



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Wednesday, 21st June 2017

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Present:

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

Law Officers

R. M. Titterington, Q.C. (H.M. Comptroller)

People's Deputies

St Peter Port South

Deputies P. T. R. Ferbrache, J. Kuttelwascher,
D. A. Tindall, 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 M. J. Fallaize, N. R. Inder, M. M. Lowe, L. B. Queripel,
J. C. S. F. Smithies, 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

M. M. E. Pullum, QC, H.M Procureur; Deputy B. L. Brehaut (relevé à 09.50 a.m.)

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States of Deliberation

*The States met at 9.30 a.m. in the presence of
His Excellency Vice-Admiral Sir Ian Corder, K.B.E., C.B.
Lieutenant-Governor and Commander-in-Chief of the Bailiwick of Guernsey*

[THE BAILIFF *in the Chair*]

PRAYERS

The Deputy Greffier

EVOCATION

CONVOCATION

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 Courthouse on Wednesday, 21st June 2017, at 9.30 a.m. to consider the items listed in this Billet d'État that have been submitted for debate.

Statements

**Island Development Plan –
Tariff payments in lieu of affordable housing contributions;
Retail development at Oatlands Village –
Statement by President of Development & Planning Authority**

5 **The Bailiff:** Members, we will begin with a Statement to be delivered by the President of the Development & Planning Authority, Deputy Gollop.

10 **Deputy Gollop:** Thank you very much, sir.
Members may recall that on 2nd November 2016, the States resolved to adopt the Island Development Plan, having considered the recommendations of the Development & Planning Authority, as set out in the Billet d'État XXVII, dated 18th October 2016.

Following that very lengthy and involved debate, the States resolved, in Resolution 8, as follows:

To note that Policy GP11 of the Island Development Plan makes permission to construct dwellings subject, in certain circumstances, to a proportion of a developable area being allocated for affordable housing and to direct the DPA, in consultation with the Committee for Employment & Social Security and the Committee for the Environment & Infrastructure, to examine the case for an alternative requirement for developers to make a tariff payment equivalent to the value of the land, which Policy GP11 required to be set aside for affordable housing, and to direct that, by no later than 30th April, 2017, the Authority shall submit a Policy Letter on this matter, together with any Propositions which it considers appropriate.

We also, of course, at the time, had to bring back the industrial land and Stan Brouard Ltd, which we have done.

So, in relation to this States' Resolution, Members will recall that the States also agreed, as a result of the Roffey amendment, to change the lower threshold for provision of affordable housing in Policy GP11, from five units, as originally proposed by the Committee, to 20 or more residential units.

The Authority, the DPA, commenced the drafting of a policy letter, as directed by the States' Resolution, but quickly realised that, as a result of this change, emanating from the Roffey amendment, in the affordable housing threshold in the IDP, the likely benefits of a system of tariff payments in respect of sites of 20 units or more, under Policy GP11 would be, at best, negligible.

To put it another way, with the changing threshold, there would be very limited, if any, circumstances when tariff payments might practically be used in lieu of affordable housing contributions.

So, in light of the changes that were made by the States, when approving the IDP, through the amendment of Policy GP11, the authority is looking at this matter in detail, to determine whether a system of tariffs, in lieu of affordable housing, is viable or worthwhile and what other options there may be.

I believe, and we believe, that this is a sensible and pragmatic response in the circumstances, sir, and I hope that other Members of the Assembly will agree with me on this.

Also, retail development at Oatlands Village. Following, again, the debate on the Island Development Plan last autumn, the States also resolved, in Resolution 7, to:

Direct the Development & Planning Authority, after consultation with other relevant Committees of the States, to determine which changes would need to be made to legislation or policy, in order to establish a gateway for the provision of comparison and convenience retail development on the current site of Oatlands Village that supports the continued viability of this site as a valuable tourist attraction for the Island and if, during the course of the work of the consultation described above, it becomes clear that such a gateway could not be established without first altering the Strategic Land Use Plan, also to direct the Committee for the Environment & Infrastructure to consider whether it should exercise its powers on the Section 5(2) of the Land Planning & Development (Guernsey) Law 2005, to propose such alteration to the Plan and also to direct that the Authority and the Committee, if appropriate, report its or their conclusions to the States in Propositions and a Policy Letter or Policy Letters, to be submitted to H.M. Greffier by no later than 30th April 2017.

In relation to this States' Resolution, the Authority has engaged actively with the owner of the site at Oatlands and has also discussed the matter with the two States' Members, Deputy Ferbrache and Deputy Merrett, who brought the successful amendment.

As a result of this positive engagement with the parties and with the helpful assistance from the Law Officers of the Crown, a possible solution has been identified, which does not require changes to existing legislation or policy. This involves the drafting of a planning covenant relating to retail use of Oatlands, under powers afforded by the 2005 Land Planning & Development Law.

The planning covenant will clarify, in detail, the retail uses that may be carried out at the Oatlands site, as ancillary or incidental to the recognised principal use, without breaching Planning Law or policy.

The Authority is confident this covenant, when finalised, will achieve the outcome desired by the States and which has the support of the owner of the site and, indeed, the Deputies who proposed the amendment.

Thank you, sir, for the opportunity to update the Assembly at this time on these two matters, on behalf of the Development & Planning Authority.

The Bailiff: Deputy Roffey.

Deputy Roffey: Sir, while I do not have a copy of the Roffey amendment to the DPA plan ahead of me, my memory of the intent was very different from that described by Deputy Gollop.

55 I thought that we changed the threshold to 20 as a minimum size of development plot for the
requirement for a physical provision of affordable housing, because social housing providers, like
the DHA said, anything smaller would be pepper-potting and would be inefficient; but I thought
the provision for an equivalent was not limited to 20, but the whole point of it was that it would
look at sites that fell below that, so that people who are developing smaller sites would have a
60 more practical route of making a financial contribution instead.

That is utterly at odds with what he just said, so please could he clarify?

The Bailiff: Deputy Gollop.

65 **Deputy Gollop:** As the affordable housing target was restricted against the DPA's majority
recommendation for 20, there was therefore no logical reason why we should give developers
with houses below 20 the opportunity for payments in lieu because, of course, the policy had
disappeared for that.

As regards the higher level of affordable housing, the whole point of bringing forward the
70 policy was to facilitate a greater degree of planning gain and social integration on the larger sites.

If one gave the opportunity for material sums of money to be there instead of on the sites
above 20, you would achieve no social integration advantage and, of course, that would also put
pressure on finding land that the developers would give us and we could purchase for affordable
housing, so it would be self-defeating as a policy.

75

The Bailiff: Deputy Roffey.

Deputy Roffey: Will the President of the Development & Planning Authority pledge that his
Committee will at least revisit *Hansard* and get the absolute clear intent of this Assembly, because
80 I have absolutely no doubt that he is diametrically opposed to the one that he just set out.

Deputy Gollop: We have not abandoned this workstream. As our responses have made clear,
we are looking at continuing the work on it, but we consider that prioritising resources to it at the
present time would not achieve the desired objective that Members of the States were looking
85 for.

The Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Sir, this is rather easier, I think, for Deputy Gollop than the last two
90 questions.

Would Deputy Gollop agree with me that, in relation to Oatlands Village, what he has said
came about almost entirely through the innovative, intelligent and collaborative approach of his
officers, which is something that should pervade through the development?

95 **Deputy Gollop:** Yes, that is right.

In responding to the States' Resolution, we found out that both sides have clarified and
modified their position somewhat, which has enabled the potential for a planning covenant to be
explored in this case and a realistic potential method of achieving a practical solution, without
breaching Planning Law or policy.

100 I would also add to that a can-do attitude and the fact that we wish to avoid unnecessary delay
of time or expense or jeopardising what is a popular facility – the exact nature of the covenant,
but we think we have made progress. On occasion, I think even we would admit that, when the
Assembly collectively gives a steer on a matter for a debate or an amendment, it can guide us as
to where the appropriate balance is set, between maintaining the dignity of the Law and the
105 policy and following what is sometimes political or economic reality.

The Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Sir, all I was asking Deputy Gollop to say was yes! *(Laughter)*

Deputy Gollop: Yes. I agree!

The Bailiff: Deputy Kuttelwascher.

Deputy Kuttelwascher: Sir, Deputy Gollop used a couple of words in relation to the covenant, relating to 2005 Planning Law and he used the words 'incidental and ancillary'.

I sort of get the impression that those will be interpreted very loosely to almost allow anything. I am not quite sure how you would interpret such Laws in relation to that particular site. How would you interpret 'incidental and ancillary'?

Deputy Gollop: We as a Committee will obviously monitor this one and receive advice and guidance from the officers.

But, if I could draw the attention of Deputy Kuttelwascher to a debate, of course, we enjoyed recently, I think we would all argue, on a particular site somewhere in the Landes du Marche region, that the merits of that particular business, with its significant sales of everything from jacuzzi pools to Greek statues that could be sold there, and garden equipment, one could argue that buying chocolates or sweets or a cup of tea would be ancillary to that. We can all think of hotels around the Island whose primary purpose is to presumably offer upmarket accommodation where, in reality, you can go in and buy a newspaper on some days, or a packet of cigarettes, if you are lucky – or unlucky.

That is ancillary, I would argue, to the purpose of the planning approval.

The Bailiff: Deputy Le Clerc.

Deputy Le Clerc: Sir, I would just ask if Deputy Gollop would arrange to forward his speech to all the Members, because I am slightly confused, particularly on the affordable housing and the impact that this may potentially have on our affordable housing programme and I would like to look at that in further detail.

Deputy Gollop: Perhaps a full consultation with my other Committee, the Employment & Social Security, has not fully taken place because at an early stage, due to the workload, the Development & Planning Authority, in practice, developed these points in conjunction with Environment & Infrastructure.

We will, when we look again at the Plan, be looking at where the States left us with the affordable housing programme; because, of course, the Plan that came out the other end was not what we had put to the States, it was amended and that has caused us some difficulties but, nevertheless I promise we will forward this, hopefully within a day or so, to all the Members.

The Bailiff: Deputy Oliver.

Deputy Oliver: Sir, would the President not agree with me that the Committee were waiting for the Housing Report to come out, to see exactly what the need for housing was, and then the decision was going to be made after that had come out, regarding affordable housing?

The Bailiff: Deputy Gollop.

Deputy Gollop: That is quite correct. The Affordable Housing Review, commissioned by the accountancy management provider KPMG, was actually under the responsibility of Deputy

160 Brehaut's Committee, the Environment & Infrastructure, so we have chosen at this stage not to consider the matter.

One of us – meaning me – has seen a draft copy of the report, but none of the other members of the Committee have. There is a draft copy, but it would not be helpful to go into detail on what the finished product will be.

165 **The Bailiff:** Deputy Le Clerc.

Deputy Le Clerc: Sir, it was just a point of correction, to say that it is a joint report with Employment & Social Security and the Environment & Infrastructure, funded through the Corporate Housing Programme Fund.

170 **The Bailiff:** Deputy Inder has not asked a question. Deputy Inder.

Deputy Inder: Thank you, sir.

175 I just want to pick up Deputy Gollop on one point. In what is a fairly open planning process – we have all seen it, the website is working, emails are getting sent to people, open planning meetings where possible – could he explain to me why the covenant would be necessarily confidential?

180 **Deputy Gollop:** Planning agreements, by their nature, are confidential between the Authority and the applicant but I think in this particular case, as I pointed out to the staff, this has unusually been through the Chamber as a matter, and so this process is likely to be more open than most.

But it is certainly not our policy to publicise every detail of every planning application, once it has gone through the process.

185 **The Bailiff:** Deputy Laurie Queripel.

Deputy Laurie Queripel: Thank you, sir.

190 I am just looking for some sort of commitment from Deputy Gollop and the DPA. Bearing in mind that he said, during his Statement, that they consulted with Deputy Ferbrache and Deputy Merrett in regard to their amendments, will he make a commitment now to consult with Deputy Roffey with regard to his amendment, because there is clearly some misunderstanding in regard to the interpretation of that amendment and its meaning?

Thank you, sir.

195 **The Bailiff:** Deputy Gollop?

Deputy Gollop: Yes, I think that would be useful, regarding feedback, the outcome of this Statement and, of course, the Policy & Resource Plan next week.

200 **The Bailiff:** Deputy Roffey.

Deputy Roffey: Can I ask the President of the DPA how he squares two apparently contradictory statements he has made this morning?

205 The first, that it was regrettable that the States amended their policy letter, which had a threshold of five, for affordable housing, together with saying that it would be pointless in looking for any compensation on projects smaller than 20, because that would deter investors.

Surely, it has to be one or the other, it cannot be both?

210 **The Bailiff:** Deputy Gollop.

Deputy Gollop: I think our interpretation of this was very much focussed on the larger sites, initially. If Deputy Roffey had a different meaning then perhaps we do need to go back to this topic to address it.

215 **The Bailiff:** I see no one else rising.
That brings us to Question Time and it is Deputy Gollop's opportunity to ask some ...
Deputy Brehaut wishes to be relevéd.

Deputy Brehaut: Thank you.

Questions for Oral Answer

POLICY & RESOURCES COMMITTEE

Hard or soft Brexit – Impact on Guernsey

220 **The Bailiff:** It is Deputy Gollop's opportunity to ask some Questions, first of all to the President of the Policy & Resources Committee.
Deputy Gollop.

225 **Deputy Gollop:** If I can find them.

The Bailiff: I have a copy here, if you would like it.

Deputy Gollop: It is the papers that do not come through. This is the trouble. I preferred it
230 when we had paper, I must admit!
Thank you very much.

Bring back the paper States, that is what I say! (**Several Members:** Hear, hear!)

My first Question is directed to Deputy St Pier. In view of the rapidly changing United Kingdom political landscape, will Guernsey's Government consider whether the Island's best interests are
235 served by a hard or soft Brexit approach?

The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, the reference to a hard or soft Brexit commonly refers to a number of
240 possible EU/UK post-Brexit relationships, primarily based on whether the UK will leave or maintain existing access to the EU Customs Union or the Single Market.

In June 2016, the States agreed a set of objectives immediately following the UK EU referendum. These were set, regardless of the UK government's position on its participation in the Customs Union or Single Market, and the same principles apply regardless as to whether the UK
245 changes its policy position.

The Policy & Resources Committee, along with other States' Committees, have for some time been engaging with Her Majesty's government to highlight our concerns and discuss how we might mitigate from any changes that will impact Guernsey.

250 Examples of the topics discussed with the Government include the free movement of people, Customs Union, agriculture and fisheries and financial services.

Given the wide spectrum of options that the UK government has – and that will be subject to the outcome of negotiations – Guernsey's interests are best served by the engagement that we have with the UK government and, given that the UK political landscape has changed, should there be any change in the UK's Brexit policy, the engagement strategy that the States are implementing will ensure that we are best placed to adapt our approach to ensure that it remains in line with the objectives set by this Assembly in 2016.

The Bailiff: Any supplementaries?
Deputy Gollop.

