rescue, in the form of paramedics.

So the rescue side is moving to the voluntary side, under what is called the Commandery, which is a new structure of St John in Guernsey. It is more a stand-alone than being part of what
520 we will call NHQ St John Ambulance in London. They will be doing the rescue side. The PTS – or Patient Transport Service – is being taking out of what St John Ambulance and Rescue Service does at the present time and hopefully, it will be run as a separate unit, providing transport services for people going up to the hospital, for example, for renal dialysis, X-rays, etc. and clinic
525 appointments where they are unable to drive themselves or get friends to take them up.

These cases will be done by PTS. We already know that Guernsey Voluntary Service does a lot of transport as well. One would hope these voluntary services would come together.

Thus what you concentrating on in this States' Report is the Emergency Ambulance Service, the blue light service going to houses. Also, this report explains how things should develop within
530 that service: the clinical pathways, the provision of treatment possibly at home and therefore take away the necessity of that patient having to go into hospital. They are working closely with Ambulance and Rescue Service and HSSD. These are all clinical emergency aspects.

Other aspects of operation and running can easily be done and absorbed within the Home Department, running the functional aspects of the ambulances and the vehicles fleet. Thus, sir, I
535 think there is a logical, sensible, holistic, forward approach, going down the direction, as Deputy Le Clerc said, of Wiltshire having co-location – actually also going down the same route as some areas in London are going now, with the ambulances and fire services working closer together to become more efficient.

I ask this Assembly, to support this report. Let it be the groundwork that has been carried out,
540 from which it can progress forward and develop it. Ambulance and Rescue or the Emergency Ambulance Service, as Deputy Le Clerc said, will not be moving from Rohais in the near future. We have to know what their future is. Do we upgrade the fire station? Or do we get a new centralised point for all emergency services?

I ask you to support this States' Report.

545 Thank you.

The Bailiff: Deputy James.

Deputy James: Thank you, sir.

550 Sir, the Assembly has heard, from Deputies Lowe and Bebb about their experience on the board of St John. However, I would ask you –

Deputy Bebb: Sorry, point of correction.

I was never a member of the Board, I was only there as an observer.

555 **Deputy James:** Okay. Thank you for that clarification, Deputy Bebb.

However, I would ask you to take note of Deputy Hunter Adam's speech that counteracts their view, and if you need any further convincing, what I would like to do is to draw your attention to the letter of support from St John to the Minister, Deputy Luxon. I will read a number of paragraphs from that letter:

'The Commandery of the Order of St John in the Bailiwick of Guernsey, together with the board of its subsidiary company, St John Ambulance and Rescue Service, fully supports the proposals and Propositions in the Health and Social Services Department's report on Guernsey's future ambulance service.'

560 It goes on to say:

'We believe that the work of the Steering Committee has been thorough and support it having been tested independently by medical and other professionals. This combined with the comprehensive response to the public consultation and the evolution currently taking place, where collaboration between the emergency services is strengthening year on year, leads us to the conclusion that supporting these proposals is a positive step forward for the future delivery of this service.'

And that is signed by the Knight Commander of St John, Nik van Leuven and the Chair of St John Ambulance and Rescue Service, Steve Le Page.

So I would ask you, please Assembly, support this.

Thank you.

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The Bailiff: Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

570 I have been involved a bit as a Member of the Home Department, which has been consulted by HSSD, and I have to say to the States that I have been left unpersuaded that the proposals of the working party and of the Department are the right way to go. I think the Home Department, as a body of Members is at least very sceptical about many of the proposals contained here.

575 What has driven this I think, and this is not a criticism of anybody involved, is staff wishes, both at the Home Department and at HSSD and, to some extent probably the people who are responsible for St John as well. I think there is not much enthusiasm at staff level in HSSD, to take on the oversight of the Ambulance Service, perhaps simply because they have so much to do in other areas, and Deputy Soulsby quite legitimately referred to that when she opened debate, and on the other hand there is a lot of enthusiasm amongst staff at the Home Department to take over the oversight of the service, because they think it fits in with the so-called HOST Programme, for which they are responsible – this is, as Deputy Le Clerc referred to, the bringing together of emergency services.

580 Now, I think that quite a lot the debate so far does not bear much resemblance to the Propositions that are set out on page 934. These Propositions were significantly modified by HSSD after consultation with the Home Department, and I think the HSSD Minister knows I am going to say this, that the Propositions are a bit of a jumble. I think the original Propositions fitted with the report that was produced. Later the Propositions were modified, but the report was not.

585 Proposition 1 asks the States to agree to the transfer of budgetary and non clinical oversight from HSSD to the Home Department, but then goes on to say, 'at a future date to be determined, but not before January 2017'. Well, that is a contradiction in terms, because the present States cannot agree to it unless it is going to happen now.

590 The process that will have to be followed is that if the successor committees are in agreement, at some time after January 2017, then it will happen; but if those successor committees are not in agreement, then it will have to come back to a future States to decide whether they want to make

595 a transfer from the mandate of one committee to another committee. So the words at the start of Proposition 1 'to agree', as far as I can see, are just not what they pretend to be.

600 So Members can take that either way. I just do not think the States are going to agreeing to the transfer of the budgetary and non-clinical oversight role. I think the States are going to be agreeing that the successor committees to HSSD and Home should look at it, and if they are in agreement, it should happen, and if they are not in agreement, it will have to come back to the States. That is the only way that mandates can be changed from May 2016.

605 But in any event, the issue really today ought not to be whether committee A or committee B is going to be responsible for budgetary and non-clinical oversight role. It would be going a bit far to say I do not really care, but it is a bit like, 'how many angels can dance on the head of a pin?' Which committee it is that has oversight of these roles is not terribly important.

610 What is much more important is who runs the Ambulance Service and that has not been addressed so far in this debate.

615 There is a four-year contract with St John, which runs out, I think on 31st December 2018. The real policy decision to be made – and it is not to be made today, because the Proposition which relates to this asks the States only to note that HSSD will come back with further proposals – but the real decision to be made is what is going to happen with the contract with St John? Whether it is run through the Home Department or HSSD is a sort of internal management decision for the States, but the decision which really has an effect on the service that is provided is the more material issue of who runs the Ambulance Service.

620 Now, I have to say that, given the experience over many years, I have absolutely no confidence that the States should seek to extend the arrangement with St John beyond 31st December 2018.

625 St John clearly have been doing their best, but let's be honest, this has been a takeover by the States without being a takeover by the States. The amount of money that has had to be pumped into the operation of an Ambulance Service in recent years is very significant, and I cannot see ...

630 I do not mind engaging the third sector, if that is what they are to be referred to in this case, but there has to be some kind of understanding that if the thing does not work, then the States have to intervene. We cannot just say 'Well, because the principle of the third sector running the service is right, then we will just carry on regardless', and the relationship has not been a success.

635 It is plain to me that the best way of running the Ambulance Service is for the States to take it over. I am not fussed really which committee then is responsible for it, but I do think it ought to be taken over by the States. And yet what is proposed in the working party's report is that effectively a new arrangement should be reached with St John, on or after 1st January 2017, which could very well extend the relationship with the current operator beyond the end of the current contract.

640 Now, I would ask the States, is there anything that is before them today, which provides reassurance that the present contract with St John, which ends on 31st December 2018, should be extended? Is there anything that has happened in this relationship?

I will give way to Deputy Adam.

635 **The Bailiff:** Deputy Adam.

Deputy Adam: Thank you, Deputy Fallaize.

640 You say that the running of the St John Ambulance would be less expensive within the States. Tell me, what is the running of the Jersey Ambulance Service, in comparison to St John Ambulance Service? I suggest it costs about £2 million more per year.

Deputy Fallaize: I did not say it would be less expensive. Those words did not cross my lips at all. I just said, I think the thing should be run by the States – and *everything* that Jersey runs costs more than Guernsey! (*Laughter*) As T&R know well, because I often make this point, that it costs a lot more to run public services in Jersey than it does in Guernsey.

645 But in any event, I am open to persuasion, but I want to be persuaded that –

I will give way to Deputy Bebb.

Deputy Bebb: I thank Deputy Fallaize for giving way.

650 Could I ask Deputy Fallaize whether he believes that the arrangements that are being suggested in this report would *assist* in bringing the Ambulance Service in-house or not?

Deputy Fallaize: My own view is that the long term intention of the authors of the report is that the States will run the Ambulance Service. That is my view. Otherwise, I think that we would have had a different type of report before us, which explained a much longer-term relationship, or
655 proposed much term relationship with St John – but I do not really know, because I do not think the report is sufficiently clear on the point that Deputy Bebb makes.

But the point is, in any event, that Proposition 2 is to note that HSSD, or it is successor, will return to the States with further policy letters, and the key issue here, which is how the Ambulance Service is run, who runs the Ambulance Service – not which committee, but which organisation
660 runs the Ambulance Service – they are the key issues and the Proposition before us, on those issues, is 'to note'. So the States are not being asked to agree or to disagree.

So, to get back to the point I was initially trying to make, which is that I do not think that we are debating the ... thus far, we have not really been debating the Propositions which are before us. I do not think these Propositions mean very much.

665 Proposition 1 is to agree a future transfer between mandates. Well, it cannot have any effect, because at the point that it actually happens, it will need the approval of the relevant committees, or of the future States. And the Proposition 2, which is on the more material point, about how the Ambulance Service is run, is a 'to note' Proposition, so I think the States ought not to be carried away by what they are actually voting for today.

670 And the last point I wanted to make was that the survey that was done, or the consultation exercise that was done by the working party, showed that a very clear majority of professionals involved in healthcare support the Ambulance Service being overseen and run by the States, not by St John. That was the advice that came through – I am not if it is in this report, but very clearly, through the consultation that was carried out, the professional advice was that the States ought
675 to oversee and run the Ambulance Service.

Now, I know the States are gearing up for pretending that professional advice should be ignored, in the context of another debate that is coming up in a few weeks' time, but I do think that it is very relevant that the professionals involved with Health and Social Care have advised the States, through the consultation exercise, that the service should be overseen and run by the
680 States.

Thank you, sir.

The Bailiff: Deputy Brehaut.

685 **Deputy Brehaut:** Thank you very much, sir.

Some time ago, going back to 2008, I asked the then Chair of the Public Accounts Committee, Deputy Leon Gallienne, whether the Committee would consider looking at the relationship that HSSD had with St John Ambulance and Rescue, because of the lack of a tight SLA agreement between the two parties. As Deputy Soulsby knows, when she became Chair of PAC, I again asked
690 that perhaps a review they may be interested in doing would be looking at the St John Ambulance and Rescue SLA, or probably lack of it, with HSSD and the total cost.

Now, I am not political point scoring, because I think if it had been used in that way, we would not be here today. I know that we consider it vulgar in this Assembly and the phrase we use is 'we are where we are,' but we need sometimes just to understand as to why we got here and why it is eating up our time today.
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Now, if we look to the UK, there was a significant failure with Kidscape –

I will give way to Deputy Soulsby, sir.

Deputy Soulsby: I thank Deputy Brehaut for giving way.

700 Just to actually make the point that the Public Accounts Committee did consider reviewing St John's and that events kind of overtook us with the Civil Contingencies Authority and then the understanding that there was going to be a report, so we believe at that time it was not appropriate to do a review.

Deputy Brehaut: I appreciate that and we know the 'hindsight is great' system.

705 If we look to the UK and Kids Company recently, you had professional civil servants advising politicians – and we are talking the UK context – not to give £3 million to a charity. The advice was 'Do not give another £3 million to Kids Company, this charity, because it is questionable.' They gave the £3 million and not long after, Kids Company – we know what happened to it, and I think there are parallels there. Parallels in the sense that what happens in the UK is that then it triggers
710 a PAC – 'What happened? It is public money. Let's have a look what happened.' Perhaps when the next Assembly is formed and on its feet, and adequately resourced and funded, we can have thorough scrutiny.

I was a long serving Member of HSSD, and the relationship with St John's was a little bit tricky because ... This is pre-FTP remember, because we were funding an Ambulance Service and the
715 rebuttal from the St John Ambulance and Rescue every time was 'Well, can you do this cheaper? If you can do this cheaper than us, you do it.' Well of course – could we? As the FTP then really ... when the screw was turned, the relationship with St John Ambulance and Rescue obviously became more focused, because St John Ambulance *needed* the assistance, They really needed the assistance of HSSD to remain operational and on their feet.

720 Now, accountability: we are often asked to be accountable in this Assembly, and I would ask that, not only in this Assembly, but any roles politicians take on outside of this Assembly that, really, they 'fess up' to the accountability and what is in their charge.

Let's not forget, we are here today, because St John Ambulance and Rescue was technically
725 insolvent. It could not pay the paramedics. It could not pay the ambulance crews and you had the HR staff discreetly pulling out files to ascertain what redundancy somebody would be entitled to, in the middle of the night. That is the situation we had.

So, we have and what I would like, and I make no apologies for saying this, I would very much like *somebody* from St John Ambulance and Rescue, whether it is the gentleman who signed the
730 letter that has already been quoted by Deputy James, or whether Deputy Lowe as a former board Member, just to say, 'Look, do you know, we got this wrong. We're sorry. You gave us a large sum of money in excess of £2 million, and actually, it took the intervention of T&R and the Civil Contingencies Authority to get these people's mortgages paid.' That is what it took and that is why we are here. We were funding an Ambulance Service that actually collapsed. It collapsed.

735 Now, just with regard to the Civil Contingencies Authority and in any Assembly after this one, just some advice. I often speak about a duty of care to politicians and people feel uneasy about that, but what I am trying to say is, look at this episode from Deputy Bebb's point of view, from my point of view, from Deputy Dorey's. If I just read ... This is not anything I am reading out which is confidential, it gives you a sense of where we were at the time. This is from Mr Le Page at the Ambulance Station, to somebody known as Mr Notley. It says:

'As the letter comes from St John Ambulance and Rescue to HSSD, I recall that you agreed to arrange the signature of copies on St John stationery. Can you please do this?'

740 So, we were on our way to Frossard House, as St John ... the relationship was focused. St John's agreed to come on board and there we were going to Frossard House to formalise this agreement. I walked into the room to find the new Chief Officer of HSSD, who had been in post days, with Mr Notley, and the Minister of HSSD was there. We were told, 'Your involvement in this issue has now come to an end', and we were asked to leave!

745 So please, fellow politicians on the CCA, do not do that to colleagues, who had worked hard and really tried hard to reach an agreement, (**A Member:** Hear, hear.) to be discharged in that

way. I think some type of formal protocol to explain exactly what the process is, even to thank you for your involvement to date – but nothing of the sort. I do not think the board ... not that politics needs to be candy-flossy fair, all the time, I think we could sometimes be a bit more reasonable with one another.

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Deputy Elis Bebb makes a very good point about clinical governance and there is the rub. I think that is what needs to be resolved: the clinical governance and the oversight into any new operation. But I do not want to put tribalism ahead of governance, and I think there is a risk here. If you had an accident in France, it would be a *pompier* or *sapeur* – there would be no distinction, between ambulance and the fire service. There would not be that distinction and it works. They do do one thing in France that I do not particularly like: the monumental masons' works is usually next to the ambulance station, which always unsettles me a little bit – not something we see too much over here! (*Laughter*) So it does work in other places and I hope that the governance can be resolved.

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An expression that Deputy Burford uses quite a lot, which I have picked up on, reminds us of course that this is a compromise, and a compromise is an agreement that neither party wants. That is probably the essence of this.

But I just want to stress the point again, before I sit down, and say – being the mad, loony, left socialist that I am – (*Interjections*) I think that the ambulance service should be run by the state, funnily enough. I think, as Deputy Fallaize has said, that is somewhere we can get to.

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But I would appeal to any member of St John's, in whatever capacity, bearing in mind they are being carried forward with this new operation, just at any time, any time in the future, perhaps just to say, 'Look, we're sorry, we got it wrong, it massively inconvenienced people, it can't have been easy for the politicians involved. However, we're thankful and we're making process.'

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I have a feeling that that may not happen.

Thank you, sir.

The Bailiff: Deputy Gillson.

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Deputy Gillson: Thank you, sir, I will be brief.

I think it is fair to say Members may have noticed Home Department is not united on this and in fact the views are as far apart, in some cases, they can be, between some Members. But the report is supported by a majority of the board.

It is worth remembering that there is no perfect model for providing an ambulance service. The current model is providing a service. It is expensive, but it is providing a service. A HSSD-St John Ambulance model would provide a service. A totally in-house model would provide a service and a home St John Ambulance, as in terms of operational governance would work. All would work, all would have their pros and cons – none is perfect. What has happened is that there has been a lot of work operationally, at operational level, between all the three organisations and they have been accepted by the people who are closest to providing the services, that what is being proposed is probably the best of the Propositions, the best of the options for Guernsey.

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Questions have been asked, what are the benefits of giving the governance oversight to Home Department? These were detailed generally on page 789 and there are a lot of them. It is mainly operation of governance, but it is worth ... Something which I think Deputy Bebb said, about it just creating more bureaucracy. Well, it will not. It will reduce the bureaucracy, because at the moment, if we want to introduce, let's say, a new radio system, a new IT system, which we think should work with the ambulance, we would have to discuss it with St John's and with HSSD. We would have to go to HSSD to agree the money, otherwise it would not be put in on both services.

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By moving the governance to Home Department, we can make that decision immediately. It actually reduces the amount of bodies and politicians in the loop on this. It will not suddenly involve more, and I think Deputy Bebb indicated that there could be 10 of our politicians involved in governance issues. Well no, because HSSD is only being involved on clinical governance. It is very rarely, I would suggest, that politicians get involved on clinical governance issues.

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I will give way.

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Deputy Bebb: I thank Deputy Gillson for giving way.

Could he explain maybe, that if there is a cost saving exercise that the Home Department would require, does it not therefore also mean that the HSSD will have to be involved in order to ensure that clinically, the expectations are acceptable?

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Deputy Gillson: They will not need to be involved with the discussions on any cost savings, as long as clinical provision is not reduced and that is the key element. As long as clinical provision is not reduced, then you will actually cut down an area of duplication or added bureaucracy.

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I suppose I was a little surprised with Deputy Dorey's comment about not being able to understand – not thinking the numbers on the evaluation are right, because two totally different systems came out at the same score. That should not be a surprise because that is the whole basis of multi-criteria evaluation. It looks at all the issues, looking at them independently, and comes up with a number and they can be the same. A totally silly and simplistic example is that 50 and 50 is 100; 99 and 1 is 100 – a totally different formula, cannot be further apart, but they come to the same total. It does not mean either of them is wrong.

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I know it is simplistic, but just to make the point.

The Bailiff: Deputy Dorey.

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Deputy Dorey: I thank the Deputy for giving way.

If you look at the table, the scores in every category were the same for both. It was not just the total, it was the scores in every category were the same and they were totally different – one being run independently and one being run within the States. As I outlined, the savings that we identified, I just could not understand how they could score everything the same.

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Deputy Gillson: A valid point. *(Laughter)* Valid point, I will concede that point.

830

I really have got nothing more to say, other than I urge Members to support it. As Deputy Fallaize referred to the resolutions, at the moment, we are only agreeing the budgetary oversight. All the issues relating to 'are we going to spend £8 million on new buildings and things like that?' that is part of the HOST Programme. Those things would come back to the States, if they would create benefits.

So I urge people to support this. The key is Proposition 1.

The Bailiff: Deputy Harwood.

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Deputy Harwood: Thank you, sir.

I would just like to follow up, if I may, on points raised by Deputy Fallaize, because, I would ask Members to look at page 917 of the Billet, which actually is part of the report, particularly paragraphs 10.3 and 10.5, because at 10.3 and I assume this is a correct statement:

The contract

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– that is the current contract that the States of Guernsey entered into with St John Ambulance –

is due for renewal on 1st January 2019, but has a break clause at 1st January 2017 if 6 months' notice is given (by 30th June 2016).

Going on in paragraph 10.5:

The GFAS proposes a significantly different contract from 1st January 2017, if the States wants to pursue related HSSD Transformation and Home 'Blue Light Interoperability' ...

845 Could I seek clarification from the Minister of HSSD when he sums up, is the intention actually we are saying, if we support the Propositions here, that we are bringing the St John Ambulance Emergency Service into States' control? Because that I think is the assumption. Otherwise, the assumption will be that the existing contract will continue to run until 1st January 2019, unless notice is given.

Is the intention of the HSSD, therefore, to assume that the authority of the Propositions today – the resolution today – will give them the authority to serve notice on St John Ambulance before 30th June 2016?

850 I think we need that clarification, because Deputy Fallaize is absolutely right. The key issue is, are we actually taking the Ambulance Service into States' control or not?

Thank you, sir.

The Bailiff: Deputy Quin.

855 **Deputy Quin:** Thank you, sir. I rise to bring some practical pieces into this.

We have heard a lot today about 'can we do it?' and 'can't we do it?' I was one of the first to stand up at Home Department when they said 'Where should this service go?' to say, 'Ambulances and hospitals – it is pretty obvious. You have not got to be a genius to work that one out!'

860 But as we said some time ago, I had a slight of mind after an excellent presentation from Mr John Hollis and people said to me, 'Why did you change your mind?' Well, we all know the old saying from a former MP, 'Circumstances'. And the circumstances are quite simple.

We had a report at the Department, from the Head of the Fire Brigade, Jon le Page, as to the practical business, could it be run, could it not? Well, yes it could. Quite simply, he took me round the station, showed me what would go where – it did. The advantage of that would be that the Ambulance Service could have their vehicles maintained and looked after better there than ...

865 Also, in the report, on St John Ambulance and Rescue premises, I did not realise they rented it off the Commandery of St John. They rent it. It is understood the shared site is no longer fit for purpose, which is a potential to impede ambulance responses. Well, if that is a fact, then we are going to have to move, or they are going to have to move premises.

870 We have heard premises being spoken about, and I spoke to Deputy Lowe about this last night. Castel Hospital, that was one of the places we looked at, and going back to 2002, when Deputy Adam and I were on the old board of Health, the argument was raging then. I remember Deputy Roffey, he was quite firm over it, some of the arguments we have had with St John's as to who was going to do what, where, why and when?

875 Then it said, 'Who runs the service?' Well, that was a question asked by somebody this morning. Will it become a States' service? And I know as a right winger, I should not support States' services – Deputy Brehaut is looking puzzled that I am – (*Interjection and laughter*) I think that that is quite a possibility.

880 Deputy De Lisle said that he was concerned about the move, because it is farther to travel. Well hang on, I worked out that the Rohais to the Arsenal, yes, it is about two and a half seconds sir. (*Laughter*)

885 Then we said, (*Interjection and laughter*) can we – is it practical to do? Well the answer is quite simple, yes. Our service – when I say our service – the Fire Brigade, say yes, and for the reasons I have already said, Deputy Gollop is quite right. In my opinion, there are two separate services. There is the emergency ambulance and there is what I would call the medical taxi, which runs people back and forward. So that actually, that is an actual fact.

890 So there has been a lot of ... how am I going to vote? I have not worked one out yet, but no doubt Deputy Lowe will be twisting my arm slightly.

I think, what we have got to say is, it can be done. Do we want it to be done? This is a question for the whole of the House. But practically, it can be done and the Fire Brigade have no problem in saying yes, they can take that on board.

The Bailiff: I see no one else rising. Is it the Deputy Minister or the Minister who will reply?
895 The Minister, Deputy Luxon, will reply then to the debate.

Deputy Luxon: Thank you, Mr Bailiff and apologies I wasn't here to open, and thanks to Deputy Soulsby. Unfortunately I used air travel to get back to the Island on time and it let me down. I should have gone by sea. *(Laughter)* Sorry Deputy St Pier. *(Interjection)* Leaves on the line at Luton.
900

Sir, Deputy Soulsby has shared with me the contributions made before I arrived. I cannot pretend I listened to them on the radio, but so Deputy Bebb comments 'consultants versus the professionals'. Well, from our point of view, as we have gone through this process, we have listened to the professionals and the reason that we have configured the report and the proposals as is, because we have listened to those professionals.
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Yes, we are suggesting that the clinical responsibility must stay with HSSD. That absolutely is logical. He made the point about pathway control and review, but the Home Department completely understand that and accept that reality.

