



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Thursday, 12th January 2017

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Present:

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

Law Officers

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

People's Deputies

St Peter Port South

Deputies P. T. R. Ferbrache, J. Kuttelwascher, D. A. Tindall,
B. L. Brehaut, R. H. Tooley

St Peter Port North

Deputies, J. A. B. Gollop, C. N. K. Parkinson, L. C. Queripel, M. K. Le Clerc,
M. P. Leadbeater, J. I. Mooney

St Sampson

Deputies L. S. Trott, P. R. Le Pelley, J. S. Merrett, G. A. St Pier,
T. J. Stephens, C. P. Meerveld

The Vale

Deputies N. R. Inder, M. M. Lowe, L. B. Queripel,
S. T. Hansmann Rouxel

The Castel

Deputies R. Graham L.V.O, M. B. E, C. J. Green, B. J. E. Paint,
M. H. Dorey, J. P. Le Tocq

The West

Deputies A. H. Brouard, A. C. Dudley-Owen, E. A. Yerby,
D. de G. De Lisle, S. L. Langlois

The South-East

Deputies H. J. R. Soulsby, H. L. de Sausmarez, P. J. Roffey,
R. G. Prow, V. S. Oliver

Representatives of the Island of Alderney

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

The Clerk to the States of Deliberation

A. J. Nicolle, Esq. (H.M. Deputy Greffier)

Absent at the Evocation

R. M. Titterington, Q.C. (H.M. Comptroller); Deputy M. J. Fallaize, (*relevé à 9h 39*) ;
Deputy J. C. S. F. Smithies, (*relevé à 9h 39*)

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States of Deliberation

The States met at 9.30 a.m.

[THE BAILIFF *in the Chair*]

PRAYERS

The Deputy Greffier

EVOCAATION

CONVOCAATION

The Deputy Greffier: To the Members of the States of the Island of Guernsey, I hereby give notice that a meeting of the States of Deliberation will be held at the Royal Court House on Wednesday, 11th January 2017 at 9.30 a.m. to consider the items listed in this Billet d'État which have been submitted for debate.

5

Questions for Oral Answer

SCRUTINY COMMITTEE

Review of the Security of Strategic Air Links, November 2015 – Debate on and revisit of report and recommendations

The Bailiff: Members, we start with Question Time and Deputy Gollop has some questions he would like to ask of the President of the Scrutiny Committee.

Deputy Gollop.

10

Deputy: Gollop: Thank you very much, Mr Presiding Officer, sir.

I would point out that I am of course a member of the States' Transport Licensing Authority, but my questions in no way put forward any views on existing or future possible carriers.

15

The excellent Review chaired by Deputy Le Pelley across both Guernsey and Alderney on behalf of the Scrutiny Committee published a report in November 2015, but it was never fully debated by that Assembly, or this Assembly. Will the report now be debated prior to or at the same time as the Policy & Resources' Aurigny Review and also the Economic Development viewpoints are discussed?

20

The Bailiff: Deputy Green.

Deputy Green: Sir, I thank Deputy Gollop for his question.

I do not think that it makes sense to debate the former Scrutiny Committee's Review of the Security of Strategic Air Links which was published in November 2015, while the current Strategic Review of Aurigny is ongoing. However, I believe that it is essential that the previous Scrutiny Committee's Review should inform any future debate of the Strategic Review of Aurigny and, importantly, future policy in relation to Aurigny.

I can commend the Security of Strategic Air Links Review to Members of the Assembly who are not familiar with the report, as it is a valuable source of insight in regard to future policy in this important area.

Specifically, I would ask Members to consider recommendation 5 of that Review, and I quote:

An overarching government policy relating to strategic air links must be established.

This must be a high priority to ensure that meaningful progress is made in this vital area.

The Bailiff: Are there any supplementary questions? Deputy Gollop.

Deputy Gollop: Yes. The President points out the position with regard to the Policy & Resources supported review but makes no reference to the initiatives that I believe Economic Development may be considering in relation to both overall transport links and the question as to whether the Islands would benefit from longer runways.

Would the President of Scrutiny confirm that should the States develop policy in those areas, it would be timely to reconsider the issues developed at the earlier Review?

The Bailiff: Deputy Green.