Deputy Gollop: Yes, my supplementary is that perhaps Guernsey needs to clarify in more detail in advance, what we want, because the UK appears to be in a state of flux as to what kind of Brexit was identified, and the intimations that we could have taken in early spring have clearly changed.

The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, we will, of course, continue to keep under review what our objectives are and the best way in which we can project those through our engagement with the UK in light of the changed political scene in the UK.

The Bailiff: Any further supplementaries?
Your second Question then, Deputy Gollop.

Brexit issues – Consideration by British-Irish Council

Deputy Gollop: Will the States' External Relations Group ensure that the British-Irish Council will consider Brexit issues, bearing in mind the involvement, perhaps, of Northern Irish representatives, currently, in shaping the United Kingdom government policy?

The Bailiff: Deputy St Pier.

Deputy St Pier: The British-Irish Council has, of course, already proven to be a valuable forum in which we can discuss Brexit issues.

The UK's changing relationship with the European Union has been discussed by the British-Irish Council and has risen up the British-Irish Council's agenda since the EU referendum and we have taken every opportunity to highlight our objectives, interests and concerns in respect of Brexit, through that forum and, therefore, the UK government, including the devolved administrations in Scotland, Wales and Northern Ireland, as well as the Irish Government and our fellow Crown Dependencies.

We successfully secured a commitment from the UK to ensure that we, the Crown Dependencies, are engaged in the process, from the UK Prime Minister.

The next British-Irish Council summit was due to be held on 15th and 16th June, hosted by Northern Ireland. However, given the recent and significant political developments that have taken place in Northern Ireland, due to the ongoing discussions on power-sharing and the announcement from the UK Prime Minister to hold a general election on 8th June, the British-Irish Council summit was postponed.

Officials from all member administrations, including our own, are working collaboratively to ensure that the Council is able to reconvene at the earliest opportunity, given the importance of

the role the BIC has adopted in respect of Brexit. The relationship that we have built with the Northern Ireland administration, including the DUP, will again undoubtedly prove its worth, particularly given the discussions between the Conservative and the Democratic Unionist parties.

The Bailiff: Any supplementaries?
Deputy Gollop.

Deputy Gollop: My supplementary would be: does Deputy St Pier think that himself and Policy & Resources will manage to keep these kinds of discussions hopefully across the British-Irish Council on every relevant occasion?

The Bailiff: Deputy St Pier.

Deputy St Pier: Absolutely, sir.

The Bailiff: Deputy Kuttelwascher.

Deputy Kuttelwascher: In relation to Brexit negotiations, what function has the Channel Islands' Brussels Office in this process, if any?

The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, the Channel Islands' Brussels Office is playing a key role, in terms of being our eyes and ears on the ground in Brussels and identifying the mood, the issues the temperature with the key players in Brussels and they played a significant role in organising the visit for myself and the Minister for External Relations for Jersey, a couple of weeks ago and undoubtedly will continue that process.

I think the role of the Channel Islands' Brussels Office has proved its worth in this last year or so. It is going to have an increasingly important role, I would suggest, as part of this process and, indeed, probably well beyond.

The Bailiff: Your next Question, Deputy Gollop.

New UK government – Collective Channel Island-approach

Deputy Gollop: My final question is will the States of Guernsey be working together with the States of Jersey and the States of Alderney in shaping a collective Channel Island-approach to the new United Kingdom government, now in office, and the newly forming parliamentary select committees?

The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, we acknowledge that stronger messages are better understood together. Our response to Brexit, to date, has required a great deal of collaborative work, not only within the Islands of the Bailiwick, but with our colleagues in the other Crown Dependencies of Jersey and the Isle of Man and, of course, we maintain regular contact and work closely with our counterparts in all those jurisdictions.

We will look to re-engage alongside the other islands, with the House of Lords EU Committee, whose report on Brexit and the Crown Dependencies was published in March – and, of course,

that still needs to be debated in the House of Lords – as well as the Justice Committee of the House of Commons, particularly because the UK government will still be required to respond to its report on Brexit and the Crown Dependencies, which of course was also published in March.

The States of Guernsey, working in conjunction with the States of Alderney, Chief Pleas of Sark and the Government of Guernsey, maintain a wide network of contacts across the UK political spectrum, including through the All-Party Parliamentary Channel Islands Group, which is a particularly useful forum for us to collectively express our interests and inform the UK Parliament of our priorities and our position on specific areas of policy.

The election meant that the Channel Islands Group was dissolved. However, with the election now over, the process of reforming the Channel Islands Group will commence, with a view to hosting a series of meetings and events in Westminster in the autumn.

The Bailiff: Deputy Gollop.

Deputy Gollop: I would ask, though, that bearing in mind we are seeing a new ministerial team – sadly, we have seen the departure of Sir Oliver Heald – a new set of members of the parliamentary select committee and maybe a new, more vigorous opposition, would it not be prudent for the Island to invite representatives of all three parties to the Island as soon as possible, to engage with, not just a select few, but maybe all of the Assembly?

The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, fortunately many of the ministerial teams do remain in position.

But those that have changed, we will be seeking to engage with them as quickly as possible and, as I have indicated, a programme of engagement after the summer recess for the UK Parliament is something that was already being set up.

The recognition of the change in the landscape between the Parliament and opposition is also something that we are very cognisant of and we have taken that into account in our planning for engagement, as well.

So, yes, undoubtedly, invitations will be extended for parliamentarians and government ministers to visit the Islands. Inevitably, their ability to do so is driven by their own availability and, of course, with a minority government, the ability for ministers to leave Westminster is perhaps going to be more restrictive than it would be with a majority government.

We will, of course, be seeking to engage both here and on the other side of the water.

The Bailiff: Deputy de Lisle.

Deputy de Lisle: Sir, collectively, I take it that the Islands would welcome a preference for a soft Brexit, but has there been any discussion on the preferred model?

The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, it is something that I indicated in my response to Deputy Gollop's first Question, that Policy & Resources is keeping it under review in order that we can ensure that the Island's interests are properly projected and presented to Westminster, in view of the changed politics in the United Kingdom.

The Bailiff: I see no one else.

Deputy Gollop now has the opportunity to question the Committee for Education, Sport & Culture.

Deputy Gollop.

COMMITTEE FOR EDUCATION, SPORT & CULTURE

**Closure of Beau Séjour crèche –
Outsourcing baby and child management facility**

395 **Deputy Gollop:** Thank you, sir, for providing with an electronic back-up when my main computer went technical.

My Question is to the President: why is the Education, Sport & Culture Committee closing a crèche facility at Beau Séjour, instead of promoting and outsourcing a baby and child management facility, to set, maybe, an example as a family-friendly, inclusive and popular States-supported, and indeed subsidised, leisure facility open to all?

The Bailiff: The President, Deputy Le Pelley, will reply.

405 **Deputy Le Pelley:** Mr Bailiff, there are around 20 customers using the crèche at Beau Séjour more than twice a month and the usage is decreasing. As a result, the taxpayer is having to significantly subsidise the use of the crèche for what is, essentially, a very small number of customers.

This is despite a number of attempts to increase demand for this service over recent years, including increased marketing and introducing significantly reduced charges last year. If we were to continue to operate a crèche with losses of £11,000-£14,000 per year, as in the last two years, we cannot demonstrate value for money for the taxpayer and we do not consider that acceptable.

As an alternative, the centre is exploring the viability of introducing a selection of parent and child classes. It is not only looking to expand its own existing programme of children's activities, but is also liaising with a local provider to discuss potential opportunities and this should ensure Beau Séjour continues to encourage a family-friendly and inclusive environment.

The Bailiff: Any supplementaries?

Yes, Deputy Tooley.

Deputy Tooley: Thank you.

Sir, I wonder if Deputy Le Pelley would agree with me and acknowledge that the opening hours of the Beau Séjour crèche have a huge impact on the ability of families to take up that provision?

When a crèche is open from 9 a.m. to 12 noon, Monday to Saturday, it does not make it possible for the vast majority of families to use the facility.

The Bailiff: Deputy Le Pelley.

430 **Deputy Le Pelley:** I hear the comment, sir, and I acknowledge that the hours may not suit everybody.

But we have to run within the constraints that we have within a budget and, unfortunately, those are the hours that we can afford.

But, yes, I take your point.

The Bailiff: Your next Question, Deputy Gollop.

Deputy Gollop: Does the Committee consider it indeed has a role in exploring further state provided crèche facilities at public leisure and sporting facilities?

The Bailiff: Deputy Le Pelley.

Deputy Le Pelley: Mr Bailiff, the Committee and, indeed, the former Culture & Leisure Board, have been investigating the ongoing provision of a crèche facility at Beau Séjour for many years, as some Members – and I am sure Deputy Gollop, in particular – will recall.

The crèche at Beau Séjour was introduced to allow parents or guardians to take part in physical activity at the centre whilst their child was being cared for, as parents or guardians must remain on site.

However, the expansion of early years childcare provision, private sector operators and the increasing need for both parents to work has brought into question its role and cost. Demand for this service has decreased, but demand for other services has increased. As such, the Committee had a responsibility to investigate this, to ensure the floor space being used was providing best value to the States and to the taxpayer.

Since 2014, income from the crèche has decreased by over 72% from 2014 to the current day. In comparison, life-fit exercise, on referral, just one of the many services offered within the Healthy Lifestyle Centre, has seen referrals increase by 28% in just one year. Therefore, for the reasons I have just outlined, the Committee will not be exploring further the option of a state-provided crèche at its public leisure and sporting facilities.

The Bailiff: Deputy Gollop.

Deputy Gollop: As Deputy Le Pelley has reminded us, I indeed sat on one of those Committees and we gave the crèche a reprieve.

I would ask the President, did he not consider either reducing the prices for the crèche or outsourcing it, by placing an advertisement in the *Guernsey Press*, to see if there are any private sector or third sector sensible operators?

The Bailiff: Deputy Le Pelley.

Deputy Le Pelley: Sir, I have also sat on Culture & Leisure, the same as Deputy Gollop did.

I think I was four years behind him. The actual crèche facility has been losing money for a very long time and, in fact, I was charged, in my time, with actually reducing a loss of circa £35,000 per annum, down to something in the region of under £10,000. That was the challenge that I was given by the then Minister.

We managed to do that, we got the losses down to about £7,500. We did that by allocating a safety net of funding.

Unfortunately, over the last two years, the actual buy-in – if that is the right word – has gone down and down and down. All sorts of things have been arranged with various groups. We have talked to other providers, we have talked to other people about what can and cannot happen. There are Laws which actually surround what you can and cannot do within Beau Séjour, according to the age group, and it fits in with what Health say we can do as well.

We have tried everything. We have just decided, in this time of austerity, we can no longer provide it.

The Bailiff: Deputy de Sausmarez.

Deputy de Sausmarez: Thank you, sir.

I take some comfort from the assurance that Deputy Le Pelley and his Committee will be looking into alternative provision for a crèche facility or that purpose.

Deputy Le Pelley did make reference to the Life Fit classes, which I have to commend; I think they are brilliant and I am really, really pleased that they have seen such a great uptake. But I would just point out the obvious, which is they do serve a very different purpose to the crèche facilities and I wonder if, when Deputy Le Pelley and his Committee are looking at the crèche facilities and the provision for parents with young children, they can please take into very serious

495 account the timings such as Deputy Tooley mentioned, but also the provision of the facilities available.

So, the simultaneous availability –

The Bailiff: Your minute is nearly up.

500

Deputy de Sausmarez: – of provision such as the swimming pool etc.
Thank you.

The Bailiff: Deputy Le Pelley.

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Deputy Le Pelley: I have heard what you have said and I will take that back to my board and we will investigate further.

In fact, I will circulate all of the Answers that I have given to everybody today, so that if anybody has any further questions, or any observations or suggestions, we are happy to take them on board, so please engage with us.

510

The Bailiff: Deputy Brehaut.

Deputy Brehaut: Can I ask, sir, bearing in mind some of the broad themes in the P&R Plan with regard to mental wellbeing, generally, does the value of the crèche not go beyond the £14,000 and that its provision may be respite for some families within the family environment and it has an add-on that is not immediately visible on the bottom line, although I appreciate the bottom line is, obviously, a consideration?

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The Bailiff: Deputy Le Pelley.

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Deputy Le Pelley: Sir, the Education, Sport & Culture Committee has been tasked, in the previous three years, with coming in with FTP savings of 10%.

In fact, Beau Séjour more than did its best on that and actually reduced its expenditure by 16%. We were then – and I will use the word – hit by a further request to reduce our budget by 3%, with an intimation that that might be followed by two 5% thereafter.

525

We are in times of austerity. This Board has been charged with watching its budget and it does come down to a bottom line. You cannot keep on telling us that we have to provide this, this, this and this and then tell us that we have not got the budget to do it. Give us the money, we will do it. Give us the money, we will improve our schools even more than we intend to. Give us the money, we will provide absolutely everything. But, give us the money. We cannot do it without the funding.

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The Bailiff: Deputy Merrett.

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Deputy Merrett: Would the President agree with me that, if you have got a stagnant number of users and you put the price down then, clearly, the cost to the States will go up?

Has the President communicated the issues with all the users and maybe suggested putting the price up to the users, to try and cover some of those costs, rather than putting the costs down?

540

Thank you, sir.

The Bailiff: Deputy Le Pelley.

Deputy Le Pelley: Sir, over time, there have been all sorts of engagements with various users.

545

There, in fact, was, in my time when I was sitting on Culture & Leisure, an actual users' forum. In fact, one or two Deputies that are sitting in here today have actually been part of that.

Every which way has been investigated. We have tried looking at all different funding models and hours and hours and hours of Civil Service and Deputy time has been put in to try and actually work out a model that works.

We have come, very reluctantly, to this decision that we just cannot afford to have such dwindling numbers with prices as they are and, if we were to put the prices up, the modelling that we have done in the past – I cannot say we have done it very recently – would suggest, in fact, that there would be even fewer people taking part.

So the answer is we, sadly, have come to the position that we are in today, where, on a business model, it just does not make sense.

However, we have put in place many other activities at Beau Séjour, which will enable mothers, fathers, guardians to actually do activities with their children.

I have to point out, I must remind you, the answer to one of the earlier questions: the parents must be on-site with the children. It is not a crèche while you go off doing your shopping in Town. It was a crèche facility for people participating in the leisure centre.

The Bailiff: Deputy Hansmann Rouxel.

Deputy Hansmann Rouxel: Thank you, sir.

I just wanted to clarify the numbers. You said 72% decrease in income since 2014. Could you possibly release the figures from when you changed the workings and the times?

I cannot remember, back in 2012, or 2011, I was using the crèche and it seemed really, really full. You quoted some different variables, that more people need both people to work – and there were different things. Could you release to us what the figures were before the changes to the timings? What losses there were at that point.

Deputy Le Pelley: Sir, I do not have that information in my head, as I am sure you will appreciate. Although, one or two bits and pieces might be in the back of my head. I am sure that what data we have, we would be happy to share with you.

