



**OFFICIAL REPORT**  
**OF THE**  
**STATES OF DELIBERATION**  
**OF THE**  
**ISLAND OF GUERNSEY**  
**HANSARD**

**Royal Court House, Guernsey, Friday, 1st August 2014**

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**Present:**

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

**Law Officers**

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R. Domaille, A. H. Langlois, R. A. Jones

**St. Peter Port North**

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R. Conder, M. J. Storey, L. C. Queripel

**St. Sampson**

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

**The Vale**

Deputies L. B. Queripel, 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, S. A. James, M. B. E., A. H. Adam

**The West**

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**The South-East**

Deputies H. J. R. Soulsby, R. W. Sillars, P. A. Luxon,  
F. W. Quin, M. P. J. Hadley

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Alderney Representatives L. E. Jean and R. N. Harvey

**The Clerk to the States of Deliberation**

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D. J. Robilliard, Esq. (H.M. Deputy Greffier)

**Absent at the Evocation**

H. E. Roberts Esq., Q.C. (H.M. Procureur)  
Deputy E. G. Bebb (*relevé à 8h 50*), M. J. Fallaize (*relevé à 9h 08*), D. B. Jones (*indisposé*),  
J. P. Le Tocq (*relevé à 9h 08*), A. M. Wilkie (*relevé à 10h 31*), M. G. O'Hara (*indisposé*)

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# States of Deliberation

*The States met at 8.33 a.m.*

[THE BAILIFF *in the Chair*]

## PRAYERS

*The Senior Deputy Greffier*

## EVOCATION

# Billet d'État XVI

## ENVIRONMENT DEPARTMENT

### IX. Waste Disposal (Management) Plan – Propositions carried

*Article IX.*

*The States are asked to decide:*

*Whether, after consideration of the Report dated 20th May, 2014, of the Environment Department, they are of the opinion:*

- 1. To approve the draft Waste Disposal Plan, as attached to the Report, in accordance with section 31(3) of the Environmental Pollution (Guernsey) Law, 2004.*
- 2. To direct the preparation of such legislation as may be necessary to give effect to the above decision.*

**The Senior Deputy Greffier:** Billet d'État XVI, Article IX. Environment Department – Waste Disposal (Management) Plan.

5       **The Bailiff:** Deputy Burford, the Minister of the Environment Department, will open the debate.

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

10       For several reasons, I find it somewhat odd presenting this Report. The first reason is that it is not a report of the current Environment Department Board. This Report was approved by the previous Board under the previous Minister and filed with the Policy Council before the subsequent election of the new Board.

15       The new Board did consider carefully whether to withdraw the Report in order to spend time reconsidering the detail – such as a potentially amended report could be submitted by the new Board. Of course, in order to do this the three new Members would have to spend considerable time reviewing not just this Report but also previous waste strategy reports.

20       Given that this work had already been done fully and at length by the previous Board who agreed the Plan by a majority, it was difficult to see what could be gained by this course of action, with the exception of possibly obtaining unanimous support rather than support by a majority of Members. Even if this had occurred, it would not have changed the minds of Deputies Paint and Spruce, who I am sure will take their rightful opportunities to explain why they do not support this Report.

25       Additionally, looking at the matter corporately, the Public Services Department is keen for the Waste Disposal Plan to be signed off by the States as a necessary part of progressing the Waste Strategy. The urgency is because it is the Waste Plan that the tenderers will have to operate under and hence they need the confidence that the tenders they are preparing meet with the States' direction.

It is not denied for a moment that we find ourselves in an odd situation with the cart firmly before the horse. As things stand, the law requires the Environment Department to present the Waste Disposal Plan to the States. The Plan sets out how waste will be dealt with over the life of the Plan and it is the Plan that the Regulator turns to for guidance when considering what infrastructure can be licensed and what conditions

30 might be attached to the licences. And yet the Public Services Department is already well down the route of tendering the infrastructure to deliver the strategy approved in 2012, but in the absence of a Waste Plan.

That is not to say the Public Services Department is doing anything wrong as they are following the direction of the States, and it was the States in the first instance that directed the Public Services Department to propose a Waste Strategy as a result of the Lowe Amendment in 2010. That has led to the situation where I am presenting a Report that we are required to present under legislation, but in essence it is a Report asking the States to support a Plan that delivers a strategy that the States has already directed be implemented.

Of course that need not be the case. The Department could have brought a Waste Disposal Plan proposing a very different option than the strategy already approved by the States. That would of course have appeared as the Department ignoring the will of the States and would have carried all the criticism and accusations that attach to such actions. However, the Department is obliged to operate in accordance with the law, and the law requires the Department to bring its recommendations rather than simply sanction those presented by the Public Services Department and approved by the States.

So in the light of the fact the States has already approved PSD's recommendations and the tendering exercise has already commenced, how does the Environment Department fulfil its legal obligation to bring its recommendations for a Waste Disposal Plan to the States?

It could, of course, have appointed a raft of consultants to provide it with advice in the same way that the Public Services Department had already done. It could have started with a blank sheet of paper and identified the issues, options and risks etc. It could have held various consultations and focus group meetings in order to ascertain from an environmental perspective, as opposed to a waste management perspective, what the best options for dealing with Guernsey's waste might be.

It could then have number-crunched the output from those sessions into a developing policy and options appraisal, ultimately ending some two or more years later with its own evidence-based assessment of the options and its own resultant best practical environmental option, around which to draft the Waste Management Plan. If that Plan turned out to be at odds with the proposals submitted by PSD and approved by the States, then there would have been an evidence base on which to substantiate that position.

We – by which I mean the previous board – did none of those things. Such duplication of the wide ranging consultation already held by public services would have been an obscene waste of money and time. So what did we do? In practice, we did about the only thing that was still open to us, we acted in a scrutiny function and assessed the way PSD had approached the subject matter, what assumptions they had made, how they had handled the data and number crunched the evaluations and how they formulated their strategy proposals.

And that is another reason why this is an odd situation: it is a Report that Environment would not normally do, but which perhaps Scrutiny might. It is an evaluation of another Department's work and, in a further twist, a Department that I was a Member of until a few months ago.

I think I need to dwell on that last point for a moment. As Deputy Luxon will no doubt confirm, if you ask the five Members of Public Services each to write their own waste strategy, whilst there would be a reasonable degree of commonality, by no means would there be unanimity.

This is not a debate on the Waste Strategy so I will refrain from falling into a reprise of my favourite waste strategy. The time for promotion of individual schemes and preferences has passed. (A Member: Hear, hear.) The salient point that I am making, however, is that the Waste Disposal Plan does not, indeed *cannot*, say what the perfect waste strategy for Guernsey is.

Finally, the Propositions in the Report were amended by the Policy Council after the Department filed its report, to insert a Proposition to approve legislation when the main Report does not call for any legislation. But we can put that one down to simple administrative error, with no impact.

So where does all this take us? Well, the Environment Department has done its best to evaluate the previous work of the Public Services Department, but more from a global environmental policy perspective than from a single waste management policy perspective.

In doing so, the Department has identified a number of areas of concern, but they are concerns which were largely held or perceived to be held by others anyway, and which have over the life of developing the strategy, been well voiced and debated.

The Department has been unable to wholeheartedly endorse all the assumptions of the Public Services Department and hence cannot wholeheartedly say: 'Yes, we agree that what has been proposed in the strategy is without any shadow of a doubt, the best practical environmental option for Guernsey.'

But what we have been able to say is that what has been proposed in the strategy would certainly rank up there with other potential options as being amongst the best practical environmental options for Guernsey, and we have been able to conclude that, taking into account the will of the States, the consultations undertaken by PSD and all the other work, there are no substantive grounds whatsoever on which we should seek to set aside the States' Approved Waste Strategy. And hence we are able to conclude

that it is right and proper to draft the Waste Disposal Plan to embrace and give legal authority to the strategy.

This then is what we have done and the Plan presented alongside this Report endorses the waste strategy that the States approved. As I have already mentioned, this was not a unanimous decision of the then Environment Department Board and hence Members will note that Deputies Spruce and Paint have made clear their dissent in the Report.

Sir, Members may well have questions about the Waste Strategy that they want to raise today, but I think that it is only right and appropriate that I restrict my answers to those that directly relate to the Waste Disposal Plan. This is not a debate about the Waste Strategy, which has already been approved by the last Assembly and endorsed by this Assembly.

I ask Members to approve this Waste Management Plan as recommended in the Report.

**The Bailiff:** Well, Members, a sursis has been circulated and I will invite Deputy Paint to open debate on the sursis.

*Sursis:*

*To sursis the Propositions and to direct:*

*a) the Environment Department to work with the Waste Disposal Authority (currently the Public Services Department) with a view to resolving the many concerns identified by the Environment Department about the draft Waste Disposal Plan attached to that Report;*

*b) the Public Services Department (as the current Waste Disposal Authority) to make revised recommendations to the Environment Department to enable Environment Department to produce a revised draft Waste Disposal Plan addressing the above concerns;*

*c) the Environment Department to present such a revised draft Waste Disposal Plan to the States of Deliberation by no later than March 2015, accompanied by sufficient information and analysis to enable the States to make an informed decision in light of relevant EU legislation and International Conventions about whether or not to approve that revised draft Plan as the Waste Disposal Plan in accordance with section 31(3) of the Environmental Pollution (Guernsey) Law, 2004.*

**Deputy Paint:** Sir and Members of the Assembly.

First of all I would like to express my disgust in the events that took place in this Court room after the meeting was closed yesterday evening. It looked like a scene from the House of Commons with the Deputy throwing his dummy out of the pram and strewing papers all over the floor.

It is true that there were technical errors in the sursis we placed yesterday, but that was not the fault of either myself or Deputy Queripel. Yesterday's event was an attempt to intimidate us. Well, it has failed completely. I will always act in a manner that I believe is right for the people of Guernsey and not because others try to push me into agreeing with something that I do not agree with or that I am very doubtful about, which is the case I am in today. One can only ask what prompted bad behaviour like this. Is there something to hide?

Now to the business at hand. It is difficult to see how practically any waste disposal plan can be established without clearly defined knowledge of the costs, the long-term validity of all elements involved and the full knowledge of the environmental effects of all these elements. Not only would it be normal practice for the Waste Disposal Authority to establish a best practice environmental option but it is especially required under the Environmental Pollution (Guernsey) Law 2004.

The full environmental impacts, the cost of collecting, storing, shredding, baling, transporting – including collection and exporting – and treating recycles, has not been fully assessed. So it may indeed not represent the best practical environment option for all recyclable materials.

Similarly, the exporting of the latter for offshore incineration of waste may not be the best practical option. No guarantees have been received as to the current and long-term legitimacy of exporting waste for disposal. This practice could be challenged in international courts or prevented by amendments from any receiving nation of its own waste plan prohibiting importation of waste. It cannot therefore be guaranteed as sustainable. Long term – perhaps 20 years – cost guarantees have to be shown.

Sir, the next part is going to be for the amendment posted by Deputy Spruce and myself so I will hold on to this for the moment and it is with in-vessel costing. As far as I am aware, there has been no application for planning for storage of waste at St Sampson's Harbour. There is no indication of cost for export of waste for incineration.

What will be the cost of processing this waste, what will be the cost of transporting it from the waste recovery facility to a storage facility? There is no indication of shipping costs or the amount Guernsey will have to pay to the receiver for this shipped waste for incineration. We already know that kerbside recycling of waste will cost perhaps more than twice its original estimates. What other unknown costs will come into force when this whole Waste Strategy is in place and operating?

Public charges for kerbside recycling will also come into effect after the next Election; therefore the accountability will fall onto the next Waste Disposal Authority and PSD Board.

140 Good governance procedures: a short time ago in 2011 the Government agreed to adopt the six core principles of good governance in all public services. We can only find two of these six core principles that have been observed in these proposals.

145 When you consider it alongside the conditions, gateways, controls and eye of the needle requirements by private traders, households, developers and many others having to go through for final approval of what they wish to do, then what is being proposed for waste disposal does not sit as a very good example for the whole community. There should be one rule for all, not just one rule for the public sector and another rule for the private sector.

150 The Environment Department are responsible for writing the best practice environment option on the law. No approach was made by the Waste Disposal Authority to the Environment Department, who is responsible for this, to form a Waste Management Disposal Plan which would have incorporated the best practice option, and other matters like asking Public Health for a report on using in-vessel composting methods being proposed. As far as I am aware, no approach was made by the Waste Disposal Authority for the Environment Department to work jointly in the best practice environmental option – therefore more silo-thinking, I believe.

155 This process has left the Environment Department with three options. To agree with PSD to blindly follow what we have in front of us today, or to disagree with the Plan, or to do what I am doing by informing the Assembly of the many pitfalls proposed and for the Assembly to have the final say.

It occurs to me that the Waste Disposal Authority are just ploughing away at what they think is right without fully informing the Assembly of the facts, costs and difficulties they are obviously experiencing with regard to the tasks they have to carry out.

160 Why should they act this way? It is possible that they are hoping to push these matters through this Assembly without knowing the final costs to legitimise what they wish to achieve, which may actually cost much more than originally predicted. They then will be able to legitimately say that the States agreed to this at this sitting.

165 So what should be done to salvage this *melee*? Well, this proposal should be stopped right now and PSD should be then asked to return to the Assembly with close-fought facts on costings and everything else that is required, before coming back to the States.

Thank you, sir.

170 **The Bailiff:** Deputy Queripel do you second the amendment? Deputy Lester Queripel. The sursis, sorry.

**Deputy Lester Queripel:** I do second the sursis, sir and I would like to speak now if I may, sir?

175 **The Bailiff:** Yes, you may. Before you do, sir, Deputy Bebb has just entered the Chamber and wishes to be *relevé*.

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

180 **The Bailiff:** Just before you speak, I will remind Members that debate now is to be restricted purely to the sursis.

Deputy Brehaut.

185 **Deputy Brehaut:** Mr Bailiff, sir, when Deputy Paint started his speech, he referred to an incident that very few of us know about and there are 47 Members of this Assembly and he has accused one Member of behaving inappropriately. Could he just withdraw the comments rather than leave that hanging, sir?

**The Bailiff:** Deputy Paint do you... I mean, it was something that happened outside of the sitting of the Assembly.

190 **Deputy Paint:** No, it happened in this Court room, sir –

**The Bailiff:** Sorry?

**Deputy Paint:** It happened in this Court room last night after the meeting had closed –

195 **The Bailiff:** But after the States had risen?

**Deputy Paint:** I am not prepared to withdraw the comments. If an apology is received from the person involved – and he knows who he is – then I am prepared to accept it and take the matter no further.

200 **The Bailiff:** Deputy Paint. Deputy Lowe.

**Deputy Lowe:** Sir, I was actually in the Royal Court when I witnessed this. It was not major and I certainly would not like the public or the media to think that something terrible had happened in this Royal Court. I would like that on record.

205 **The Bailiff:** Deputy Bebb.

**Deputy Bebb:** Could I ask, sir – I intend to move Rule 13(4) – would that be before Deputy Queripel speaks or afterwards?

210 **The Bailiff:** Yes, Rule 13(4) must be raised immediately after the sursis has been proposed and formally seconded, including before any speech by the seconder. So Rule 13(4) has been invoked and the effect of it is that I must now invite Members who support debate on the sursis to stand in their places. Those who support debate, stand in your places.

215 Sorry, Deputy Trott, do you – ?

**Deputy Trott:** I just wanted to make the point, sir, that technically speaking you had *called* Deputy Queripel to speak *before* Deputy Bebb was even *relevé*, and therefore he was expecting to speak before that motion was brought. (A Member: Yes.)

220 **The Bailiff:** But he has not actually spoken. What the Rules say is before any speech by its seconder. He has not actually spoken, so I think --

**Deputy Trott:** Well, you are the boss! (*Laughter*)

225 **The Bailiff:** I wish I was. (*Laughter*)  
Those who support debate on the sursis please stand in your places. We have nine people standing so debate will proceed.

Deputy Lester Queripel.

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

Well, I presume Deputy Brehaut is going to ask me to withdraw what I am about to say, sir, because, as we all left this Chamber last evening, I heard some of my colleagues refer to the sursis Deputy Paint and I had laid as ‘grandstanding’ and that really upset me, sir, for two reasons.

235 One, I would never consider anything that any of my colleagues did as grandstanding. Two, Deputy Paint and I have sincere and genuine concerns regarding this draft Waste Disposal Plan.

Therefore we felt that the only thing we could do was sursis debate in an attempt to direct that a revised draft plan was compiled. It disappointed me greatly, sir, that some of my colleagues could adopt such a blinkered and narrow-minded approach to two of their colleagues’ sincere and genuine concerns.

240 As I said in a speech yesterday, sir, it never ceases to amaze me how precious some of my colleagues are. They will groan and sigh all the way through someone else’s speech because they do not want to hear it. They do not want anyone to challenge their viewpoint so they do their utmost to stifle debate. I would respectively remind them, sir, through the Chair, that this is a debating Chamber – and in a debating Chamber we debate different points of view.

245 Sir, the reason why I stood as a candidate in the recent election – (*Interjections*)

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

250 **Deputy Lester Queripel:** – to elect a new Environment Minister, was because I take all matters relating to our environment very seriously indeed.

**Deputy St Pier:** Sorry, excuse me, a point –

**The Bailiff:** Deputy St Pier is raising a point of order.

255 **Deputy St Pier:** A point of order, sir. I was just wondering if this is relevant to the sursis debate.

**The Bailiff:** Yes, are you going to speak on the sursis, Deputy Queripel?

260 **Deputy Lester Queripel:** Well, it is relevant in my point of view, sir, because I felt that we were being put under pressure to withdraw it and I do not think that is right.

**The Bailiff:** Well, we cannot have a debate on something that happened overnight, we can only debate the sursis. Whatever happened yesterday –

265 **Deputy Lester Queripel:** It did not happen overnight, sir, it happened in this Chamber. (*Interjections*)

**The Bailiff:** Well, perhaps it happened in this room, but after the States had risen. There seems to be different recollections of what occurred and we cannot enter into a debate about what did or did not happen then. I think we need to debate the sursis that is before the Assembly.

**Deputy Lester Queripel:** Sir, I respect that.

275 Sir, we often hear in this Chamber that we need to be fully informed in order to be able to make a decision, but the truth is we have not been informed in this draft. In fact we are told by the Environment Department themselves in several places in this draft, that we have been *misinformed* – and not only that, but we have been misled.

We have been told that the WDA adopted methods that were questionable and inappropriate. In addition to that, there were 24 major concerns expressed by the Department in this draft.

280 And yet we are told on page 1667 –

**Deputy Luxon:** A point of order, please, sir.

**The Bailiff:** Deputy Luxon.

285 **Deputy Luxon:** There were not 24 *major* concerns. There were some concerns, not major concerns. Thank you, sir.

**The Bailiff:** Deputy Queripel.

290 **Deputy Queripel:** Sir, I disagree. I counted 24. I do not intend citing every single one individually, sir, as I am mindful of your request yesterday to be concise. But the more people ask me to back down, the more people raise points of order, the longer the speech will take, sir. So it is up to them.

295 We are told on page 1667 in paragraph 24.2 that the Department can find no adequate reason to reject the WDA recommendations. And that really worries me, sir. The question that springs to my mind is how serious does a concern have to be before Environment consider it to be an adequate reason to reject the recommendation?

300 And what criteria do the Department employ to determine how serious a concern actually is? As I have already said, the Department expressed 24 major concerns in this draft and if I am asked to relay every single one, sir, I will do, but I am mindful of the time. But I do not see how we can possibly accept and improve this draft in its current form and my conscience certainly will not let me do that.

And by citing only two of the six core principles of good governance, as alluded to by Deputy Paint in his speech, on page 1667 is the Department not actually admitting that they have disregarded the other four and therefore have not complied with all six principles – and shouldn't we be concerned about that?

305 One of those core principles, core principle number six, reads as follows:

'Good governance means engaging stakeholders and making accountability real.'

Well, sir, for accountability to be real the Department has to first of all accept responsibility for their actions. It seems to me as though the Environment Department have accepted responsibility for being misled and misinformed, and that the WDA have accepted responsibility for being the misinformer.

310 And there is an abundance of proof of that in this draft. In fact there are serious flaws, assumptions and concerns in this draft and as much as I would like to focus on every single one of those, sir, I am not going to. But I do want to focus on a handful of those to inform my colleagues of some of the reasons why I cannot approve this draft.

315 One of those serious concerns can be found on page 1640, paragraph 1.4. We were told that the WDA has the duty of identifying the best practical environmental options for dealing with our waste. But the truth is the WDA have not actually done that. And the Environment Department have recognised that fact because they tell us in paragraph 1.4 on page 1640 that they themselves have:

‘... identified several areas of concern both in respect of the methodology adopted by the WDA to arrive at its recommendations and in the risks and assumptions on which the long term success and sustainability of those recommendations rely.’

320 So the Department are telling us on the one hand that the WDA have acted irresponsibly by not carrying out their duties the way they should have done, yet on the other hand they tell us in paragraph 24.3 on page 1667 that even though the Department have highlighted numerous concerns, those concerns do not constitute adequate reason on which to reject the WDA recommendations. So they have given the green light for this draft to go ahead and they are asking us to approve it – even though they have major concerns about it and those major concerns will remain unresolved.

325 Now I find that absolutely extraordinary, sir, especially when one has to bear in mind that their role is to advise the States on waste policy, and the dictionary definition of the word ‘advise’ is ‘to recommend, to inform, to direct and to guide’. Well, surely the Environment Department are directing and guiding us in a direction that they themselves have serious concerns about. Surely the judgement of the Department has to be questioned, which of course is exactly what I am doing in this speech, in trying to persuade my colleagues to support this sursis.

330 In paragraph 4.4 on page 1643 we are told that the Department are concerned about the long-term viability and durability of the specially-engineered cell at Mont Cuet which will contain hazardous waste. In other words, they are questioning whether or not this cell will be able to do what it is supposed to do, which is to retain all this hazardous waste – or will it at some point break open and spill this hazardous waste into the ground?

335 Another concern can be found in the commentary section at the bottom of page 1645 where we are told that Environment are:

‘... concerned that most of the tools available to attempt to reduce waste at source, rather than deal with waste generated have... been rejected by the WDA.’

340 We are told on page 1648 that the WDA have made:

‘... little or no attempt to consider the actual air and water pollution levels.’

And if that is not bad enough, sir, we are told that the WDA took no notice whatsoever of the human toxicity element of the WRATE analysis.

345 On page 1652 Environment tell us they have reservations and concerns regarding procedures either adopted or ignored by the WDA. And they tell us that the technical feasibility was actually limited to an evaluation of technical flexibility and they say that may have been misleading.

350 Paragraph 21.6 tells us that the WDA did not adopt the risk avoidance approach that they should have done and that a structured risk analysis of each scenario would have allowed for an informed assessment of those risks.

So Environment is expressing a major concern about the uninformed or even misinformed. And there is actually a five-part concern on page 1666 because out of the six waste groups mentioned on that page, five contain assumptions made by the WDA – and Environment tell us they are extremely concerned about every single one of those assumptions.

355 I will focus on just one of those assumptions, sir, which is bullet point six where we are told that the WDA has *assumed* that Alderney will find an alternative disposal route for its own waste. But the WDA do not actually have any evidence that our friends in Alderney will be able to do that, sir. So I think the approach that has been adopted by the WDA towards our friends in Alderney is pretty shameful, to say the least.

360 Sir, I have only focused on a handful of the major concerns expressed by Environment. There are another 16 at least in this draft, despite what Deputy Luxon says, and I cannot possibly approve this draft. I think the best thing we can do is sursis it. The Minister herself told us in her speech that the new Board had considered withdrawing this draft so that proves it could be feasibly withdrawn and revised, which is exactly what Deputy Paint and I are trying to do in laying this sursis.

365 I will end my speech, sir, by reading the explanatory note set out at the bottom of the sursis:

‘It is apparent that the dialogue and discussion that has taken place between the WDA and the Environment Department regarding the current draft Waste Disposal Plan has been insufficient. Consequently, the information provided in the draft Waste Disposal Plan is not conclusive or comprehensive enough to enable the States to make an informed decision.’

I would just emphasise that we often hear in this Chamber, sir, that we need to be as informed as possible in order to be able to make a decision and I urge colleagues to support this sursis.

370 Thank you, sir.

**The Bailiff:** I will call Deputy Duquemin next, but before I do, Deputies Fallaize and Le Tocq, you wish to be *relevés* do you?

375 **Deputies Fallaize and Le Tocq:** Yes, please.

**The Bailiff:** Thank you.  
Deputy Duquemin and then Deputy Luxon.

380 **Deputy Duquemin:** Thank you, Mr Bailiff.  
Before I start I have brought with me the Rocquaine Regatta Programme because I for one live in hope.  
(*Laughter*)

385 **The Bailiff:** I hope it is the afternoon programme. (*Laughter*)

**Deputy Duquemin:** Sir, the reasons to reject this sursis are as simple as abc. The sursis says and would direct under its first point:

‘a) the Environment Department to work with the Waste Disposal Authority (currently the Public Services Department) with a view to resolving the many concerns identified by the Environment Department about the draft Waste Disposal Plan...’

390 What are the concerns identified?

On Wednesday, 12th February 2014, this year Deputy Paint himself, the proposer of this sursis, told this Assembly, and I quote:

‘... if the States support PSD recommendations today. Then the Environment Department will need to have very good reasons not to adopt them when drafting the Waste Disposal Plan...’

395 As already made clear by the Environment Department Minister, I suggest, sir, that there are *no* good reasons not to adopt PSD’s/WDA’s recommendations. There are no justifiable concerns except – and this is my assessment, my personal opinion – that Deputy Paint and a couple of other Members simply do not agree with the approved Waste Strategy and still hanker after on-Island incineration.

On Wednesday, 12th February 2014, I told this Assembly that I did not agree with every aspect of PSD’s Waste Strategy that had been agreed, approved by the previous States and I quote:

‘Sir, do I believe, support, agree with every single aspect of the Waste Strategy that was approved by the States of Guernsey on 22nd February 2012? No, I do not.’

I continued:

‘We cannot implement 63,000 different waste strategies, we can only implement one and we already have a Waste Strategy that was approved by the States of Guernsey... We just have to get on with the job of implementing it.’

400 I added:

‘We do not need, and Guernsey does not need, another States U-turn.’

Let us drill down on the concerns identified by the Environment Department. Paragraph 1.1 of the Executive Summary in the Environment Department’s own policy letter on page 1639 of the Billet says they:

405 ‘... must consider the recommendations put to it... and can only reject those recommendations if it has...’

– in bold type –

‘adequate reasons to do so.’

After, as it says in paragraph 1.5, they – the Environment Department – had:

‘... approached and examined the data with a fresh pair of eyes.’

And after this, as it says in the conclusion that Deputy Lester Queripel also read out from paragraph 24.3 on page 1667 its:

410 ‘... concerns... do not constitute adequate reasons on which to reject the WDA recommendations,’

– albeit not unanimous but by a majority, and that is, I guess, democracy. The reasons to reject this amendment are as easy as abc.

Let's move on to point b) in the sursis. I quote:

'b) [for PSD (as the WDA)] to make revised recommendations to the Environment Department [so Environment Department can] produce a revised draft Waste Disposal Plan addressing the above concerns.'

415 We would be asked to revise the Plan, not because there is a concern that the Environment Department themselves say, quote:

'do not constitute adequate reasons...'

– to reject the Plan, but revise the Plan because one person – maybe two, maybe three – disagrees with the Waste Strategy approved by this States in February 2012 and effectively reaffirmed by this States again, this Assembly, in February 2014 because it is not to their liking.

420 Sir, we do not want to, nor should we be instructed to, revise, change – whatever word you want to give it – alter an approved integrated Waste Strategy solution that has already been sanity checked, risk assessed, financially scrutinised and modelled a number of times for different States' reports. And let me reassure Members it continues to be stress-tested every day by the team at PSD and the Project Board and the PSD Board itself. Just like we would still have to do for all the other alternatives if they had been the approved  
425 Waste Strategy, the same would have applied to landfill – it would have applied to on-Island incineration. Risks would be attached to every single waste strategy.

I repeat: I do not like 100% of the Waste Strategy. I was honest enough to have told this States the fact that I am fully committed to getting the job done and implementing the Waste Strategy effectively approved not once, but twice, by this States. No more delays.

430 Let us move on to point c). I will not read it out but it basically says the Environment Department will do the job all over again, analysing the WDA Plan and come back to this Assembly, the States, by March 2014 – already a few months later than the January deadline first given in what proved to be only a draft sursis that was placed in front of us all yesterday afternoon.

Sir, calling this an eleventh hour sursis does not begin to do justice to the injustice of the timing.

435 Looking at the same things, the same facts about EU Directives and International Conventions, with the same pair of eyes will, I am certain, reach the exact same conclusions and I do not want to be sitting here in March 2015 approving the same Waste Disposal Plan that we can approve today. I repeat: that we can approve today.

440 Why waste six months or why waste now up to eight months? Why waste scarce resources of not only one but two States' Departments and more time in this Assembly to boot, because a few Members are unhappy to accept the democratic decision of this Assembly?

My Castel colleague and friend, Deputy Paint, might like this analogy, as a seafarer himself, but he and others might hanker after on-Island incineration but this ship has sailed and our waste will be exported. Let's get on with the job. Let us – let PSD – get on with the job.

445 Mr Bailiff, for the final time I will state the reasons to reject this sursis are as simple as abc. The States should – not should, the States *must* – reject this sursis.

Thank you, sir. (**Several Members:** Hear, hear.)

450 **The Bailiff:** I will call Deputy Luxon next, but if you speak now I just remind you that you forego your right to speak immediately before Deputy Paint replies to the debate on the sursis.

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

455 Sir, last night Deputy 'Moth' Lowe advised me (*Laughter*) to be brief and then she put one of those little smiley things at the end of her e-mail – and I did not think she was being romantically attentive to me (*Laughter*) I think what she meant was I should be smiling as well (*Laughter*) so I am going to be brief and smile.

So thank you, Deputy Paint and Deputy Queripel, (*Laughter*) for laying this sursis. I appreciate it very much and I look forward to the two amendments as well. (*Laughter*)

Right, I have had enough of all that – had enough of all that!

460 Sir, I just have some brief comments but, before I do, Deputy Paint made a few comments which were factually incorrect so I would just like to help correct those for Members. He said that there had been a failure because only two principles of good corporate governance had been attained through the WDP. That is not right at all. It is just that all six were not overtly referred to in the Report – it is not that the Report, the WDP, is deficient.

465 He also talked about cost – an unknown cost. Well, if we had carried on with the sewage proposal that was a quarter of a billion plus over 25 years, no decommissioning costs and would have cost this Island a

fortune, not one of the reasons that Deputy Paint listed in terms of his concerns and indeed the ‘major’ concerns that Deputy Queripel referred to – which were not major concerns, just concerns – in the WDP... not one of those reasons were not mentioned by PSD in the States’ Report in February. Every single one we raised, shared with you and spoke to in the debate when you approved our Report back in February.

The WDP does confirm that the Waste Strategy is the best practical, environmental option. There are others. There does not have to be just one. What you want is to have an option that does fit in the criteria of being one of the best options.

In terms of the IVC – the In-Vessel Composting – the WDA did engage, Deputy Paint said we did not engage with anybody. We engaged with the Environment Department, the Environmental Health Officer, Guernsey Water, Dr Casebow. We engaged with everybody. Deputy Paint said that the WDA was playing away and were trying to slip through elements of the Waste Strategy by the back door. Sir, every day when I shave – and that is why I have got cuts on my chin that Deputy James noticed yesterday – I think about waste and what it is going to present for me in the day ahead. I know this is a toxic subject and I know that until we finish the project in two years’ time, every day will be a struggle. But we will have to bring each stage of this back to this Assembly and you, Members of this Assembly, will make decisions and we will then proceed.

Sir, Deputy Queripel said that the Environment Department had been misinformed and that the WDA was guilty of misinforming. Nothing could be further from the truth; there has been dialogue since before 2012 between the PSD Department, WDA and the Environment Department. The Chief Officer of the Environment Department has a very clear knowledge of this as he used to be the senior responsible officer for the Waste Strategy. There has been absolute engagement throughout.

Sir, very briefly on the sursis, specifically, I would ask Members not to support it – mainly because they do not represent either the facts, nor an understanding of the actual relationship between the Environment Department’s mandate and that of the Public Services Department through the Waste Disposal Authority, in relation to the authorship and ownership of the Waste Disposal Plan.

Specifically I make a few following points on each of the three Propositions:

a) The Environment Department is laying the Waste Disposal Plan Report and is recommending that the Assembly approves it and moves ahead to deliver and implement the legislation to enable it to be delivered. The Environment Department accepts the Waste Disposal Plan and that the Waste Strategy should be progressed as has been approved by this Assembly already.

b) It is not for the Waste Disposal Authority – the Public Services Department, in reality – to produce the Waste Disposal Plan. It is for the Environment Department to produce it, which they have and have laid it before us in the Billet which we are debating now, or will do shortly. The revised draft we have just received this morning amending Proposition b) does at least now not cause the States of Guernsey to act illegally if we pass the sursis draft that we had yesterday, that is welcome, but nevertheless it is not for PSD to write the Waste Disposal Plan.

The reason we have got this mess that we are rectifying today, by the Environment Department laying this Waste Disposal Plan, is because the States of Guernsey directed the Waste Disposal Authority to do something that the Environment Department should have done. This fixes that. This sursis wants us to go all the way back and start again with that flawed process. It is just not sensible.

c) Both the Waste Disposal Plan, which endorses the Waste Strategy already approved by this Assembly and being implemented as we speak, has dealt with every single one of the matters that this motion refers to and would simply derail the Waste Strategy implementation project, leading to – and this is the real killer for me, sir – yet more aborted right-off costs to add to the £12 million that already has been wasted on the abandonment of the Lurgi and Suez projects; £12 million has been wasted already on the aborted Waste Strategy so far.

If this sursis was successful it would derail this Waste Strategy and we would add another £5 million to the £12 million, and actually manage to have succeeded in wasting £17 million, just for the privilege of repeating some work that has already been done.

So I am going to brief. I am going to put my smile back on and say, ‘Thank you, sir’. *(Laughter)*

**The Bailiff:** I apologise to Members, I misled the Assembly – of course it is Deputy Burford who will have the right to speak immediately before Deputy Paint sums up.

Deputy St Pier, Deputy Fallaize and Deputy Domaille.

**Deputy St Pier:** Sir, I was going to move a motion under 14(1).

**The Bailiff:** Under 14(1) – right. I remind Members that the motion under 14(1) is that I put to you the motion that debate be closed and we will have to have a recorded vote to see if there is a two-thirds majority. The motion I put to you is that debate be closed.

*There was a recorded vote.*

**The Bailiff:** Well, Members we will get the exact figures in a moment but it is quite clear that that motion did not secure the two-thirds majority required so the debate will continue.

530 Deputy Fallaize.

**Deputy Fallaize:** Thank you, sir. That filled in a bit of time, (*Laughter*) again.

535 Now, Deputy Lester Queripel said that this is a debating Chamber and if this were only a debating Chamber then I think that we would have to acknowledge that Deputy Paint and Deputy Lester Queripel have made some good points.

540 Clearly, there are concerns about the Waste Strategy that has been developed and they are set out in the Environment Department's Report. And the caution that Deputy Paint and Deputy Spruce and others urged when the States embarked on the Waste Strategy, was not incorrect. I am not going to say that they have been vindicated because on balance I do not think they have, but they have, throughout this process, raised very reasonable concerns. And actually Deputy Burford has had to produce, in Deputy Luxon's words, a bit of a 'twisted cobra of a speech' to try and justify the position that the Environment Department are in. And Deputy Lester Queripel did raise some reasonable concerns.

545 But the point is that this is not only a debating Chamber. In fact it is not primarily a debating Chamber. Primarily this is a Government. It is a decision-making body. And what we are effectively being asked to do today is to unwind decisions already made in respect of the Waste Strategy. So it is not a debating Chamber where we can objectively assess who has got the better part of the debate. We are here today to make a decision and the decision that the sursis is asking us to make is, at the very least, to put on hold the Waste Strategy which the Public Services Department is trying to progress, because of States' resolutions.

550 I am interested in what the Environment Department think. I am interested in what the Public Services Department think. I am interested in what individual Members of the States think. But I am interested most of all in what has been decided by the States and expressed in States' resolutions repeatedly – and consistently now the States have endorsed the direction that is outlined in the Public Services' Waste Department Strategy. If Departments of the States, Committees of the States, try to impede States' resolutions, I get very annoyed with that and in fact if that had happened in this case I suspect that I would be here now debating a motion of no confidence.

560 The Environment Department is doing its job by raising concerns, but is taking a pragmatic view. And I think it is important to remember that at paragraph 24.3 the Environment Department... it is very good of Deputy Paint and Deputy Queripel to fight the battle on behalf of the Environment Department, but actually the Environment Department itself is saying that by a majority it has concluded that concerns set out in this Report do not constitute adequate reasons on which to reject the WDA or PSD recommendations. So that is the Environment Department's *own* conclusion and I suspect it is the unanimous conclusion of the present Environment Department if they had a chance to go through it thoroughly, but it is certainly the conclusion of the majority of the previous Environment Department.

565 Waste has been debated for 20-plus years. Now, that is not a reason to reject the sursis of itself but the passage of time and the expenditure of the money – and the wasted money in this process – must surely mean that we can only delay further if we have *very* grave concerns. And I do not think we can have very grave concerns on environmental grounds, when the Environment Department itself is recommending us to approve this Waste Disposal Plan.

570 I agree with Deputy Burford. It is not my preferred option. I think my preferred option is the same as her preferred option, which I think was option d) in the original options appraisal. I have never wanted export of waste; I do not think it is the best environmental option. I doubt it is the best cost option. It is not the most sustainable option, but actually that is a relatively small part of the overall strategy and unless there is a degree of compromise from everybody in the States, we are not going to get a waste strategy. We are not going to be able to dispose of our waste soon if the States cannot actually agree on a particular course of action.

580 So I have had to compromise. I think really we are in the position where Deputy Paint and Deputy Queripel and others are going to have to compromise as well. But I do say to them: keep raising concerns. I hope the Environment Department will – I do not know if they can in their role under waste legislation – keep snapping at the heels of the Public Services Department, and I hope Deputies with an interest in this area will continue to put the costs and the environmental consequences under very, very close scrutiny.

But the concerns outlined in this Report are not justification for us stopping the development of this Strategy. That will cost more money. It will put us into reverse mode in effect and that would be the very worst outcome.

585 So I cannot support the sursis although had I been here I would have been standing in my place to have it debated, and I join Deputy Lester Queripel in rather resenting Members who appear not to want to debate these motions that are laid under the Rules. (**A Member:** Hear, hear.)

Rule 14(1):

Lost – Pour 24, Contre 18, Ne vote pas 0, Absent 5

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Duquemin	Deputy Fallaize	None	Deputy David Jones
Deputy Green	Deputy Laurie Queripel		Deputy Wilkie
Deputy Le Tocq	Deputy Lowe		Deputy O'Hara
Deputy James	Deputy Le Lièvre		Deputy Le Clerc
Deputy Perrot	Deputy Spruce		Deputy Storey
Deputy Burford	Deputy Collins		
Deputy Inglis	Deputy Dorey		
Deputy Soulsby	Deputy Paint		
Deputy Sillars	Deputy Adam		
Deputy Luxon	Deputy Brouard		
Deputy Quin	Deputy De Lisle		
Deputy Hadley	Deputy Brehaut		
Alderney Rep. Jean	Deputy Domaille		
Alderney Rep. Harvey	Deputy Robert Jones		
Deputy Harwood	Deputy Gollop		
Deputy Kuttelwascher	Deputy Lester Queripel		
Deputy Langlois	Deputy Le Pelley		
Deputy Sherbourne	Deputy Trott		
Deputy Conder			
Deputy Bebb			
Deputy St Pier			
Deputy Stewart			
Deputy Gillson			
Deputy Ogier			

590 **The Bailiff:** Well, Members, the result of the vote on the Rule 14(1) motion was 24 votes in favour, 18 against. There were 42 Members voting. It required a two-thirds majority in order to be carried. That would have been 28 votes. 24 votes was insufficient. I declare the motion formally lost.  
Deputy Domaille.

595 **Deputy Domaille:** Thank you, sir. Deputy Fallaize has actually said much of what I was going to say, so I am going to sit down in about 30 seconds. *(Laughter)*  
All I would say is actually I would like to endorse Deputy Burford, the Environment Minister's, opening speech. She set out the position very clearly indeed. So I thank her for that.

600 I would say one thing about this sursis and that is that the Environment Department – the previous Environment – has done its job. You have a fair analysis, I believe. I have had to compromise like every other Member, but we have a fair analysis of the position. If you think that analysis gives you, as an individual States Member, adequate reason to reject the Management Plan, do so. If you do not, approve it.

605 But it would be rather helpful and I agree with debating the sursis and I compliment Deputy Paint. He has been a consistent advocate of this right through every meeting we have had and he has stuck to his principles and I really do applaud him for that. I really do ask Members to reject the sursis and move on to the substantive debate.  
Thank you, sir.

**The Bailiff:** Deputy De Lisle.

610 **Deputy De Lisle:** Sir, I support the Department in terms of its Plan. I have reservations and a very small amendment to the liquid waste part. I think most of the discussion here is dealing with solid waste and when I look at the –

615 **The Bailiff:** Is this in relation to the sursis, Deputy De Lisle?

**Deputy De Lisle:** Well, I believe so, sir, I am just – well, it is a matter of debating as to whether the sursis is to be carried or whether the sursis is to be defeated.

620 **The Bailiff:** Right, correct, exactly. As long as you are speaking on the sursis. It was not clear to me that you were.

625 **Deputy De Lisle:** I am not supporting the sursis as such, sir, and I was just saying that when I look at the... and I think much of the reasoning is based on the solid waste side, and I have to say that when I take a look at what is presented on page 1673 in terms of what the WDA come out with, it is essentially along the lines of the minority report that I put in to this Assembly in 2006.

They come out with 18,000 tons per annum as a tonnage for 2025. I came out with 19,000. So it is *very* similar. And the whole basis is minimisation followed by high recycling including kerbside – and kerbside is something that I have been working on for at least eight years in trying to get that brought forward.

630 So I have to say that we have to move forward with solid waste and it is a matter of getting on with the job along the lines that we have here. And I will be putting in, I think, a small amendment to the liquid waste side of the Plan later.

Thank you, sir.

**The Bailiff:** Thank you. Deputy Gollop.

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

I have got a *touch* of sympathy with the sursis because of course the community, as has been intimated by Deputy Fallaize and others, Deputy Duquemin, is not 100% united on every single issue of the Waste Strategy and never will be. Issues to do with parochial involvement, quality and quantity of tenders and potential costs have been raised. But we are where we are and I have always been consistent in being sceptical of the merits of a large expensive incinerator and wanting a broadly environmentally focused green strategy based around the waste hierarchy and green principles and recycling.

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Of course the problem with this sursis is it adds delay. It also potentially, as Deputy Luxon has identified, adds cost. Two of the three Propositions of the sursis call for the Environment Department to work with the Waste Disposal Authority and to present a revised waste disposal report by March 2015. But I am in the curious position of having just joined the new Environment Board led by Deputy Burford, who of course has overseen much of this work through both the Environment Department and the Public Services Department, and one shock I had I must admit when I joined the Board – which has been criticised in the past by Members, by the public, by parts of the media – is actually how small it is in terms of its staff resource.

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We are working – as Deputy Lester Queripel might say – round the clock, even on Saturdays occasionally, to look at major issues like coastal walls, transport strategy planning and we have not got the resources to do this properly.

This Report is a very interesting report. In a way, it is technically above some of our heads. I do accept when you look in detail at – we need not call them concerns, but ‘commentary points’ – there are some issues here such as: if we turn to page to page 1652 the transport assessment was based only on miles driven, the local issue constraints, the sustainability analysis *inter alia* considered the value of electricity generated by each of the waste treatment solutions, the practical deliverability assessment included the waste and the market places for the end products. And there is a discussion on page 1657 about whether the Waste Disposal Authority – that is to say the Public Services Department – perhaps considered constraints wrongly in changing the weighting rather than excluding the options altogether, which is an analytical model. And those kinds of things are raised in the Report.

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But Deputy Fallaize really hit the nail on the head when he said as an Assembly we do more than one thing. We are an Executive, we are a decision-making authority and we also offer academic scrutiny and commentary. In a way this Report would make an excellent template for a Scrutiny Committee or a Select Committee to go ahead and have expert witnesses to evaluate and monitor the process. But today we are like a Cabinet – the 47 of us, or 45 of us. We are here today to endorse a policy that millions have already been spent, years have been taken. The last Assembly supported it. We had a general election and clearly the electorate collectively endorsed candidates predominantly, not exclusively, who were in favour of the Waste Strategy, as has been outlined many times.