Just as breaking news, on Tuesday, the media confirmed that the London Fire Brigade and the London Ambulance Service are to merge – are to co-locate and work together – and they do not even have the benefit of a joint control room, as Guernsey already has. So there is evidence that the proposals that we are suggesting here can work, should work, will work and would be best for Guernsey.
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Deputies Lowe and Bebb, I believe also, made the strong views that the service should come in-house into HSSD. I will return to this point when I reply to Deputy Fallaize's points, but just one point: where would the ambulances go? We have not got enough parking spaces to allow our visitors and patients to actually park at the PH campus, so bringing more activity onto the site may well be practically difficult.
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Deputy De Lisle, I think Deputy Quin has dealt very eloquently with your comment in terms of the issues for the West, of relocating. In real terms, they are not a problem for the people of the West.
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Sir, Deputy Dorey, who I have got great respect for, disappointed me greatly. How dare he cast aspersions on the professional people who were involved in the weighting and the criteria process! To actually say that there was a pre-determined view about the outcome, frankly, is appalling and I am sure Deputy Dorey, being the man he is, would wish to retract those comments. There was no predetermined influence. There was no pre-influenced outcome. It was an assessment based on criteria, and Deputy Dorey was invited by me, when he raised this point at a Members' briefing, sir. Both Mr Hollis and myself explained exactly how the process had worked, so I am really disappointed that he should bring into disrepute the credibility and integrity of the people involved in this process. It was unnecessary and I think completely inappropriate.
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He mentioned the similarity of the scores between the two options. Yes, they were close. Yes one could do either. Some of the Home Department Members feel that an alternative proposal to that which we are suggesting would be better. It could certainly work. We are not saying that it could not work, but we are saying in the full assessment and analysing all of the information and the real killer piece of information sir, for the Assembly here today is every stakeholder, every involved organisation entity, every professional, support these proposals.
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Now, we had carnage back in 2014. We were racing, limping along towards a cliff edge, in crisis with our Ambulance Service and, within a period of 18 months, here we are, all of the people that were involved, all of the organisations that were involved in that impasse, that ugly impasse, that led to the regrettable CCA being called into play, as Deputy Brehaut said. Look where we are now, we have complete and utter accord, especially from the professionals across the different organisations. I hope Members will be reassured by that.
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Deputy Le Clerc, thank you very much for your support and I think the point I would raise here sir, is we have all agreed or we all are supporting the States of Guernsey reform. The reform of
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950 how the States of Guernsey and the Civil Service works to deliver public sector service. This is a great example of pooled budgets, MASH – Multi Agency Support, whatever it is called – and also interdepartmental working. This is a great example of that. Again, this Assembly can be proud that it is seeing, with some of these policy proposals, real progress into how we make Government work better for the people of the Island.

Deputy Gollop, I think you said that Deputy Bebb's views were less relevant. Well, I think all of our views are relevant in the debate, but I think it is fair to say that time sometimes moves on. Deputy Bebb spoke eloquently about some of the concerns that he and the previous HSSD board members had back then and I understand that. It was a heightened time and there was information then that this new board has, which has allowed us to see the situation differently.

Deputy Bebb: Point of correction.

I actually spoke about the future and about now and about the clinical governance. This is the problem when the Minister actually responds to debate, having not heard it.

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Several Members: Ooh!

Deputy Luxon: Deputy Bebb stood and made some corrections to other Members. I was referring both to the part of his speech that he made and also the interruptions that he made. But I thank him for his latest interruption, which I will not respond to later. *(Laughter)*

965

Sir, page 869 details very clearly the 10 actions or work streams that need to be developed and they will come back to the States in 2016.

Sir, again on a general point, in answer to some Members' points: how about the duty of care that we all owe to both the Fire Brigade professional staff and indeed the St John professional staff. These two organisations have been surrounded by doubt and quite a bit of indecision over too long. To believe that there has been no impact on morale – in my personal opinion, because obviously I am not involved in line management of either of those bodies – would be a mistake. There have been morale issues and what we are doing today by bringing this report and policy letter to you before this Assembly and this term breaks down, is to allow us to give those two groups of professionals, who do invaluable work on behalf of us in the community every day, a degree of certainty about the direction of travel for the service.

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Sir, I thank Deputy Adam, for his very wise words, coming from a very informed position, both in his historical relationship with St John's, but also as the previous Minister of HSSD. He explained very eloquently – so I will not repeat the points he made – why, absolutely, these proposals are the right way forward. He also made the point let us work out the fine detail before we put to the Assembly, cost details and requests for monies to be able to fund the locations.

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Deputy James – it must be a Castel thing, very wise words sir. She listened to Deputy Adam and emphasised, I think the points he made and St John's, in their letter of support, *fully* support – both facets of St John's fully support these proposals. We were in absolute disarray, only a matter of 15 or 16 months ago.

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Sir, Deputy Fallaize: I do not agree with the core points. I think Deputy Fallaize ... I do not think his heart was in it sir, but he was trying to do one of those wonderful Fallaize moves of trying to sway the mood of the Assembly, I believe, by getting some detail. Well sir, the Steering Group and HSSD absolutely listened to the feedback we had from the HSSD board members. That is why we changed the Propositions. That is why they are clunky, or why the report does not completely support them, because we felt it was appropriate, as HSSD was asking Home to receive the transfer of responsibility and oversight for this service, so we genuinely tried to engage with that. Minister Gillson will, I am sure, agree with me and support the fact that we made every effort.

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So the Propositions as are, as clunky as they are, or as not elegant as they are, were actually as a direct result of the representations that we had from the Home Department board. We were trying to be corporate.

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I agree with Deputy Fallaize that the SRC realities will come into play post-May, but I do not agree with him that the Propositions as we have laid here are irrelevant or would need to be countermanded or undermined, going forward. It is very clear what we are asking Members what we are asking Members to support today. It is a clear direction and it confirms that the next board will bring back policy letters on the detail.

In terms of the contract, and this was a point also that Deputy Harwood made, so I will respond to both together. On page 870, at 2.3, it is very clear, sir. It explains that one would need to effect the break notice by June 2016, if we wish to give notice. That absolutely is the intention, Deputy Harwood, through you, sir, and Deputy Fallaize. That is the intention. That is why we brought this policy letter here now, because if we left this policy letter until the new States, that 16th June 2016 date would pass by and we would lose the opportunity.

I give way to Deputy Harwood, sir.

Deputy Harwood: I thank the Minister for giving way.

Could he confirm that means, that if we reject the Propositions, that therefore, by default, the existing contract will have to continue till 2019?

Deputy Luxon: Sir, Deputy Harwood is a very wise ex-lawyer and he is absolutely right, I believe.

Deputy Fallaize: Sir, on a point of correction, that cannot possibly be correct, because Proposition 2 asks the States to *note* something. The Rules provide for a 'to note' resolution to be neither giving assent to nor rejecting the Proposition.

Now, I do not know whether HSSD need the authority of the States to give notice on the contract, maybe they do not, but what Deputy Harwood asked was, will voting for Proposition 2 give HSSD the authority of the States to give notice on the contract. It is quite clear, and I am sure HM Comptroller would confirm this, that that is not what Proposition 2 does, because it is a 'to note' Proposition – and the States should not be misled in this way.

Deputy Luxon: Well sir, if I have misled the States in my comments in answer to Deputy Harwood, then I apologise, but no. No, Deputy ... HSSD does not need to bring back that decision and the intention, as all States' Members know, who attended the States' Members' briefings, it is very clear that we intend to enact that notice by June 2016. That is the intention.

So if I have misled the Assembly by referring to Proposition 2 in answer to Deputy Harwood's question, then I apologise, but I think I am being very clear, and I refer people to, as I said, page 870, paragraph 2.3.

I will sit down to let HM Comptroller make a comment, sir.

The Comptroller: Sir, Deputy Fallaize is right insofar as Proposition 2 is merely to note, but that is all the effect of the Proposition is.

Deputy Luxon: Thank you, sir.

Deputy Brehaut mentioned Kids Company. Just as a matter of fact, sir, if one looks at the *Hansard* record of the Select Committee, the civil servants did not give unequivocal advice not to release £3 million. In fact the senior financial civil servant, absolutely, having looked at the application, did support that decision. I will just share that because I remember reading it.

Sir, I think I will leave it there. I thank Deputy Gillson for his support and Deputy Quin. This gives sir, the Fire Service and the Emergency Ambulance Service clarity on where they go into the future. The future States will have a chance to debate and make decisions on the detail, but I would ask Members to support this policy letter.

Thank you, sir.

1050 **The Bailiff:** Deputy Domaille.

Deputy Domaille: Oh thank you, sir, could I just declare that I am a previous Member of the St John board.

Thank you.

1055 **The Bailiff:** Members, there are two Propositions, they are both to found on page 934.

Deputy Fallaize: Sir, may I ask for clarification from HM Comptroller before we vote on number 1? (**The Bailiff:** Yes.)

1060 Would the Comptroller confirm that actually the transfer of this responsibility, at a date not before January 2017, could not be effected without the approval of the two committees concerned, or failing that, without the approval of the States, under the rules that were approved by the States in November?

1065 **The Comptroller:** Sir, I am not sure I entirely follow that, with apologies to Deputy Fallaize, but if the Proposition is passed and as expressed, it is for the States to agree the transfer of the oversight from that service to HSSD and successors to the Home Department, at a future date to be determined, but not before January 2017, then the States would be agreeing that transfer to both Departments.

1070 I am not sure whether I have understood Deputy Fallaize's concern, but that is the effect of Proposition 1.

Deputy Fallaize: But at the point that it occurs, there will be rules in place, because the States have already agreed, that operational services can only be transferred between committees with the agreement of those committees, or failing that with the agreement of the States.

1075 Now, at the point it actually happens, this transfer will be in conflict unless – it could not take effect – unless either of those things had happened, surely.

1080 **The Comptroller:** I am not sure that is right sir, because it could not really be phrased, in my view, in any other way. The States can only be asked to approve something now, with the current Departments which we have, which is HSSD and the Home Department, and the Proposition is worded to include those successors, as indeed many Propositions put before the States recently have been worded in that way.

1085 **Deputy Luxon:** Sir, I do not think I had finished completely but, sir, I think Deputy Fallaize is wrong. The States today is being asked to make a very clear decision. Of course a future States, future Departments could bring back to the States decisions to overturn that. That could happen with everything, but this absolutely is directing the States – the decision today would be to direct and implement as set out in Proposition 1.

1090 **The Comptroller:** Sir, yes, I would just add that that is absolutely correct. If a future committee decide it does not wish for that to go forward, then the matter will need to be brought back before the States.

1095 **The Bailiff:** So, two Propositions on page 934. Deputy James.

Deputy James: Could I request a recorded vote, sir.

1100 **The Bailiff:** A recorded vote. Are you happy for both Propositions to be taken together? Is everybody happy for both Propositions to be taken together? Yes.

Deputy Fallaize: Sir, I am not, because I want to vote differently on the two Propositions.

The Bailiff: You will vote differently? (**Deputy Fallaize:** Yes.)

1105 So, is it a request then, for a recorded vote on Proposition 1 and a request for a recorded vote on Proposition 2? Is that what is being requested? Yes okay.

We will start then with Proposition 1.

The Greffier: The voting starts at South East.

There was a recorded vote.

Carried – Pour 32, Contre 8, Ne vote pas 3, Absent 4

POUR

Deputy Soulsby
Deputy Sillars
Deputy Luxon
Deputy O'Hara
Deputy Quin
Deputy Hadley
Alderney Rep. McKinley
Deputy Harwood
Deputy Kuttelwascher
Deputy Brehaut
Deputy Langlois
Deputy Robert Jones
Deputy Le Clerc
Deputy Gollop
Deputy Sherbourne
Deputy Conder
Deputy Parkinson
Deputy St Pier
Deputy Stewart
Deputy Gillson
Deputy Ogier
Deputy Spruce
Deputy Collins
Deputy Duquemin
Deputy Green
Deputy Le Tocq
Deputy James
Deputy Adam
Deputy Perrot
Deputy Wilkie
Deputy De Lisle
Deputy Inglis

CONTRE

Deputy Bebb
Deputy Lester Queripel
Deputy Lowe
Deputy Le Lièvre
Deputy Dorey
Deputy Paint
Deputy Brouard
Deputy Burford

NE VOTE PAS

Alderney Rep. Jean
Deputy Domaille
Deputy Fallaize

ABSENT

Deputy Le Pelley
Deputy Trott
Deputy David Jones
Deputy Laurie Queripel

1110 **The Bailiff:** Well, Members, the voting on Proposition 1 was 32 votes in favour, with 8 against and 3 abstentions. I declare Proposition 1 carried.

Now we have a recorded vote on Proposition 2.

There was a recorded vote.

Deputy Lowe: Sir, can I ask a question please, either through you to HM Comptroller, or ... yes, probably to HM Comptroller really.

1115 **The Bailiff:** Well if it is about what the people have just voted on ...

Deputy Lowe: It is just about that vote really, because, I just –

The Bailiff: About what, sorry?

1120 **Deputy Lowe:** About the vote that we have just taken –

The Bailiff: Well, we have not had the result declared yet.

1125 **Deputy Lowe:** It does not matter. It is irrelevant really – that is my point. We have had a recorded vote on a Proposition which is to note, which neither means to agree or disagree.

The Bailiff: Yes, you requested a recorded vote.

1130 **Deputy Lowe:** Then we have got a recorded vote to say whether we agree or disagree, and it doesn't do anything – apart from fill in three minutes.

The Bailiff: No, but you requested a recorded vote.

1135 **Deputy Lowe:** No I didn't! *(Laughter and applause)*

The Bailiff: I sought clarification, looked at you and you nodded!

1140 **Deputy Lowe:** No, no, no. It was Deputy Fallaize wanted to – it wasn't me! *(Laughter and interjections)*

Deputy Fallaize: I asked for the two Propositions to be taken separately!

1145 **The Bailiff:** I am sorry Members! I apologise Members if I have wasted your time with a recorded vote.

Deputy Lowe: No, no, Deputy wouldn't – I wouldn't have...

Deputy Fallaize: It was Deputy James sir, who asked for a recorded.

1150 **Deputy Lowe:** It wasn't for me, honestly sir, I did not ask for a recorded vote.

The Bailiff: But I was looking at you, when I ... because you had –

1155 **Deputy Lowe:** I can understand you looking at me, sir – it just happens! *(Laughter)*

The Bailiff: Well as I say, I apologise to Members for wasting their time. *(Laughter)* But having had it, we will have to have a formal declaration of the result.

Proposition 2:

Carried – Pour 36, Contre 6, Ne vote pas 1, Absent 4

POUR

Deputy Soulsby
Deputy Sillars
Deputy Luxon
Deputy O'Hara
Deputy Quin
Deputy Hadley
Alderney Rep. McKinley
Deputy Harwood
Deputy Kuttelwascher

CONTRE

Deputy Bebb
Deputy Lester Queripel
Deputy Lowe
Deputy Le Lièvre
Deputy Dorey
Deputy Brouard

NE VOTE PAS

Alderney Rep. Jean

ABSENT

Deputy Le Pelley
Deputy Trott
Deputy David Jones
Deputy Laurie Queripel

Deputy Brehaut
Deputy Domaille
Deputy Langlois
Deputy Robert Jones
Deputy Le Clerc
Deputy Gollop
Deputy Sherbourne
Deputy Conder
Deputy Parkinson
Deputy St Pier
Deputy Stewart
Deputy Gillson
Deputy Ogier
Deputy Fallaize
Deputy Spruce
Deputy Collins
Deputy Duquemin
Deputy Green
Deputy Paint
Deputy Le Tocq
Deputy James
Deputy Adam
Deputy Perrot
Deputy Wilkie
Deputy De Lisle
Deputy Burford
Deputy Inglis

The Bailiff: Well, Members, the result of the voting on Proposition 2, for those who are interested, was 36 votes in favour, 6 against, with one abstention. I declare it carried.

COMMERCE & EMPLOYMENT DEPARTMENT

XVII. Legislative Changes Relating to the Future Oversight of Guernsey Electricity Limited and Guernsey Post Limited – Propositions carried

Article XVII.

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 3rd December, 2015, of the Commerce and Employment Department, they are of the opinion:

- 1. To direct that the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 is amended by removing postal and electricity services from the definition of "utility services" (as indicated at section 3.3 of that Policy Letter), in order that the regulation of those sectors is no longer a responsibility of the Guernsey Competition and Regulatory Authority.*
- 2. To direct that the Electricity (Guernsey) Law, 2001 and the Post Office (Bailiwick of Guernsey) Law, 2001, are amended, with the intention that the Commerce and Employment Department (or the committee of the States which has responsibility for utility regulation as successor to the Department) may discharge the regulatory functions under the Electricity (Guernsey) Law, 2001 and the Post Office (Bailiwick of Guernsey) Law, 2001, as indicated in sections 3.4 to 3.15 of that Policy Letter.*
- 3. To direct preparation of such legislation as may be necessary to give effect to the above decisions.*

1160 **The Greffier:** Article XVII – Commerce & Employment Department – Legislative changes relating to the future oversight of Guernsey Electricity Ltd and Guernsey Post Ltd.

The Bailiff: Deputy Stewart will open the debate.

1165 **Deputy Stewart:** Yes, thank you, Mr Bailiff.

Just for a little bit of recap and to bring Members up to date on where we are at Commerce & Employment, and working with T&R on this. Just to remind, in April 2015, the States resolved to make Guernsey Electricity Ltd and Guernsey Post Ltd exempt from the licensing and regulation provisions, so this policy letter follows on from the States' decisions of that date back in April, and presents detailed proposals for the legislative amendments and other matters necessary to take GEL and GPL out of regulation by the Guernsey Competition and Regulation Authority.

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The legislative amendments recommended in this policy letter, once enacted, will have the effect of switching off the current system of regulation of electricity and post, but would also preserve, as far as possible, the legislative framework for the regulation of these sectors, should independent regulation of these sectors ever need to be re-introduced. This will also ensure that Guernsey Electricity and Guernsey Post maintain their monopoly positions within their respective sectors.

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Now, Members, sir, may recall that the States' resolutions of April 2015 directed that GEL and GPL be taken out of regulation by no later than 1st January 2016. Clearly we have not been able to make that target, for which I apologise. This is because finding a way of switching off, if you like, the current regulatory regime, whilst preserving the existing legislative framework and maintaining GEL and GPL's monopoly positions, has frankly, proven to be more of a complicated task than at first thought. But over the past year, we have worked very closely with T&R and the Law Officers' Chambers, to find the solutions presented in this policy letter, which allow us now to meet those multiple criteria.

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So, in the interim, the Treasury & Resources Department's supervisory sub-committee has been developing its role as a more proactive shareholder in the companies, in accordance with the objectives that were set out for it in the 2015 States' Report. A particular focus has been on ensuring that both Guernsey Electricity and Guernsey Post are now reporting on a quarterly basis to the sub-committee, on the broad range of KPIs that had been agreed, which cover a range of financial, operational, strategic, customer and community indicators.

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The sub-committee has been engaging with PostWatch, to ensure that it is a clearly defined role in helping to ensure that the views and interests of Guernsey Post customers are properly and independently represented.

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It has also agreed the detailed terms of reference with Guernsey Electricity for a new Electricity Users' Council, which will provide an opportunity for the company's customers to convey to an independent body, issues, ideas, observations on the provision of Guernsey Electricity's services.

1200
The sub-committee of T&R has also committed considerable time to scrutinising GEL's strategic plans and financial modelling, notably around its future importation and generation strategy.

Now, following a successful amendment by Deputy Fallaize, sir, the States' Resolutions of April 2015 also directed Commerce & Employment to promote the interests of Guernsey Electricity and Guernsey Post consumers, as explained in the policy letter, C&E, across its Economic Development and Trading Standards Units, is working with T&R, to ensure the new regime does promote the interests of consumers, for instance by updating existing processes for handling unresolved consumer complaints relating to GEL and GPL. That is to reflect the change in reporting structures which will be brought about by the change in the regime.

1205
And I can finally report, sir, the Department has also, in the past week, received an invitation from the Treasury & Resources Department, to assist with the appointment of members to the new Electricity Users' Council, to ensure the initial appointments are sufficiently independent. This is a matter which my board will be considering very, very shortly.

So I do ask Members to support the Propositions 1 to 3 on page 951.
Thank you, sir.

1215 **The Bailiff:** Deputy Gollop.

Deputy Gollop: Thank you, sir.

I will vote against these Propositions and instinctively decided them on a number of grounds, because we still have yet to see perhaps a dedicated consumer body that looks after the interest
1220 of all users and not just corporate users.

Also, there are several points of reference here. We went through an experiment of a decade, admittedly, of expensive regulation and we are coming out the other side, but Deputy Stewart mentions regime changes. Of course this is a double-decker of regime change, because we are not just talking of the end of the role of CICRA here. We are talking about the new relationship of
1225 Policy & Resources and the trading supervisory body that will cease to be a sub-committee of Treasury & Resources and will become a stand-alone, important body within its own right.

When one looks at these proposals, on page 937, one sees that they are deemed to be licensed, which does strike one as a kind of clever piece of governmental legalese, because, of course it says clearly at the top that the States effectively should be ... In paragraph 2.6, page 937:

in order to continue to preserve and protect the monopoly positions of GEL and GPL within their respective sectors once no longer subject to regulation, the States should be given power to direct C&E

1230 – so Economic Development in the future –

not to issue any licences within these sectors.

I will repeat that: 'not to issue *any* licences within these sectors'. Are we therefore saying that the States could prohibit alternative, complementary energy? Are we saying that a commercial post service that was of benefit to service users on the Island, whether commercial or individual consumer, would be prevented? That we are effectively going to restrict the market with a
1235 Governmental injunction against any possible competition?

Sir, I question that and I question the loss of independence. I do not think we fully know how the new States will work in terms of managing these bodies, in the accountability of them to both, the public purse and the public interest and I think that we are perhaps making too many changes of diverse kinds, without necessarily knowing the future.

1240 That said, of course, we have seen good results recently from Guernsey Electricity and Guernsey Post, but that does not necessarily mean that optimism can be guaranteed in the future, once we change the regime.

The Bailiff: Right, no one else is rising.

1245 Deputy Stewart will reply.

Deputy Stewart: Thank you, sir.

I thank Deputy Gollop for his comments. The consumer bodies that will be in place and are in place will be there to represent all consumers, not just commercial consumers, and I would hope
1250 that, given the changes in Government, any future States will act, as this one has always tried to act, within the public interest. That is our role as Deputies and as a States of Deliberation to always act in the wider public interest and to make decisions.

I think the important thing is that what we have in Guernsey Post and Guernsey Electricity are vital services that if they were only in a commercial realm, as a commercial company, that could
1255 shut down, move, the shareholding would change. What it enables us to do, is to make sure that we do have a firm hand on the tiller as the States of Deliberation, to ensure that Guernsey Electricity and Guernsey Post perhaps do some of the duties that they carry out and the services

that they supply may not be carried out by a commercial company, as they will be deemed unprofitable and would affect their bottom line.

1260 So yes, I suppose there is a little bit of an unknown, as we have a new States and new regimes coming in, but I have every confidence that the States will, as we do, act in the wider public interest to ensure that this does work.

1265 Having said all that, in my opening speech, I did say that we have taken great care, that should a future States decide that either Post or Electricity, if there are large changes in the market, do need to go back into some form of legislation, they will have that ability to switch back on an independent regulator, should they deem that necessary. So, I do think that we have a safe position for Members to move forward, because if in the future, it seems the wrong decision, or the markets change, we can switch regulation back on again and that is why it has taken a little longer to come back to this Assembly.

1270 Thank you, sir.

The Bailiff: So, two Propositions on page 951. I put both to you together. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare them carried.

SOCIAL SECURITY DEPARTMENT

XVIII. Introduction of Parental Benefits – Amendment to Social Insurance (Guernsey) Law, 1978 – Propositions carried

Article XVIII.

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 30th November, 2015, of the Social Security Department, they are of the opinion:

1. To agree that the Social Insurance (Guernsey) Law, 1978, be amended to:

a) replace maternity allowance with a maternal health allowance and a newborn care allowance, as set out in paragraphs 12 to 19 of that Policy Letter;

b) create a new benefit to be known as adoption grant, as set out in paragraphs 22 to 25 of that Policy Letter;

c) create a new benefit to be known as parental allowance, as set out in paragraph 26 of that Policy Letter.

2. To agree that a woman who is entitled to a maternal health allowance or a newborn care allowance under the revised Social Insurance (Guernsey) Law, 1978, should also be entitled to a maternity grant in relation to the same pregnancy or confinement.

3. To agree that the Social Security Department (and its successor) be given the power to make regulations to provide for the application of the provisions relating to parental benefits (subject to any modifications specified in the regulations) to the intended parents of a baby being born pursuant to a surrogacy arrangement or to a woman who gives birth pursuant to a surrogacy arrangement.

4. To agree that the current regulation making powers in the Social Insurance (Guernsey) Law, 1978, in respect of the current maternity benefits, be amended to apply in respect of the new parental benefits, where appropriate, as set out in Appendix 3 of that Policy Letter.

5. To agree that the Social Security Department (and its successor) be given the power to make regulations prescribing a maximum number of switches permissible between parents in respect of newborn care allowance and parental allowance and the timing of those switches and generally to ensure consistency and fairness as between all claimants for parental benefits under the Social Insurance (Guernsey) Law, 1978.