The Bailiff: I remind Members, all questions should be through the Chair.
Deputy Tooley.

Deputy Tooley: Sir, I wonder, bearing in mind the question I asked earlier, whether Deputy Le Pelley can confirm to me that the Committee contemplated, rather than closing the crèche, moving the time-setting to one which would be more accessible to working parents, so that working parents could potentially attend classes of an evening, rather than in the timeslot 9 a. m.-12 noon?

Not closing the crèche, not extending the hours, but moving the hours to make them more suitable to working parents.

The Bailiff: Deputy Le Pelley.

Deputy Le Pelley: Various things were looked at; various impact models were looked at.

We have a limited number of staff working at Beau Séjour on a contract which gives various times. We have to work within the obligations we have within our contracts and varying things, as you are suggesting, with the staff that we have, may or may not have been possible. I do not know exactly what models were worked through. I do not know what the take-up might have been if we, as perhaps you are suggesting, opened the crèche from eight in the evening to 9 p.m. or 9.30 p.m. I do not think that that kind of take-up would be taken.

The Bailiff: Deputy Tooley.

600 **Deputy Tooley:** Sir, I was actually suggesting that 3 p.m. to 6 p.m. might have been a better time period, for example, for the crèche facility to be open – a time at which parents are, potentially, able to access classes.

It is also worth noting that, during the 9 a.m. to 12 noon slots, generally speaking most days, a parent would have the choice of attending a spinning class or a body balance class. Those classes, 605 repeating day on, day on through the week. They would not have the opportunity, generally speaking, to use the swimming pool for more than half an hour, because the swimming pool, main pool, is not available during that time of day, for more than half an hour.

Generally speaking, if I want to use the facility of the pool with my under-school age children, if I want to use the facilities that Beau Séjour offers, I want to be able to do it with my children 610 looked after. I am not looking to do that between 9 a.m. and 12 noon, I am looking to do that at a time when the children, actually, are under my feet. I do not think the crèche had the opportunity to be successful because of the times at which it was operating.

I would be interested to hear, at some point, at Deputy Le Pelley's leisure, when he has not got to have all the figures in his head –

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The Bailiff: Your minute is nearly up.

Deputy Tooley: – because I completely understand that he does not have those, I would be interested to hear what models were looked at.

620 Thank you.

The Bailiff: Your minute is up.
Deputy Le Pelley.

625 **Deputy Le Pelley:** Sir, if this was Open University, or University Challenge, I would actually nominate Meerveld! (*Laughter*) because Deputy Meerveld is, in fact, actually fronting the Beau Séjour Management Committee as a politician.

I cannot do that, but what I will ask him to do later on is to actually answer the questions here privately and, I am sure, if anybody else in the States wants to know the same information, I am 630 sure he will publish to others, as well.

The Bailiff: Your final Question, please, Deputy Gollop.

Health Lifestyles Centre – Location

Deputy Gollop: I appear to have one, maybe more, supplementary.

635 Question three: is it not possible to locate the, admittedly admirable, Healthy Lifestyles Centre elsewhere and does the Committee have proof this aspirational facility will attract sufficient demand at a prime, high-profile location?

The Bailiff: Deputy Le Pelley.

640 **Deputy Le Pelley:** Mr Bailiff, the co-location of community facilities is a key factor within the 10 principles of active design, as promoted by Sport England and supported by Public Health England.

It creates multiple reasons to visit a destination, minimising the number and length of trips and increasing the awareness and convenience of opportunities to participating sport and physical activity – a key outcome of our own Healthy Weight Strategy.

A small Healthy Lifestyle Centre, or HLC, has actually been in existence at Beau Séjour since 2006, but is located in a hard to reach area on the top floor of the building.

The re-location and expansion of this facility will provide for ease of access, as well as cater for increased demand.

The HLC currently provides a non-clinical and safe space for services operated by the Committee for Health & Social Care, such as cardiac and pulmonary rehabilitation, nutrition and diabetes workshops and consultations, pain management workshops and services run by the Health Promotion Unit and Guernsey Therapy Group.

As an indication of demand, pulmonary rehabilitation currently runs four to five courses per year, helping rehabilitate up to 75 clients. Nutrition and diabetes services have delivered up to 144 clients per year and the number of patients served by cardiac rehab is over 100 each year, with over 1,000 patient contacts per annum.

The Bailiff: I am going to have to stop your Answer there. You have overrun the minute and a half that is allocated.

Deputy Le Pelley: I have finished, sir.

The Bailiff: Alright, good. That is not according to what I have got on here! *(Laughter)*
Deputy Gollop.

Deputy Gollop: Yes, as a user of Beau Séjour, that goes to the cinema, theatre and coffee shop, I am not necessarily looking at the Health Lifestyle Centre!

My question is really though, bearing in mind a question Deputy Brehaut put earlier: do you not feel that there is a danger of the austerity programme affecting sport and culture and the leisure centre disproportionately?

Deputy Le Pelley: There is a fear, sir, that austerity will impact upon those facilities and that provision: you are absolutely right and I do share concerns with you.

But we are where we are. We will do our very, very best to cater for the people that we can within our budget.

The Bailiff: I see no one else rising. We will move on with other business. Greffier.

Billet d'État XIV

ORDINANCE LAID BEFORE THE STATES

The Video Recorded Evidence (Bailiwick of Guernsey) Ordinance, 2017

The Deputy Greffier: Legislation laid before the States, the Video Recorded Evidence (Bailiwick of Guernsey) Ordinance 2017.

The Bailiff: There is a policy letter relating to this later on, so we will come to that in a moment.

Yes, Deputy Tindall?

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Deputy Tindall: Yes.

I did stand to ask about the relationship between the Ordinance that you just referred to and the policy letter, to explain why it was in two parts.

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The Bailiff: What I said was we will deal with that when we come to the policy letter. The two are related, I believe, are they not?

Deputy Tindall: I just wanted clarification that is what you meant. We were moving that and discussing it then?

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The Bailiff: It is an Ordinance that has been already made and it is just laid before the States.

STATUTORY INSTRUMENT LAID BEFORE THE STATES

The Prison (Guernsey) (Amendment) Regulations 2017

The Deputy Greffier: The Prison (Guernsey) (Amendment) Regulations, 2017.

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The Bailiff: I have not received notice of any motion to annul.

LEGISLATION FOR APPROVAL

COMMITTEE FOR HEALTH & SOCIAL CARE

I. Adoption (Guernsey) (Amendment) Law, 2017

Article I.

The States are asked to decide:

Whether they are of the opinion to approve the draft Projet de Loi entitled 'The Adoption (Guernsey) (Amendment) Law, 2017', and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.

The Deputy Greffier: Article I, the Adoption (Guernsey) (Amendment) Law, 2017

The Bailiff: Is there any request for any debate or clarification?
We will go to the vote. Those in favour; those against.

Members voted Pour.

705

The Bailiff: I declare it carried.

COMMITTEE FOR ENVIRONMENT & INFRASTRUCTURE

II. The Road Traffic (Fees and Charges) (Guernsey) Law, 2017

Article II.

The States are asked to decide:

Whether they are of the opinion to approve the draft Projet de Loi entitled 'The Road Traffic (Fees and Charges) (Guernsey) Law, 2017', and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.

The Deputy Greffier: The Road Traffic (Fees and Charges) (Guernsey) Law, 2017.

The Bailiff: Any debate? Any clarification?

710 We will go to the vote. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare it carried.

POLICY & RESOURCES COMMITTEE

**III. The Income Tax (Pension Amendments)
(Guernsey) (Ordinance), 2017**

Article III.

The States are asked to decide:

Whether they are of the opinion to approve the draft Ordinance entitled "The Income Tax (Pension Amendments) (Guernsey) Ordinance, 2017", and to direct that the same shall have effect as an Ordinance of the States.

The Deputy Greffier: Article III, the Income Tax (Pension Amendments) (Guernsey) Ordinance, 2017.

715 **The Bailiff:** Any debate, any clarification?
Those in favour; those against.

Members voted Pour.

The Bailiff: I declare it carried.

**IV. The Criminal Justice (Proceeds of Crime)
(Bailiwick of Guernsey) (Amendment) Ordinance, 2017**

Article IV.

The States are asked to decide:

Whether they are of the opinion to approve the draft Ordinance entitled "The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Ordinance, 2017", and to direct that the same shall have effect as an Ordinance of the States.

720 **The Deputy Greffier:** Article IV, the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Ordinance, 2017.

The Bailiff: Does anybody wish to debate this or seek any clarification? No.
Those in favour; those against.

Members voted Pour.

The Bailiff: I declare it carried.

**V. The Disclosure (Financial Services Commission)
(Bailiwick of Guernsey) (Amendment) Ordinance, 2017**

Article V.

The States are asked to decide:

Whether they are of the opinion to approve the draft Ordinance entitled 'The Disclosure (Financial Services Commission) (Bailiwick of Guernsey) (Amendment) Ordinance, 2017', and to direct that the same shall have effect as an Ordinance of the States.

725 **The Deputy Greffier:** Article V, the Disclosure (Financial Services Commission) (Bailiwick of Guernsey) (Amendment) Ordinance, 2017.

The Bailiff: Any debate? Any clarification?
Those in favour; those against.

730

Members voted Pour.

The Bailiff: I declare it carried.

**VI. The Parochial Church Property (Guernsey) Law, 2015
(Commencement) Ordinance, 2017**

Article VI.

The States are asked to decide:

Whether they are of the opinion to approve the draft Ordinance entitled "The Parochial Church Property (Guernsey) Law, 2015 (Commencement) Ordinance, 2017", and to direct that the same shall have effect as an Ordinance of the States.

The Deputy Greffier: Article VI, the Parochial Church Property (Guernsey) Law, 2015, (Commencement) Ordinance, 2017.

The Bailiff: Any debate, any clarification?

Yes, Deputy Tindall.

Deputy Brouard, first, on behalf of the Policy & Resources Committee.

Deputy Brouard: Thank you, sir.

Due to the complexity or potential complexity of the Parochial Church Property (Guernsey) Law, 2015, the Legislation Review Panel has asked that the proposals are summarised by a member of the Policy & Resources, when the Commencement Ordinance is presented to the States.

As Chairman of the Douzaine Liaison Group, I am very happy to take on this role.

As you may know, this legislation emanated from the work of the Parochial Ecclesiastical Rates Review Committee (PERRC). The States agreed to dissolve PERRC at the end of the last States' term and for the Policy & Resources Committee to assume any duties which remained outstanding.

The commencement of the Law fulfils this mandate.

The main provisions of the Law are the vesting the ownership of the parish rectories and glebe land in the Constables of the parishes and the establishment of a management board for each parish to manage its own parochial church property, which includes the parish church and the churchyard and glebe lands.

The glebe land, in general terms, is any proportion of land assigned as part of a benefice of a member of the clergy or otherwise belonging or yielding profit to a parish church or an ecclesiastical parish.

It is intended that the Law is commenced in two stages. The commencement ordinance being considered today will bring into force part three of the Law, entitled Rectories, and part four, section 11, entitled Power of the Trustees, and sections 15-18 relating to inclusions, interpretations, citations and commencement.

It is part three and part four that, in the main, clarify the ownership of rectories, by vesting them in the Constables of each parish, to be held on trust for that parish. It is further intended that the commencement ordinance will bring into force the remainder of the Law, which will be put before the States during the first quarter of next year.

The remainder of the Law, in the main, clarifies the ownership of glebe land, by vesting it in the ownership of the Constables of each parish, to be held on trust for that parish, and allows for the establishment of management boards to manage the parochial church property. Each management board will be composed of representatives from the Church of England, the parish authorities and ratepayers.

The reason for commencing certain sections of the Law at a later date is to allow parishes time to take into account any financial considerations that may arise by vesting all glebe lands into the ownership of the Constables. This is because the responsibility for maintaining glebe lands can sometimes be a little unclear within each parish; whereas the responsibility for maintaining the rectories is already much more clearly defined.

In addition, it will also give parishes time to establish required management boards for the parochial church. It also will help one parish with the vesting of ownership, assist them in respect of works that they are currently undertaking.

Policy & Resources has informed the parishes and the representatives of the Church of England of this ordinance and can confirm that they have raised no objections to the first commencement ordinance or the two-stage process.

I will ask you to kindly approve this first ordinance and, if you have any questions or any complicated questions, I am very glad that H.M. Comptroller has just returned! *(Laughter)*

Thank you.

The Bailiff: Deputy Smithies.

Deputy Smithies: Thank you, sir.

790 I would like to thank Deputy Brouard for his very clear explanation of the Law, but I would just point out that, of course, that does not apply to every parish, because I believe some people, certainly the Vale, the ownership of the rectory is actually vested in the church wardens and rector and in a period where we do not have a rector, the sequestrators of the parish.

Also, just for the record, there is no glebe land in the Vale.

795 **The Bailiff:** Deputy Gollop.

Deputy Gollop: I am in a funny position here again, because I was the last ever Chairman of PERRC, and I sat on the Committee and attended every meeting but one, for – how long was it in existence, I cannot remember now? – over 11 years.

800 It was quite a slow process really, on the little rectories. Deputy Lowe was my Vice-President and Deputy Langlois was on the Committee too at one stage; but it is interesting that when the Legislation Select Committee met in emergency, because we had other things to do too, Deputy Tindall could not make it that day, I recall, so we ended up with myself, Deputy Green in the chair and Deputy de Lisle; and that was curious, because we were a quorum of the old PERRC, because
805 that was the last PERRC Committee. At least we had a better re-election rate than some committees.

The problem we had was it was a very complicated endeavour and this half-hearted commencement ordinance has added a further complication and confusion. The confusion is so great that, when I attended and met Douzeniers and Constables from St Peter Port Douzaine, they
810 implored me, in the strongest of terms, to stop representing PERRC and Policy & Resources and start representing the people, for a change.

Because, what they wanted to see was a revocation of this Law and they particularly did not want this early implementation, which puzzled me, because, as Deputy Smithies has just reminded us, there is no St Peter Port rectory that is owned by the parish and none of this was explained by
815 Deputy Brouard when he replied to them at this stage. Nevertheless, they wanted it stopped.

The issue, though, that concerns them, which is a matter I need to liaise with H.M. Comptroller on – although we might not get an instant answer today – is whether it is possible under the new Law, which was a compromise, if not unanimously accepted, we overwhelmingly accepted and it clearly has been acceptable to Her Majesty The Queen and the Privy Council and the Ministry of
820 Justice and with the wider Church of England and more pragmatic approach locally, is it possible, within the new framework, for a parish that just has the church to look after, which I would imagine would be the Vale and St Peter Port, to opt out of the church management rule of having two lay people on the management committee, because they do not wish to do that? They say it works perfectly well as it is.

825 We are not actually concerned with the implementation of that part of the Law anyway, but it is a question that may arise between now and, as Deputy Brouard has implied, the next stage of the implementation.