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Given that, we cannot waste any more time today supporting the sursis. And the arguments about whether everything has been done correctly by the Public Services Department will have to await a scrutiny report in the future. We need to get on with the job and ensure that the workstreams that have already started continue and ensure that we deliver.

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This Report mentions that the recycling target of 70% is perhaps aspirational rather than certain, but we need to ensure that aspirations are achieved – and that can only be achieved by not slackening the pace or losing momentum. So I think we really do need to move away from the sursis and get on to the amendments and supporting the strategy as a whole.

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**The Bailiff:** Does anyone else wish to speak on the sursis?  
Deputy Spruce and then Deputy Adam.

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

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Members, as you are aware, Deputy Paint and I, as past Members of the Environment Department, felt unable to recommend the Waste Management Disposal Plan before you today. So please give me a chance to explain, because I do realise that I am probably speaking to mostly deaf ears in this Chamber on the

subject of waste, but it is our opportunity to raise concerns. We sat on Environment for two years and I was on PSD for four years before that and there are many issues that need to be explained.

690 It would be normal practice to write a waste management plan which clarified which method of waste disposal offered the best practical environmental option for Guernsey prior to taking any final decision on a waste disposal strategy. However, the Public Services Department, acting as the Waste Disposal Authority, have secured agreement from this Assembly prior to the BPEO being established by an independent party. That is a fact. That decision has been taken.

695 This situation has left the Environment Department in the position of having to either disagree with parts of the proposed Waste Strategy or recommend a waste disposal plan which fits the previous decisions taken. The Department, by majority, have opted to write a Waste Management and Disposal Plan which complies with the already agreed strategy. Both Deputy Paint and I did agree with this approach and Members have made the point that by majority the Environment Board agreed this Waste Disposal Plan, but if one other person – we know the way the board structure works here... with one other person we would be disagreeing with it. So let us not make too much of that. The make-up of the Board could have completely changed the direction today.

700 Agreeing to accept this Waste Disposal Plan is an important decision. It is one which should not be taken lightly. It is important to the community, especially as so many of the environmental impacts have not been established and many of the cost variables remain unknown. We therefore believe that the Environment Department should fulfil its role correctly by not recommending acceptance of this Waste Strategy with so many essential facts remaining outstanding.

705 We believe the Department should have committed the resources required to validate independently, as they were required to do, whether the best practical environmental option is being proposed. We must remember that the position we are in follows a series of flawed decisions taken following an ‘on the hoof’ amendment placed during the last debate over the Suez proposals.

710 The Environment Department, inviting this Waste Management and Disposal Plan, are only able to cite two out of six of the core principles of good governance. Of particular concern is the following core principle:

715 ‘Taking informed, transparent decisions and managing risk.’

Now, that means being vigorous and transparent about how decisions are taken, having and using good quality information, advice and support and making sure that an effective risk management system is in operation. And, to be frank, that core principle is not cited because they cannot find that information out. (A Member: Hear, hear.) The Department cannot say –

720 **Deputy Kuttelwascher:** Sir, point of correction, please.

**Deputy Spruce:** – and has not said that it has complied with a single core principle, let alone the other three. In fact if you want to see –

725 **The Bailiff:** Deputy Kuttelwascher has risen on a point of correction.  
Deputy Kuttelwascher.

730 **Deputy Kuttelwascher:** Sir, Deputy Spruce referred to an ‘on the hoof’ amendment. It was actually a Requête signed by seven people and properly processed in the due way. So there was not an ‘on the hoof’ amendment.

**The Bailiff:** Deputy Spruce.

735 **Deputy Spruce:** I am talking about the amendment by Deputy Lowe which did change things considerably.

**Deputy Kuttelwascher:** Well, it was an amendment to the Requête.

740 **Deputy Spruce:** Yes.

**Deputy Kuttelwascher:** And I think that is significant.

**Deputy Spruce:** That totally changed the picture.

745 **Deputy Lowe:** A point of correction on that, sir.

The Lowe amendment was placed some considerable time ahead of the States' debate. I do not think it is 'on the hoof'.

750 **Deputy Spruce:** I think we are arguing semantics of something that happened some years ago. The basic facts are the Suez proposals had been approved by this Assembly, they were overturned at the 11th hour, 59th minute, 59 seconds, Deputy Luxon, so things do change –

**The Bailiff:** Through the Chair, please.

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**Deputy Spruce:** Sorry, sir. So all I am saying is that things can change right up to the last minute and Members do have the right to comment about their views in this Assembly.

760 **Deputy Burford:** But just on that correction, it was circulated well before and not at the 11th hour of the debate, sir.

**The Bailiff:** That is right. That is what Deputy Burford said.

**Deputy Spruce:** Okay, we will knock 10 seconds off. (*Laughter*)

765 Other key areas which the Environment Department should be concerned about before recommending you accept the Waste Management Disposal Plan are: the strategy recommends that food waste and green waste should go through an in-vessel composting process. In doing so, it is effectively agreeing with the WDA that the output of that process should be distributed to the Island's farmland – and I will talk further about that when I lay my amendment later on.

770 Guernsey has a small and limited land mass, practically all of which acts as a water catchment area. In my view, the Environment Department should be concerned that this material could contaminate our land and water supply. No environmental impact assessment of the associated risks have been carried out and PSD are currently out to tender for the plans. Given that this expensive and potentially risky process will only add between 3% to 5% to the recycling target, I ask you is this a risk too far?

775 Should we not be provided with the guarantee that this is safe for Guernsey? This is not the UK where large areas of land are available and the material can be strategically used on land.

**Deputy Burford:** A point of order, sir. Is Deputy Spruce talking about the sursis?

780 **Deputy Spruce:** I am because your Report, or the Environment –

**The Bailiff:** Through the Chair, please.

**Deputy Spruce:** Sorry?

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**The Bailiff:** If you are addressing the Assembly, can you do so through the Chair?

**Deputy Spruce:** Sorry, sir. The Environment Department's Waste Disposal Plan recommends IVC so I am commenting to talk about the impacts of IVC. They do not have the information at their disposal –

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**The Bailiff:** Please continue. Please continue.

**Deputy Spruce:** Secondly, there has been no environmental impact assessment carried out by Public Services Department regarding banned waste on the north side of St Sampson's Harbour. Again, the Environment Department should be concerned about this and if they are not, who is? They propose just to accept that.

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Thirdly, no water, air or noise pollution environmental impact assessments have been carried out regarding the impact that the Waste Facility Structures will have at Longue Hougue. The Environment Department have not yet approved any development plan and there has been no public consultation and yet they are recommending this strategy.

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These are but some of the reasons why I think we should not be accepting this Waste Disposal Plan until more information is made available for public consultation. We should be calling for more scrutiny and more definitive information before it is too late.

805 It is worth noting that Deputy Luxon keeps saying, at almost every opportunity, that the States have agreed the Waste Strategy. Well, that is true to some extent but all we really have done is agreed the principles of the strategy and the direction of travel. Surely we still need to understand the environmental impacts and the cost of it all before the plant is ordered.

Remember, PSD have still not provided us with the contract price for the export and disposal of our waste, we still do not have a tendered capital price for the entire waste disposal facilities, we do not know whether the waste facility structures or the export arrangements will be acceptable, either visually or environmentally and until the above are confirmed we and the public have no idea what the cost impact will be per family of this strategy.

PSD have had over two years to firm up on these key pieces of information since the last Assembly terminated the Suez contract. The previous Waste Disposal Strategy had adhered to all good governance principles, had completed all the environmental impact assessments and we knew the total capital and revenue cost of the operation. We also knew the environmental impact of the entire process. We should remember that it is the Environment Department's responsibility to act as the gatekeeper of this process. As things stand, PSD is acting as poacher and gamekeeper and the Environment Department, whilst critical of the strategy in many areas, has decided to allow the poacher free range.

Members, I ask you to support the sursis by rejecting this Waste Management and Disposal Plan and send Environment away to thoroughly research and assess whether this strategy really does offer the best practical environmental option for Guernsey.

Thank you.

**The Bailiff:** Deputy Brehaut and then Deputy Ogier.

**Deputy Brehaut:** Thank you, sir. I genuinely was not intending to speak.

**The Bailiff:** Oh, sorry. I had said I would call Deputy Adam next, sorry.

**Deputy Brehaut:** Oh, okay.

**The Bailiff:** Sorry, Deputy Adam.

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

I will be brief because I think Deputy Spruce has said almost everything about the anxieties and worries concerning this. But Deputy Burford actually was almost turning the same way. What did she say? 'Do not put the cart before the horse?' That was one of her comments in her speech. Also she said, 'Had the Environmental Department actually assessed all the environmental aspects or had it acted in a scrutiny function, evaluation of another Department's work? Had it done the job?'

But, as Deputy Spruce has said almost everything else, one other comment I would like to make.

This is an e-mail sent by the Minister of PSD and it says that the information supplied in the Waste Disposal Plan – the Plan not the draft – is conclusive and is comprehensive – I disagree with that – and reflects both the findings and recommendations of the Environment Department and Waste Disposal and the Public Service Department, and is also supported by the Director of Environmental Health and Pollution Regulation.

I do not really understand that because the Environmental Health and Pollution Regulator is an independent person who has to assess the whole thing once all the details are available and then license them if it is appropriate. Therefore I doubt how she can say that or how PSD can say quite blatantly they have got the full support of the Director of Environmental Health and Pollution Regulation until all the details are on the table and she has assessed them and given them licence.

Thank you.

**The Bailiff:** Sorry, Deputy Brehaut now and then Deputy Ogier.

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

I was not intending to speak generally and I will be, in that case, very brief.

The PSD Waste Project – our waste project train has left the station. It left the station some time ago. The points have been switched. It has stopped at pretty much every platform along the way and the Suez train was actually, eventually derailed. So this whole debate has been, over a period of time, a very expensive train crash. That is the reality. And I do not like the term 'we are where we are' but the political reality, the pragmatism, must lead us to opposing the sursis.

Now, two Members of the Assembly, and others who support the sursis, want to lie down on the tracks and try and prevent the progress of the train any further, regardless of the associated expense in doing so. And sometimes I think we just have to think as Members... reflect on where is the discipline? How many bites of the cherry do we want? How many amendments can we bring? How many times can we oppose? How many sursis should we place, when we simply want to stop a process going ahead?

870 And the only thing I wanted to say, which was touched on by Deputy Hunter Adam, is that I believe in a perhaps disingenuous way, because we have a Director of Environment Health and Pollution Control and they can give a nod to the general direction of a project, but they also have to license and approve. So if by-products from this process were adding to nitrate levels, they could not approve that process. So if the waste was assessed and being taken on – we know that 98% of our land is water catchment – how could the Environmental Pollution Control Officer say, as a statutory official, ‘Put it on your land, pollute your streams. That is sort of okay with me.’? We know that cannot happen.

875 So there are several opportunities, as I said, to de-rail and there are several opportunities to keep the train on track, and part of that is this process in the Assembly today and the others are the statutory officials we have in place, that have the community and the safety of that community as the principal concern within their mandate.

Thank you.

880 **The Bailiff:** Deputy Ogier and then Deputy Le Tocq.

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

885 Well, in my view we already have a tight schedule so I will be as brief as possible but there are some things that need to be said.

890 Firstly, I would like to point out to the Assembly that having a sursis put before us on day three of debate, despite its proposer being involved – as we have heard from Deputy Domaillé – for months on this report, has not given PSD the necessary time to gauge the full effects of this sursis, and we would have been grateful for earlier sight, that is all I will say. But I do recognise, of course, the right of any Member to bring any valid instrument before us using the timings within the Rules of Procedure.

895 This sursis is not just about the Waste Disposal Plan itself. If the Public Services Department is to begin work on new recommendations to the Environment Department, work on progressing the Waste Strategy itself will halt. If this sursis succeeds, the progress on the Waste Strategy will stop. And it will stop for a number of reasons, the most important of which will be that our staff will be busy drawing up new recommendations in an already tight programme which has no room for major new initiatives, and an already stretched team – and they are stretched – will be unable to progress with the other workstreams.

900 Secondly and perhaps more importantly, why would PSD continue to be busy implementing strategies, drawing up plans, progressing tenders when there would be such uncertainty of the strategy being in line with any future waste disposal plan? A plan which would be in the process of being re-drafted would have to stop. We could not risk further expenditure if the States of Guernsey indicated they wanted a new waste disposal plan, because what if the States of Guernsey did not like the new waste disposal plan after it had been amended? What if it did not like our new set of risk mitigation? We could not take acceptance for granted, we would have to stop the procurement until it was all sorted out and we knew what we would be procuring. In fact Deputy Paint tells us that in his speech. He said PSD must stop this procurement.

905 Now I do not know what that would do for the procurement and I do not know what the costs would be, I do not know how they would be affected and the reason I do not know is because this sursis is being placed late in the day with no warning and a final copy mailed to Members after the close of business. Public Services Department have had no time to analyse the many ramifications this would have for us. This means we are unaware of all the pitfalls passing this sursis would entail. This lack of knowledge of the ramifications of our actions alone makes the sursis almost impossible to support in my view – the unknown risks inherent in passing it being too great, because this is not a sursis on any old report, this is a sursis to halt the process whilst underway, to halt a procurement in the middle of a tender, and I cannot advise the Assembly with any clarity of what else this could result in. For me, it is a salmon leap into the unknown and in my view there is no need to revisit all the concerns anyway.

915 If you struggle to put this Report into context and struggle with the technicality of this, then you are not alone. I lived through the events described in this Report and this Report is a challenge for me to work through. So for Members new to this subject I can very much understand if you found this a struggle, because I found it a struggle too.

920 What is happening is the Environment Department is going through the historical review of how the Waste Strategy was chosen and further, how Public Services Department have mitigated the risks with the chosen strategy. Now, risks are inherent in any strategy. Any of the options we chose would have similar risks attached – it is the nature of large infrastructure projects.

925 In 4.5 we begin to hear of some of the Department’s concerns, specifically about the risks associated with food waste and we have heard that reiterated today. The 6,500 tonnes mentioned there I have to tell you is an error. That is the figure for material going into the front end of the process. What comes out at the end is circa 1,500 to 2,000 tonnes.

Now, Public Services Department have done their risk analysis on this and there can be a risk associated with food waste if it is not handled properly. What we plan to do is to handle it properly. Food waste is not

930 a problem if it is dealt with correctly, so we will ensure that we have high quality processing and nutrient management plans for application to land. The Environment Department tell us they have concerns and we do too. That is why it is on our Risk Register. Risks are managed through successful mitigation measures and the Environment Department inform us that, and I quote:

‘If such mitigation measures are successful then the Department’s concerns in this respect can be set aside.’

There are concerns about the length of export licenses and the Environment Department state of PSD’s proposed mitigation measures:

‘If such consent renewals materials then the Department’s concerns in this respect can be set aside.’

935 There are risks with every project. What matters is that such risks are identified and measures to deal with the risks put in place, which could be through terminating the risk, tolerating the risk, transferring the risk or treating the risk through mitigation.

940 Public Services have identified the risks involved and we have put in place measures to deal with those risks. The Environment Department are telling us if those mitigation measures are successful, then they have no concerns. That is a perfectly normal part of a risk register: identify the risks, find out what you are going to do about them and then implement it.

This Assembly should be comforted by this, and throughout the Report we see the Environment Department endorsing the objectives of the Waste Strategy through phrases such as:

‘The Environment Department endorses the above objectives.

[...]

The Environment Department endorses the application of the Waste Hierarchy.

[...]

The Environment Department endorses the selection of the residual waste treatment scenarios for evaluation.

[...]

945 The Environment Department endorses this list of criteria against which the potential scenarios were evaluated.’

In the commentary in section 14, we are told that:

‘In respect of cost, the cost of the WDA’s preferred scenario has been debated by Government (in 2012 and in more detail in 2014) and found to be “acceptable”. As such the Environment Department considers that this element of the WDA’s proposed... option... can be taken as a given and does not require further analysis by the Environment Department. The Environment Department agrees it was quite appropriate for the WDA to take into account cost in arriving at its [option].’

Deputy Spruce tells us we still do not know the average cost to families but that has been debated, is regularly reported and is regularly publicised.

950 However, the Environment Department do not endorse the application for the criteria of making producers responsible, nor does it for using space as a constraint. There is no evidence to suggest changing these criteria would have resulted in any change in the preferred solution, the Departments themselves say of their concern, and I quote:

‘That is not to say that the Department does not consider this to be an important factor but it is not one which the Department considers has a significant bearing on the type of treatment plant selected.’

Similarly, in the commentary on Section 19 the Environment Department criticises the Public Services chosen methodology but concludes that:

‘... despite the concerns expressed [the chosen scenario] was a valid option to take forward’.

955 Deputy Queripel provides a series of selective arguments, only one side of the equation. He fails to read on in the reports very often. Deputy Queripel, as we heard, recited a list of concerns and finishes his quotations, but neglects to continue to the next paragraph, for example, one which read:

Nevertheless, these risks have largely been... discussed by the States... and have been set aside as being of insufficient consequence to warrant a review of the preferred strategy’

960 In the Environment Department’s review the concerns are of ‘insufficient consequence to warrant a review of the preferred strategy’. They go on:

The Environment Department has taken into consideration... the fact that the risk acceptability profile has been taken into account by the States in its recent debates on the waste strategy.'

– and it asks –

'... that as part of the tender evaluation process an evaluation of these risks is undertaken.'

And that is what we will do.

965 Had two Departments been tasked with the same job, it is almost *inevitable* they would adopt different approaches, so it should not be surprising the Environment Department does not agree entirely with every step of the process that Public Services adopted; nor, on the other hand, does Public Services Department wholly accept that all the criticisms made are valid. However, the conclusions arrived at, in terms of the best practical environmental options, are basically the same between the two Departments, and that is the  
970 main point.

The Environment Department states:

'In light of the above comments and concerns expressed relating to the further analysis, the constraint application and the re-ranking steps applied by the WDA, the Environment Department considers that the scenario evaluation as... set out ... should form the basis for BPEO selection.'

975 It is telling us that the shortlist of options we chose our strategy from was acceptable to them and that they cannot find any adequate reasons to reject our choice by stating:

'The Department has approached and examined the data with a fresh pair of eyes and in some areas applied a slightly different methodology to assess the data. Whilst the Department has some concerns over the end result, the approach it has adopted has provided a conclusion which is not significantly at odds with the BPEO recommended by the WDA.'

It continues to say:

'The Department has concluded that, from the information provided to it and in light of the previous States decisions, its concerns do not constitute adequate reasons on which to reject the WDA recommendations and in particular the BPEO recommended,'

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– which is our chosen Waste Strategy.

In essence, therefore, we have concerns expressed by the Environment Department, many of which relate to a historical process which we cannot change and which they themselves recognise would not have led to a different outcome to our chosen option and do not form adequate reasons to reject the chosen Waste  
985 Strategy.

In itself, this does not warrant a re-write of the Waste Disposal Plan. Many of the concerns are historical and cannot be changed. The others are dealing with risks the Departments have on their risk register and have mitigation plans for, which the Environment Department are happy with – as long as they work, of course.

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There simply is no need to revisit the Waste Disposal Plan, even if to do so would not bring the Waste Strategy procurement to a grinding halt. Sir, Members, there simply is no need to pass this sursis to revisit the Waste Disposal Plan. In fact, quite the reverse – there are compelling reasons to accept this Plan.

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Firstly, the authors of the Plan, the Environment Department, are recommending that we do. Secondly, the Department who have to implement the Plan are recommending that we do. And, thirdly, to sursis this Report would throw the procurement of the Waste Strategy into a grinding halt for no good reason whatsoever.

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This would put at risk the progression of the States of Guernsey's chosen Waste Strategy, put at risk the procurement process in the middle of a tender, cast doubt once more on the ability of this Chamber to deliver a waste solution and cause significant reputational damage. And for what? To revisit some risks which have already been mitigated and which the Environment Department themselves agree will be satisfied should those mitigations work. They are not even saying they have a problem with the mitigations.

I very strongly urge and recommend Members to reject this sursis.

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**The Bailiff:** Next Deputy Le Tocq, to be followed by Deputy Trott and Deputy Dorey.

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**Deputy Le Tocq:** Sir, whilst I accept the arguments regarding the right to lay sursis such as this and to debate them in terms of democratic rights and democracy, I do not believe that what we are witnessing today is mature democracy.

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My reason for that is that I think we all know here how the vote is going to go at the end, so we are just entrenching ourselves, both sides of the argument, more and more. That does not do this Assembly any good in terms of those people that we represent. I do not believe in itself that is good governance and so I

encourage Members to keep speeches short or to go to the vote as soon as possible. (**Several Members:** Hear, hear.)

1015 **The Bailiff:** Deputy Trott.

**Deputy Trott:** Sir, I had hoped to catch your eye immediately before the Chief Minister because I now find myself in an awkward position. I want to ask him a question. He has already spoken, the Deputy Chief Minister is, I think, having a comfort break and the Treasury Minister is absent.

1020 Maybe I could encourage the Chief Minister to ask me to give way and then that way he could answer the question (*Laughter*). That is one mechanism that might work.

1025 Before we move on to that though, sir, can I just say that my very good friend, Deputy Ogier... I nearly choked when he said he warned us of the dangers of interfering in the procurement process. (*Laughter*) And I thought that if there was any Member of this Assembly, sir, during my time here, who had more experience of that very issue, I have not come across them. So I was grateful to him for that.

The reason I rise though is to ask a very specific question about the issues of governance. I heard what the Chief Minister said, but there is a gaping, a yawning, hole in this Report and it is one of the reasons, I suspect, why we have had so many speeches surrounding the issue.

1030 On page 1667 we are given, under Section 25, a reminder of why we need to address matters of good governance. This is a direct result of the States' Resolution back in 2011, where the Environment Department is required to explain the extent to which it considers that the Report complies with the six principles.

1035 Now they do a very good job of doing that with core principle 1 and core principle 2, and they are silent on the next four. And I understand why that might be, sir, particularly with regard to Principle 4 and managing risk, because whilst this Report is all about risk and how some of those risks are going to be managed, it is silent particularly on the cost. And if one looks on page 1698, the Treasury & Resources Department make that clear.

They say:

'The Treasury and Resources Department notes that there are a number of risks associated with delivery of the Strategy which could have significant resource implications should they crystallise.'

1040 That is code, sir, for: 'This could be an awful lot more expensive than Members might, at this stage, appreciate.'

So that is okay, but what follows is *not* okay; because what follows is a comment from the Policy Council, who tell us:

'The Policy Council supports the Report and considers it complies with the principles of good governance.'

1045 But there is absolutely no evidence in the Report to show where three, four, five and six have been met. So it would have been better for the Policy Council to have been silent than to insult Members' intelligence (**A Member:** Hear, hear.) So my question to the Chief Minister – and there is still time for him to jump to his feet and interrupt me if he wishes, sir... (*Laughter*) as we have already said, some other key Members are absent, it would be inappropriate for either the Environment Minister or the Public Services Minister to deal with this for obvious reasons. I am running out of options, sir, I really am...

Ah, I give way, sir. (*Laughter*)

**The Bailiff:** Deputy Le Tocq.

1055 **The Chief Minister (Deputy Le Tocq):** The Policy Council considered the matter to have been dealt with. Highlighted in the Report are two of the key principles that are mainly focused on, because those are the key principles the Report touches on and would have been of major concern had they not been adhered to.

1060 The other principles we consider, bearing in mind not only where the Environment Department have got to, along with PSD... The other principles *have* been adhered to and one of the main factors, in fact the reason that I got up to speak, is we have got a responsibility now, as this Assembly, to make sure that we abide by the principles of good governance – and effectiveness on behalf of those who elected us, is one of those key principles.

1065 **Deputy Trott:** I am grateful – very grateful – for the answer, sir, and I am even more concerned now than I was beforehand, (*Laughter*) because key principle 4, as I have said, has the words ‘managing risk’ in it. This Report is all about managing risk, and about alerting us to the unknowns and the difficulties in doing precisely that. It does not comply with the six principles of good governance because it cannot, because at this stage – at this stage – we do not know how much this will cost.

1070 I give way gladly, sir, to the PSD Minister.

**The Bailiff:** Deputy Luxon.

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

1075 On the basis that Deputy Trott always knows the answers to the questions that he poses, I wish he would actually tell us what the answers are and then we would be informed. But what I think will help clarify this, is that the Waste Strategy that this Assembly has approved, adheres to the six principles of good corporate governance. The Waste Disposal Plan is a jigsaw of that; it is meant to be a part of the approval process, if you like and, as the Chief Minister has said, the overt reference to the two that are mentioned is because they were very relevant to the Waste Disposal Plan.

1080 So when he talks about the issue of risk, the risk issues with the Waste Strategy have been captured fully in the Waste Strategy implementation that we approved six months ago. So I think you need to take the Waste Disposal Plan into context with the Waste Strategy Plan that we have approved. That, I think, will answer and is probably the answer that Deputy Trott was going to share with us in a second himself.

1085 **Deputy Trott:** It was not, sir. It is clear from that answer that neither of us can see the recycled wood for the trees, so I am going to sit down, sir. (*Laughter*)

**Deputy Fallaize:** Sir –

1090 **The Bailiff:** Deputy Dorey –

**Deputy Fallaize:** Sir, I was going to ask Deputy Trott to give way.

1095 **The Bailiff:** Deputy Dorey. Sorry, Deputy Fallaize.

**Deputy Fallaize:** May I just make a point about these good governance points, because Deputy Trott is making a good point and Departments are not meant to be self-assessing their good governance any longer. These things are not meant to appear in States’ reports. I keep writing to Members of the Policy Council and I keep writing to the Chief Executive.

1100 There was a States’ debate in 2012 and what is now meant to happen is that the Policy Council is meant to point out, on an exceptional basis, if they think a Department’s report has not complied. This self-assessment business is a complete nonsense and the point that Deputy Trott makes absolutely bears that out and I do wish that committees and their staff would abide by what is now meant to be happening.

1105 **The Bailiff:** Deputy Dorey.

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

1110 I just thought it would be useful to the Assembly that, in response to a media enquiry of Friday of last week under the Office of Environmental Health and Pollution Regulations headed newspaper, the following response was issued:

‘The Director of Environmental Health and Pollution Regulation is aware of the current Waste Disposal Proposals and will be working closely with PSD when the final Waste Disposal and Management Options have been agreed by the States.’

It goes on to say:

‘The Director of Environmental Health and Pollution Regulations, Dr. Val Cameron, said “All waste disposal options have pollution control issues associated with them. Once the States have decided which options will be developed in Guernsey, I will ensure through effective licensing conditions that pollution to air, land and water will be prevented or reduced to a minimum to protect human health, eco- systems and the environment.”’

1115 Thank you.

**The Bailiff:** Does anyone else wish to speak on the sursis. No?

Well, Deputy Burford, then do you wish to speak immediately before Deputy Paint replies?

1120 **Deputy Burford:** Thank you, sir.

Just a few points out of the debate before... all I really want to do on the sursis is to just talk about the technical feasibility of it actually being deliverable.

1125 But just to comment, sir, on a point that Deputy Lester Queripel made when I said in my opening speech that we could have withdrawn the Report for the new Board to consider and perhaps endorse unanimously, that is not the same as what this sursis is asking for. It is not the same at all.

I was going to comment on the good governance thing but I think that has been sufficiently rehearsed now.

1130 Deputy Adam said that I said 'do not put the cart before the horse'. That is not correct. What I said is that, in effect, the Lowe amendment resulted in the cart being put before the horse, in how we are having to deal with the Waste Strategy.

But on the sursis I am unsure what it is designed to achieve. I will start with part a), namely that the Environment Department holds some concerns about the Waste Strategy. This is true. It does hold some concerns, but not to the extent that Deputy Paint holds concerns. The concerns the Department holds have been shared with PSD, they are documented in the Report before you.

1135 The simple fact is that, by and large, they cannot be answered ahead of the Strategy implementation and only time will tell whether those concerns are put aside. But that is not because PSD and Environment refuse to agree, but simply because all projects involve risk; and a multi-faceted strategy such as dealing with the Island's waste is going to, by its very nature, involve many risks.

1140 However, these risks have also been separately identified and are being actively managed by the Public Services Department as part of the Project Risk Register. It would be expected that any strategy that might be advanced would give rise to concerns, so I struggle to see how the two Departments would ever reach the concern-free status required by this sursis.

1145 Part b) requires PSD to make revised recommendations to the Environment Department. I am unclear as to what Deputy Paint considers constitutes a revised recommendation. For example, does this mean PSD can no longer recommend the export of waste as Environment has expressed a concern about the duration of shipment consent? I do not see what would cause Environment to withdraw that concern, as neither *it* nor PSD has influence over those who administer the consent. So under the terms of this sursis, it would appear that PSD could no longer propose export of waste, for example.

1150 And, on what basis, should PSD revise their recommendations? Their recommendations are based on an extensive, expensive, long-winded, public and professional consultation process. Is the suggestion that this should all be set aside and a new risk-free strategy be cobbled together in six months by Environment and PSD, were that even possible?

1155 In response to part c), while of course Public Services have taken into account the various conventions and legislation mentioned, what I wish to emphasise is that there is no outstanding dialogue between Public Services and Environment. As I have already outlined, we accept that the cart is firmly before the horse and in an ideal world we would not be in this situation.

1160 But, as I said at the start of this speech, I am not sure what this sursis is designed to achieve, but the simple fact is that if Deputy Paint wants a new Waste Management Plan, then he needs to amend this sursis again, to rescind the resolutions of the March 2012 Waste Strategy. Without such amendment, this sursis can deliver nothing.

**The Bailiff:** Deputy Paint will reply – sorry, Deputy Lester Queripel.

1165 **Deputy Lester Queripel:** Sir, a point of clarification, if I may.

I am not understanding the Minister entirely because she said that what I said about withdrawing this Plan to be potentially revised was not the same as her Department saying that it could be withdrawn. So I am struggling to understand what is the difference? If it is withdrawn to be revised, what difference does it make in what she said to what I was saying?

1170 I am struggling to understand... If she can elaborate on that a bit, please, sir, I would appreciate it.

**The Bailiff:** Are you able to clarify that for Deputy Queripel's benefit?

1175 **Deputy Burford:** It is simply a case that the Department considered whether it – as I said in my original speech – would allow the Report to come forward with three Members of the previous board reporting it, or whether it would ask the new Members and the new Board to look at the Report again and see if perhaps all five Members supported it.

That is not what the sursis is asking us to do. The sursis is asking for a great deal more than that.

1180 **The Bailiff:** Deputy Paint.

**Deputy Paint:** Sir, I will not be too long. I will be as short as I possibly can but I would like to answer everybody.

1185 **The Bailiff:** Well, it might help if you put the other microphone on if you are going to be looking towards me.

**Deputy Paint:** Sorry for having a soft voice except when I am angry.

1190 I would like to first of all thank Deputy Queripel for his support in this sursis. It is a shame that Deputy Duquemin keeps bringing back incineration. That is only a matter of trying to demean people, I am afraid. I accept fully that the incineration plant is gone. I am sad it has gone. I think it would have been a better option, but we have to move on.

The problem I have is that 'job done' issue, regardless of cost. Now he does not seem to consider that at all. So I am sorry, I believe he is wrong.

1195 Again Deputy Luxon – back to Suez. Again, we are not talking about Suez, we are talking about this being done properly and I do not believe that it has been done properly, not by PSD or by Environment. What should have happened, the cart has been put before the horse many times – many times on many issues.

1200 As far as Deputy Fallaize... I think most of what he said I completely agree with. This sursis... I have the right, or any person here, has the right to put forward his concerns or her concerns, to anything this Government does and that is exactly what we have done. So thank you for that, Deputy Fallaize, because you are correct in what I believe as well – and we do not agree very often.

I thank Deputy Domaille very much, as ex-Minister of Environment. He knows exactly what went on. I also thank Deputy De Lisle for his input into it.

1205 Deputy Gollop, well, I have got you saying that the lack of assurances is no excuse for not doing the job properly, and that ongoing theme: has Environment and has PSD done the job properly? I believe that is doubtful.

I would like to thank Deputy Spruce for what he said and also Deputy Adam for what he said. I have to say, as usual, Deputy Brehaut completely confuses me. He did sayings of this, that and the other and, again, the cart before the horse, but that is to be expected.

1210 Deputy Ogier – well, he said the costs, if this was passed, would be... we do not know what they are. But we do not know what they are now. This is one of the main things why I brought this sursis, because there are no figures to say what the end cost is going to be. Is each household going to have to pay £100 a year more, or £2,000? We do not know – and people out there *do* want to know.

1215 I thank Deputy Le Tocq for his very short speech. I also equally thank Deputy Trott for understanding the direction we are coming from, particularly on governance.

1220 Deputy Dorey – well, again it is the cart before the horse. Surely before you buy anything, like an in-vessel composter, you will have to check that it is fit for purpose. You have got to make sure that it will do the job and I do not believe, as you will hear later, that it will do the job – so then you have got a programme for an in-vessel composter that will only do certain items and there is very great danger in other items.

Well, Deputy Burford – I can understand where she is coming from, having had a foot in both camps, being on PSD and the Environment. That is not a criticism. It could have been a great benefit but we did not have that. It must have been February when we were given this piece of paper to approve and I was not prepared to do it. It is as simple as that.

1225 And the new Strategy – well, it is going to take more than two years before any of this Strategy is completed. Planning permissions have not been given yet for anything and by the time it has gone through Planning and actually been built... So what is the problem with just making sure that things are being done properly? I really despair. I really do not believe that it is a big problem. I understand there might be – as we were told last night – contracts waiting are to be signed, as Deputy Luxon said, but I am afraid if it is not done properly it might backfire on the States of Guernsey and the people of Guernsey, which is my biggest concern.

1235 Finally, sir, the sursis has had the desired effect whether it wins or loses. It has been debated within this Chamber and people can draw whatever conclusion they want out of it. I do not believe the proposals are adequate enough; and I know others do not, as they have stated today. So I think the general public will know as well, as much as we know about it all and we will all see what happens about that. I am very keen on the general public knowing because they have to know for future planning if it is going to cost them £100 a month more or £2,000 a month more, or a year more. We do not know and that is the main principle of it.

1240 So I think the best thing to do is to ask you all to support the sursis and then leave it at that and we will have the democratic decision of the States.

Thank you, sir.

**The Bailiff:** Well, Members, we vote on the sursis proposed by Deputy Paint and seconded by Deputy Lester Queripel.

1245 **Deputy Lester Queripel:** Sir, could I request a recorded vote, please?

**The Bailiff:** We have had a request for a recorded vote.

*There was a recorded vote.*

1250 **The Bailiff:** Well, Members, we will get the formal record of the vote in a moment but we will move on with the amendment that is proposed by Deputy De Lisle and seconded by Deputy Green.  
Deputy De Lisle.

*Amendment*

*In Proposition 1 to delete 'as attached to the Report' and substitute: 'as attached to that Report but replacing the final paragraph of section 3.2.6 as follows:*

*"At its meeting held on 1st November 2012 and following consideration of the Environment Department's Report entitled "Environmental Pollution (Guernsey) Law 2004, Part VI – Water Pollution", the States resolved inter alia:*

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

*(b) To commence Part VI of The Environmental Pollution (Guernsey) Law, 2004, and repeal The Prevention of Pollution (Guernsey) Law, 1989, subject to the savings outlined in Appendix 1 to the report and to repeal the Ordonnance relative au depot de décombres de carrier, d'immondices et d'autres debris sur les Cotes de cette Ile, 1932.*

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

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

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

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

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

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

*The direction of intent described at paragraphs 28 to 31 of Appendix 1 to that Report, comprising a Report of the Director of Environmental Health and Pollution Regulation, will accordingly be pursued, with the objective to have comprehensive water pollution controls covering the main requirements in Guernsey. All out falls will become "prescribed operations" under the new Ordinance and will be subject to licences which will apply conditions to ensure the protection of the receiving waters and dispersion zone management. The method of treatment will need to achieve the standards set and conditions applied."*

1255 **Deputy De Lisle:** Yes, thank you, sir.

The reason for this simple amendment is – in addition to adding clarity to the direction of travel – to bring the States' Waste Disposal Plan up to date with the latest law and practice related to liquid waste, specifically.

1260 It refers to the new Water Pollution Law introduced by this Assembly in November 2012 this term and the fact the regulation of water pollution has passed from Guernsey Water to the Director of Environmental Health and Pollution Regulation, who has already taken over as the Shadow Water Regulator.

1265 The Ordinance to the Law is currently being drafted which will bring the pollution part of the Environmental Pollution Law into effect. It is the intention of the Director of Environmental Health to introduce the spirit of EU Directives and EEC Regulations pertaining to water pollution. Four EU Directives were mentioned in the States' Report on Water Pollution: the Urban Waste Water Treatment

Directive, the Drinking Water Directive, the Water Framework Directive and the Nitrates Directive. The intention is to have comprehensive water pollution controls covering the main requirements in Guernsey.

The forthcoming Ordinance will take account of the local environment in the dispersion zone and the impact of the discharge on that environment, which includes eco systems, human health and the environment.

1270

Now, this amendment adds clarity to the last paragraph in section 326 on page 1681 of the Report in front of us and avoids any misunderstandings of what is intended in the next 20 years. I would ask Members to approve the inclusion of the water pollution part of the Environment Pollution Law in the Plan under 'Liquid Waste' to add clarity on the way forward over the next 20 years.

1275

I thank you, sir.

**The Bailiff:** Deputy Green, do you formally –

**Deputy Domaille:** Excuse me sir, I do have to apologise, I do not seem to have a hard copy of this amendment.

1280

**The Bailiff:** It was circulated at the beginning of the meeting.

**Deputy Domaille:** I have probably lost it but... *(Laughter)*

1285

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

**Deputy Green:** I do and I reserve the right to speak later, sir.

1290

**The Bailiff:** Thank you.

*Sursis by Deputies Paint and Lester Queripel:*

*Not carried – Pour 6, Contre 37, Ne vote pas 0, Absent 4*

**POUR**

Deputy Laurie Queripel  
Deputy Spruce  
Deputy Paint  
Deputy Adam  
Deputy Lester Queripel  
Deputy Le Pelley

**CONTRE**

Deputy Fallaize  
Deputy Lowe  
Deputy Le Lièvre  
Deputy Collins  
Deputy Duquemin  
Deputy Green  
Deputy Dorey  
Deputy Le Tocq  
Deputy James  
Deputy Brouard  
Deputy Wilkie  
Deputy De Lisle  
Deputy Burford  
Deputy Inglis  
Deputy Soulsby  
Deputy Sillars  
Deputy Luxon  
Deputy Quin  
Deputy Hadley  
Alderney Rep. Jean  
Alderney Rep. Harvey  
Deputy Harwood  
Deputy Kuttelwascher  
Deputy Brehaut  
Deputy Domaille  
Deputy Langlois  
Deputy Robert Jones  
Deputy Le Clerc  
Deputy Gollop  
Deputy Sherbourne  
Deputy Conder  
Deputy Bebb  
Deputy St Pier  
Deputy Stewart  
Deputy Gillson  
Deputy Ogier  
Deputy Trott

**NE VOTE PAS**

None

**ABSENT**

Deputy David Jones  
Deputy Perrot  
Deputy O'Hara  
Deputy Storey

1295 **The Bailiff:** Just before I call the first speaker, I can formally call the result of the vote on the sursis. There were six votes in favour with 37 against. The sursis was lost.  
Deputy Luxon.

1300 **Deputy Luxon:** Thank you, Mr Bailiff.  
Sir, Deputy De Lisle did not e-mail me last night or text me with good advice and a smiley but I am going to do the same thing as I did...

1305 I am sorry I cannot be more supportive on some of the amendments being laid today. However, I guess that is life when a Department brings forward detailed reports for debate and Members decide to lay amendments that may appear to be innocuous or even helpful, but which in very real terms could have consequences, or as is the case here, does not actually add anything constructively. Also I point out that there are some minor typographical errors contained within the amendment which I am sure can be rectified.

1310 Sir, Guernsey Water and the Public Services Department are in complete agreement with the Environmental Pollution (Guernsey) Law 2004 Part IV as approved by the States in November 2012 which is the insertion that Deputies De Lisle and Green wish to see inserted into the Waste Disposal Plan.

1315 Sir, not only is the Department in full agreement, we also recognise the standards and requirements that we will have to reach with regard to all matters relating to water pollution, especially around the area of outfall discharge. This is a highly sensitive issue and one which we recognise the regulator should and must and will, task Guernsey Water upon as an essential operational metric.

1320 Members will know that although Guernsey is not governed by European Directives – something the Housing Minister, if he was here, Deputy Dave Jones, would be delighted about – both the Director of Environmental Health and Pollution Regulation and Guernsey Water have both clearly stated that it is intended Guernsey licensing will adhere to the spirit of those European Union Directives, even though we are not bound by them.

1325 So, no, Guernsey will not slavishly adopt UK or EU Directives. Instead we will adopt directives suitable for the Guernsey context but will take heed of best practice and apply those principles to protect and maintain our Island's water quality and health safety for the people of the Island and those that visit the Island. The Director is very clear about this and has made it very clear to Guernsey Water what will be expected of us.

1330 Sir, the very fact that this very appropriate revised Law, to ensure safeguards over water pollution prevention, has already been approved by this States and is in place, negates the need to insert it into the Waste Disposal Plan. The Waste Disposal Plan has to recognise and operate within all existing Laws and directions of travel, and it does. So the insertion, verbatim, of a Law that is already in place, is simply not required.

1335 Sir, I have spoken at length with the Director of Environmental and Health Pollution Regulation only two weeks ago, to specifically enquire as to her professional view on the merits, or otherwise, of this amendment. Sir, she was able to confirm that she had advised Deputy De Lisle in person that the Waste Disposal Plan that is before us, by the Environment Department, had her full support and dealt with her regulator role fully. She also confirmed that over the last five years, in working closely with the management of Guernsey Water, she had *every* confidence that the Environmental Pollution (Guernsey) Law 2004 Part IV, Water Pollution, would absolutely deal with our proposed outfall dispersions management and compliance.

1340 Deputy De Lisle's explanatory note states that this amendment, if approved, would provide clarity. It would not. We do not need clarity, in that it simply quotes the Law which is already very clear. In light of the points I have covered here – all of which are factual, not my opinion – it is difficult, if not impossible, to determine exactly what he was trying to achieve and what would be achieved by approving this amendment, other than filling the Waste Disposal Plan up with verbatim copy of Laws.

Sir, I cannot support the amendment and would ask Members to please do likewise.  
Thank you.

1345 **The Bailiff:** I see no-one... Deputy Green is arising.

**Deputy Green:** Sir, yes, very briefly, I second and support this amendment.

1350 I listened carefully to what Deputy Luxon said and I quite agree with him that we should never be seeking to slavishly follow EU Directives or the like, and that is not actually what Deputy De Lisle said. To be fair, what he said was that in due course it is the spirit of those Directives that would have to be looked at and implemented as part of the process.

The other thing that Deputy Luxon said was that, because certain provisions have already been implemented, that negated the need to put this into the Waste Disposal Plan. Well, I would suggest that is quite a moot point actually, because I think there *is* a need for clarity in this documentation; and this is the

1355 argument I would make, because what I think this amendment does is to ensure that the liquid waste section is actually accurate and clear and in line with the direction of travel that the States has already decided.

Deputy De Lisle talked about the debate in November of 2012 and this is what this is all about. It is already a direction of travel that this States has already agreed to.

1360 Since the debate on liquid waste in early 2012, the States has commenced the section on water pollution in the Environmental Pollution Law 2004, and an Ordinance will shortly be drafted in order to give effect to Part VI of that Law. And I gather that the intention is to try to comply with the spirit of certain EU Directives regarding water pollution in the future.

1365 That is the direction of travel that Deputy De Lisle was talking about. That is the direction of intent that this Assembly has already given, and this amendment will simply incorporate wording into the Plan that will more accurately reflect that direction of travel which has already been set by this Assembly. So I would contend this is a fairly benign amendment and I would ask Members to support it.

**The Bailiff:** Thank you.

Does anyone else wish to speak? Deputy Gollop.

1370

**Deputy Gollop.** Yes, sir.

I think this amendment has brought forward perhaps not only a certainty of text, but has raised a question that Deputy Luxon has only partially answered about what exactly the effect of the previous debate in 2012 was, because Deputy Luxon has indicated that the Director of Environmental Health and Pollution is confident about the ability of Water to deliver and has worked well with the Department.