6. To agree that the transitional arrangements set out in paragraphs 69 to 81 of that Policy Letter apply with effect from 1st January 2017, except in the case of women who are claiming maternity allowance on 31st December 2016, whose expected date of confinement and whose actual date of confinement are both in 2016, whose rate of maternity allowance will increase in line with the rates of newborn care allowance, maternal health allowance and parental allowance on 2nd January 2017, provided that maternity allowance is still payable on that date.

7. To agree that Paragraph 11 of the First Schedule to the Supplementary Benefit (Implementation) Ordinance, 1971 be amended in order that maternity grant and adoption grant payable under the provisions of the Social Insurance (Guernsey) Law, 1978 are disregarded for the purposes of establishing eligibility for a supplementary benefit.

8. To direct preparation of such legislation as may be necessary to give effect to the above decisions.

1275 **The Greffier:** Article XVIII – Social Security Department – Introduction of Parental Benefits.

The Bailiff: Deputy Langlois will open debate.

Deputy Langlois: Indeed sir, thank you.

1280 Sir, in February 2012, the States approved a report from the Policy Council that recommended the introduction of statutory maternity and adoption leave, and proposed changes to the maternity benefits currently available to women under the Social Insurance Law.

The aim of these proposals was to go some way towards meeting the requirements of the Convention on the Elimination of all forms of Discrimination Against Women – much easier to say
1285 CEDAW – which the States have prioritised for extension to Guernsey.

Now, in view of that prioritisation, I feel it is appropriate to give a departmental apology for the length of time that it has taken to return with these detailed proposals. You simply cannot do everything at once, but today is the day that we have got some of the way along the path.

1290 Members will recall that the States recently approved the Maternity Leave and Adoption Leave (Guernsey) Ordinance, 2016. This Ordinance will introduce statutory maternity and adoption leave to Guernsey later this year.

Separate legislation is needed to introduce the parental benefits approved by the States in February 2012, and the States has agreed that these benefits can be reintroduced after statutory maternity leave.

1295 As a brief reminder, the benefits changes approved by the States in February 2012 can be summarised as follows:

Firstly, make the maternity grant available to all mothers of newborn children, regardless of whether or not they are eligible for any other maternity or parental benefits.

1300 Secondly, replace maternity allowance with a maternal health allowance and a newborn care allowance.

The maternity allowance will be available to women whilst off work, in the pre-birth or initial post-birth period, finishing at the end of the compulsory maternity leave, two weeks after birth.

At this point, the benefit will switch to the newborn care allowance, which will be available to either parent who takes time off work to care for their newborn child.

1305 These benefits will be available for up to 26 weeks, eight weeks longer than the benefit which it is replacing, and in line with the total statutory maternity leave period available to employees who have been in continuous employment with the same employer for 15 months.

Thirdly, to introduce a new adoption grant at the same rate as the maternity grant in the case of adoption of a child under the age of 18.

1310 And finally, to introduce a new benefit of parental allowance, payable at the same rate as maternal health allowance and newborn care allowance, which could be claimed by either parent immediately following the adoption of a child under the age of 18.

1315 Following consideration of the Policy Council's report, the States directed the Social Security Department to report back to the States with proposals for funding the revised benefits and requesting the preparation of the necessary legislation to provide for these changes.

In October 2015, the States agreed that the class 1 employed contribution rate, be increased by 0.2%, split equally between employee and employer, in order to fund the new parental benefits. This rate change will apply from the 1st January 2017, which is the date from which the Department expects the parental benefits to be available,

1320 The policy letter before you today recommends the preparation of the necessary legislation, to replace existing maternity benefits with a package of parental benefits which has already been agreed by the States. It flushes out the proposed rules relating to the new parental benefits which will need to be legislated. It also proposes transitional arrangements, which will apply to individuals, who have a maternity allowance claim in payment as at 31st December 2016. That transition period is particularly important in order to not disadvantage anybody during the period of the change, because I am reliably informed that the date on which a birth takes place is not
1325 totally predictable.

1330 Details are in the report. You have all read it and those details are also freely available from my department, for anybody who may be affected, so I do not propose to go through all those details here and now.

I am very pleased to be able to present these proposals to you for approval, because they represent a big step forward for Guernsey, in terms of gender equality and the provision of support for parents and adoptive parents.

1335 The introduction of parental benefits will provide enhanced benefit entitlement for mothers and will, for the first time in Guernsey, provide benefit entitlement to fathers who take on the role of primary carer for their child.

Adoptive parents will also be eligible for the first time for equivalent benefits to other parents.

1340 These benefit changes, along with the introduction of statutory maternity leave, will help the Island to demonstrate compliance with the principles of CEDAW, and it would take us a step closer towards extension of the Convention in Guernsey, albeit at a much slower pace than many would wish, and we acknowledge that.

For these reasons, I trust that Members will give these proposals their full support, so that the department can get on with the work on the legislation and the operational changes, so that there will not be any delay beyond 1st January 2017.

1345 **The Bailiff:** Any debate?
Yes, Deputy Burford.

Deputy Burford: Thank you, sir.

1350 Just to say, I obviously very much welcome this report and it is pleasing to see this moving ahead.

1355 I have just got one question for the Minister, which is: given that there will be an elapsed period of five years between when the 2012 report came and when these procedures will come into operation and in that time, other developed economies have moved a great deal further forward in the provision afforded to expectant parents, if the Minister could please say whether the department intends to review the amount paid and also the time afforded to parents.

Thank you.

1360 **The Bailiff:** I see no one else rising. Deputy Langlois will reply to that debate.

Deputy Langlois: Debate – yes sir. I can reply to the question! *(Laughter)*

Right sir, I think that this is very much something which must be tackled one step at a time. I have acknowledged, in the opening speech, the timing has not been ideal and what we want to do is get this in place for January next year.

1365 In terms of on-going review, then of course, in that area, we are trapped in the transition of the department to the new committee. I will certainly give the undertaking that we will place the sort of discussion which Deputy Burford has in mind on a board agenda before the end of the current term, and the board will, I suspect – I have clear indications from at least two members of the board – that they will make a recommendation to the new committee that a review should be high on their agenda.

1370

The Bailiff: We will vote then on the eight Propositions to be found on pages 981 and 982. I put all eight to you together. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare them carried.

COMMERCE & EMPLOYMENT DEPARTMENT

XIX. Trading Standards Legislation – Propositions as amended carried

Article XIX.

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 3rd December, 2015, of the Commerce and Employment Department, they are of the opinion:-

1. To agree the introduction of a wide framework of statutory consumer protection powers as described in that Policy Letter. Specifically it is proposed that legislation is introduced that will provide:

- (a) civil rights and associated remedies as described in paragraph 7.4 of that Policy Letter;*
- (b) protection from unfair commercial practices as set out in paragraph 7.5 of that Policy Letter;*
- (c) for specific information to be provided to consumers before they enter into a contract as described in paragraph 7.6 of that Policy Letter;*
- (d) cancellation rights to consumers as described in paragraph 7.7 of that Policy Letter;*
- (e) protection from unfair contract terms as described in paragraph 7.8 of that Policy Letter;*
- (f) for a General Safety Requirement for consumer products as described in paragraph 7.9 of that Policy Letter;*
- (g) a price marking requirement as described in paragraph 7.10 of that Policy Letter;*
- (h) for enforcement powers as described in paragraph 7.11 of that Policy Letter; and*
- (i) for the creation of offences as described in paragraph 7.12 of that Policy Letter.*

2. *To direct preparation of such legislation as may be necessary to give effect to the above decisions.*

1375 **The Greffier:** Article XIX – Commerce & Employment Department – Trading Standards Legislation.

The Bailiff: Deputy Stewart will open the debate.

1380 **Deputy Stewart:** Yes sir, I do not have a long speech on this, other than to say, I am sure a lot of Members will agree that some form of consumer protection legislation is well overdue and the fact that we have so little in place reflects, I think, badly on our reputation as a jurisdiction.

I do hear those that say, 'Well, it's Guernsey! It's quite a small place – if anyone does a bad job it soon gets round the Island and probably on the social media even quicker than it used to!' However, I think that particularly those within the legal profession who sit in this Assembly, sir, will agree with me that some form, and I believe this is a start, of consumer protection legislation is long overdue. You can see that the Citizens' Advice Bureau, which is referred to several times in this report, has worked with us very closely in terms of sharing information and customer experience, so we can focus initially on key areas, where we will get, if you like, the most bang for our legislative buck.

1390 I do hope Members can support Propositions 1 and 2 on pages 1021 and 1022 sir.

The Bailiff: There is an amendment to be laid by Deputy Soulsby.
Deputy Soulsby.

1395 **Deputy Soulsby:** Sir, yes, could the Greffier read it out, please.

The Greffier read out the amendment:

To insert a new Proposition as follows:

'1A. To direct the Department to consider proposals for the introduction of legislation concerning offers, sales and price comparisons, in order to give further statutory protection to the consumer, and to report back to the States by May 2017.'

Deputy Soulsby: Sir, yes, this is quite a straightforward amendment. It deals with an omission from the policy letter. Whilst paragraph 7.10 discusses price indications and essentially the need for fair and transparent pricing of products, it does not specifically consider sales offers or price comparisons and I can only believe this was an oversight, as it is a highly important part of any retailer's operations.

1400 I had originally thought it would be sufficient just to add to Proposition 1(g), the line 'including sales offers and price comparisons.' However, advice from the Crown Advocate and Her Majesty's Controller – I thank them very much – was that as things stand, there are not enough policy instructions to refer to, hence the amendment in this form.

1405 Now, I am not one to want to add more burden to businesses. However I do believe that there is a need for some form of protection to the consumer in this area, and this is not something that should concern any retailer who acts in an ethical manner. Perhaps as someone with a retail business, I see where others may be trying it on: for instance, those that seem to have year-round sales, where the original price probably only existed for one week in February.

1410 Also, seeing the growing trend to display sale offers through comparisons with the UK, for example stating that an item is now 25% off the UK price. That is misleading and irrelevant.

So this amendment merely seeks that the department comes back with proposals to deal with the matter that I think should really have been included in this policy letter.

1415

The Bailiff: Is there a seconder for the amendment?

Deputy Robert Jones: I will second that, sir.

1420 **The Bailiff:** Deputy Rob Jones has seconded.
Deputy Stewart, do you wish to speak at this point, or later in the debate?

1425 **Deputy Stewart:** Well, I hope I am correct, sir, when I look around the Assembly, we did get prior notice of this from Deputy Soulsby. As far as I am aware, my board is happy to support this amendment, if I remember all the email replies correctly. *(Laughter)*

The Bailiff: Does anybody ... ? Deputy Gollop.

1430 **Deputy Gollop:** I will support the amendment and speak generally on all the other policies, too.

I think for a long time, we who worked on the Consumer Group were frustrated that Guernsey lacked policies, teeth and of course legislation, and I think actually, although the amendment is useful, it could have fitted in within unfair contract terms and other aspects of sales of goods, because it is misleading prices and displays that have perhaps not done full credit to some aspects of our retail centre.

1435 Looking at a lot of this, it is actually standard practice to have a bit of redress with contract and we used to hear from previous boards of industry, there was not any demand for it. But we see from this clearly, there are several hundred complaints a year. We have another nearly a thousand to the Citizens Advice Bureau and so it is long overdue.

1440 **The Bailiff:** Any further debate on the amendment? No?
Should we vote then on the amendment? Those in favour of the amendment proposed by Deputy Soulsby and seconded by Deputy Rob Jones. Those in favour; those against.

Members voted Pour.

1445 **The Bailiff:** I declare that carried.
Does anyone wish to speak in general debate? Deputy Harwood.

Deputy Harwood: Thank you, sir.
Those of us who studied English law in the post-war period may recall that there is one date that is enshrined, or engraved on our memories, and that is 1893. That was the year when the Sale of Goods Act was first introduced in the United Kingdom. It reported to be a codification of practice, but actually it was the first instance of consumer protection.

1450 Fast forward now to 2016, Guernsey is actually finally catching up. *(Laughter)* I appreciate we are always slightly slow, we like to see how things are done in other jurisdictions, but sir, joking apart, it is vitally important that Guernsey does adopt consumer protection. As a practitioner, shortly after coming back to Guernsey in the early 1980's, we had to wrestle with the issue as to whether or not the Sale of Goods Act of England and Wales actually applied by custom as a matter of Guernsey Law, and there were endless academic debates, I think, amongst practitioners, as to that situation. There was always uncertainty and above all, I think we need to proceed with certainty. We need to have certainty for the protection of consumers, particularly given that

1455 Guernsey wishes to be more and more a centre for digital economy, the distance trading – supplier of services by distance. It is vital that we do get our services up to speed.

1460

So I congratulate the Department of Commerce & Employment actually on bringing these Propositions. They are, as I say, about 150 years overdue.

Thank you, sir.

1465 **The Bailiff:** Deputy Adam.

Deputy Adam: Thank you, sir.

I know what Deputy Harwood has said about the length of time it has taken concerning this, and it is long overdue.

1470 My one concern is basically paragraph 9.3 on page 1000, which says:

'The proposed legislation would significantly widen the scope of statutory duties undertaken by the Trading Standards Service, adding to the duties currently undertaken under the provisions of the Weights and Measures (Guernsey and Alderney) Law 1991. As a result it will be necessary to review the prioritisation ...'

I would have preferred to see 'ensure that there are the resources available to ensure enforcement'.

1475 If you compare with some other aspects of employment law, where statutory power exists but enforcement has been lacking – for example, written statements of employed appear to be non-compliant by a number of employers, but with fairly few prosecutions.

So, I would like assurance that there are going to be adequate resources, both for employment law enforcement and enforcement of this new law.

Thank you, sir.

1480 **The Bailiff:** I see no one else rising. Deputy Stewart will reply.

Deputy Stewart: Yes sir, I thank Deputy Harwood for his support.

1485 And to Deputy Adam, sir, I will say that Trading Standards already do a fair amount of enforcement, mainly with the commercial customers, whether that is checking standards, weights and measures, weighing machines, petrol pumps, all of these things. This will just have to be incorporated into their work and of course once the legislation is brought to this Assembly, and hopefully passed, then of course there are many agencies out there – not just the Citizens' Advice Bureau, that we will work closely with, to ensure that businesses do comply with the terms of the law, sir.

1490 **The Bailiff:** Members, the original Propositions are to be found on pages 1021 and 1022. There are Propositions 1 and 2 and Proposition 1A has been inserted as a result of the successful amendment.

I put all those Propositions to you together. Those in favour; those against.

Members voted Pour.

1495 **The Bailiff:** I declare them carried.

ENVIRONMENT DEPARTMENT

XX. Coastal Defence Flood Prevention Measures – Propositions carried

Article XX.

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 1st December, 2015, of the Environment Department, they are of the opinion:

1. To approve the requested exception, in relation to The Bridge/St Sampson's Harbour, to Resolution XI.1 of Billet d'État No XV of 2013, which approved the use of the 1:100 year return period as the risk assessment base.

2. To note that the requested exception will enable interim flood protection measures, with a view to securing flood protection for the current epoch (approximately 20 to 25 years), to be included as part of the forthcoming Outline Business Case, together with a re-profiling of the wider programme to address the second priority area, Belle Greve Bay, on a revised timetable as part of its proposal.

The Greffier: Article XX – Environment Department – Coastal Defence Flood Prevention Measures.

The Bailiff: Deputy Burford will open the debate.

1500

Deputy Burford: Thank you, sir.

This policy letter follows on from an earlier one debated in July 2013. At that time Members considered the broad issues as strategic coastal defences in Guernsey and gave support for the proposals of the Environment Department, to address potential sea flooding at seven points around the Island.

1505

First priority was given to the area in the vicinity of The Bridge in St Sampson's Harbour, where there is a threat to the landfall, west of the bridge along the Braye du Valle.

States' approval was obtained for the Department to seek a solution aimed at safeguarding this area against the possibility of a weather event that might be expected once in the next 100 years.

1510

As explained within the policy letter, in order to bring this into being, the Environment Department have sought the assistance of URS Infrastructure and Environment UK Ltd consulting engineers, who put forward a range of options for dealing with the matter.

In the first place, URS produced a long list of possible solutions, including analysis of the department's preferred option for a movable gate at the mouth of the outer harbour. It had long been recognised that operations for the on and off loading of aggregates and hydrocarbons in the harbour would present difficulties for any build programme, and URS could not present a solution that would overcome these. This option was therefore dropped at an early stage.

1515

At this point, it is worth acknowledging that there has been some comment in the media and from vox pops that there has never been any flooding at The Bridge and therefore why is the Department and the States even considering this issue? In other words, there is a school of thought that we should perhaps be doing nothing and I would like to explain the reasons why, although a do-nothing approach has been considered, it has been discounted.

1520

Firstly, it should be made clear, that the Flood Studies report identified the issue – that is, a detailed study of the area including modelling of different storm scenarios demonstrated that a flood potential is present at the current time.

1525

Secondly, Royal Haskoning, developed their findings to incorporate the best information that is obtainable regarding the prospects for changes in climate conditions that may exacerbate the existing threat. These include forecasts for rising sea levels and increased storm frequency.

With these factors in mind, the Environment Department is of the opinion that a do nothing approach could jeopardise the wellbeing of the area and its inhabitants, to the extent that it would be irresponsible to take such a position.

1530

All other proposals brought forward, except the harbour gate included in the URS report, were considered to be workable in principle, although it was recognised that each had significant shortcomings, either on the grounds of cost or visual impact or both.

1535

Board members considered these factors and also sought to ascertain the opinions of a focus group, comprising interested parties and representatives. It was confirmation of the board's own opinion by the focus group, that encouraged Members to seek an alternative way forward.

1540 In this context the Department readily acknowledges that Islanders possess extensive and informed understanding of Guernsey's coastal defences. Indeed a special appeal was given out in the course of the public consultation programme for information and photographs of areas identified as vulnerable.

1545 Technical expertise has only been employed for the purpose of determining options that are open to us, and for providing outline details on how these may be implemented and the broad costs involved. This is the best and most economical way of determining an appropriate way forward. All matters relating to any construction works in the future will be processed through tenders in the normal way.

1550 It was after the board had rejected the shortlisted options, a decision that found favour with the focus group, that the decision was made to seek States' approval for a revised standard of defence.

1555 As mentioned previously, the original standard was set to meet a weather event that might be expected once in every 100 years. The board concluded that the best possibility would be to modify the proposal put forward, which was a barrier across The Bridge. Although unacceptable in the format presented by URS, it was agreed that the general Proposition might be workable, if it could be designed to be significantly less imposing.

Evidently, this would require a lesser standard than protection for a 1 in a 100 years event, as stipulated by the States, and the decision was made to investigate a solution, that would be good for the current epoch, which is generally deemed to be 20 to 25 years.

1560 This would meet the present requirements for flood prevention and would allow time for operations that are currently undertaken in the outer harbour, to possibly be relocated, opening the possibility for the Department to revisit the option of a movable gateway at the mouth of the harbour.

1565 I should explain that the concept of the current epoch was put forward by Royal Haskoning as part of their flood studies report produced in 2012. At that time, they had assessed the potential for flooding from the sea at seven points around the Island and suggested various actions for mitigating these threats based upon the current epoch.

This was as far ahead as Royal Haskoning could confidently make recommendations, which would add to the security to various areas for the foreseeable future.

1570 So, bearing all this in mind and in order to secure the area, the States are asked to make an exception for this project for The Bridge and to give an approval for construction to design to guard against the threat for the next 20 to 25 years, instead of 100 years.

1575 This does not mean that The Bridge and land and properties to the east are being left unprotected. There will always be a flooding threat to this area, as much as the land lies at, or below the level of the sea on both east and west coasts. What we are trying to do is mitigate against the known current threat, taking reasonable steps to safeguard the area, but all the while recognising that an exceptional event could still cause damage.

Should this proposal be accepted, a breathing space will have been created, during which it is possible that commercial activities in the outer harbour could be relocated, making way for a longer-term solution that will not impose unduly on the amenity value of The Bridge.

1580 This will also provide the opportunity for the department to develop dynamic modelling of the tides and weather conditions that will help ensure early warning of storm and tide conditions as they evolve.

1585 To facilitate this, it is necessary to set out recording devices at strategic points around the Island's coastline. Various data are collected and transmitted to a receiving station, where they are processed to model potential flooding scenarios.

1590 It is important that I emphasise the fact that the Department is seeking to introduce a level of protection in the area that is designed to cope with the expected threat for the next 20 to 25 years. There are no practical means for safeguarding against all threats of this nature, so it is also important that businesses and households understand their own responsibilities for taking what steps they can to defend their individual properties.

In this respect there is a range of commercial products that have been designed to seal off points of entry to buildings and these include toilet and drain blockers and barriers for doors, vents and windows and non-return valves for main sewer connections. All premises that are vulnerable to coastline flooding should consider which of these products they may require to secure their buildings in the event that the strategic defences should fail or be overwhelmed.

1595

As mentioned in the policy letter, a feasibility study for these revised proposals has been carried out and I am pleased to confirm that the contents have been improved by the Environment Department Board. If the States are agreeable to the recommendations in this policy letter today, then the focus group will be recalled to inform interested parties on the Department's proposals.

1600

Matters will then proceed for securing the capital necessary to carry out the works. The Environment Department regrets that it has taken some time to arrive at this point. It was first necessary to establish the priority order for tackling the identified points of exposure and following this, to secure agreement from the States for the programme of reclamations to be accepted into the States Capital and Investment Portfolio.

1605

Once these actions were completed, the coastal defence group set about formulating plans for dealing with the first priority. It is principally because the proposed solutions for the project proved not to be suitable for a number of reasons, that it has taken longer than we would have wished to come to this point.

1610

We are, however now in a position to address the matter. This does not mean that other areas requiring attention have been forgotten. St Sampson's harbour, and an area along Les Banques have been identified as the first priorities for major works, but as resources become available, other measures will be taken to mitigate effects wherever a need is identified.

Thank you.

1615

The Bailiff: Deputy De Lisle.

Deputy De Lisle: Sir, it does question the prioritisation that took place with regard to the various areas that require work, with regard to coastal defence, and I want to make the point that, as I understand it, the point being made by retailers and others on The Bridge is that other areas may be more important and deserve to be listed as priorities before that of The Bridge.

1620

In fact, I note that businesses on The Bridge do not see flood protection as a major issue there, but themselves actually cite businesses and homes located in town that get flooded a few times a year now, as needing to be looked at first. I think that is an important observation and while I support, fully, the policy letter and the proposals in there, I think that going to prioritise now Belle Greve Bay area, where there is significant flooding of homes and so on, as a priority – I would agree to that, that is that area between St Sampson's and the town basically – but could it not encompass also some remedial action to the town quay seafront, which is being actually flooded two or three times a year now, causing grief to traders and home owners along that particular stretch.

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1630

But in terms – I think it is important to realise that there are other areas too, that require fundamental attention. In the West for example, (*Interjections and laughter*) Rocquaine and Perelle have suffered severe breaches in recent years, sir. (**Several Members:** Hear, hear.) (*Interjections*) and many of the Members here do not live behind the walls and suffer the continual pounding that many residences in the West do. (**Several Members:** Hear, hear.) I would ask, I was asked that their concerns are also considered, because those walls have been seriously undermined in recent years, and essentially they have done their time. They need urgent bolstering, if you like, with the very latest technical, technological support.

1635

So I would ask that the Department considers the needs in areas where people live in fear, sir, behind those sea walls that were put up in the 19th century, basically, and have been pounded ever since and are undermined quite severely in those areas.

1640

So, I think, if the Department is to be looking again at this, I would hope that the town sea quay front is looked at, because it has been flooded regularly and also the problems in the West are also considered as hierarchical problems to be given full priority in the future.

1645 Thank you, sir.

The Bailiff: Deputy Brehaut.

Deputy Brehaut: Thank you sir. I stand to represent the people of the South. Sir, St Peter Port sir, unashamedly I leap to my feet for those. *(Interjection)*

1650 Just on flooding, because it is the generic we lapse into, but if I could just make a distinction. The States' report, the policy letter talks about the storm surge, which is an increase in the height of a body of water, moving towards you, overtopping – sorry, a body of water getting beyond the sea defences and that body of water to continue to move onto low ground is a storm surge.

1655 The overtopping that is experienced in the West, predominantly, it does just that. It comes over the wall, then, it drains away – although Deputy De Lisle does have a point with regard to longstanding historic maintenance issues with the re-pointing and such like.

1660 In St Peter Port, the type of flooding – and I speak as someone who, within weeks of buying a house, found our furniture afloat in our garage one afternoon – the manner in which Guernsey is being built up and developed and drives are tarmacked and car parking spaces and gardens become car parking spaces, the surface water run off has increased considerably. So that is another type of flooding issue that needs to be addressed.