I did gather, with the legislation, that the reason for the delay is that it is easier to do the rectories first, but the church management would require the start of the year, 1st January, which
830 would be more sensible, rather than currently.

The Bailiff: I do not think you need to reply to that now, because it seems it is not relevant to the matter before the States.

835 **The Comptroller:** Sir, I agree entirely. This, as I understand it, relates to the commencement of part three, which is the rectories.

The Bailiff: Just getting you advance notice.

840 **The Comptroller:** I am quite happy to liaise with Deputy Gollop to discuss these issues at a later stage, outside the meeting, perhaps.

The Bailiff: Thank you.

Does anybody else wish to debate the ordinance that is before us? No?

845 Deputy Brouard.

Deputy Brouard: Thank you, sir.

Thank you to all of those who spoke in the debate and for Deputy Smithies, for the clarification on the Vale.

850 Deputy Gollop, I appreciate all the work that PERRC has done over the years and part of your sowing is what you reap today.

As H.M. Comptroller rightly points out, we will have that debate next time around, sir.

The Bailiff: We go to the vote, then, on the Parochial Church Property (Guernsey) Law, 2015
855 (Commencement) Ordinance, 2017.

Those in favour; those against.

Members voted Pour

The Bailiff: I declare it carried.

OTHER BUSINESS

COMMITTEE FOR HOME AFFAIRS

VII. Video Recorded Evidence in Criminal Proceedings – Proposition carried

Article VII.

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 15th May, 2017 entitled Video-Recorded Evidence in Criminal Proceedings of the Committee for Home Affairs, they are of the opinion:

1. To approve the proposals to permit a court in the Bailiwick to direct that a video-recording of a witness's evidence may be admitted as that witness's evidence in chief during criminal proceedings for any offence, as set out in the Video-Recorded Evidence (Bailiwick of Guernsey) Ordinance, 2017.

The Deputy Greffier: Article VII, Committee for Home Affairs, Video Recorded Evidence in Criminal Proceedings.

860

The Bailiff: The President of the Committee, Deputy Lowe, will open the debate.

Deputy Lowe: Thank you, sir.

865 I really have not got anything to add to this straightforward States' report. It really is a tidying-up process. We are just amending it to make it easier for video conferencing, on the advice of H.M. Procureur.

The Bailiff: Deputy Tindall.

870 **Deputy Tindall:** I rose, sir, earlier, just to have clarification on the effect of the order in which these matters have been put on the agenda.

I just want to clarify, if this was not approved, what would happen to the ordinance with regard to the fact that it has already been passed under emergency legislation?

875 **The Bailiff:** Deputy Green.

Deputy Green: Sir, I rise to declare an interest.

Although I am not currently involved in any matter professionally where a direction of the sort envisaged by the ordinance is about to be given, or may well be given, clearly I consider it
880 appropriate to declare the fact that I am a practising advocate who represents individuals in criminal litigation and, clearly, matters of this sort.

That is all I propose to say.

Deputy Ferbrache: Sir, I suppose if Deputy Green felt he had to declare an interest, I declare
885 the same.

The Bailiff: Thank you, Deputy Ferbrache.

Any further debate?

Deputy Lowe, do you wish the Comptroller to reply to the question that Deputy Tindall asked,
890 or will you reply to that?

Deputy Lowe: He can do, if he wishes to.

If this is not passed, the ordinance would have to be rescinded. We could not place the ordinance.
895

The Comptroller: Sir, I am happy to clarify, if it would help.

The ordinance is in force. It came in force on 18th May. It is in force now.

If the States decide not to approve the policy then I think Deputy Lowe is correct, I think the States would have to rescind the ordinance.
900

The Bailiff: Is there anything further you wish to say in reply to the debate?

Deputy Lowe: No, thank you, sir.

905 **The Bailiff:** So, Members, we will deal first with Proposition P. 2017/50, which is to approve the proposals to permit a court in the Bailiwick to direct that a video recording of witnesses' evidence may be admitted as that witness's evidence in chief during criminal proceedings for any offence, as set out in the 2017 Law.

Those in favour; those against.

910 *Members voted Pour.*

The Bailiff: I declare it carried.

As the ordinance is already in force, I do not think we need to vote on it, do we. Simply, there
915 has not been a motion to annul it, so we do not need to go back and vote on that?

The Comptroller: Indeed, sir, correct.

The Bailiff: Thank you.

COMMITTEE FOR HEALTH & SOCIAL CARE

**VIII. Bowel Cancer Screening –
Long-term programme for Guernsey and Alderney –
Propositions carried**

Article VIII.

The States are asked to decide:

Whether, after consideration of the Policy Letter entitled 'Bowel Cancer Screening', 19th April 2017, they are of the opinion:

1. To affirm the policy objective of the Committee for Health & Social Care, that there should be a long-term programme of population-based screening for bowel cancer in Guernsey and Alderney, with the aim of prevention and early detection of disease, in order to reduce bowel cancer-related morbidity and mortality, using methods that are based on reliable scientific evidence.

2. To agree that the Committee for Health & Social Care, in accordance with its mandate to 'develop and implement policies on matters relating to its purpose, including: [...] the prevention, diagnosis and treatment of acute and chronic diseases, illnesses and conditions; [...] and] public health' and its general responsibility 'to ensure that public funds and other resources are used to best advantage', may, from time to time, vary the method of screening, the demographic targeted for screening, or the frequency of repeat screenings, without reverting to the States for authorisation; provided always that such changes are based on reliable clinical evidence, have regard to the ring-fenced budget available for the service, and continue to achieve the policy objective as set out in Proposition 1 above.

3. To rescind their Resolutions of 10th December 2015, which were -

1. To offer bowel cancer screening using a flexible sigmoidoscope to all Guernsey residents as they become 60 years of age and 65 years of age.

2. To offer bowel cancer screening using a flexible sigmoidoscope to any Guernsey resident who is between the age of 60 and 65 years of age who has not been screened.

3. To offer screening for bowel cancer using a flexible sigmoidoscope to any Guernsey resident who has a familial history of bowel cancer, as defined by the British Society of Gastroenterology.

4. To note the intention of the Committee for Health & Social Care to introduce the Faecal Immunochemical Test (FIT) for bowel cancer screening for Guernsey and Alderney residents aged from 60 to 70 years old, as set out in this policy letter; with additional screening, as appropriate, for people in higher-risk groups, including people with a family history of bowel cancer.

5. To note the intention of the Committee for Health & Social Care to undertake a review of its full range of population-based screening programmes to ensure their effectiveness, acceptability and accessibility to the target population.

The Deputy Greffier: Article VIII, Committee for Health & Social Care – Bowel cancer
920 screening.

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

Deputy Soulsby: Sir, bowel cancer screening in Guernsey has had quite a turbulent history,
925 which the chronology in Appendix One clearly demonstrates.

I do not think it is possible to put into words, certainly those admissible in this place, quite how tortuous it has been. There are a number of us here today who know what I mean and bear the scars, mentally, if not physically.

However, we should not dwell on the past. This policy letter is about the future. It is also about
930 trust: trust that Health & Social Care is committed to bowel cancer screening; trust that Health &

Social Care will listen to clinical advice; and trust that it will ensure that the population as a whole benefits from screening.

We are not asking Members to agree the method of bowel cancer screening. We are not asking for more funding. All we are asking from Members today, is to trust us to do what we are there to do and what we try to do every day in all other aspects of health and social care.

Of course, we do set out in our policy letter what we propose doing, should it be approved, and ask Members to note the course of action we wish to take. We thought it important to demonstrate that this has been considered in depth and having regard to the various options available.

The Committee proposes to move to a method of screening known as faecal immunochemical testing, or FIT. This has the support of our clinicians and Bowel Cancer Guernsey. Indeed, the latter have been kind enough to say they will donate the necessary analyser to enable testing to be done on-Island and I would like to thank the charity, on behalf of the Committee, for their support and the fantastic work they do here to raise awareness.

I will not repeat what is set out in the policy letter. Hopefully it is clear in setting out the reasons why we think FIT is the most appropriate test at this moment in time. However, I think it worth highlighting just a couple of points that arose from the presentation given by Professor Stephen Halloran last week, when he spoke to various clinicians and politicians about bowel, or more accurately colorectal, cancer and methods of screening.

Professor Halloran, M.B.E. is a highly respected expert in the field who, among other achievements, developed and directed the NHS bowel cancer screening programme, southern hub, from its inception in 2006 until his retirement in March 2015. I hope those who attended his presentation found it useful and informative.

We touched on the difficulty of finding resources to undertake screening, using flexible sigmoidoscopy, in our paper. We are not alone. This is a big problem in the UK too. Whilst this is partly due to the lack of necessary endoscopists, the reality is that clinicians generally do not like doing screening, as it is not particularly exciting. The vast majority of people have nothing wrong with them, after all.

At the same time, as one of the nurses said at the Deputies' presentation, we are using a procedure that is invasive, potentially putting healthy people at risk – although I should point out that is a minimal risk. However, FIT is a non-invasive test, where such risks do not exist.

But, for me, there was one point that came out of the presentation that we do not cover in the policy letter, but I think is incredibly important and fits totally for the key principle in designing our new model of care and that is in relation to who participates in screening programmes.

The evidence demonstrates that headline figures of take-up rates of bowel cancer screening hide the underlying demographics. From the statistics Professor Halloran provided, it is evident that the uptake for bowel cancer screening, using flexible sigmoidoscopy, is low amongst the socially deprived groups. However, not only is the uptake better when FIT is used but, proportionately, more people from deprived backgrounds participate.

In other words, by moving to FIT, we can help move towards a more equitable health system, which we aspire to. The fact it is non-invasive and only requires one sample to be taken, without restrictions surrounding diet, all contribute. We will only have a sustainable health and social care system through greater prevention and early intervention. Using FIT is consistent with making that a reality.

So, to finish, all in all, FIT is a right fit for today. But this policy letter is not about today. Advances in medicine are being made every day and at a rapid pace. By supporting this policy letter, it will mean Health & Social Care can take advantage of those advances, as and when they become cost-effective and put prevention and early intervention at the heart of what we do.

The Bailiff: Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

I do not want to speak for long, because there is a chance the States might be hearing too much of me in the days ahead!

985 I want to say something, briefly, because I was involved in much of the tortuous history which Deputy Soulsby referred to, at least initially. It took Deputy Dorey two attempts and then, subsequently me, two attempts to try to get this on the agenda and to get a bowel cancer screening programme introduced.

990 I have to say that I am not entirely happy with the policy letter, but I am going to support the Propositions, with some reservations. I do not really think it is possible to argue with the central point that the Committee is putting to the States, that the States do not tell the Committee how to go about breast screening or other forms of screening, or how to carry out heart surgery, or any other procedures and, therefore, why should the States be very prescriptive in setting down what it expects of the Committee in relation to bowel cancer screening?

995 That is a powerful argument. It is not really possible to argue against it.

I am not absolutely comfortable about it, because I accept what Deputy Soulsby said, that the take-up with the FIT test is likely to be higher than it is with the sigmoidoscope, and the point she makes about health equality. But I think there is quite a lot of evidence to suggest that all things being equal, the sigmoidoscope procedure is more effective than the FIT procedure and we are, if these Propositions go through, permitting the Committee for Health & Social Care to exercise its best judgement, but they have told us that, if the Propositions are successful, they will move to a FIT test. I am sure the evidence is not completely all on one side of the argument, but I think most of the evidence is that the sigmoidoscope is more likely to lead to the kind of objectives that the States had in mind when they set up the bowel cancer screening programme.

1005 However, I suppose Deputy Soulsby is right, this does come down to a matter of trust. I usually resist the arguments in the States about 'please trust us', because really one should make decisions based on an objective assessment of the Propositions. But, given the nature of these Propositions, it probably is reasonable for Deputy Soulsby to ask the States for their trust and I am going to place my trust in her and in the Committee.

1010 But, I would like her, if she is able to give this assurance, to undertake to update the States, by way of a statement. Now, the Presidents of Committees have opportunities to make statements; I would be grateful if Deputy Soulsby could use one of her statements to update the States on the experiences of the change in procedure, let us say six or 12 months into the future.

1015 It would be useful to know what the take-up rate is, compared with the take-up rate with the sigmoidoscope, how many pre-cancerous procedures have been carried out under the new procedure, compared with existing procedure. I think that would give the States some assurance, given the very long history this matter has had before the States.

Overall, I cannot really argue against the case that is put by the Committee or by Deputy Soulsby this morning.

1020

The Bailiff: Deputy Dorey.

Deputy Dorey: Thank you, Mr Bailiff.

1025 I, also, am not opposed to these proposals, though I have similar views to Deputy Fallaize. It has been a very hot potato. I hope I have not got any physical scars, although the mental scars are probably fading with time.

I have at home a full, A4 lever-arch file, which is crammed full just on this topic, which I think gives you an indication of the amount of work that went into consideration of this scheme in the past.

1030 As I see it, any screening method needs to balance cost, effectiveness and participation rates. Flexible sigmoidoscopy – I will call it FS from now – has had a very good take-up rate compared with other places. When you look at Appendix Three, which is the final page of the Report, you would see that the average take-up rate has been about just over 60%, apart from 2012, and that is because the data of the people who were invited was not good and that was why the

participation rate was so low in that year. The average rate is 60%, which is, I think, a good participation rate for that particular process.

If you turn back three pages – unfortunately this Report has got no page numbers, which does not help, but it is in the second page of appendix 2 – there is a table where it compares the three different methods and you would see under FS, on participation rate, it says 32.4%. Now, that might be what happened, presumably, in the UK, but, for us, we had a 60% rate, which I think makes a difference in relation to how you evaluate the various schemes.

You can see, if you look at that table, in terms of positives rates of detection etc. that it is the most effective rate of finding bowel cancer. But, most importantly, it is not just finding bowel cancer, it is finding at the very earliest stage, which is polyps, while the other methods detect at a later stage, which is not so good. The benefit of FS is, because it finds things at the earlier stage, it can give some certainty that people will not develop bowel cancer for a number of years after that. That is the basis of the test.

I attended the presentation, which was done by Professor Wendy Atkin, who has done a lot of the research on this, when she came to Guernsey to present her research and why she is in favour of FS as a method. But, of course, it is the most expensive. In the report that is referred to in here, which is the Yerby/Evans Report as it was called, as it was done for Health at the end of 2013, shows that the cost of the scheme was £171,000 at that time. That was when 444 people were being screened.

If we were screening two age groups, it would be more expensive and, in the report, it mentions a cost of £477,000. Of course, that is for twice the number of people, although the cost is 2.7 times higher.

My view is similar, as I say, to Deputy Fallaize. I think FS is the better test. We have had a high participation rate, but I fully understand the problems recruiting staff.

I think that if we are going to benefit from FIT we need to know what the participation rate is. I would also urge us to have the figures of what the participation rate is in Guernsey. Because if it is no improvement, then I think it questions whether it is the right stage forward.