1375

The point is that the regulations have changed. We are having perhaps more stringent standards in future and that needs to be embedded within this policy and, as the Public Services Department is not denying the reality of the 2012 decision, I cannot see why they are resisting including this within the text because effectively it is already fact.

1380

My worry is that we will have two slightly different reports in frame that will lead to potential confusion rather than clarity. I think Deputy De Lisle is doing us a service in ensuring compliance across the Report.

**The Bailiff:** Anyone else? No.

Deputy Burford then, do you wish to speak?

1385

**Deputy Burford:** Just briefly, sir, I am mindful of the need to keep things moving.

I do not have much to add to some of the points that were made, in fact, by Deputy Luxon. I do see this amendment as relatively harmless but in order to preserve the readability of the plan, sir, I will be voting against it.

1390

**The Bailiff:** Deputy De Lisle then, to reply to the debate.

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

I thank Deputy Green for his support and for seconding the amendment. The points he makes are quite correct. In fact it *is* important that the Liquid Waste Plan is comprehensive and up to date for approval of the States. I mean that is the whole idea of this going through. We need to be open and transparent and in terms, particularly, of where we are in regard to progressing legislation.

1395

You will note that reference is made to the meeting of 8th February 2012, that was before this particular Assembly. That Resolution is fully documented in the Report on page 1681, but there is no full reporting of all the work that this Assembly agreed to following that in November 2012.

1400

Now, it is very important that we understand that we have effective local standards for the Island's water resources which take into consideration the protection of human health, eco systems and the environment, and the Law that I am referring to includes wider powers for protection of all the Island's water resources, including provision in relation to setting standards and pollution of the sea.

1405

It enables the States to better control the nature, volume and concentration of pollutants introduced into, or present in the water, whatever their origin, and it provides for protection of all water resources. It provides a regulatory framework, if you like, for the proportionate regulation of water pollution and potentially polluting operations and discharges aimed at protecting human health, eco systems and the environment.

1410

In my discussions with the Director of Environmental Health, she did actually agree with me that the one small paragraph at the end of section 3.2.6 on liquid waste, was very confusing, in that it states standards set by the Director of Waste Water, but the fact is that it is the Director of Environmental Health and Pollution Regulation. That has to be made clear and so does the actual legislation that we have now and the legislation that will be used in the future, because we are looking at a 20-year span, so it is very important that we have the details in this Report.

1415

So I ask that the more recent legislation change needs to be detailed to facilitate good corporate governance and transparency. The reason for the amendment, in addition to adding clarity to the direction of travel over the next 20 years, is to bring the States Waste Disposal Plan up to date with the latest Law and practice relating to liquid waste.

1420 The Environment Department's function, sir, is to advise the States on waste policy and liquid waste is an integral part of this, and it is important that the liquid waste plan is comprehensive and up to date for approval of the States, and open and transparent in terms of where we are and with regard to the progress in legislation.

1425 So I would ask my colleagues to approve the inclusion of the Water Pollution part of the Environmental Pollution Law in the Plan under the liquid waste section, to add clarity on the way forward for the next 20 years.

I thank you, sir.

1430 **The Bailiff:** Members, we vote on the amendment proposed by Deputy De Lisle –

**Deputy De Lisle:** I would like a recorded vote please.

**The Bailiff:** – seconded by Deputy Green. And we will have a recorded vote.

1435 *There was a recorded vote.*

**The Bailiff:** Members, we will get the formal record of the vote in due course. In the meantime, we will move on with the amendment proposed by Deputy Spruce, seconded by Deputy Paint.

Deputy Spruce.

1440 *Amendment:*  
*To insert a new Proposition 3 as follows:*

*'3. To direct the Environment Department to report back to the States not later than the January 2015 States meeting with a report detailing whether there are any environmental risks or other associated environmental, veterinary or public health impacts attached to the proposal to have In Vessel Composting („IVC“) of food waste and particularly the distribution of the material produced by that process on land in Guernsey as referred to in the Commentary to section 18 of that Report and further, to make recommendations as to whether or not the IVC process represents a cost effective, safe, and Best Practicable Environmental Option in an Island context, taking specific account of the potential impact of Nitrate run off, water pollution risks, or any risks to Cattle health.'*

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

1445 Members, as you are all aware by now, it is no secret that I disagree with much of the proposed Waste Strategy. I do, however, support the principle of waste reduction. I also support the principle of recycling, but not necessarily everything and not at any cost; and I disagree with the proposal to export our waste only to incinerate it elsewhere. But the Assembly has decided on the direction of travel and I accept that, I really do – admittedly reluctantly but I do.

Now, I ask you to accept this amendment. This amendment before you is not unimportant in the context of the entire Waste Strategy.

1450 I ask you to think carefully about the fact that the Environment Department are recommending an IVC process without carrying out the independent evaluation of the potential risk this process might have on the local environment. This Assembly accepted the proposal to in-vessel compost food waste as part of an overall Waste Strategy debate. Little consideration was given at that time of the potential risks associated with this process, or the potential risks of utilising the process output in an Island context.

1455 In fact, in the waste debate earlier this year – those are the reports there – there are only three lines of text referring to the IVC process and no technical advice at all. What Deputy Paint and I are calling for is for this Assembly to direct the Environment Department to produce independent verification as they should be doing, that there are no potential environmental risks or associated impacts from distributing the material produced from the proposed in-vessel composting of food waste process on the Island's farmland.

1460 We are also asking the Department to report back to the Assembly making recommendations as to whether or not the process represents a cost-effective and safe process in an Island context, taking specific account of the potential impact on nitrate run-off, water pollution or risk to cattle health.

1465 Whilst there is no doubt that in-vessel composting of green waste and food waste is a process that is used in some locations, it is also a fact that in the UK, for instance, large areas of open land exist where the material can be spread. There is no doubt that IVC of green waste is a safe and proven system but there are many that view IVC of food waste as potentially risky due to the inherent health risks associated with food

waste. Certainly, extra special processes and additional heat treatment is required to deal with the various food waste viruses.

1470 We believe it is essential that a more comprehensive and independent safety assessment is undertaken of the entire IVC process before this element of the current agreed Waste Strategy becomes a reality. I ask you to look at the bottom of page 1680 of the Waste Disposal Plan, under 'waste derived material'.

Please note these are the Environment Department's words:

'Approximately 6,500 tonnes per year of waste derived material (excluding existent slurry waste of circa 20,000 tonnes) will be spread on land after treatment. The majority of this material results from the processing of green waste with the remainder being processed from food waste. The ongoing long term viability of this process and the long term capacity of the island's soils to take up these additional outputs, particularly in respect of food waste, without adverse impacts to the land and water resources, is unknown.'

1475 Those are the critical words 'is unknown'.

'The WDA has assumed that this waste derived material will meet quality standards and would be applied to the land in line with nutrient management plans.'

1480 Now, I ask you, is that really satisfactory, given the risk implications? Is that really a ringing endorsement from the Environment Department, especially of IVC of food waste? And should the Department not be more certain that all will be well before recommending this element of the Waste Disposal Management Plan?

1485 Members, it is a fact that Guernsey has a relatively small area of farmland, and nitrate levels are already very high. It is also a fact that practically all farmland acts as a water catchment area. We cannot therefore risk contamination of our water supply reservoir. It is also vitally important that we maintain an uncontaminated land base free of any health risk for the Guernsey cow. As food waste collection and processing will carry a significant capital and operational cost and add only between 3% to 5% to the recycling figure, it is my view that independent verification is required that the process is not only risk-free but cost-effective in an Island context.

1490 Remember, we have not received any independent confirmation that our land base is able to accommodate IVC outputs without risk. I ask you, therefore, to support this amendment, if for no other reason but to satisfy yourself that we are not sleepwalking into a major problem.

Thank you, sir.

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

1495 **Deputy Paint:** I do, sir, and I am quite prepared to speak now.

*Amendment by Deputies De Lisle and Green:*

*Not carried – Pour 10, Contre 32, Ne vote pas 0, Absent 5*

**POUR**

Deputy Fallaize  
Deputy Spruce  
Deputy Collins  
Deputy Green  
Deputy Paint  
Deputy De Lisle  
Deputy Gollop  
Deputy Sherbourne  
Deputy Lester Queripel  
Deputy Le Pelley

**CONTRE**

Deputy Laurie Queripel  
Deputy Lowe  
Deputy Le Lièvre  
Deputy Duquemin  
Deputy Dorey  
Deputy Le Tocq  
Deputy James  
Deputy Adam  
Deputy Perrot  
Deputy Brouard  
Deputy Wilkie  
Deputy Burford  
Deputy Inglis  
Deputy Soulsby  
Deputy Sillars  
Deputy Luxon  
Deputy Quin  
Deputy Hadley  
Alderney Rep. Jean  
Alderney Rep. Harvey  
Deputy Harwood  
Deputy Kuttelwascher  
Deputy Brehaut  
Deputy Domaille  
Deputy Langlois  
Deputy Robert Jones

**NE VOTE PAS**

None

**ABSENT**

Deputy David Jones  
Deputy O'Hara  
Deputy Conder  
Deputy Storey  
Deputy Trott

Deputy Le Clerc  
Deputy Bebb  
Deputy St Pier  
Deputy Stewart  
Deputy Gillson  
Deputy Ogier

1500 **The Bailiff:** Right, just before you do, I will announce the result of the vote on the Deputy De Lisle and Deputy Green amendment. There were 10 votes in favour and 32 against. I formally declare it lost. Deputy Paint and then Deputy Luxon.

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

1505 Members of the Assembly, I think I made it quite clear that this whole Waste Strategy is of great concern to me and this is one of the major parts of it. The in-vessel composting of domestic food waste may not destroy any of the prions present in that waste. These are the infective elements responsible for BSE, 'Mad Cow Disease', and the associated human Creutzfeldt-Jakob Disease, and perhaps many other possible imported diseases that are not properly treated.

1510 If the resulting compost is spread on Guernsey land there is a risk of such infections present being transmitted. That is a great worry to me and if I was an owner of land I certainly would not let it happen until I had absolute guarantees that this could be done without any risk.

1515 There is no assessment of the effects of distributing the additional amounts of compost that may be generated or any potential effect on the water courses and nitrate and phosphate levels that could be adversely affected. Assurances from Guernsey Water, Environmental Health, and Agriculture and Finance should be sought.

We have heard already this morning that Environmental Health would say they would look at this after the agreement, but again that is putting the cart before the horse. Before we agree on this, this should be done, as well as many other things.

1520 As far as I am aware, there has been no request from Environmental Health for an assessment on the proposed in-vessel composting. As far as I am aware, there is no application with Planning for a new waste recovery unit or in-vessel composting at Longue Hougue or anywhere else for that matter. So, again, we are talking about at least two years down the road before this happens. And, of course, this again would be after the next election so the new board will be expected to take on the responsibility of these processes forced forward by a previous board, which is very worrying to me.

1525 Thank you, sir.

**The Bailiff:** Deputy Luxon.

1530 **Deputy Luxon:** Thank you, sir.

1535 Through you, Mr Bailiff, would it be inappropriate for me to say to Deputy Spruce, 'Happy Birthday to you, Happy Birthday to you, Happy 65th Birthday, Deputy Spruce, Happy Birthday to you!' and as a result, ask if his 65th birthday goodwill largesse of this week might encourage him to withdraw this amendment and save me having to make this speech? *(Laughter)* Would that be inappropriate of me to ask that, sir? *(Laughter)*

**The Bailiff:** You may ask it. I think I know the answer. *(Laughter)*

1540 **Deputy Luxon:** Sir, this is an – Happy 65th Birthday, Deputy Spruce! – unnecessary amendment on the wrong States' Report. It is a re-run of the sursis that we have just had earlier. I can assure Deputy Spruce that PSD will do exactly what it is that he wants to achieve through his amendment, but without having a six month delay that will derail the Waste Strategy, and repeat all of the arguments that he heard during the comments made during the sursis debate.

1545 Sir, if Deputies Spruce and Paint had wanted to lay such a proposal as this, it should have been in February when the States approved the Waste Strategy Implementation Plan which was resoundingly approved – for which I thank Members. Then the work required could have been undertaken at that point. Although, in fact, the work had already been undertaken in real terms anyway.

1550 The issue of in-vessel composting as a means of utilising the compost resulting from mixed green and food waste, was covered in detail in the approved States' Report earlier this year. The PSD made it very clear that in principle we had identified that there were no obvious impediments from adopting this method and it was our preferred solution, but that there were detailed arrangements that had to be finalised along the process to ensure we could action this part of the strategy. The Environment Department, in their Waste Disposal Plan laid here today, endorse this position.

1555 Sir, we are well aware of the sensitivities of spreading IVC output on the land of Guernsey, for all of the reasons covered in our Report and for the reasons that Deputies Spruce and Paint have mentioned, which is why we have been, and are, in liaison with several bodies. The Environment Department itself, Commerce & Employment Department, Guernsey Water, the Environmental Health Regulator and the farming community itself.

1560 Clearly the Regulator will have to satisfy herself fully that IVC will be acceptable and comply with the licensing regime. If IVC does not comply then we will not be able to proceed, so Deputy Spruce's amendment asks for a report to do what already is in hand to do and is underway as we speak.

1565 An organic soil scientist specialist has been engaged by the Department to review the farmer, land and nitrate survey conducted earlier, to determine how we manage the IVC output – not *can* we manage it but *how* we manage it – and within the Guernsey context. This will calculate, sir, how we integrate current farm manure processes with the IVC output – and remember we are only talking about circa 1,500 tonnes per annum here, relatively small in real terms, in addition to the 20 tonnes of current slurry dispersed on our land that Deputy Spruce referred to.

1570 Deputy Spruce also asked for confirmation as to whether IVC is cost-effective and a best practical environmental option. Again, this is strange because this States has approved IVC as being acceptable as part of the Waste Strategy when we approved the February report which detailed this. However, as a further check, we do of course have to present to T&R the costings, so the cost-effective piece is already underway and he sits on the board that will have four-eye scrutiny over this.

1575 Besides which, the Environment Department is not the appropriate body to do this anyway. It would be for PSD to do the work that he talks about. So, again, an unnecessary piece of work being asked for, aimed at the wrong Department.

1580 Sir, in terms of sending the Environment Department away to confirm that IVC is the best practical environment option, that is odd, as that is exactly what the Environment Department have done in compiling the Waste Disposal Plan we are debating today. They are presenting the recommendations supporting it as a BPEO. And for clarity we have seen, first-hand, IVCs in operation with its output being utilised as compost even in a retail context, being sold through garden centres in the south of England. This is not new technology – it is simple technology. We must simply ensure that we manage its application wisely in our Guernsey context, on our Guernsey land.

1585 Sir, the reason I said earlier that this is an unnecessary amendment is because this is an unnecessary amendment, but with a significant risk attached to it if it is approved – that being to delay the tender process we are already fully engaged in. And if this unnecessary direction is undertaken, to report back to the States in January 2015, we will stall the Waste Strategy implementation by another six months for no good reason and push the completion back even later in 2016 from the original beginning of 2016 that the PSD Board is aiming for. It would be an unmitigated disaster, especially as we are already well into the tender process in which all of the concerns raised are very clearly presented for the tenderers to resolve.

1590 Sir, in reality and summing up, everything that this amendment is asking for is already either in hand as part of the implementation plan or has been completed, and the Public Services Department knows that without compliance in this specific area we would not be able to progress the installation of IVC – something we are confident should not be a problem. There are more than adequate check and balance points ahead to ensure we deliver solutions to the concerns Deputies Spruce and Paint have outlined.

1595 Finally, sir, in addition to this being an unnecessary amendment and one which would derail the Waste Strategy, I am pretty sure it invokes Rule 15(2) in that the Environment Department have already clarified clearly that they do not have the resources to undertake this sort of work, so costs to deliver the amendment's directives would be incurred, in my opinion, and they are not dealt with in this amendment – I would suggest in breach of Rule 15(2). I ask Members to please not support this very odd amendment.

1600 Thank you.

**The Bailiff:** Deputy Kuttelwascher.

1605 **Deputy Kuttelwascher:** Sir, when I first heard of this amendment I was minded to support it for one particular reason, about cost effectiveness, because nobody knows what that means as of now. When I was on PSD with Deputy Spruce, cost effectiveness that I applied was this: that I am happy to recycle anything as long as it does not cost any more than sending it off for some sort of treatment. Cardboard, paper, cans and plastic, I think, costs less to recycle than they would to deal with otherwise. If you look at polystyrene, when I last checked that was £5,000 a tonne. It is obviously a lot cheaper to go and put it in an incinerator but fortunately there is not a vast tonnage of the stuff. Tetrapaks were another one which was very expensive to recycle, it was something short of £2,000 a tonne although I do not know if that is the case now.

1610 With food waste recycling, that will be expensive per tonne because the cost of a separate doorstep collection plus the IVC – and talk at the time when I was on PSD was that you would have to pay farmers

1615 to put it on their land. I think that could be a very expensive thing and Deputy Luxon is quite right, it will come back to T&R to see if it is cost-effective. But I would like to know what cost-effective means and, to me, my personal view is that cost effective is the most economical way of dealing with the issue.

1620 I am not going to support the amendment because it deals with other things as well, regarding environmental impact, but you can rest assured when it comes back to T&R I will certainly be looking at cost-effectiveness, and I will be hoping we, as a board, can decide on what we define as cost-effectiveness in terms of recycling.

Thank you, sir.

**The Bailiff:** Deputy Ogier.

1625

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

1630 In looking through the February 2012 report on the waste when this strategy was adopted, I read that Dr Andrew Casebow, the Commerce and Employment agricultural advisor, has this to say: he tells us that there are advantages and disadvantages of each of the two treatment processes that have been considered – anaerobic digestion of food waste and the in-vessel composting of this material. He tells us that these have been fully explored in past meetings. And the Commerce and Employment Department maintains that, whichever process is selected and built, the key elements in the future successful operation will be the selection of appropriate equipment, the effective operation of the process by trained and experienced staff, and the testing and recording of the material prior to despatch.

1635 Guernsey Water tells us, that due to the already high nitrate loadings in raw water, in-vessel composting is Guernsey Water's preferred option rather than digestate from anaerobic digestion systems. Guernsey Water tell us that they will require the following points to be taken into account and incorporated into the final working model to ensure already high nitrate levels in raw waters are kept to an acceptable limit. They tell us, on a site-by-site basis, soil from fields must be analysed, the compost material must be analysed to determine a nitrate loading, the application rate set out in the EU Nitrate Directive is not to be exceeded, accurate records must be kept, Environmental Health will be setting surface- and ground-water limits.

1640 In other words, we have already received correspondence from Guernsey Water and Commerce & Employment and ongoing correspondence on this matter. Guernsey Water tell us that they will require the process details once approval is given and a pollution safety plan, to be formulated prior to commissioning which sets out likely risks, mitigation measures and process validation. These are the bodies that have strict control over these kinds of pollution. We are in correspondence with them, they have appraised us of the requirements that they need in order for this project to go forward and to me this amendment represents further duplication and further waste of time in an already constrained time frame.

1645 It will add nothing because this will all be done anyway and I ask Members to please reject the amendment.

1650

**The Bailiff:** Deputy Fallaize.

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

1655 Deputy Luxon said that what is being proposed in the amendment is not really a job for the Environment Department. Well, what is being asked in the amendment – and I do not yet know whether I am going to support the amendment – is for the Environment Department to report to the States on whether there are any environmental risks or other associated environmental, veterinary or public health impacts attached to a particular course of action.

1660 The mandate of the Environment Department is to advise the States on matters relating to environmental policy, including waste policy and policy for sustainable development of the natural and physical environment, and to advise the States on matters relating to policy on environmental monitoring. Well, it seems to me that the amendment actually fits quite squarely inside the mandate of the Environment Department and it would have been rather odd for Deputy Spruce to have directed perhaps the Housing Department or the Public Accounts Committee, or some other Committee, to have carried out this obviously environmental task.

1665 If this is not a job for the Environment Department – and this relates to a point which I might have made in general debate but I will make it now and save having to make it later. If this is not a job for the Environment Department why is any of this a job for the Environment Department? I am still not sure why, when it comes to waste policy in particular, we need one Department to develop a waste strategy and another Department to develop a waste plan.

1670 If I proposed that we should have the Education Department developing an education strategy and some other Department developing an education plan, people would say that is bonkers. I am not quite sure why it is necessary to involve more than one Department specifically in this area of waste. But that is where we are. That is what the Law requires and, if we are going to do it, it seems to me that if an environmental

1675

assessment is going to be carried out in relation to any aspect of this Plan, it probably should be carried out by the Environment Department.

1680 Now, what might persuade me to vote for the amendment is that the Public Services Department, not unreasonably, is emphasising constantly the need for urgency – Deputy Luxon wants to get on with this, and he is right to want to get on with it, because it has already taken too long to get to this point. We do not want to prevaricate unnecessarily, having done so already.

1685 But, on this point in particular, the use of in-vessel composting, the report that the Environment Department is laying before the States really does not provide any comfort whatsoever. Paragraph 18.2 in this table, in which the Environment Department has provided some advice, is rather concerning. It says that something that is key is the determination of the ‘current loading of land with nitrates’ and it then goes on to say the Waste Disposal Authority, in other words PSD, ‘was unable to present this current loading data to the Department.’ So it had to take advice from the Commerce & Employment Department. And in the next paragraph we are advised, in reality, as slurry is not spread evenly over all available land, nitrate loadings may be approaching the maximum permitted already. Now, that is the advice that I am being  
1690 provided by the Department which is responsible for advising the States on environmental matters.

I am pleased Deputy Kuttelwascher is going to be scrutinising cost-effectiveness. That is the job that we would expect of the Treasury & Resources Department. I do not want to sound dismissive of cost concerns or concerns about practicality, but I have to say I am more concerned about matters regarding the environment. I am more concerned about protecting the water supply than I am about cost-effectiveness.

1695 That may not be a view shared by other Members of the States, but it seems to me that the integrity and the safety of our water supply is sufficiently critical to place that level of emphasis on it. And, okay, it is alright for the Public Services Department to say, ‘Well, if there are any concerns raised then we will reflect on that at the time,’ but actually they are not unreasonably quite gung-ho now in wanting to press ahead with this Waste Strategy. And I am quite in sympathy with the idea that the Environment Department should take a rather more objective view focussed purely on environmental matters.  
1700

So I think – if I am going to vote against this amendment – I require more assurance than has been provided to the States already by the proponents of the Waste Strategy and the Waste Plan. In other words, that really means Deputy Burford when she speaks on the amendment.

1705 I was not reassured by Deputy Luxon. In contrast to Deputy Kuttelwascher, I originally intended to vote against the amendment and I may now vote for it. But I was not reassured, listening to Deputy Luxon and listening to Deputy Ogier, that there has been or there will be sufficient environmental oversight of the in-vessel composting part of this Plan. And I would ask Members, please, do look at paragraph 18.2 and ask yourself is there sufficient certainty in this Waste Disposal Plan with regard to the mitigation of the environmental risk of in-vessel composting.

1710 Furthermore, this relates to a relatively small fraction of the waste stream. We are not talking about trying to hold up the way in which we will deal with the majority of the waste stream. This is a fairly small fraction of the waste stream and if there is any risk at all with regard to this small fraction of the waste stream not being safe to spread over the land, because of the extent of the water catchment area, quite frankly, I would rather do anything with it other than spreading it over the land.

1715 So I do not think this is Deputy Spruce trying to rehearse old arguments. I think this is actually a fresh argument. And I remember the concerns raised by the Environment Department and others, in relation to the use of the land for this purpose over very many years. Politicians come and go – particularly Members of the Environment Department it would seem – (*Laughter*) but the advice of the political Members of the Committee can change almost month to month. But actually there are permanent members of staff and permanent statutory officials who we employ to provide best professional advice, and I remember for very many years, very many concerns being raised by them about this process, using the land for this sort of purpose. And I am not sufficiently reassured by it at this stage to vote against this amendment, but I will listen to what Deputy Burford and Deputy Spruce say in the winding up phase of the debate.  
1720

Thank you, sir.

1725

**The Bailiff:** Deputy Brouard.

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

1730 I totally agree with this amendment. I think I am really pleased that Deputy Spruce and Deputy Paint have placed it. Had I spotted it, I would have placed one myself.

Air and water is absolutely vital, and water will become more and more a scarce resource as climates change and we have different atmosphere over the Island.

1735 I spent four years on PSD and the message I had from that time there was you have to be so, so careful what you put on the land. We do not have very much land. I can remember the issues they had in Jersey where they decided to mulch chipboard and put in on their land, and the resulting chemicals in the glue

used in the chipboard caused considerable pollution on their Island, and I think they still have the legacy of that today.

If it is a valuable fertiliser that you get out of this process, then sell it to somebody else, please. If it is valuable as a fuel, burn it somewhere else, please. But if we have to keep it on Island either bury it or make sure it is absolutely not on the water catchment area.

1740

So I plead with you all, please, be so, so, careful what we do with our Island. It is a very small place. We have not got much room to move around and if we have to move off the water catchment area you will be seeing us all down the Vale soon.

Thank you, sir.

1745

**The Bailiff:** Deputy Hadley.

**Deputy Hadley:** Mr Bailiff.

I really do think that the risks are absolutely negligible and, in fact, one of these things that did cause me some amazement was the suggestion that prions could possibly be ingested as the result of spreading food waste on the land, and I hope, when he sums up, Deputy Spruce will explain to us how we come to be at risk of getting Creutzfeldt-Jakob's Disease by spreading digested food waste on the land.

1750

I really do think we are... when you consider the risk we take with our health, walking down crowded streets, breathing in diesel fumes, to then to be talking about the miniscule risks involved here is absurd.

1755

**The Bailiff:** Deputy Duquemin.

**Deputy Duquemin:** Sir, I want to make one very brief point, hopefully to allay Deputy Fallaize's fears, and others. And that is just to simply say that part of the PSD mandate, part of our responsibilities, is obviously Guernsey Water itself. So in many ways the joined up Government that exists... let me tell you around the boardroom table we are acutely aware of the need, as Deputy Brouard said, of keeping the integrity of the whole of Guernsey Water.

1760

It is of benefit in this instance that Guernsey Water will be sitting around that very same table, because that is obviously where many of the concerns emanate from.

1765

Thank you, sir.

**The Bailiff:** Deputy Brehaut.

**Deputy Brehaut:** Thank you.

1770

One thing that may be overlooked, sir, is that Deputy Hadley has referred to the negligible risk. The question is, what do farmers not put on their land when they put this on, because you will be presumably taking something out when you are distributing this so you may lower the nitrate level?

The other thing, with regard to which Departments have responsibility and where there needs to be further input, is I have been in situations time and time again, generally in planning terms, where information is given from Dr Andrew Casebow from the Commerce & Employment Department, and I think perhaps if we called this compost 'proteus compost' then we may get a little more oversight by the Minister and a bit more focus from Members of the Commerce & Employment Department with regard to issues such as farming, sustainable farming, sustainable farming methods, and have more input on the risk or otherwise of something like the by-product of this process.

1775

1780

Thank you.

**The Bailiff:** Deputy Robert Jones.

**Deputy Robert Jones:** Thank you, sir.

1785

I would just like to add to what Deputy Duquemin has just said. If we go back to the Waste Strategy approved back in February 2012, I think paragraph 7.8 says:

'In the event that it does not prove possible to apply the by-products of the IVC process to land – for example, if quality control measures were not met or if the farming community declined to take them – then the contingency plan would be either to use the compost-like substance as cover material at Mont Cuét or to use it for land reclamation purposes...'

So there are contingencies proposed in the event that we are unable to use the by-product. But I would also endorse some of the other comments in relation to whether or not PSD are capable of ensuring that those by-products do meet the requirements to use on land.

1790

**The Bailiff:** Deputy Dorey.

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

1795 I think in-vessel composting is the most questionable of all the proposals for the waste stream. You go through from domestic separation, domestic storage of that waste, collection – how is it going to be collected; how is it going to be stored in domestic situations? – to the cost of the in-vessel composting, to the environment risks of the end product.

1800 There is environmental risk with everything and it is all relative to cost, and the element of cost-effectiveness which is mentioned in the amendment is also attractive to me.

So I think, as this is a relatively small percentage of our waste, we do deserve a more detailed report on it and I will support this amendment for that reason.

1805 I do think that if you are going to do in-vessel composting and you are going to finish off putting it in another – not on land but you are going to put it into your waste quarry – then that is really a waste of money, because you have spent an awful lot of money producing a product that it would probably be a lot cheaper to export.

So, in light of all the points I have made, I will support this amendment.

**The Bailiff:** Does anyone else wish to speak? No.

1810 Deputy Burford.

**Deputy Burford:** Okay. Just to start with the question that Deputy Fallaize raised, the slurry is not spread evenly, as the Report says, but we do know where it is spread so therefore we can avoid spreading compost in the same area i.e. many thousands of tonnes of bagged compost are imported into this Island and this product does have the possibility to replace some of that. I think that is alongside the point that Deputy Brehaut made about displacing other materials that are already used. And, of course, the other thing is not all of our land is a water catchment area.

1815 The debate on the appropriateness of the various waste strategies has been argued to and fro for more than 10 years, and I believe it is true to say that there *is* no absolute right and wrong approach and the best practical environmental option will always be dependent on the weighting and scoring used, and the extent to which externalities are accounted for. In other words, it is not all about the money.

1825 If, as Deputy Spruce believes, the spreading of compost from waste will increase nitrate run-off and damage our water table then, of course, that would be wrong. But we cannot know that will happen and, more importantly, a desk top study carried out between now and October – which is the latest the work could be completed in order to present a States' Report in January – is really not going to answer that question either.

1830 The very simple fact is that until the composting facility has been specified, built and operated, and until the resulting compost has been matured and tested we cannot say exactly what nitrate levels or other possible pollutants of that compost will be. And hence we cannot say if it is safe to spread on land or not. That is why we have a regulator to licence the operation and to control the quality of the end product.

But are we wasting money building something that will never be able to meet Regulator standards? I do not believe that we are. Many jurisdictions compost food waste. Indeed, Scotland requires commercial premises to separate food waste for composting so we know it can be done. It will be down to the operator and the regulator to ensure that it is done safely in Guernsey.

1835 Thank you.

**The Bailiff:** Deputy Spruce will reply to the debate.

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

1840 I will just go through the few comments that I noted down.

Thank you, Deputy Paint, for highlighting the potential health risk associated with a failure in the IVC process.

1845 Deputy Luxon – well, you said PSD will do the work. PSD are out to tender. PSD know what they are doing. Well, where is the evidence on this particular issue? At the moment the report earlier this year only had three lines on each – it barely mentioned IVC – and this Report before you today also has numerous concerns highlighted, which I have raised in my speech.

Anyway, if the work is underway, I just wonder why PSD cannot share that information with Environment and provide the information that we all ideally would like – because protecting our environment in my view is more important than anything to do with this strategy.

1850 I also think, of course, that it should be cost-effective and not just done for the sake of doing it. Anyway I have not much else to say on that I mean we are all here today to try and make the correct decision for the Island.

Deputy Kuttelwascher, cost-effectiveness is important, you are absolutely dead right on that one. Food waste processing and collection is a very expensive process. And again we have not had a detailed

1855 breakdown of what that is going to cost. We know from over the past few months that kerbside collection is considerably more expensive than was originally expected. Food waste collection cannot be cheaper in any way, shape or form than kerbside because the material is going to be quite disgusting. The collectors are going to have to collect from peoples' houses, deliver to Longue Hougue, put it through a process and then find a home for the material that is produced by that process. So it would be nice to have some clear indication of the costs.

1860 To take up Deputy Paint's point of view, we are being asked to agree to a Strategy without any information of the total cost of the Strategy. So that is why the amendment tries to cover that.

1865 Deputy Ogier – I did not doubt that he would jump up. He mentioned Dr Casebow. I was on Public Services Department when he was consulted and he produced a very simple one-page letter which said he had some concerns but it could be managed. Fair enough. PSD are still saying it could be managed.

1870 But my overall concern here... I mean, Deputy Ogier mentioned this – testing, recording of the outputs will be important, they will receive reports from Guernsey Water about nitrate run off, which will highlight the risk of spreading food waste in particular areas. Now, this obviously highlights the concern within Guernsey Water about the location and the use of this material on land. And I, like Deputy Dorey, have grave concern about this. If something goes wrong in the process it will be too late. If the superheating of food waste material, which will be required to kill off the viruses, is not completed correctly and the people at Longue Hougue do not test the material correctly, if something slips through the net, it is out there, it is on our fields.

1875 Deputy Fallaize mentioned the fact that it is the Environment Department's responsibility to report on risk to the environment. And they have, in this Report before us today, highlighted that the implications of IVC of food waste are unknown. Now, that is a major red flag and that is not just my words in that Report, that is the Department's view. He also highlighted that there are inadequate land loading information for nitrates material. So that is a pretty important thing. Environment Department were unable to secure that information before writing this Report from PSD, but PSD say they have covered all the bases, 'Everything is okay, do not worry about it. Just take our word.' That gives me real concern.

1880 It seems to me that PSD are more interested in moving the strategy forward than actually protecting or making sure that the environmental impacts of the process are covered 100%, because it is too late after the whole process is in place and why would you build an IVC plant and then wait to see what the environmental health officer has to say about it?

1885 I sat in a meeting with Deputy Paint and Deputy Burford in the Environment Department office with Valerie Cameron, Director of Environmental Health and Pollution Control, and she said she could not give an endorsement to the process. She said she had concerns but she could not make a decision on the process until she saw what proposals were going to be put before her. I accepted that in that situation. But PSD now know what plant they are proposing for IVC because they are out to tender. So they have obviously asked their consultants for technical advice and they are going out to tender, so I would argue that they should be talking with Environmental Health, talking with Environment and coming forward with a guarantee that we feel satisfied about, from an environmental perspective.

1890 This is not about throwing a spanner in the works of the Waste Strategy. As I said at the beginning of my speech, that is done – the decision has been taken, we cannot change that. We might not agree with all of it – I agree with much of it – but I cannot understand the reluctance to address these points and certainly I cannot understand why the Environment Department are not jumping up and down more to make sure. It is their job to protect the environment, nobody else's, and they have not done that in this Report.

1900 Thank you, Deputy Brouard, for your support. I, as you, have got considerable concerns about this process. So, sir, thank you.

1905 Deputy Hadley, I did not say that we would be digesting prions. Those words did not come out of my mouth. (*Interjection*) Yes, but that is not me, I did not say that. (*Laughter and interjections*) So let's just get that straight. I believe the process is possible to kill off these potential viruses, *but* it is okay. Someone mentioned Scotland. That is right. I think it was Deputy Burford who mentioned Scotland. Look how much land they have got in Scotland to spread this material over. Nearly all their farmland does not drain into a reservoir.

Deputy Duquemin said, 'There is nothing to worry about. Trust PSD.' Well, that is all well and good but I have my doubts about that necessarily being sound.

1910 **Deputy Duquemin:** Point of order, sir.

**The Bailiff:** Deputy Duquemin.

1915 **Deputy Duquemin:** I do not think I just said that, I think what I tried to make... and I will repeat the point, is that hopefully Deputy Spruce and others will find comfort in the fact that PSD has both the Waste Strategy and Guernsey Water as part of its portfolio.

What I wanted to do was not just say ‘We will take care of it. Please relax.’ I just made the very salient point that having Guernsey Water as one of our responsibilities should provide Deputy Spruce, I hope, with the necessary peace of mind.

1920 **Deputy Spruce:** Yes, I accept that I was being over-brief. It is true, when I was on PSD, I know exactly what you are talking about and that gives me some comfort, I must admit, but the previous Director of Water was genuinely very concerned. I know that for a fact. I do not know what the current one does.

1925 Deputy Brehaut mentioned the fact that Commerce & Employment and Dr Casebow had – well, Dr Casebow had – some input four years ago. I have not seen any evidence from Commerce & Employment supporting or objecting to the spreading of this material on farmland. I am surprised about that, to be truthful.

1930 I thought Deputy Brouard, who stood up as Deputy Minister of Environment Department... I am not sure whether he was speaking for himself or the Department, I think it was for yourself. So I would have thought the Department would have had a view on that because, again, we have seen no evidence from the farmers that they are willing to purchase and spread this material, although Deputy Luxon says they had. We have got no evidence.

1935 I was a bit surprised by Deputy Jones’s comments because if you go through an expensive process of collection, processing and all of that... We know collecting will cost probably a couple of million pounds a year that is coming out of the public’s pocket. Why would you then spread it on the tip at Mont Cuet? No, I am just saying, why would you do that?

1940 **Deputy Robert Jones:** I will explain. (*Laughter*) The objective is to recycle the food and what I am basically saying is, regardless of whether it is spread on the land by farmers or whether it is used in Mont Cuet, we will still be recycling food, which was part of the strategy. So we have a strategy in place to recycle food waste. That is what we will do. We will separate that from other recyclables and the dry recyclables and the black bag waste. That is an objective of the strategy. So, regardless of whether we put it on land or in landfill, the recyclable rates will not be affected. That was my point.

1945 **Deputy Spruce:** Okay, I accept that, but we would not recycle at any cost and when the proposals come back from the Public Services Department to Treasury & Resources, we would not necessarily be able to justify – (**A Member:** Through the chair...) Sorry, I get carried away. We would not necessarily be able to justify the whole IVC process if the material was going to end up on Mont Cuet.

1950 And, finally – well, not quite finally – thank you, Deputy Dorey, for your support. I entirely agree with you.

1950 Deputy Burford mentioned Scotland. As I say, I have tried to highlight the fact that Guernsey is a distinctly small place so I do not think the fact that IVC material outputs are spread on large areas of land in Scotland or the UK has any bearing on the subject.

1955 I think I have covered everybody’s comments and hope you feel able to support the amendment, purely on the grounds of protection of our environment, if nothing else.

1955 Thank you.

**The Bailiff:** Members, we vote on the amendment proposed by Deputy Spruce, seconded by Deputy Paint –

1960 **Deputy Spruce:** Could I have a recorded vote?

**The Bailiff:** – and there is a request for a recorded vote.

1965 *There was a recorded vote.*

**The Bailiff:** Members, while the votes are being counted, it has been suggested to me it might be helpful if we just give some thought to how we are going to manage our time for the rest of the day.

1970 Can I perhaps have an indication of how many people wish to speak in general debate? Is it going to be a long general debate or not? It seems that it may be quite brief. (*Interjections and laughter*) So, what I –

**Deputy Queripel:** Sir, I only wish to ask two questions and I am not going to –

**The Bailiff:** That is all right, I was just giving some thought to when we might rise for lunch. We have already been sitting for 3¼ hours.

1975 If Deputy Burford will have to reply to the debate, it looks as if we might be finishing this debate perhaps around about midday. I would suggest that maybe when we do finish this debate that might be the

appropriate time to break for lunch and we will see what time it is, but come back at somewhere between an hour and an hour and a half after that, probably around about 1.30 p.m., perhaps, to resume for the afternoon.

1980 Then I would suggest, if we are likely to be sitting late, that we maybe take a break of 15 minutes or half an hour during the course of the afternoon – perhaps around 3.30 p.m. or something like that – just to give people a break, and then sit through to perhaps 6 o'clock, see where we are at 6 o'clock, and there may be some Members – I think there *are* some Members – who wish to then resume through the evening.

1985 So, that is just to give you an idea that is the way that I am seeing things at the moment. We will press on in a moment with this debate and I will propose perhaps that we rise at the conclusion of this debate.

*Amendment by Deputies Spruce and Paint:*

*Not carried – Pour 14, Contre 29, Ne vote pas 0, Absent 4*

**POUR**

Deputy Fallaize  
Deputy Laurie Queripel  
Deputy Spruce  
Deputy Collins  
Deputy Dorey  
Deputy Paint  
Deputy Brouard  
Deputy Langlois  
Deputy Le Clerc  
Deputy Gollop  
Deputy Lester Queripel  
Deputy Gillson  
Deputy Le Pelley  
Deputy Trott

**CONTRE**

Deputy Lowe  
Deputy Le Lièvre  
Deputy Duquemin  
Deputy Green  
Deputy Le Tocq  
Deputy James  
Deputy Perrot  
Deputy Wilkie  
Deputy De Lisle  
Deputy Burford  
Deputy Inglis  
Deputy Soulsby  
Deputy Sillars  
Deputy Luxon  
Deputy Quin  
Deputy Hadley  
Alderney Rep. Harvey  
Alderney Rep. Jean  
Deputy Harwood  
Deputy Kuttelwascher  
Deputy Brehaut  
Deputy Domaille  
Deputy Robert Jones  
Deputy Sherbourne  
Deputy Conder  
Deputy Bebb  
Deputy St Pier  
Deputy Stewart  
Deputy Ogier

**NE VOTE PAS**

None

**ABSENT**

Deputy David Jones  
Deputy Adam  
Deputy O'Hara  
Deputy Storey

1990 **The Bailiff:** The voting on the Deputy Spruce/Deputy Paint amendment was 14 in favour, 29 against, I declare the amendment lost.

Deputy... well, one of the Deputy Queripels. Deputy Laurie Queripel, do you wish to speak before your brother?

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

1995 Sir, I remain consistent with my views. As Members know, I brought a motion against the last Waste Strategy Report that PSD brought before the States and now we have the Environment Report before us and my concerns remain.

2000 Now, sir, I do note the very well-written letter that Deputy Luxon had published in *The Press* recently, attempting to allay concerns and provide reassurances, but I am still not convinced that this Plan, this Strategy, is sustainable, viable, or affordable.

And, indeed, sir, the Environment Report talks about, as Deputy Lester Queripel mentioned earlier, the risk assumptions on which the long-term success and sustainability of PSD, or the WA's Strategy or Plan relies.

Sir, on page 1642, paragraph 3.2, number 9, it reads:

'A strategy cost over 20 years in the order of £10,000,000 to £13,000,000 per annum.'

2005 Now, sir, in this Report there really is no basis for that. Once the initial three-year exportation contract is up or over, we have got no idea what the cost of exportation will be after that and what, if any, its destination will be. So that is speculative, sir, at the very least.

This is such a fundamental issue. Dealing in waste is of such strategic importance, sir, that you really do need a long-term plan with certainty attached to it.

2010 Now, on page 1634, paragraph 4.5 – and this has been covered already, of course – it talks about the  
proposed treatment of food waste. It then goes on to say, sir, as you already know, if the mitigation  
measures are not successful an alternative disposal route for food waste will be required. Well, there is no  
2015 mention in this Report either of what that method might be and now, Deputy Rob Jones of course has  
informed us, I think it will be either used as a covering on the tip or was it something to do with land  
reclamation, I am not sure?

So I agree with Deputy Spruce. To go through this very expensive process of processing food waste in  
the way that it is going to be done and then just to use it as covering on the tip, sir, that does not sound very  
cost-effective to me. And that is the kind of thing I think that scrutiny and PAC should be looking at very  
carefully, if that results, sir.

2020 If this material is not used to spread on the land because it is not up to sufficient standard, if it just gets  
put in the tip, sir, I think that is something that we should be very interested in, in regard to cost  
effectiveness.

On page 1644, paragraph 4.6, it talks about an alternative method being required if consent to renew,  
after three years, the export contract is not achieved and there is the prospect of being left with waste and  
2025 not knowing what to do with it. And in the meantime, sir, a fairly significant capital expenditure of millions  
of pounds will have been expended to then face uncertainty after just three years.

Any scrutiny process, sir, would be interested in the wording, in I think it is 21.1 of the Report – yes,  
21.2, sir, on page 1664 – the almost cavalier approach taken towards infrastructure and facilities costing  
millions of pounds, becoming redundant after three years, and the comment that, perhaps or possibly, those  
2030 facilities could be stripped out and used for something else. That is pretty cavalier, sir, that is quite vague  
and that is something else I think that the scrutiny process and PAC should be looking at. And if that  
happens, sir, that is something that will require a good deal of scrutiny, I think.

And if it does happen, sir, if after three years or so the use of that building is redundant and it is going to  
be used for something else, I think there will be something akin to public outrage. Particularly as most  
2035 households will be paying at least twice as much in regard to their refuse rates, their refuse bills, to then see  
a piece of infrastructure that has been created specifically to do something and then to see that it might be  
used for something else after a few years. What we do not know is nothing is said in regard to how it will  
be used. I think that is a bit cavalier.

Now, the charging system, sir. I understand that the idea is to make it a fairer system with elements of  
2040 ‘user pays’, sir, but it is the tensions between the various revenue streams that concern me. If one or more  
of the revenue streams, whether it be one of these standing fixed charges or a charge for one of the bags,  
does not yield what is expected or required, or the price of processing is higher than expected, that charge  
could go up. If it is a bag charge you have to be careful with that.