1665 But in town, generally, it is the high tide holding back the surface water runoff, because in St Peter Port, the foul water and surface water runoff mix on occasions, and that flooding is from drain and sea water inundation. This report really is trying to focus on the move from the 100 year period up to the 25-year timeframe storm surge protection.

The Bailiff: Deputy Gollop.

1670 **Deputy Gollop:** Yes, well the town is very important, but one has to look at a programme on all of this. *(Laughter)*

1675 When I joined the Environment board, when Deputy Domaille stepped down and there was a change, I joined along with Deputy Harwood and Deputy Le Lièvre. It was suggested because Deputy Paint had left a hole, in that he had been lead Member responsible for sea walls and coastal protection and he had retired from the board as well, so they needed a new replacement, and Deputy Le Lièvre was really busy with Education and SWBIC and things, so I ended up with the task, without being necessarily excessively knowledgeable about structural engineering and on, but nevertheless it has proved an interesting task.

1680 I certainly attended the forum that Deputy Burford referred to. There was not a consensus. Even people from the business sector were holding back with their opinions. I think the important thing to realise is we have on board many areas. Of course we include L'Ancrese, Rocquaine and Perelle, but we prioritise according to analysis and need. The need and analysis here is what does the area contain? It is not just a retail area. There are data centres, there are commercial premises, there's a power station within the area. It is obvious that The Bridge is important and we have to focus on this area and it is a complicated art, looking at projections of randomness and so on, and when storms can occur, but this is the best possible, most cost-effective way, to proceed for the foreseeable future, so I counter those who question the need to prioritise on The Bridge. The Bridge is one of our most important infrastructural, commercial and economic areas.

1690 **The Bailiff:** Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

1695 Well, I stand to represent the people of the Vale, (*Laughter and applause*) and sir, to make two points. First of all in respect of The Bridge, in particular, the Vale side (*Laughter*) of The Bridge, it is important, I think sir, that the department fully recognises that what they are proposing is an interim solution and must make their successors aware that it is not going to be a sufficient long-term solution and I hope that they will return, having collected the additional data and carried out the additional studies, that they need to. I think that this is a sensible interim solution, but clearly it cannot be one of those States' projects which was instituted as an interim solution which still exists many years later.

1700 But secondly sir, as I have stood to represent the people of the Vale, (*Laughter*) the sea wall at L'Ancrese, which I know is not a coastal defence wall, but it is a sea wall, I think it is important that the Department puts in place, or provides more information to the people of the Vale, about when they talk about 'managed retreat'. The managed bit of managed retreat, I think, needs to be conveyed better, because...

I will give way to Deputy Conder, from St Peter Port North.

Deputy Conder: Sorry sir, I missed the last bit. Who is Deputy Fallaize representing? (*Laughter*)

1710 **Deputy Fallaize:** That's a 'Valed' secret.

So, I think that there needs to be more information about what the managed retreat at L'Ancrese is going to look like, because the department is in the habit sometimes of saying, 'Well, that wall is not really a coastal defence.' But to the people I represent, that sounds a bit like semantics.

1715 I understand what they mean and they are right, but it is a sea wall. It is being undermined and there needs to be a plan in place, which if managed retreat is the right approach, which permits retreat, in a way which is managed and which is reasonable and which does not consist of simply allowing the wall to degrade into the sea, because that does not really sound to me like managed retreat.

1720 So I urge the department, as they take their plans forward to give proper consideration and apply proportionate resources to the people of the Vale. Thank you, sir.

The Bailiff: Deputy Collins.

1725 **Deputy Collins:** Thank you, sir.

Deputy Fallaize said a great deal of what I was going to say. Obviously I happen to live in The Vale and in fact lived in the area that would be affected, so just to raise that sir. I do live near it and I would be supporting the proposal.

1730 **Several Members:** Hear, hear.

The Bailiff: Deputy Paint.

1735 **Deputy Paint:** Thank you, sir. I stand to represent the people of the Island. (**Several Members:** Ooh! Hooray!) (*Applause*)

I think, if the Members had a look at maps of the area, and the contours and rises in the area, they would find that the greatest risk is St Sampson's because of the Braye du Valle. Parts of the Braye du Valle are about six feet below high water spring tide and the risk to many of these properties and utilities in that area would be one of the judgements made to it being the greatest risk.

1740 Now, in my lifetime, which is not 100 years – we're getting close! (*Laughter*) – I have actually seen a high water which was predicted at 10.3 metres above chart datum – sorry to get technical – actually rise to 10.8 metres. So that is a half-metre higher than the high water.

1745 Now, if it had gone to 11 metres, The Bridge would have been overtopped – perhaps not for long, perhaps only half an hour or an hour, but you just imagine something half a metre high. A wall of water half a metre high, pouring over The Bridge, into the Braye du Valle, all away along, how much water would have been there?

1750 Belle Greve is exactly the same, but to a slightly lesser extent, because of the Red Lion area. The land below it, the Chateau de Marais and all that, is well below high water spring tide at times, so that is why it is worked out this way. Rocquaine has had water over it for many years, but there is not the value of property behind it as there is in these two other areas – (**Several Members:** Ooh!) Well, there isn't! I mean to be fair, the greatest risk is for everybody's property, and there isn't. You got to look at it practically.

1755 So I do agree with just about everything that Deputy Burford has said. We have to look at the greatest danger and value to property and utilities and everything else in the Island first – and if you disagree with that, well I am sorry, you have got to be wrong. (*Laughter*)

1760 So, I have no problem with what we see today. Obviously, everybody has got different means of doing it, but we have to look at what the future may bring. Whether the climate is changing, whether the tide – the water – is rising, that is another matter. It could be the land going down, we do not know. Nobody knows, but with St Peter Port, I think St Peter Port was under a different schedule when the report was made, so it came under something else. I do not know quite what it was, I cannot remember – it is a long time ago now.

1765 But certainly with St Peter Port, when the harbour was first built, I think that one date I have seen there is 1866. The only way that you could actually accurately measure the tide, or the current of the rise of tide was at one point, and that is the half-tide mark. Your half-tide mark is 5.15 metres and in three places in St Peter Port, as far as I know, perhaps more, there was a half-tide mark calved into the granite. One was in the old harbour in the Victoria Marina. The other one was Number 4 Berth and the other one was under the end of the White Rock.

1770 The two on Number 4 Berth are not visible any more because of the construction that has gone there. The one on the end of the White Rock is not actually feasible to use any more because of the movement of the White Rock itself, but the whole Harbour one has not moved at all. That is now about four inches under the present high-tide mark, so the question is, is the tide going up? Is the water rising because of climate change? Is the land going down? And if it is a combination of both, we are really in trouble. (*Interjections*)

1775 I found a map in one of the books I read and I presented it at some of the presentations I make, and 10,500 years ago, the Islands were actually joined to mainland France, from the [*Inaudible*] to the south to the Cherbourg peninsula in the north. That's only 10,500 years, so what has changed? So what has changed?

1780 **Deputy Luxon:** Could I ask Deputy Paint, does he know if Deputy Dave Jones knows about that fact please sir? (*Laughter*)

Deputy Paint: To be quite honest, I do not know, but I cannot remember whether he has attended one of my talks or not.

1785 So, what I am trying to explain, nobody really knows what is happening. We know things are moving and changing, but we do not know the cause.

Thank you, sir.

1790 **The Bailiff:** Deputy Le Lièvre, and then Deputy Soulsby.

Deputy Le Lièvre: Thank you, sir.

1795 I do not know whether Deputy Fallaize will include tectonic plate movement on his manifesto, he could well do, but speaking as a 'below sea level liver' in the Vale, I would like to thank – really, sincerely thank Deputy Paint – for highlighting the plight of the hundreds of people that live in the Braye that are actually at risk, should The Bridge area overtop. I would ask that Deputy De

Lisle discounts the views of a few Bridge traders, who have given no thought – no thought at all – to those hundreds of people who live beyond The Bridge itself.

Thank you, sir.

1800 **Several Members:** Hear, hear.

The Bailiff: Deputy Soulsby.

1805 **Deputy Soulsby:** Sir, yes this is only brief, just to respond to Deputy Paint. It is not simple. There is not one simple reason for the sea level rising. There are at least two. Yes, Guernsey is falling and Scotland is rising and that relates to post glacial movement after the retreat of the ice sheets. And yes we have global warming and we have got sea levels rising as a result of that. So, it is not simple but yes, sea levels are rising.

1810 **The Bailiff:** Deputy Lester Queripel.

Deputy Lester Queripel: Sir, I stand because my back hurts. *(Laughter and interjection)*

1815 I stand sir, as a St Peter Port representative on the Chief Minister's Town Seafront Working Party. At a recent meeting, I suggested we change the name and we change everything that we look at, because at the moment we look at from the Vallette to the Salerie Corner and I think we should change the name to the Eastern Seafront Working Party and look at the area from the Vallette to Bulwer Avenue.

1820 And I say that because page 439 of the Ports Master Plan tells us that the cranes at St Peter Port Harbour could be redeployed to St Sampson's Harbour and all the freight could be brought into St Sampson's instead of St Peter Port. I can see the sense in that, sir, because the majority of the freight then gets puts on trucks and trailers and taken all the way along the sea front to Bulwer Avenue.

Ironically, of course, we are now told that instead of exporting waste from St Sampson's, we are going to be exporting it from St Peter Port.

1825

Deputy Burford: Sir, is this relevant?

1830 **Deputy Lester Queripel:** It is. It is relevant sir, because I am very concerned that – *(Interjections)* If I could just finish my reference to the waste, we are now going to have all those trucks and trailers going all the way along the seafront from Bulwer Avenue to St Peter Port Harbour and I understand that Environment have got a difficult job, they have to prioritise. I understand that. I am just wondering ... I understand as well by reading the report that Belle Greve is more or less the same level of priority, but I am concerned that the amount of work that gets done at St Sampson's Harbour ...

1835 I know it considered to be the priority, inasmuch as it has got to take into consideration the future development of St Sampson's Harbour, but I am just concerned that the Belle Greve seafront and the seafront along, particularly around Admiral Park, around that way, it does flood there quite considerably. I am wondering if perhaps in some way or other the Department could look at – I understand also there is possibility a temporary solution at St Sampson's Harbour – but
1840 I would like them to consider looking at how that would tie in, how it would fit in, with perhaps future protection, particularly along Bulwer Avenue, up onto the Salerie Corner itself.

1845 I have not really picked up any of that in the report, although I do understand that this can all be taken into consideration. I just wonder how much consideration will be given to the tying in and the potentially taking note of the future regarding exporting the waste from St Peter Port and potentially moving the cranes to St Sampson's, as is detailed in the Ports Master Plan, because it seems to me, sir, that the obvious thing to do would be to export the waste from Longue Hougue,

stop all those journeys along the front and also bring the freight into St Sampson's sir. I wonder how much consideration the Environment Department could give to that in the future, sir.

Thank you.

1850

The Bailiff: Deputy Sillars.

Deputy Sillars: So going back to this debate, (*Laughter*) I just like very briefly to comment that I fully support what Environment are trying to do.

1855

I just really want to make the point that one in a hundred-year storm, we all seem to think that is going to happen well over 25 years' time. The point I would like to make is that the USA East Coast storms they had, I think it was last month, were predicted to be – well, *were* actually – the worsts storms they had in a hundred years. So, I do not want to frighten you, I know it is all about risk, I accept that, and assessing that risk. Hopefully it is not tomorrow, but it could well be before the 25 years is up.

1860

Thank you.

The Bailiff: Deputy Bebb.

1865

Deputy Bebb: Thank you, Monsieur le Bailli.

Very briefly I think that Deputy Sillars makes a very good point on the one-in-a-hundred-year storm and also it is interesting that when you look at this one in a hundred year, it is not as though once it happens you have got a 100-year leeway before the next one. The next one could be the next month. It is just that *on average*, it comes once in 100 years.

1870

The other thing that I think is important is that this is to do with re-prioritising according to events happening. I know that, 'events, dear boy, events' – it is the case that we need to re-prioritise.

I hear Deputy Fallaize talking about the great concerns of the people of the Great People of the Vale, (**A Member:** Hear, hear.) (*Laughter*) and of course they do require a tank defence wall, because tanks are obviously still a problem in the Vale –

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A Member: Only during elections!

1880

Deputy Bebb: – but it is very important that when we look at the priority, I did actually look very carefully as to the risk that is associated. That risk is not to do with just whether the football is failing. It is also to do with what infrastructure is being held up? What buildings are behind it? And the priority has to be that multi-criteria and it is constantly shifting and nobody will ever say that they have got it a 100% right, but this seems to be the most practical approach at the moment, it is just that Members need to realise that that could change. This winter is not over, storms will continue to come here and we do not know whether another storm could cause a problem in an area that has not been identified.

1885

It is always, the best judgement of a department that is given here and that is what we have before us, as well as a future model.

Thank you.

1890

The Bailiff: Deputy Le Tocq.

Deputy Le Tocq: Thank you, sir.

1895

Speaking as a Castel boy, (*Laughter and applause*) but like Deputy Paint, with interests the other end of the Island, particularly The Bridge, where the church I am involved in has its facilities. I do think we have to take an overall view and it is always difficult with risks to know exactly quite where you should spend your resources and how you should plan ahead.

1900 As a said, a Castel boy, my family have lived in the Castel for at least 800 years. We have moved down from the dizzy heights of Albecq, down into Cobo. Where we are at Cobo, of course was all basically reclaimed land. When they built a property opposite us, a couple of decades ago, they found an old farmhouse there, with rings alongside it, to tie up fishing boats and you know, we are somewhere inland now.

1905 Obviously, over time things change. I am mindful of the fact, that, with regard to The Bridge and particularly, I think the issues that Deputy Le Lièvre raised, the matters there are definitely of greater urgency.

So I think, again, the Environment Department, with a difficult job, with a difficult decision to make, is asking us to do something quite sensible and on balance, I think we should accept it.

Several Members: Hear, hear.

1910

The Bailiff: Deputy Brouard.

Deputy Brouard: Thank you, sir.

1915 Deputy Bebb basically called me to my feet. One thing he is saying there, that we have to look at extra measures, which we are doing for the east coast, but I think one thing we must not forget in all this, besides doing extra measures, it is to do the maintenance of the existing facilities. The existing facilities, in a lot of cases have been put up, tried and tested, to stop the inundation of the sea. So please, can we make sure that we have a sufficient budget, to ensure that the continual maintenance of the existing structures are also maintained.

1920 And just one touch, and I do appreciated the numbers are much larger than they would be in Perelle or along the Saline at St Peter's, (**A Member:** Hear, hear.) but it is a bit like unemployment: although the figures are low, if you are the person who is unemployed it is 100% for you, and it is exactly the same for flooding. Although it may be only your house, it is 100% your house when it happens, so please just a little bit of caution there.

1925 Thank you.

The Bailiff: Deputy Burford, do you want to sum up now?

Deputy Burford: Yes, it should not take too long sir.

1930 I think quite a few of the questions that Members have raised have been answered during the course of the debate by other Members, so I will just touch on the outstanding points.

1935 For Deputy De Lisle, I would point him back to the original raw Haskoning Report and all the analysis and work that was done as part of that in terms of prioritising these areas for our actual strategic defences – defences against storm surge and sea level rise and I think as other Members have said, it is not just about the frontline of the properties, it is about how far the water could then go inland. Clearly in town, there is a limit to how much further it is going to go, whereas at The Bridge, we could have Deputy Fallaize being representative of the island district of the North. (*Laughter*) So, I think that is really important and all that that documentation is available for study.

1940 I also think that Deputy De Lisle is confusing the strategic defences, which are being addressed in this report, and the routine coastal work that the department is doing as a separate strand of work, which is on going. There is a large amount of projects before Treasury & Resources for work to go on, on various places around the Island.

1945 But what I would say is that if Deputy De Lisle is aware, of places on the west coast that are being, to use his word, 'undermined', then please come forward and show us precisely where the undermining is and that would be appreciated, thank you.

Deputy Fallaize, yes, it is indeed an interim solution. Going off on a tangent about L'Ancrese, as his opportunistically done, I can say that the department is working on the details for the managed retreat, but it is not a sea wall; it is actually an anti-tank wall, if we want to be pedantic about it.

1950 Thank you to Deputy Paint, for his support.

Deputy Queripel, finally, I am not really – I think the reason that you could not find what you were looking for in the report is the report is not about export of waste, (*Laughter*) but if you would like to come into the department, as always you are more than welcome and hopefully we can answer your questions. Thank you.

1955

The Bailiff: Members there are two Propositions on page 1030. I put both to you together, Those in favour; those against.

Members voted Pour.

The Bailiff: I declare them carried.
We will rise and resume at 2.30 p.m.

*The Assembly adjourned at 12.32 p.m.
and resumed its sitting at 2.30 p.m.*

Procedural

1960 **The Bailiff:** Members of the States, before we start this afternoon, could I just ask that when you leave this evening you take everything with you. Anything that is not taken may end up in the recycling bin, because at six o'clock there is going to be a meeting in this Chamber of prospective candidates for this year's General Election who, according to this press article, will have the opportunity to quiz current politicians.

1965 So there is going to be a meeting in this Chamber at six o'clock, so we will have to finish sharp at 5.30 and please take with you anything that you want to have tomorrow, otherwise it will not be there tomorrow – unless we finish today of course, Deputy Perrot! (*Applause and laughter*)

Several Members: Pour!

1970

The Bailiff: Let's move on. Greffier.

COMMERCE & EMPLOYMENT DEPARTMENT

XXI. Proposal for a new Arbitration Law – Propositions carried

Article XXI.

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 3rd December, 2015, of the Commerce and Employment Department, they are of the opinion:-

- 1. To confirm the States Resolution VIII of 25th February 2004 (Billet d'État II of 2004).*
- 2. To agree that a single track Arbitration Law should be introduced, based primarily on the principles of the English Arbitration Act, 1996, updated where appropriate to provide a modern and comprehensive Arbitration Law.*

The Greffier: Article XXI – Commerce & Employment Department – Proposal for a new Arbitration Law.

1975 **The Bailiff:** Deputy Stewart.

Deputy Stewart: Yes, Mr Bailiff.

This is the Commerce & Employment trying to sweep up some of the extant Resolutions from many years ago. This goes back, as Members will see from the States' Report, to 2004.

1980 Just really, very briefly, why are we updating our current legislation? And the reason for that, is there have been significant developments in arbitration legislation in other jurisdictions, since the Arbitration (Guernsey) Law of 1982 was enacted, most notably two key developments, including the development of a Model Law on International Commercial Arbitration in 198, by the United Nations Commission on International Trade Law, and the enactment of the Arbitration Act 1996 in
1985 England and Wales. In enacting that 1996 Act, England and Wales considered but rejected the wholesale adoption of the UN International Trade Law, instead of adapting many of the basic principles behind the Model Law to fit with the English Legal system and the Common Law approach to arbitration.

1990 So at present our current legislation continues to be based on the old English Arbitration Regime and does not reflect the modern and comprehensive provisions found in many other jurisdictions. That is why it is important that our legislation is updated, to ensure that Guernsey is attractive as a jurisdiction for arbitration, sir.

Thank you.

1995 **The Bailiff:** I see no one rising. We will go straight to the vote on the two Propositions to be found on page 1043. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare them carried.

Billet d'État IV

HOME DEPARTMENT

I. Dual Function Appointments and Authorisation – Police and Customs officers – Propositions carried

Article I.

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 15th December, 2015, of the Home Department, they are of the opinion:

1. To agree that legislation be introduced in order to:

(a) empower the Chief Officer of Police to designate any Customs Officer or Immigration Officer as a person having the powers and privileges of a Police Officer, subject to any limitations considered appropriate by the Head of Law Enforcement;

(b) empower the Chief Revenue Officer to designate any Police Officer or Immigration Officer as a person having the powers of a Customs Officer, subject to any limitations considered appropriate by the Head of Law Enforcement;

(c) empower the Chief Revenue Officer to designate any Police Officer as a person having the powers of an Immigration Officer, subject to any limitations considered appropriate by the Head of Law Enforcement;

(d) require designated officers to produce evidence of the designation if requested in the course of exercising their operational powers;

(e) create offences of resisting or wilfully obstructing or assaulting a designated officer in the exercise of their operational powers and an offence of impersonating a designated officer;

(f) provide that the Police Complaints (Guernsey) Law, 2008 would continue to apply to Police Officers who are designated with the powers of Customs Officers or Immigration Officers, but a Customs Officer or Immigration Officer who is designated with the powers and privileges of a Police Officer would not be regarded as a Police Officer for the purposes of that Law;

(g) provide that where a designated officer is exercising the operational powers of a Police Officer, Customs Officer or Immigration Officer (conferred on the designated officer by the designation), any unlawful conduct of that designated officer is to be regarded as if it were the unlawful conduct of a Police Officer, Customs Officer or Immigration Officer respectively; and

(h) enable the States, by Ordinance, to make such provision as the States considers appropriate in consequence of designated officers having the operational powers referred to above.

2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

The Greffier: Billet IV, Article I – Home Department – Dual Function Appointments and Authorisation.

2000

The Bailiff: Deputy Gillson.

Deputy Gillson: Thank you, sir.

2005

In recent years the Home Department has embarked upon a programme of change focussed on two of our services, Guernsey Police and Guernsey Border Agency. Through this restructuring of law enforcement programme we have achieved considerable savings and, importantly, continued to build more flexible, responsive workforce by the use of shared services. However, there is a legal hurdle, which is restricting further development, which this policy letter seeks to resolve.

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In law enforcement terms, officers exercising legal powers including powers of arrest, are referred to as 'warranted officers.' Police and Border Agency Officers are granted that authority under separate legislation. Although both undertake a variety of similar subjects, using similar investigative skills, they can be restricted in working together due to the limitations of the warrant they hold. Despite having the right skills, certain officers can lawfully only undertake certain duties and this can directly affect the ability of a joint investigation team tackling a serious crime.

2015

For example, we have an Economic Crime Division which is a resource of officers from both Police and Border Agency; supervising officers from both organisations are responsible for leading financial crime and investigations within this team. However, particular tasks are limited to certain officers by virtue of their warrant, for instance an officer from the Guernsey Border Agency working on a fraud case would not be empowered to arrest a suspect, obtain a warrant to search premises or be empowered to make an application to the Royal Court for a production order, all of which are critical in investigative powers.

2020

The same would apply to a financial investigation that involved theft, blackmail or stolen goods, none of which are assigned duties for customs officers. This is because the powers of investigation with those officers are contained within the Police Powers and Criminal Evidence Act and applies only to police officers; however, if custom officers were investigating a crime such money laundering, they would be empowered to investigate with the same powers as their police colleagues.

2025

2030 Now, it must be emphasised that all Law Enforcement Officers, be they police or GBA, have to be trained, qualified and equipped to perform the role which they are being asked to undertake and nothing in this proposal will alter that requirement. However, dual warrants will allow us to use all resources at our disposal in the most efficient manner, for instance GBA officers have successfully been utilised to undertake covert investigative functions in support of police-led investigations.

2035 It is this sort of collaborative working that we want to progress for the benefit of our community. Not having the flexibility, as outlined in the proposal, is limiting and does not allow the Department to use resources effectively and to direct those resources to the greatest need.

2040 All operational law enforcement activity is already co-ordinated through a single senior command structure, together with a single head of law enforcement. Fully exploiting the available skills across the organisations will inevitably reduce requests for additional resources to support these law enforcement activities. Without the ability to introduce such transformational change it will be difficult to meet our savings targets.

2045 But the benefits are not just for the organisation, there are benefits for staff as well. Implementing the proposed changes will bring benefits for staff, such as providing greater variety of work and far broader career opportunities.

2050 The challenges facing law enforcement are unpredictable. Seizing the opportunity to approve these recommendations will set the agenda to help safeguard the future of law enforcement. These proposals are not about new powers, they are concerned with appointing officers on a case-by-case basis for a specific investigation or event, by the head of law enforcement, to secure resilience and efficiency across the force.

2055 Officers – and this is important – will have to agree to being dual-warranted, it will *not* be forced upon them. You can be assured that law enforcement officers and staff will continue to work together and keep the communities that they live in secure and I urge Members to support these proposals.

Thank you.

The Bailiff: Deputy Luxon.

Deputy Luxon: Thank you, Mr Bailiff. Very briefly, sir.

2060 This is another very good example of States of Guernsey Public Sector Reform, tearing down barriers, or removing barriers, to stop us operating most effectively and optimally. So I applaud the Home Department.

2065 Of course these are nine very sensible Propositions. Of course they're not clunky, as Deputy Fallaize referred to the Ambulance Service Propositions, because of course they have not been amended to suit the whim of a couple of other board Members.

2070 Sir, could I ask Deputy Gillson if he is prepared to barter. He can have my vote supporting this policy letter if he is prepared to undertake to the Assembly today, that £9,700 of the savings that are going to emanate from this wonderful plan can be used to fully implement the Domestic Abuse Strategy.