Deputy Green: Yes. As I said in my first answer, the recommendations in that Review are very, very important. In fact, one of the recommendations did touch upon the issue, the extension of the runway. That was recommendation 27, which said that there was no strong economic case can be made to extend Guernsey Airport runway at this time. It then went on to say some other things in terms of potentially protecting the areas around the land in question.

But what I would say at this stage, though, is that there is a strategic review of Aurigny going on. Clearly Economic Development have their mandate in that regard, and perhaps Deputy Gollop should speak directly with the Economic Development Committee at this stage. But certainly the recommendations that were made in our report last term still remain valid.

The Bailiff: Deputy Gollop.

Deputy Gollop: My final supplementary would be: with hindsight, would the Scrutiny Committee consider that it might have been useful for this very new Assembly to have debated these reports prior to individual committees setting up their own reviews and a debate perhaps in June or July would have been useful or the Members to have explored their initial viewpoints prior to the reviews being set up?

The Bailiff: Deputy Green.

Deputy Green: No, I do not think so. The report was published in November 2015. It is a very good piece of work, and I implore Members that if there are new Members of the States who are not familiar with that report, they should go back to it – it is available in the public domain – and make themselves familiar with it.

I would have thought, to be honest, any candidate standing for the election in April of last year would have been familiar with the terms of that report in any event. Let's wait and see what the Strategic Review of Aurigny comes up with first; but the recommendations from *our* report from 2015 still remain valid.

The Bailiff: No other supplementaries, so will you please lay your second question.

75 **Deputy Gollop:** Question 2: will the new Scrutiny Committee make a commitment now to reviewing, monitoring and revisiting this important report very soon, in the light of experience of the past year or two and changes to both fact and policy?

The Bailiff: Deputy Green.

80

Deputy Green: Sir, I can confirm that we will reconsider the recommendations contained in the previous Scrutiny Committee's report when the report from the Strategic Review of Aurigny is published. I can also confirm that the Committee's representatives have met with the current review team involved in the Review of Aurigny, and that the Scrutiny Management Committee will continue to monitor the progress of the ongoing review.

85

The Bailiff: Any supplementaries to the second question?
Deputy De Lisle.

90 **Deputy De Lisle:** I have a supplementary actually with regard to Aurigny fares, sir, which is of great concern to the tourist industry.

The Bailiff: Does that arise out of the answer given?

95 **Deputy De Lisle:** I am just wondering whether I can ask that at this time.

The Bailiff: You can if it arises out of the answer given, but if it is to do with fares, then I do not believe it does.

100 **Deputy De Lisle:** It is all part and parcel of the Review. *(Laughter)* I think the Review made quite an issue of fares.

The Bailiff: Well, I think that would need to be a separate question then, Deputy De Lisle. You can lay that at the next opportunity, but it is not a supplementary to the answers that have been given.

105

Deputy De Lisle: It could be that the next question will provide that opportunity, sir.

Deputy Gollop: Well, that is the end of the questions. *(Laughter)*

110

The Bailiff: The next question may be yours at the next meeting, but that is it for today!
(Laughter)
Deputies Fallaize and Smithies, do you wish to be *relevés*?

115 **Deputies Fallaize and Smithies:** Yes, please, sir.

The Bailiff: Thank you.
We move on, Greffier, with Elections and Appointments.

Order of the Day

I. Committee for Education, Sport & Culture – Election of a member – Deputy Inder elected

Article I.

The States are asked:

To elect a member of the Committee for Education, Sport & Culture to complete the unexpired term of office (that is to the 30th June 2020) of Deputy M. P. Leadbeater who has resigned that office, and whose letter of resignation is appended hereto, in accordance with Rule 16 of The Rules of Procedure of the States of Deliberation and their Committees, as set out in Section 1 thereof.

120 **The Deputy Greffier:** Article I – Election of a member of the Committee for Education Sport & Culture.

The Bailiff: Do we have any nominations?
Deputy Le Pelley.

125 **Deputy Le Pelley:** Deputy Neil Inder, sir.

The Bailiff: Deputy Neil Inder. Is there a seconder for Deputy Inder?

130 **Deputy Meerveld:** I wish to second.