The idea of this strategy, sir, is to try and affect people’s behaviour. If they feel they are paying too  
2045 much to do something, sir, they may find another way to deal with it.

**Deputy Ogier:** Point of order, sir.

**The Bailiff:** Deputy Ogier.

2050

**Deputy Ogier:** The Environment Department clearly states that, in respect of cost, the cost of the Waste  
Disposal Authority’s preferred scenario has been debated by Government in 2012 and in 2014 and found to  
be acceptable. As such, the Environment Department has considered this element of the Waste Disposal  
Authority can be taken as a given and does not require further analysis by the Environment Department.

2055 If they have said that, the cost cannot be part of the Waste Disposal Plan and therefore I believe Deputy  
Queripel is straying into analysis of the Waste Strategy itself, whereas the Waste Disposal Plan is what is  
before us today.

**The Bailiff:** Deputy Queripel.

2060

**Deputy Laurie Queripel:** Is that correct, sir, or can I carry on with that element of the –

**The Bailiff:** That is my understanding. Maybe Madam Comptroller can help on this, but that is my  
understanding. There is a difference between the Strategy and the Plan and what we are debating now is the  
2065 Plan, although the two are inevitably closely... well, one depends upon the other, but there is a difference  
between the two.

Madam Comptroller?

2070 **The Comptroller:** Sir, that is correct. The Strategy sets out basically the high level policy which the States has already agreed. This Plan sets out the facilities required, in effect putting into operation the Strategy. There is a difference there. They are interlinked but there is a difference between what the two do.

**The Bailiff:** Deputy Queripel.

2075 **Deputy Laurie Queripel:** Do I carry on with that, sir, or do I have to skip over the charges?

**The Bailiff:** Skip over it.

2080 **Deputy Laurie Queripel:** It does concern me a touch, sir, because when we were debating the sursis Deputy Ogier quoted at length from the Report even though the debate was about not debating the Report. But...

The sursis debate was about not debating the Report and yet Deputy Ogier spoke at length, or quoted at length the Report, so...

2085 **The Bailiff:** Deputy Ogier.

**Deputy Ogier:** I wish to clarify that point. What I did was I went through the Report in considerable detail and outlined why we did not need to put off debate on those items for another day.

2090 **Deputy Laurie Queripel:** Okay.

**The Bailiff:** Deputy Queripel.

2095 **Deputy Laurie Queripel:** Thank you, sir.  
Page 1685, sir – the section headed ‘Public waste disposal and management sites’ and in the first paragraph it says:

‘... the draft Waste Disposal Plan is required to identify the sites under the management of the Waste Disposal Authority where such disposal is to take place.’

2100 So sites are identified where a number of processes do or will take place now or in the future, but there is no naming, sir, of a storage site for the baled RDF which is on page 1686. Now, I have heard mention of a site – and I suppose I have to declare an interest here because it is right outside of my door, where I live – but I do not have a problem with that but, sir, is that area suitable?

2105 I have heard of no analysis or survey or checks to see if that site is suitable and if it ticks all the boxes, and yet we have got talk here, sir, of a storage site for the baled RDF; but really, although a site has been mentioned, no work has been done to see if that is a suitable site or the right site to use.

Sir, I could go on and make further points but the other Members of the Assembly who have concerns about the Plan have made a number of points. My instinct, I guess, is to vote against the Report and I realise... I am absolutely sure it is going to go through.

2110 But having said all that, sir, I do wish this Plan well. I really hope it works. It is essential for this Island that it does and if it fell short in any way, sir, I would take no pleasure in that at all because this is a vital strategic matter, dealing with waste and I do have some sympathy with PSD. It is a monumental task to have to deal with waste in a comprehensive and a correct manner.

2115 So, as I say, I have real concerns. Those concerns remain. I still have serious misgivings and discomfort in regard to this Report and, as I was saying, I do wish the Plan well, but I just feel there are so many missing pieces in regard to information, in regard to costs and at the moment, sir, I will be voting against it.

Thank you, sir.

**The Bailiff:** Deputy Lester Queripel.

2120 **Deputy Lester Queripel:** Sir, I will be brief.

I rise to merely ask the Minister two questions I asked my colleagues to consider in my speech on the sursis. Those were: how serious does a concern have to be before the Environment Department consider there to be adequate reason to reject a recommendation? And what criteria does a Department employ to determine how serious a concern actually is?

2125 Thank you, sir.

**The Bailiff:** Deputy Burford will reply to the debate.

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

2130 Due to the short nature of the debate and how most of the points I think were covered during the course of the sursis and amendments, I do not really have anything to add except just to address Deputy Laurie Queripel's question. As to how serious a concern would have to be, I think it would be a case that we would have to think that the concern could not be mitigated in any way.

Thank you, sir.

2135 **The Bailiff:** We vote then on the Environment Department Waste Disposal (Management) Plan.

**Deputy Lester Queripel:** Sir, I am not sure that that answered my second question. Which was: what criteria do the Department employ to determine how serious a concern actually is?

2140 **The Bailiff:** Deputy Burford.

**Deputy Burford:** I think it is in the Report that the Department reviewed all the various parts of the workstreams that PSD had gone through and analysed each one of them and looked at the likely pitfalls to do it. There was not a matrix that was able to be applicable to every single item of the Plan.

2145

**The Bailiff:** Deputy Spruce, are you going to request a recorded vote? (*Interjection*) We will have a recorded vote.

*There was a recorded vote.*

2150

*Not carried – Pour 39, Contre 4, Ne vote pas 1, Absent 3*

**POUR**

Deputy Fallaize  
Deputy Lowe  
Deputy Le Lièvre  
Deputy Collins  
Deputy Duquemin  
Deputy Green  
Deputy Dorey  
Deputy Le Tocq  
Deputy James  
Deputy Perrot  
Deputy Brouard  
Deputy Wilkie  
Deputy De Lisle  
Deputy Burford  
Deputy Inglis  
Deputy Soulsby  
Deputy Sillars  
Deputy Luxon  
Deputy Quin  
Deputy Hadley  
Alderney Rep. Jean  
Alderney Rep. Harvey  
Deputy Harwood  
Deputy Kuttelwascher  
Deputy Brehaut  
Deputy Domaille  
Deputy Langlois  
Deputy Robert Jones  
Deputy Le Clerc  
Deputy Gollop  
Deputy Sherbourne  
Deputy Conder  
Deputy Bebb  
Deputy St Pier  
Deputy Stewart  
Deputy Gillson  
Deputy Le Pelley  
Deputy Ogier  
Deputy Trott

**CONTRE**

Deputy Laurie Queripel  
Deputy Spruce  
Deputy Paint  
Deputy Lester Queripel

**NE VOTE PAS**

**ABSENT**

Deputy David Jones  
Deputy Adam  
Deputy O'Hara  
Deputy Storey

**The Bailiff:** Well, Members, there were 39 votes in favour and 4 against, I declare the Plan carried.

2155 It is now 12 o'clock, spot on. It has been suggested to me that one and a half hour's break might be better than an hour, to enable people to have a meal if they wish to do so, as we may be sitting quite late today.

So what I am going to put to you is the Proposition that we rise now and return at 1.30 p.m. Those in favour; those against.

2160

*Members voted Pour.*

**The Bailiff:** Well, we will be back at 1.30 p.m.

*The Assembly adjourned at 12 p.m.  
and resumed its sitting at 1.30 p.m.*

2165

**The Bailiff:** Greffier, if you could call the next matter.

## TREASURY AND RESOURCES DEPARTMENT

### X. Guernsey Electricity – Guernsey-Jersey Cable Project – Propositions carried

*Article X.*

*The States are asked to decide:*

*Whether, after consideration of the Report dated 12th May, 2014, of the Treasury and Resources Department, they are of the opinion:*

*1. To authorise the Treasury and Resources Department to facilitate borrowing by Guernsey Electricity Limited to finance the installation of an additional cable between Guernsey and Jersey by providing guarantees from the States of Guernsey for borrowing from third parties or by offering the Company a loan from the States.*

*2. To approve the proposal for Guernsey Electricity to act as a 'carrier-neutral' dark fibre infrastructure provider as set out in section 7 of that Report, subject to the Company's ongoing investigations of the commercial, operational, legal and technical viability of the initiative.*

*3. To direct the Treasury and Resources Department and the Commerce and Employment Department to investigate the need for any amendments to the guidance issued by the States to the Treasury and Resources Department under the provisions of the States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001, to enable Guernsey Electricity to act as a 'carrier-neutral' dark fibre infrastructure provider and to report back to the States with recommendations for any such amendments if necessary.*

2170

**The Senior Deputy Greffier:** Article X. Treasury & Resources Department – Guernsey Electricity – Guernsey-Jersey Cable Project.

**The Bailiff:** The debate will be opened by the Minister, Deputy St Pier.

2175

**Deputy St Pier:** Sir, last month of course the States approved its future electricity supply strategy reaffirming its policy that there would continue to be local generation of electricity but with the expectation that there will be enhancements to the Island's cable connections to allow local generation to play a secondary role.

2180

The proposals before the Assembly today simply represent an acceleration of part of a plan that has been in the pipeline for some time but which had originally anticipated an additional cable to Jersey being commissioned no earlier than 2016.

2185

So why do we need to accelerate things? The cable failures in 2012 were a stark practical reminder, if one were needed, of how reliant we have become on imported electricity to deliver affordable and sustainable energy supplies. We have moved from a position where GEL was importing around 80% of our electricity requirements to one where we can now only import between 30% and 40%. Imported electricity is at least 35% cheaper than generating on-Island and is provided from low carbon sources of supply – in our case a mix of nuclear and hydroelectric.

2190

So whilst our N-2 electricity security policy successfully ensured that the lights stayed on, the consequences have been increased electricity tariffs, a power station that is now running for three times longer than was previously the case and all that that means for its near neighbours, and a substantial increase in our carbon dioxide emissions.

2195 In response to these challenges Guernsey Electricity has continued to progress with its plans to invest through the Channel Island Electricity Grid in the N1 and N3 cable projects between Jersey and France which will substantially increase the amount that can be imported to Jersey and in turn the amount that can be transmitted onwards to Guernsey.

2200 As these projects come to fruition we can look forward to imports returning to between 80% and 95% of our supply. However, I use the words 'look forward' with hesitancy because this is all premised on being able to import through the existing single cable between Guernsey and Jersey. And, as the Report before you today explains, with further faults having been identified in the existing cable, our additional import capability can no longer be guaranteed.

2205 Sir, the existing situation with the cable is a fluid one and indeed an unpredictable one. It would, I think, be helpful if I took this opportunity to update Members on the results of the ongoing tests that GEL has been undertaking.

2210 The Department's Report notes that the cable has been exhibiting the same behaviour that it demonstrated before the 2012 problems, which involved failure of the fibre optics ahead of failure of the main cable. Tests have now pinpointed the specific sub-sea location where over two-thirds of the fibres have failed again. However, the condition assessments are suggesting that this may not be an isolated issue and, whilst the tests are not conclusive, there may well be similar areas of concern at other points along the cable.

2215 Guernsey Electricity is continuing to invest considerable time and effort in developing its understanding of the cable's behaviour and the causes of these faults. These test results are pointing towards either manufacturing design or installation issues with the cable or possibly both. As such, GEL is not currently planning to make pre-emptive repairs which will obviously have implications for the cable's remaining life span, which should have been at least 25 years.

2220 Suffice it to say, sir, that this is the subject of ongoing and serious discussion with the cable's manufacturer but Members will, I am sure, appreciate that this is commercially sensitive and I am unable to set the discussions out in further detail.

2225 It is understandably nigh on impossible to predict if and when any future failure of the cable will occur. We can, of course, take comfort that we have a tried and now tested N-2 security policy, designed to ensure that the lights do stay on if the cable were to fail again.

2230 However, we can be certain that any such failure would result in significant increased financial and environmental costs for the community, if there was a prolonged need to generate all of our electricity locally. Neither Guernsey Electricity nor the Treasury & Resources Department believe that this is a satisfactory or acceptable position and, as a result, we do both firmly believe that every effort should now be made to accelerate the delivery of new cables.

2235 Security and affordability to customers are vital in terms of our electricity supply and indeed our economy.

2240 Bringing forward the second cable is the right move, given the concerns that exist over the projected life span of the existing cable. It will also help to secure the environmental benefits associated with importation.

2245 Given the strategic importance of this initiative, the Department and its supervisory sub-committee have been working closely with GEL for several months to scrutinise the development of its plans and business case. The company has been regularly briefing Treasury & Resources on the issues involved and the alternative options including other cable route options or simply doing nothing.

2250 Whilst investment appraisals demonstrate that the most preferable option would be to make a direct connection to France, this does not take account of the fact that this will take between six and 10 years to plan, build and commission.

2255 However, Guernsey Electricity has identified an opportunity to lay a new cable known as GJ3 to Jersey which could possibly be delivered in late 2015. As this would run alongside the existing cable, it can be delivered more easily and more quickly than some of the alternative options at an estimated cost of £45 million.

2260 I should stress that, whilst GEL are pursuing the Guernsey to Jersey option in the short term, principally, in the interests of improving our security and resilience, it is also firmly focused on delivering a cable direct to France as well, in order to cope with the projected future load growth. GEL will be providing a business case to Treasury & Resources for this additional project in 2015-16.

2265 Whilst 2015 is the target date for the GJ3 project we must recognise that such a technically and logistically challenging project comes with many risks which could impact on the ambitious timescale.

2270 The most obvious ones are the ability of the manufacturers to supply the cable and the availability of specialist cable laying vessels. Additionally, the project currently calls for the installation of a switching station at both ends of the interconnection in Jersey and Guernsey.

2275 Whilst GEL is currently reconsidering whether these should be included within the scope of the project, their delivery would depend on acquiring the necessary land, planning and building permissions without

delay. There will also be the question of permits to bring the cables ashore, environmental impact statements, other planning permissions and authorisations to excavate highways.

2255 Sir, whilst GEL is confident that it can manage these risks, they each do have the ability to affect the timescales, scope and cost of the project, possibly even necessitating a change in the preferred route of the cable.

2260 I stress this point, sir, because I do appreciate that there will be some Members of the Assembly who are uncomfortable that the recommendations in the Report before us today do not include any limits on the lending authority that T&R is seeking to facilitate this project. Whilst we could have waited to dot every 'i' and cross every 't' before bringing these proposals to the States, this would inevitably have necessitated delaying delivery of the project until 2016, at the earliest.

T&R will continue to scrutinise any changes to GEL's plans that may be necessary and will only authorise the necessary lending if it remains satisfied that a robust business case remains in place.

2265 At this point, I would also like to reiterate the commitments the Department has given in its Report on borrowing arrangements for GEL and the States-owned trading entities. We have committed to work with GEL to determine an appropriate total level of debt for the company and work on this exercise is already being undertaken by the Department's supervisory sub-committee.

2270 We have also committed to reviewing the funding and governance arrangements for all borrowing by public or quasi-public bodies and, as Members will now be well aware, will be reporting back to the States on this matter in due course.

In the meantime, sir, I do encourage Members to support the Propositions.

**The Bailiff:** Deputy Lester Queripel.

2275 **Deputy Lester Queripel:** Thank you, sir. I will be brief.

Proposition 1 asks us to approve GEL borrowing money to finance the installation of an initial cable between Guernsey and Jersey, but what I am concerned about is the ramifications of that in relation to costs to the consumer.

2280 When GEL were forced to generate electricity on-Island due to the fault in the cable, they passed the cost on to the consumer by way of a 9% increase in tariffs, and even though the cable has been repaired and we are now reconnected to Jersey, the cost of electricity has not gone back to where it was prior to the cable fault – the 9% increase is still in place.

2285 Now, during the May 2013 States' debate, the T&R Minister had an exchange in this Chamber with Deputy Kuttelwascher and that exchange gave hope to Islanders that costs for electricity would reduce once Guernsey was reconnected to Jersey via the cable. And, to refresh the Minister's memory, sir, I will just read part of that exchange. Deputy Kuttelwascher started by saying that once new cables had been laid it:

'...would reduce... [on Island] production costs by between £10 million and £12 million per annum, which equates to a 25% reduction in production costs, which on a really good day could mean a 25% reduction in tariffs.'

2290 And in response to that, sir, Deputy St Pier said:

'... the expectation is that there will be an opportunity for reductions in tariffs. Clearly, as a shareholder, the shareholder will be encouraging Guernsey Electricity to achieve that...as quickly as possible.'

2295 So my question to the Minister, sir, is this – it is a four-part question: is the shareholder currently encouraging GEL to reduce tariffs? If so, how are they actually doing that? If not, when will this encouragement start and what form will this encouragement take?

Thank you, sir.

**The Bailiff:** Does anyone else wish to speak in this debate?  
Deputy Paint.

2300 **Deputy Paint:** Sir, Members of the Assembly.

Having attended the presentation made by Guernsey Electricity, I agree now with this proposal.

2305 First of all I thought it would be much better to lay a cable directly from here to France and thus forming a ring main between France, here, here to Jersey, and Jersey back to France but, due to the condition of the existing cable, I think that the only way forward is to lay this new cable to Jersey. We just cannot allow this to fall or we will have to generate electricity at ever-rising fuel costs.

What I am not too happy about is that the cable that was supposed to last 25 years is now in danger of breaking down again, and we cannot take that risk.

2310 What I would like to know really is what is being done to guarantee that the new cable will last its full life rather than only half of its existing life. It is a worry but I am sure... It was only guaranteed for two

years, as we understand, but surely there should be something we could do or perhaps get some costs back in the future or make sure that if this happens again the costs are covered.

Thank you, sir.

2315 **The Bailiff:** Deputy Soulsby.

**Deputy Soulsby:** Sir, very briefly, I urge Members to support this Report; not only because of the real risk of the GJ1 cable failing, but this gives us the opportunity to improve our data connectivity infrastructure, with the potential to increase competition in the market and reduce prices to consumers. Every cloud has a silver lining they say, and this is an example of just that.

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

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

2325 Deputy Lester Queripel raises a very good point in relation to tariffs. It was actually part of the speech that I cut out in the interests of brevity.

GEL has indicated that this project can be delivered without in itself requiring tariffs to be increased, and of course whilst I, and I am sure everybody, welcomes this, I am very conscious that GEL had been hoping – as indeed Deputy Lester Queripel quite rightly referred to in his speech – to consider recommending a reduction in tariffs once the cheaper supplies that the N1 and N3 projects will deliver had come on line. Of course, this was before the further problems had been exhibited with the existing Guernsey-Jersey cable had been identified, and the need to fund earlier investment in a new cable to Jersey means that such tariff reductions of the reversal of the 9% increase is, I suspect, unlikely. That is just a direct change in the circumstances between the last debate that Deputy Queripel referred to and this debate.

2330 In terms of what the shareholder is doing in relation to maintaining or encouraging the reduction of tariffs more generally, I would suggest that that is very much a subject of the role of the Department, through its supervisory sub-committee, and also more importantly the work that we have been doing with our colleagues in the Commerce & Employment Department in relation to the regulatory requirement for the regulated utilities.

2340 It is the hope of both Departments to bring a report to this Assembly, hopefully before the end of this year, that will provide further information in and background in relation to the environment in which the shareholder is seeking to hold these companies to account.

2345 Deputy Paint's point is clearly a very valid one in relation to the life or expected life of the existing cable which, as he quite rightly said, should have been 25 years. In many cases the usable life of cables is well beyond that and can extend right up to 40 years. So that does clearly, after 12 to 13 years, raise questions about the existing cable.

2350 As I referred to in my speech, sir, the question of whether there were or are any latent defects in the cable or in the means in which it was laid is clearly an issue which Guernsey Electricity is giving very serious consideration to and, as I said, is in dialogue with the manufacturer and clearly informed by the experience that they have had with the cable.

Of course it is also not only Guernsey Electricity but also Jersey Electricity for its interest in the Channel Island Electricity Grid Company Limited. There is going to be, I would suggest, as part of the commissioning of any new cable, considerable interest in the very point that he has made, as to the extent to which we can have confidence that it will last the term and therefore justify the business case that is made. That will clearly be an issue which I would expect the Department to be conscious of in reviewing the business case when it comes back to us.

2355 Deputy Soulsby's point in relation to data connectivity is absolutely right. All advice in relation to this issue is that you should take every possible opportunity you can to increase all the connectivity and this is an ideal opportunity – the silver lining to the cloud – to wrap yet further fibre around the new cable.

2360 With that, sir, I do encourage Members to support the Propositions.

**The Bailiff:** We vote then on the Propositions which are to be found on page 1718 – the final page of Volume 1 of the Billet. Those in favour; those against.

2365 *Members voted Pour.*

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

**TREASURY AND RESOURCES DEPARTMENT**

**XI. Double Taxation Agreement with the Government of the Principality of Monaco –  
Propositions carried**

*Article XI.*

*The States are asked to decide:*

*Whether, after consideration of the Report dated 7th May, 2014, of the Treasury and Resources Department, they are of the opinion to declare that the Agreement made with the Government of the Principality of Monaco, as appended to that Report, has been made with a view to affording relief from double taxation, and that it is expedient that those double tax arrangements should have effect, so that the arrangements have effect in relation to income tax in accordance with section 172(1) of the Income Tax Law, 1975, as amended.*

2370 **The Senior Deputy Greffier:** Article XI. Treasury & Resources Department – Double Taxation Agreement with the Government of the Principality of Monaco.

**The Bailiff:** Deputy St Pier will open the debate.

2375 **Deputy St Pier:** Sir, the report is self-explanatory and I have nothing to add.

**The Bailiff:** Is there any debate? No. We go to the vote on the Propositions on page 1755. Those in favour; those against.

*Members voted Pour.*

2380 **The Bailiff:** I declare them carried.

**COMMERCE AND EMPLOYMENT DEPARTMENT**

**XII. Amendments to Statutory Minimum Wage Arrangements –  
to come into force on 1st October 2014**

*Article XII.*

*The States are asked to decide:*

*Whether, after consideration of the Report dated 6th May, 2014, of the Commerce and Employment Department, they are of the opinion:*

*1. To approve The Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) Regulations, 2014, as set out in Appendix 2 to that Report, which increases the Minimum Wages Rates, as set out below:*

*- Adult Minimum Wage Rate to be set at £6.65 per hour (For workers aged 18 and over).*

*- Young Person's Minimum Wage Rate to be set at £5.55 per hour (For workers aged 16 and 17).*

*2. To approve that 1st October 2014 shall be the date for implementation of the Commencement Order and the Regulations to give effect to the Law.*

**The Senior Deputy Greffier:** Article XII. Commerce & Employment Department – Amendments to Statutory Minimum Wage Arrangements to come into force on 1st October 2014.

2385 **The Bailiff:** Deputy Stewart will open this debate.

**Deputy Stewart:** Mr Bailiff, I have not got anything to add to the Report but I am happy to take some questions.

2390 **The Bailiff:** Is there any debate?  
Deputy Lester Queripel.

**Deputy Lester Queripel:** Sir, this is a speech as opposed to asking questions, but there are questions in the speech. Am I permitted to make a speech?

2395

**The Bailiff:** Yes.

**Deputy Lester Queripel:** – and include the questions, sir?

2400

**The Bailiff:** Of course, normal debating rules apply.

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

I was actually considering laying an amendment to increase the Minimum Wage to £7 per hour for an adult, until some of my colleagues told me I could not actually do that, which was later confirmed by HM Procureur.

2405

So here I am, sir, for the third year in a row, expressing disappointment and concern regarding the Commerce & Employment proposals to increase the Minimum Wage.

There are several major factors that I feel should be taken into consideration when setting a Minimum Wage, all of which Commerce and Employment unfortunately seem to have ignored.

2410

Before I focus on those factors, sir, I want to say that I am *not* confusing the Minimum Wage with the Living Wage. I think a Living Wage in Guernsey in this day and age should be £12 an hour, because anyone working 40 hours a week for £12 an hour would earn £480 a week before paying tax and insurance. And depending on their circumstances they could take home around £400 a week which is just about enough I think for someone to enjoy a little of the quality of life we hear so much about.

2415

So what are the major factors that I think C&E are ignoring? Well, not only do we need to encourage unemployed people back into work, but we also have to bear in mind we need to do our utmost to encourage employees to set up their own private pension scheme so that in future years they do not have to rely on the States. But the reality is, sir, when someone is working for such a low Minimum Wage they simply do not have the spare cash to set up a private pension scheme.

2420

And we really do, of course, need to take into consideration the morale of employees working for the Minimum Wage. How must they feel when they get up in the morning to go to work? Especially those who have to work 60 or 70 hours a week merely to survive.

There are jobs advertised on the boards in the Job Centre looking for employees to work 70 hours a week for the Minimum Wage. I saw six such vacancies when I paid one of my regular visits to the Centre recently. I hasten to add, sir, I was not actually looking for a job! But I might be, of course, in 21 months' time.

2425

So here are those six vacancies. There are three vacancies for yard hands working from 7 a.m. until 6 p.m. Monday to Friday, from 7 a.m. until 11 a.m. on a Saturday. There is a vacancy for a cleaner to work 60 hours a week with an 11 p.m. finish, six nights a week. And there are two jobs in horticulture working for seven days a week up to 70 hours. All those hours are for the Minimum Wage. There is no such thing as time and a half or double time. So an employee working 70 hours a week over seven days is working 10 hours a day every single day of the week. There is very little time to spend with family or friends or even have a social life.

2430

Another factor that C&E need to bear in mind, I feel, is that any employee who does not earn enough money to pay for their basic living costs then goes to Social Security and claims Supplementary Benefit. That could be £100 top-up, it could be £200 per week top-up or it could be even more. But surely, sir, that is unsustainable.

2435

The Government cannot give money to any member of the community without asking another member of the community to pay for it. And I am only too aware, as Deputy Dorey reminded me the last time I spoke on this issue, Supplementary Benefit comes from General Revenue, and all other benefits come out of contributions. And as I said in response to Deputy Dorey on that occasion, sir, surely it is irrelevant which pot the money comes from. It is still the taxpayer and the other members of the workforce who pay for supplementary benefit top-ups. So the reality is we all subsidise the employers who pay the Minimum Wage.

2440

I think we have to ask ourselves: 'where is the evidence that any employer will go out of business if they have to pay a little bit more by way of a Minimum Wage?' Because there is no evidence in this Report and surely if there was any evidence it would have to be in this Report. So that is a question I ask the Minister: where is the evidence that any business would go out of business if the Minimum Wage was set at a slightly higher figure?

2445

Another question I put to the Minister is, has he ever visited the Job Centre and spoken to people there who are applying for jobs that pay the Minimum Wage? How many times has he experienced their frustration and their demoralisation?

2450

2455 Other questions I would like to ask focus on the time in the future when a Living Wage has been determined. The questions are these – when the figure for a Living Wage is finally determined, what criteria will the Commerce & Employment Department employ to then set that Minimum Wage? Will the fact that a Living Wage has finally been set influence their thinking in any way? And if the answer is yes, then how will it influence the thinking of the Department, because surely nothing will really have changed? Surely the approach will still be that if the Minimum Wage is set too high then businesses might go out of business.

2460 Another point that I think C&E need to consider is that the more an employee earns, the more tax and insurance they pay, so is that not a good thing for the economy?

Sir, we often hear that we live in an affluent Island. Well, if that is the case, surely it is time for some of that affluence to filter down a little bit.

2465 I will close, by focussing on why we need to value every member of the community. I took great comfort from Deputy Brehaut saying in a recent debate on education that we need to value all children and not just the academics. I take comfort from the fact that Deputy Le Lièvre is the Chairman of SWBIC. And I take comfort from the fact that Deputy Dorey, when he was Minister of Social Security, at least made a valiant attempt to improve the benefits system. And I take comfort from the fact that several of my colleagues appreciate the need to value all the members of our community, sir, because if someone does not feel valued and worthy then they may end up feeling worth *less*.

2470 That message is echoed by our very own Medical Officer of Health in his recent reports. And here are just a few of the things he said in those reports. He said that breaking the cycle of demoralisation and depression amongst the lower paid can lead to substantial health and economic gains for present and for future generations.

2475 He said that the unintended consequence of setting a Minimum Wage too low would be that poverty gets worse. He said that income inequality does not only affect the health and wellbeing of the poorly paid but the whole of the community. And he also said that every member of society needs to feel valued, that they need to feel as though they are an important part of society, because if they do not feel valued they are likely to become demoralised and depressed and that is when they are likely to start drinking alcohol or taking anti-depressants, or even turn to a life of crime in desperation and that is how the whole community becomes affected.

2485 I will close by saying that a contributor to social media recently likened me to Winston Churchill. (*Interjections*) Now, I took that as a great compliment, sir. There are many differences, of course, (**Several Members:** Hear, hear) but I can only hope that the Board at C&E think that at least some of what I have said in this speech was worth hearing and taking note of. But, even if they do not, I would like to ask the Minister one final question, which is: does his Board take note of what our Medical Officer of Health says when deciding on what increase to recommend for the Minimum Wage?

Thank you, sir.

2490 **The Bailiff:** Deputy Langlois and then Deputy Le Tocq.

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

The Commerce & Employment Department certainly has a most unenviable task in terms of recommending an appropriate level for the Minimum Wage. It is never an easy one.

2495 I support 100% the pragmatic approach they are taking in this Report and I do believe that we must, in Guernsey, continue to prevent exploitation through the medium of ultra-low wages. The situation prior to the introduction of the Minimum Wage was shameful and we have moved on beyond that.

2500 Now, sir, Members will recall that the Assembly last year approved an amendment seeking an investigation into the possibility of the States producing a statistic for a Living Wage. The purpose of this is to respond to those who think that paying such a wage will solve either wholly or in part, the problem of poverty and that work is under way.

Deputy Lester Queripel, for the third year running, says he is not confusing the Minimum Wage and the Living Wage. Well, I have got news for him, in a rather unseasonal phrase, ‘Oh, yes you are’. They are very different things and we must keep the difference in mind.

2505 I am taking this brief opportunity to update you on the work of the Living Wage Group. The work clearly overlaps with various other cross cutting groups with particularly SWBIC and to a certain extent the Personal Tax Review, but if such a statistic were produced it would undoubtedly have a major influence, a significant influence on labour markets in the Island, because there are a number of different labour markets according to what people are trying to achieve through the medium of their pay packet.

2510 I would counsel, sir, that we need to be extremely careful intervening in labour markets and hence that the industrial relations in this situation combined with the viability of particular businesses must all be taken into account.

2515 The UK Living Wage Commission has issued its report – an interim report – recently and it is very interesting to note that they are not recommending statutory application of the Living Wage to replace the Minimum Wage. That is a critical recommendation. They are positively saying this measure, if we continue to produce it, should not be seen as a replacement for the Minimum Wage, because the two are quite different in their purposes.

2520 The Feasibility Group – myself, together with Deputies Brouard, Soulsby and Le Clerc – has and is still consulting widely. And so the Group is beginning to formulate its conclusions. As a matter of interest, I understand that Jersey States are conducting similar enquiries and I think that is relevant because, like us, they have different labour markets, particularly in relation to the migrant labour who occupy one market, which only partially overlaps with the market for local labour.

2525 Sir, I would remind Members, once again, the Minimum Wage and any concept of a Living Wage are two very different animals. I am pleased to confirm that the Living Wage Group should be able to report on time, and I am sure it will include some reflections on how such a statistic, if produced, would relate to the Minimum Wage which will answer one or two of Deputy Lester Queripel's questions to the Minister.

**The Bailiff:** Deputy Le Tocq.

2530 **The Chief Minister (Deputy Le Tocq):** Thank you, sir.

I thank Deputy Langlois for his update on the work of the Group that we set up earlier.

As stated in the Billet, the Policy Council supports the proposed increases in the current Minimum Wage as proposed by the Commerce & Employment Department in its report.

2535 We appreciate that the Department has done its best to consider the issues that it is required by law to take into account in making its recommendations at a time when the economy is still recovering from the international downturn, and the balance to be struck between protecting workers on low wages and supporting the profitability of the businesses that provide employment. And this is a very sensitive one. It is particularly true in the service industry area.

2540 Ministers recognise, however, that each time the Department reviews the Minimum Wage it has to make a subjective judgement about what constitutes an appropriate rate. As Commerce & Employment Department's Report notes, the States decided at the outset, in 2007, that the Minimum Wage should not be used as a marker or mechanism to establish a Living Wage.

A Living Wage, as alluded to by Deputy Langlois, is described by the UK Living Wage Commission as:

'An hourly wage defined as the minimum amount of money needed to enjoy a basic, but socially acceptable standard of living,'

2545 – whereas the only benchmark for a Minimum Wage is that it should prevent the outright exploitation of workers. I like to think of it, sir, as looking at the same problem from two different perspectives and I do not believe there is a one-size-fits-all solution to this problem.

2550 This makes it difficult to say objectively whether an increase is adequate or not. It might be logically argued, for example, that if a Minimum Wage level is set to avoid exploitation but is then eroded by below inflation increases, then the original purpose is being undermined even though higher earners are also receiving below inflation increases. And it depends on whether exploitation is an absolute term or a relative one. I do not recall that the States have ever considered this point.

2555 The demarcation between the concepts of a Minimum Wage and a Living Wage can be confusing for some, not least because people often misinterpret the Minimum Wage as being the minimum necessary to live on. This sort of thinking might account for some of the public responses to the Commerce & Employment Department's consultation, where it appears that a majority of respondents suggested substantially higher up ratings than the Department is now recommending.

2560 Deputy Langlois has already given an update on the work of the sub-group that was set up by the Policy Council in line with the Resolution of the States. The Policy Council established this group under Deputy Langlois's chairmanship to explore the possible value of producing and publishing a Living Wage statistic.

2565 None of the policy projects concerned, which include the Living Wage statistics research, the measurement of poverty against a new standard benchmark, and the social welfare benefits review directly involve the re-examination and purpose of calculating the Minimum Wage. But States' decisions about these matters will have bearing on the role that the Minimum Wage currently performs within the labour market.

For this reason, the Policy Council considers that a more fundamental review on the Minimum Wage should be considered when at least the initial findings of these initiatives have been debated.

Thank you, sir.

2570 **The Bailiff:** Deputy Gollop.

**Deputy Gollop:** Sir, I want to support most, if not all, of what Deputy Lester Queripel has said.

I would certainly be willing to work with him on an amendment or some other procedure, because I appreciate this is a statutory instrument that goes through a different kind of thinking – maybe for next year.

2575 That said, of course I am a loyal Member of the Social Security Department and of SWBIC and I do appreciate everything that the Deputy Chief Minister has said in relation to the difference between a Living Wage concept and the Minimum Wage. And, of course, the strange effects these can have on the economy as a whole.

2580 I do think that the Commerce & Employment Department can be supported in their measured rise. But of course, I would like to see, at some point, a higher rise, more along the £7 mark that Deputy Lester Queripel referred to.

I note with interest on the top of page 1773... I know of course the Chief Minister has gone into more detail about the wider context of a Living Wage, but it is put here under the Policy Council Minimum Wage... page 1773:

2585 *'The Minimum Wage is not calculated to provide an adequate income. It is simply intended to prevent employers paying rates so low as to amount to exploitation. It is openly assumed that the Minimum Wage earned by any individual may need to be topped up by a variety of welfare benefits that relate to their individual household circumstances.'*

I think this is quite a game changing perception because many people out there in social media land or wherever assume that welfare recipients are non-workers; that they – either because they cannot work or because they will not work – receive welfare. This is clearly saying the truth that the Minimum Wage, in many cases, is not enough to ensure a decent standard of living and that to a degree the taxpayer and the insurance payer in a way are subsidising lower paying employers.

2590 The rather sad news that the Guernsey Growers Association is apparently winding up later this year reminds us that in the past successive States of which I have been a Member have tried to protect industries that have not been paying the highest wages, but economic reality has seen them decline in some areas.

2595 I think we as a strategic body, through Commerce & Employment and other Departments, need to ensure that the industries we encourage on the Island – maybe even give housing licences to, etc. – are buoyant and they can give people a realistic and decent standard of living. I think there has to be a policy consideration.

2600 If I can close with two kind of related points, I note the Treasury & Resources Department say there is no resource implications in this Report. I assume that to be correct, but I remember having an informal dialogue with a few States' Members the other night at the Douzaine meeting and one or two of them were wondering if any States' Departments currently paid the Minimum Wage to anybody in any role and if that is the case then there might be an implication.

2605 **The Bailiff:** Deputy Langlois.

**Deputy Langlois:** I was hoping Deputy Gollop would give way.

**The Bailiff:** He has given way. He was going to make two points and he has made one.

2610 **Deputy Langlois:** Sorry, I lost count, sir.

I can confirm that absolutely the question has been asked. There are no States' employees who are paid the Minimum Wage. Indeed I would take that one step further: that there are no States' employees currently paid a rate which is less than the London version of the Living Wage.

2615 **The Bailiff:** Deputy Gollop.

**Deputy Gollop:** That is certainly good to know: although, of course, occasionally the States give contracts whereby people might not be in such a fortunate situation.

2620 But the other point – as I hand over to my able successor, Deputy Wilkie, as Disabled People's Champion – is I know that an issue that has been raised to us in the past – and Deputy Le Pelley as well – has been that the important positive therapeutic effects of employing people with special needs in employment and, sadly, they do not always receive a substantial wage or salary. In many cases it is well below the statutory Minimum Wage. I do not think that is fair or right and I would like to see people who are doing an honest day's work – maybe it could be gardening, it could be putting pamphlets together for the benefit of the Island... I think they should receive a Minimum Wage as well.

**The Bailiff:** Deputy Fallaize and then Deputy Bebb.

2630 **Deputy Fallaize:** Thank you, sir, just a couple of points.

First of all, I am pleased to see Commerce & Employment once again proposing narrowing the difference between the adult rate and the youth rate, which can partly be traced back to an amendment which I laid in the last States; but can the Minister give some indication, please, about whether his Department is gradually trying to work towards equalising the rates? Because that was the amendment. I never expected that it would be done overnight or even that it would be done in two or three years – it was always going to take time – but does his Department share the policy objective, which is a policy objective of the States, that in time the two rates should be equalised or at least very nearly equalised and how much headroom does he believe there is still to go towards equalising the rates?

2635 The second point is Deputy Langlois always makes me chuckle when he says we should not intervene in the labour market, as if we do not now. We have a Minimum Wage, which is an intervention in the labour market. We have unemployment benefits. We have all sorts of maternity provisions, including a maternity grant. His Department, I think he will find, levies insurance contributions on employers.

2640 All of these things are, to some extent, an intervention in the labour market. So to get up every year during the Minimum Wage debate and remind the States, in response to Deputy Lester Queripel's arguments that the Minimum Wage should be higher than it is, that actually it should not be because we should not intervene in the labour market, is really not helpful to the debate.

I think Deputy Langlois is standing (*Laughter*) and therefore I presume he wants me to give way.

**The Bailiff:** Deputy Langlois.

2650

**Deputy Langlois:** I simply would not wish Deputy Fallaize to inadvertently mislead the Assembly by misquoting me. I said we must take great care when intervening in the labour market.

**The Bailiff:** Deputy Fallaize.

2655

**Deputy Fallaize:** Sir, every year Deputy Langlois says, in the context of Deputy Queripel making a speech, that we should increase the Minimum Wage rate.

2660 Now, I agree with Deputy Langlois that we should not interfere in the labour market in a way that is reckless or cavalier. The issue is intervening in the labour market in a way which is wise, and I do not think that the principle of intervention is not breached depending on whether the Minimum Wage is £6 an hour, £6.50 an hour or £7.50 an hour.

2665 I am in sympathy with many of the points which Deputy Lester Queripel makes. As far as amendments are concerned, the States... it is possible to lay amendments to this Report. The States can approve policy objectives, which Commerce & Employment then have to take into account when framing their Minimum Wage recommendations.

Although, if Deputy Lester Queripel wishes to lay a motion before the States which permits the States' Assembly to set the Minimum Wage in future, then I will support that motion, because that is as it should be.

2670 In Jersey, where they have a more executive system of Government, actually their Assembly has the freedom to set their Minimum Wage rate. Here, where we are not meant to have an executive system of Government, the States are unable to set the Minimum Wage rate; but we do, every year, set very detailed social insurance rates and all sorts of contribution rates and benefit rates. I think we should have the same flexibility with the Minimum Wage rate.

Thank you, sir.

2675

**The Bailiff:** Deputy Bebb.

**Deputy Bebb:** Thank you, Monsieur le Bailli.

Very briefly, I have never been a fan of a Minimum Wage. I think that is a matter of record.

2680 I just want to raise a very simple point. Yesterday, in the Accounts debate, we heard congratulations to the public services and the whole of the Civil Service for their restraint in their pay grade requirements and Deputy Harwood, I think, said that a 1% increase would result in a £2 million additional cost to the States. And yet here we are asked to approve a 2.3% pay increase. I simply see that we are once again a little bit dual faced in our approach towards those companies that we do not have to have any account for; that we simply state to them they *must* increase their wages by 2.3% and yet we ask of the Civil Service that they restrain their pay rises to less than 1%.

2685 To me that sounds like hypocrisy. It does feel a lot like hypocrisy. I have never been a fan of the Minimum Wage and therefore, obviously, I will be voting against.

2690 There is nothing against Commerce & Employment. I think that they have once again done good work within the restraints of what is required of them under the current provisions of this Assembly.

Thank you.

**The Bailiff:** Does anyone else wish to speak? No.

Deputy Stewart, then, will reply to the debate.

2695

**Deputy Stewart:** Mr Bailiff.

First of all, I would like to thank Deputy Langlois for his update on the Living Wage work. It gives me a chance to say SWBIC, which I have wanted to do for the last two days. *(Laughter)* It was a useful update. Also the Chief Minister for also reminding us again of the explanation of what the Minimum Wage is and what it is not.

2700

Deputy Gollop talked about social media and tweeting. I think the problem with social media is that not everyone reads these reports and the explanations contained within them. Often on social media I have tweeted back or said, 'Have you read the report?' Often the answer is 'no'. In fact more often than not it is 'no'.

2705

Deputy Fallaize, we have moved the young person's rate last year to this year, from a difference of £1.25 to £1.10.

Do we, as a Board, share the policy objective? I think that is something I will have to put to the Board. We are fulfilling what we are required to do by the States. There is part of me that says – and this is personal – I would rather that someone aged 16 or 17 was not encouraged into work and those that want to just work at weekends, as my children have done, are quite happy to. It is pin money for them; it is savings for their holiday. I think that is a very difficult question, because I would like people to stay in education as long as possible. The better the education, the higher their earning potential when they actually then do go to work.

2710

So I think there are always balances to be struck there and I can see the Education Minister nodding. I do not think there is any perfect way to set a Minimum Wage. It is, as the Chief Minister said, quite arbitrary. I just think it would be a very long debate with 47 of us deciding whether, for example, this year it should be £6.65, £6.68 or whether it should be £7. And Deputy Bebb has not changed his position since last year.

2715

Turning to Deputy Queripel, when I stood up I said I had not got anything to add to the Report. Most of the points that Deputy Queripel raises are actually within the Report. What evidence do we have that this might damage businesses? It is in there: pages 1767 and 1768.

2720

I would like to remind Members that we have tried very hard over the past two years to try and reverse the decision that Treasury took in the UK to remove the concession of LVCR and we have tried every which way to try and help our growing industry. We have even paid for growers to meet MPs and to put their case directly to parliamentarians in the UK, and to no avail. And we have stated publicly that it is highly unlikely that this concession will return.

2725

I obviously will not mention the business names, but I do know one or two of our growers are really now on the cusp and there is the likelihood that there could be some failures or closures of businesses in the coming months.

2730

In terms of what considerations do we take, they are clearly there in section 3, pages 1757 through to 1761. Those are all of the considerations that we take into account clearly listed in the Report.

Deputy Queripel asks, 'Mr Bailiff, have I been down in the queue?' I am 56 years old, I have got a wide range of friends, some of whom have fallen on hard times, some of whom have been unemployed from time to time and found it very difficult to get back into work. So of course we are in touch.

2735

And in terms of the actual businesses as well, what I wanted to add to that and I omitted was that not only do we listen to the consultation, but my Board is out meeting businesses all the time. We are on business visits, not just to finance – tourism, manufacturing, light industry, the growers – and this is a constant work stream and not just my Board but members of the Economic Development Department. I think we are in touch. It is not an easy task to do but it is one we have to fulfil.

2740

So I would ask Members to vote in favour of the Propositions.

Thank you.

**The Bailiff:** Members –

Deputy Queripel.

2745

**Deputy Lester Queripel:** Sir, I got two replies, I think, to my questions. I would like replies to the others if the Minister is able to give me them – one of which was: how will you determine the Minimum Wage once the final Living Wage sum has been set and what will change? Because surely the Department's approach will still be the same – if the Minimum Wage is set too high the business will go out of business. I will leave that one with the Minister for the moment, sir.