Thank you, sir. (*Interjections*)

The Bailiff: There's no further ... oh, Deputy De Lisle.

2075 **Deputy De Lisle:** Just with regard to the costs that are involved in training – I would think there must be some costs involved in this. I am just wondering how costly is this going to be to both these sectors, because they will have to be training their people in different areas?

Thank you, sir.

The Bailiff: Deputy Gillson will reply.

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Deputy Gillson: Thank you, sir.

Deputy Luxon, thank you for your support; one of the promises I made to myself when I joined the Assembly was never to barter votes.

2085 The cost of training, Deputy De Lisle: there is no additional cost of training. You may have seen in the paper today, or yesterday, that there is dual training of Police and GBA officers, and they already have skills which overlap, and it is just to make the best use of those skills.

Thank you.

2090 **The Bailiff:** Members, the Propositions are to be found on page 1136 and 1137 of Billet IV. I put both Propositions to you together. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare them carried.

SCRUTINY COMMITTEE AND PUBLIC ACCOUNTS COMMITTEE

II. Scrutiny Management Committee – Powers, Resources and Impartiality – Propositions carried

Article II.

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 23rd December, 2015, of the Scrutiny Committee and the Public Accounts Committee, they are of the opinion:

1. To agree that legislation be drafted:

*(a) making provision for the Scrutiny Management Committee to have the power to send for persons, papers and records as set out in paragraphs 2.3 to 2.6 of that Policy Letter; and
(b) extending legal privilege to those providing evidence to the Scrutiny Management Committee's hearings and reviews as set out in paragraph 2.24 of that Policy Letter.*

2. To direct the States Assembly and Constitution Committee to review and report to the States with a revised Code of Conduct for Members of the States of Deliberation to encompass the requirements of the Scrutiny Management Committee as set out in paragraphs 2.8 to 2.9 of that Policy Letter.

3. To direct the Policy and Resources Committee to take the actions required to appoint Accounting Officers for each of the Principal Committees as set out in paragraph 2.28 of that Policy Letter.

4. To direct the Treasury and Resources Department to approve a maximum annual revenue expenditure of £936,000 for the Scrutiny Management Committee as set out in paragraph 2.57 of that Policy Letter.

5. To agree that that the Scrutiny Management Committee should be allowed to retain unspent (non-pay) general revenue balances from one year to the next up to, but not beyond, its 4-year-term as set out in paragraph 2.58 of that Policy Letter.

6. To direct the Policy and Resources Committee to provide the offices and meeting rooms required for implementation of the new Scrutiny Management Committee arrangements as set out in paragraph 2.59 of that Policy Letter.

7. To direct the Policy and Resources Committee to consider fully the advantages of releasing all Post-Implementation Review reports on capital projects into the public domain as set out in paragraph 3.16 of that Policy Letter.

8. To direct the Policy and Resources Committee to investigate the procedures required to enable the Scrutiny Management Committee, in exceptional and appropriate cases, to examine, with the Law Officers' consent, the legal advice provided to Departments, Committees and other public office holders by the Law Officers and their staff as set out in paragraph 3.20 of that Policy Letter.

9. To agree that the Scrutiny Management Committee shall have the right to scrutinise actively the annual external audit process as set out in paragraph 3.23 of that Policy Letter.

The Greffier: Article II, Scrutiny Committee and Public Accounts Committee – the Scrutiny Management Committee – Powers, Resources and Impartiality.

2095 **The Bailiff:** Which of the two Committee Chairmen is going to open debate?
Deputy Soulsby.

Deputy Soulsby: Sir. Thanks, yes, I have my tissues at the ready and I thank Deputy Lester Queripel, for his magic pills, which I am sure will impart me with wonderful powers of speech.
2100 *(Laughter and interjections)*

Sir, this policy letter arises from an amendment placed by myself in the Chair of the Scrutiny Committee, to ensure that the powers and resources of the new Scrutiny Management Committee were agreed before the end of this term. We could have decided to go with the original proposals in the States Review Committee's report, stating that it should be left to the new committee to consider. However, we believe that it was important that it should be able to hit the ground running and get changes put in motion as soon into the new term as possible.
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Now, it is important to stress at the outset that this States has already agreed the structure of Scrutiny that it wants for the future and that it should have more powers and resources. This policy letter is therefore following the direction of the States and setting out what it believes those powers and resources should be.
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It is also important to make it absolutely clear that what we propose is not a pick and mix. Our proposals set out the minimum requirement to give effect to the new Scrutiny structure, and reflects our four years of experience and more in some cases, of the current system.

We have concluded that specific areas require significant strengthening to ensure that effective scrutiny can be provided – and I am not going to go over all these now, they are clearly set out in the Report, but I will focus on some key points.
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Firstly, the power to compel, to use a standard term: the power to send for persons, papers and records – a power that is standard in the UK and other Crown Dependencies. The appropriate legal infrastructure will need to be in place to ensure the enforceability and legality of the proposed approach. Persons, papers and records are already vested in various States' statutory bodies today, such as the GFSC, Children's Convener and CICRA. In our view therefore, the drafting of such legislation should be relatively straightforward.
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Secondly, rights of privilege to be extended to any person giving evidence to scrutiny panels and hearings. At the moment, a person attending to give evidence or producing any document to the Scrutiny Committee or the Public Accounts Committee, is entitled to the same immunities and privileges as if, sir, they were witness before the Royal Court, whereas a Deputy enjoys absolute privilege. This may have been an error in the drafting in the legislation as it was intended to be
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provided for in the original Billet. This will allow witnesses to be able to speak freely to their elected representatives – a fundamental democratic right.

2130 Thirdly, in terms of visible impartiality, we recommend that a memorandum of understanding should be in place between the Principal Scrutiny Officer and the Chief Executive that guarantees the operational independence of the former, whilst providing him or her with the appropriate management support.

2135 To provide the necessary balance a Principal Scrutiny Officer must ensure that any review undertaken complies with the SMC mandate, provides value for money and is in the public interest. Where a review does not meet these tests in the opinion of the Principal Scrutiny Officer, the Principal Scrutiny Officer can be formally instructed to proceed by the Committee through a written direction, very much in line with the position of accounting officers.

2140 Now we turn to a recommendation of the Report that is certainly very timely: that is the ability, in certain context, to be able to review the internal legal advice provided to Departments and Committees. This is a complex area. However, Westminster legal advice has been questioned by Select Committees in certain circumstances. To allow for this to happen UK Ministers, in effect, waive their insistence on the confidentiality of the legal advice a Department has received.

2145 In the UK the decision to disclose the Attorney General's advice on the legality of military action in Iraq, has created a high level precedent which will make it difficult for Governments to hide behind the claim that, 'We never make public the advice of our Law Officers.' To those who argue that this was an exceptional case, I would respond that the only thing that was exceptional about it was the level of political pressure which forced eventual disclosure. Something to consider in light of recent events.

2150 It is clear to both current committee, that the content of rationale and the advice provided to politicians and staff by the officials within St James's Chamber should be subject, when appropriate, to review by Parliament. And standing here, occupying a place he used to take, I am reminded that this is something that the late Alderney Representative, Paul Arditti, felt very strongly about – and I do think it is sad that he cannot be taking part in this debate. (**Several Members:** Hear, hear.)

2155 Yes, the mechanisms need to be thought through carefully, however a complete bar on the ability to scrutinise legal advice is inconsistent with the principles of openness and transparency that lie at the heart of good government. The scrutiny arrangements and perhaps as importantly the culture within Government, must allow for parliamentary oversight of this type of material when it is appropriate.

2160 Both committees have also expressed a desire for additional clarity in situations where there is uncertainty as to whether 'advice' is legal advice, or whether advice from a Law Officer on a non-legal matter. We believe that guidance on this matter should be clearly drawn to avoid the situation where appropriate parliamentary scrutiny is blocked by the refusal to release advice from a Law Officer, on a non-legal matter.

2165 Legal advice given to States' Departments and Committees is primarily provided by the Law Officers of the Crown and lawyers working under direction at the Law Office Chambers. Where advice by is given by a lawyer to a private or commercial client, that client could decide to waive privilege at their discretion and disclose the contents of the advice. However, different considerations arise in relation to advice given by, or on behalf of a Law Officer, to Departments, Committees and Public Office holders. However, as was demonstrated in the disclosure of Lord Goldsmith's advice on the legality of the war in Iraq, and if Jeremy Wright's own recent advice on the legality of RAF drone strikes and British ISIL targets, there are exceptional circumstances when at least the fact of giving advice is disclosed. For the reasons set out above it is suggested that as

2170 the situation in Guernsey should mirror that described in England and Wales, then as that approach changes, so should ours.

2175 The key point here is that in certain circumstances it should be possible to view the advice that led directly to decisions being made. This may be very rare, but is also essential. Advice is just

2180 that – advice. Boards take the decisions; and if political scrutiny is to mean anything, it has to be able to test the judgements which boards have made, based on the advice they have received.

2185 So last but not means least we get onto the sticky matter of funding. Now, it is very difficult for me as Chair of the Public Accounts Committee to come here and request extra money – but I knew that would inevitably be the case at the start. I would hazard a guess that all Members would have expected that more powers and resources would come at a cost, but remember it is not about cost, rather value for money. It will not mean more of the same, but the ability to undertake urgent hearings and respond faster than is possible at present.

2190 We are only going to get a stronger scrutiny function if we allocate more resources to it. If this Assembly wishes to have effective political, financial and legislative scrutiny then it *will* cost more money. If Members believe that this level of additional expenditure is unjustifiable then so be it, but please do not beg and constantly reprimand the new Scrutiny Management Committee for not addressing the numerous areas of public concern that arise throughout the next political term.

2195 This month and next we will be debating areas of huge strategic importance. The alphabet soup of SLAWS, CYPP, SCIP, as well as Waste, perhaps Corporate Housing Programme and dare I say, Education. As things stand the current resources are woefully inadequate. From a financial scrutiny perspective alone, we have just three staff to scrutinise half a billion pounds worth of States' General and Social Security Department annual expenditure. That is when no one is ill or on holiday.

2200 Compare that with Jersey, which spends nearly £800,000 on its Auditor General, over £300,000 on its scrutiny, excluding the staff, which probably comes to well in excess of half a million pounds, and a dedicated building – as well as the £20 million being set aside for its child abuse review. Yes, Jersey has a Ministerial system, but that does not mean that scrutiny should be funded any the less.

2205 And in the next term, with a more powerful centre and fewer Deputies, a stronger scrutiny function will become even more important. It is not as if what we are asking for is unreasonable, it represents three more staff, one of which is for legislation, which currently has no resource at all; and £150,000 for specialist advice, which will be necessary as the Scrutiny Management Committee focuses on complex areas where generalist knowledge will be inadequate.

2210 And do not forget the Deputy resources that will be lost from scrutiny as a result of the new machinery of Government. In fact we have calculated that loss in terms of Deputies' time and non-States' Members' time, cross-scrutiny, Public Accounts Committee and legislation in terms of the portion approved by the States comes at the equivalent of £191,000 in paid terms.

2215 Also remember that in the last Budget we agreed to pay an extra £900,000 for SCIP Programme, and £200,000 for additional Policy Council resources. Why is that okay, but not the resources to scrutinise it?

As William Gladstone famously pointed out:

'Men are apt to mistake the strength of their feeling for the strength of their argument. The heated mind resents the chill touch and relentless scrutiny of logic.'

Gladstone correctly identified that many well-meaning politicians cannot see the weaknesses in their own arguments and this is why scrutiny is so important.

And in the words of Arthur Conan Doyle's famous fictional detective Sherlock Holmes:

'It is a capital mistake to theorise before one has data. Insensibly one begins to twist facts to suit theories, instead of theories to suit facts.'

2220 This is where scrutiny comes in. No individual Member has, or will have, the time or supporting resources to fully investigate a significant portion of Government Policy. Independent political scrutiny is essential and a properly-resourced scrutiny system empowers the individual Deputy, as a Member of a Scrutiny Panel.

2225 The recommendations made to the States in this policy letter provide for a future scrutiny
function with greater capacity powers and resources, to ensure committees and their agents can
be effectively held to account by the Scrutiny Management Committee. I believe we have
provided an appropriate balance in the context of the changing machinery of Government and
therefore I ask that all Members fully support the enhanced powers and resources as set out in
this policy letter.

2230 **The Bailiff:** Now, there is an amendment that has been circulated to be proposed by Deputy
St Pier and seconded by Deputy Kuttelwascher.

Would you like that to be read?

2235 **Deputy St Pier:** Yes please, sir.

The Bailiff: Could you read it Greffier? There have been several versions – or at least two
versions of this amendment – so the version that we are running with, I think, is the one that
includes deleting Proposition 5.

2240 Is that right? Greffier?

The Greffier read out the amendment.

The Bailiff: Deputy St Pier.

Amendment:

1. To replace Proposition 4 with the following:

*'4. To agree that the Scrutiny Management Committee will annually submit to the Policy &
Resources Committee a budget request (not exceeding a Cash Limit of £936,000 for 2017,) which
will be considered in conjunction with all other committees' budget requests. If the Policy &
Resources Committee is unable to recommend within the Annual Budget of the States a Cash
Limit for the Scrutiny Management Committee at the level requested by that committee, then the
Policy & Resources Committee will reproduce in full in the Annual Budget the Scrutiny
Management Committee's budget request and include the reasons why it is not recommending a
Cash Limit at the level requested and the financial implications of approving a Cash Limit at the
level requested.'*

2. To delete Proposition 5.

Deputy St Pier: Thank you, sir.

2245 The Treasury & Resources Department, I think, understand the concerns which the Scrutiny
Committees – the Public Accounts Committee and the Scrutiny Committee – have expressed in
relation to, if you like, the philosophical objection to having to come 'cap in hand' to Treasury &
Resources for funding, in order to discharge their scrutiny quite possibly of the Treasury &
Resources Department. I think we understand, at least in perception terms, that is a challenge
which they are seeking to address through their Propositions here.

2250 However, sir, I do not think that the Propositions as set out in the policy letter, are the right
solution. This is, I think, a question of who guards the guards, who scrutinises the scrutineers? And
I think that the Propositions as drafted are perhaps unfortunate that Scrutiny have brought this in
relation to themselves because they are, and the Scrutiny Management Committee will remain
merely, a committee of this States and they should therefore be no different to any other
committee, to the extent that there are conflicts and issues of independence to be resolved. Here
2255 on this floor of this Assembly, is the right place in which to decide those issues and this Assembly
is the right place to decide the right level of funding for Scrutiny, in the context of course of the

overall budget needs of all committees – there is no other place to resolve those issues, other than here.

2260 So sir, this amendment is seeking to achieve that and to reconcile those two tensions, by
recognising that the Scrutiny Management Committee should be subject to the normal budgetary
process, as with all other committees, but if Policy & Resources is unable to meet that request,
then the case should be put in full without varnish or interpretation ... the Scrutiny Management
Committee's case can be put straight to the floor of this Assembly, for this Assembly to decide
2265 how to make the correct budget allocations. And in relation to Proposition 5, which is the concept
of carrying forward balances, sir, I think that certainly we feel very uncomfortable that again this
committee should be the only committee that is capable of doing so and there should of course
be no requirement to do so if the budget process is working properly. If a case is made then this
Assembly will approve the appropriate level of funding for scrutiny. They will need to make their
case, they should not be exempt from the requirement to do so, merely because they have
2270 scrutiny in their name. They need to be themselves, subject to the scrutiny of this Assembly.

So that is the philosophy behind this, I think, very simple amendment. It is a matter which
Treasury & Resources has discussed with the States' Review Committee and I believe the States'
Review Committee is supportive; and I believe also that the Public Accounts Committee and the
Scrutiny Committee are not opposed to the amendment – for which, sir, I am grateful.

2275 In relation to quantum, that is an issue, which I will speak further on in the main debate sir.

The Bailiff: Deputy Kuttelwascher, do you formally second the amendment?

2280 **Deputy Kuttelwascher:** I do and I do reserve my right to speak, and expect it will be
necessary. Thank you, sir.

The Bailiff: Deputy Jones, do you wish to speak on behalf of the two Committee Chairs?

Deputy Jones: Yes please, sir.

2285 Clearly, I do acknowledge the significant pressures on the existing T&R, and the undoubtedly
new P&R Committee to satisfy the numerous worthy financial requests for additional funding.
Therefore I accept the rationale for this amendment.

2290 However, it is important to note that if additional resources are not allocated to the SMC from
2017 onwards, then the system of government that this Assembly has previously endorsed will not
be delivered.

The significant additional power of the P&R function must be balanced by a stronger scrutiny
function across policy, finance and legislation. The public and the media in Guernsey have been
very clear in expressing their desire for increased public scrutiny. Whilst it might be temporarily
convenient for those in power to limit accountability, they should have no doubt that this will
2295 undoubtedly lead to a reduction in public confidence.

However, in summary, I will support this amendment but fully expect a significant increase in
Scrutiny resources in 2017.

The Bailiff: Deputy Wilkie.

2300 **Deputy Wilkie:** Thank you, sir. I have not prepared a speech for this but I just want to say a
few words.

2305 I am not convinced that this amendment isn't a bit of a Trojan Horse, that the money being
asked for by Scrutiny, I think it would be very difficult for Treasury & Resources to argue against
it – against Scrutiny, against themselves. It would be very uncomfortable for him to do that in this
Assembly.

However, this amendment moves that debate to another time when they will be more
comfortable, around the budget debate when they can offset against costs and the demands of

2310 various other Departments. So I am actually minded not to support this amendment and I would ask other Members to have a long hard think about it before they do.

Thank you, sir.

The Bailiff: Deputy Gollop?

2315 **Deputy Gollop:** I do not think I will be supporting the amendment either.

As a past Member of Scrutiny and a current Member of Legislation, I think Scrutiny has been underfunded, but perhaps more can be said on the general debate in that respect. But I think particularly now this has, in this copy, a deletion of Proposition 5, that is not at all satisfactory, for two reasons.

2320 The first is, we of course would have had the right to have voted against Proposition 5 anyway; and secondly it effectively seems to exaggerate the clear desire of Treasury & Resources to restrict the budget of Scrutiny, so that even if there was a year in which not much was spent and there was some money to roll up, it would not be allowed to be kept.

2325 And I think it is important that Scrutiny has the flexibility maybe in advance of a crisis or a situation to embark on a review; and sometimes reviews, as we have seen recently, have to be commissioned at short notice. And if the parliamentary committee is having almost to go cap in hand to what effectively will be a kind of Cabinet in the future – because it will not be our friendly Treasury & Resources any more, it will be Policy and Resources – that would be most unsatisfactory.

2330

The Bailiff: Deputy Luxon.

Deputy Luxon: Mr Bailiff, just briefly.

2335 I completely disagree with Deputy Gollop. I think it is very unlikely that there will be a need to carry forward any of the Scrutiny budget, because with the new arrangements through the SRC, we are actually seriously giving Scrutiny a platform to absolutely tackle the task that we want them to, so they should be delivering the work that will consume the budget.

2340 So I do not see a need for Proposition 5 to carry forward, and it really is harping back to the old days, when we did not have particularly good budget control, where there was a budget grab at the end of the year. And sir, there are still in some instances, areas where budget holders do spend up their budget in the final month of the year. It does not happen as much as it used to, but I know I found three instances in HSSD at the end of last year, where again we went to people to try and explain why that is not necessary and not a sensible use of taxpayer money.

2345 So I will completely support this amendment. It is not trying to put a restriction on, or dilute, the new powers and platform of Scrutiny, which we all welcomed. It is simply saying that we should treat Scrutiny with equal parity with all of the other Principal Committees and I think that is a very important thing to do.

Thank you, sir.

2350 **The Bailiff:** Deputy Kuttelwascher?

Deputy Kuttelwascher: I also completely disagree with Deputy Gollop and I also did spend four years on Scrutiny Committee in the last term.

2355 All this is about is, what has just been said, parity between committees and a little bit of self-discipline.

Proposition five is not required. The whole idea of carrying forward a budget is something I was hoping is something long gone and buried; because I do remind Members that it is not pressure on T&R that is the issue, it is pressure on our revenues and pressure on expenditure.

2360 I mean, I do remind Members that for 2015 we were expecting a revenue shortfall of £21 million. Now we are – and it is a hope – although it is a sort of calculated hope, that this was

a cyclical thing and not structural; but I have absolutely no idea what our revenues are going to be this year, and we have had no real indication yet of what may happen. If the same were to happen again, you would be looking at all budgets very carefully and this would just disappear in the roundings, if I can put it like that.

2365 So please, this is just an exercise in discipline and parity, we do not want to set any precedents; and I urge Members, please, to support this amendment.

The Bailiff: Deputy Perrot.

2370 **Deputy Perrot:** Thank you, sir.

I do not, in my opening remarks, speak on behalf of Treasury & Resources, because I think that my views probably are not shared by my colleagues there. But I have said it before and I will say it again: I think that with a scrutiny function, through Scrutiny as it exists, is rather over-weaned and there is a danger of Scrutiny going too far and descending and opposing the operational efficiencies of various Departments.

2375 I accept that there is a need for a Scrutiny Committee but there has to be some sort of balance and we have to remember that the ultimate scrutiny function replays this in this Chamber. And that is where, if there is a problem and if it is missed by the Scrutiny Committee itself, if it has not actually been able to do something in time, this is the Chamber ... we have all sorts of powers in this Chamber to deal with something with which we disagree. We have seen, over the last four years, an endless number of amendments. We have seen many requêtes. This Chamber is actually very much more powerful than many other Parliamentary Assemblies. So the Scrutiny Management function, although it has its place within a committee, it has – its heart is here, within this Assembly. As I say, that's my personal point of view, but that is why ... I do not see any reason at all why a Scrutiny Committee should be any better placed as far as funding is concerned, from any other committee of the States of Guernsey. Why should it be any different?

2380 I do recognise that there could be a problem. There's a problem of perception if the Scrutiny Management Committee thinks that Treasury is in some way being oppressive because it doesn't want itself to be scrutinised – well, that can translate into Policy & Resources.

2390 This is the other problem, as my friend, Deputy Trott would say, *Quis custodiet ipsos custodes* being fully familiar with the works of Juvenal, I am quite sure that Deputy Trott, were he in the Chamber, would use that phrase. *(Laughter)*

2395 But the point is, to the extent that there is too much power reposed in Policy and Resources, which might otherwise somehow resist scrutiny, the fact is, that this Chamber will decide and I think that this is therefore a very worthwhile amendment.

The Bailiff: Deputy Brehaut?

2400 **Deputy Brehaut:** Thank you sir.

Briefly, my plea would be that if you have a Scrutiny Committee of any sort, whether it is PAC or sorry, it would be the new the Scrutiny and Management Committee, is that you use them. If we go back to the firefighters' dispute, the Scrutiny Committee announced that there would be a review into the events leading up to the firefighters' dispute. Then when a requête was placed to ask for a Tribunal of Inquiry into what happened and during the States' Budget Planning process – Strategic Planning Process, I cannot remember what it is called – although it was not used, the sum of £240,000 was set aside for any such tribunal or inquiry.

2410 So my plea would be that if you have a scrutiny function use them, and even actually in the most recent – whether it is PFOS or whether it has been the £2.6 million, or whatever the figure was – there is a tendency to believe that you achieve independence by immediately going external, rather than dealing with politicians who are tasked with those roles. But that would be my plea, that if we have a scrutiny function, use it.

2415 Why I have concerns about any budget restraints or any barriers being put in, is that as the wheel of political fate turns, a Department could have a significant episode event, that the T&R believe is worthy and they then release funds – I cannot imagine how it works, but they release funds for this.

Yet as funds are getting a little low, T&R have themselves have a significant event that may need investigation and oh yikes, we do not know whether we can fund or whether we would support that. And there must be ... Scrutiny is *not* like any other committee; Scrutiny is different. We do not have a Government in opposition and across the floor, a Government in power – we do not work like that. We are one and the same, but within that we do need to be as independent as we possibly can and scrutinise our colleagues when these events occur.

Thank you.

The Bailiff: Deputy Dorey, are you ...? No, you are not getting up.

2425 Deputy Soulsby, do you wish to speak immediately before Deputy St Pier replies to this debate?

Deputy Soulsby: Sir, I have little to add, only just to comment on Deputy Perrot's statement regarding powers of scrutiny.

2430 Well we have already agreed that we want a stronger scrutiny function and I think that all we are talking about today is appropriate funding for it, and what those powers and resources should be.

The Bailiff: Deputy St Pier.

2435 **Deputy St Pier:** Sir, Deputy Wilkie described this as a Trojan Horse, because it would be an easier fight to have, than to resist the request for funding at the time of the Budget than now. So I think the reverse is true: I think it is actually easier for Scrutiny to win funding now, in isolation, when it is not being considered against all the other pressures on all the other committees.