The Bailiff: Deputy Meerveld.
Any other nominations? No? So we just have one candidate then, Deputy Inder, proposed by Deputy Le Pelley and seconded by Deputy Meerveld. Those in favour; those against?

Members voted Pour.

The Bailiff: I declare Deputy Inder elected.

II. Policy & Resources Committee – Election of the Chairman of the Guernsey Financial Services Commission – Drs. Cees Schrauwers elected

Article II.

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 21st November, 2016, of the Policy & Resources Committee, they are of the opinion:-

1. To elect Drs. Cornelis Antonius Carolus Maria Schrauwers as Chairman of the Guernsey Financial Services Commission for one year with effect from 2nd February 2017.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

135 **The Deputy Greffier:** Article II – Policy & Resources Committee – Election of the Chairman of the Guernsey Financial Services Commission.

The Bailiff: Deputy Trott.

140 **Deputy Trott:** Yes, I will deal with this. Sir, the purpose of this short States' Report is to ask the Assembly to elect Mr Cees Schrauwers for a further year, i.e. from February 2017 in the capacity as Chairman. The States' Report makes clear his distinguished career in financial services. He is the unanimous choice of the Commissioners and has the full support of the Policy & Resources Committee.

145

The Bailiff: Are there any questions or any debate?
We go straight to the vote. Those in favour; those against?

Members voted Pour.

The Bailiff: I declare him duly elected.

**III. Committee for the Environment & Infrastructure–
Extension of Wreck Removal Convention to the Bailiwick –
Proposition carried**

Article III.

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 23 November 2016 entitled Extension of Wreck Removal Convention to the Bailiwick, they are of the opinion:-

1. To approve the preparation of one or more Ordinances made under section 289, 290, 296 and any other relevant provisions of the Merchant Shipping (Bailiwick of Guernsey) Law, 2002 ("the Merchant Shipping Law") to –

(i) amend the Merchant Shipping Law to give effect within the Bailiwick and its territorial waters to the Nairobi International Convention on the Removal of Wrecks 2007, and

(ii) effect any corresponding or necessary repeals and amendments (including but not limited to amendments to the Wreck and Salvage (Vessels and Aircraft) (Bailiwick of Guernsey) Law, 1986), and any other consequential and incidental legislative provision.

The above Propositions have been submitted to Her Majesty's Procurer for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

150 **The Deputy Greffier:** Article III – Committee for the Environment & Infrastructure – Extension of Wreck Removal Convention to the Bailiwick.

The Bailiff: Deputy Brehaut, the President, will open the debate.

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

The Committee for the Environment and Infrastructure – and how readily that trips off the tongue, doesn't it, at least today! – has under its mandate the obligation for maritime affairs, and we are asking you to embrace the extension of the Nairobi Wreck Convention.

160 The Convention of the Removal of Wrecks 2007 was adopted by an international conference held in Kenya in 2007 and commenced into force internationally in April 2015. The Convention

provides a sound legal basis for states to remove or have removed shipwrecks that may have the potential to affect adversely the safety and lives, goods and property at sea as well as the marine environment.

165 Currently if there is a wreck, then it is the salvage and the sale of the wreck that would cover any costs associated with the damage caused; whereas if we have the Nairobi provisions extended to Guernsey, it then means that the insurance provision covers the impact and fall-out from any wreck.

170 The extension of the Convention to the Bailiwick should not impact on regular operators. The Convention has been implemented by the UK and France, and operators of large vessels that operate internationally in those jurisdictions already hold the prerequisite insurance.

The States-owned ships – both the *Sarnia Cherie* and *Sarnia Liberty* – hold the relevant assurance.

175 The Convention applies to those vessels over 300 gross tonnes. For illustration purposes, La Manche Iles Express *Victor Hugo* is currently 390 gross tonnes.

It is important to note, no owners of Guernsey-registered vessels are required to take out wreck removal insurance, as Guernsey does not currently register vessels of a size of 300 gross tonnes. The vessels of that weight that operate on Guernsey, as you may be aware, are registered usually in other places,

180 There has been a degree of concern by the diving community, but I just want to reassure them that there is a rich legacy of historic wreck in Bailiwick waters, and the Committee has no wish to alter the position in respect of this type of wreck, as they are long-standing, long-sunk and safe and do not pose any hazard to shipping.

Thank you.