2750

**The Bailiff:** Deputy Stewart.

2755 **Deputy Stewart:** I am not really sure what that question is. I mean the Minimum Wage is the Minimum Wage, as the Chief Minister explained, and the Living Wage is the Living Wage. So I am not really sure what the question is.

**Deputy Lester Queripel:** Well, I can re-phrase it, sir.

2760 The Department obviously use some kind of criteria to determine a Minimum Wage at the moment. That is without a sum being set for a Living Wage. So once a sum has been set for a Living Wage, how will that change? How will that affect the Department's view when they come to set the Minimum Wage in future years?

2765 **Deputy Stewart:** Well, the considerations regarding the Minimum Wage and associated rates, as I said earlier, are set out in section 3, from page 1757 to 1761.

These were as directed by the States and, unless those change, the considerations will not change when we set the Minimum Wage.

**The Bailiff:** Deputy Queripel.

2770

**Deputy Lester Queripel:** The last question I asked, sir, was: do Commerce and Employment take note of what our Medical Officer of Health says in his reports, when they decide what increase to recommend for a Minimum Wage?

2775

**The Bailiff:** Deputy Stewart.

**Deputy Stewart:** I did not chair this Board meeting because I was on States' business in London, so I cannot say exactly what was said around that board table unless the Deputy Minister can help me out, who chaired the meeting.

2780

**Deputy Brouard:** If I may, sir.

The board takes into account all sorts of influences from people who write in to us from our daily contact and that all goes into the mix as we fulfil our mandate that has been asked for.

I think, just to add to the Minister's –

2785

**The Bailiff:** Well, I think we need to close this debate – (**Deputy Brouard:** Thank you.) before we go into further debate with further speeches.

It is usually the Minister who has the last speech, so we will go straight to the vote. The Propositions are on page 1774. Those in favour; those against.

2790

*Members voted Pour.*

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

## PUBLIC SERVICES DEPARTMENT

### XIII. Belle Greve Phase IV – Proposed Outfalls Replacement – Propositions carried

*Article XIII.*

*The States are asked to decide:*

*Whether, after consideration of a Report dated 3rd April, 2014, of the Public Services Department, they are of the opinion:*

*1. To approve the issue of tender documents for the Belle Greve Phase IV Project for the 'design and build' of the replacement of the long sea outfall and replacement or refurbishment of the short sea outfall.*

*2. To approve delegated authority to the Treasury and Resources Department to approve award of the contract to the preferred bidder, providing costs are returned within the estimated figure of £18.6 million as presented in the Treasury and Resources Department States Report entitled "States Capital Investment Portfolio" published in Billet d'État XVI of 2014.*

2795 **The Senior Deputy Greffier:** Article XIII. Public Services Department – Belle Greve Phase IV – Proposed Outfalls Replacement.

**The Bailiff:** Deputy Luxon may open the debate.

**Deputy Luxon:** That was a mouthful, was it not, sir?

2800 Mr Bailiff, I am happy to lay this Report before the Assembly today and open the debate. I would ask for approval to complete Phase IV of the five-phase Belle Greve Waste Water Centre Project, this being the final element of the programme, and authorise T&R to approve award of the tender, subject to it complying fully with the SCIP process.

2805 Sir, the long sea outfall is 45 years old and is in a very poor condition with independent reports clarifying that it has a finite life remaining and could fail at any time over the next few years. That is not meant to be alarming. In 2011 an independent engineer assessment gave the long sea outfall a 10-year shelf life. We are now three or four years into that period and by the time we have replaced it we will be more than half way through that 10-year life.

2810 Sir, the short sea outfall is more than 100 years old and is in extremely poor condition, which can be seen on page 1786. It is absolutely in a severe condition.

The reason that the Public Services Department has elected to bring the States' report to this meeting is purely because we wish to gain approval as soon as was possible after the SCIP debate. With no meeting in August, we could not wait until September if we are to commence and complete the project during the 2015 summer window before the weather turns. This job is so complex it cannot be done in the autumn or winter.

2815 My Board believes that it would have been reckless to delay any further, but I do apologise to Members for the apparent crudity of bringing this Report in the same Billet as the SCIP.

2820 I explained PSD's position regarding the funding of this project during the SCIP debate and, as mentioned then, regardless of that decision, this project really is a must-do requirement. Equally, the gateway process will be entirely completed and complied with, including the ITT documents which are being finalised as we speak.

2825 I can also comment on the repeated suggestion that we should reverse the strategy approved already and consider adding a full sewage treatment works to our plans. The independent METOC report laid out very clearly from an evidence-based position that Guernsey does not need to invest £50 million-plus on top of this outfall investment. It would simply be a waste of scarce nay none existing resources when the strategy being adopted will give Guernsey the solution it needs in a sustainable manner.

Sir, this project is not only essential and urgent it is also highly complex, which is why we have opted for a design and build approach to ensure we can manage out the risks for the States of Guernsey.

2830 The SCIP gateway process recognised this approach following a challenging analysis of a long list of options, another reason why we need to go out to tender to secure the best value option for delivering the best solution for our Island.

2835 The detailed work completed to date estimates the project cost within the SCIP process at £18.6 million. And during the tender process negotiations to minimise the final costs will be exhaustive. However, due to the uniqueness and complexity of this project it is only when we see the more detailed proposals finalised from the bidders that we will be able to assess *final* costs. We want to use global expertise to get best value for Guernsey.

The 100-page Report before you illustrates to Members the depth of detail which has been explored through the build process for this project. Both the Environment Department and Environmental Health are supportive of the plans in general terms.

2840 There is no question that this subject matter we are discussing here is not glamorous. However, failing to replace this essential infrastructure would have severe consequences for us both practically and, more importantly, reputationally.

It is fair to say that we have had excellent value from the two outfalls over the long-term past and we have sweated these assets beyond well, but we now need to invest again for the future resilience of our foul liquid waste disposal over the next few decades.

2845 These proposals take the recommendations from MEDOC and other bodies and are compliant with accepted environmental sewage processing standards. We are replacing a key infrastructure asset or assets including additional processes to mitigate the discharge into the sea. Guernsey should be responsible in its actions and is being so with the proposals as presented to you today. The capital cost and value for money does play a central role in how the project has been framed. However, we are not shying away from our environmental and health responsibilities either.

2850 And, sir, as a boy from the Track who learnt to swim in Belle Greve Bay, just opposite Frank's Chippy (*Laughter*) – and if anyone can tell me what the Cobbler's shop name was, Deputy Le Lièvre... (**Deputy Le Lièvre:** Purdys) Purdys (*Laughter*) He had good shoes but did not know how to swim.

2855 I assure you all of the need – the absolute need – to replace these outfalls. Back when I learnt to swim, sir, flotation aids were provided free of charge by nature, (*Laughter*) as Deputy Le Lièvre will smile wryly and agree with me.

Seriously, this is a big capital project. We have engaged with all relevant departments and agencies and have received support for our proposals. Both the Treasury & Resources and Policy Council Departments are supportive and I would ask all Members for their support too.

2860 Thank you, sir.

**The Bailiff:** We have one amendment proposed by Deputy De Lisle, seconded by Deputy Gollop. Deputy De Lisle.

*Amendment:*

*To delete both propositions and replace with a single proposition as follows:*

*‘To direct the Public Services Department, in view of the cost difference of over 450% between the preliminary cost estimate of £4m included in the Treasury and Resources Department’s Capital Prioritisation Report submitted in 2009 (for outfall refurbishment and upgrading), and the current estimate of £18.6m (for replacement of the long sea outfall and replacement or refurbishment of the short sea outfall) to re-examine the relative feasibility, desirability, cost and other implications of:*

*a) pursuing the outfalls replacement currently envisaged as Belle Greve Phase IV; or*

*b) adopting an alternative policy involving sewage treatment (namely primary secondary and sludge treatment) as described in paragraph 6.2 and Appendix 3 of the Public Services Department’s Liquid waste Strategy (Billet III/2012, Article 14);*

*and to report to the States thereon by no later than their meeting in January 2015, in sufficient detail to enable the States to reach an informed decision about whether to adopt such an alternative policy or pursue such outfalls replacement.’*

2865

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

The amendment in front of you deletes both Propositions in the Billet and replaces them with a single Proposition as follows: ‘To direct the Public Services Department, in view of the cost difference of over 450% between the preliminary cost estimate of £4 million included in the Treasury & Resources Department’s Capital Prioritisation Report submitted in 2009, (for outfall refurbishment and upgrading)’ – in other words repair – ‘and the current estimate of £18.6 million, (for replacement and extension of the long sea outfall and replacement or refurbishment of the short sea outfall).’

2870

The amendment calls for the re-examination of, ‘the relative feasibility, desirability, cost and other implications of,’ first, ‘pursuing the outfalls replacement currently envisaged as Belle Greve Phase IV; or,’ – alternatively – adopting an alternative policy involving sewage treatment (namely primary, secondary and sludge treatment) as described in paragraph 6.2 of Appendix 3 of the Public Services Department’s Liquid Waste Strategy... and to report to the States thereon by no later than their meeting in January 2015’ – giving six months – ‘in sufficient detail to enable the States to reach an informed decision about whether to adopt such an alternative policy or pursue such outfalls replacement’.

2875

2880 Sir, what is being suggested by the Public Services Department, in terms of their £19 million... you can say the new pipe development is a raw sewage deal for Guernsey.

The States of Guernsey... and it is recommended by Public Services Department to continue the filthy daily act of discharging 16,000 tonnes of raw sewage a day directly into the sea at Belle Greve. This flouts the absolute minimum standards that the rest of Europe and the majority of the developed world adheres to. It is a slap in the face for Guernsey locals, who have consistently called for better protection for their beautiful beaches and environmental health.

2885

If the States of Guernsey agree to continuing this archaic practice Guernsey could be left holding the title of ‘Europe’s dirty little Island’, and that has been mentioned outside of this Island all over the world. It has been headlines in Australia before, it has been headlines in Canada and, of course, it has been reported in the news media in England and many other areas.

2890

Sir, I would like to address what are the key components of change that have occurred since the States approved the Public Services sewage outfall replacement in 2012.

First of all, the original intention was to provide a £4 million repair to the long sea outfall. That has jumped to £18.6 million - to a total replacement and extension with further escalation in the costs possible - given the undersea nature of the project.

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The problem is that that is with no change to the daily effluent discharge of 16 million litres of raw sewage and waste water directly into the sea at Belle Greve, flouting the absolute minimum standards of the rest of Europe and the majority of the developed world adheres to.

That is criminal – to be spending that sort of money for doing what? For doing absolutely nothing.

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

**The Bailiff:** Deputy Kuttelwascher.

2905 **Deputy Kuttelwascher:** I am a little confused by his figures. He has gone from tonnes to litres. He did say earlier that we daily discharge 16,000 tonnes of raw sewage. That is a quarter of a tonne per head. (*Laughter*) Now, I know some Members may regard that some of us may be full of it, but nobody is that full of it! (*Laughter and applause*) Really I think what he means is 16,000 tonnes, maybe, of liquid, of which a small proportion is sewage, but that is a more accurate description.

2910 **Deputy De Lisle:** Well, at least we are not discharging 25 million litres of raw sewage as Jersey is doing, so somewhat less in Guernsey. But there, of course, since 1959 they have had full sewage treatment and they are taking responsible action, whereas Guernsey is not.

2915 Sir, there is also a problem with the extension. The Public Services Department tell us that they are going to extend this pipe 350 to 400 metres out into Belle Greve Bay further than existing. The extension is liable to affect Herm. In fact the Department itself has said in the past in their reports, and I quote, they have commented:

‘Unfortunately the benefits of extending the existing outfall would be limited by the presence of Herm.’

We have no right to pollute another Island in law, especially an Island that derives all of its income from tourism. That is criminal.

2920 Secondly, what has changed besides the cost escalating 450%? What has changed also is the subsequent introduction, since this plan was put out, of the Environmental Pollution Law, the water pollution section of that Law. And the intention of Environmental Health to implement the spirit of a number of EU Directives and EC Regulations through the new Ordinance which will take account of the local environment and the dispersion zone and the impact of the discharge on that environment, which includes the whole ecosystem and human health and the environment at large.

2925 In European jurisdictions this would typically include conditions applied to licences for prescribed operations that would be in compliance with the following EU Directives: the most important is the Urban Waste Water Treatment Directive, but also the Drinking Water Directive, the Water Framework Directive and the Nitrates Directive.

2930 The Nitrates Directive is the one that Jersey is struggling with at the moment. Despite the fact that they have had full treatment since 1959, they are now having to put in a new plant totally which is going to cost in the region of £40 million to £45 million, a new plant totally in order to deal with the nitrate problem. And, of course, I would argue that we have got as big a nitrate problem here with the glass house industry and the farming industry in the past than they will ever have there.

2935 As you learnt earlier today, the Director of Environmental Health is not concerned about the technology that is used in order to deal with environmental pollution, they are concerned with the result and assessing whatever comes out of the pipe whatever affects the environment. That is the issue. The danger here is that we put that in that £19 million and then find that we have got to undo that at the end of the day and spend what we rightly should be spending now and that is about £20 million to £25 million on a sewage treatment plant.

2940 I want to make it quite clear that what I have said here is that it is primary, secondary and sludge treatment. That is what I mean by sewage treatment, because that will deal with the Urban Waste Water Directive – and just to bring Members up to date on that. That is the major water policy tool in Europe. Its objective is to protect the environment from adverse effects of discharges of urban waste water from settlement areas throughout Europe.

2945 Member states are obliged to have systems for collecting urban waste water in place and they have to ensure that water entering collection systems undergoes appropriate secondary treatment to remove pollutants. Waste water entering sensitive areas such as bathing sites or drinking water reservoirs must undergo an additional more stringent form of treatment.

2950 Jersey of course has gone for full treatment since 1959, as I have stated. It should be noted that the UK Government has opted for secondary treatment as the minimum standard throughout the UK.

2955 The Urban Waste Water Treatment Directive requires at least primary and secondary sewage treatment – specifically the Directive requires – and we are signing up to this. The Director of Environmental Health has said, ‘Yes, we are going to go and ensure that we do likewise to the rest of Europe’. The Directive requires the collection and treatment of waste water in all agglomerations of over 2,000 population equivalents. Secondary treatment of all discharges from agglomerations of 2,000 and over, and more advanced treatment for agglomerations of 10,000 population equivalents in designated sensitive areas and their catchments.

2960 A requirement for pre-authorisation of all discharges of urban waste water that discharges, and monitoring the performance of treatment plants and receiving waters, and controls to sewage sludge, disposal and re-use.

2965 Amongst the other Directives that we are being asked to comply with is the Water Framework Directive, which is designed to improve and integrate the way water bodies are managed throughout Europe, and Member States must aim to reach good chemical and ecological status of their coastal waters by 2015. Also the Marine Strategy Framework, which I do not think we can deviate from in the future, which recognises that many of the threats facing Europe's seas require co-operation between Member states to tackle them effectively. The Marine Strategy Framework Directive aims to achieve good environmental status in Europe's seas by 2020. And the Directive sets high level descriptors of good environmental status including limiting contaminants to the marine environment to levels which do not cause pollution. Now, 2970 that is something that we need to have in force by 2020.

We cannot have Jersey complying, we cannot have all the European nations complying, we cannot have the UK complying and here we sit non-compliant. But then I am assured by the Director of Environmental Health that our water pollution controls will be as good as those in other jurisdictions, by email. And that any new EU provisions will be taken into account as they come along.

2975 Jersey are certainly aiming to comply with best practice and hence are implementing EU-based standards regarding water quality under the EU Urban Waste Treatment Directive, the EU Water Framework Directive, and the EU Bathing Water Directive. And we are already implementing the EU Bathing Water Directive, sir. And, of course, our beaches are failing as a result of it.

2980 In fact, when I look at Guernsey's beaches and their quality standards, of the 13 Guernsey beaches listed, only five were recommended as having the water quality standard required. When I look at Jersey in the last year's tests, in Jersey 13 of the 16 listed beaches received recommended status. So we have got a problem here in Guernsey, and it has got to be looked at. And not through spending money on a new pipe to do the same thing that the old one has been doing, without the odd fissure and leak. With an extension that is going to pollute our dear neighbouring island Herm. *How dare we?*

2985 Sir, another issue is the squeeze on the States' Capital Investment Portfolio. This has been mentioned during this session. We have to ensure that the projects that we support represent the best allocation of limited resources for the future. It is a matter of ensuring value for money to get the best value for the Island. And supporting this project is not getting the best value for this Island.

2990 The States' Capital Investment Portfolio was looked at just the other day. Resolution 9 in the SCIP Report, as it is called, has it that T&R will explore the possibility of treating the funding of the Belle Greve Outfall Project differently, in order to develop an affordable portfolio. In other words, there is a squeeze on the States' Capital Investment Portfolio and this is one project that is being looked at in order to squeeze it on to the payers – the public – through their water rates and the waste water part of those rates, rather than integrating them into this portfolio of capital investment projects.

2995 The squeeze on the States' Capital Investment Portfolio is *very* serious, because everything that I have said has been really taken from quotations of the Minister of T&R, who is trying to grapple with all these projects that are coming forward for financing and wanting to ensure that informed decisions are made, ensuring that the projects represent the best allocation of limited resources.

3000 How can he, sir, face the public with a project of this nature? And spend £19 million of our money on it? That would be a total disgrace and that would put the States of Guernsey in a very difficult position, I believe, in terms of their prioritisation of resourcing.

Sir, I would like to remind the States at this point of the amendment. It is:

'To re-examine the relative feasibility, desirability, cost and other implications of pursuing the outfalls replacement...or adopting an alternative policy involving primary, secondary and sludge treatment...and to report to the States thereon by no later than their meeting in January 2015, in sufficient detail to enable the States to reach an informed decision about whether to adopt such an alternative policy or pursue such outfalls replacement.'

3005 Already we have seen that, through the States' Capital Investment Portfolio, the costs and who bears them of the outfall is to be discussed between Public Services and Treasury & Resources. Now they have got to have that discussion. While they are having that discussion this slight interjection of a few months could be done and they could come back to this Assembly and indicate exactly whether to go ahead with the outfalls replacement or allow that to be as it is at the moment, and concentrate on dealing with sewage 3010 treatment.

3015 Along the lines, of course, that we thought we were going until just before the new States was put together in 2012 when suddenly there was a huge U-turn, because we were told that it was £4 million against what might have been £20 million or £25 million and the States chose the £4 million. But now the States are being told 'No, we were wrong. It was not £4 million; it was £19 million.' And that figure has been rising – because it was, a few months ago, £10 million then £15 million in the papers and now it is £18.6 million and what is it going to be by the time they have finished?

I think we have to look very seriously at these two alternative proposals. One, the pursuing of the outfalls replacement and, the second, the alternative policy involving sewage treatment, to be able to comply with the Directives that we have said that we will follow and comply with over the next number of years.

And, by the way, as soon as we have suggested that we will comply... Basically the Surfers Against Sewage, for example, is one team that have been lobbying people in Weymouth and Poole to not come to Guernsey and asking questions as to whether they would swim in the waters here and did they know of the pollution problem? They have held off and they held off between 2009 and 2012. Now they are going to be back at it, if we pursue the outfall along the lines that Public Services is calling for.

I thank you for listening to my comments.

Thank you.

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

**Deputy Gollop:** Yes, sir, I do.

**The Bailiff:** Deputy Harwood and then Deputy Kuttelwascher and Deputy Ogier.

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

During my tenure as Chief Minister, whereas all previous Chief Ministers have had the privilege of opening a number of very celebrated buildings and facilities, during my two years the one facility that I was invited to open was actually the Belle Greve Processing Plant, which proudly bears my name. *(Laughter)*

I therefore feel that I am perfectly qualified to discuss this amendment and to encourage this Assembly to vote against the amendment. *(Interjections)* Sorry, do you want me to give way? *(Interjection)* No. Thank you.

In January 2012 the States debated the waste water treatment and at that stage it was estimated that the full treatment estimate, which I think Deputy De Lisle is encouraging this Assembly to reconsider, was estimated to be between £45 million and £55 million, with additional operating costs of at least £2 million per annum.

Deputy De Lisle suggests there is a squeeze on the Capital Portfolio just with a request for £19 million. I suggest, sir, that this is a positive vice-like approach if we have to go cap in hand for the Capital Prioritisation for a figure of £45 million. So that figure also did not take account of any Guernsey uplift; nor, interestingly, did it take account of the costs of actually buying sufficient land on-Island in order to accommodate this particular facility. It was estimated that the land that would be required for such a treatment plant would be the equivalent of six football pitches. I question whether there is anywhere in the Island, short of converting L'Ancrese Common, we could actually accommodate six football pitches in order to meet this particular requirement.

Incidentally, the costs of £45 million did not include the cost of doing the environmental assessment or the public enquiry.

Also I think relevant – and this again I pick up from Deputy De Lisle's reference to Jersey – is the problem that Jersey has with nitrates. This morning we were discussing in considerable detail the nitrates problem that we have on-Island in Guernsey when we were looking at the IVC.

In 2012, in relation to the full sewage treatment it was stated in the Billet:

'It has been previously assumed that sludge treatment would be carried out in the Island's future solid waste facility. However, other disposal routes would have to be considered if this is not feasible.'

So the Report then continued:

'If all sewage treatment was installed sludge disposal would be a critical issue which must be resolved in the event of any of the treatment options being selected. This requires a solid waste solution to be available to process approximately 5.8 tonnes of dry solids or 23 cubic metres of thickened and de-watered sludge.'

– and I apologise that this is coming after lunch. *(Laughter)*

'... thickened and de-watered sludge that will be produced each day. This sludge will have a dry solids content of approximately 25% so an overall weight of 23 tonnes would be anticipated. A sustainable disposal route would be required to provide a guaranteed continuous facility as there is little scope for sludge storage in the Island.'

And I wish to emphasise the point it was also added:

'... in particular under-digested sludge is highly malodorous and would cause a great degree of nuisance if stock piled.'

So this is precisely the problem that Jersey is now facing. They cannot get rid of their sludge.

3070 So if we were to agree to this amendment all would go away and leave others to comment on the resource implication for the PSD then all we would go away with, we would actually come back with the same conclusion.

The real issue here: a) is cost – £45 million; b) is actually have we got the physical area on the Island to accommodate such a treatment plant?; and then c) how do we deal with the sludge? Because the nitrate level in this Island, as has already been mentioned this morning, is high, it would be impossible, I would suggest, to add another 23 million tonnes of sludge to the existing animal slurry that is already dealt with.

3075 Sir, I would strongly urge this Assembly to dismiss this amendment.

**The Bailiff:** Deputy Kuttelwascher.

3080 **Deputy Kuttelwascher:** Thank you, sir.

I have got no notes, no speech and I am going to take myself back a couple of years now from the time I was on PSD as a Member and we were dealing with this matter.

3085 And where to start? Deputy De Lisle gave a whole load of interesting facts and figures about sewage disposal in other countries. One of the things that the EU regulations do not accommodate is the Little Russel. They never considered anybody would have this natural gift of a built-in sewage plant, purely because of the tidal flows. Therefore what the EU does is looks at what you have to do to sewage in order that you can discharge it into a river, which then flows to the sea or if you happen to be near the sea what flows straight into the sea – so what they consider is not the situation we have in Guernsey.

3090 Now, let's go back to this magic 16,000 tonnes of raw sewage a day. Just imagine, that is actually a blessing in disguise, that figure, because if you think about it, I said assuming you had a population of 64,000, that would equate to a quarter tonne per person per day.

Now, that is not how it is, but you could imagine having a water closet and assuming one evacuates once a day you would have a closet that flushes a quarter of a tonne of water, and therein is the issue. It is already heavily diluted even before it gets to the outflow.

3095 Part of the process is already in place and there are screens at Belle Greve which take out all the nasty bits that people put in toilets – plastics and other things. So what ends up in the pipe is really a discoloured water.

3100 Sewage is a natural product biodegradable and the big difference about what is being proposed is the number of diffusers. At the moment with one diffuser, what comes out would not satisfy the regulations because the dispersion is not quick enough or adequate enough. But I could not remember the number of diffusers. I thought it was seven. I did ask somebody and they said it was five. But whatever the number is – somebody may mention later on – it is that which causes – (*Interjection*) it is seven – it is that which is the solution because these different dispersal points allow it to be diffused at a rate which is acceptable for regulations. So we have a natural sewage plant. There is no need for an on-Island one because you would duplicate what happens naturally.

3105 As far as the killing of bacteria, it is ultraviolet that does that and that happens even if it is cloudy. And that was the message given by the consultants. I remember the presentation given at Beau Séjour in the cinema and there were a lot of people there and I think it satisfied everybody. It certainly satisfied me because there was logic to it. Any physicist would have accepted it.

3110 The other thing is – again, which Deputy Harwood has mentioned – this business of somehow we would de-stress the SCIP process by taking out this, but if you want to put in another £45 million, that sum laid today... but what about the whole-life costs? What about the high energy costs? This would be most environmentally unfriendly because there would be a high level of energy usage and the carbon footprint would be even worse. And, as for getting rid of the sludge, it just moves the problem. To have an on-Island, unnecessary sewage treatment plant would be just a folly.

3115 I have got a feeling that, because there are 22 Members in this Assembly who would not have benefited from all these presentations and all that has been discussed, it is a good time for Deputy De Lisle to try and use what has been described as my favourite method of confuse and conquer. But I am not confused; I certainly hope people are not conquered.

3120 We do not need this so-called sewage plant because we have one. It will satisfy whatever regulations we have in place, which we do not actually have to comply with the European ones. And the European ones, as I said, do not cater from having this rapid tidal flow which is the secret. It is something Guernsey is blessed with. It is something we, in the past, have decided to use and I think we should stick with it.

And there, I have finished, sir. Thank you.

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**The Bailiff:** Deputy Ogier

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

3130 Members will recall in the last Assembly that PSD conducted work on assessing what form our sewage treatment would take. Sewage treatment many of us wanted. In order to do this, PSD levied a small waste water investigation charge on water users and, with it, employed one of the UK's leading consultants on implementing sewage treatment systems. And we asked them to tell us what we needed to put in to treat our sewage so it represented no harm to the environment.

3135 We wanted sewage treatment. They used oranges, dyes, computer modelling, tidal flows, divers, benthic surveys. That is the jargon to use by the way benthic surveys. They do not say they are going to check out the bibbits and plants on the sea floor, they conduct a benthic survey. It is a survey of the benthos, don't you know.

3140 I was very much in favour of putting in sewage treatment. In my manifesto of 2004 I said it is past time to stop flushing waste on to our beaches, even if it is macerated so you cannot recognise it. In 2008 I said I will still work towards bringing sewage treatment before this Assembly again, and I did. I wanted to put in sewage treatment – all of us on PSD did.

3145 But the results which returned from that survey were genuinely shocking for us. They told us we did not need to put in a sewage treatment plant. They found the impact on the environment was minimal due to the unique qualities of the Russel – it flows quickly, it churns up the water in the sunlight, it goes up around the north of the Island and back again and by the time it returns, the work of a sewage treatment plant has been done. It has been aerated, exposed to sunlight, mixed, diluted and treated. And, as Deputy Kuttelwascher says, it is a rare and almost unique natural sewage treatment plant that we have on our doorstep.

3150 Counterintuitively perhaps, but in environmental terms, in carbon footprint terms, the best environmental outcome we could hope for we are already getting. Water quality standards are good and where there were failures it was not due to sewage but more likely due to on-Island run-off or failures of systems on-Island.

3155 The authors of the Report recommended we did not spend tens of millions on a sewage treatment plant but that instead we put a diffuser on the end of the pipe in order to help with initial dilution, help the process along a bit but, apart from that, things were good.

3160 This is what long-serving Members of the States, such as Peter Bougourd, had been telling us all along. And you know what? I was grateful. I was grateful for once in the life of a Government we found we did not need to spend exorbitant amounts.

3165 PSD is all about the big-ticket items, waste strategies, airport refurbishments of £80 million, airport terminal buildings – £30 million, fuel berths – £80 million, sewage treatment plant – £50 million, with £2 million a year running costs. To find out we did not need to spend £50 million and add £2 million to annual expenditure was a real bonus in those cash strapped times and in the times which continue.

3170 So in February 2012 the States considered a report by the Public Services Department. The scientific evidence presented within the report identified that current discharges were having a minimal impact on the environment.

3175 Now, Deputy De Lisle alleges that our system flouts, and I quote 'flouts', European Union Minimum Water Standards, but no it does not. It meets and surpasses Minimum Water Standards in many instances. The Intertek METOC Report, as it was known, identified that some improvements were required to achieve dilution standards. The States resolved to proceed with the design of a replacement long sea outfall, using the Intertek METOC model with the works to incorporate the installation of diffusers near the discharge end.

3180 And, as we read in the Billet, the long and short sea outfalls are in a perilous state and need upgrading and replacing. This Report has been years in coming. These facilities are way beyond their design life and are in increasingly poor condition as every winter passes. We read that the loss of one or both outfalls would require prolonged discharge of sewage onto the foreshore at Belle Greve Bay, for many months. These works are essential and do not come too soon. Postponing them would carry a very great risk.

3185 Deputy De Lisle says that £4 million of costs have jumped to £18 million. Well, no they have not. The original refurbishment of the long sea outfall which had a preliminary cost of £4 million attached is now, after further analysis, a replacement pipe. The project now includes work on the short sea outfall and also includes the Intertek METOK diffusers for the initial dilution of our preliminary treated sewage. Costs have not jumped from £4 million to £18 million. The projects have changed.

3190 New items of the projects had been introduced. The original costs have not escalated by 450%, as Deputy De Lisle alleges. The project has changed to include new works. The original costs have not escalated by 450%. It is deliberate escalation of this kind which really damages the argument, in my view.

3195 Deputy De Lisle tells us PSD have six months to conduct the work. No, we have not. To be with the Assembly in January, bearing in mind the summer recess, will give us about nine weeks, not six months. Three of those months will be taken up by processing the Report through the system of T&R, Policy Council and publication, alone.

Sir, Members, this work is the last part of a five-phase programme of updating and upgrading works at the Belle Greve Waste Water Centre. The full benefit of the treatment and disposal of sewage effluent will

3190 not be achieved until completion of this phase. This phase is long overdue and is absolutely essential to the waste water plan.

I ask Members not to support this amendment.

**The Bailiff:** Deputy Gollop.

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**Deputy Gollop:** Sir, it has not just been a hot week, but I get sort of jumbled in my mind with all of these points, because I remember in the past that the Public Services Department have looked at this question that Deputy Ogier referred to and I remember going in to Belle Greve and seeing a map that a former water engineer put on the wall of five or six different potential sites on the Island for a plant. So I think some of the workstreams have already been done.

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I also remember a few years ago a proposal was put, slightly covertly, to the States' Members – not officially but as an idea – that there was a financial programme, of course, to look at reclaiming parts of Belle Greve Bay. And there was a vague offer made by a development consortium of providing us a site and maybe finance for such a plant. So I do not think it is a completely new concept.

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We, some of us, have discussed the points that have been made by Deputy Harwood and others about the site. An obvious site for this plant – which is in States' ownership and therefore, in a sense, cost free – it would be at the Longue Hougue area. That would have the potential surely to be a waste site. So the idea we have to look for six football pitches on L'Ancrese Common and risk the ire of the Vale Commons Council etc. is not really the case. And indeed technology should be moving in a way that this can be smaller.

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Now, again Jersey has been mentioned. I am given to understand that the States of Jersey have had a scheme like this since 1959 and the cost of the renewal, the new project in Jersey is not as high as £54 million. I think a figure perhaps around £35 million is more appropriate, but Deputy De Lisle will probably inform us more on those areas. So it is important to come away with the misconceptions.

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Deputy Ogier has reminded us that he and the Board of Public Services Department generally had a wish, a desire, to do something the raw effluent and they consulted an expert consultant who advised them otherwise. And it was a surprise, but they nevertheless took it on the chin and worked with the data that they were given.

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I have got two comments to that. The first is that they did reconsider based upon scientific evidence that they were given and made, in one respect, a rational choice. But they only consulted one firm. Usually when making a decision it is important to get a variety of opinions to have a second opinion.

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Indeed I have found as a trend too often in Guernsey public life, we base our assumptions on just one in-house or out-house expert, whereas actually you need a broader range of expertise to make significant decisions. I am sure that if we had gone out to a wider range of people they would have had different perspectives on the short and long-term risks.

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Of course, the decision not to proceed was convenient to the States in a wider sense because it saved a major capital project. And that was, of course, before the news that this more remedial project would cost a lot more than originally estimated.

I think that we should actually maintain an open mind on this.

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The trouble is that when we vote today for the capital project in the SCIP process we will have closed the door really for a generation on the topic. How many of us know that the scientific evidence that the Public Services Department have relied on is completely correct? (**A Member:** Hear, hear)

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How many of us know that the Standards of Regulation will allow what is happening either now or in the future? And how many of us know whether mysterious changes in weather patterns, tidal patterns, storms, whatever, unforeseeable acts of God really, over the next five, 10 or 15 years, will mean that we will have even more of a problem than we currently have. And that will then have a consequential life style and environmental and tourist effect on us.

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I really do think that we should follow the caution inherent within this amendment and just call for a delay whilst we get further advice and arguments. That would surely be not just a wiser move but a more environmentally friendly strategy as well. Otherwise we risk being an Assembly that has not really listened to a wide range of arguments and is behind the times in our thinking.

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**The Bailiff:** Deputy Hadley and then Deputy Luxon.

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**Deputy Hadley:** Mr Bailiff, it sounds very emotive to say that we are pumping out tonnes of untreated sewage, because we are not; because it has been treated – the non-biodegradable section – the plastics and other non-biodegradable parts of the sewage have been screened out. What is actually going out is human excrement and it is not toxic. If it were, most of us would not be very well. And in fact, late night... (*Laughter*) well, because it is the waste products of what we eat. I mean if you think about it, it is not unknown – and you could read it in the *British Medical Journal* if you want – to find that faecal, human

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faeces are taken by people to restore the normal functioning of the gut. What we are actually getting rid of are a host of useful bacteria. There are not many harmful bacteria or viruses or even prions in the excreted matter of human beings.

3255 If there are any harmful bacteria or prions these are soon diluted out of existence by the Little Russel. And any harmful things that might be there, such as pharmaceuticals we are taking, would in any case never be taken out by full sewage treatment.

3260 We are often told by people like Surfers against Sewage that one or two bacteria can cause an infection. It is one of our former Deputies who suggested, I think, on the radio that it could cause polio. Well, it is absolute nonsense. To cause an infection, as I am sure at least two colleagues in this Assembly will confirm, you need a large dose of bacteria, not just one or two odd ones floating in the sea.

3265 So, to answer Deputy Gollop, the science is behind what we are doing. What is in the Little Russel, diluted out of existence, is in no way harmful to us. And as has been well-mentioned by previous speakers, the environmental impact on the cost of full sewage treatment would be enormous and instead of having sewage treatment well out at sea where it does not impinge on us at all we would be suffering from a full sewage treatment plant somewhere on the Island.

So I urge Members to quickly reject this amendment.

**The Bailiff:** Deputy Luxon.

3270 **Deputy Luxon:** Mr Bailiff.

Yesterday Deputy Perrot said that he was a peasant or came from peasant stock. Well, he is the poshest peasant I have every come across. But Deputy Le Lièvre and I used to go swimming off the outfall down at Belle Greve Bay across the road to Frank's, sixpence for a bag of chips, up to Warry's, 20p for one of the freshly baked loaves, and look what it has done for us! (*Laughter*)

3275 Sir, Deputy Harwood, has really mastered his brief already, has he not? He is talking about poo and sludge and ugh – it is wonderful! (*Laughter*) But only a few months ago, Deputy Harwood – we invited him, as the Chief Minister, to open the Belle Greve Water Centre and we have named it after him. Look what it has done for his political career! (*Laughter*) He is now a Member of the Board.

3280 So my proposal, sir, is that I will rip my speech up if I offer to Deputy David De Lisle that we will call it the Deputy David De Lisle long sea outfall as long as he will withdraw his amendment. Oh, okay...and he will end up on our Board.

I have crossed out most of my speech, sir. There are just a few points to make, if I may?

3285 I want to start with Herm. Deputy De Lisle's ardent interest in environmental matters, whether waste or liquid waste... The PSD Board commends his genuine environmental credentials, he has taken an enthusiastic interest over the years and his instincts are often right. His decisions do not end up being the ones that we support but nevertheless he is a good person to be watching over us.

**Deputy De Lisle:** Sir.

3290 **The Bailiff:** Deputy De Lisle.

**Deputy De Lisle:** If I can make a correction to the Deputy.

He is absolutely wrong there, because the decisions that his own Department has taken with regard to waste have followed the minority reports that I have put out in the past. (**A Member:** Hear, hear.)

3295 **Deputy Luxon:** That is what I was trying to say, sir. I am just saying that his opinions in the amendment are wrong, but I was complimenting him on his instincts over the last few years.

3300 Deputy De Lisle mentioned about Herm and he also mentioned about how Guernsey was regarded as being a 'dirty little Island'. The reason that those comments are reported around the world is because Deputy Dave De Lisle keeps making those comments which keep getting reported around the world. (**A Member:** Hear, hear.)

Herm will not –

**Deputy De Lisle:** Sir, a correction again, if I may?

3305 I have not been reporting these things. It is the BBC that has been transmitting them all over the world. (*Laughter*)

3310 **Deputy Luxon:** Sir, Deputy Dave De Lisle misses one point – that it was him that was talking to the BBC who then put it round the world. (*Laughter*) But, sir, can we just do a straw poll: who is going to support this or not?

Herm – serious issue. Herm – a beautiful Island. The extension of this long sea outfall will not poison Herm. And the oysters on Herm are fine too. It is the only thing that I would really challenge with Deputy Dave Lisle: he should not make comments like that. They are quite dangerous.

3315 Deputy Scott Ogier and Deputy Peter Harwood have already covered most of the points that I want to make, in terms of Deputy De Lisle's view about the need of a full sewage treatment works. We do not need it. If I thought we needed it and if the Board felt we needed it, of course we would bring it to the States.

We have got a £57 million gap on the SCIP funding already, and to put in another requirement of £56 million plus, which is what it would cost to do what Deputy De Lisle's amendment suggests, it simply is not necessary. That would be a slap in the face of the people of Guernsey who would have to pay for it.

3320 Sir, I am bored listening to myself this week so I am going to wrap it up and just say please do not support this amendment. It is not good governance, it is not good sense, it is not necessary and we need to get on and replace these outfalls.

Thank you, sir.

3325 **The Bailiff:** Does anyone else wish to speak on the amendment?  
Deputy Lester Queripel.

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

Sir, for the fifth time this week I will be brief. (*Interjections*)

3330 When Harold Wilson was Prime Minister (*Interjections*) he offered the Conservative Party a deal. His offer was that if they stopped telling lies about the Labour Party then the Labour Party would stop telling the truth about the Conservatives. (*Laughter*)

3335 I am not saying for a second that anyone is lying here, sir...but surely the truth is we are polluting the sea. (*Interjections*) Is that the truth? (*Interjections*) Because the waste water itself is already polluted by bleach and all sorts of chemicals, so how can we not be polluting the sea?

So I think I am going to support this amendment, but I would like clarification on a particular point, because a former senior Deputy who has a wealth of knowledge about this issue said in the media recently that the 'pipe end for the long sea outfall is already in the optimum position,' and he questioned the need to extend it.

3340 I will give way to Deputy Hadley, sir.

**The Bailiff:** Deputy Hadley.

**Deputy Hadley:** Mr Bailiff, sir.

3345 It might even be a point of correction because full sewage treatment will not remove harmful chemicals that we take which are in sewage. So there would be no gain. Bleach will be inactivated by organic matter which is in the sewage anyway.

**The Bailiff:** Deputy Queripel.

3350 **Deputy Lester Queripel:** I thank Deputy Hadley for enlightening me, sir, but I hope that Deputy De Lisle can enlighten me on the point that I was making because *is* the long sea outfall pipe end already in the optimum position? Because, picking up on Deputy Kuttelwascher's point, sir, I thought I was confused but now I am not so sure. (*Laughter*)

3355 **The Bailiff:** Does anyone else wish to speak on the amendment? Deputy Luxon has already spoken so it is for Deputy De Lisle to reply to the debate.

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

3360 First of all, with respect to Deputy Harwood's comments, I can understand his embarrassment with regard to the identification of him with the new sewage works, (*Laughter*) the £11 million for this project, because that works and the outfall around it remains a major impediment to full enjoyment of St Peter Port's valuable recreation and leisure facilities that he is supposed to be representing. In a densely populated area of the Island, for people to walk, sit and sunbathe on the beach or swim in its waters are basically impossible along the front, sir. Adults and children alike enjoy the sea for its sports facilities, for kayaking, for sailing and fishing, and there they are training and fishing in small sailing dinghies in that particular area.

3370 Not only are we polluting the entire town front but over 100 cruise liners will tender their ships in St Peter Port this year and lower over 100,000 passengers into the Little Russel – right in the middle of the sewage discharge. Welcome to Guernsey! Any air pilot will also tell you that the sewage discharge plume is visible from the air. *Voilà*.

Now that new facility that cost £11 million provides only preliminary screening and a bit of water storage, but does not deal with or alter the concentrations of major pollutants which are a health and safety risk.

3375 I note, since the official opening in October of last year, teething problems in getting the new £11 million facility at Belle Greve operational. The continued use of the small outfall pipe for overflows, we have had three of them since it was opened. Once in December, another one in March and then just last week the whole place was flooded with sewage, the whole of Guernsey front.

3380 **Deputy Hadley:** On a point of order, sir, should he not be replying to the debate rather than making another speech on the same subject?

**Deputy De Lisle:** I am, I am still on this Harwood report (*Laughter*) give me time, give me time.

3385 Other people can take all the time in the world and when I stand up you want me to finish in five minutes. (**Two Members:** Yes.) Well, it is going to take a little longer today. (*Laughter and Interjections*)

**The Bailiff:** Deputy Hadley is right, you should be replying to the debate. I am not saying you are not but that is what you should be doing.

3390 **Deputy De Lisle:** He goes on about the cost. The cost I have in 2012 here from the report of the Public Services Department. Construction costs £6 million. All broken down: £6 million for total primary treatment, £10.9 million for total secondary treatment, for sludge treatment £3.4 million. Total about £21 million, somewhere around there.

3395 Six football fields – that was in old language, today it is two football fields, if you read all the documentation.

And in Jersey – to answer somebody else; I think it was Deputy Gollop that asked me to clarify a few points on Jersey – they are proposing a new sewage treatment works which will be capable of treating just under 1,000 litres per second and deal with future population increases. They are looking at about 120,000 there. The plant will treat all flow to the full standard including the final process of UV treatment. And, incidentally, Jersey was the very first in Europe to have UV treatment.

3400 The sewage works will be of the order of £40 million to £45 million. And this is coming from their Chief Officer Transport and Technical Services in Jersey to questions that I asked on 13th June of this year.

3405 For Guernsey, he says these costs will be proportionately less as the works are smaller because you have got less people. Now, he says his works will first of all screen the sewage, remove fats and grit, remove sludge, treat the sewage with a secondary biological process, settle in final tanks the final effluent, treat all effluent through a final UV process and all sludges will be pasteurised prior to an anaerobic digestion the AD facility and the methane gas generated will generate electricity and heat to power the plant. The enhanced treated pasteurised sludge will be returned to agriculture as a natural fertiliser.

Perhaps I should leave Deputy Harwood at that.

3410 Deputy Kuttelwascher did not have prepared notes, but how does he know that it will conform to regulatory controls – this new outfall? You do not. You have not got the first clue. (*Interjection*) You do not. You could put an outfall in and then it all has to be tested and it has to conform to standards. And we will not know what the effluent standard will be until that is measured. And they are talking about five diffusers. The problem is all that will be further out, 350 metres further out, which is going to affect new areas and new beaches.

3415 I think that the Island of Herm should be petitioning this Government and asking for a full environmental assessment of that proposition, because it could in the future seriously impact on their tourism business. It is already having an effect on ours.

3420 In terms of Deputy Ogier, he cites the METOC Report. This piece of rubbish! (*Laughter*) Which was produced by engineers – not health professional consultants, but engineers who build things, like outfall flow pipes. And the problem is that they mention themselves that they did not investigate certain discharges, contaminants, such as heavy metals. The consideration of these types of contaminants, they say, is not taken any further in this study. So it is a partial study.