2440 Deputy Gollop said that there is a desire of Treasury & Resources, to restrict Scrutiny's access to funding and I do strongly refute that because there maybe – as Deputy Perrot said – a *perception* that there is such a desire, but there is in fact no such desire on the part of T&R.

T&R's desire, to the extent it exists, is simply of course to manage the budget of the States overall; and the question has to constantly be phrased in this way: 'Why should this committee be treated differently to any other committee?'

2445 Deputy Luxon said, following on from that question, that this amendment merely gives the Scrutiny Management Committee 'equal parity'– was the phrase he used; and that is not actually quite true, because this amendment will be giving the Scrutiny Management Committee direct access to this Assembly for its arguments in their entirety, in a way in which other committees will not have and do not have. So in fact I think that Scrutiny is being put in a slightly elevated position in being able to argue its case, recognising the need for that element of independence.

2455 And finally in relation to Deputy Brehaut's comments about the reluctance of T&R, and I guess potentially P&R, to release additional funds, perhaps from the Budget Reserve, for a particular piece of work to scrutinise itself. I think the point is ... and I understand why he makes it, but I think actually the political reality would probably be the reverse, because those who are in that position would always be aware that that accusation could be levelled at them.

2460 So I think the political reality is the pressure will be on the contrary to make sure that there are sufficient funds available, so that they could not be accused of seeking to strangle their own scrutiny. I understand why he makes the point, but I think the political realities in our community would be somewhat different.

Sir, I do hope that Members will support this amendment; and thank you very much.

The Bailiff: We are voting on the amendment proposed by Deputy St Pier, seconded by Deputy Kuttelwascher. Those in favour; those against.

Members voted Pour.

2465 **The Bailiff:** I declare it carried.
We come to general debate then. Is there any request for general debate?
Deputy Gollop.

2470 **Deputy Gollop:** Yes, perhaps to continue the theme, Deputy Brehaut has already spoken on the amendment and I was pleased to be a member of his Scrutiny Committee and indeed Deputy Pritchard's Committee, but I would say over the years since 2004, Scrutiny has had mixed success in the Chamber – and that might apply to Legislation and Public Accounts as well, in different ways.

2475 And dare I say, perhaps my words were either carelessly put or misinterpreted by Deputy St Pier, in that I am not suggesting particularly this Treasury & Resources Department wishes to restrict freedom or funding for the scrutiny process, but I think way back – and it dates back to Deputy Harwood's period when he chaired the first Harwood Review perhaps. Scrutiny and accountability and transparency were stressed, but the scrutiny system that was put in place was really underfunded and under-resourced from the start. It is a bit like you could compare it to a bus service or an ambulance service or many other areas. It was bound to cost so much and it didn't really get the input of staff and training and everything else.

2480 I regret too, perhaps that an Auditor General did not appear, but that is going beyond the scope of this.

2485 But one concern I have got about the recommendations, if I am reading them right, on pages 1163 and 1164, is there is no specific recommendation here that I can perceive, that covers the area covered in the Report about the importance of working independence from the Memorandum of Undertaking given, to the Principal Scrutiny Officer from the Centre.

2490 Now, as much as I welcome that, – and I am sure it will be done entirely properly, my instinct – and indeed I think the Crowe Report and others that we have looked at over the years would be – that the parliamentary scrutiny process would be better undertaken by a commission or organisation outside of the mainline Civil Service. It could be the Greffe, it could a States' Greffe, or it could be some other body, a bit like CICRA. Because I think how ever important it is that people are guaranteed the operational independence, which I believe *would* occur and to a degree already has occurred, the fact that you have a certain role or status or hierarchy within the service, within the career structure and within the grading, must have perhaps subconscious influence. And I think that there really should be a separation there ... but that is a point for the future and in a way I regret that it is not a resolution.

2495 I entirely agree that we should be tougher on obliging Members and documents to occur, and that resources should be provided. I think that, hopefully, some form of continuity will continue too, although I do not think this Assembly can guarantee that the next Assembly will keep in place the services of those non-States' members necessarily.

2500 I am supportive overall of this package and I just would conclude really by saying that I do not really understand the tone of the Treasury & Resources letter. It is not that I particularly object to its content on pages 1162 and 1163, but it does seem to protest too much. For example, not only does it make the obvious point about resources having to be balanced across the public sector, but for example, it identifies:

'The report does not identify the legislative drafting resources required for the legislation ...'

2505 Well isn't that true of every States' report we have? We never cost out in advance how much time it is for St James Chambers to look at something. And then it says:

'The report does not identify what additional expenses may be required in compelling witnesses ...'

2510 Well we have seen inquiries before – as Deputy Brehaut referred to the Airport Inquiry – we did not necessarily identify that in advance, and we did not determine the impact of extending the scope of parliamentary scrutiny. And that is very important; we do need parliamentary scrutiny on the increasing range of Government Agencies that are no longer directly part of the political empire, if you like.

And:

'There is no assessment of the offices and meeting room requirements that it is recommended the Policy and Resources Committee will be required to provide for the implementation of the new arrangements;'

2515 That is micromanagement on a massive scale! How often in this Assembly have we talked about what offices are needed for a particular staff and who is to provide them and a criticism of the need? If we did that on all the other Departments that we looked at, we would never get anywhere.

2520 So I just would hope in the future that there is a better understanding between the particular role of Policy & Resources in shaping our future and managing resources, and the scrutiny process that is on one side of that – that has to have resources, but those resources need to be given by the States, the Assembly, the Parliament, not by the Central Executive. We have got to separate what amounts to the political executive side of our being from the overseeing side, and that may mean moving to a different building – maybe Sir Charles Frossard House is not the right place for both to exist.

2530 **The Bailiff:** Members, before we go any further can I just explain the other amendment that was circulated, that was to be proposed by Deputy Soulsby, seconded by Deputy Jones, is now not going to be laid in the light of the success of the amendment that was placed. So you can ignore that amendment.

Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

I am pleased to follow Deputy Gollop because I wanted to refer to something that he said.

2535 One has to be careful about this perception of independence about Scrutiny Committees. It is the wrong word, they are not independent. They certainly are not independent of the States. They are committees of the States – that was a term which the Treasury Minister used laying his amendment. And they are committees of the States in just the same way that any other committee is and that is the point which Deputy Perrot was making in a slightly different context earlier.

2540 However, the States can do a range of things to strengthen the impartiality of the Scrutiny Committee and I think has done some things off the back of the States' Review Committee Report, and I would see this policy letter and the proposals in it as part of the overall package of reforms which this States have agreed in an effort to strengthen scrutiny and to make it more relevant in the next States.

2550 The one area that I am a bit disappointed about in this policy letter, is to do with the location of staff, because I understand that people who do or may in the future work within the scrutiny function, probably want to remain within the Civil Service Structure, for obvious reasons, for reasons of career development and professional support. But I do think it is a weakness that that function is based at the main States' offices. I just do not think that that creates the perception of impartiality that is necessary; and the States' Assembly and Constitution Committee is a very different type from Scrutiny in fairness, but its staffing is arranged through this building and under the Office of the Greffier, and there is no doubt that it does help the committee, it does create a degree of distance between other policy-making committees and our committee.

2555 I am sure the same thing would happen for the Scrutiny Management Committee and I believe
that from 1st May 2016, the Scrutiny Management Committee should not be based at Sir Charles
Frossard House. I do not quite know how this is going to shake out, but I think the present
Scrutiny Committee should be making that point very forcefully. They have a platform to, because
2560 that was envisaged in the States' Review Committee report and an obligation was placed on the
Chief Executive to provide the office space, which the Scrutiny Management Committee needs
and it was envisaged that it would be away from Frossard House; but I do not see that there are
any moves in that direction. Perhaps the chairmen of either of these committees could reassure
me on that point when either of them speak, or sum up in debate.

2565 But I think Deputy Gollop is right, we do not normally discuss out of which buildings
committees work, but we are trying here to provide greater impartiality in a system which finds it
difficult to create independence between the scrutiny function and the executive function. And I
think being based in a different building would be a significant step forward – and if it is not
going to be the present Scrutiny Committees, I would urge the Scrutiny Management Committee
early in its life to press for its relocation.

2570 Thank you, sir.

The Bailiff: Deputy De Lisle.

2575 **Deputy De Lisle:** Sir, in terms of resources, I just feel concern with respect to the additional
staffing that is being touted in this policy letter – three additional staff members and 'an
additional £150,000 per annum, dedicated to the purchase of specialist external support.'

It seems to me, sir, that we need to be doing, in the States, far more with less and that must be
the way that we go ahead into the future. I was expecting, with the reorganisation and the change
in Government over the next period, that we would see some rationalisation in terms of staffing,
2580 but this is not a very good example of what I see perhaps going forward.

So I would ask that we should be looking very carefully before adding staff, at a time when we
are facing difficult circumstances with a huge deficit in Government, and priorities have to be,
certainly, doing a lot more with less in the future; and this arrangement here, is suggesting more
staff, additional staff, and additional resources in order to purchase specialist external support.

2585 I think the joint committees believe that it *may* be possible to second appropriately skilled staff
from elsewhere within the States. That is commendable, to assist on suitable projects in order to
avoid additional expenditure. I would go along with that, sir, but I do not go along with hiring
additional staff into the scrutiny process.

Thank you.

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The Bailiff: Deputy Domaille.

Deputy Domaille: Thank you, sir.

2595 I wasn't actually going to speak because I think these proposals are fairly self evident, but I
have some comments that have brought me to my feet.

I was actually the first Chief Scrutiny Officer and when Deputy Gollop talked about mixed
scrutiny results over the years, I think that is a very fair assessment.

2600 One of the reasons why they have been mixed has been the lack of resources and I am afraid I
could not disagree more with Deputy De Lisle. You need the necessary resources in place, we did
not have enough resources when I was Chief Scrutiny Officer – and, I do not believe they have
enough resources now. So that is the point about resources.

Spinning off of that, can I just say how well the non-States' member idea works extremely well
for Scrutiny, in my opinion anyway, it works very well and I support that.

2605 And just one other comment about the location of staff: I have to say that as Chief Scrutiny
Officer in Sir Charles Frossard House, I learnt an awful lot by standing outside of rooms (*Laughter*)
and it was amazing what Deputies, in particular, said in corridors and around coffee machines. So I

think, whilst I understand the point about staff not being there, I actually think you could be doing yourself a disservice.

Thank you, sir.

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The Bailiff: Deputy Sillars.

Deputy Sillars: Sir, I was only going to speak because the situation where the Scrutiny staff would sit, but actually for me a bigger issue possibly may be, that actually they are part of the Civil Service and if they are investigating other Civil Servants there has got to be some format of protecting them and allowing them to have their career to go forward. For me, that is a bigger issue really, than whether they are at Sir Charles Frossard House or somewhere else – to protect their career and allow them to do a jolly good job in Scrutiny, but equally they must not have their careers curtailed because of the investigations they have been forced into doing, willingly or not, sir.

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Thank you.

The Bailiff: Deputy Jones ... oh, Deputy St Pier?

Deputy St Pier: Thank you, sir

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I will just rise in General Debate, I am going to make a couple of comments on behalf of Treasury and then make a few personal comments.

Sir, in relation to responding to Deputy Gollop's comment on the 'tone', as he put it, of the Treasury & Resources letter of comment. I think in particular he queried why we had commented on 'that there's no assessment of the Officers and meeting room requirements'

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Well that of course was entirely in response to the Proposition 6, which is to direct that Policy & Resources provide the offices and meeting rooms required. Had that Proposition not been there, then I am sure we would not have commented on it, so I think it is a little unfair to describe that as micromanagement, it was simply a response to what had been put before us.

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And the other main point that I would wish to comment on, on behalf of Treasury & Resources, is that set out at the bottom of page 1162 and the top of 1163, which is in relation to the role in scrutinising the Annual Accounts process and in particular the comment

'The Department would therefore seek an assurance from the Joint Committees that it is not their intention to seek to manage the actual external audit process and the work of the independent external auditors and that their principal concern relates to scrutiny of the States' Annual Accounts.'

And I would be grateful for some comment from whoever is summing up, on behalf of this policy letter, sir, because I think it is clear that the decision was made in the last SRC debate that the appointment of the auditors is to be undertaken by Policy & Resources and of course one would expect it to be entirely appropriate for the Scrutiny Management Committee to scrutinise that process itself and there is a clear separation there. But I think a clarity of understanding on that point is critical to me in relation into whether I am able to support Proposition 9 or not.

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Sir, in relation to my personal observations and comments: Proposition 1, which is to agree that legislation be drafted, I think there is a lack of clarity in the policy letter around some of the questions that will need to be considered, for example, how are these powers are going to be implemented in relation to, for example, non-States' members? What would the penalties be? What are the provisions in relation to confidential information? And so on. There are some gaps here which will need to be filled and I suspect that could well require another policy letter to come back before the legislation is actually in a position to be drafted. I make that observation and again, if there is any comment on that I would be grateful.

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So the final comment really, as I said I would comment on the request for quantum, and I emphasise this is a personal comment although I think to some extent it may echo the personal

2655 comments of Deputy Perrot in his speech on the amendment, and so what I am about to say I think I know is heretical and this is around, for me, the philosophy of scrutiny and its role.

The history of the Scrutiny Committee is that it was invented as part of that messy compromise that led us to the 2004 system of Government, which of course we are now in the process of reforming. And I struggle, frankly, sir, to understand – and I may be alone in this and hence I am emphasising they are personal comments – the role of scrutiny in our committee system. And I should emphasise I do draw a distinction here between financial scrutiny and policy scrutiny.

2660 I absolutely get and understand the need for financial scrutiny, but I do struggle to understand the role of policy scrutiny in a committee system, where one would expect the committees to be providing that scrutiny and indeed this Assembly to be providing that scrutiny of the committee. So I am not personally – and this is not a criticism of anybody involved personally – convinced of the added value of the policy scrutiny role.

2665 Now, Members of the States' Review Committee will have heard this argument before, because I made it during the States' Review Committee process, in which the logic was that the States' Review Committee would recommend the scrapping of the policy scrutiny function and I think to be fair, sir, as I say, knowing that I was speaking heresy, that did not go much further. But I am concerned that we have to some extent created a monster in the 2004 process, in that bizarre way in which those arrangements were arrived at, and we now have to keep feeding that monster and as it gets bigger we will have to keep feeding it more.

So those are, as I said, my personal comments.

2670 In relation to the Propositions, I am not able to support Proposition 6, simply because I just find it just a little too open-ended. I am not quite sure why it is there, it does seem to be an open-ended commitment and I do struggle to support that. And I will be reserving judgement on Proposition 9 until I have heard the comments of whoever is summing up, sir.

Thank you.

2680 **The Bailiff:** Deputy Conder. I am sorry Deputy Jones, are you wanting to speak more or less last?

Deputy Robert Jones: More or less, yes.

2685 **The Bailiff:** Deputy Soulsby I imagine will reply to the debate, will she? Yes. Deputy Conder.

Deputy Conder: Thank you, sir.

2690 Sorry, I speak as a Member of the States Review Committee and as an unashamed supporter of the Scrutiny Management function that the States Review Committee has proposed to this Assembly on two occasions and which has been approved.

2695 I suppose I also speak as a student of constitutional Government – if not an anorak student of Constitutional Government. As I come to the end of my first and last term in this Assembly, I have always been fascinated and actually rejoiced in our system of Government, where so many of us have said – and I have said before – this Assembly is the Government; we are also the Legislature and we do not have the benefit of an opposition, a resourced opposition, that will challenge us as a Government at every stage.

2700 And whilst I do absolutely take on board the point that Deputy St Pier made just now about policy scrutiny, that properly belongs perhaps in this Assembly, I do rejoice in the fact that we have a strong ... Well, we *aspire* to a strong scrutiny management function – which we do not have at the moment – because we have to have the ability to scrutinise and challenge events and outcomes and unexpected consequences of the policies and the actions that we take. And whilst, as Deputy Perrot quite rightly said, this Assembly, this Government of which we are all a part, can on occasion challenge ourselves through questions to Ministers, questions to the Chief Minister,

2705 amendments and requêtes, the detailed scrutiny that is essential in constitutional government cannot be undertaken by us in committee, in this Assembly.

We have to delegate that to part of our Government and that is where we have the dilemma and the dichotomy – by delegating that to part of ourselves. We have to give that part of ourselves enough independence and enough resources to be able to do that job on our behalf, and to challenge us notwithstanding that scrutiny is part of this Government. And it seems to me the only way we can do that – and it is a hybrid – is to create some distance between the scrutiny function and ourselves, because if Scrutiny Management Committee and a scrutiny function does not do it, who will do it? Who will challenge this Government? Who will scrutinise events and outcomes?

2715 So I would urge colleagues to support all of the Propositions as now amended, and perhaps support them all in the knowledge that this is a unique form of Government, that does not have necessarily all the checks and balances of the more traditional bicameral assembly does; and that the way we have perhaps failed since 2004 to properly discharge those functions, is not supporting our scrutiny function well enough and not recognising how important it is to the proper discharge of government.

2720 So I urge colleagues to recognise the importance of Scrutiny Management, give it the resources it needs, give it the distance to the extent that we are able to that it requests, and allow it fulfil its functions as the Estates Review Committee envisaged and as the two committees are now asking. I urge colleagues to support these Propositions.

2725 Thank you.

The Bailiff: Deputy Luxon.

Deputy Luxon: Thank you, Mr Bailiff. Just a couple of comments.

2730 If we look to Jersey we see a system of Government that they implemented at the same time as we implemented our changes back in 2004; and, sir, I have not come across any of my Jersey friends or colleagues who do not tell me that they think that Jersey's shadow scrutiny of each Department's Ministers functions optimally. It is clunky, it is chunky and in many ways it has slowed down the process and not necessarily derived the benefit that was intended. So I welcome the SRC proposals and indeed the policy letter today, and I will fully support them.

2735 I do agree with the Treasury & Resources Minister that Proposition 9 is very odd. There is a phrase, 'Who guards the guards?' and 'Six eyes on six eyes.' The external audit? So external auditors, professional auditors are appointed by the States of Guernsey to audit our affairs, but we then possibly need a scrutiny review. It seems odd and over the top, so I may just think about that one.

2740 I was going to stand and ask the Treasury & Resources Minister to give way, but I do not think anybody has ever given way sat next to the person speaking, so I did not want to be the first on that particular tack. But Deputy St Pier did confuse me a little bit and I wish he could speak again, because what I thought I was hearing was that scrutiny is important, but scrutiny can get in the way and scrutiny might not be so important. I do not want to put the wrong words in his mouth, but what I would say, sir, is Guernsey is a small village in the scheme of things and the reason that we are different and complex is because we are also an independent constitution – we are an independent country, we have our own laws – and so we have to have complexity within our very small scale.

2750 Sir, I do not think that our scrutiny function has performed the task that probably the scrutineers in those positions would want, and that this Assembly probably wanted over recent years. Not because of the States' Members who occupy those roles, but neither the scrutiny function and our States of Guernsey system, nor the media here in Guernsey, absolutely fulfil the sort of scrutiny and challenge that probably we as good parliamentarians would welcome. We need to be challenged and we need to be challenged in an informed way.

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So I do think scrutiny is important in our consensus system of Government. All we are doing is refining our system of Government with the new proposals, in my view. It is not revolution, it is not quantum leap change, and one thing for sure is that scrutiny was not given a platform and has not been able to adopt a platform of the kind of scrutiny and challenge that I think our community would be pleased was in place.

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Thank you, sir.

The Bailiff: Deputy Parkinson.

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Deputy Parkinson: Thank you, sir.

I think the role of scrutiny has not been assisted in this term of the States, because the States never actually agreed a workable States' Strategic Plan at the beginning and a programme of Government to carry out during these four years. The object of the States' Strategic Plan was to try and marry up the policy objectives of the Assembly, the collective will of the Deputies here present and the Alderney Representatives, with the resources available to Government in a programme of Government for the next few years; and the output of this programme of course is not simply to be measured in financial terms, because the business of Government is much more complicated than any commercial business. We do not have a single bottom line, we have to work towards a number of policy objectives.

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The progress that the Government makes under any such plan, was to be measured by a system of annual reports where Departments would report their progress against key performance indicators and, where new workstreams are undertaken by the States, we would be able to see whether the objectives of the new project were actually being achieved and what problems had been uncouncted along the way and so on. And in the process of an annual review of progress against the Government business plan objectives, we would be able to form some kind of impression as to how well, or not, the States was doing.

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Now, much of that structure has been abandoned in this Assembly, there is no Government service plan, there is no financial plan to underpin it and I am not quite sure how the process of annual reporting against KPIs is doing, and I am not aware of any particular attention being paid to that. But it is in that context that the Scrutiny and PAC Committees were established and developed.

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The Public Accounts Committee is clearly there to ensure that in financial terms the States is keeping on track and that Departments are spending what they ought to be spending, and that public money is being spent on the purposes for which it was voted. But the role of Scrutiny was of course to monitor performance against the key performance indicators and to determine whether policies that the States' had agreed upon were actually being effectively delivered. And in the absence of a programme of Government and an effective system of accountability to measure progress against policy objectives, it is very difficult to see what Scrutiny should be doing.

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And in fact the committee has gone off and done various useful things like looking at air routes, and so on and so forth, but to my way of thinking that is not what Scrutiny was set up to do. They have filled their time, no doubt productively, but it is not actually in the concept of the 2004 system of Government which we are about to abandon – they were not actually there for that purpose. I think it is regrettable that we have not had that sort of oversight of whether policy objectives are actually being delivered, as well as whether the public money is being spent wisely; and it is a bit unfair, I think, to criticise the Scrutiny Committee for ineffectiveness or not delivering as much as people would have liked, when frankly the whole framework in which they were supposed to operate has fallen into decay and has been so neglected.

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So as a former member of Scrutiny Committee, my sympathies actually lie with Scrutiny in this. I think the committee has a very valuable role to perform in Government, but we have to create the infrastructure around that to make it possible for them to do a job. And I only hope that the next Assembly will in fact develop a programme of work for its four years in Government, set out its policy priorities, set out a credible fiscal plan to support those policy priorities and then allow

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Scrutiny to monitor whether we are actually achieving what we set out to achieve. And let's hope it all works a little better under the new system.

2810 Thank you, sir.

The Bailiff: Deputy Brehaut.

Deputy Brehaut: Thank you, sir.

2815 I spoke on the amendment before, just to speak in general debate to touch on what Deputy Parkinson has said.

2820 I used to use the phrase a great deal in the last Assembly which was probably a severe irritation to some, which is that you have the system of Government, you have States' Committees doing their thing, and next to them on parallel train tracks you have Scrutiny following them and monitoring the output and progress.

2825 And just to touch on the 2009 Scrutiny Report, the topics then were the States' Strategic Plan, the Financial Transformation Programme, governance ... and importantly I think, because I have spoken before about the collective amnesia in this Assembly, that we get lost in the moment and we really do invest a lot of time into winning the argument and winning the vote and then not pursuing the resolutions. And at that time Scrutiny were not monitoring States' resolutions ... and prioritisation of the legislation was another one; and also, to capture the public mood, there was concern over the animal welfare legislation, sex offence legislation and mental health legislation, as well as staff numbers' expenditure.

2830 So I know my approach was fundamentally different to that of Mr Arditti, but I would argue that when you work within a system so closely like this, you do ... and I am sorry, it may look and feel like appeasement, but it is not. You have to work *with* colleagues to monitor, to measure and put those KPI's in place, so that you can absolutely monitor output.

2835 If you set yourself up to be at the big table at the other side of the room, then accusatorial finger ... then Scrutiny can be, unfortunately, adversarial and consequently more difficult. But I am a big believer and a big supporter of scrutiny and I think anyone, heretic or not ... you have to be very careful when we are dispensing of the public purse, as we do – we have to be absolutely open to scrutiny. We may not like the shape or form, but if there is a scrutiny function within a system of Government, surely let's embrace it.

2840 **The Bailiff:** Deputy Dorey.

Deputy Dorey: Thank you, Mr Bailiff.

2845 Just reacting to some of the points made. I do have some sympathy with the points that are made by the T&R Minister. I think that if we had limited resources, which we obviously do, that the scrutiny from a Public Accounts point, and also of Legislation, have to come higher up the ladder than scrutiny of policy, particularly with our committee system.

2850 If you look at the history of Scrutiny, it came out of one of the debates leading up to the 2004 changes and it was almost, 'Well, we rejected executive Government, we're not quite sure we have made the right decision, so we need to give one part of it, which was Scrutiny and vote for that.' And I do not think it was an entirely logical decision that was made at that time. But we have Scrutiny.

2855 I also listened to Deputy Parkinson's point and I think when we were debating setting up Scrutiny at that point, I do not think the Policy and Resource plan was there or in people's minds at that point in time. I do understand its use in relation to that, but I do not think that that was the prime reason for setting it up at that time.