I think, the ideal way forward is to have a FS test either at 55 or 60, then in later years because, as I understand, doing it after 65, there is a greater risk. The FIT test happens in later years, so you have a combination of two tests: one FS test at 55 or 60 and the FIT test in later years and that would give you the best system, as I see it.

I fully understand it would cost more and you cannot do something if you do not have the staff.

Just moving on to the topic of screening, in general, I am pleased that HSC will review other screening programmes. There seems to be no logical reason why some are free and some the user has to pay for the sample to be taken. Although, for example, like cervical smears, the analysis of the sample is funded by HSC's budget and we should be encouraging people and having a similar cost, which is ideally free, for all screening. I am pleased to note that they are going to review that.

Thank you.

The Bailiff: Deputy Inder.

Deputy Inder: Sir, certainly the Vale Deputies have been in the same rooms as we have and we have spoken to and, certainly, been given a piece of paper by one of my Vale parishioners, Mr John Naftel, who I spoke to this morning and has given me permission to ask this question.

So I am asking this on his behalf. Some of it touched on by Deputy Dorey and some of it touched on by, it seems like, a battle-scarred Deputy Fallaize, to get to this point.

He asks, and I wonder if there could be a simple response to this:

I believe questions need to be asked, like what are the detection rates of both methods as the minor discomfort of having a sigmoidoscopy is just that, it is a mild discomfort.

Thank you.

1085

The Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Sir, this is a policy letter that I credit to the department that have brought it forward and the proposals that they have come forward with are truly excellent. I am sure we will approve them, unanimously.

1090

Deputy Soulsby has highlighted, by reference to the appendix the tortuous history of this particular matter, and I think what is important – and I would be grateful if she can deal with it, and she will probably tell me she already has and it is covered and I have missed it – if it is approved, which I am sure it will be in a few minutes – that this will then be publicised, so that people will know. There will be something put up in doctors' surgeries, in hospitals. There might even be something in the *Guernsey Press* which highlights the availability of the service. Because it has changed. Certain people were not able to use it. Now, hopefully, when this is passed, they would.

1095

It is important that the people of Guernsey that use this service, and in Alderney, of course, as well, will know that it is readily available.

1100

The Bailiff: Deputy Gollop.

Deputy Gollop: Thank you, yes, sir.

1105

It is an extremely complicated subject and past Ministers of Health and people, some of whom we have, fortunately, still with us in the Chamber today, have got a degree of scars connected with it. I can appreciate that.

I thought we had an excellent presentation from the professor that we went to, albeit, it seemed rather above my paygrade. A lot of it was extremely sophisticated and complicated. It is not an easy subject to make public policy on, but I remember Deputy Brouard was there and he pointed out some interesting questions, as well, as a response to the presentation.

1110

It did seem to me that there is a little bit of a choice between the best screening model to maximise the entire population for total or near total social and demographic inclusivity, which I think is being obtained, hopefully, in Guernsey and certainly across much of the NHS, and other forms, which perhaps are more likely to give instant results for those who might be in a position requiring urgent medical attention, but might not be picked up by other kinds of screening.

1115

That is a delicate choice because I suspect that Guernsey believes we must have the best possible health outcomes, a kind of silver service attitude, whereas, probably, if we are trying to bring on board the kind of people who often get missed out from screening, we have to go for the broader approach.

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I remember one of the speakers, he did not pull his punches. He said, sometimes you have to consider the goods as being, as he called them, the healthy or the wealthy and the poor and the less poor. The less poor man had an icon of a golf club swinging in his hand, which amused me at the time.

1125

I just wonder, hopefully being a small community, we can mix and match and create a system that is quick in responding, actually saves lives, in particular, but also encompasses the whole community, because we are not sending out millions of pieces of paper. We should be able to do it smarter and better, here, with a transformed Health Service.

But I do support the proposals as put before us.

1130

The Bailiff: Deputy de Lisle.

Deputy de Lisle: Sir, I take it that this screening is taking place at the current time, because it has been up and down and withdrawn so many times that we do not know really where we stand?

1135 I would also like to ask about the budget, here, which needs some comprehension, I think. It starts with a very large figure of £324,000 and then gets down to £265,000, so we need to know what the budget is with regard to the new FIT scheme and, lastly, my question with regard to Proposition 4.

1140 Is it the intention just to restrict this to the 60-70-year-olds, or is that additional point, with additional screening – whatever that means – to be extended for people of higher risk groups, including people with a family history of that particular disorder, or is it that you are cutting off at 70?

Thank you, sir.

1145 **The Bailiff:** Deputy Tooley.

Deputy Tooley: Sir, much of the consideration at a recent presentation on bowel cancer screening by Professor Stephen Halloran, which has been mentioned already this morning, focussed on methods of screening, weighing flexible sigmoidoscopy against the old-style faecal blood tests and FIT. These are, of course, the currently prescribed method, which I will call flexi-sig, the method that was selected over and above, when this was last debated, GFBOT, the old-style faecal occult blood test, and the method HSC is currently proposing to use, in order to progress a more equitable screening programme, FIT.

1150 With regard to the current method and the situation at which we have arrived, flexible sigmoidoscopy allows us to screen around 500 people per year. These are healthy, symptomless people. In deciding whether to participate in screening, they must balance a potential but uncertain benefit against an invasive procedure, which is not without risk, small though that risk might be, and the delivery of which might be difficult to fit into their busy schedule. We have heard this, this morning, described by a member of the public, who we must assume has been through the process, as 'mild discomfort'. Well, and with apologies to anyone who is squeamish, a smear test is mildly discomfiting, but it is not something that people choose to put themselves through because, actually, there is a lot more that is unpleasant about it than the mild discomfort.

We have the opportunity to offer something that does not have that discomfort and that does not have that unpleasantness, necessarily, surrounding it.

1165 Continuing along this path will incur increased costs, simply in order to deliver on Proposition 1, we would need to see the budget rise by almost 50%, from about £320,000, to about £475,000 *per annum*, in order to screen circa 1,000 people who are 60 and 65 each year. Delivering on Proposition 2, the catch-up, would bring another 2,000 people to the table, with the resulting costs and we still would not be delivering on all the Resolutions.

1170 Even being given the cold hard cash would not magically increase our capacity. As the policy letter sets out, the availability of suitable personnel to deliver a programme such as that prescribed by the bowel cancer screening requête is an international problem. Even if we could achieve all that, we would not be reaching all those who we might.

1175 Take-up is lower among men than among women. It is affected by socio-economic factors. The method HSC is proposing to use is a simple process which is completed in the comfort of the participant's own bathroom; the sample to be tested on-Island. It screens the entirety of the bowel and not simply the left-hand side, as is the case with flexible sigmoidoscopy.

1180 It is a well-known expression in my house that nothing is lost until Mum cannot find it. I am known as the person who can find the things that are lost. I suspect it is because I actually open my eyes and look and I suspect that the vast majority of my children stand in the middle of the room, look around, and say, 'I cannot see it.' The fact is, if I am standing at the stove, stirring a boiling pot, then the person, less good though they may be at finding things, who is standing in the sitting room, looking for the remote control, has a better chance of finding it.

1185 Flexible sigmoidoscopy is better at finding cancer and pre-cancerous situations which occur on the left-hand side of the bowel, but it is not even looking at the right-hand side of the bowel and FIT would allow us to screen the entirety of the bowel.

We will be able to offer screening for bowel cancer every two years to all those in Guernsey and Alderney who are aged between 60 and 70. Take-up with the FIT test is better than with either flexi-sig or the old-style test, and there are significant increases in take-up among the groups, who are statistically shown to reject those other methods.

So it is just as well that this would allow us to screen an extra 3,500 people per year and to do so within the current budget.

But that is not really what this policy letter is about. The policy letter asks the Assembly to allow the Committee for Health & Social Care, in accordance with its mandate, to develop and implement policies on matters relating to its purpose, including the prevention, diagnosis and treatment of acute and chronic diseases, illnesses and conditions and public health and its general responsibility to ensure that public funds and other resources are used to best advantage to, from time to time, vary the method of screening, the demographic target of the screening, or the frequency of repeat screenings, without reverting to the States for authorisation, provided always that such changes are based on reliable, clinical evidence, have regard to the ring-fenced budget available for the service and continue to achieve the policy objective.

That is what this policy letter is asking for. Yes, we have given the example we would like to move to, but that is not really what is up for debate here.

The requête that gave us bowel cancer screening did a wonderful thing for Guernsey, but in committing us to flexible sigmoidoscopy, it delivered very rigid bowel cancer screening and we ask you to help us change that.

Thank you.

The Bailiff: Deputy Brehaut.

Deputy Brehaut: Thank you very much, sir.

I know Deputy Fallaize does have a habit of ... when he receives an email being invited to a presentation, he does tend to say, 'Will anything be new?' – through you, sir – in a presentation that will not be in the policy letter.

I think what presentations like this demonstrate is that you really do, on occasions, need to hear specialists in their field explain quite a complex process and I, for one, certainly benefited from understanding the move from faecal occult blood to FIT and it was not looking for traces of blood, which can be found in food, for example, and how more thorough that process was.

The only reason I got up to speak – and I am surprised I could, having read the history of this – was we do not want to get caught out by this safety net of screening, because the over-riding message must be prevention, must be health promotion, must be education about lifestyles. Guernsey has an increasing problem with Type 2 diabetes, despite serious, radical surgical interventions. Homes have to be adapted. People may lose their employment and stop contributing and participating in society. If only they would have adopted a healthy lifestyle. I know it is very easy to say and there are socio-economic factors.

But the screening is there. It is better, it will improve. It will probably catch more people, simply because of the more invasive nature of colorectal screening that people find unpleasant. But we must not drop the ball. As Mark Cook once said, the former chief officer at HSSD, the aim must be to have fewer clients and that should be the goal that we bear in mind with regard to screening processes too.

Ultimately, not to be caught out by the safety net of screening. Ensure that people adapt their lives so they are healthy at an earlier point in their life and do not have co-morbidity issues later in life.

The Bailiff: Deputy Soulsby to reply.

Deputy Soulsby: Sir, I thank everybody for their comments.

Particularly, I thank my Vice-President for covering off some of the questions raised by Deputies Fallaize and others.

1240 Yes, flexible sigmoidoscopy, it is a preventative system, but we need to remember it is only for those who turn up and it only covers the left side of the bowel. Deputy Dorey was referring to the high take-up of 60%. That is 60% of 662, whereas we are hoping to be able to screen over 4,000 people a year and those people every two years. So, the range and the accessibility of the screening will be much improved.

1245 Deputy Fallaize asked whether I will update the Assembly. It is things like this where we need to get our acts together as a States and say it should not just be providing information in this place. What we would like to do, from the Committee for Health & Social Care, is have far more information, called Vital Signs, online, so people can see how we are performing, what is happening on a daily basis.

1250 It should not just be for me to have to stand up every six months to talk about bowel cancer screening, it should be possible for everybody in the Assembly, if they have concerns, issues from parishioners, to see what the latest statistics are.

That is something we would very much like to push, amongst everything else that is going on.

1255 Deputy Gollop, I think, raised issues, possibly, wider than we have put in the policy letter, although he does touch on the social issues. I think one of the things Professor Halloran pointed out was the fact that, if somebody has an indication of a positive result from FIT, they will then have a consultation and the more people we have having that consultation, the more you will have contact with them.

1260 Certainly, if they are from more deprived backgrounds, that might be far more useful and be able to deal with other issues that might be in the background at the same time – what they call, in Health & Social Care, every contact counts. I think that might be a knock-on benefit of what we are trying to do.

Deputy de Lisle, yes, we are doing bowel cancer screening through the Aberdeen clinic, who come every month and we are very grateful for them for the service that they have provided.

1265 The budget, Deputy de Lisle will see from the policy letter, just after paragraph 6.2, revenue costs are split between 2018 and 2017, so 2018, the budget shows it will be just about fully spent, once we have moved fully through to FIT, whereas for this current year we will not be able to use the whole of that budget because part of that time will be spent on flexible sigmoidoscopy.

1270 Deputy Inder – just to say, just to confirm what Deputy Tooley already said too, what might be a mild discomfort to one person might not necessarily be the same for others. I know I am President for Health & Social Care, but I cannot say I enjoy all manners of medical procedures on me. Personally, I would much more favour being able to use a non-invasive test first, than an invasive one.

1275 Yes, Deputy Ferbrache poses a very good point in terms of publicity and, yes, we do want to publicise this and I think this is where we will be working with Bowel Cancer Guernsey, who do an excellent job of raising awareness and I am sure that is why take-up rates over here are higher than in the UK, because they do that really good job and make people aware that this is something that they should do.

1280 I have nothing further to add. I thank people for their comments and perhaps go to the vote, sir?

The Bailiff: Members, there are five Propositions, I will put all five to you together. Those in favour; those against.

1285 *Members voted Pour.*

The Bailiff: I declare them carried.

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

**IX. Referendum on Guernsey's voting system –
Debate commenced**

Article IX.

The States are asked to decide:

whether, after consideration of the attached policy letter, they are of opinion:

- 1. To agree to proceed with the holding of a referendum on the method of electing People's Deputies to the States of Deliberation;*
- 2. To agree that the question to be put to the electorate in the referendum shall be along the following lines:*

Which of the following options should be used to elect Deputies?

Option A

- 1 island-wide electoral district*
- Each voter would have 38 votes at each election*
- Each Deputy would serve for 4 years*
- An election would be held every 4 years for all Deputies at once*

Option B

- 7 electoral districts*
- Each voter would have 5 or 6 votes at each election*
- Each Deputy would serve for 4 years*
- An election would be held every 4 years for all Deputies at once*

Option C

- 2 electoral districts*
- Each voter would have 9 or 10 votes at each election*
- Each Deputy would serve for 4 years*
- An election would be held every 2 years for half of Deputies each time*

Option D

- 4 electoral districts*
- Each voter would have between 9 and 11 votes at each election*
- Each Deputy would serve for 4 years*
- An election would be held every 4 years for all Deputies at once*

Option E

- 1 island-wide electoral district*
- Each voter would have 12 or 13 votes at each election*
- Each Deputy would serve for 6 years*
- An election would be held every 2 years for a third of Deputies each time*

And

To agree that preferential and transferable voting (known as the Alternative Vote or Instant Run-Off) shall be used to determine which of options A to E was the most favoured.

OR, only if Proposition 2 shall have been defeated,

- 3. To agree that the question to be put to the electorate in the referendum shall be along the following lines:*

Should Deputies be elected using the following voting system?