3425 And he says that the outfalls meet standards. Well, let me tell the Deputy that his own Department states that it does not conform to current standards. What they are doing now does not conform to current standards.

**Deputy Ogier:** On a point of not order...correction.

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

3430

**Deputy Ogier:** I stated that the water quality standards were being met around the Island. I did not say anything about the long sea outfall. It needs replacement and refurbishment. But the water standards around the Island are being met.

3435

**Deputy De Lisle:** The water standards around the Island are deficient. I quoted you earlier on that only five beaches of 13 comply and that is by taking samples. I think the Environment Department took over 20 samples last year for those statistics to be drawn together. Whereas as I said in Jersey, where they have got full sewage treatment, 13 of the 16 are compliant. Now that is good to be able to advertise for tourism and that is why they are getting a few more tourists than we are.

3440

I thank Deputy Gollop for his support. I have actually tabled in front of Members the update on the new STW which is being developed in Jersey in order to overcome, essentially, the nitrate problem that they have got.

3445

Incidentally, I did not tell you that they had on the table either going for extending their outfall or going for a new plant. They are not extending their outfall, they are going for a new plant because they found that the outfall if extended was going to do a lot of harm to other areas offshore and that would affect their fishing industry and also some of their bathing beaches.

3450

Deputy Hadley talks about toxicity. It is important to take a note of what health professionals tell us actually. Not only our own because the Director of Public Health and the Director of Environmental Health and Pollution Regulation have summarised their views communicated to Public Services Department. They have said there are numerous studies from around the world to confirm that contact with sewage contaminated bathing water, through swimming or otherwise, sailing and so on, can have an adverse effect on human health. That is *our* medical professions stating that. And also saying although we have no firm evidence that sewage contaminated sea water has actually caused any adverse effect on human health in Guernsey – and many of us will know of cases where it has – it is impossible to prove a negative and therefore the precautionary principle should apply.

3455

3460

In terms of others, they state that untreated sewage contains a wide array of pathogens, chemicals and nutrients, many of which pose a serious threat to human health. The most common pathogens in sewage are bacteria, parasites and viruses. None of those at the moment are taken heed of, only bacteria in terms of the tests on the beaches at the moment. We test for bacteria, we do not test for parasites and viruses and these cause a wide variety of acute illnesses including diarrhoea and infections. Certain groups such as children, the elderly and those with a weakened immune system are particularly vulnerable. The dangers of swimming in polluted water range from ear, throat, skin and eye infections to gastroenteritis, e-coli and even respiratory illness and that is the warning given by the Marine Conservation Society.

3465

There is growing concern about illnesses caused by pharmaceuticals, synthetic hormones, personal care products which enter the environment through the sewage system, which I would have thought that Deputy Hadley would fully know about.

Until we make significant progress towards reducing sewage spillage, there must be strong notification programmes to alert people to danger of contracting raw sewage.

3470

Of course if you go down the slipway at Belle Greve Bay you will have difficulty in getting down the slipway because they keep it boarded up now, but behind that boarding up you will see a huge sign that says 'Beware of sewage' because frequently the short outfall is being used as an overflow and it contaminates the whole of that beach.

3475

The World Health Organisation calls for a combination of secondary treatment and disinfection. And the European Marine Strategy Directive calls to restore the European marine waters to their natural biological condition by 2020, and we have to comply. I do not think that the modifications to those sewer outfalls will actually comply with international pressure.

3480

In Canada we have pressure at the moment from the Federal Government against British Columbia and Victoria particularly because it is contaminating the Puget Sound on the West Coast between Victoria Island and the mainland. And the only reason that the Canadian Government has become involved is because of the international responsibility, because the waters are being polluted by Victoria and affecting the Seattle area of the mainland of the United States.

I foresee a very similar situation here where this Government will be forced, if it has not already done so, to put in sewage treatment in order to respect and provide responsibility with respect to European Directives.

3485

Deputy Luxon mentioned Herm and, of course, I have spoken about the fact that he needs to see that he has an environmental assessment of the impact of what he is doing on that Island, because he does not have any right to pollute Herm as he is polluting the whole of the front here. (*Interjections*) And, of course, it is necessary that we get into sewage treatment. We cannot go on acting irresponsibly, Deputy Luxon.

3490 But we have also got to think of ourselves too, our international responsibility. When it comes to finance we put in all the regulations that we have to in order to secure our economy. When it comes to environment we tend to think ‘Oh, it is an expense that does not matter.’

3495 And we shirk – even this morning we shirked putting in that responsibility into the Plan that was put forward by the Environment Department. We shirked that. Instead of saying, ‘Yes, we passed that in November of 2012.’ Put it in. Put the reference in. Because that was the 20-year-plan.’ Why did we shirk that? Because we are being irresponsible, because we are hiding something. And I have said all along that we have got to be open and transparent in this Island.

3500 But, Deputy Luxon, we also risk damage to our valued tourist industry and, as I have said, the related cruise liner business. Well, we have to redress once and for all the negative publicity that this Island has received in the international press to this pollution problem as quickly as possible. And extending the pipe, the Belle Greve outfall, is not a sustainable solution in the modern world.

3505 PSD – his own Department, Deputy Luxon’s Department – admitted in January 2012 in the States’ Report to this Assembly that installation of full sewage treatment would improve the effluent quality, remove the harmful bacteria content of the final effluence, comply with European Legislation, and improve public perception of waste water disposal. And yet he continues to back away from it.

3505 Deputy Luxon, speaking at the Institute of Directors lunch the other day, 18th July, reported in the paper on 19th July said:

‘The States had often let political infighting and special interests overshadow long-term strategic decisions and this had resulted in critical infrastructure projects being delayed.’

3510 And that is what you are doing, sir – delaying this critical project of full sewage treatment.

3510 Deputy Queripel asked about the pipe end in the optimum position. Peter Bougourd was on the PTC for a number of years and he maintains that the pipe end is in the optimum position because, as he says, otherwise if it is shortened it will pollute even more the frontage, and if it is lengthened it will pollute Herm. He said that categorically.

3515 We find ourselves in the situation, as a result of the reporting with regard to our beaches, that beach goers are being told to make conscious decisions about where and when they swim, by the Environment Department.

Sir, I look forward to the day in the not too distant future when Belle Greve Bay will be clean and provide a respectable beach for all in Guernsey to enjoy, without the threat of pollution.

3520 I found it very interesting to look at the Condor Ferries *Ensign Magazine* the other day. This month actually, the very top of St Malo’s 10 must-sees: the Grand Plage, always dotted with walkers, the Plage de Bon Secour, along the front, in front of the walled city. And I have a dream that our front: Belle Greve, Havelet Bay, the Bathing Pools will be clean again for swimmers, because I can tell you that the closing of Creux Mahie in Torteval has cleaned up former pollution that we had on Portelet and L’Eree. Those beaches are a lot cleaner. But, of course, that water is now being conducted through the long sea outfall here in Belle Greve.

3525 I believe this will help revamp Guernsey as a tourist destination. The floral displays along the quay, certainly in Town, certainly catch the eye as you come in from St Malo and the approach by sea is a wonderful sight. Let’s do all we can to clean up the water front.

3530 I ask, to the betterment of clean water quality standards in our waters, to put an end to the risks to the health and welfare of our people, and to the benefit of our tourist industry and our international reputation. And I ask people to support this amendment that is asking for consideration of the amendment and the few months to January of next year in order to assess the amendment that is before you.

Thank you, sir.

3535 **The Bailiff:** We vote then on the amendment proposed by Deputy De Lisle, seconded by Deputy Gollop.

**Deputy De Lisle:** I would like a –

3540 **The Bailiff:** A recorded vote?

**Deputy De Lisle:** – full documentation of the result.

3545 **The Bailiff:** A recorded vote.

**Deputy De Lisle:** A recorded vote, sir.

**The Bailiff:** Can we have a recorded vote then?

3550 *There was a recorded vote.*

**The Bailiff:** Members, I had indicated we might take a break between 3.30 p.m. and 4 p.m. Can I just see how many people wish to speak in general debate? Perhaps only one or two. Can I suggest then that we conclude this Article and then consider whether we take a break at that point?

3555 While the votes are being counted, Deputy Le Lièvre, do you wish to speak?

**Deputy De Lièvre:** Yes, very briefly, sir.

3560 Listening to Deputy De Lisle, I wondered why I had such trouble reversing down the slipway. *(Laughter)* I thought it was the clutch but obviously it was not that. *(Laughter)* Furthermore, I shall wear more than my wetsuit when I go in Belle Greve Bay next Saturday, if we get there. And I shall certainly take more care when emptying my snorkel after diving to the bottom.

3565 I wanted to add a little bit of light relief because it is not doom and gloom in Belle Greve, despite what Deputy De Lisle says. I have been swimming there – unlike my friend Deputy Luxon, I have been swimming there continuously since I was a young man – spear fishing as often as I am able – and have never contracted anything other than possibly a hangover after celebrating whatever. There are not the problems that there are made out to be.

3570 What I would say is this though, that I would like to see this go ahead as quickly as possible. I would hope that you deal with the short sea outfall first so as to reduce the risk of the tunnel collapsing and being unable to pump the sewage to the long sea outfall because that would mean a return to the days that you and I remember so well when there was heavy pollution in the Bay.

So I am fully supportive. I want it to go ahead as quickly as possible and I would like to see the short sea outfall done first, if that is at all possible.

Thank you, sir.

3575 *Amendment by Deputies De Lisle and Gollop.  
Not carried – Pour 6, Contre 38, Ne vote pas 0, Absent 3*

**POUR**

Deputy Green  
Deputy De Lisle  
Deputy Gollop  
Deputy Sherbourne  
Deputy Lester Queripel  
Deputy Le Pelley

**CONTRE**

Deputy Fallaize  
Deputy Laurie Queripel  
Deputy Lowe  
Deputy Le Lièvre  
Deputy Spruce  
Deputy Collins  
Deputy Duquemin  
Deputy Dorey  
Deputy Paint  
Deputy Le Tocq  
Deputy James  
Deputy Adam  
Deputy Perrot  
Deputy Brouard  
Deputy Wilkie  
Deputy Burford  
Deputy Inglis  
Deputy Soulsby  
Deputy Sillars  
Deputy Luxon  
Deputy Quin  
Deputy Hadley  
Alderney Rep. Jean  
Alderney Rep. Harvey  
Deputy Harwood  
Deputy Kuttelwascher  
Deputy Brehaut  
Deputy Domaille  
Deputy Langlois  
Deputy Robert Jones  
Deputy Le Clerc  
Deputy Conder  
Deputy Bebb  
Deputy St Pier  
Deputy Stewart  
Deputy Gillson  
Deputy Ogier  
Deputy Trott

**NE VOTE PAS**

None

**ABSENT**

Deputy David Jones  
Deputy O'Hara  
Deputy Storey

**The Bailiff:** Members, the result of the voting on the Deputy De Lisle, Deputy Gollop amendment was 6 votes in favour, 38 against, so I declare it lost.

3580 Does anyone else wish to speak in general debate? No.  
Deputy Luxon then will reply to the debate.

**Deputy Luxon:** Thank you.

3585 **The Bailiff:** Oh, that is it! We vote then on the Propositions – *(Interjections, laughter and applause)*

**Deputy Luxon:** Sir, that is the first time anyone has applauded my speech. I must have got it right!  
*(Laughter)*

3590 **Deputy Le Lièvre:** That is because it is the best one he has ever given! *(Laughter)*

**The Bailiff:** You spoke the words so well, Deputy Luxon.  
Two Propositions are to be found on page 1875. I put both to you together. Those in favour; those against.

3595 *Members voted Pour.*

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

#### **Procedural – Remaining business**

3600 **The Bailiff:** We are left with three Articles. I do not know whether it is proposed to deal with all of those at this meeting. Deputy Dorey, do you still wish the Health and Social Services Department...?

**Deputy Dorey:** Yes, we have time. It is important to get this legislation in as soon as possible so if we have got time I wish it to go forward.

3605 **The Bailiff:** And, Housing Department, you wish that to go forward do you, Deputy Hadley?

**Deputy Hadley:** For similar reasons, yes, sir.

3610 **The Bailiff:** Yes, and the States' Assembly and Constitution Committee, Deputy Fallaize?

**Deputy Fallaize:** I would not propose coming back for it in the morning alone, but while we are here I would rather dispose of it, if we can today, please.

3615 **The Bailiff:** So we have got those three Articles. I do not know whether any Members wish to have a short break or whether they wish to carry on. *(Interjections)* I think the general view seems to be to carry on.

So, Deputy Greffier, can you call the Health and Social Services Department?

#### **HEALTH AND SOCIAL SERVICES DEPARTMENT**

##### **XIV. Tobacco products (Guernsey) Ordinance, 2014 – Updated Proposal – Debate commenced**

*Article XIV.*

*The States are asked to decide:*

*Whether, after consideration of a Report dated 7th May, 2014, of the Health and Social Services Department, they are of the opinion:*

*1. That possession of tobacco products by a child (a person under 18 years of age) in a public place, without reasonable excuse, should be made an offence punishable by a maximum fine of level 1 on the uniform scale (currently £500).*

2. *That under-18s should be allowed to transact the sale of a tobacco product in premises licensed for the sale of tobacco products, as long as the sale is supervised by an adult (a person 18 years of age or older) and this allowance for supervised sales should continue indefinitely (contrary to the time restriction provided for in the Revised Licensing Framework approved by the States Resolution of 2012).*

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

**The Deputy Greffier:** Article XIV. Health and Social Services Department – Tobacco Products (Guernsey) Ordinance 2014 – Updated Proposal.

3620

**The Bailiff:** Deputy Dorey.

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

3625 In the November 2012 States' meeting proposals to implement the remaining objectives of the HSSD's 2009-13 Tobacco Control Strategy were approved. This included the implementation of controls over display and advertising of tobacco products, the licencing of traders of tobacco products, and the powers for the Police to confiscate tobacco products from persons under 18 in public places.

3630 The subsequent Ordinance has been drafted. However, when the Ordinance was discussed two issues that were identified that were not had Resolutions for in 2012, hence this debate so that there can be Resolutions on these two issues.

3635 Firstly in order for the Police to confiscate tobacco products from children in public places, which the Assembly voted for in November 2012, there needs to be an offence for possession. Whilst all offences carry penalties and in this case this is set at the lowest possible level within our legal system, there is no intention of children being criminalised by this provision. The intention is to remove this very harmful product from the most vulnerable members of our community – our young people.

It is intended that a tobacco product will simply be taken off a child who is in possession of a product and it will be disposed of. It is possible that a child may be carrying a tobacco product for an adult who they are accompanied by, for example, helping to carry the household shopping, and this will not be confiscated as there will be a reasonable excuse for having possession of the product.

3640 However, if a child is obviously smoking in a public place and has a packet of cigarettes in their hand then the police officer can confiscate them as they will be in possession without reasonable excuse.

3645 It will only be in very rare cases where there are repeated occurrences of smoking in public or if there are other offences that have also been committed that the Police may consider reporting the offender. And in all cases involving children this will be reported to the Children's Convenor and not HM Procureur. Children referred to the Children's Convenor or the Children's Tribunal will not get a criminal record. This is exactly what happens with alcohol. The health and welfare of our young people is our prime consideration.

3650 Secondly, the issue of supervised sales was raised during the consultation process with the tobacco trade. I think all Members will be aware of the practice of a person under 18 serving at a checkout at a supermarket holding up a bottle of wine to get permission from a supervisor for the sale of alcohol to take place. During the consultation on tobacco sales the traders requested that this practice should be extended to tobacco sales. HSSD considered that this was reasonable.

3655 HSSD therefore recommends that the Tobacco Products (Guernsey) Ordinance establishes that, without reasonable excuse, possession of tobacco products by a person under 18 is an offence in order to allow the Police to confiscate these very harmful products for disposal.

HSSD also recommends that the Tobacco Products (Guernsey) Ordinance allows for the practice of the supervised sale of tobacco products to allow a person under the age of 18 to sell tobacco products, provided they are supervised by a person over the age of 18.

Thank you, sir.

3660

**The Bailiff:** Deputy Fallaize, Deputy Green and Deputy St Pier and Deputy Jones.

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

3665 I apologise in advance to Members who probably believe this is a very short item which can be disposed of in double quick time, because I wish to speak strongly in opposition – particularly, entirely, against Proposition 1.

I am generally supportive of the Department's and others efforts to encourage the cessation of smoking and to discourage the take-up of smoking.

3670 In the past one or two Members of this Assembly who have spoken against tobacco-related proposals brought by HSSD have been accused of in some way being pro-tobacco. I am not pro-tobacco. I will remember as a nine-year-old watching my grandfather die of oesophageal cancer, probably brought on by

40 years of tobacco smoking. And I also speak as the father of two children who I hope will grow up as non-smokers. Nevertheless there are times, I think, when HSSD's understandable and correct efforts to discourage smoking generally cross the line into fanaticism, zealotry almost. And we have a responsibility, I think, in this Assembly to try to strike a balance and to try to separate proposals which are proportionate and justified from those which are disproportionate and unjustified.

3675

I do not really blame HSSD for bringing these proposals...I am not going to give way to Deputy Bebb at the moment. I want to make some progress first. I do understand their reasons for bringing these proposals and I do not really blame them, but that is not to say that we in the States should endorse them and I feel strongly about this in the case of Proposition 1.

3680

Now, in fact, as Deputy Dorey has already suggested in his opening speech, the only reason that it is necessary for HSSD to lay this policy letter before the States is because their previous attempt crossed the line into fanaticism. They came here and they proposed, in respect of Proposition 2 today, that under 18's should not be permitted to transact tobacco when they are working for a shop. That is what they proposed. They were told at the time, 'Well, why do we not treat tobacco like we treat the sale of alcohol?' in the way that Deputy Dorey has just outlined. But, no, no, no, it was absolutely necessary to go further with tobacco. Well, of course –

3685

**Deputy Dorey:** Sir, I have to correct, because in fact the Sale of Alcohol Law does not have the principle of supervised sale – we are introducing it in tobacco. In fact what happens in shops is not what is specified in the Law.

3690

**The Bailiff:** Deputy Fallaize.

**Deputy Fallaize:** The point remains HSSD wanted to prevent under 18's from transacting tobacco. Now, of course, they realise that the underpinning legislation does not allow for that, so they have to come to the States to say, 'Well, can you just...' They pretend that we just have to tidy things up a little bit so that we can meet this previous objective.

3695

And then in respect of Proposition 1 they wanted to have tobacco products confiscated from under 18's and I remember having discussions with people at HSSD saying, 'Well, surely you cannot confiscate items which it is not illegal to be in possession of.' But I was dismissed; those sorts of concerns were fairly irrelevant because we are talking about trying to prevent people from using tobacco products here, so we do not need to concern ourselves with all the detail.

3700

Well, now, of course, HSSD are coming back to the States and saying, 'Look, in order that the Police can confiscate tobacco products, the possession of tobacco products by under 18's must be made an offence, punishable' – despite what Deputy Dorey says – 'punishable, by a maximum fine of level 1 on the uniform scale'.

3705

Deputy Dorey presents his case and tells us how the judiciary will interpret the legislation. It is not our job, as a legislature, to decide how the legislation we pass is going to be applied. It is our job to pass reasonable and proportionate legislation. It is somebody else's job to apply the legislation.

3710

So, I completely dismiss Deputy Dorey's suggestion that, 'Well, actually do not worry about it too much because if you approve Proposition 1 today and you subsequently improve legislation to give effect to Proposition 1 HSSD know full well how it will be interpreted.' Actually they do not because in five years' time or 10 years' time or 20 years' time the legislation will still be on the books and Deputy Dorey and his colleagues at HSSD do not know how it will be applied.

3715

Proposition 1, as it stands, is a proposal which quite possibly criminalises children for the possession of tobacco products – not just tobacco, but tobacco products. That includes tobacco papers, for example, and it includes cigarette lighters. That is what Proposition 1 says. I cannot debate a Proposition which HSSD are not laying before the States; I can only debate Proposition 1. Deputy Dorey shakes his head, but it says:

3720

'That possession of tobacco products by a child...in a public place, without reasonable excuse, should be made an offence punishable by a maximum fine of level 1 on the uniform scale...'

I am not saying it will always result–

**Deputy Bebb:** Sorry, could I ask for a point of clarification?

3725

**Deputy Fallaize:** There is not any such thing, but if he wants me to give way I will.

**The Bailiff:** Deputy Bebb.

3730 **Deputy Bebb:** No, what I would like to ask is that at this point Deputy Fallaize is making reference to a criminal conviction, I believe, and I would like it clarified if possible from HM Comptroller whether that would be the position, because I was led to believe that with our current system criminal conviction is not likely with the Children's Law as it stands. Could we just have some clarification on that?

3735 **The Bailiff:** Madam Comptroller.

**The Comptroller:** The position would actually be governed by the Criminal Justice Children and Juvenile Court Reform Legislation. What that means is essentially this Proposition, if it makes it an offence, means that a criminal conviction is possible, but it does not mean that it is automatically at risk of  
3740 oversimplifying.

What would actually happen is that a report would be submitted under the 2008 Criminal Justice Juvenile Reform Law, probably by a police officer who would be the relevant officer. That report would then be referred to the Convenor, who would then review the report and the instances of the report and would then decide whether it is in the public interest to refer that on to the Law Officers' Chambers for  
3745 prosecution. There would then be a further review, and I am simplifying some of the provisions, but that is effectively what would happen. There would then be a further review for the Law Officers' Chambers to decide whether, on the facts of that particular case, they still considered it was necessary to refer on to the Court. It would then be up to, effectively, the discretion of the Court if the matter was then brought before the Court to decide whether a sentence was appropriate or not. There is then a further discussion.

3750 So it is linked into the Children Law but also into later legislation from 2008. In summary it does not mean if a child is found with possession of tobacco that they would automatically get a criminal conviction, although that is certainly possible.

**Deputy Bebb:** Thank you. I would like to thank the Comptroller for that.

3755

**Deputy Lowe:** Can I just do a follow up to HM Comptroller on that please, sir, if Deputy Fallaize does not mind?

**The Bailiff:** If Deputy Fallaize will give way to you.

3760

**Deputy Fallaize:** I do not mind. Are you supporting what I am saying? *(Laughter)*

**The Bailiff:** Deputy Lowe.

3765 **Deputy Lowe:** It is just what HM Comptroller was saying because – and I do not know if it is the same as... if you are caught speeding and the police offer you a caution, the majority of the people think that they have been let off and actually it goes on their record.

Would the same apply – and they would be better to go to court and prove their innocence if they really think they are innocent but they think a caution is okay rather than defend themselves? Would it be the  
3770 same if any of these youngsters were offered a caution? Rather than being taken to Court it would still be on their record, in the same way as if it were an adult caught speeding and not going to Court?

**The Bailiff:** Madam Comptroller.

3775 **The Comptroller:** If I have understood your question correctly – if the Police have given a caution in advance then that will not proceed to Court, so it is not the same as a criminal conviction.

**The Bailiff:** But in the procedures you outlined earlier you did not make any reference to giving a  
3780 caution.

3780

**The Comptroller:** No. The power under the Juvenile Reform Law, as I understand it, if a court does convict a child offender, that court may either sentence the child in the usual way or remit the matter back to the Children Tribunal for further consideration or remit it again to the Juvenile Court so there are different options particularly in relation to children which is slightly different from those in relation to  
3785 adults.

**The Bailiff:** But the position remains that there is a possibility of a criminal conviction.

**The Comptroller:** Yes, absolutely. That is correct. Yes.

3790

**The Bailiff:** It is a possibility?

**The Comptroller:** Yes, yes it is.

3795 **Deputy Dorey:** Is it possible just for the Comptroller to explain –

**Deputy Fallaize:** Should this not have all been sorted out before they laid their Report before the States, sir?

3800 **Deputy Dorey:** Is it possible just to explain what will happen if a person is referred to Children's Tribunal in terms of a criminal record?

**The Comptroller:** Yes. In general terms if a child is referred to the Children's Convenor and the Children's Convenor decides that it is not in the public interest to refer on for prosecution, albeit that they were caught in possession of tobacco, then the child basically would not get a criminal record. If the Convenor then refers the child to the Children's Tribunal, in principle, they would not get a criminal record, but that all depends on the initial circumstances of the case and whether the Convenor is minded to refer it forward on for prosecution or not. But that is correct.

3810 **The Bailiff:** Deputy Perrot.

**Deputy Perrot:** May I ask a question? I beg leave from –

3815 **The Bailiff:** I think Deputy Fallaize seems happy for everybody to give way to everybody. (*Laughter*)

**Deputy Perrot:** If a person is cautioned I understand, of course, that that is not a conviction, but my question to Her Majesty's Comptroller is if a person is subsequently convicted in, let's say the Magistrate's Court, when you are up before the Magistrate would there, along with a list of previous convictions, be read out a list of previous cautions?

3820 **The Bailiff:** Madam Comptroller.

**The Comptroller:** I think that would be the case, sir, yes.

3825 **The Bailiff:** Yes.

**The Comptroller:** Yes.

3830 **The Bailiff:** Deputy Fallaize.

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

I thank Deputy Bebb for his very helpful interjection (*Laughter*) at least an interjection which led to helpful comments from HM Comptroller.

3835 Right, it is not automatic that it would result in a conviction, but it could – hence my use of the term 'criminalising children'.

I do not want to get children into the court system at all unless it is absolutely necessary and this is unnecessary. This little mini-debate we have been having now about when might children end up in the court system – when might they not? Would a caution be taken into account if they were later before the courts? That demonstrates that what is being proposed before the States is unnecessary. It is illiberal and draconian legislation for which this policy letter provides no justification whatsoever.

3840 The only justification is that HSSD did not go far enough last time when they proposed the powers of confiscation. That is the only justification. There is nothing else in this policy letter which justifies bringing children into the court system.

3845 Also, sir, level 1 on the uniform scale does not permit orders of community service. I did make enquiries of HM Comptroller about that – community service is possible, only as an alternative for imprisonable offences and the offence proposed here by HSSD is not punishable by an imprisonable offence and therefore community service cannot be ordered as an alternative and therefore the maximum fine on the uniform scale has got to be £500.

3850 Is it really sensible for us as a legislature potentially to bring otherwise decent children to the attention first of the Police, and then possibly before the Child Tribunal, essentially bringing them into contact with Court system, or it will certainly feel that way for the child? A court system from which I fear they could

take some time to remove themselves. What is the best way of making a child a thief? Go and spend some time with some thieves. What is the best way of getting a child into the court system for more serious offences? Well, bring them into the court system for less serious offences to start with.

3855 We are talking about relatively innocuous offences, if that is the right term. And I do not want children brought into the court system.

Alcohol is different. And I have had this argument with my friend Deputy Brehaut before. Yes, tobacco is harmful if you use it over a sustained period of time. I am much more comfortable with making it much more difficult for children to obtain alcohol than I am in respect of tobacco. The reason is because of the immediacy of the problems caused by alcohol. If a 15-year-old is going to a party somewhere around the cliffs and consumes too much alcohol those two things could be potentially dangerous tonight. However, if the 15-year-old is using tobacco products it is unlikely to be too dangerous tonight. That is why it is different and children do need to be protected when they perhaps are not yet of an age where they could make a sensible, balanced decision and may cause themselves immediate harm. But that is the difference between alcohol and tobacco.

3865 If one looks at these Propositions combined there is quite a lot of hypocrisy, because what HSSD are saying in Proposition 2 is that actually it is okay for children to deal with tobacco products, so long as the shopkeeper can benefit commercially. That is okay. But in Proposition 1 if they are in possession of a tobacco product outside of bringing the shopkeeper commercial benefit then actually that needs to be made an offence punishable by the maximum fine of level 1 on the uniform scale.

3870 I know, sir, that we have been here many hours this week, I know there is a willingness to conclude business. But I really do think this is an important policy letter and it could potentially have undesirable consequences, or Proposition 1 could at least. We should not even run the risk potentially of bringing children into the court system unless it is absolutely necessary. What is before the States is unnecessary, disproportionate and illiberal and it is not in the interests of children. It is contrary to the interests of children, and I will vote against Proposition 1.

**The Bailiff:** Deputy Green, I said I would call next.

3880 **Deputy Green:** Mr Bailiff, thank you.

I take a different view from Deputy Fallaize. I will be supporting these Propositions, the recommendations. I have got three points really.

3885 Firstly I think the justification for this is made out. I think the analogy that the policy letter makes, that Deputy Dorey referred to, between alcohol on the one hand and tobacco on the other, is a valid one. I think they are both products which cause harm to the user. They are certainly both products that cause harm in particular to child users. I think that is perfectly valid.

3890 I think it is quite a strange set up... Having had some professional experience in the criminal justice system, I always thought it was quite strange that the position with regards to it being an offence for a minor to be in possession of alcohol but not in possession of tobacco was quite an inconsistency that needed to be tidied up, so I welcome that.

The second point is that I totally agree with the fact that it should be an offence on the books for a child to be in possession of a tobacco product because that goes hand in hand with the power that already exists for a police officer to confiscate tobacco products from a minor.

3895 One question I have got for the Minister is: I do not understand how we got to this point. I do not understand how in November 2012 nobody actually, including myself possibly, picked up on the fact that there was going to be introduced a power for the Police to confiscate whilst it was not an offence. The two do not really go hand in hand and clearly you need to bring those two things together to have the offence and to have the power that the Police already have in order to give the whole thing efficacy. So I welcome the tidying up of that, but I do not really understand how we got to this position where we have this fairly totally unworkable half-way house. It might be that it is not only the HSSD Department that has got questions to ask on that because clearly the Police and the Home Department would no doubt have been consulted.

3905 I just want to say a few things about the way the criminal justice system works with regards to the treatment of young people, because there is no doubt in my mind that it would be very rare for a minor to appear in the Juvenile Court faced with a prosecution for possession of tobacco products in reality.

The whole ethos of the system in terms of dealing with young people in the criminal justice system today is around the Convenor system that this States brought in a few years ago.

3910 I must say I think it was brought in in such a way as to mean – I do not think there was a great deal of scrutiny applied to what the consequences of it were in terms of, in effect, treating young people in a way which means that they will not be in the majority of cases prosecuted, unless it is a particularly serious offence or unless there is a pattern of offending. Any minor offence, and this would certainly be a minor

offence, would not go to court and it would be dealt with by the Convenor or by the Tribunal System, and in any event there would be a prosecutorial discretion not to prosecute if it did go that one stage further.

I give way to Deputy Fallaize.

3915

**Deputy Fallaize:** I thank Deputy Green.

May I ask him, from his experience – and I fully understand what he says about the likelihood of matters coming before the court – how likely is it, does he think that a child would be brought before the Convenor, because I do not even want the child brought before the Convenor?

3920

**Deputy Green:** How likely would it be? I do not think that it would be that likely. I think the reality is if there was a situation where the Police had to arrest a young person and they were in possession of tobacco I think it would be other potential offences that would lead them to going in to the system rather than the possession of tobacco, on its own.

3925

**The Bailiff:** Deputy Dorey.

**Deputy Green:** I give way to Deputy Dorey.

3930

**Deputy Dorey:** Thank you.

The words I used were after consulting with the Police themselves and it says, 'It will only be in very rare cases, where there is a repeated occurrence of smoking in public.' That is what the Police informed us, and that is what happens in alcohol. There are a number of offences in alcohol that happen each year and they never go to court.

3935

**Deputy Green:** Yes. Thank you, Deputy Dorey for clarifying that.

I think it probably might have been helpful if there was more flesh on the bone in the policy letter in the first place, but I totally accept that.

3940

I think the reality is it will be in *very rare cases* that the matter will go to Court and perhaps relatively rare cases in relation to a Convenor's reference.

So I do not think we should exaggerate the danger of Proposition 1. I think there are sound reasons for it and I will be supporting it.

3945

Just one final point which is that you may be familiar, sir, with social media and the site Twitter, (*Laughter*) occasionally there is something which is called a 'Twitter storm', which is when lots of people get slightly angry about a certain subject. A couple of weeks ago or a couple of months ago there was such a Twitter storm in relation to this issue and I tried to do my best to give some facts and a few informed opinions on it, but there was a real danger in that Twitter storm of the idea of criminalising children. And, although technically that is what the effect of Proposition 1 is, I do not think we should exaggerate it, because of the procedural issues and because of the discretion.

3950

And just to clarify the answer I gave to Deputy Fallaize a moment ago, the reality is a minor or young person will probably end up before the courts in relation to this new offence because of other more serious offences being on the charge sheet or on the indictment at the same time.

So I will be supporting this.

3955

**The Bailiff:** A number of Members have caught my attention, I will call them in this order, Deputy St Pier, Deputy James, Deputy Stewart, Deputy Kuttelwascher, Deputy Conder, Deputy Sherbourne, and I think Deputy Gollop is rising just now. But anyway, Deputy St Pier.

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

3960

I think it is quite clear that when we debated this issue in November 2012 none of us were expecting that it was going to be necessary to criminalise the possession of tobacco in order to achieve the objective. That is obviously something which has been discovered since.

3965

When it became obvious that this was the case, I did have a pragmatic proposal – and I would be interested to hear the Minister's comments when he sums up – which was that the possession of tobacco products by a child in a public place without reasonable excuse should be made an offence punishable by removal of the product rather than by a fine, so that to all intents and purposes the practical effect would be that the product would be removed, and it will only become an issue if there was a refusal to allow the product to be removed. I would be interested to know whether that was given further consideration or not and whether that has any legs to it.

3970

My concern is that as an Assembly we should be seeking to legislate, to criminalise, to introduce a criminal offence without any intention of it ever being applied, and I think that does bring into disrepute (**A Member:** Hear, hear.) the legislative process and that does concern me.

But I look forward to the Minister's comments.

3975 **The Bailiff:** Deputy James.

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

I would certainly like to take this opportunity, sir, to applaud many of the efforts to control and reduce smoking, particularly in the young. Most of those effective measures have been about education.

3980 When I read this I was perhaps convinced, wrongly so, that I was probably going to be one of the only people to speak about it, because I felt absolutely horrified at the prospect of criminalising young people.

Deputy Fallaize fortunately got in before me and so eloquently expressed many of the views that I have, so I thank you for that.

3985 I have spoken to a number of Deputies about this, and it is quite interesting because there seems to have been quite a variety of interpretations on what that actually says there. I think, despite some of the reassurances that I have heard given to questions on this issue, my anxieties are certainly not assuaged by them. In fact I am even more concerned and earlier on today I was speaking to my learned colleague, Deputy Green, and asked him for some advice of which he gave freely. (*Laughter and interjections*)

3990 **Deputy Green:** There is a first time for everything. (*Laughter*)

**Deputy James:** And I just put to him the scenario, 'Well, should the child not be able to afford the fine or refuses to pay what is the next likely step?' And the next likely step, he advised me, would be that they would probably approach the parents. So, obviously the next step is the parents either cannot or will not pay the fine. What is the consequence of that? Not sure he gave me an answer, but I am not putting him on the spot.

So to me this is a sort of health fascism. It is the health police and I do not like it.

4000 The interesting analogy that Deputy Fallaize made with alcohol... That is indeed very different – very different indeed – because you look at the unwanted pregnancies as a result of alcohol, you look at the levels of domestic violence as a result of alcohol. So I think we have to be exceedingly cautious with the comparisons that we draw.

Thank you.

**The Bailiff:** Deputy Stewart.

4005

**Deputy Stewart:** Mr Bailiff, far be it from me to use a cliché (*Laughter*) but this a whacking great big sledge hammer to crack a nut! (**A Member:** Hear, hear)

4010 I mean, Deputy Dorey says it is to protect their health, so what next? To protect their teeth, what are we going to have – the 'Misuse of Sweets Act'? 'You have got too much sugar. Right, that is illegal.' 'You have got too many sweets.' 'That is three Mars bars you cannot have those.' This is really silly.

4015 The people that we really need to bring to book are the suppliers. So back in July I contacted the Minister at Home and subsequently got this reply from a policy officer. The question I asked was, 'how many prosecutions in the last three years for supplying alcohol to minors and as above but for cigarettes?' Sir, we ought to do a sweepstake now. The answer is during the last three years there has been one prosecution in court for supplying alcohol to a person under the age of 18 years and none for supplying cigarettes.

So those are the people we should be cracking down on. (**Several Members:** Hear, hear.) And there are no prosecutions – not criminalising children – getting them into our court system.

Further on, the inspector then adds, so I will just read this verbatim:

'Many incidents investigated by the police have been resolved by other means including words of advice, formal cautions, and where the supplier is under 18 years, referral to the Children's Convenor.'

4020 But my point would be if these are adults, the adults that are supplying – why aren't we cautioning them? Why are we not prosecuting them to the Law for supplying our children alcohol and cigarettes, under age? We should not be cautioning them.

He goes on to add:

'Two matters relating to the supply of cigarettes and alcohol by adults to young people are currently pending process decisions.'

4025 But just to remind you in the last three years there has been one prosecution in Court for supplying alcohol to a person under the age of 18. And clearly it goes on all the time. We know it does. And supplying of cigarettes. This is where we need to focus. This is where we need to crack down.

I would also like to ask how much consultation has been done with Home? How much consultation has been done with the Police and what is the feedback? Because I cannot see how this is going to work, because clearly they do not understand how children work.

4030 First of all you want to make this an offence or they are going to smoke behind the bike sheds, and out of public view, the second thing is up walks a police man, 'You're nicked, son. Hand over your fags.' 'No, I'm 19,' and so now what are we going to do? We are going to get his ID out and then he says 'Oh, no I am not 19 but they are for me Dad' and you take him round his house and the policeman says, 'Your son says these are for you'. And of course Dad does not want his son in the court system so he says, 'Oh, yeah, that's right they're for me. He just carried them. I asked him to look after them.' So how the devil is (*Laughter*) this going to work in practice? It is barking – total bonkers. (*Interjections*)

4035 Let's prosecute the people that are supplying. One prosecution of supplying alcohol and none for cigarettes in three years. If we cannot process our existing legislation – I will not give way, I am in full swing – (*Laughter*) if we cannot process our existing legislation and make that bite, what is the point of bringing in anything else?

4040 Thank you, sir. (*Applause*)

**The Bailiff:** Deputy Kuttelwascher.

4045 **Deputy Kuttelwascher:** Sir, I have got a couple of ways out of this.

The first one would be, I think, to counsel the Department just to seek leave of this Assembly to withdraw this Report. (*Interjections*) However, with this caveat I think you could, instead of suggesting that the offence is punishable by a maximum fine etc., replace that with confiscation of the tobacco products period, like an instant fine for dropping litter. That I would support.

4050 I do not know if they want to consider that. It would be a simple amendment. I am pretty sure that legally you could do that. I do not know, but it is an option. There are two options there and otherwise it is going to fail.

4055 **Deputy Dorey:** Sir, can I ask for a five-minute adjournment so I can discuss the matter with my Board Members? (*Interjections*)

**The Bailiff:** I put to you that we have a five minute adjournment. Those in favour, those against.

*Members voted Pour.*

4060 **The Bailiff:** We will have a five-minute adjournment.

*The Assembly adjourned at 4.42 p.m.  
and resumed at 4.54 p.m.*

**XIV. Tobacco Products (Guernsey) Ordinance, 2014 – Updated Proposal –  
Debate continued –  
Proposition 1 lost; Propositions 2 and 3 carried**

**The Bailiff:** Deputy Dorey, do you wish the debate to proceed, or not?

4065 **Deputy Dorey:** Yes, we do. We wish the debate to continue.

**The Bailiff:** In that case, I will call next... I think, Deputy Kuttelwascher, had you finished your speech?

4070 **Deputy Kuttelwascher:** The question really was whether it is legally acceptable to have as a punishment the sanction of having something confiscated and that being the end of the story. Is there really a need to link it to other legislation and all these level one fines and whatever? That was a question.

4075 **The Bailiff:** Madam Comptroller, do you wish to reply to that?

**The Comptroller:** I think it would need some further thought. If you were just going to confiscate with nothing else, well on what basis are you confiscating if there is not an offence? It would definitely require

further thought and you would also need to think about who was making the confiscation and from whom and their connection to other parties.

4080 So it would require further reflection, perhaps not for this Assembly now.

**The Bailiff:** Deputy Conder.

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

4085 I am in the very unusual position for me of not being entirely in agreement with Deputy Fallaize. I think this is unique for me in the first two years, so it is very uncomfortable – I might get over it. (*Laughter and interjections*) But sir, I am not yet in my mind quite clear about how I would wish to vote on Proposition 1, but I would want to come, if I can, to the rescue somewhat of the beleaguered HSSD Department because there seems to be a storm building in terms of that Proposition.

4090 I think if I reflect upon, over my long years of seeing tobacco legislation, what was unacceptable or appeared unacceptable to large parts of the population when legislation was enacted becomes entirely acceptable and in fact becomes almost a given over a number of years. It is impossible to consider ever going back and, of course, the most recent is the banning of smoking in public places which created an almost equal storm to that we have had in the last half hour.

4095 But, in terms of Deputy Stewart's views of this Proposition 1 being barking. Try this: the British Medical Association, just in June this year, argued that anyone born after the millennium, after 2000, should be prohibited from purchasing cigarettes for life, creating the first smoke-free generation.

4100 Doctors at the BMA annual meeting voted overwhelmingly in favour of a motion calling for the union to campaign to ban for ever the sale of cigarettes to anyone born after the year 2000. The presenter of the motion, Dr Tim Crocker, said:

'The level of harm caused by smoking is unconscionable. Smoking is a choice made by adolescents and results in an adulthood of addiction and early death.'

The Chief Executive of Cambridge University Hospital then said: 'Society has accepted the age of consent, the age at which individuals can serve in the military, the age when you can drive, the age when you can drink alcohol. Some of those do have criminal implications if they are breached. Why should smoking be any different?'

4105 Of course, in so many cases things that are absolutely unacceptable – young people possessing alcohol, it being a criminal liability, young people driving a motor vehicle when they are not old enough being criminal liability – they become acceptable. So I think we must not just dismiss this out of hand. I quote that because what seemed absolutely improbable and absolutely or possibly to many parts of our community it is unacceptable and a gross restriction or criminalising of young people, could, in due course, become absolutely the norm and we wonder why we ever thought differently.

4110 So this needs a debate and my very good and dear friend, Deputy Fallaize made a compelling case which I have to say I am verging towards, so probably by the end I will not disagree with him. I will continue to listen to the debate, but I think we should not really become quite so... I do not know what the right word is, is it passionate? – in terms of our condemnation of this Proposition 1, because I think there is clear evidence out there that anything that we do to reduce young people taking up smoking has to ultimately be to the benefit of society and will be accepted by society.

4115 If I could just before I sit down, sir, just ask the Minister if he is able to answer this question – I have not given him prior notice of it and if he cannot answer it I absolutely understand. Deputy Burford sponsored an amendment, I think, to the budget a couple of years ago and I seconded it in terms of a hypothecated amount for education for non-smoking for HSSD. I have heard nothing about it since then, and if he is able to me or give the Assembly any guidance as to how that has been used and what progress, I would be very grateful, because, of course, ultimately the real way to stop smoking is education, I suspect. But I understand he may well not have the information – if he is unable to answer it I quite understand.

4120 Sir, in conclusion, I think I will vote in favour of Proposition 1, and indeed all the Propositions. But I am less certain now as a result of the speeches I have heard from the –

Sorry, of course, I will give way –

**The Bailiff:** You are giving way to Deputy Burford.

4130 **Deputy Burford:** Just to answer your question: I have had some feedback, perhaps I should have shared it with you Deputy Conder, on the £50,000 – sorry, through the Chair – and indeed Deputy Dorey and I visited La Mare de Carteret School and saw some of the very valuable work that their money was providing.

4135 **Deputy Conder:** Thank you, Deputy Burford, and that really saves the Minister of HSSD answering. Thank you.

So I will finish, sir, by just saying I think education is always the right way forward, but I do think that we must be careful that we give due consideration to what may seem unacceptable now, but in the longer term becomes absolutely the norm and we wonder why we ever questioned it.

Thank you.

4140 **The Bailiff:** Deputy Sherbourne.

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

4145 First of all I would like to know what herbal remedies Deputy Stewart is taking at the moment, because his display of energy after four hard days in here was quite something, so...

**Deputy Brehaut:** Nicotine, sir. *(Laughter)*

**Deputy Stewart:** He is right.

4150 **Deputy Sherbourne:** I find myself in the odd position, since this seems to be the theme at the moment of actually disagreeing with one of my closest colleagues in Education, because I totally support Deputy Fallaize's response to this. For me it is over the top.