When you look at the gaps in our political system, because we are all independent, it is to be able to do that research. People who are on committees have those research facilities available to them, and in a party political parliament the opposition would have a party machine which would be able to do the research. I do think that perhaps we should be looking at whether the resource

2860 we put into Scrutiny might be better in having some independent researchers which Members could use to research particular points, so that they could then challenge the committees involved. And I wonder if that would be a better use of resources, but I realise that is a bigger discussion than we are having today.

2865 So I just react and I do have some sympathy with the points, but I think we would need to do further investigation; but I do see the absence of research assistants for Members does restrict what you can do in terms of challenge a committee.

Thank you.

The Bailiff: Deputy Rob Jones.

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Deputy Robert Jones: Thank you, sir.

2875 Deputy Parkinson, I probably do agree with to some extent with his assessment of how the Scrutiny Committee came about and decided upon it is forward work programme, and I suspect that actually is probably right that if there was some other framework within which we could operate, then our ability to identify the workstreams would be a little bit easier.

And I guess what has happened is, if we have got a committee of nine and we resolve this problem ... you have nine individuals putting forward their own pet areas that they would like to have assessed. So I suspect that we can assist in that process by having a smaller committee who could be focused on a framework pretty similar to what Deputy Parkinson said.

2880 But I think it was a little bit disingenuous to say that we have been 'filling time' because we have had, I think, four or five reviews. We started and we hit the ground with the AFR Review, which was a short, sharp, urgent business review which we set up in the light of that particular saga – and that was an example of a short, sharp hearing that we were not able to do a great deal more about. And I think that is where the public come in because the news cycle these days is very quick. Events overtake committees like Scrutiny and you have to react very quickly so what we are seeking are resources to enable us to do that ... so, meeting rooms and the like.

2885 For example, the meeting rooms: we do not have a room dedicated to public hearings, we have to set up in places like the Cotils, the St Pierre Park, Beau Sejour and places like that. We have to consider *Hansard* and setting all those type of things up. So we are restricted in our ability to operate within a news cycle. So the resources go towards that and that is what we were looking for because we need a Scrutiny Committee that, on occasion – and we have had occasions, we all know that, we have all had ... I have had phone calls with people saying we should address this particular issue. We have to balance that with the reviews that we are doing, such as the Security of Air Links, the review into the security of our electricity, and the current review – which was a review into a *major* area of our social policy, which was the Children's Law and the implementation of that.

2895 So to say that we have just been filling up time, I think was a little bit disingenuous, but I do gather his bigger points and the bigger issue that he was trying to address there.

2900 **Deputy Parkinson:** Sir, I did say 'productively'. *(Laughter)*

Deputy Robert Jones: The other issues that I would just like to address, that have been going along: Deputy St Pier picked up on the Proposition 1, where he felt there may be a gap in what we were requesting – for the draftsmen to deliver there. But I believe the drafting of that particular legislation would be pretty straightforward, because we have already got powers in certain laws – there are powers vested in the GFSC, the Children's Convenor and CICRA, which I think could easily be lifted into a piece of legislation.

2910 We have also got – and I think the most complicated aspect of it is the name – the States of Jersey (Powers Privileges and Immunities) (Scrutiny Panels, PAC and PCC) (Jersey) Regulations 2006. I may well have got that wrong, that is the most complicated aspect of that, but that basically gives the powers to the PAC and Scrutiny Jersey to issue summons, to issue persons,

documents and various things. I do not think that would be complex piece of legislation, so I would imagine that would be pretty straightforward.

2915 The other issues I would like to highlight are as Chair of Legislation Select Committee. Now, that has no resources at all, we borrow a minute-taker from the Greffe and we have various other law officers, but that particular committee has made moves. We do bring in Ministers and other members of staff to help us with our deliberations, we question them on the legislation and the policy behind that; and again, that is an area of scrutiny that really does need some additional resources.

2920 The question about meeting rooms, I have already addressed. If we are going to be expected ... the public expect, our Deputies expect and the media expect us to react to certain events; and again, just to re-emphasise, meeting rooms seem innocuous, but they are an important resource.

2925 In terms of access to legal advice, I would urge you to support that and of course being a member of the Public Services Department, I have had the need to make decisions and have decisions made on the back of legal advice; and of course I would more than welcome Scrutiny into that particular piece of advice, because it will show the public and fellow Members, how certain board members have come to certain decisions. So that is an important development and I think it is key. It will be very rare, it comes up occasionally, but it is a very rare occasion where that type of thing might be needed, but I think it is an important power and it is an important aspect of Scrutiny going forward.

2930 In terms of funding, as I said before, I supported the St Pier amendment. I think I will reiterate that it is important, and Deputy St Pier re-emphasised the fact that actually Scrutiny will have an additional benefit of being able to see the reasons for – if there are any reasons, I am hoping there aren't any reasons to reject the budget request – but where there are valid reasons, it is important that the States has that opportunity to debate those reasons and for the Scrutiny Management Committee during that process to put forward its case. And actually we are having a second bit of the cherry really there, if I was in that position.

2935 So we did think carefully – and I spoke to other members of the committee – about whether we should oppose that particular amendment. We did not, for the reasons that were set out by Deputy St Pier, so I am content with that.

I will leave Deputy Soulsby to sum up and cover some other areas, but that is all I wanted to say on that particular issue.

Thank you.

2945 **The Bailiff:** Deputy Soulsby.

Deputy Soulsby: Sir, I will start at the beginning, it is usually a good place to start.

2950 Deputy Gollop made a point about the memorandum of understanding and I hear what he says, but ideally we would have had a separate parliamentary service, but we did not think that appropriate mindful of costs and our system of Government.

We also considered whether the reporting line could be via the Greffier, but we did not think that made any more sense, it did not make it any more independent and also could also raise other issues.

2955 Deputy Gollop also refers to Treasury & Resources' letter of comment. Yes, I do think it was rather unfortunate, and I tend to agree that in fact it is a bit over the top and certainly where it said that we have not included the cost of legislative drafting, bearing in mind that none of those costs are included in the reports that we have been debating this month on the Central Register, Arbitration or Trading Standings, so I do not know why this committee was expected to be able to put those figures in.

2960 I agree with Deputy Fallaize that the staff should move from Sir Charles Frossard House and some management, but I can also understand Deputy Domaille's comment and why I think from a staff point of view they do quite like that idea of being close to the action, as it were.

2965 Deputy De Lisle: 'do more with less.' We have not *got* any legislative staff at all at the moment, so I do not know how much less that you can get on that front. (*Laughter and interjections*) We are vastly under-resourced –

2970 **Deputy De Lisle:** On a point of order, sir, it is not just legislative staff, we are talking about the Scrutiny staff and there are certainly more than zero staff members working for the Public Accounts and also for the Scrutiny at the current time, adding to at least four, I would say.

2975 **Deputy Soulsby:** In reply to Deputy De Lisle, we are going to be doing more and as I have said, in legislative scrutiny we have got nothing, but in terms of doing more, we are now having the powers to scrutinise external bodies – so we *do* need extra resources. And I have not heard a comment here from anybody else about the need for three more staff being too much. (*Laughter*)

Deputy De Lisle: Well you have heard it from me.

2980 **Deputy Soulsby:** Apart from Deputy De Lisle! (*Laughter and interjections*) Yes, Deputy Sillars, thanks. I think that is where we got to and why we focussed on the memorandum of understanding.

2985 Regarding the Annual Accounts process in reply to the Treasury & Resources Minister, I can confirm we are not looking at getting involved in the appointment of the auditors at all, and certainly that decision was made, and we have no problem with it quite frankly. What we want to do is make sure that the Scrutiny Management Committee has the powers as it does at the moment, and it has been undertaken by our audit panel and Public Accounts Committee, to scrutinise the Annual Audit Process, so how the auditors are undertaking their work, how Treasury & Resources are dealing with their work, whether the audit process is on time or not, and what the issues are. That's what we call 'acts of scrutiny'.

2990 As Deputy Jones says, with respect to Deputy St Pier's comments, I would say tough, we have already agreed that we want a stronger scrutiny function and we want to have more powers. I find it bizarre he calls the current scrutiny system a monster. I would say at the moment it is possibly an angry tomcat! (*Laughter and interjection*)

Deputy Luxon, thanks, I think he was saying we have arrived at a balance and, yes, that is what we have tried to do.

2995 Deputy Parkinson makes the point that Government has failed in terms of the Government service plan, which has made scrutiny harder, and he may well be right; and it has resulted in a vacuum which in turn results in frequent calls for Scrutiny to undertake all manner of different reviews, no matter what size or scale, I think – including planters on the seafront. So I think he makes a good point and I think he does make a good case for the next States to set out its priorities early on and to follow them, and that is something which I would completely endorse.

3000 And Deputy Conder: I think you covered very well the reason why we need that independent Scrutiny Management function to undertake the detailed scrutiny.

3005 Deputy Dorey, I hear what you say, but again we have had the debate on what research assistants we need and the power of the scrutiny function, so I think that that was all for last time; now we are setting out what powers and resources scrutiny function should have.

3010 Sir, this policy letter has been very important to me. Before the start of this term, I wanted to increase the powers and resources of the scrutiny function, and as Chair of the Public Accounts Committee, I have been increasingly frustrated about the lack of resources over the last four years. At times we have had no staff due to illness and it has meant that heavy reliance has been placed on both Members and non-States' members. I thank them all, as I believe the Public Accounts Committee is in a better place than it was in 2012.

Sir, I believe we have got the balance right, considering our consensus system of Government, the increased powers of the centre in the next term and the need for a critical mass that currently does not exist. I am therefore pleased to have been able to lay this policy letter and believe that

3015 the proposals will allow the scrutiny function to rise to the next level under the new machinery of Government.

The Bailiff: Members, the Propositions are to be found on pages 1163 and 1164 at the back of Billet IV. I will remind you that Proposition 4 has been replaced and Proposition 5 deleted, as a result of the successful amendment from Deputy St Pier and Deputy Kuttelwascher.

3020 There has been a request from Deputy St Pier for a separate vote on Proposition 6 and you are requesting a separate vote on Proposition 9? Yes, separate one on 9. Unless anybody requests any other separate votes, those are the two we will take separately.

3025 So, what I will do first is put to you the first four Propositions. So that is 1, 2 and 3 as printed and 4 as replaced by the amendment. So the first four Propositions together. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare them carried.
Next, Proposition 6. Those in favour; those against.

Members voted Pour.

3030 **The Bailiff:** I declare Proposition 6 carried.
Propositions 7 and 8. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare them carried.
And Proposition 9. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare Proposition 9 carried.

Billet d'État III

REQUÊTE

XXII. Island-wide Voting Referendum – Debate commenced

Article XXII.

The States are asked to decide:

Whether, after consideration of the Requête dated 17th November, 2015, signed by Deputy A M Wilkie and six other Members of the States, they are of the opinion:

1. To agree that, subject to the enactment of the necessary legislation and approval in a public referendum, with effect from the General Election to be held in June 2020 38 People's Deputies shall be elected in 8 electoral districts, one of which shall comprise the entire Island (including Herm and Jethou) and shall return 7 of those People's Deputies.

2. To direct the States' Assembly and Constitution Committee (and its successors) to lay before the States of Deliberation detailed proposals concerning the conduct of such a public referendum, to be held not later than 2018.

3. To direct the States Assembly and Constitution Committee (and its successors) to lay before the States detailed proposals of General Elections including an electoral district comprising the entire Island.

The Greffier: Billet III, Article XXII – Island-wide Voting Referendum. *(Cheers and laughter)*

3035

The Bailiff: And the debate will be opened by lead requérant, Deputy Wilkie.

Deputy Wilkie: Thank you, sir.

3040 May I start by saying how wonderful it is we have got through the business today so fast, that we have got plenty of time to be discussing my Requête right now. In fact we have got a day and a bit, sir, which is fantastic! *(Laughter and interjections)*

3045 In July 2014, this Assembly debated the Hadley Requête, and during that debate an amendment was laid by Deputy Laurie Queripel, which asked the States to approve the concept of a referendum and this was carried 22 votes to 21. However, due to the form of Island-wide voting that Deputy Hadley proposed in his Requête and the practical issues, such as Islanders having to read 80-odd manifestoes, issues surrounding hustings with 80-odd candidates, and the physical time at the ballot box selecting 38 candidates, led to the States quite rightly rejecting that form on Island-wide voting.

3050 Sir, the lessons I took away from this debate was that there was an appetite for a referendum. However, the system would have to be a workable solution to stand a chance of being approved by this Assembly.

3055 This shaped my thinking as I researched in depth the entire history of Island-wide voting and how a practical solution could be developed and laid before the States. In March of last year I emailed the Law Officers for advice on how the referendum could be binding on the States, as I did not want a repeat of the Jersey scenario where the referendum was basically ignored.

Developing a requête requires objectivity and the ability to test certain theories in an extreme manner, as you will have 46 Members doing exactly that. For example, sir, how do you decide how many Deputies should be elected on an Island-wide basis? As I have had a few questions on this issue, I would like to elaborate.

3060 The Requête suggests a partial form of Island-wide voting with seven Deputies elected on an Island-wide basis, which is not dissimilar to the former Conseiller system. This number made the most sense to me, as it would take one Deputy from each parish.

3065 I also took into consideration the reduction of Deputies and the removal of the Douzaine representatives who were present during the time of the Conseillers. Back then you had 33 Deputies, 10 Douzeniers and 12 Conseillers, which gave a total number of 55 Members of the States Assembly – with 22% being Conseillers, pre-2004.

3070 The new total number of Deputies post-2016, will be 38; and if Island-wide Deputies were to represent the same percentage of Conseillers that would be eight, Island-wide. After some careful consideration I decided to cut the numbers to seven, therefore avoiding a lengthy and unhelpful debate on which electoral district will lose an extra Deputy.

If we also do a benchmarking exercise with a similar jurisdiction – all the rage at the moment, sir – i.e. Jersey, they elect eight Senators on an Island-wide basis. So bearing all that in mind, we should be about right with seven.

3075 The argument that this is the wrong time to be discussing the issue of Island-wide voting, or that it has been discussed so many times before we should not even raise it, is a nonsense, sir. Nonsense! *(Laughter)* The most the most successful consultation ever carried out by this Government was on Island-wide voting – 6,837 Islanders' views were heard and over 80% were in favour of a form of Island-wide voting.

3080 To think that this issue will somehow go away is *naïve* – it simply will not; and as long as those views are held then we will see it again and again. We have an opportunity today to take Island-wide voting to the next logical stage. The referendum will give the public the decision on whether or not this form of Island-wide voting is the one that is acceptable to them.

3085 We know this electoral system works as we have had a similar one in the past, sir. So if Members are against Island-wide voting, then vote for the Requête and argue against it during the referendum. And if Members are in favour of Island-wide voting, then vote for the Requête and argue for it during the referendum.

Sir, I implore all Members to support this sensible, logical Requête.

3090 **The Bailiff:** Well, Members, the Chief Minister and the Minister and Chair of each of the Committees and Departments who have been consulted, have the right to speak next.

The Chief Minister probably has the right to speak, both as Chief Minister and as Chairman of the States Review Committee. I will call him first.

Deputy Le Toc.

3095 **The Chief Minister (Deputy Le Tocq):** Yes, I have several views, sir, so perhaps I should – (*Laughter*) as probably we all do! But as the comment mentions, the Policy Council discussed this and did what was required with regard to the Rules in terms of consultation and that is included in the comments attached.

3100 In terms of Policy Council, Members of Policy Council had a variety of different views and no doubt many of them will express them. They probably feel similarly to this Chamber and the microcosm of this Chamber itself, in terms of this particular Proposition.

3105 For myself personally, I have always advocated that an Island-wide constituency similar really to what is currently the case in Jersey, although they are called differently – they are called Senators – is something that should be considered, and so I am quite personally supportive; but, as I said before, Policy Council had a variety of different views with regard to this particular Requête.

Thank you, sir.

3110 **The Bailiff:** Next the Minister of the Home Department, Deputy Gillson.

Deputy Gillson: Sir, considering I am placing an amendment, I think I will just limit my comment at this stage to refer to the letter of comment, and I do not think that there is anything more we can add than what is contained in that letter.

3115 **The Bailiff:** Thank you. And then Deputy St Pier, the Minister of the Treasury & Resources Department.

3120 **Deputy St Pier:** Sir, just to draw Members' attention to Treasury & Resources' comments, which begin on page 1052 of the Billet. Broadly, we are reliant upon the input from SACC, in relation to the potential cost implications of this. They breakdown into two elements: one is the one-off costs of a referendum, which is estimated by SACC to be somewhere between £250,000 and £400,000, which we would need to fund from the Budget Reserve in year and obviously that would be a reasonably significant draw on the Budget Reserve in that year; and then, of course there would be the impacts of the quadrennial costs of each General Election and that would of course be taken account in the normal setting of cash limits for the year in which the election takes place, sir.

3130 **The Bailiff:** Next, the Chairman of the States Assembly and Constitution Committee, Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

3135 The Committee's opinion on this Requête, is set out from page 1057 of the Billet and attached to it is a report that was produced by its predecessor, which was a pretty comprehensive and thorough analysis of the various options for Island-wide voting. Therefore States' Members certainly have enough information before them today to make decisions on Deputy Wilkie's Requête and indeed on the amendment that Deputy Gilson has circulated – and I have nothing to add to what is in the Billet, sir.

3140 **The Bailiff:** I think there is to be an amendment that has not yet been circulated. Are you going to be laying an amendment, Deputy Wilkie?

Deputy Wilkie: Yes, sir, I thought it had been circulated.

3145 **The Bailiff:** No? Well can we just pause while that is circulated, so Members have a chance to read that?

Does everyone now have a copy of the amendment? Almost. I think probably it will be helpful to anybody listening if the Greffier read the amendment.

The Greffier read out the amendment.

3150 **The Bailiff:** It seems to me it makes sense to debate this amendment now, because the other amendment, I think will end up very much with general debate, whereas this amendment seems to be a separate one.

So, Deputy Wilkie.

Amendment

To add a proposition as follows:

'4. To direct the Committee for Home Affairs to lay before the States by no later than December 2017 a detailed proposal concerning the formation of an automatic electoral roll.'

Deputy Wilkie: Thank you, sir.

3155 This amendment comes out of what we have heard from Treasury and Resources' comment that is actually in the Requête where they are saying the referendum and the new electoral roll –

The Comptroller: Sorry, has the amendment been laid?

The Bailiff: Sorry?

3160 **The Comptroller:** Sorry, sir, has the amendment been laid? Formally laid and seconded?

The Bailiff: No, Deputy Wilkie is laying his amendment.

Deputy Wilkie: I am laying my amendment now, yes.

3165 And that it would cost somewhere between £250,000 and £400,000 for a referendum and a lot of that cost will be down to a new electoral roll. So what I want is when SACC comes back, that they have got as many options as possible.

3170 Now, there are many options that SACC may come back with: making a new electoral roll is one; the next could be deciding to roll over the referendum to nearer 2020; they could decide to use the current electoral roll; or they may go for the option of an automatic electoral roll, which amendment seeks to put on the table.

So the automatic roll could actually save the States between £150,000 and £250,000 every four years, sir, and it may improve the number of people voting.

3175 Sir, I think this amendment will assist SACC in their report and I simply ask all Members to support it.

Thank you, sir.

The Bailiff: And Deputy Green, are you seconding this amendment?

3180 **Deputy Green:** Yes, indeed, sir.

The Bailiff: Deputy Gillson.

3185 **Deputy Gillson:** Sir, may I suggest this goes further than the Propositions?

A Member: Yes, it does.

The Bailiff: Yes, it certainly goes further than the Propositions. So are you invoking Rule 13(6)?

3190 **Deputy Gillson:** I am indeed, sir.

The Bailiff: And are you asking that the amendment be not debated? Or that the debate on the amendment be postponed.

3195 **Deputy Gillson:** Not debated, sir.

The Bailiff: Not debated. I put to you then the Proposition that the amendment be not debated. Those in favour; those against.

Some Members voted Pour, others voted Contre.

3200 **The Bailiff:** Oh, I think those voting Contre shouted louder, but I think we need a recorded vote for me to be certain on this.

So you are voting on the Proposition that the amendment be not debated.

There was a recorded vote.

3205 **The Bailiff:** While the votes are being counted, Deputy Fallaize, can I just clarify? I was told that you wanted to lay your amendment after the voting on the Deputy Gillson amendment. Is that right? Or do you want your amendment to be ... are you suggesting your amendment be taken next?

Deputy Fallaize: I do not know who told you that, sir, it was not me. But I do not mind when it is laid.

3210 **The Bailiff:** Well, I think that was your Principal Officer might have told me.

Deputy Fallaize: Oh, most probably. *(Laughter)*

3215 **The Bailiff:** But yours is in a sense a free-standing amendment as well, so it could be taken next.

Deputy Fallaize: It could – I think it would be better if it was taken separately from the main debate and from Deputy Gillson’s; but when it is taken, is up to you sir.

3220 **The Bailiff:** Because I can imagine that there may be a lot of crossover between general debate and debate on Deputy Gillson’s amendment, as much as we might try and...

Deputy Fallaize: We can take it ... if you would like to take it next we can.

Deputy Gillson Proposition:

Not carried – Pour 19, Contre 23, Ne vote pas 0, Absent 5

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Sillars	Deputy Soulsby	None	Alderney Rep. McKinley
Deputy Luxon	Deputy Kuttelwascher		Deputy Le Pelley
Deputy O’Hara	Deputy Brehaut		Deputy Trott
Deputy Quin	Deputy Domaille		Deputy David Jones
Deputy Hadley	Deputy Robert Jones		Deputy Laurie Queripel
Alderney Rep. Jean	Deputy Le Clerc		
Deputy Harwood	Deputy Gollop		
Deputy Langlois	Deputy Sherbourne		
Deputy Bebb	Deputy Conder		
Deputy St Pier	Deputy Parkinson		
Deputy Gillson	Deputy Lester Queripel		
Deputy Ogier	Deputy Stewart		
Deputy Le Lièvre	Deputy Fallaize		
Deputy Spruce	Deputy Lowe		
Deputy Duquemin	Deputy Collins		
Deputy Le Tocq	Deputy Green		
Deputy James	Deputy Dorey		
Deputy De Lisle	Deputy Paint		
Deputy Inglis	Deputy Adam		
	Deputy Perrot		
	Deputy Brouard		
	Deputy Wilkie		
	Deputy Burford		

3225 **The Bailiff:** Well, Members, the result of the voting on the Proposition that the amendment be not debated, 19 votes in favour and 23 against. That Proposition was lost, therefore debate on the amendment will proceed.

Who wished to speak in debate?

Have we had it formally seconded? (**Two Members:** Yes.) Yes, we have. Thank you.

Deputy Gillson.

3230

Deputy Gillson: Thank you, sir.

I am surprised by this amendment, because we have got this workstream in train. I am not sure if it could possibly come back by December 2017, but when we were looking at the electoral roll in particular in relation to the by-election, we at the Home Department looked at what we would do in terms of a rolling electronic roll; and the plan of the Chief Officer of the Home Department who his registrar of elections, is that once the roll is closed and we are through this election process, there will be a comparison of the electronic role to the electronic census to identify any differences – but in particular to identify any names which are on the roll but not on the census, because that would identify a problem with the electronic census.

3235

3240

And then from that we will be able to determine whether improvements need to be made to the electronic census to capture any people that are on the roll but not on the census, or whether the electronic census data is correct up to – (*Interjection*)

The Bailiff: Deputy Domaille.

3245 **Deputy Domaille:** Sir, may I just ... from a point of clarification? How would this comparison deal with postal votes?

Deputy Gillson: You have to be on the electoral roll to do a postal vote.

3250 **Deputy Domaille:** I meant, comparing it to the census.

Deputy Gillson: The process of voting and the compilation of the electoral roll are totally separate. So the electoral roll closes way before the election.

3255 So the workstream is in train already to do this work and get it done as soon as possible. So it is every intention of the registrar of elections to have an electronic census by the next election, so this is not needed. It is going to be done and hopefully if the census data is appropriate, we will have it. So this is not needed.

And regarding the time of December 2017, this basically means the Home Department having written and submitted mid-September, which is only four or five months after the election –

3260 **The Bailiff:** No, next year.

Deputy Gillson: – sorry, next year, a year. Probably we would do it within that time anyway. This makes no difference really, this amendment – I do not think it does any good, whatsoever.

3265 **The Bailiff:** Deputy Stewart.

Deputy Stewart: Actually, I welcome this amendment from Deputy Wilkie and Deputy Green, because actually this fits in with what we are trying to do around the whole transformation programme. It is about citizens telling us once.