185 **The Bailiff:** Any debate? Yes, Deputy Oliver.

Deputy Oliver: Sir, I was just wondering, how many of the cruise liners will be affected by this?

190 **The Bailiff:** Do you want to reply at the end of the debate? (**Deputy Brehaut:** Yes.)
Deputy Gollop.

Deputy Gollop: Deputy Oliver has raised a very good question there. I had really two points: the first is I wondered, reading it initially, what the 'historic wreck' definition was and then in a note, it was 50 years that any ... I think it was older than half a century constitutes a historic wreck, which intrigued me, because I had envisaged it would be *Mary Rose* type ships and galleons and things, when in fact it was quite modern. So I wondered where the gap would lie, between wrecks that are after 1967 but are still not ... Presumably we would still bear the costs.

200 The other question is: it is always great when you encourage or enforce through law mandatory insurance, but you cannot guarantee in the complexities of life that a vessel that sank, or even worse, dropped damaging pesticides or product that had an effect on the fishing community or other ecological effects, whether they would have the right insurance, because insurance companies are not necessarily prone to paying out in certain circumstances, where obvious negligence or criminal activity has occurred.

205 So presumably, despite the good effects of this Convention, we will still be liable to pay for damage in those situations where a less reputable shipping line had incomplete insurance.

I do not necessarily expect Deputy Brehaut to be able to answer these theoretical questions, because they would be quite complicated case law, I would imagine, but they are just things that we have to bear in mind.

210 **The Bailiff:** Yes, Deputy De Lisle.

Deputy De Lisle: Sir, I wanted to ask a question with regard to the effect of spoils of wrecks on our shores. To what extent does this particular policy letter impact on the population here actually benefiting from the materials of wrecks that are found on our shores?

215

The Bailiff: Any further debate?
Deputy Brehaut.

Deputy Brehaut: Thank you, sir.

220

With regard to the question from Deputy Oliver, obviously the cruise liners are far in excess of 390 gross tonnes, and this is the international Convention and the assumption would be – the presumption is – that that vessel is insured and you would expect them to be.

225

With regard to Deputy Gollop, he is absolutely right: this insurance exists in the Panamanian world of registered ships, so we know that there is copper-bottomed – no pun intended – insurance on vessels and there are places of what are called flags of convenience. That remains an issue for merchant shipping.

With regard to the spoils of wrecks, I think Whisky Galore might be welcomed perhaps on the east coast at some time – (**A Member:** West coast.) The west coast – well, why not? (*Laughter*) And therein!

230

But we have, I believe, Her Majesty's Receiver of Wrecks – does that still fall to Her Majesty's Comptroller? If she felt there was anything to add, then I would be obliged if she would do that.
Thank you.

The Bailiff: Madam Procureur.

235

The Procureur: That is correct, sir. My understanding is this is primarily aimed at requiring insurance risk. It should not be affecting the extant provisions which would cover spoils, as it were, or anything which comes on shore. It is primarily aimed at requiring internationally that insurance be in place.

240

The Bailiff: Thank you. Deputy Brehaut, anything further? (**Deputy Brehaut:** No.)
In that case, we go to the vote. It is a single Proposition. Those in favour; those against?

Members voted Pour.

The Bailiff: I declare it carried.

IV. Schedule for Future States' Business approved

Article IV.

The States are asked to decide:

Whether, after consideration of the attached Schedule for future States' business, which sets out items for consideration at the Meeting of the 1st February 2017 and subsequent States' Meetings, they are of opinion to approve the Schedule.

245

The Deputy Greffier: Article IV, Schedule for Future States' Business.

The Bailiff: Deputy St Pier.

250

Deputy St Pier: Sir, the schedule is laid before Members. It is self-explanatory. It is perhaps opportune to note that I know some Members do have ongoing concern at the timing of

meetings, but that of course is not a matter for Policy & Resources. It is one for SACC and ultimately for the States' Assembly itself.

255 **The Bailiff:** Let's put it to you then that we approve that schedule. Those in favour; those against?

Members votes Pour.

The Bailiff: It is approved.

And that I think concludes the business, does it, Greffier? (**The Deputy Greffier:** Yes, sir.) Thank you. We will be back here on 1st February.

The Assembly adjourned at 9.49 a.m.