4155 I did go to some trouble to try and understand the reasons for these proposals and my understanding was that it was basically to ensure that the Police have the power to actually take those items from an individual. Now, that is the purpose. To me, this is where the 'sledge hammer to crack a nut' bit comes in. I think what is being proposed is far too much. We do want the Police to have those powers, there must be some other mechanism to actually enable that to actually happen without a draconian process which criminalises children and actually sets up a fine procedure which will be very hard to implement.

4160 We know children – young children, six-year-olds – will get hold of cigarettes, will go and, out of pure devilment, take them. What are the Police going to do when they actually end up in front of parents who are told that they have got a £500 fine to pay? That is a possibility.

It is all those sorts of possibilities – Deputy Green is shaking his head, he obviously –

Would you like to – ?

4165 **Deputy Green:** I am grateful for Deputy Sherbourne for giving way. If they were six, they would be below the age of criminal responsibility in any event.

4170 **Deputy Sherbourne:** Yes, okay. *(Laughter)* Wrong choice of age! Let's say 12, is that – ? **(Deputy Green: Yes.)** *(Laughter)*

Anyway, the bottom line is that I think it is unworkable, it is going too far. I think we must first of all eliminate the... or get the first stage underway and that is to empower the Police to remove those tobacco items.

4175 **The Bailiff:** The order in which I have got the next speakers: Deputy Gollop, Deputy Le Lièvre, Deputy Adam, Deputy Domaille and Deputy Le Tocq. Deputy Gollop.

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

4180 I am probably likely to support the tidying up measures relating to supervised sales of tobacco because as I understand this is a slight liberalisation of the proposals and conjoins them really to alcohol. Because effectively a younger person who has got a Saturday or Sunday job will be able to work as long as there is an adult present.

4185 However, on the other more contentious elements in this Billet, I think this is showing up our occasional rather amateurish nature of looking at policy and legislation even if the Chairman of the Legislation Select Committee perhaps disagrees with me, because we go into the Chamber with a very brief report, with no – with the exception of a few professionals who are in the field – prior knowledge of the consequences of the decisions we are making.

4190 I do not know whether, despite what the Comptroller has helpfully informed us, an under-18-year old who is apprehended under this offence would go to a convenor system, or to trial, or nothing. We do not know.

I do not know whether the Police would make a record of this somewhere so if an enhanced criminal check for whatever reason was done, even to become a police cadet in the future, it would be somewhere in the system. I do not know whether it would affect their chances if they did get a criminal conviction or even

4195 a conviction in the convenor court system, whether that would materially affect their employment opportunities or travel or anything else.

The philosophy, surely, of why the States adopted this in principle a while ago was to produce some kind of deterrent or sanction, and therefore in putting it as a criminal offence they are in a way putting it on the same plane as not just criminal motoring offences, but perhaps criminal damage, graffiti in the wrong places, the proverbial nicking sweets from Woolworth's – all those kind of things. It is making it a criminal offence. And one should not try to underscore that by saying actually they will only be given a ticking off.

I think perhaps some of us thought looking back to the dim and distant, anecdotal past of the legendary Sergeant Trotters and so on, that there would be a Police mechanism whereby police officers would go around in an avuncular – or whatever the equivalent is for lady officers... kind of warning the young people as to the errors of their ways and then confiscating without power behind it. Clearly, as Deputy Green said, that was naïve and we needed the full picture.

I do not even know if the Home Department were fully consulted both before and after this. I am not even sure States' policy is consistent. For example, we know that young people in Guernsey can vote at the age of 16, and they can drive at 17. But perhaps more relevantly, they can in both the UK and Guernsey, I am informed, go through a duty-free barrier at the age of 17 with an alcohol allowance and 200 cigarettes or cigarillos or tobacco in the pouch.

Clearly, we have really got to get our thinking caps on when it comes to legislation and think through the logical consequences and, for that reason, I am going to vote against that particular Proposition at this stage.

4215 **The Bailiff:** Deputy Le Lièvre.

**Deputy Le Lièvre:** Thank you, sir.

In my mind, these proposals are completely over the top. That young men and women might be charged with an offence for carrying a packet of cigarettes goes way too far.

Deputy Fallaize used the term 'decent children', and I know what he means, but are decent children the children of the deserving poor or the undeserving poor? 'Decent children' – because I tell you now that the recipients of this oppressive legislation will not be spread evenly throughout society. (**Several Members:** Hear, hear.) What will happen is that children that come to the attention of the Police for carrying a packet of cigarettes will be the same children that for a variety of reasons are already the focus of the Police themselves. They do not need this; their families do not need it and society does not need it.

Now I am frequent visitor to The Bridge and very often, particularly over the weekend, it is... I say 'heavily' policed – no, there is a Police presence, and it is not the children that are surrounded by the Police; it is the Police that are surrounded by the children. That is the relationship we must nurture. (**A Member:** Hear, hear.) We do not want an oppressive Police system where children could be charged for carrying a packet of cigarettes. It is absolutely ridiculous.

I would ask the Assembly to kick the whole lot out – not just Proposition 1, kick the whole lot out – and ask HSSD to come back or for HSSD to come back with a far more balanced approach, one which involves... You can involve the Police but not with these powers of searching and confiscation and ending up in court. It is just absolutely a nonsense. It will criminalise children who are already at risk, and we do not want to do that. We literally do not want to do that. Because let me assure you, it will not come down evenly throughout society. It will come down on the same children that are already the focus of attention, and they do not need it, and neither do their mums and dads.

So I would plead with the Assembly, kick the whole lot out and let HSSD come back with something more reasonable.

**The Bailiff:** Deputy Adam.

4245 **Deputy Domaille:** Thank you, sir.  
I will be – oh sorry, I thought it was my turn –

**The Bailiff:** Deputy Adam and then Deputy Domaille, sorry.

4250 **Deputy Domaille:** Oh, sorry, I was getting too keen... I just want to go home really. (*Laughter*)

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

This, as Deputy Gollop said, was a tidying-up from a States Report that I actually brought two years ago. And I remember even at that time the amount of hassle and discussion and upset by the tobacco trade for bringing such a States Report.

4255 However, *putting it mildly*, I am horrified at the lackadaisical attitude that has been shown to the dangers and the taking up of smoking at an early age.

If you want people to get addicted to smoking – look at all the facts and figures – that those who get addicted usually start smoking at under the age of 18. And you can shake your heads and you can do what you like – *smoking is dangerous!* (*Interjections*) It causes cancer of various sorts, and what are you all  
4260 concerned about? How are we going to go forward with this regulation or law?

HM Procureur has suggested that it is almost necessary to have a fine or some form of penalty, and not just removing the cigarettes.

Deputy Gollop asked, ‘You just do not know this, you just do not know that.’ In relation to a lot of  
4265 policing, it is more social, beneficial and supportive these days. It does not need to be heavy handed, as everyone thinks. This person caught once for smoking, grab the cigarettes, ‘Come on – prison, jail!’ My goodness! They have common-sense police, these days. They are going to caution or warn and then this attitude that is happening, this criminalisation. If you do not want to be a criminal, do not do it again!  
(*Laughter and interjections*) I never knew you ever smoked, Deputy Perrot!

But anyway, sorry, it is as simple as that. And again, I agree with a lot of what people who say, how do  
4270 you enforce it? But how many laws do we have that we are not too sure can be enforced easily. For example, driving with a mobile phone: you still see that a lot, with people with one hand on the steering. There are many ways.

I think Deputy Conder gave a very balanced outlook on the whole issue. But I think we will have to  
4275 calm this down about criminalisation, etc. It is not meant to be that type of heavy-handed approach. It is simply saying, ‘Look, we want to be able to have some authority to take cigarettes off. This is the potential; this is what we have to do.’

Children’s Tribunals are brought in, with the new Children’s Law. The new Children’s Law in  
4280 Guernsey states a child up until the age of 18. That is why, Deputy Gollop, there is 18 in this. I agree with you, you have got a crazy number of ages – you have got, 16, 17, 18, 21 – for various different things across the board and yes, it may be time it should be all evened out. But that is kind of difficult too.

So although I accept, I hear what you are all saying, please think of the other side of the coin. That is:  
addiction more likely in under-18’s. With people who start under 18, they are more likely to continue  
4285 smoking and more likely to find it more difficult to give up. Therefore they are more likely to develop cancers, heart disease, etc.

People may think, ‘Well, that is not going to happen to me.’ I just watched some people coming up  
stairs, huffing and puffing and breathless – why? Smokers. I watch some people sitting up sometimes in this  
4290 Chamber who cannot walk up the stairs – why? Emphysema, chest condition – smokers when they were young, started smoking when they were young. They may have stopped it 20 years ago, but the damage has been done.

That is the whole danger of children taking up smoking. If we can do anything to reduce the chances –  
4295 and no-one is going to go all the way to count. Maybe it is just a single, slight warning – ‘Don’t let me catch you again’ – this type of thing. But just to throw something out because ‘oh, we cannot have this, we cannot have that!’ Do you want lung cancer? Do you want increased disease? (**A Member:** No.) If you read any book or study on smoking, you will find out the facts I have been saying are correct.

So please be sensible. This is not draconian. This is not meant to be enforced in a threatening manner as  
suggested by Deputy Fallaize. Police are much more sensible these days. They are socially minded. They  
4300 want to help and support people and should.

So I would suggest you support this, especially since I brought the original States’ Report in.

Thank you, sir.

**The Bailiff:** Deputy Domaille.

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

I will be brief. I agree with all the speakers that have spoken against this measure. It is miles over the  
4305 top. It is totally disproportionate. I for one am not prepared to take the risks which are associated with it.

I would purely add two small comments. First of all, my daughter at the moment is going through the  
throes of trying to give up smoking, and she is not very pleasant to be around sometimes, and so it is not  
4310 just a discomfort for her, but sometimes for me. She started early and confiscation made not a blind bit of difference – neither did preaching, neither did lecturing, neither did punishment. Nothing made a blind bit of difference. That is the first point I would make.

The second point I would make is that for a while, for *many* years, we actually had a criminal offence  
for people who did not pick up the hedge cuttings on the road, and that was never enforced because nobody  
4315 was prepared to carry out what was a draconian measure and could give someone a criminal record, and what actually happened then was the contractors caught on to the fact that there was no punishment so they carried on doing it.

Thank you, sir.

**The Bailiff:** Deputy Le Tocq, and then Deputy Bebb and Deputy Lowe.

4320 **The Chief Minister (Deputy Le Tocq):** Sir, the nub of this issue is really a question of whether  
Members want to give the Police powers to confiscate, as far as I understand it, and this goes back to when  
it was discussed and looked at by the Home Department and the Police. That is a matter of opinion. If it is  
just confiscation in itself and the individual in possession resists confiscation, then they are resisting a  
4325 Police action and that could be another offence of a different sort. So our understanding is to give them  
powers which obviously mirror the powers that the Police have with regard to alcohol. It is a matter of  
opinion.

When I first came across this I did feel, perhaps not as passionately as Deputy Stewart, but I did feel it  
was draconian. And I am still not certain whether... well, I think what we are talking about is a very small  
number of people, and we have got to remember that when we look at the numbers of under-18's who are  
4330 affected by similar legislation with regard to alcohol, it is a very small number.

But, sir, I do want to correct some misunderstandings with regard to the role of the Children's Convenor  
in this respect. No child will come before the Children's Convenor. There is no convenor's court of any  
sort. There is a Tribunal which will be set up if the Convenor, having investigated and decided that the  
Tribunal is appropriate... then the Children and Youth Tribunal can be set up.

4335 With regard to that, sir, because there is such misunderstanding in this Assembly, I do encourage this  
Assembly to get better appraised on the operations of the Children's Convenor because in my mind, whilst  
like Deputy Fallaize I do not want to see children having to go through into the prison environment or even  
come to this court, neither do I want to see nothing done on this issue, because that would be bad as well.

In my experience, and having noted the work of the Children and Youth Tribunal since the Law came  
4340 in, actually a much better way than either of those two options – do nothing or bring everything to the  
attention of the court – is the Youth Tribunal system, which for some, and a few, actually is much better  
than nothing at all. That is a system that I would recommend and maybe a few of these that would be  
covered by the proposals that are before us would end up in that system and that may be very good in  
helping them to choose not to smoke any longer. That would be a very good system.

4345 So I do not think that we should remove that option. It is a different option. I will leave my colleague as  
the new Home Minister to make comments with regard to how the Police deal with it, because yet again  
there are things that the Police can and do already under existing legislation that mean some of the  
extremes that have been mentioned in this Assembly actually are unreal and should not be believed in.

Thank you, sir.

4350

**The Bailiff:** Deputy Bebb.

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

4355 I am exceptionally disappointed as to some of the stances that Deputy Fallaize made, because he  
instantly went to the farthest, most extreme points and gave no credit whatsoever to those people who work  
within the States of Guernsey as having any form of common sense.

The idea that the Police would instantly go into confiscation, prosecution attempts to try and go beyond  
the Convenor into the Royal Court on the back of a fag packet, is quite frankly a deplorable statement in  
relation to the way that the system works.

4360 Deputy Fallaize should know full well, as should all other Members of this Assembly, that the Police do  
not act in an irresponsible behaviour. They act within the confines of the law and actually that comes to the  
points that Deputy St Pier and Deputy Sherbourne were making. They were asking for another means. Well,  
the last time I looked the Police operated within the law. Are we asking them to operate outside of the law?  
I would sincerely hope not.

4365 If we want the Police to have the authority to confiscate, in the same way that we give the Police the  
authority to confiscate alcohol –

**Deputy St Pier:** Can I just make a point of correction, sir?

4370 **The Bailiff:** Deputy St Pier.

**Deputy St Pier:** Just to be clear what I was... I was not calling for another means. I was suggesting that  
the penalty would be confiscation.

4375 **Deputy Bebb:** No, I believe that you were asking what authority would the Police have in order to  
confiscate. And I ask you, on what other authority would they have it?

If Deputy St Pier would like to answer that question, I would be very interested to hear it.

**Deputy St Pier:** I think the record will show that I was suggesting that the Proposition would be amended such that the penalty would be confiscation, rather than a fine.

**The Bailiff:** Deputy Bebb.

**Deputy Bebb:** I believe that Her Majesty's Comptroller has answered that point.

4385 But the question of actually on what other authority, the authority that is given to the Police is the law and therefore the idea that we operate outside it is simply bizarre.

Deputy Fallaize was asking as to on what basis do we have this in relation to health grounds. Well, Deputy Fallaize, the whole Assembly will know that this particular policy letter before you today is as a result of the overarching strategy which was already approved. In that strategy, which was contentious I would agree, it was agreed the proposal that the Police would have the authority to confiscate tobacco. We were all comfortable with that idea. This gives light to just exactly how that is going to happen. Therefore that is part of it.

4390 The other thing that I would say is that to dismiss the health effects of smoking as not relevant compared to drinking is false. The dangers for a person to have a glass of wine tonight when they are 12 years old is comparable to the dangers of smoking. Because the long-term effects on either the liver or the lungs in the developmental stage, which Deputy Fallaize is quite happily ignoring, is what I have been advised time and again, that at the developmental stage, then the effects are substantial. And yet he still refuses to accept that. This is a serious question and the fact of how we deal with it is important.

4400 I have always believed that our approach to tobacco should be exactly equal to alcohol. It is my firm belief, and I am currently working within HSSD and with the Home Department, that both the Tobacco Strategy and the Drug and Alcohol Strategies should be this year presented at the same time and presented, I would hope, for the last time as separate strategies.

I do not think that we can honestly think of any justification now to be separating these two products.

4405 We licence the premises of tobacco retailers in the same way that we licence the premises of alcohol sellers. We licence the person, the actual person for selling alcohol in the same way that we licence the person who is selling tobacco. Within alcohol a practice has appeared within the sector of requesting permission for a person over the age of 18 to sell that particular item and we see it on a regular basis within our supermarkets. That currently is not provided for within the law.

4410 But in consultation, HSSD believes that in tobacco given that the licensing will be new for tobacco, it is only appropriate to adopt that provision in the Tobacco Law. I would hope that the Home Department in their next meeting will give due consideration as to adopting a similar stance on alcohol, and I look forward to their deliberations in that regard at a later time.

4415 Deputy Stewart asked as to why on earth we would not bring forward prosecution for sweets? And actually Deputy Stewart was on the radio recently claiming that those parents who did not provide proper nutrition for their children would be negligent.

**Deputy Stewart:** Point of correction.

I said parents of children that were consistently clinically obese.

4420 **Deputy Bebb:** As I said, who were not treating their children's nutritional needs were negligent. And Deputy Stewart was quite content to see those actually taken into the Social Services system. I am a little...No, I am sorry Deputy Stewart –

**Deputy Stewart:** Another point of correction, sir.

4425 I do not think I exactly said that.

**Deputy Bebb:** What I find bizarre is that on that occasion he feels content to be making those remarks, but today, in order to fit a different argument, we have a very different spin on things.

4430 The cracking down of suppliers is part of exactly what the full legislation will be. As I said, the full legislation will include provisions for licensing sellers and, of course, the full legislation therefore will have the authority on those people who do not comply with the law to withdraw their licence. Therefore dealing with those people is exactly what the law will do, Deputy Stewart. And therefore I would hope that he would support this, because it will give teeth to such provisions.

4435 Deputy Gollop was asking as to how the Law would operate. Well the best guide that we have on that is how the Alcohol Law operates and to our knowledge the occasions that that happens is infrequent in the extreme.

But we should not vote on the basis of how we think it would operate, as Deputy Fallaize was quite correct in pointing out. We should actually vote as to whether we believe it to be correct. I believe it to be incorrect to hold tobacco products in public in the same way that we have the same provisions for alcohol. That is why I have consistently supported it.

4440

Deputy Le Lièvre raised the question in relation to which families would this bring into contact. Well it was interesting that during the recess I was having a conversation with Deputy Brehaut and Deputy Brehaut's comment was that this could well be the first point of contact with our services in order to resolve other problems. To think that the whole thing is based and predicated on how we just shove children into a criminal process is gross exaggeration of how the system works today. And that is exactly the contention.

4445

Other people have said as to their disappointment as to how disproportionate this is – Deputy Domaille made the point. Well, if you want to know about proportion, we currently estimate our costs of tobacco to society to be between £12 million and £14 million per annum here in Guernsey. Our revenue from tobacco sales is £8 million. May I suggest that we need to deal with it?

4450

Any child coming into contact, and actually being confronted by the Police, would as a first port of call obviously be directed into some educational lanes, as Deputy Conder alluded in his speech. The idea that we are going to an immediate form of prosecution is nonsense.

Members, as I have said, this is fundamentally, if you believe it appropriate for children to be holding tobacco in public, then I do not understand personally, from a health perspective, why you do not feel that it is equally appropriate for a child to be holding a bottle of vodka. And that image is exactly what I would leave you with. The only difference is our social conventions of history. We are quite rightly bringing tobacco into appropriate measures, as it should be for this day and age.

4455

I urge you to support this wholeheartedly.

4460

**The Bailiff:** Next Deputy Lowe, then Deputy Brouard, Deputy Sillars and Deputy Gillson.

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

I am really grateful that HSSD had this towards the end, at least it woke us all up. There is nothing like a good controversial debate to get everybody going and back into the mood of debate again is there, really?

4465

I have great concerns about this. I am not going to support it at all, because I do not think it is right. But because I am not supporting it does not mean that I encourage youngsters to smoke. (**Several Members:** Hear, hear.) It does not mean that I believe that people should have lung cancer and that is okay. I am totally against smoking with young people getting into smoking. But I will not support it making them a criminal for doing so. I want to make that very clear and I am sure the rest of you who will be voting against want to feel exactly the same, (*Interjections*) that we do not support youngsters smoking. That is not the idea of it at all.

4470

It is called the 'possession of tobacco products by a child'. Do you really think a 17-year-old is a child? A 17-year-old goes out to work, a 17-year-old can get married, a 17-year-old that you might be working alongside in the gym – I do not do the gym – but there might be somebody there. They have got their own mind, they are independent, they are young adults. These are not children. Fancy bringing in a Law that you are actually trying to criminalise young adults!

4475

In fact if you went to the Grammar School, colleges, the high schools, and you went into the sixth form at the Grammar School and said 'hello children' you would be slapped down straight away. 'Excuse me, we are not children! We are young people,' because that is the terminology anyway. They say young people. I would actually say they are young adults, because they are: they are young adults.

4480

It also goes on to say the:

'... possession of tobacco products by a child (a person under 18 years of age) in a public place, without reasonable excuse'.

Well excuse me, what is a reasonable excuse – the definition of reasonable excuse? It will depend as well, I suggest, on who is actually asking this young person. Oh, I think I am going to be interrupted here – I am quite happy to give way to an advocate –

4485

**Deputy Green:** I am very grateful to you, Deputy Lowe, giving way on that.

I think it is probably fair to say that the meaning of 'reasonable excuse', or 'not without reasonable excuse' is very clear in the law and has been subject to a lot of jurisprudence and is clear.

4490

**Deputy Lowe:** That is – thanks – but that does not tell me anything.

That is like this report! I am none the wiser now, Deputy Green, than when you stood up and explained, than I was before! (*Laughter*) *Aaagh!* Help, please! That does not help me at all.

4495

Definition of reasonable? Is it a case of you have got your community policeman who comes along, he is nice and friendly and says, 'Oh, I do not actually think this is a good idea...' – that is reasonable? It

might be somebody else who comes along and might be more heavy handed and he thinks he is reasonable, telling that person, etc. I do not understand the words ‘reasonable excuse’.

4500 I think there is a reasonable excuse for me eating chocolate and cakes. The health people do not think that is a reasonable excuse for me eating chocolate and cakes – they say it is bad for me. So what is reasonable? I do not know. I have not got the answer. Oh, am I going to get it? No, okay. (*Laughter*) Deputy Green went to stand up and he has changed his mind!

4505 So again, I do not like that where you have got wording like that it is not actually very clear. If it is not clear to us in here, how fair is that to people outside, who are not advocates and who have not got a legal brain? I do not like legislation like that.

4510 So I hope the States are going to throw this out. I certainly concur, and like the rest, like I said before, that actually smoking is not good for you. If it is as dangerous and as bad as Deputy Hunter Adam – who feels quite passionately about it, even though he smokes his pipe (*Laughter*) – but if it really is that bad – and it is bad, it is not good – why are we not doing more about it and banning it coming into Guernsey anyway? We are making criminals of people for doing that. It is freedom of choice: you have got parents who are responsible for their adults. I am not endorsing any adult and I do not think any adult would encourage any child to do so. But please, leave it up to parents to decide and to look after their children. We already have legislation in place that shops are not allowed to sell to anybody under 18, so do not have this heavy handedness.

4515 I welcome any education scheme that goes in and tries to get young people to stop smoking, and I would ask that we do it through education and not through the courts.

**The Bailiff:** Deputy Brouard.

4520 **Deputy Brouard:** Thank you, sir.

That is one of the dangers of having pieces of reports coming in bits and pieces to the States. We have just got one tiny piece of tidying-up exercise here which was to put in a confiscation order.

4525 Can I just ask, if anybody does anything this afternoon, can they just do me one favour and just read eight lines. It is on page 1876 and it is paragraph 4. That is all you need to do. Eight lines paragraph 4, 1876.

The people who are against this for some reason are using the absolute extreme points. So they pick the fine, which is level 1 – there is no level zero, so level 1. They pick the £500 because that is the top figure – but someone could be fined a penny, 50p, £2, whatever. But that is just one extreme.

The other part of the extreme is that they say they will be criminals. That is at the *very* far end.

4530 Do you really think our justice system is so poor that we have not got some sort of proportionality in it? Do you really think that a child would be taken right through and just dragged through, without any consideration? (**A Member:** Hear, hear.) Do you not think that somebody might actually professionally try and help all the way through? Do you think they might just start off with, ‘Look, I do not want to see you with those cigarettes anymore?’ Would that not perhaps be a starting point? (**A Member:** Hear, hear.) Do you not think that people would actually, in our society, take some sort of professional weight with it?

4535 Please just read that paragraph. And if you *really* think we have gone totally over the top – this is the advice we were given – to be the way that you can get a way of confiscating the cigarettes and a way of engaging with the child – if you really think it is so wrong, then please, I would like to see the Deputies who are against this bring to the States a proposal to withdraw the system we have for alcohol. Because all we are doing is mirroring that particular item. It is just to give the power to confiscate.

4540 So please read paragraph 4, and give ourselves some credit as a first world country as to how our justice system works.

Thank you, sir.

4545 **The Bailiff:** Deputy Sillars.

**Deputy Sillars:** Sir, we all obviously know that smoking kills. I do not think it gets us very far comparing alcohol and smoking.

4550 What the real issue for me is, and we seem to have lost it, is there are two: one is the children who do not smoke yet, we have got to stop them smoking; and two is the children who smoke now and are addicted, and they have got to be stopped smoking.

In my capacity, I meet a lot of children as Director of the Youth Commission and I come across these children and I have been appalled, really, by the young age of addicted smokers. They can be – well, the ones I have met – 8, 9, 10, 11, 12, and they are addicted. So you cannot stop them smoking.

4555 So for me the big issue here is: is confiscation going to be of any use at all? If you take them away from the child, okay, and I accept you have got to have some law to make it legal. But I question the very

beginning of all this – by taking them away from having them in a public place, will that stop them smoking? I do not think it will.

4560 And because I think that, therefore I cannot go to the next step and whether it is disproportionate or not, because I do not think those children are going to stop smoking because you take them away. They will find them. They find them already.

4565 It is education for those who do not smoke now. It is educating them and the parents to explain – we all think it is very obvious, but to really explain – why they must not and should not smoke. But actually the real issue are those who smoke now, and we have got to get them, in a whole multitude of different ways, and confiscating them – their parents probably encourage them to smoke or let them, and all those sorts of things – they are not going to be saved from early death and all the cost and the downsides of smoking.

So I cannot support this, because I do not think it gets to the root problem.

Thank you.

4570 **The Bailiff:** Deputy Gillson, and then Deputy Hadley.

**Deputy Gillson:** Sir, I will just focus on a few things which people have raised regarding the Home Department.

4575 Deputy Stewart asked about consultation. Consultation was at staff level only, somewhat limited but at staff level only.

Deputy Gollop mentioned about duty free and this was something that I would have raised in my speech anyway. There is an anomaly and it is something that if this is passed then the Home Department would be looking to recommend the raising of the age to be able to buy cigarettes at duty free from 17 to 18, to remove that anomaly.

4580 Probably the big issue is implementation and people’s fear of it being used as a sledge hammer. I think if I just explain that Police operate under guidance which the Head of Law Enforcement gives them on all aspects of laws. This is his guidance. It is not political guidance, the board and members of Home Department have absolutely no input in this at all.

4585 But what I would expect this to be with regard to this would be something along the lines of officers would not conduct specific policing operations to detect offences of this nature. However, if during normal courses of duty officers find young people smoking, or in possession of tobacco, these items will be confiscated – and this is the important part – a standard letter you would expect to be sent to parents or guardians, but no offence report would be created. So regarding the concerns people have about not being able to travel and not being able to get jobs, we would not see this creating offences. It is a mechanism for confiscating.

4590 I see Deputy Fallaize smiling there because I think he is probably going to leap up and say something to the effect of that is okay with this Head of Law Enforcement but we do not know the next one. And that is probably quite true, but also bear in mind the Police have got other priorities. The Police have got more important things to do (*Laughter*) than swoop on children. It is important to stop them smoking (*Interjections*) but their main role is really not to – These are not the criminals that the Police are really after. (*Laughter*)

**The Bailiff:** Deputy Hadley.

4600 **Deputy Hadley:** Mr Bailiff, this is not draconian but what it is is another step in changing the culture, which is what we really need to do to stop smoking. So I urge people to support the Department’s recommendations.

**Several Members:** Hear, hear.

4605

**The Bailiff:** I see no-one...Deputy Langlois and then Deputy Duquemin.

**Deputy Langlois:** I have three very quick things to say.

4610 I am not going to sit on the fence like Deputy Stewart, as I have got rather stronger views about this. (*Laughter*)

Secondly, that I just needed the opportunity to place on record through *Hansard* that on this occasion I agree 100% with Deputy Fallaize and Deputy Le Lièvre. (*Interjections*)

4615 And thirdly, I am no lover of long reports but one of the biggest problems about this particular one is that you have heard all the complexities this afternoon – it is not as simple as a two-page report. If HSSD want to bring this back, I am very prepared to listen with more evidence. But I am not going to vote for it today.

**The Bailiff:** Deputy Duquemin.

4620 **Deputy Fallaize:** Sir, may I just ask HM Comptroller –

**The Bailiff:** Deputy Fallaize.

**Deputy Fallaize:** – a question about the point that Deputy Langlois has raised?

4625 If Proposition 1 is lost, can HM Comptroller confirm that it would be possible for HSSD to re-visit reasonable ways in which effect may be given to the confiscation provision without requiring it being made an offence punishable by the maximum fine etc.? Is it even credible to consider there might be an alternative way of giving the confiscation powers practical effect?

4630 **Deputy Langlois:** I thought you were going to challenge the legal validity of me agreeing with you. *(Laughter)*

**The Bailiff:** Madam Comptroller.

4635 **The Comptroller:** If Proposition 1 was lost, then that removes the offence requirement and I think that might cause a difficulty. I would not be comfortable saying to you now that you could lose that and rely on the confiscation.

4640 Certainly in relation to the intoxicating liquor provisions that the States passed about five or six years ago, we went through this sort of issue in relation to confiscation and offence. It was decided that an offence would need to be created and that was the provision in relation to the intoxicating liquor.

So further thought would be required. I cannot give you that assurance now.

4645 **The Bailiff:** But is it not the case, Madam Controller, that the original States Resolution of 29th November 2012, where the States resolved the Police should have powers to confiscate tobacco products, that still remains in force because that will not have been rescinded and therefore the Department have to come back with a report that either rescinds that Resolution or comes up with some other report as to how that could be implemented?

4650 **The Comptroller:** That is absolutely right. I think what the Assembly Members will need to be aware of, if that stands, is that certainly we would have to investigate how to achieve that Resolution. **(The Bailiff:** Yes.) It may stand, but it is not really achievable, yes.

4655 **The Bailiff:** But if Proposition 1 was rejected **(The Comptroller:** Yes.) the Department would have to come back with a report, either to rescind the original Resolution or to implement it in some other way.

**Deputy Fallaize:** Sir, that was not quite my question. The question was really is it possible to conceive that there may be an alternative way than as outlined in Proposition 1 to give effect to confiscation provision?

4660 **The Bailiff:** I think the Comptroller has answered that she said she needs to give it more thought. I think she has answered that.

**Deputy Fallaize:** So it is not impossible there could be an alternative way?

4665 **The Bailiff:** She is not saying there can –

**The Comptroller:** Unlikely at this stage, but yes, I cannot give you that assurance.

**The Bailiff:** Deputy Duquemin.

4670 **Deputy Duquemin:** Thank you, sir.

4675 I will be very brief. I guess it is the case that every Member will have to wrestle with their own conscience really on this matter. But for me, I suppose I have been somewhat concerned that we have been concentrating on the down side of giving children criminal records, rather than the upside of saving their lives. For me, that is an overwhelming desire.

I listened very intently when Deputy Fallaize started to speak about his own family situation. I have two children. I had a father that died very prematurely from, I imagine, tobacco-induced illness.

4680 So, I am acutely aware of the strength of feeling in the Assembly today on the subject of criminal records, but I would like people to be left considering that there is potentially a huge upside here today, and that is saving the lives of people.

Thank you, sir.

**A Member:** Hear, hear.

4685 **The Bailiff:** I see no-one else... Deputy Lester Queripel.

**Deputy Lester Queripel:** Sir, briefly.

4690 I was wondering if the Minister has a view on the claim made in the media by a spokesman for the Tobacco Retailers Association that introducing this Ordinance will open the door to smuggling, and increase duty-free sales, thereby reducing income for the States. I do have that –

I am not giving way to Deputy Bebb, sir –

**Deputy Bebb:** I am sorry –

4695 **Deputy Lester Queripel:** No, I am not giving way to Deputy Bebb. It is either a point of correction or a point of order – so I am not giving way to Deputy Bebb.

**The Bailiff:** Deputy Bebb, he is not giving way to you.

4700 **Deputy Bebb:** Sorry, it just –

**Deputy Lester Queripel:** Has he got a point of order or a point of clarification?

**Deputy Bebb:** A point of order.

4705 **Deputy Lester Queripel:** Thank you.

4710 **Deputy Bebb:** I would like to ask – the Ordinance is a separate matter. From what I understand, we are debating today is two bits that would be contained within it. I believe that Deputy Queripel is referring to something that would be contained within the whole Ordinance, and I just question whether it is appropriate to debate that today or when the Ordinance comes before us later. I would just like a clarification.

**The Bailiff:** Right, Deputy Queripel.

4715 **Deputy Lester Queripel:** Deputy Bebb lost me, sir, because I was referring to this claim made by the spokesman for the Tobacco Retailers Association.

4720 **The Bailiff:** As I understand it, you are asking a question of the Minister. The Minister can answer when he replies to the debate.

**Deputy Lester Queripel:** Okay, sir, thank you.

4725 One more thing, sir, I did also question the terminology in Proposition 1, as Deputy Lowe was doing, with the Minister recently in relation to the use of ‘without reasonable excuse’. I felt it should be amended to ‘without justifiable reason’. But the Minister did inform me that the terminology is consistent with other legislation and I was satisfied with that reply, sir.

Apologies if I have lost track of the debate, but I have since thought of another question. What in the eyes of the law – and perhaps this is one for HM Comptroller – is considered to be ‘reasonable excuse’?

Thank you, sir.

4730 **The Bailiff:** Madam Comptroller.

4735 **The Comptroller:** I would just confirm what Deputy Green has already said, that the principle of reasonable excuse, although it may seem to Members that that is open to interpretation and is not clear, actually it is very long standing. It is used in the UK in criminal legislation. It is used extensively in our own legislation. It very much depends on the circumstances of the case.

A very brief example, if you are caught for potential drink driving and you cannot give a specimen of alcohol, it may a reasonable excuse if you have a medical condition that does not enable you to provide that

specimen. It very much depends on the circumstances, but I can confirm absolutely with Deputy Green that it is a long-established principle and it is very clear.

4740

**The Bailiff:** No-one else is rising. Deputy Dorey will reply to the debate.

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

4745

Firstly, Deputy Brehaut just asked me to give his apologies. Unfortunately he had a wedding commitment in Jersey. He had to leave and please do not read anything to him leaving the Assembly. He supports what we are putting forward.

I think most of the arguments have been covered but I am not going to go through everybody's speech. I thank everybody who has participated in the debate.

This is simply to protect children. That is what it is all about: it is trying to protect children.

4750

We currently have a Law where it is illegal to make sales or supply cigarettes to children. If then the children do have them, should we confiscate them? That is what this is about.

I thank Deputy Green for supporting it and for explaining about it. He asked, 'I do not understand why it was not sorted out in November 2012.' Well, I actually was not on the Board in November 2012, but everybody in this Assembly was there in November 2012. You all voted to confiscate it. Okay, it was not a recorded vote; it was a called vote, but I listened. As far as I understand, there were very few voices which were against confiscation.

4755

All the controversy was about sales and, if you recall, about children involved in sales and small shops having under 16's making sales. The proposals have been softened from what was decided by the Chamber then, which is precisely what we are putting forward, which is to make it the same as what happens – although it is not in the law – in relation to sales of alcohol.

4760

That is the whole point. Do you want to have different laws in relation to alcohol, different offences, or keep it the same? I think tobacco is a very dangerous drug.

I think there was a report done a number of years ago by a House of Commons Committee and they looked at the most dangerous drugs. I think tobacco came out ninth. It in fact came out higher than some class 'A' drugs and one of the reasons why it is so addictive and it is the prime, biggest killer of causing early deaths within our system. One cause. That is in the report and I think that this Assembly needs to send out a clear message about tobacco and children.

4765

The answer about education: Deputy Sillars also spoke about education. I was remarkably impressed with what is being done with that £50,000 to try and educate children. They pick out the leaders of a year group and those are elected by their fellow people in the year group, then they go through an education process and the idea is they then carry that message out to their fellow pupils. But you cannot just use education alone; that will not work. You need to have also legal powers.

4770

As Deputy Gillson said it will be used responsibly. The Police have many other things to do. And this is the same, exactly the same as is done with alcohol. There are a number of offences which are recorded each year but as he said the whole point is that if we confiscate it, an offence will not be recorded. So you will not get children with criminal convictions.

4775

The whole changes to the Law in relation to –

**Deputy Fallaize:** May I ask Deputy Dorey to withdraw –

4780

**The Bailiff:** Are you asking him to give way?

**Deputy Fallaize:** I am, sir, I am asking him to give way –

4785

**The Bailiff:** Are you prepared to give way? Deputy Fallaize.

**Deputy Fallaize:** – because I think Deputy Dorey should withdraw that one. He said emphatically children will not have criminal convictions. Is he absolutely certain that he can substantiate that remark?

4790

**The Bailiff:** Deputy Dorey.

**Deputy Dorey:** The whole point is so that children will not have criminal convictions –

**Deputy Fallaize:** Is he certain that he can substantiate that remark?

4795

**Deputy Dorey:** That is the point of the changes that were made is so that children will not have criminal convictions. There are obviously extreme cases where they will get them, (*Interjections*) but that is the whole purpose of the changes that were made in relation to it.

4800 I have explained that we have consulted the Police. I think Deputy Gollop asked what consultations happened.

4805 People complained about how short the report is. The report clearly shows that we have consulted the Home Department, we have consulted the Police. People complained about the length of the report but we debated this issue in November 2012. If Members wanted to have more information, they could go back to that Billet of November 2012. I cannot see any point in just re-printing what was in November 2012 (**A Member:** Hear, hear.) where you made the decision that you wanted cigarettes confiscated.

4810 I thank Deputy Le Tocq for explaining about the process and the Children's Convenor and how it is there to benefit children and that is the purpose of it. That is the whole point why the radical changes were made in relation to the children's system was so that we did not criminalise children and we had it for the benefit of children. There is also Youth Justice which is there to help with the carrying out of justice for children.

Deputy Bebb and Deputy Adam particularly concentrated on the health effects and the cost of tobacco related diseases. I hope that the Chamber takes that into consideration when it votes.

4815 It is interesting that we have gone out to consultation on our next strategy, part of that which is to make smoking in cars where there are children present illegal. So if you are not willing to confiscate tobacco from children, are you then willing to make it illegal for smoking with children in cars? That is what we are going to come back on. That is what is considered to try and protect children from tobacco. The consultation is also about stopping smoking near children's playgrounds.

I think I have covered all the points. As Deputy Duquemin said there is a huge upside from passing this Proposal today. It is going to come back with an Ordinance.

4820 I do not understand Deputy Queripel's point that this will lead to more duty free imports. I think that must be in relation –

**Deputy Lester Queripel:** Sir, point of correction, please.

4825 It was not my claim – I was asking a question if the Minister had a view on what was published in the press from the Tobacco Retailers Association.

4830 **Deputy Dorey:** I did not see that article. I do not know if that article was in relation to this or in relation to our consultation. I cannot see how it is going to lead to more duty free imports. It is trying to control the sale of tobacco which is what the Proposition 2 is trying to do and this will just mean that they can confiscate tobacco. I cannot see how you can make that connection.

4835 I think HM Comptroller said about they looked at the best way of being able to confiscate alcohol when the Alcohol Law was introduced and the conclusion was this was the best way to make it a criminal offence. So we are just following those conclusions that were made at that point, which this Assembly has supported. I have not known of any controversy in relation to how the Police operate the Law in relation to alcohol.

So I would ask you to support both these proposals. And if you do not support it, the Ordinance for the rest of the proposals from November 2012 will come back to the House and we will not take any action on confiscating tobacco from children, because there will not be time, because we want to introduce a licensing system for tobacco retailers.

4840 So if you want to send a message out to the Island that you are happy with children having tobacco – (*Interjections*)

**Deputy Lowe:** You must withdraw that.

4845 **Deputy Dorey:** Well, if you are not willing to confiscate it, I think you are sending a message out –

**Deputy Fallaize:** Sir, the States has already voted in favour of confiscation, that is not the issue.

4850 **Deputy Dorey:** So the issue is how we are going to enforce that and make it happen. We consulted the Police and this is the way they said that we can do it. This was the way that they concluded when they looked at alcohol, and so that is what will happen in terms of the Ordinance. We will not delay the Ordinance because the States does not vote for this today.

Thank you.

4855 **The Bailiff:** We come to the vote, Members.

**Deputy Fallaize:** Sir, can we have a recorded vote, please.

4860 **The Bailiff:** Recorded vote on... Well, we will take Proposition 1 first; I think the two need to be taken separately. We will have a recorded vote on Proposition 1, which is to be found on page 1878. For the benefit of anybody still listening at home, (*Laughter*) it is:

‘the possession of tobacco products by a child in a public place, without reasonable excuse, should be made an offence punishable by a maximum fine of level 1 on the uniform scale (currently £500).’

4865 *There was recorded vote.*

**The Bailiff:** Members, I think we should wait for the formal vote before we move on to Proposition 2.

*Not carried – Pour 10, Contre 29, Ne vote pas 0, Absent 8*

<b>POUR</b>	<b>CONTRE</b>	<b>NE VOTE PAS</b>	<b>ABSENT</b>
Deputy Duquemin	Deputy Fallaize	None	Deputy David Jones
Deputy Green	Deputy Laurie Queripel		Deputy Collins
Deputy Dorey	Deputy Lowe		Deputy Wilkie
Deputy Le Tocq	Deputy Le Lièvre		Deputy O'Hara
Deputy Adam	Deputy Spruce		Alderney Rep. Jean
Deputy Brouard	Deputy Paint		Alderney Rep. Harvey
Deputy Hadley	Deputy James		Deputy Brehaut
Deputy Conder	Deputy Perrot		Deputy Storey
Deputy Bebb	Deputy De Lisle		
Deputy Gillson	Deputy Burford		
	Deputy Inglis		
	Deputy Soulsby		
	Deputy Sillars		
	Deputy Luxon		
	Deputy Quin		
	Deputy Harwood		
	Deputy Kuttelwascher		
	Deputy Domaille		
	Deputy Langlois		
	Deputy Robert Jones		
	Deputy Le Clerc		
	Deputy Gollop		
	Deputy Sherbourne		
	Deputy Lester Queripel		
	Deputy St Pier		
	Deputy Stewart		
	Deputy Le Pelley		
	Deputy Ogier		
	Deputy Trott		

4870 **Bailiff:** Members, the result of the vote on Proposition 1 was: 10 votes in favour, 29 against. I declare it lost.

Does anyone wish to have a recorded vote on Proposition 2? No. So I ask you to vote on Proposition 2. Those in favour; those against.

4875 *Members voted Pour.*

**The Bailiff:** I declare it carried.  
Proposition 3. Those in favour; those against.

4880 *Members voted Pour.*

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

### **Rule 3(2) suspended to allow conclusion of business**

4885 **The Bailiff:** Right, we now have two Articles remaining. We have rather ignored the provisions under the Rules as to the hours of sitting today, (*Laughter*) but as Presiding Officer it is probably my duty to remind you what the Rules say. They are that I can propose an extension of a meeting on any day until a later time but not, save in exceptional circumstances, later than 18.30.

I think if we are to embark on a debate on either of the next two Articles, we are likely to go beyond 18.30. I cannot say that there are exceptional circumstances because as I understand it neither of those

4890 Articles are really time critical, unlike some of those we have debated. So if Members wish to continue beyond 18.30... Well, if we were to follow the Rules, we would then have to come back in two weeks' time on, I think it is 13th August. That would be what the Rules provide.

4895 Another option might be to adjourn matters to the September meeting, but I am told that that is already looking like a heavy Billet, so it is probably not a good idea to embark upon the autumn debates dealing with a backlog, because then we will have a backlog for every meeting right through the autumn.

So if people wish to continue – and I believe there are some that do – then we need to suspend the operation of Rule 3(2) and have a vote to continue in order to complete the day's business.

Deputy Hadley, what are you going to – ?

4900 **Deputy Hadley:** Before we vote, sir, could I just say that the Department are not opposing the amendments on this, so that might shorten the Housing Department's –

**The Bailiff:** So the Housing debate might be quite short.

4905 The Broadcasting debate: very short speech from you, Deputy Fallaize, perhaps? Very short debate? *(Interjections)* We will see.

I will put to you the Proposition that we suspend Rule 3(2) and continue sitting until we have concluded all the business. Those in favour; those against.

*Members voted Pour.*

4910

**The Bailiff:** We will continue sitting.

It will be the Housing Department's debate next, Greffier.

4915 **Deputy Lowe:** Sir, we have just taken a vote and I am happy to do that, and to continue, but if Members are continuing, would they be more comfortable to have just a five-minute break before we continue? *(Interjections)* I am happy to continue, but there are some who were muttering that they would perhaps like a five-minute break.