- One Island-wide electoral district*
- Each voter would have 38 votes at each election*
- Each Deputy would serve for 4 years*
- An election would be held every 4 years for all Deputies at once*

- 4. To agree to introduce the electoral system which is the most favoured in the referendum, provided that the number of persons voting in the referendum has exceeded a certain percentage*

of those persons inscribed on the Electoral Roll who are eligible to vote on the day of the referendum;

5. To agree that the certain percentage referred to in the preceding Proposition shall be 40%;

6. To agree that, in the event that turnout at the referendum is less than 40% of those persons inscribed on the Electoral Roll who are eligible to vote on the day of the referendum, the States' Assembly & Constitution Committee should within three months of the date of the referendum submit a policy letter to the States setting out any recommendations for reform to the electoral system which it considers necessary, having first taken into account how far short of 40% the turnout was, the number of votes cast for each outcome and (if the referendum was a multi-choice one) the share of the vote obtained by each of the five options A to E, and, in particular, the margin between the option which placed first and the other options;

7. To agree that campaign groups should be permitted along the lines set out in paragraphs 13.1 to 13.9 inclusive;

8. To direct the Policy & Resources Committee to use its delegated authority to transfer funding of a maximum of £31,000 from the Budget Reserve to the 2017 revenue expenditure budget for the Royal Court to fund the 2017 costs associated with holding a referendum on the method of electing People's Deputies;

9. To direct the Policy & Resources Committee to recommend a 2018 Cash Limit for the Royal Court that includes a specific additional allowance of a maximum of £128,000, including a contingency sum of £5,000, to fund the 2018 costs associated with holding a referendum on the method of electing People's Deputies;

10. To direct the preparation of such legislation, based on the provisions of the attached policy letter, as shall be necessary to hold the referendum - such legislation to include, inter alia: all the provisions necessary to enable the referendum to be held, the question to be asked, arrangements for voting, provisions in respect of promotional expenditure, relevant offences including double voting, and the date on which the referendum shall be held.

1290 **The Deputy Greffier:** Article IX, the States' Assembly & Constitution Committee – Referendum on Guernsey's voting system.

The Bailiff: The debate will be opened by the President of the Committee, Deputy Fallaize.

1295 **Deputy Fallaize:** Thank you, sir.

I am pleased to open the annual debate on the subject of Island-wide voting and the electoral system!

1300 Hopefully, the Committee's policy letter sets out, quite clearly, the case in support of the Committee's Propositions, or at least in support of Propositions 1, 2, and 4-10, because the States will note that the Committee has included Proposition 3 as an alternative to Proposition 2. If Proposition 2 falls, the Committee's recommendation is to vote only for Propositions 1 and 2 and 4-10.

1305 The Committee will be opposing all of the amendments, or all of the amendments which have been circulated thus far. Who knows what is to come in the days ahead, but it will become apparent, during the debate on those amendments, that some of them will be opposed much more strongly than others.

1310 The Committee's Propositions fulfil Resolutions and commitments which were made by the States in February 2016 and, throughout the debate, if I need to, on behalf of the Committee, I will vigorously defend the Committee on this point, against claims – I know Deputy Ferbrache was telling the BBC last night that the Committee had not honoured the States' Resolution –

Deputy Ferbrache: Sir, point of correction.

The Bailiff: Deputy Ferbrache.

1315 **Deputy Ferbrache:** I did not use the word 'honour'. *(Laughter)*

Deputy Fallaize: Your honour!

He said the Committee had not fulfilled the terms of the States' Resolution. But the Committee has. Obviously, the Committee has gone further than the States' Resolution, but it has done so strictly within the terms of its mandate. The Committee has done nothing which the States' Resolution precluded it from doing and the Committee's Propositions are consistent with the key commitment the States made in February of last year, which was that, from the next general election, in 2020, all Deputies will be elected in a single, Island-wide district on one day, if that electoral system has first been approved by the public in a referendum.

1325 The Committee's recommended Proposition 2, which is for a multi-option referendum, means that voters will be free to determine, if they wish, that, from 2020, all Deputies will be elected in a single, Island-wide district on one day. If voters choose that option above the other options, that will be the option introduced for 2020.

1330 But, if Proposition 2 is not good enough, in the Committee's own Proposition 3 – which it does not recommend, but has laid before the States – for a single-option referendum, voters similarly will be free to determine, if they wish, that from 2020 all Deputies will be elected in a single, Island-wide district, on one day.

1335 Perhaps the central issue in this debate is this: in the referendum – and I assume, when I say this, that the States are going to proceed with a referendum; if the States do not want to, there is a Proposition 1 attached to the policy letter which they can vote against – assuming the States wish to proceed with a referendum, should the States deliberately restrict the choice available to voters, or should the States, as far as reasonably possible, maximise the choice available to voters?

1340 The Committee's single most important objective in this matter is genuinely to empower the people of Guernsey to determine their future electoral system and this can be done only by holding a referendum, which offers a reasonable range of options, which produces a clear result and by the States agreeing in advance that, if there is a reasonable turnout at the referendum, they will bind themselves to accept the result and carry into effect the will of the people.

Choice, clarity and certainty are the principles behind the Propositions which the Committee is asking the States to support: Propositions 1 and 2 and Propositions 4-10 inclusive.

1345 I will talk a little bit about choice, clarity and certainty. There are two ways in which a single-option referendum may be seen as unfair or, possibly, to have disenfranchised the people of Guernsey.

1350 First, without justification and completely unnecessarily, it would restrict the choice available to voters when asking them to determine their future electoral system. This would be particularly unfortunate, in view of the diversity of opinion which is known to exist about the Island's electoral system.

1355 When a consultation was held during the States' term before last, albeit – before Deputy Inder tells me this – one which was self-selecting and uncontrolled, around four in five respondents favoured some form of Island-wide voting, but only half of respondents wanted all Deputies to be elected on an Island-wide basis and fewer than a third wanted all Deputies to be elected on an Island-wide basis in one election on a single day.

1360 Second, it would provide no opportunity for voters expressly to approve or reject the current electoral system. The only way to ensure that people are able to cast a clear vote, one way or the other, on the current electoral system is for the current system to appear explicitly on the ballot paper at the referendum.

It has been suggested that the referendum should restrict people to voting on the general principle of Island-wide voting only and we are going to have an amendment laid to that effect, presumably, in due course.

1365 This would not fulfil the States' commitment to allow voters to express their opinion on the specific electoral system in which all Deputies are elected on an Island-wide basis in one election on a single day. Then, the result of the referendum would require interpretation by the States. A

'yes' vote would demonstrate support for Island-wide voting, generally, but not for any one of the many different forms of Island-wide voting which have been discussed over the years and could, probably would, provoke further interminable debate about which particular form of Island-wide voting the public had implicitly endorsed.

It is also being suggested that the referendum should restrict people to voting on one method of election only; the election of all 38 Deputies on an Island-wide basis, in a single election on one day. This would fulfil the States' commitment to allow voters to express their opinion on that specific electoral system and, as I said, it has been included by the Committee as an alternative at Proposition 3, but the result of the referendum might still require interpretation by the States.

A 'no' vote would demonstrate opposition to that specific electoral system, without confirming support for the present system and, thus, would do nothing to settle debate about whether some other electoral system, including some other form of Island-wide voting, should be adopted.

Doubtless, the States would stand accused of having favoured the *status quo*, by offering voters only the purest or most extreme form of Island-wide voting and, as far as possible, the States should avoid creating circumstances in which the result of the referendum requires interpretation by the States, bearing in mind that for the past 40 years, on more than 20 occasions, as far as the Committee can work out, the States have spent innumerable hours debating the electoral system, without reaching any settled view for any considered period of time.

If there is any purpose in holding the referendum at all – and I argue there is; Deputy Ferbrache will argue there is not – every effort must be made to bring this matter to a conclusion, at least for the foreseeable future and voters must not, after the referendum, feel that they have been disenfranchised, unnecessarily so, by the States placing unnecessary restrictions on the choices they have at that referendum.

It has been suggested that a multi-option referendum would be too complicated. Now, ironically, this argument is often made by the very same people who argue most vigorously in favour of an electoral system in which every voter would be invited to objectively assess 70, 80, or 90 candidates and use up to 38 votes every four years.

The reality is that the multi-option referendum would not be unconventional, nor would it be too complicated.

There are many examples around the world of jurisdictions and modern, advanced democracies, which have used multi-option referendums and have used them successfully, including on questions about the reform of their electoral systems.

I want to refer, briefly, to the method of voting that we are proposing – preferential and transferable voting – a system known as the alternative vote or instant run-off voting, as opposed to first past the post. The problem with first past the post in a multi-option referendum is fairly obvious. It is theoretically possible that all five options could get 20%, which would not take us much further forward at all.

We know, from the consultation that was carried out in the term before last, that it is likely that votes will be, not exactly evenly, but broadly, finely distributed between the various options. So, if we have a multi-option referendum, first past the post really, in the view of the Committee, is out of the question.

The alternative vote merely requires voters to rank the options in their order of preference, using as many of their preferences as they want, from one up to five. That is not difficult for voters. Now, the counting of the ballots in preferential voting, certainly, will take slightly longer than it would in a first past the post voting system, but that does not need to be our concern. For the purpose of the voter, preferential voting, ranking options from one up to five, if they wish to use all their preferences, is not complicated.

I assure the States, if they support the Committee's proposals, that the Committee will work very hard with officers across the States, to promote the referendum properly. To ensure it is held on a serious and credible basis and to ensure that voters are properly informed about what the options are and what is being asked of them when they go to vote in the referendum.

I want to talk, briefly, about this issue of whether the question in the referendum should be binding, or whether the outcome in the referendum should be binding on the States. The policy letter explains why it is difficult in a parliamentary democracy to make the outcome of a referendum legally binding on a parliament. The UK has struggled with those sorts of issues; even the recent vote on EU membership was not legally binding on the state.

But the Committee's view is that a lot of time could be wasted debating this quite technical issue about whether the outcome of the referendum should be legally binding on the States. The pragmatic proposal which the Committee has come up with is to ask the States, a year or so in advance of the referendum, to bind themselves, to be politically bound, if you like, to respect the outcome of the referendum, provided that at least 40% of those persons inscribed on the electoral roll and eligible to vote have cast a vote of some description in the referendum.

If the States accept that proposal of the Committee then there will be certainty going into the referendum that, provided that 40% of voters turn out, the winning option will be respected by the States and will be implemented and the will of the people will be carried into effect.

Now, on this issue of the 40%, which I know is going to be the subject of some debate in an amendment, I will say, at this stage, I think it was said quite openly in the policy letter, I argued in Committee for a slightly lower threshold, some members argued for a slightly higher threshold, 40% was a compromise.

When Jersey held referendums about their voting system, they held two in successive years, they had turnouts of 26% and 39%. Obviously 39% is very close to 40%, but I think we have to bear in mind that there is quite a material difference between the turnout in general elections in Jersey and Guernsey. In Jersey, the turnout for their Island-wide Senatorial elections – perhaps this is a topical point to bear in mind, actually – is normally in the region of 45-50%. The turnout in Guernsey's general election last year was 72%. So, bearing that in mind and bearing in mind the kind of thresholds which tend to be used in other jurisdictions, the Committee believes that 40% is the most reasonable threshold figure to set.

Of course, that does not mean that it is inevitable that the States will not implement the winning option if the turnout is slightly below 40%. The Committee is proposing that in that case the Committee would be obliged to report back to the States soon after the referendum with appropriate recommendations, having taken into account how far short of 40% the turnout was, what the margin of victory of the winning option was, etc.

The other Propositions – 8, 9 and 10 – refer to properly funding the referendum. Clearly, if we are going to hold a referendum it has to be held on a credible basis. It has to be organised professionally and it should be put on a statutory footing. That is common with referendums, in particular having taken the advice of the Law Officers, we think the same thing should apply to our referendum.

I also want to thank those people and officers and committees who we have consulted in the preparation of this policy letter; in particular the Committee for Home Affairs, in relation to the section on the electoral roll, and the Registrar General of Electors, who has assisted with various other parts of the policy letter, as well.

The Committee does not present its proposals as perfect, but it does present them, or it presents Proposition 2 in Preference to Proposition 3 and certainly in preference to the various amendments, as preferable. Given the circumstances the States face, the Committee's Proposition 2 for a multi-option referendum using preferential and transferable voting is, in the opinion of the Committee, clearly the best option now available to the States.

It clearly is the option which provides voters with the greatest choice. It is the option which is most likely to result in a clear outcome and it is the option most likely to create certainty that the result, the will of the people, as it were, will be carried into effect, and I ask Members to support all of the Propositions, except Proposition 3.

Thank you, sir.

1470 **The Bailiff:** Members, I propose that the first amendment to be debated should be amendment 2, to be proposed by Deputy Ferbrache, seconded by Deputy Kuttelwascher.
Deputy Ferbrache.

Amendment 2:

For Propositions 1 to 10, substitute the following Propositions:

'1. To rescind the following proviso contained in Resolution 22.1 of 19th of February 2016 on Billet d'État III of 2016; "provided that such a system shall first have been approved in an Island-wide referendum".

2. To agree that the issue of Island-wide voting should be decided by the States of Deliberation and not by means of a referendum.

3. To agree that the only option for electing deputies on an Island-wide basis should be;

- One Island-wide electoral district*
- Each voter to have 38 votes at each election*
- Each Deputy to serve four years*
- An election to be held every four years for all Deputies at once.*

4. To direct the States' Assembly & Constitution Committee, after consultation with the Committee for Home Affairs –

(a) to determine the changes that would need to be made to legislation and electoral policy and practice in order to enable the general election, due to be held in 2020, to be conducted in accordance with the option set out in Proposition 3: and

(b) to report its conclusions to the States by way of suitable Propositions and a Policy Letter to be submitted to Her Majesty's Greffier by no later than 31st January 2018.'

Deputy Ferbrache: Thank you, sir.

1475

The Bailiff: Do you wish it to be read, or will you summarise for the benefit of those listening?

Deputy Ferbrache: Not particularly, sir, I can summarise it.

1480 Clearly, if it is not clear, Members can ask during the course of debate and when I respond at the end I will do my best to answer their questions.

The purpose of the amendment is two-fold really. The first is to say it is an unnecessary expense and an abrogation of responsibility, by the States, to say that there should be a referendum. Secondly, the only question that should be answered by the States when they come to debate it, if the amendment is successful, is whether or not there should be an election held every four years, for all 38 seats in the States, or if those are reduced in due course, whatever the number might be, and that those people are elected Island-wide.

1485 It is as simple as that. When I read the Report prepared by Deputy Fallaize and his colleagues I was disappointed with it, because life teaches me that: the simpler things are, the more easily they can be achieved.

1490 It is a bit like that great speech that was not, when Neil Kinnock made his speech to attack Mrs Thatcher, when he had her on the ropes post-Westland. It is a great assembly of words that says too much and is too complicated. It does not give the clarity or certainty or conciseness, which would be another word that begins with 'c', that should have been put forward in this policy letter.

1495 Let me say, unreservedly, that the five political authors of this Report are honest people, hard-working and intelligent. Let me say that, before I say this, (*Laughter*) and my remarks have to read in that light.

1500 When I looked at it, I thought, 'This is too complicated.' It reminded me of two things. The first was a phrase used by Sir Winston Churchill in his wilderness years, when he wanted to express his somewhat illiberal views on India on the radio, because there was only the BBC Radio at that time, and the policy of the BBC's, himself the somewhat illiberal, Lord Reith – as he became – was that if anybody disagreed with government policy they did not have a snowball's chance of saying that.