I have had to re-register again for this election and I got a nice piece of card through the post and it was all done very efficiently, but there is a cost to that and it seems needless until you start looking; and putting some real, drop dead dates in the ground about having an automatic census, to me, just makes an awful lot of sense.

3275 **The Bailiff:** Deputy Kuttelwascher.

Deputy Kuttelwascher: Yes, I support this.

3280 I am surprised anybody would not, because to have an automatically produced electoral roll, means that people will not have to bother registering, so everybody will be on it, who could vote. (**A Member:** Hear, hear.) Give and take any errors and gremlins that may be in the system, if there is anything that would help voting, or the turnout, then that has got to be it

3285 You would not believe I have sat in polling booths when I was a Douzenier, and people would come into vote and they are not on the roll. And then they are rather surprised – and that still happens, for whatever reason. So I think this is a good idea.

The point made by Deputy Gillson, about they might not get it back before December 2017. So what? How many late reports have we had so far in this particular session? You just come back and explain the situation, it is no big deal; you are not going to get guillotined or anything like that (*Laughter and interjections*) for coming back late.

3290 So I will support this, wholeheartedly.
Thank you, sir.

The Bailiff: Deputy Bebb.

3295 **Deputy Bebb:** Thank you, Monsieur le Bailli.
Could I ask for some clarification by H.M. Comptroller?

We know that currently the electoral roll has changed – that we update our electoral roll every four years ... as to whether there are any implications in law as to changing the law that would be necessary in order to form the census?

3300 Also, what implications there might be in relation to data protection, because I think that is an issue that needs to be considered when we actually look at this amendment.

The Bailiff: Madame Comptroller?

3305 **The Comptroller:** Yes, I am not sure I have fully understood, with apologies if I have not. But in relation to changing the census – presumably you mean reference to the automatic roll, sir, rather than – because they are two slightly different things.

Deputy Bebb: No, sorry.

3310 My question was in relation to the electoral roll being formed, as to why the reasons are in Law that we refresh and renew our electoral roll every year – every four years, sorry.

3315 **The Comptroller:** Well those are provisions in the Law as far as I am aware. I do not have it front of me, but I can quickly turn to it – in fact I see the Bailiff does have it in front of him, so maybe –

The Bailiff: Would you like to borrow my copy. If it is in here –

3320 **Deputy Gillson:** Sir, perhaps I could shed some light on Deputy Bebb's question?

The Bailiff: Deputy Gillson.

3325 **Deputy Gillson:** My understanding, after speaking to the Registrar of Elections, is that the Law enables us to have the electoral roll new every four years, we could continue the same one but it is a matter of accuracy and to ensure the electoral roll for an election is accurate, we have a new one.

3330 I think in 2008, we rolled over the 2004 electoral roll and there were so many errors in it (*Interjections*) and with people having moved house, people died, etc, it was determined it was better to have one each time.

The Comptroller: Sir, yes, just on a very quick reading of this under section 25, it makes clear that the electoral roll is valid until such date as the States determine by ordinance, so I think it is probably because we've got the provisions covered in ordinance, but obviously I do not have that right in front of me now, but that's the provision of the Primary Legislation.

3335 Thank you, sir.

The Bailiff: Sorry, in relation to data protection, are there any other considerations that we should have?

3340 **The Comptroller:** Well, there will be considerations under Data Protection Legislation, but there are also exemptions under Data Protection Legislation in certain circumstances.

3345 I am aware that there are automatic electoral rolls in other countries. I know that the UK made a recent provision for an automatic electoral roll but that goes back to, in some circumstances, already – and this is why we would need further consideration of what's meant by 'automatic roll', because in some circumstances, where persons are already on an existing roll they are simply rolled forward and then new persons are added to that roll.

So those would be part of the consideration, in the event that this is approved, that is something that we would need to consider further, sir.

Deputy Bebb: I thank H.M. Comptroller for that.

3350 I think that the concern I have is that there are a number of issues and questions really, concerning having an automatic enrolment, that are not immediately evident. There are some very serious questions that we should have consideration of our laws.

Now, I hear a lot of people saying, 'Well, this is a good idea, we should definitely have this' – and strangely enough the States have thought that that is a good idea – the States thought that we should have this and the Home Department is looking into it.

3355 So I ask you: why are we therefore producing superfluous resolutions? Why are we ...? *(Interjection)* Thank you! Deputy Gollop has actually made the point perfectly – it is a gesture! *(Interjection)*

3360 Can we stop with the gesture when it comes to our electoral system? It brings this Assembly into disrepute ... 'I think this is a good idea,' as though we are actually picking jam or toffee or something as our latest sweets. We are not! We are talking about the democratic system of our Government and I just find it bizarre that people think that it is a good idea so we should just vote for it. There are very serious considerations to be had.

3365 I seriously think that the light-hearted nature of this debate to date on this amendment, does not take account of the very serious nature, that we are supposed to be a mature democracy and that is not the reflection of what I am hearing about this amendment to date (**Several Members:** Hear, hear.)

3370 There is already work being undertaken in order to do this work. December 2017 might not be a reasonable timeframe according to the Minister of that very Department, and then to hear someone say, 'Well it doesn't matter about the dates, because everybody doesn't really pay attention to the States' Resolutions.'

Well if we do pass ones that cannot be realised, of *course* nobody is going to pay attention to States' Resolutions; so maybe we would like to pass resolutions that are reasonable and can be met, so that maybe we start paying more attention to States' Resolutions.

3375 Members, please reject this piece of gesture.
Thank you.

The Bailiff: Chief Minister.

3380 **The Chief Minister (Deputy Le Tocq):** Thank you, sir, I will be brief because Deputy Bebb as basically said what I was going to say, perhaps slightly more indelicately than I would have done *(Laughter)* but nevertheless ...

3385 I do find myself in an odd position because I did not come in here prepared for a debate on having the formation of an automatic electoral roll and yet I totally believe in doing that, and so I have not got the information. And now we have got speculation about what that might look like and all that happening.

3390 I am totally in favour of the argument, sir, that Deputy Stewart made, because he and I have been involved over the last couple days in between times, supporting the opportunities that we have got for digitalisation with an e-Government, and this sort of fits into it. But actually this is quite separate to the debate that we had started off this afternoon. And so particularly because of the comments made by the Home Minister, that this is being looked at ... and I was well aware of that from our own involvement in Policy Council, with regard to the e-census.

I think it is silly for us to be wasting time on something that is happening anyway, irrespective of the timings and all the rest of it. Let's just go to the vote, please.

3395

The Bailiff: Deputy Lowe.

Deputy Lowe: I wanted to say very similar, sir.

3400 I am disappointed to have this, because Deputy Wilkie is on Home Department, he knows what we are actually doing at Home Department and I concur – this is really time-wasting, when we know that work is in progress.

So I ask States' Members to take heed of the Minister of Home Department's reassurance – this is work we are already doing and Deputy Wilkie knows that.

3405 **The Bailiff:** Deputy Gollop:

Deputy Gollop: Very quick point, because of what has been said.

3410 If you look at page 340, which was several days ago, of the Billet d'Etat for this month. We voted, quite rightly, to look at, at least, a central register of contact details – not by the Home Department, by the Policy Council. And today we hear the Home Department from Deputy Lowe and Deputy Gillson and Deputy Le Tocq, are actually working on this.

3415 I see this amendment, not just as a gesture – and by gesture, I mean a gesture of goodwill to the public – (*Laughter and interjections*) but also as reinforcement. A reinforcement of a message that it is a project that needs to be prioritised and needs to be worked through. The opt-ins, the opt-outs, the people who are not counted – all have to be done.

3420 We heard from the Minister that December 2017 was an ambitious time frame. I would say in some parts of the private sector it would be that December 2016 would be conservative – 18 months or 20 months for work on this level, with perhaps a little bit of leeway to the New Year, the following year. I think it is achievable and I think we need to realise that the electorate do not want to have another advertising campaign every few years. What they want is certainty that they are on the roll.

Several Members: Hear, hear.

3425 **The Bailiff:** Deputy Dorey.

Deputy Dorey: Sir, I will be very brief.

3430 All Members should know that this work was going on, because I brought it up and others did in that previous debate which Deputy Gillson mentioned – in his summing he gave an undertaking that they were doing it. So we know it is being done and it is not necessary. I completely agree.

Several Members: Hear, hear.

3435 **The Bailiff:** Alderney Representative Jean.

Alderney Representative Jean: During the 1990's we had this remarkable debate and the Conseillers lost their seats in this Assembly. They were Island-wide, there was Island-wide representation then through the office of Conseiller

3440 The whole thing was unfortunate it went the wrong way round.

The Bailiff: Are you talking just on this amendment?

3445 **Alderney Representative Jean:** I am talking to the amendment, and what I am saying is I would like to lift the point that Deputy Gollop has said. He is quite correct. If this is an agitator and a stimulus to keep this moving in the right direction – and I am glad of the assurance from Deputy Le Tocq because I believe in Island-wide representation.

It is a difficult subject when you have got as many Deputies in this Assembly, even though the number will be reduced to 35, I realise that it is a difficult subject because – (*Interjections*)

3450 Yes, okay, I accept ... that was the point I wanted to make.

Deputy Fallaize: On a point of correction, sir, it is being reduced to 40 Members – alas, 35 was thought too far at this stage. *(Laughter)*

3455 **The Bailiff:** That says there's another amendment coming! *(Laughter)*
Deputy Wilkie.

Deputy Wilkie: Thank you, sir.

3460 It is good to bring some sanity to this debate now. I would like to thank Deputy Gillson for ... I *think* he is supporting my amendment as he is saying – *(Interjections)* okay, about the work going on already.

3465 Well yes, the work is going on already and I know when the work can be finished because I have checked with the staff and I have asked them; and the reason we need this amendment is that when SACC comes back in 2018, we have got everything on the table. That is why this amendment says it is got to come back in December 2017. That is the reason why we need this amendment.

Now, the staff have told me it can be done, so Members can vote for this knowing that next time or the next States can have all the information on the table they need to decide on the referendum.

3470 Thank you, sir. I would ask all Members to ask for this. Thank you.

The Bailiff: Members, you are voting on the Amendment proposed by Deputy Wilkie, seconded by Deputy Green, Those in favour; those against.

Some Members voted Pour, others voted Contre.

The Bailiff: It seems to me that is defeated. *(Interjections)* Recorded vote.

3475 So this is a recorded vote on the amendment proposed by Deputy Wilkie, seconded by Deputy Green.

There was a recorded vote.

The Bailiff: Whilst those votes are counted, I suggest that we move on to the amendment to be proposed by Deputy Fallaize and seconded by Deputy Conder.

Do you wish that to be read, or are you going to?

3480 **Deputy Fallaize:** No sir, it is okay, I can read it, sir.
It is to insert a new Proposition 3 in the following terms:

'3. To rescind Resolution 38 of the 9th July 2015 on Billet d'Etat XII of 2015.'

I will not read out the Resolution 38 of 9th July 2015, but it is attached to this amendment.

3485 Members will see that what was resolved by the States in July 2015, after an amendment laid by Deputies Queripel and Green, was a direction to the next States Assembly and Constitution Committee to consider and investigate a range of workable methods of electing People's Deputies, including the possibility of all or some being elected in a single electoral district ... and including an investigation into single transferable voting ... and to present workable models to the States by no later than June 2018, and also to examine whether any recommendations made by the Committee and subsequently approved by the States, might usefully be put to a referendum.

3490 So that in a sense is a direction to the next States Assembly and Constitution Committee to carry out a full review of the electoral system.

What is proposed in the Requête is a new electoral system to take effect from 2020. Now, it seems to me and to the other members of the Committee, quite obvious, that if the States today

3495 or tomorrow, have decided what the electoral system will be in 2020, it is absolutely pointless to leave in place a Resolution which directs the next States Assembly and Constitution Committee to review the electoral system.

It would raise the possibility of the next committee recommending an electoral system for 2020 which is different from that already approved by the States, following consideration of this Requête and from a governance perspective, if you like, it is just a waste of time.

3500 Now, the opinion of the States Assembly and Constitution Committee which will be quite obvious to anyone who has read the letter of comment, is that the States should stick with the review which was directed at the meeting in July 2015 and that the correct way to go about this is for the next committee to carry out a thorough review to look at all of the options – not just in respect of Island-wide voting but all of the options for electoral reform – and to lay considered
3505 recommendations before the States in 2018, and potentially to put those recommendations to a referendum.

But the most unsatisfactory option would be to approve the Requête and to leave in place a direction for the next States Assembly and Constitution Committee to carry out a thorough electoral review, because that would be a total waste of time, and therefore what the Committee
3510 is attempting to do with this amendment, is to insert a Proposition which allows the States to rescind their previous Resolution from July 2015 in the event that they vote for Deputy Wilkie's Requête – or indeed, for Deputy Gillson's amendment and then the Requête as amended.

What we are saying is, please do not support the Requête and put in place ... decide, effectively, what the electoral system will be in 2020 and then leave in place this review of the
3515 electoral system to take place in the next States' term.

I hope that the intentions of the Committee are clear and I would ask Members to support this amendment, whatever they think about the merits or otherwise of Deputy Wilkie's Requête and to insert this additional Proposition.

Thank you, sir.

3520

The Bailiff: Deputy Conder, are you formally seconding the amendment?

Deputy Conder: I am, yes.

Amendment by Deputies Wilkie and Green:

Not carried – Pour 12, Contre 31, Ne vote pas 0, Absent 4

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Kuttelwascher	Deputy Soulsby	None	Deputy Trott
Deputy Robert Jones	Deputy Sillars		Deputy Laurie Queripel
Deputy Le Clerc	Deputy Luxon		Deputy Le Pelley
Deputy Gollop	Deputy O'Hara		Deputy David Jones
Deputy Sherbourne	Deputy Quin		
Deputy Parkinson	Deputy Hadley		
Deputy Stewart	Alderney Rep. Jean		
Deputy Collins	Alderney Rep. McKinley		
Deputy Green	Deputy Harwood		
Deputy Paint	Deputy Brehaut		
Deputy Brouard	Deputy Domaille		
Deputy Wilkie	Deputy Langlois		
	Deputy Conder		
	Deputy Bebb		
	Deputy Lester Queripel		
	Deputy St Pier		
	Deputy Gillson		
	Deputy Ogier		
	Deputy Fallaize		
	Deputy Lowe		
	Deputy Le Lièvre		
	Deputy Spruce		

Deputy Duquemin
Deputy Dorey
Deputy Le Tocq
Deputy James
Deputy Adam
Deputy Perrot
Deputy De Lisle
Deputy Burford
Deputy Inglis

3525 **The Bailiff:** Good.

Just before I go to Deputy Wilkie I can announce the result of the voting on the amendment proposed by Deputy Wilkie, seconded by Deputy Green, there were 12 in favour and; 31 against. I declare that amendment lost.

3530 Deputy Wilkie, as the lead requérant, do you wish to speak on this amendment at this stage, or do you wish to ... ?

Deputy Wilkie: I will reserve my right to speak later.

3535 **The Bailiff:** You reserve the right to speak later.
Deputy Parkinson.

3540 **Deputy Parkinson:** Sir, Deputy Fallaize said that that Proposition 3 would only apply if Deputy Wilkie's Requête was approved, but I do not read that in terms of the amendment. The amendment simply says 'to insert a new Proposition 3 in the following terms: to rescind the resolution etc. etc.' – which to me leaves open the possibility that the States could in theory vote against Deputy Wilkie's Requête and approve the new Proposition 3, leaving absolutely (*Interjections*) nothing on the table.

So could Deputy Fallaize perhaps clarify how he sees this is going to work?

3545 **Deputy Fallaize:** I appreciate the point that Deputy Parkinson makes, but what I meant was that the amendment is being laid in order to give the States the opportunity to rescind the previous Resolution in the even they vote for Deputy Wilkie's Requête.

3550 Now, I entirely accept the circumstance, which Deputy Parkinson has outlined *are* a possibility – the States could reject Deputy Wilkie's Requête and then vote in favour of the new Proposition 3 if the amendment is successful, which would mean no decision on the electoral system in 2020 and no review of the electoral system in the next term.

3555 But that is not the advice of the Committee. The advice of the Committee is to reject Deputy Wilkie's Requête and then to reject this new Proposition 3, if it has been inserted. But the problem is, there is no way of introducing this sort of amendment after we have voted on Deputy Wilkie's Requête; so without this amendment we could have a situation where the States vote for Deputy Wilkie's Requête, which establishes an electoral system for 2020, and we would still have in place the Resolution, which directs the next SACC to review the electoral system.

3560 Now, I suppose, sir, if you and the States permit it, we could add a word or two to the amendment so that the States would vote on Deputy Wilkie's Requête, or the Propositions as amended and this at the same time, so in effect this would fall if Deputy Wilkie's Requête was rejected. And if you are happy for that to happen, sir, then we can do that.

But otherwise there is no way of introducing this amendment, because we cannot introduce it *after* Deputy Wilkie's Requête has been successful –

3565 **Deputy Hadley:** Mr Bailiff, on a point of correction.

The Bailiff: Deputy Hadley.

3570 **Deputy Hadley:** Surely, what we are doing is ... we are amending the Requête by passing this amendment, and then if we vote against the Requête, this amendment automatically falls with it. *(Interjection)*

The Bailiff: No.

3575 **Deputy Fallaize:** No, I do not think that's right, sir, because we could vote individually couldn't we, on the Propositions that are attached to the Requête?

So if Members would be happier then I can ... we do not need to speak it again – I can redraft the amendment so that, in the event that Deputy Wilkie's Propositions lose, then this amendment, if its accepted, that the Proposition would just fall. If you are prepared to allow us to do that, sir?

3580

Deputy Hadley: But again, Mr Bailiff, in the past when amendments have been passed, you have said to the Assembly, that you now ask for a vote on the amended Requête – and that is what would happen in this case. We are amending the Requête ...

3585 If this amendment is passed, we will debate the Requête and then at the end of the debate, you will ask the Assembly to vote for the amended Requête. So if we vote against it that amendment falls.

The Bailiff: But, Deputy Hadley what we could do is take the Proposition separately, so that we vote separately and therefore we know whether Proposition 1 or 2, or whatever it might be, have succeeded or not, before Members come to vote on this new Proposition.

3590

Deputy Fallaize: Sir, the simplest thing to do, to address this concern, would just be to stick above the new Proposition 3, the words 'and in the even the event that Propositions 1 and 2 are carried' – and then have a 3. So that if 1 and 2 are not carried, this new Proposition 3 will fall automatically.

3595

The Bailiff: Does this replace the original 3? Is that the intention?

Deputy Fallaize: Well, it says to insert a new 3. *(Interjections)*

3600

The Bailiff: Should it be 4?

Deputy Fallaize: Oh, okay.

3605 Okay, that is the wrong number, sir, yes. *(Interjections)* It ought to be ... As I said, sir, it was the staff that arranged all this! *(Laughter)*

Sir, since the amendment needs to be amended anyway, would you be happy if we added these words, that I have just described, as well, please.

The Bailiff: So, the words are? If you could just repeat them and I will note them down ... 'In the event that ...'

3610

Deputy Fallaize: 'In the event that Propositions 1 to 3 are carried, to insert a new Proposition 4 in the following terms;' and then '4. To rescind resolution 38 of the 9th July ...' etc. etc. *(Interjections)*

3615

The Bailiff: 'In the event that Propositions 1, 2 and 3 are carried, to insert a new Proposition 4, in the following terms: 4. To rescind Resolution 38 of the 9th July 2015 on Billet d'Etat XII 2015'.

I think that works doesn't it, H.M. Comptroller?

3620 **Deputy Bebb:** Monsieur le Bailli, I am afraid I do not think it does work, because of course it then leaves open the possibility that if the Requête is passed, then obviously it is possible for people then *not* to vote, for the new Proposition 4.

The Bailiff: Indeed.

3625 **Deputy Bebb:** It does not matter which way round it happens, there is the possibility of the States making strange decisions and that always seems to be the case when it comes to Island-wide voting.

3630 **Deputy Fallaize:** Sir, there is nothing to guard against the States making silly decisions. *(Laughter)* Some people would say the States make silly decisions all the time!

But the circumstances which Deputy Bebb has just described are not a problem. If the States want to vote against Deputy Wilkie's Requête and then want to vote in favour of the new Proposition –

3635 **Several Members:** The other way round.

Deputy Fallaize: – or the other way round – it is not a problem.

3640 What we are trying to attempt here is to guard against what Deputy Parkinson raised, which is a perfectly fair point, that the States could reject, effectively, the prayer of Deputy Wilkie's Requête and then also kick out the direction to SACC to carry out a review in the next term.

A Member: What's wrong with that?

A Member: Why not?

3645 **Deputy Fallaize:** Because it seemed to me that the Assembly was suggesting that they would prefer not to be put in that position.

Sir, could you put the amendment to the amendment to the vote please? *(Laughter)* And then we will just be able to debate the amended amendment.

3650 **The Bailiff:** It is getting late in the day. Would it be helpful if we just rose for five minutes **(Several Members:** Yes.) and just circulate an amendment in fresh terms, which we will then lay afresh I think?

H.M. Comptroller what do you think?

3655 **Deputy Fallaize:** I wish now I had done it by the same method that Deputy Perrot used yesterday, then it would not have even had to be circulated.

3660 **The Comptroller:** Sir, I think at the very least it would have the advantage of making what the effect of this might be clearer to Members than it currently is.

The Bailiff: Have you got the text of this?

3665 **The Comptroller:** Sir, yes, but I can have a quick chat with Deputy Fallaize outside and we can expedite something.

The Bailiff: Yes, fine. Thank you. We will just rise to enable this amendment to be recirculated.

*The Assembly adjourned at 4.56 p.m.
and resumed its sitting at 5.13 p.m.*

**Island-wide Voting Referendum –
Debate continued**

The Bailiff: The revised amendment is now being distributed.

3670 Greffier, would you like to read it for the benefit both of those who are listening and for anybody who has not yet got a copy?

The Greffier read out the revised amendment.

The Bailiff: Right, we will just pause while the last few copies are handed out. This replaces the earlier amendment. Slightly unorthodox, but we know what we are doing!

Right, Deputy Fallaize.

Amendment

After Proposition 3, to insert:

'In the event that Propositions 1-3 have been carried:

4. To rescind Resolution 38 of the 9th July 2015 on Billet d'État XII of 2015.'

3675 **Deputy Fallaize:** Thank you, sir, and I thank you for allowing this replacement amendment to be circulated.

The wording here gives effect more carefully to the Committee's intention which, as I said, is that in the event that the States have approved Deputy Wilkie's Requête and therefore determined the electoral system in 2020, the previous Resolution which directs the Committee to carry out a review of the electoral system in the next term should be rescinded.

3680

In the event that Propositions 1-3 are lost – Deputy Wilkie's Requête is lost, whether amended by Deputy Gillson's amendment or not – then the States would not vote on this new Proposition 4, because it takes effect only if Propositions 1-3 have been carried.

On that basis sir, I hope the States feel able to vote for this amendment and to insert this new Proposition 4, in order that they can remove this direction to the next committee if the States then go on to vote for the Requête.

3685

Thank you, sir.

The Bailiff: Deputy Conder, do you formally second the revised amendment?

3690

Deputy Conder: I do sir.

The Bailiff: Thank you. Deputy Wilkie, do you wish to speak on it?

3695 **Deputy Wilkie:** No, I reserve my right to speak, sir.

The Bailiff: I do not know that anybody else wants to speak. *(Laughter)* So nobody else wants to speak, so you can speak.

3700 **Deputy Wilkie:** Sir, I have no problem with this amendment and I will just keep it short and everyone can carry on and vote.

Thank you.

The Bailiff: Thank you. Anything you wish to say, no?

3705

Deputy Luxon: I fully agree with Deputy Wilkie, sir.

The Bailiff: Good. We vote then on the revised amendment proposed by Deputy Fallaize, seconded by Deputy Conder. Those in favour; those against.

Members voted Pour.

3710 **The Bailiff:** I declare it carried.

Now, Members, that leaves one single amendment – the amendment to be proposed by Deputy Gillson, seconded by Deputy Lowe.

3715 It has just gone quarter past five and it seems ... *(Interjections)* Oh sorry, no, Deputy Lowe I think is now going to second it rather than Deputy Green. *(Interjections)* It has changed. No, please cross out Green and write L-o-w-e. *(Laughter and interjections)* I am trying to save paper.

3720 It is now 17.17 – one minute of filibustering so we are that much closer to 5.30 p.m. What I propose is that we rise now. We have to finish sharp at 5.30 p.m. anyway to enable the Chamber to be got ready for the meeting that is happening later, and rather than just start an amendment that I am sure we are not going to finish I suggest we rise now and resume tomorrow morning. Those in favour; those against.

Members voted Pour.

The Bailiff: We will resume at 9.30 a.m.

The Assembly adjourned at 5.19 p.m.