4920 **The Bailiff:** Well I will put that to you. Does anybody wish to have, say, a five or ten-minute adjournment? Those in favour; those against.

*Members voted Contre.*

**The Bailiff:** We will continue. *(Laughter)*

4925 Greffier, if you can call the Housing Department...

## HOUSING DEPARTMENT

### XV. Housing (Control of Occupation) (Guernsey) Law, 1994 Variation to the Housing Register – Amended Propositions carried

*Article XV.*

*The States are asked to decide:*

*Whether, after consideration of the Report dated 8th May, 2014, of the Housing Department, they are of the opinion:*

*1. To agree that an Ordinance be prepared, in accordance with section 52 of the Housing (Control of Occupation) (Guernsey) Law, 1994, to permit the Department to inscribe individually in Part A of the Housing Register:*

*a) three dwellings on the Royal Terrace site in respect of which a previous Amendment Ordinance, which came into force on 14th December 2011, has expired; and*

*b) a further five dwellings which will be created on the Royal Terrace site; subject to: (i) application to inscribe each of the above dwellings being made by the owners not later than 30th April 2016; and (ii) the equivalent number of Open Market Part A dwellings located elsewhere in the Island first being deleted from Part A of the Housing Register at the request of the owner of each of those dwellings.*

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

**The Senior Deputy Greffier:** Article XV – Housing Department – Housing (Control of Occupation) (Guernsey) Law 1994 – Variation to the Housing Register.

4930 **The Bailiff:** And the Deputy Minister, Deputy Hadley, will open debate.

**Deputy Hadley:** Mr Bailiff, in essence this Report deals with two separate but related matters.

4935 The first and most simple matter has its origins in a decision of the States back in June 2005. At that time it was agreed, in line with the so-called Mixed Urban Redevelopment Area (MURA) Policy, details of which are set out in the Billet, that eight of the new dwellings being created on the Royal Terrace site could be inscribed in the Open Market Housing Register in exchange for the deletion from the Register of eight Open Market dwellings located elsewhere in the Island.

4940 The building works on this site have progressed in the years since 2005 and the States have already approved the Ordinances necessary to amend the Housing Register to inscribe these eight apartments. But given that these are prestigious, large apartments the developer has opted not to complete the internal layout and fit out some of these apartments until they are sold, so the purchaser can put their own personal mark on their property. Five of the eight apartments remain unsold and for three of them the Ordinance allowing their inscription in the Housing Register has expired, and so a new Ordinance will be needed to give effect to the 2005 decision of the States.

4945 However – and this is where the second matter comes in – the developer is now rethinking his plans for the space occupied by these five unsold apartments in the light of experience in marketing them over the last few years. The developer has now concluded that he could use the floor space set aside for these five dwellings to create 10 dwellings each with a footprint of not less than 1,400 square feet, and he believes that these smaller units would be more likely to sell in the current economic climate. The developer would like all 10 of these smaller units to be inscribed as Open Market units – that is five more than is envisaged under the MURA Policy.

4955 If the States were to agree to replace the expired Ordinance then five of the apartments could be inscribed, three under the new Ordinance and two under the provisions of the Housing Control Law that deal with the sub-division of Open Market dwellings. But the other five units that could be created can only be inscribed in the Housing Register if the States are prepared to deviate from the policy by allowing five more Open Market dwellings on this site than is permitted by that policy.

4960 Whether to permit a deviation from the MURA Policy is entirely a matter for this Assembly to decide, because I am sure our Law Officers would advise it would not be appropriate to deny a request that deviates from any policy before exploring whether a deviation is justified.

4965 The developer has been unable to attract Open Market buyers for these high-end apartments despite concerted efforts to do so over a number of years. Now, you could argue that the risk that market conditions might change between the planning and the realisation of the project is a risk that any developer has to manage – and it is hard to argue otherwise. However, having sought the views of the Policy Council, Treasury & Resources and the Commerce & Employment Department, the Housing Department has concluded that on balance there is more to recommend the inscription of five more units on this site than to oppose it.

4970 Firstly, in line with the spirit of the policy it is recommended that the developer will still have to deregister five more Open Market dwellings in order to gain five more inscriptions on the Royal Terrace site. So five much-needed dwellings in other parts of the Island will be returned to the Local Market.

4975 Although it could be argued that five of the new Royal Terrace apartments could be Local Market, as the developer has confirmed that 14 of the 46 Local Market units have not been sold, there does not seem to be much demand for more Local Market accommodation on this site, despite the high demand for Local Market accommodation in the Island more generally.

4980 From an economic point of view, the Island will benefit, both in terms of the relevant duties associated with their sale and the local expenditure on their internal completion. What we do know is that no benefit is derived while they sit incomplete and empty. And there is good reason to suppose that they will be more likely to sell because they will be attractive to a wider audience if they are smaller in size than what is there now.

4985 We also know that, because the units will be completed to Lifetime Home Standards just like all other units on this site, they will be attractive to people with limited mobility and so will suit long-term Open Market residents looking to downsize to more manageable accommodation later in life – and we know that there is a dearth of accommodation suitable for this group of residents.

4990 Some of you might be concerned that to agree to these proposals will set a precedent – and it might. But let's not forget that other than Leale's Yard, where its location is likely to limit the desire to bring great swathes of Open Market housing, development space within the other MURAs is pretty much exhausted. And those pockets of land that remain are unlikely to yield the number of dwellings created on the Royal

Terrace site, and any non-MURA site could be distinguished simply by its location. So any precedent would, in Housing's view, be limited.

4990 So, in summary, the Housing Department recommends the States to agree to the preparation of an Ordinance to permit three dwellings in respect of which a previous inscription Ordinance has expired, and a further five new dwellings, all within the Royal Terrace site, to be inscribed in the Housing Register subject to the same number of compensatory Open Market deletions, and subject to the dwellings being inscribed in the Register within this States' term.

Thank you, sir.

4995

**The Bailiff:** Deputy Brouard has placed an amendment –

**Deputy Hadley:** But that is what we are accepting, sir.

5000

**The Bailiff:** – which I understand is unopposed. Do you wish to speak to it, Deputy Brouard?

**Deputy Brouard:** No. I would like to place the amendment, sir, and –

5005 **The Bailiff:** You place the amendment and rely on what the amendment and the explanatory notes say, do you?

**Deputy Brouard:** Yes sir, and hopefully it will get in and we can have it in general debate, and that is it.

*Amendment:*

*1. To delete the Proposition and to substitute –*

*To agree that an Ordinance be prepared, in accordance with section 52 of the Housing (Control of Occupation) (Guernsey) Law, 1994, to permit the Department to inscribe individually in Part A of the Housing Register three dwellings on the Royal Terrace site in respect of which a previous Amendment Ordinance, which came into force on 14th December 2011, has expired, subject to:*

*(i) an application to inscribe each of the above dwellings being made by the owners not later than 30th April 2016; and*

*(ii) the equivalent number of Open Market Part A dwellings located elsewhere in the Island first being deleted from Part A of the Housing Register at the request of the owner of each of those dwellings;*

*2. To agree that an Ordinance be prepared, in accordance with section 52 of the Housing (Control of Occupation) (Guernsey) Law, 1994, to permit the Department to inscribe individually in Part A of the Housing Register a further five dwellings which will be created on the Royal Terrace site subject to:*

*(i) an application to inscribe each of the above dwellings being made by the owners not later than 30th April 2016; and*

*(ii) the equivalent number of Open Market Part A dwellings located elsewhere in the Island first being deleted from Part A of the Housing Register at the request of the owner of each of those dwellings;*

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

5010 **The Bailiff:** Yes.  
Deputy Le Clerc, do you formally second the amendment?

**Deputy Le Clerc:** Yes I do, sir.

5015 **The Bailiff:** And then we will get into general debate. We will debate the amendment and general debate both together – or do you wish to go straight to the vote?

**Deputy Brouard:** Vote now, sir, on the amendment?

5020 **The Bailiff:** Does anybody wish to debate the amendment? No? We will go to the vote on the amendment then. Those in favour; those against.

*Members voted Pour.*

5025 **The Bailiff:** The amendment has been laid and approved, and we get into general debate.  
Deputy Le Clerc.

**Deputy Le Clerc:** Thank you, sir.

I am pleased that amendment has passed because I had a paragraph at the end of my speech saying that I could not vote for all the Propositions if it had not split out. So I will start.

5030 I am sure many will recall in a previous debate to transfer Open Market status from one property to another, that I was against the Proposition. That was the redevelopment of the Hotel de Carteret site at Cobo.

The argument previously given in respect of transferral of properties is, I believe, unacceptable at the present time.

5035 I agree that there is a need for affordable family housing but the houses that will be returned to the Local Market will be in excess of £750,000 – hardly affordable to the average Guernsey family. You only need to look around at the number of properties with For Sale signs, and in the property papers. The current Local Housing Market is flooded with three- or four-bedroom properties that cannot be sold. So returning five properties to this market is not doing the people of Guernsey any favours. It is just lining the pockets of the developer.

5040 This is purely a commercial proposition and sets a dangerous precedent for other developments where the Open Market flats cannot be sold. Will we soon see this type of request for the Hotel de Carteret site, the Old Brewery site at the bottom of Le Val des Terres and the Vauxlaurens Brewery site if their Open Market flats cannot be sold?

5045 There are no guarantees that smaller Open Market units would be sold either. As Deputy Kuttelwascher said this week what we need to do is restore some confidence to the Open Market and ensure that we promptly bring clear legislation in respect of the Open Market and renew that confidence.

What also concerns me is that whilst we have a housing shortage, 14 of the 46 Local Market units created in this development have not been sold.

5050 I am not going to make any further comment on this point, and will leave it to the Members of this Assembly to consider the reason for this before they make their decision today.

Thank you.

**The Bailiff:** Deputy Luxon and then Deputy St Pier.

5055

**Deputy Luxon:** Thank you.

Sir, just very briefly... When the Housing Department had a look at this application it went round in a circle a little bit so it decided to kick it upstairs to the Policy Council, and we played around with it and then we decided to kick it back to the Housing Department, because in real terms it was not easy to find a compelling reason to either support it or to not support it. So I am pleased that the Housing Department has laid this States' Report.

5060

I do not agree with my colleague Deputy Le Clerc. For me the minor Ordinance on renewing the three dwellings gives me no problem at all. Having five more Open Market flats does not bother me at all. And then having five Open Market properties elsewhere probably will be houses rather than flats converted to Local Market houses – that is good because we know we have a shortage of Local Market properties.

5065

So the target is for 300 new build homes per annum, and we know that we are not achieving anywhere near that. So the Island does benefit slightly from this proposal – although I accept Deputy Le Clerc's point that it is clearly of benefit to the developer.

Sir, the Open Market is sluggish, the Local Market is sluggish, but overall I think that approving this proposal marginally is of benefit to Guernsey, so I would support it.

5070

Thank you.

**The Bailiff:** Deputy St Pier.

5075

**Deputy St Pier:** Sir, I will rise just to briefly draw Members' attention to the Treasury & Resources letter of comment on page 1888 of the Billet, and in particular the second paragraph in which the Department notes that the policy for the inclusion of Open Market accommodation in these sorts of developments was approved in 2011.

Deputy Le Clerc has made reference to the fact that the policy may not actually be achieving its objectives – it was also 13 years ago, the environment is very different and our Department would very much welcome a review of this policy. And to be clear we do not have any predisposed views to an outcome of that. But we think it is appropriate after 13 years that there should be a review to see whether the policy is still appropriate, or whether it should be revised.

5080

I would be grateful if the Deputy Minister from the Housing Department could perhaps confirm in his summing up whether his Department would be prepared to conduct and lead such a review?

5085

**The Bailiff:** Deputy Brouard and then Deputy Gollop.

5090 **Deputy Brouard:** Thank you, sir. And thank you, Assembly, for supporting the earlier amendment to split the Propositions up.

I do have sympathy for the developer who wishes to maximise a profit from a development. That is why you go into it. The concern that I have with the proposed changes on the Housing Register is that although it has been bought for commercial reasons it will have a significant legacy well beyond the Royal MURA.

5095 Now, I am sure there is a price that five large Open Market flats would sell for. I do not know what it is, but I could probably make a guess. So the request is to divide the five large Open Market flats to create ten smaller Open Market flats. But the developer could equally create ten Local Market flats, or five smaller Open Market flats and five small Local Market flats – which, again, at the right price would quickly sell. Or he could change the status of the existing large flats from Open Market to Local, and again at the right price would equally sell.

5100 The issue for the developer is all about maximising profits or reducing losses if they have not been covered – and I do understand that. But the Deputy Housing Minister touched on the piece that affects me most which is the precedent that it sets, which will go much further than this particular development.

5105 Now, we raised this concession idea of having an ability for developers to pump prime sites by allowing switching Open Market out of the countryside or wherever, and taking those and bringing them into the MURA development as a prestigious flat or whatever, and a set is made of how many that can be for a particular development site – which is fine, and I think in this particular case it was going to be eight – and I think it has now drifted slightly for prestigious developments, again to help pump prime.

5110 Now, I like having a mix of properties in the Local Market. The better properties in the Island generally – I think in the 1960's – were withdrawn from the market for locals when we created the Open Market. That creation was done as a protection measure for the remaining Local Market properties which were – by definition, because most of it was done on rateable value – the ones without inside toilets at the time, or washbasins in the rooms and things like that.

5115 However, as time has gone on, some of the Guernsey properties which then had low rateable values have now got quite significantly high rateable values, and my concern is that this will send a coach and horses through for further developments. Because there will be nothing now really... why would anybody at Housing stop me delisting a small Open Market terraced house in town, and listing as Open Market a large farmhouse in The Vale – and I will just cream the difference, half a million, whatever? Because that completely changes... because then, for the Local Market people we will be putting more of our best houses in the Local Market into the Open Market and for aspiring locals I do not think that is fair. I think we have already got a fair selection in the Open Market and I see no reason for adding the best local houses into the Open Market for the people who we welcome in to our Island.

I think we will rue the day that we allow open season to swap Local Market properties with Open ones.

5125 But I still do appreciate that the developer... (*Interjection*). Yes, in waiting, the developer has lost the three Open Market properties that he had in his hand, and by the time clock drifting past he has lost his ability to capitalise on those three properties. And I think on balance it is not unreasonable for us to put those three back to the developer. And I think the danger was with the Proposition as it was, some people would have thrown out all of the Proposition and the developer would be left minus three Open Market houses, let alone getting the five more that he wants.

5130 So this gives an opportunity for those people who may not have been sympathetic enough to grant the extra five, and return the three, to be able to split out their vote accordingly. So that was my concern, that people might have thrown out the Proposition completely and left the developer regrettably losing the three that he already had in his hand.

5135 So I would probably be intending, unless there is some really interesting debate comes out that can persuade me otherwise... I am very concerned about the precedent but I am happy to return to the developer the three that he already had and allowed to slip through his hand by not progressing quickly enough.

Thank you, sir.

5140 **The Bailiff:** Deputy Gollop.

**Deputy Gollop:** Sir, I think Deputy Brouard has put forward quite a fair compromise because I think it would be wrong despite the legal lapse of the permission to, kind of, retrospectively reconsider it.

5145 But I do have misgivings about the whole policy. I think we should send out a message loud and clear to Housing that we need reconsideration of this. And also Deputy Hadley in a previous speech talked about culture change and attitude change. Well, I think we possibly need an attitude change on the Island to property as an asset, as distinct from property as an integral part of our existence.

Clearly we are seeing here a market that is not reacting as well as it could, because we are witnessing from the evidence that we have a significant number of unsold properties. I get slightly annoyed when I hear on the media, from time to time they give estate agents air time and the arguments always to seem to

5150 go 'There is a lack of demand for property in Guernsey at the moment...'. Not true. There are many, many people living in substandard and inappropriate accommodation. It is the price and the profit NPV values that are leading up to this. We have to be clear not to criticise it necessarily, but not for Government to support it and go in partnership with it. This in a way is what could be happening here.

5155 We really have to question, I think, how far we are going to go as a legislature... This must be the only parliament in the world, really, that would actually look at one site in this way and start to reallocate what kind of people could live in it or buy it. It is clearly an out-of-date strategy. I was tempted to vote for it until I have heard the speeches, for one particular reason – and I am talking here of the five rather than the three – that Housing have made the argument and Deputy Hadley has today, and it is a curious argument, that if we support it we release five more properties to the Local Market as a sort of trickle-down effect.

5160 Generally speaking the properties that are removed are the *less* desirable, but we have got no way of proving that. But the logic of Housing's position – and we know there is a shortage of properties for sale on the Market – would be that we should give more and more permissions so another 1,000 Open Market houses could be built on these sites, so we could then deregister 1,000 for the local market and create a sort of property explosion that way. I do not think Housing had that in mind when they put this forward. We really do need to think again on this kind of question.

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**The Bailiff:** Deputy Le Tocq.

5170 **The Chief Minister (Deputy Le Tocq):** Sir, I rise just to make some comments in response to that speech and to Deputy Le Clerc's as well.

Just to say that the Policy Council along with Treasury & Resources Department is determined to see the Open Market reinvigorated. It is absolutely clear that it has suffered in recent years, sometimes for very wrong reasons and misconceptions, and various attempts have been made to try and address those. But we want to draw a line underneath that and very much make it clear that the Open Market is open for business, and should be used for the purposes for which it was originally intended.

5175

This Assembly, sir, has sent a very clear signal with regard to the Population Management Regime, that the Open Market is not going to be changed in its purpose and its intention, and we want to do that.

5180 This Assembly could underline that, by supporting these proposals in a very small way does not change the overall purpose and shape, but there does need to be a clear signal sent out in terms of supporting the Open Market so that Guernsey can use that tool for the purpose for which it was designed. And we want to make that clear that there is no reason whatsoever that that cannot be the case now. So I would encourage Members of the Assembly to support these proposals.

Thank you.

5185 **The Bailiff:** Deputy Dorey.

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

5190 Deputy Luxon said it will probably release houses elsewhere. Well, we have got no details of what will be released from it. So to say it is probably houses... It could easily be flats, there are a number of Open Market flats and properties which are of not good quality, and it is going to be the cheapest Open Market properties that are going to be released. That is why I dislike this policy and I have said all the way along I dislike it. Because we send a message out, 'We build good quality new accommodation... oh, those are not for local people, you have the poorest of the properties in the Open Market and that is what is for you.'

5195 That is the complete wrong message to send out to the population, I believe.

Deputy Le Tocq said about the original purpose of the Open Market. Well, the original purpose of the Open Market, as I understood, was to attract high net worth individuals. I do not think making Open Market properties smaller and less value is going to attract high net worth individuals.

5200 The system they have in Jersey, where people coming in have to give an undertaking or guarantee so much income tax, is what we should have. If we want to make good business out of the Open Market we should have high net worth individuals who can make a sizeable contribution to our society. That is what I understood the original idea was.

I think both of these are sending out the complete wrong message. As I said the original policy was there to pump prime, as Deputy Brouard said 'developments in the MURA', as they were not happening.

5205 Those days are long gone and I would ask you to reject both of these Propositions and I believe that we should have a review of this policy, and we should not allow any more properties on it, and we should have a review of the economic contribution of the Open Market.

The one thing that the research that was done for the population policy – and that was published during the previous Assembly – showed that the actual tax contribution from the Open Market was very low, and that I do not believe is what we want from the Open Market. We should be wanting people who make a sizeable contribution to our community in terms of tax take.

5210

So please vote against these.

**The Bailiff:** Deputy Kuttelwascher and then Deputy Lowe.

5215 **Deputy Kuttelwascher:** Sir, because I live in the Open Market, I choose to abstain from this and I will just say that in case we vote *aux voix*. I know I do not have to, but I will abstain.

**The Bailiff:** Deputy Lowe.

5220 **Deputy Lowe:** Thank you, sir.

I will be supporting Proposition 1 on the amendment and rejecting Proposition 2 – I am having trouble with my mouth! I do that because I just heard about the Open Market, but there is no doubt about it both Local and Open Market sales are slow – both sides at the moment. It is not because there is not any choice – there is plenty of choice out there. It is just a matter of fact that the prices in some cases are far too high, because people over the years as the economy was growing – human nature, they went for the highest price. Now, when actually people are struggling – some of it because of all the prices and charges that we have put on the individuals out there in the community – there is not so much money about. So people are staying probably more in their properties now.

5225  
5230 You have only got to look at the listings from the Environment Department, weekly, people are extending their properties rather than actually moving, which does give me concern because it means actually we are losing a lot of the smaller houses and properties because they are all being made now into bigger ones.

5235 So as I say, I believe that the properties are *there*. It is just the way that the sales are going at the moment. And I struggle, similar to the vein of Deputy Dorey really: we are losing good Local Market that will be converted into Open Market.

5240 I am hearing too often as well, ‘Well, the locals will have the social housing.’ Well, I am sorry, again, it is always the case of, if you are struggling, you will have social housing. That is great but please, the way we are going, it is going to be a case of the locals will have the social housing and there will be really nothing much left in the middle, because they will be too expensive at the other end, because people are extending their houses – which is great, because they are having trouble to actually be able to move on to the next stage because of the cost. It is actually much cheaper to extend your property.

So I think we have got a problem coming along. But certainly with this report here, I urge Members to support Proposition 1 on the amended Proposition, and reject Proposition 2 amended.

5245 **The Bailiff:** Deputy Langlois.

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

I rise first of all to support what the Chief Minister has said and very strongly on the Policy Council. I think it is very, very important that we send out the right messages.

5250 I was part of the last parliament when a lot of comments were misunderstood and the Minister of T&R who, when I was sitting on the Board, was unfortunately, I think, misquoted and it led to all sorts of things in the Open Market that we have been reminded of on a number of occasions.

5255 I could not disagree more, unfortunately, with the Minister of HSSD who has just spoken. We have got to – (*Interjection*) I would like to finish if I may – we have got to remember the way in which the word ‘market’ is used when it is to do with housing.

If you go back to your economics first course, a perfect market is something where there is a homogeneous product – every product is the same. That is as far from the truth in the housing market as it is far from the truth in the labour market. And that is the imperfection in the market.

5260 We simply bandy about... This local terminology gets thrown around as if those two markets are perfect economic markets. They are not. They involve an awful lot of valuation and so on. And the reason I disagree so strongly with what was said just now about the wrong type of property coming on to the Open Market is that I, in canvassing in St Peter Port South, came across a significant number of places where a large house in the Open Market is being occupied by a single person who has no option to move and stay in Guernsey, and therefore... When you think about when the Open Market was created, those people came in the 60’s and 70’s now are stuck with that. They then get caught out by all sorts of other traps and a few more units where they could downsize and release the bigger properties for the sort of people who bring real economic benefits, then that is going to benefit as well.

5265 So, be a little bit careful about just looking on the surface of the two markets. They are complex economic markets. Please support Housing’s Propositions.

5270 Sorry...

5275 **Deputy Lowe:** That is alright. The correction that I wanted to point out, sir, the message that went out that caused problems last year or the year before, that Guernsey was closed to business for Open Market, was because some Members of the States were sending out a message that actually we wanted to get rid of the Open Market. This is not getting rid of the Open Market at all. Open Market will still be available to anybody who wants to come here, and there is plenty of choice.

**The Bailiff:** Deputy Sherbourne.

5280 **Deputy Sherbourne:** Thank you, sir.

I have only been on Housing for a very short time, but I would like just to develop the comments that the Chief Minister made a few moments ago, because the two markets that we have are both... perhaps could be described as underperforming at the moment. And they do need an injection for the good of the Island.

5285 Now, I have always believed that there should be a relationship formed between Government and developers. I think in the past they have been seen as totally separate. And one thing that I have really appreciated, recognised, in Housing is the willingness now to engage with developers to talk through possibilities, recognising that developers are in the business to make a profit, but also recognising that as a Government we have responsibility to ensure the right sort of properties are built.

5290 We know there is a shortage of properties. I think it was wrong of my colleague Deputy Le Clerc to suggest that the houses that would be released from the Open Market would only be £750,000 plus. That is supposition. That is not so.

5295 There will be a possibility for developers to talk about what they do with those properties, and it might be that they could have three Local Market units. I do not know. That is the sort of thing that I think they discuss with Environment, but I think it is right for Housing to go down this route, and to provide the mechanisms to increase our housing stock, and I think that balance is the important thing.

So I ask you to support the full proposals.

**The Bailiff:** I see no-one else – oh, Deputy James.

5300

**Deputy Brouard:** Sir, just a correction –

**Deputy James:** Sir, I will be very, very brief –

5305 **The Bailiff:** Sorry, Deputy Brouard has a point of correction.

**Deputy Brouard:** Just a correction, I think, to something Deputy Sherbourne said. I do not think there is any *increase* in the number of houses. The option is to be able to split it into another five Open Market, but there could be five Local Market. There is no increase in this.

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**The Bailiff:** Deputy James.

**Deputy James:** Thank you, sir, I will indeed be brief.

5315 I genuinely did not intend to speak on this item, but after Deputy Langlois spoke and painted this picture in my head about this little elderly Miss Havisham living in a big house. (*Laughter*) But there is a flaw there, sir, inasmuch as when little Miss Havisham dies in her little... after she has downsized into her smaller Open Market flat, does another little Miss Havisham come in? So there would not be any controls (*Interjection*) on that scenario. (*Interjections and laughter*) Which particular bit?

5320 **Deputy Hadley:** Well, when this poor little old lady dies... (*Laughter*).

**Deputy James:** When the poor little Miss Havisham dies in her small downsized Open Market flat, what we have heard is we want to attract high net worth earners to Guernsey, that flat would be on the Open Market and would be available to anybody. Sorry for the lack of clarity, Deputy Hadley. (*Interjection*)

5325

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

**Deputy Hadley:** Well, at least if it is a Miss Havisham-type scenario, presumably this will be occurring in about 60 years' time when I will be well past it. (*Laughter*)

5330

Well, I thank Members for participating in the debate.

First of all, to pick up on the point which my friend Deputy Sherbourne has already picked up on, we do not know what the value of these properties are going to be.

5335 It has been a surprise to the Housing Department that developers have found cheap Local Market properties that it is worth delisting, because let's be realistic about it... (*Interjections*) Open Market houses which they have been able to buy and delist, because the sort of market property that I would be expecting them to buy would come in at the half a million mark. But we do not know.

5340 The whole point about this – and again I thank the Chief Minister and the Deputy Chief Minister for making the point – that it is important to reinvigorate the Open Market. And the situation we have at the moment, that if we have these poor quality Open Market properties they are not going to attract high net worth individuals to the Island. And by de-listing these poor Open Market properties and moving the inscription to the Royal Terrace it achieves two things.

5345 First of all, it means that we have a better quality small Local Market flat for Miss Havisham but the point is (**Several Members:** *Open Market.*) – it is late in the day! But she will have got there by leaving a large Open Market property which will then, we hope, be sold to a high net worth individual. (**A Member:** Hear, hear.) So that is the way it invigorates the Local Market.

5350 So our gain is firstly, that we are putting five more properties on to the Local Market. Yes, they might be in a tatty condition, which somebody has criticised us for, but nevertheless if they are in a tatty condition they will be more affordable to a young couple who would move in and do it up. Because most young couples when they start... and in fact I spoke to employees, civil servants, recently who have bought houses which needed a lot of work doing on them, and they have moved in in the knowledge that they are actually going to do them up. So we are invigorating the Open Market by allowing people to move from large properties to these new small Open Market flats.

5355 It is also a problem for the Housing Department that we have to think about how people who are immobile and wheelchair-bound have to be looked after – just because they are in the Open Market the States cannot wash their hands of them and tell them there is nothing we can do to help you. There are health issues and moving them into these flats – which as we have already said are built to lifetime standards, they are capable of taking wheelchairs and everything else. I mean, they are suitable for infirm, old people who are finding it difficult to live in their large Open Market properties.

5360 So there is a real benefit there: we are gaining five Local Market properties, we are dealing with a problem with the Open Market that we have. We are actually improving the market.

5365 Also there is the economic benefit to the Island because if we do not agree to these proposals today it is certain that the buildings will not start. By agreeing to them, building will start on new properties so the States is facilitating the employment of local builders, people will be paying tax on the sale of properties. We will be making the profits tax, congé and so forth, and income tax from the development. So there are economic benefits.

5370 Now it seems the main objection will be that we might be facilitating the developer making a profit. Well, actually the developer is a great benefit to the Island. He employs a lot of local people on considerable salaries, who are all paying their income tax and, after all, to a capitalist Island like us why is profit suddenly a dirty word? (**Several Members:** Hear, hear.)

This is all about benefit to the Housing Department. It has the full support of the Housing Board, and I am glad to see senior Members of the Policy Council, and I do urge Members to support both Propositions.

**The Bailiff:** Deputy St Pier.

5375 **Deputy St Pier:** Sir, I may have not heard correctly, but I just wonder if the Deputy Minister could clarify his response to my question as to whether his Department is willing to review the 2001 policy.

**Deputy Hadley:** Yes, sir, I can give him that assurance.

5380 **The Bailiff:** Well, Members, the Propositions that you are now voting on are those set out in the successful amendment proposed by Deputy Brouard, seconded by Deputy Le Clerc, which I hope you have in front of you. And I will put to you Proposition 1 first. Those in favour –

5385 **Deputy Hadley:** I think we had better have a recorded vote on this one –

**The Bailiff:** Well, Proposition 1, I think, is (**Deputy Hadley:** Oh, sorry, sir.) less controversial than Proposition 2. So can we put Proposition 1 to the vote *aux voix*?  
Proposition 1. Those in favour; those against.

5390 *Members voted Pour.*

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

5395 **Deputy Hadley:** We will try *aux voix* on this one as well, sir.

**The Bailiff:** We will try *aux voix*. Proposition 2. Those in favour; those against.

*Some Members voted Pour, others voted Contre.*

5400 **The Bailiff:** I would declare that to be carried, but if –

**Deputy Luxon:** Yes, you are right, sir.

**The Bailiff:** Yes.

5405 And Proposition 3. Those in favour; those against.

*Members voted Pour.*

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

## STATES' ASSEMBLY & CONSTITUTION COMMITTEE

### XVI. States' Meetings – Broadcasting, Using Social Media, Taking Photographs – Propositions carried *nem. con.*

*Article XVI.*

*The States are asked to decide:*

*After consideration of the Report dated 30th May, 2014, of the States Assembly and Constitution Committee:*

- 1. To rescind Resolution 1 on Article XVIII of Billet d'État No II of 1983 made on the 27th January, 1983.*
- 2. That any media operation, wherever based, shall be permitted, on application and subject to the terms and conditions of a licence, to broadcast live sound transmissions and recorded extracts thereof of any public proceedings of the States of Deliberation and of the States of Election by whatever medium it chooses.*
- 3. To allow the streaming of the proceedings of the States of Deliberation and the States of Election over the internet.*
- 4. To allow any media operation, wherever based, to broadcast live television pictures and recorded extracts thereof of any public proceedings of the States of Deliberation and of the States of Election, subject to the terms and conditions of any contract agreed by the States Assembly & Constitution Committee acting for and on behalf of the States.*
- 5. That, with the exception of authorised television broadcasts, photography, whether still or moving images, shall not be permitted at any time within the States of Deliberation or States of Election except with the express prior permission of the Presiding Officer on each occasion.*

5410 **The Senior Deputy Greffier:** Article XVI – States Assembly & Constitution Committee – States' Meetings – Broadcasting, Using Social Media, Taking Photographs (**Several Members:** Pour, ... Contre.) (*Laughter*)

5415 **The Bailiff:** Debate will be opened by the Chairman of the Committee, (*Laughter*) Deputy Fallaize.

**Deputy Lowe:** I am sure Deputy Fallaize is going to say he has got nothing to add to the Report.

**Several Members:** Hear, hear!

5420 **The Bailiff:** Deputy Fallaize.

**Deputy Fallaize:** All I was going to say was that we have sat for so long... The provisions at the moment provide that live proceedings can run only on the wireless, and on medium wave at that, and we have sat so long, they may even have switched us off on medium wave, I suspect. (*Laughter*)

But in the interests of openness and transparency, the Committee believes that the broadcasting regime should be liberalised almost completely, and that is what these Propositions are about – that is Proposition 1 to 4 in particular – so that media organisations if they wish can take advantage of using the latest technology to broadcast the States.

5430 There is actually a sentence in this Report which says, ‘The proceedings of the States are not a form of entertainment’ – but after the events of this afternoon I am not quite so sure!

Proposition 5 meanwhile seeks to turn into a Resolution a long-standing convention regarding photography in the States.

5435 If there are any questions I will be happy to answer them, but I am sure at this late stage there are not. And therefore I ask Members to support the Propositions.

**The Bailiff:** Deputy Gollop.

**Deputy Gollop:** Sir, I do support the Propositions.

5440 I think there are one or two grey areas with the photography, such as photographs of the video screens. But leaving that aside, I remember one of the great characters of Guernsey politics of another era was Mr Bill Green and he opposed the attempts of the broadcasting at the time of the States’ debates on radio on the grounds that it would lead to lengthier and more debates and more grandstanding, (**The Bailiff:** Surely not.) and I hear my friend and colleague Deputy Quin saying yes.

5445 I am just wondering... a simple question: if we are televised and streamed on the internet and we all become TV stars, will the Presiding Officer or Presiding Officers have greater powers or at least more frequent interventions to stop some of us making dramatic gestures, so that we are caught illustrating our speeches in some way?

5450 **The Bailiff:** Deputy Lester Queripel.

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

Briefly, sir, I have just got a slight concern in relation to paragraph 33, page 1895, where we are told – it is under the heading Privilege and Defamation –

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**Deputy Fallaize:** Sorry, sir, could the Deputy repeat where, please?

**Deputy Lester Queripel:** Paragraph 33, page 1895. It relates to the privilege and defamation issue. Half way down paragraph 33 – well, towards the bottom actually – it says:

‘It should be noted that the protection afforded does not extend outside this jurisdiction and therefore there is a possible risk of defamation proceedings being brought against a States’ Member...’

5460 I am just a bit concerned about that, and I wondered if Deputy Fallaize could perhaps, even hypothetically, just give some elaboration on it.

5465 It is easy, as Deputy Gollop has just alluded to, to get carried away when you are making speeches, and sometimes you try to be mindful of the issue at hand or you are sometimes a little bit, perhaps, over emotional. So, I am just a bit concerned that if there is a risk of defamation proceedings being brought, then – is it a silly question to ask – what would be the extreme? What would be the worst that could happen to a Member of the Assembly?

**The Bailiff:** Does anyone else wish to speak? Deputy De Lisle.

5470 **Deputy De Lisle:** Just wanted to ask a question, and indicate to the Committee that there was some concern in the Forest Douzaine on Monday with regard to the use of electronic devices during proceedings.

5475 I just wanted to ask Deputy Fallaize if he could outline further as to whether in fact it is now possible for Members to communicate with the public in the Gallery, for example, perhaps through electronic means, or whether in fact that process is still suspended. And to what extent did his Committee actually look at this issue? The vote earlier was 21 to 22 – it seems to me have been very close and I was surprised that his Committee perhaps did not consider that in the recommendations for Members to consider more fully.

Thank you, sir.

5480 **The Bailiff:** Deputy Langlois.

**Deputy Langlois:** Can I just suggest to Deputy Fallaize when he sums up that he keeps his eye on the clock, because if we are still on the air, sir, we are about to lose ‘The Archers’ listeners. (*Laughter*)

**The Bailiff:** Deputy Le Clerc.

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**Deputy Le Clerc:** Sir, I would just like to seek permission that on a regular basis I am able to reapply my lipstick, if I am going to be in the public... pictures and all now! (*Interjections and laughter*)

**The Bailiff:** Does anyone else have anything to contribute to the debate? (*Laughter*) I do not think so. Deputy Fallaize will reply to it.

5490

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

I can do the theme tune to 'The Archers', actually – but no, I will not.

Right, I am not sure the States have ever sat past 7 o'clock, not that I can remember, sir. I will try and carry on just so that we get into the record book. (*Laughter*)

5495

Right, Deputy Gollop was concerned I think about grandstanding. Well, (*Laughter*) I do not know who he has in mind. I can assure him that if proceedings of the States are streamed, all of his dramatic poses will be captured, (*Laughter*) and no doubt relayed in 'Gollop's Globe' every week.

Deputy Lester Queripel had a slight concern about privilege. He said that Members can sometimes get over-emotional. I have to say to him that getting overly emotional is fine. He will not be defaming anybody by becoming overly emotional.

5500

It is up to Members obviously to bear in mind the law when they are speaking in the States. This is not a problem which the Committee can overcome, really.

Members in the States, when they are speaking in the States, are protected under the rules of absolute privilege, that is to say that absolute privilege is a complete defence to proceedings for defamation. It confers protection even when the words are uttered maliciously, and also covers any matter brought in or before the States by requête, amendment, sursis, question, etc. But that obviously applies locally only. The Committee cannot extend that provision to other jurisdictions. The States' Assembly & Constitution Committee is a powerful Committee but we do not have power over, for example, the Russian judiciary or something of that nature (*Laughter and interjection*) to uphold our right of defence under absolute privilege. So obviously if the proceedings of the States are broadcast other than domestically it could...

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Deputy Duquemin wishes me to give way and I will.

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

5515

The question I would simply ask – and perhaps I should have asked it previously – is literally the fact that *Hansard* is a complete record of the States, and that is effectively broadcast on the internet globally. Does that not actually already mean that exactly what you are saying – I am sorry, through you, sir – what Deputy Fallaize is saying actually already happens, because we do not need it to be broadcast via the internet in terms of pictures and sound, other than it has already been distributed worldwide via the printed word.

5520

**Deputy Fallaize:** Yes. I hesitate to answer with any degree of authority because HM Comptroller could probably deal with this better than I can. Although actually by the look on her face, I am not sure she can. (*Laughter*) She can have a go.

5525

**The Bailiff:** Madam Comptroller.

**The Comptroller:** She can have a go. Absolute privilege will be a defence to whatever is said or published in relation to the States' proceedings, so it does cover what is published in relation to the *Hansard* point.

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**The Bailiff:** I think the point was if *Hansard* is then circulated and read by somebody outside the jurisdiction, (**The Comptroller:** Yes.) could they bring defamation proceedings in a jurisdiction *other* than this Bailiwick?

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**The Comptroller:** Yes they can, they can do so, sir, because it does not have extra-territorial protection.

**Deputy Stewart:** No change, then.

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**The Bailiff:** No change, then.

**Deputy Fallaize:** Yes, no change. So the likelihood of proceedings being brought outside of the Island is remote, but Members already, because of the point Deputy Duquemin has made, have to bear that in

mind. I am answering your question at the moment Deputy Queripel (*Laughter*) – he seems to find Deputy Trott more interesting, but anyway... (*Interjection*) I cannot imagine why. (*Laughter*)

Deputy Le Clerc wanted to know whether she could still apply her lipstick. She can so long as she applies Deputy Gollop's at the same time. (*Laughter*)

Deputy De Lisle talked about streaming in the Forest (*Laughter*) – I am not sure we were going quite that far! (*Laughter*)

5550 He made a serious comment actually, which is sort of close to my heart in a way, about the use of what Deputy Perrot always touchingly refers to as electric communicators in the States. Now, it is probably no secret, I do not think that the use of these things should be permitted in the States, quite frankly. (**Several Members:** Hear, hear.) I voted against their use back in – what was it, 2010 or whenever it was? It was a very close vote.

5555 Actually I think it is true to say that a majority of the States' Assembly & Constitution Committee feels that way. The issue that the Committee has to confront is that it feels that it is (*Interjection*) almost – no, not the modern world, no (*Laughter*) – it almost certainly could not get restricted proposals through the States, because the use of communicators has now become so ubiquitous almost, that Members are so attached... I am told, particularly by Ministers, that they could not possibly carry out their jobs unless they were permanently connected to their offices. Quite how we managed during the Occupation, I do not know, but... I will give way to Deputy Luxon.

**Deputy Luxon:** It is so that we can play Solitaire, sir. It is not so that we can keep in touch with each other. (*Laughter*)

5565 (*Applause at 7.00 p.m.*)

**Deputy Fallaize:** The playing of Solitaire... Well, at least it is more constructive than I imagined, so I apologise. But if a sufficient number of Members wish to get in touch with the Committee to advise that they would be prepared to support more restrictive arrangements, then I think they would find the Committee willing to put such a proposal before the States. But it is our judgement that at the moment we would not get those sorts of proposals before the States, and by the number of shaking heads I see, I think that judgement is probably correct.

5575 **Deputy De Lisle:** Sir, can I just –

**The Bailiff:** Deputy De Lisle.

**Deputy Fallaize:** Yes, I will give way to Deputy De Lisle.

5580 **Deputy De Lisle:** – ask for clarification? Just to know, through the Comptroller perhaps, what the Rules are at the moment. Do we have total liberalisation, then, in this Chamber with the outside world? Is that what we are saying, that we can communicate anywhere we wish to offices locally or elsewhere during the proceedings through these devices?

5585 **The Bailiff:** Deputy Fallaize.

**Deputy Fallaize:** Yes, there is nothing (*Interjection*) – I am sorry?

No, there is nothing in the Rules which restricts Members' communication with the outside world, or with each other, through electronic communicators at present.

5590 Deputy De Lisle also asked about communication with the Public Gallery and actually it is interesting that he raised this point, because when the States debated effectively banning the use of electronic devices in the States, that proposal was rejected and wrapped up in that proposal was a slight rewording of the previous Rule which prevented Members from communicating with people in the Public Gallery – and because one fell, the other fell. So at the moment there is nothing in the Rules which prevents Members from communicating with people in the Public Gallery or *vice versa*.

5595 I was amused actually because one of the ushers – and I am sure he does not mind me bringing this to the attention of the States – told off a representative of the media earlier this week for trying to communicate with a Member of the States across the Public Gallery. Very politely, of course. But actually there is nothing in the Rules of Procedure which prevent communication between Members of the States and people in the Public Gallery any longer. So it is a sort of convention, but there is nothing in the Rules.

5600 So, yes, clearly Members can communicate through iPads and similar equipment but actually – strictly under the Rules – we cannot be prevented from communicating with people sitting in the Public Gallery. But that is something which the Committee is going to have to look at and possibly bring back into the Rules.

5605 Anyway, I think we have now got past seven o'clock, so we have done that. I do not think we will try for eight. *(Laughter)* And I only ask Members to support the proposals.  
Thank you, sir.

**The Bailiff:** Members there are five Propositions –

5610

**Deputy Lowe:** I would just like to say, sir, that we all clapped at seven o'clock because it was seven o'clock and we beat the record. It was not to actually endorse what Deputy Luxon was saying that we play Solitaire on the iPad! *(Laughter)*

5615 **The Bailiff:** Members there are five – *(Laughter)* sorry, Deputy Queripel.

**Deputy Lester Queripel:** Sir, I am in a dilemma on... I do not take absolute comfort, I am afraid, from Deputy Fallaize tells me because – *(Interjections)* No, I want to vote for it but I am concerned about this privilege.

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**The Bailiff:** Right, well, I think Deputy Fallaize answered the question.

**Deputy Lester Queripel:** Sir, if I can just expand on it. I am concerned sir, *(Interjections)* that this could now stifle debate. It could now restrict debate. It could mean that, for example, some of us have got views on the EU –

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**The Bailiff:** You are making a speech now, Deputy Queripel.

The question you asked was answered and if you wish any further clarification as to the legal status of Members and the risks that you run if you choose to make potentially defamatory remarks about people, then I suggest you take that up perhaps separately with the Law Officers and they can give you legal advice. And if you are about to make a speech at any time in which you are at risk of defaming someone, it may be well be advisable to take advice before you do so.

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

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**The Bailiff:** But it is very rare for Members to make a potentially defamatory statement, fortunately.

**Deputy Fallaize:** Other than about each other perhaps! *(Laughter)*

5640 **The Bailiff:** There are five Propositions all on page 1903. I put all five of them to you together. Those in favour; those against.

*Members voted Pour.*

5645 **The Bailiff:** I declare them carried.

**Thanks to Court staff –  
Good wishes for summer recess –  
Birthday wishes to Deputy Le Pelley**

I thank you very much for your patience and I would like to thank on your behalf the Court staff who have stayed behind *(Applause)*. Thank you.

I wish you all a long and happy summer. And I think Deputy Luxon wishes to sing Happy Birthday again.

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**Deputy Luxon:** Deputy Paul Le Pelley's birthday in five hours' time.

**The Bailiff:** Happy birthday to him.

5655 **Deputy Lowe:** And a good break to you as well, sir, and the staff.

*The Assembly adjourned at 7.06 p.m.*