So what he described – that is Sir Winston Churchill now – he referred to that kind of attitude as ‘pontifical anonymous mugwumpery’. Now, I have got to be honest, when I play chess with my eight-year-old grandson, it is not the kind of word we discuss. So the last word can be defined as meaning ‘as one who refuses to commit himself’. Clearly, this policy letter refuses to commit itself in any meaningful way.

Secondly – and I know and I have already emphasised, nobody is intending to deceive anybody, because these are honest people putting forward honest views – but there was something, when he used to prosecute, when he was a Law Officer, and I used to defend, in the Royal Court, people charged with offences of dishonesty; the late and much respected Deputy Bailiff Chris Day used to say this nearly every time, and I think I wrote it down correctly:

What a tangled web we weave, when we practise to deceive.

Saying that my clients were crooks! What an outrageous thing to say!
But, in connection with that –

A Member: He was talking about you!

Deputy Ferbrache: Sir, I appreciate you gave a very helpful homily yesterday about interruptions. *(Laughter)*

We have got those for correctness and we have got those for something else. I did not know we had one for bad jokes, but never mind! *(Laughter)* That will no doubt creep into the itinerary.

Really, I put it like this: what a tangled web is weaved, when a task to bureaucrats we leave.

Again, in connection with this, this is just too complicated. It goes up hill, down dale, up to Torteval, back to St Sampson’s, and we eventually arrive back in this building.

Let me also say this, quite frankly: as, I believe, one of only two Members of this Assembly that has ever stood in Guernsey for an Island-wide election – that is myself and Conseiller Lowe, as she then was – in 1997, I would have had great reservations about voting for Island-wide voting when the States passed its Resolution last year.

But that does not matter, because the Resolution was passed and, in the policy letter, at paragraph 1.4, we actually see what the States resolved, in February 2016. ‘*Inter alia*’, my goodness me, Latin comes into it, it shows how learned these people were when they wrote this policy letter.

It says the States resolve this:

1. That for the 2020 General Election and thereafter, all Deputies shall be elected on an Island-wide basis and all voters shall have the same number of votes as there are Deputies’ seats provided that such a system shall first have been approved in an Island-wide referendum.
2. To direct the States’ Assembly and Constitution Committee to report to the States as expeditiously as possible detailing the proposals to give effect to Proposition 1.

Well, the first one is clear. Put the referendum on the side for the moment, ignore that last half sentence, that there has got to be a system – I will come to it, do not worry, I won’t forget it and if I do you will remind me, Members of the States. In connection with that, if one casts the mind back to paragraph 1, Resolution 1, there has got to be a system for 2020 where all Deputies are elected on an Island-wide basis and all voters shall have the same number of votes.

When we look at the preferred option 2, and Deputy Fallaize with his usual degree of honesty, has made it very clear indeed that that is the Committee’s preferred option: (b) – how on earth can that be an Island-wide system; how can that be everybody for everybody – (c), again, the same comment; (d) the same comment; (e) that is Island-wide voting, everybody would have a right to vote, the same number of votes etc. but how would that be achievable in 2020, because the Resolution is quite clear. In 2020, everybody must have the same rights of votes, etc.

Therefore, there is only one of those five options that comply with the States’ Resolution.

1545 When we look at the proposals themselves, I have other comments which I will save for the general debate, in the unlikely event that the Ferbrache/Kuttelwascher amendment is not successful. I can be optimistic: it is a sunny day and I have got a sunny spirit; unlikely Deputy Trott, I always have a half-full glass. It is always half-empty, as well, because I have drunk the rest of it. But never mind!

1550 The timescale also says this. There are two paragraphs that I now need to refer to. The first is paragraph 9.2 on page 12. Paragraph 9.2 on page 12 says this, very correctly, accurately:

There is no record of Guernsey ever having held a referendum. The States did make a Resolution in 2002, "that steps shall be taken to make provision for the holding of referendums in Guernsey", but in the years since this work has not been afforded priority by successive States.

That means nothing at all has been done about it. Now, what Deputy Fallaize and his Committee also go on to say, I think we have got to read the rest of that paragraph, because it says:

In any event, general legislation providing for the States to organise referendums would not obviate the need for legislation to be enacted for each individual referendum setting out the procedures to be adopted, the question to be asked, etc.

1555 So, once you have opened this Pandora's Box, you are not going to be able to close it because, every time there is a referendum on anything, you are going to have this specific legislation that Deputy Fallaize and his Committee referred to in that particular paragraph.

Then, we go to paragraph 11.5 on page 15 of the policy letter. There is no side about this, at all. If Deputy Fallaize and his Committee tell us that this is the timeframe, I fully accept it. But this is what is said:

It is envisaged that drafting and approving the legislation and putting in place all the procedural and logistical arrangements ahead of the referendum will take around 12 months.

So, that is next June/July time. Now, we are already told, and quite rightly, time and time again, the plea coming from the Law Officers is, 'Look at the burden of work we have got, look at what you are trying to make us do, we are doing it conscientiously' – all of those true – 'but we cannot prioritise to the same degree as we would like, in an ideal world, for legislation'.

1565 That is not meant as any criticism of Law Officers, it is a point in a different context, made by Deputy Le Pelley earlier. If you keep asking people to do things and you have only got limited resources, there are pressures that cannot be contained.

So, therefore, if this is going to take 12 months or thereabouts – and I fully accept that it will – it means other legislation that is already in the pipeline will be delayed; because this will take time for Law Officers to draft. If that is absolutely essential, that is what we will do.

1570 If it was a matter of great moment, then so be it. But, frankly, it is not. In this case, it is absolutely not necessary.

Yesterday, Deputy Lester Queripel exhorted this: 'Who runs the Island?' His point was that it should be the Deputies. That is what he was, effectively, saying. Of course, he was met by a response from my good friend, Deputy Trott, that it was not us, because we did not sweep the roads. Now, I did not actually find that comment particularly helpful and I found it, with considerable respect, a little facile. The point that was being made, I think quite appropriately by Deputy Queripel, was that it is the Deputies that make the decisions.

1575 That is the point, when we are elected – now for four years, it used to be three years, all kinds of terms have permeated over the 100 years or so that there have been democratic elections in Guernsey in one form or another – it is for us to make decisions. We make decisions about rates of Income Tax. We make decisions about health matters. We make decisions about education matters. We touch every person's life in Guernsey, directly or indirectly, every time we make a decision. It is our responsibility. We are elected to make decisions and this is a decision that we are capable of making, without going for a referendum.

1585

Of course, what we were told, accurately, in a statement by Deputy Fallaize, some months ago, was that the cost of a referendum would be between £60,000 and £150,000. I remember asking that question and he gave me that answer. We can actually see the figure, it is about £159,000. So that was a pretty good estimate. Nine and a half out of 10 for that estimate, for Deputy Fallaize.

1590 Now, what is £159,000 when we spend £400 million every year? Well, hang on, we were talking again, just an hour or so ago, a loss of £11,000-£14,000 a year on a crèche at Beau Séjour. We have just, quite rightly, decided to spend a lot of money on bowel cancer screening – quite rightly.

Where are all these things going to be paid for, because the median earnings in Guernsey are about £32,000 per year. Once you have allowed for tax allowances, that means the average
1595 person, if there is such a thing – it is a bit like the person on the Clapham omnibus, they do not actually exist – the average person paying average tax pays, probably, £4,000-£4,250 Income Tax per annum. Forget the other taxes, the indirect taxes – social insurance and the like.

You multiply that, even if we have 160,000, that is only 37 or 38 people. Hang on. Somebody was telling me the figures – Deputy Le Pelley or Deputy Meerveld; they can correct me, or
1600 somebody else could correct me; they did not tell me, but somebody else told me – the cost of keeping a child in secondary school in the public system in Guernsey, I think is something like £11,000 per year. I cannot remember the exact figure.

Deputy Meerveld is nodding, I will record that for the purposes of *Hansard*!

Let us say that is accurate, which apparently it is. So, you have got a family; let us say they have
1605 got £70,000 a year coming in, as both of them go to work, they have got two kids at Beaucamps or St Sampson's, or wherever, so the cost to the state, rightly, because it is proper that those children are well-educated, is about £22,000 per annum. Now, if you take out the tax allowances for the couple, they are going to be paying, at most, £11,000 or £12,000 per annum Income Tax. They have got all the other indirect taxes, when you buy petrol, all the other kind of things, you
1610 pay your rates, etc. So, that means they are not even paying for the cost of their children's education.

If we just blithely say, 'This is a mere bagatelle, democracy is so important, how can you brook at spending a mere £160,000?' I say, come on, there has got to be a limit. If this was absolutely of
1615 paramount importance and something that we had to have for our constitution and freedom of movement and freedom of expression, then I would not brook if it cost 10 times that amount. It is unnecessary. It is a frippery.

Again, we all think we know everything and most of us know very little, but other than Condor and air links, the topic that is raised with me more than anything else – and they raise it with me, I do not raise it with them – is Island-wide voting. Now, overwhelmingly, people say they want
1620 Island-wide voting. *Overwhelmingly*, they want Island-wide voting. So, why do we then have to go out and spend £160,000 to say, 'Do you want Island-wide voting and do you want to have a system which will then have to come back by the States etc.?'

Deputy Fallaize, both in the policy letter, and in his oral remarks, said the States have had 20
1625 goes at it, or so, in the last 40 years. Well, let us look where we started from. In 1900, we did not have much democracy at all. It was run by the Jurats, actually, and, until they actually died, or were physically or mentally disabled and then had to petition the monarch to stop being a Jurat, they ran the Island.

We had nine Deputies in 1900 but their role, really until post the Second World War and the reforms that came about by Chuter-Ede, I can't remember his name, I know it was very posh but
1630 he was a Labour man, that is when democracy really started applying.

The Conseiller system was brought in, and Deputy Fallaize recites that. Now, the States, by decisions it has made over the years, has evolved that, because the Conseillers were elected by electoral college and, until the 1980s, they were always re-elected if they stood. The first one that did not get re-elected was Conseiller Barry Lovell, and that was a real shock. I remember one of
1635 the Law Officers coming to me, I was in the street, saying: 'Do you know what has happened, they have not elected him!' I will not say which Law Officer it was. He had the wherewithal to stand and was elected as a Deputy for St Peter Port.

1640 But, the States itself changed that, because they thought it was wrong. The States brought in Island-wide, including the lovely Island of Alderney – the only place other than St Sampson's that did not make me top of the poll in 1994, but I have never held a grudge against them for that! – Island-wide elections, including the Island of Alderney in 1991 and 1994. The 1994 one, it is quite correct, Deputy Fallaize is correct, was not as successful as the 1991 one, because the 1991 one was new, everything was brand new and there were all the seats available for election in 1991. Only half of them were for election in 1994.

1645 But, the States decided they would have that. Then the States decided it was not going to work. Now, Deputy Lowe and I were elected for six years in 1997. Between 1997 and 2000, not only did they cut our term down to three years, they also got rid of us, in the sense the office of Conseiller was abolished. The States made that decision. The States made the decision to get rid of the Douzaine representatives. The States made the decision to cut down the number of States' 1650 Members. The States made the decision, over the years, to cut down the number of committees. The States made the decision to go from Advisory & Finance to Policy Council. The States made the decision to go from Policy Council to P&R and the system we have today.

All decisions in the evolution of democracy, taken by the elected representatives, without the need for a referendum.

1655 This is a passing the buck situation if you have a referendum with all the caveats, paragraph 13. All those sub-rules about official bodies and people have the right, pressure groups, or whatever the phrase is used; all of that, it makes me scratch my head and think, are we an *Alice in Wonderland* society?

1660 We are grown-ups. All of us are grown-ups and we are elected to make decisions. So what I say, in conclusion, is this – as the great man, I think people know from this speech, Sir Winston said – 'Action this day.'

Action this day is to say no to a referendum and to support the Ferbrache/Kuttelwascher amendment, because it keeps things simple and it keeps enshrined our principles of democracy.

1665 **The Bailiff:** Deputy Kuttelwascher, do you formally second the amendment?

Deputy Kuttelwascher: I do.

Could I just say a few words? I will not talk for long.

1670 **The Bailiff:** The President of the Committee has the right to speak now, if he wishes to do so, or someone else on behalf of him –

Deputy Lester Queripel: Sir, I would like to invoke Rule 24(6).

1675 **The Bailiff:** Pardon?

Deputy Lester Queripel: Can I invoke Rule 24(6), please?

1680 **The Bailiff:** Right, 24(6), that is an amendment which goes further than the original Proposition, is that the one?

Deputy Lester Queripel: Sir, yes.

The Bailiff: Does this go further than the original Proposition?

1685 **Deputy Lester Queripel:** Surely it must do, sir, because on the grounds the amendment goes further, Proposition 1 from SACC asks to agree on the method of electing People's Deputies; Proposition 2 of this amendment does nothing whatsoever to do with the method, it is asking the States to decide on whether or not there should even be a referendum.

1690 Surely, it goes beyond the original Proposition, sir?

The Bailiff: No, because if the States were to reject the Propositions that are laid before it by the Committee, we would be left in a situation where the States would have to decide.

1695 Mr Comptroller, do you have a view as to whether this goes beyond? I have to say I had not given this ... Certainly some of the other Propositions may go beyond?

The Comptroller: It is not a matter I had given any thought to either, I must confess. My gut reaction is that it does not.

1700 **The Bailiff:** My gut reaction is it does not.

The Comptroller: But that is my gut reaction, let me put it that way.

1705 **The Bailiff:** The gut reaction of both of us is that it does not, so therefore 24(6) cannot be invoked.

Deputy Lester Queripel: In that case, can I invoke Rule 24(4)? *(Laughter)*

1710 **The Bailiff:** So 24(4), just for the benefit of those who have not got the Rules in front of them: immediately after an amendment has been proposed and formally seconded, which it has, any Member may request the Presiding Officer to invite Members who support debate on the amendment to stand in their places and neither the Member making their proposal nor any other Member may address the Meeting about it.

If fewer than seven Members stand, when so invited, the amendment shall not be debated.

1715 So, those who support debate on the amendment, stand now in your places.

There are more than seven standing; therefore, it will be debated.

1720 **Deputy Brouard:** Would it be possible for amendment 'lucky 7' to be circulated at this time, sir, just to give Members some idea what else is on offer on the table?

The Bailiff: I am not sure that Deputy Fallaize has even seen amendment 7.

Deputy Brouard: I believe he has a good knowledge of the content, sir.

1725 **Deputy Fallaize:** I have seen it, sir, about 10 minutes ago.
It is not worth circulating, I think! *(Laughter)*

The Bailiff: I was going to ask, do you wish to speak at this stage?

1730 **Deputy Fallaize:** Well, yes, but if Deputy Kuttelwascher wishes to speak, I am happy to defer to him as the seconder, if I could speak after him, sir?

1735 **The Bailiff:** I have to say, I am not generally in favour of circulating amendments while another amendment is in play because I think we have seen, on other occasions, people get distracted. They start talking about the new amendment that is being circulated and they do not pay attention.

There is nothing to prevent you, when you rise, perhaps suggesting that there might be another alternative; so we will do it that way.

1740 Generally, as I say, I am not in favour of circulating amendments. There can be instances where an amendment can be helpful, because it will shorten debate, and if the Committee are in favour

of circulating it, then I would not object. But I do not know whether that was just a flippant remark, or whether you are generally opposing the circulation of this amendment?

If you think it will help to shorten debate, then clearly it is desirous to circulate.

1745 **Deputy Fallaize:** I do not oppose it being circulated, sir, if you want to circulate it, but I do not think it will shorten debate and it seems to me that this debate is likely to run on, on Deputy Ferbrache's amendment, until at least 12.30 p.m., so it could be circulated at 12.30 p.m.

The Bailiff: We will circulate it at lunch time.
1750 Deputy Kuttelwascher.

Deputy Kuttelwascher: Sir, just a couple of points really.

Firstly, one of the points made to me prior to this debate was that we should not be rescinding previous Resolutions of the States.

1755 I would just like to remind Members, to save them any embarrassment, in the last item on the Agenda, you just rescinded three that were made just in 2015.

This amendment does not intend to rescind a Resolution; only a part of it.

1760 So that, of itself, should not really be, necessarily, a consideration. The other thing is, I agree, what is being presented is so complicated as to be almost amazing. One of the points I want to make, Deputy Fallaize, is that your Committee have actually created problems by having five options in a referendum; because you have admitted –

The Bailiff: Through the chair.

1765 **Deputy Kuttelwascher:** Yes, sir.

Because Deputy Fallaize has admitted to it.

My view is this: could Deputy Fallaize please confirm that any other jurisdiction has had this multi-option referendum, based on a transferable vote system? Because I am not aware such a process has been employed anywhere else.

1770 Has a multiple option referendum ever used this form of voting?

That is all I really have to say, besides supporting it, because we may spare a tortuous experience.

The Bailiff: Deputy Lester Queripel.

1775 **Deputy Lester Queripel:** Sir –

The Bailiff: Sorry, Deputy Fallaize, as the President of the Committee, I think I should call him at this point, if he wishes to speak.

1780 **Deputy Fallaize:** Thank you, sir.

I enjoyed the typically colourful and entertaining speech from the proposer of this case in support of the latest proposal from Team Ferwascher! (*Laughter*) But the case he made, I think, was quite weak and it should be rejected.

1785 If the amendment is carried – this is perhaps an incidental point – the new Proposition 4, as I understand it, will guarantee that we have another debate on the electoral system, on Island-wide voting, in just six months' time, if not sooner.

1790 I suppose, if any Member feels that they will leave here later today or tomorrow or Friday, or whenever it will be, absolutely desperate for more of the same, then this is the amendment to vote for, because it will all be coming back again in six months.

He said that he was presenting a 'simple' amendment; I think, 'simplistic' might be a better way of describing it. I also think that he has failed to understand his own amendment, because what

he said was that the only option available to the States, the only possible electoral system to change to that should be available to the States, when they debate this issue in six months' time should be, let us call it, pure, full-blooded Island-wide voting

But, that is not what he is proposing.

I thought this when I first read the amendment. There is an inconsistency in what he is proposing at his new Proposition 1 and what he is proposing with his new Propositions 3 and 4. Because his new Proposition 1 rescinds part of an amendment, but leaves the part in place which says in 2020 all Deputies shall be elected on an Island-wide basis on one day and all voters shall have the same number of votes as there are seats.

That will be the Resolution left in place. So when he says the only option available to the States in six months' time should be to move to that system, actually that is complete rubbish. The effect of his amendment will be to leave in place, or actually to put in place, in effect, a Resolution which means that, from 2020, all Deputies will be elected on an Island-wide basis on one day. So there will be no need for all the rest of the gubbins, the following bits of Deputy Ferbrache's amendment, because we will have made the decision to go to full-blooded, Island-wide voting from 2020, all he is seeking to rescind is the bit that says that that question should be put to a referendum.

Perhaps he has not misunderstood his own amendment; that is being unfair, I am sure, but I think he has mis-sold his amendment in his opening speech.

Now, it is extraordinary and amusing that Deputy Ferbrache should criticise us so much for, as he sees it, not sticking to the States' Resolution that was made in February 2016, when the central part of his Proposition is that the States should abandon one half of the same Resolution.

Now, how can it be reasonable for him to argue against the Committee on the basis that the Committee should have stuck resolutely to the Resolution, when he is trying to junk the second half of the same Resolution?

That is not logical.

Deputy Gollop says it does not have to be logical. It does not have to be, but it sometimes helps! *(Laughter)*

On the proposal to cancel the referendum, I say this: I am not mad on referendums, personally; I think they have their place in a modern democracy, but I am not mad on them. There was one held, a particularly high profile one, in a place not far from here last year, which I was not terribly keen on.

But I think this is one of the rare cases where a referendum is appropriate. If there is an appropriate issue to put to a referendum, it must be a constitutional issue or an issue of the electoral system. It is not uncommon for proposed changes to the electoral system to be put to referendums around the world.

In February 2016, the States made a commitment to hold a referendum. That was 16 months ago. Now, since that commitment was made, it has remained in place, it has been much-discussed and it has been widely promulgated.

In that period of 16 months, not a single Deputy, including Deputy Ferbrache, has laid a proposal before the States to scrap the referendum – and he could have come into the States saying, 'Look, recently, the States have made this Resolution to hold a referendum; I do not agree with it and I am going to propose scrapping it.' But he has not done that for 16 months.

Now, Members' judgement on this will vary but I, personally, think it is now too late to scrap the referendum, without bringing the decision-making of the States into disrepute.

But, clearly, he is right. Not holding a referendum would save some cost, albeit one-off and, I would argue, quite limited cost. But one cannot argue against his assertion that money would be saved by not holding a referendum.

The Committee knew that some Members would be pre-occupied by that in the debate, and I do not mean that word to sound pejorative, that they would not wish to proceed with the referendum and that is why the Committee has set out Proposition 1, which is to agree to proceed with the holding of a referendum.

1845 If Members do not want to hold a referendum, they do not need to mess around with Deputy Ferbrache's amendment, they just need to vote in favour of the Committee's Proposition 1.

Obviously, what is unique about this amendment, what distinguishes it, or differentiates it from our Proposition 1 is that this amendment, as well as cancelling the referendum, also proposes that from 2020, and without a referendum, the particular form of Island-wide voting, which involves all 1850 38 Deputies being elected on one day, with voters having up to 38 votes, will be introduced. Now, it cannot be read any other way because, as I have said, the effect of Deputy Ferbrache's amendment is that he will leave in place a Resolution from February 2016, which says from 2020 all Deputies will be elected on an Island-wide basis, on one day, and all voters will have the same number of votes as there are seats.

1855 So, if Deputy Ferbrache's amendment is approved, that is the system that we are going to in 2020, without putting it to a referendum.

This is a proposal which might well be described as 'to hell with the consequences, just do it'. This appears to be based on two assertions made in the explanatory note, which is at the foot, or on the reverse side, of Deputy Ferbrache's amendment.

1860 The first assertion the two Deputies make is that public opinion on Island-wide voting is clear. The second assertion they make is that there is 'only one realistic form' of Island-wide voting. Therefore – or so the claim of the two Deputies goes – there is overwhelming popular support for an electoral system in which all Deputies are elected in one, single, Island-wide constituency, on one day, with each elector having up to 38 votes.

1865 Putting it politely, sir, I think the two Deputies are exaggerating their knowledge of public opinion on this matter. When a consultation was held – and I know I referred to this earlier, but it bears repetition, I think, hopefully not tediously – during the States' term before last, only half of respondents wanted all Deputies to be elected on an Island-wide basis.

1870 Fewer than one third wanted all Deputies to be elected on an Island-wide basis in one election on a single day. That is to say, fewer than one third of the several thousand people who responded to that, admittedly open-ended, consultation, favoured the electoral system for which this amendment claims there is overwhelming popular support.

Fifty-one per cent of respondents disagreed with Deputy Ferbrache's assertion that there is only one realistic form of Island-wide voting.

1875 Clearly, the supporters of the amendment circulated by Deputies Tindall and Meerveld do not agree with the assertion that there is only one realistic version of Island-wide voting. Clearly, the supporters of the amendment, or two amendments, circulated by Deputy Green and Deputy Graham do not agree with the assertion that there is only one realistic way of introducing Island-wide voting.

1880 One can argue – Deputy Ferbrache and others can argue, if they want – that there is one particular form of Island-wide voting which is much better than any of the other forms. But, even the most zealous proponents of Island-wide voting cannot sensibly argue, as the two Deputies tried to, in this amendment, that there is only one realistic way of introducing Island-wide voting.

1885 Ironically, at various times, both the proposer and the seconder of this amendment have voted for forms of Island-wide voting which are not the form of Island-wide voting which they now tell us is the only realistic way of introducing Island-voting.

1890 More recently, I am convinced that I can remember Deputy Ferbrache standing in the States, no doubt using colourful and entertaining and exotic language, but telling us that he personally did not think that it would be very sensible to move to a system where all Deputies were elected on an Island-wide basis on a single day. Yet, today, that is the system which he is proposing be adopted, without a referendum, apparently on the basis that it has the overwhelming support of the people of Guernsey, despite evidence that he knows of and the rest of us know of, showing that that is not true.

1895 Deputy Ferbrache says the States can sort it out. Well, the number of debates there have been – not going all the way back to 1900 like he did, but over the last 40 years – even just over the last five years, provides quite ample evidence that, if the States try to sort this out without some

proper indication of what public opinion is, properly tested in a credible referendum, we will not just be here for a day, or two days or three days, or however long we will be here this week, we will be here for hours, weeks, months. This will just continue to roll on and on and, frankly – and here perhaps I will agree with Deputy Ferbrache – even I have better things to do with my time than to debate this hour, after hour, after hour in the years ahead.

I do not think it would be sensible now to abandon the commitment to hold a referendum and I stick to the argument I made 18 months ago and which the Committee repeats in the policy letter, that full-blooded Island-wide voting, with the practicable, though not insurmountable challenges that would present to electors, should not be introduced unless it is supported in a referendum.

Under the Committee's preferred Proposition 2, voters will have an opportunity to support it in the referendum and, if they do over and above the other options, then it will be implemented. The Committee is clearly committed to that and is asking the States today to commit themselves to that. But the Committee is unanimously opposed to this amendment and I hope a majority of States' Members are as well.

In closing, I will answer Deputy Kuttelwascher's question: which other jurisdiction has used alternative rank voting in a multi-option referendum?

There have been examples. Australia has done it more than once. I, in any event, do not believe there is a material difference between asking voters to rank candidates and asking voters to rank concepts, particularly when you are dealing with only five options, or five concepts.

The use of alternative voting, or rank voting, preferential voting, in multi-option ballot papers is very common and extensive indeed. We are not proposing anything that is particularly novel.

So, I know that will not answer Deputy Kuttelwascher's question satisfactorily, but I hope it at least answers it substantially. This amendment should be avoided. I will say one thing to Deputy Ferbrache, it is not the worst amendment that is going to be laid today, so he cannot win that prize.

Nevertheless, the States should reject it.

The Bailiff: Deputy Lester Queripel.

Deputy Lester Queripel: Thank you, sir.

I cannot possibly support this amendment. I fully appreciate it was the previous Assembly that put the Resolution in place and that no Assembly can bind the next Assembly to anything, but what we are talking about here is reneging on a promise that was made to the people of Guernsey that they will decide whether they want Island-wide voting or not.

Surely, a promise that is made to the people of the Island should be honoured and respected? The way I see it, is that is what we are talking about here – honour and respect. Surely, it would be extremely dishonourable and disrespectful to the people, for this Assembly to renege on a promise?

Is that the way we want to be remembered? For being extremely dishonourable and disrespectful to our fellow Islanders? For building up their hopes that their Government is finally listening to them and that it is the people of the Island who will be given the opportunity to decide whether they want Island-wide voting or not.

Sir, in his opening speech, Deputy Ferbrache alluded to this and I appreciate, entirely, that we have been elected to govern, but the vast majority of the electorate have put their trust and their faith in us and, that under normal circumstances, we have the responsibility of deciding what, in our view, is going to be best for the people of the Island, but these are not normal circumstances.

I say that because I cannot recall a single occasion when the States of Guernsey have made a solemn promise to the people of the Island and then reneged on that promise. I stand to be corrected on that, sir, but I cannot recall that ever happening.

If this amendment succeeds, I think it will be the last straw for some of our fellow Islanders. I think they will then lose all trust and confidence in the Assembly and, not only that, they will lose interest in local politics altogether.

1950 If that does happen, then we will lose all hope of ever attaining the inclusive society we all say we aspire to.

If this amendment does succeed, surely that will then display an approach by the majority of this Assembly that is tantamount to treason.

1955 Sir, if ever an amendment needed to fail, surely it is the one before us and therefore I urge my colleagues to categorically reject it.

Thank you, sir.

The Bailiff: Deputy Brouard.

1960 **Deputy Brouard:** Thank you, sir.

Deputy Lester Queripel makes a very good point. There is a promise to the electorate that we would go back to them for a referendum and I think we should do so. I have different views from some Members as to the result of that referendum, what it should be, but I think that there is a promise made that we need to do that.

1965 Deputy Fallaize, basically, highlighted the difficulty with Deputy Ferbrache and Deputy Kuttelwascher's well-meaning amendment. They are trying to simplify it. They are trying to get to the point, but I think the difficulty is their explanatory note on the back page, where they claim that the voting of the Island is clear already, we have made that decision – no, we have not.

1970 We need to go to the public to have this issue put to bed, at least for a couple of terms, one way or the other.

The second thing is, I think they make a really good point, both of them use the word, the offering from SACC, again very good, except unfortunately it has got too complicated. It is muddled together with so many options that I think it is going to be very difficult for the public to have a clear answer.

1975 I think what we really need is some sort of an amendment. *(Laughter)*
I give way to Deputy Fallaize.

Deputy Fallaize: Can I offer this one, perhaps, to Deputy Brouard?

1980 **The Bailiff:** Are you supporting it now, Deputy Fallaize?

Deputy Fallaize: No, I prepared it earlier for him in the knowledge that he might want to use it!

1985 **Deputy Brouard:** What we really need is some sort of amendment that basically takes the spirit of what Deputy Kuttelwascher and Deputy Ferbrache is proposing, which is some sort of clarity to get to that result, but also we need to offer the public some fairly simplistic and very easy option, which is taking option A and taking option B, and putting that to the public.

I would ask Members to perhaps consider some sort of amendment of that nature.

1990 **The Bailiff:** Deputy Graham.

Deputy Graham: Thank you, sir.

1995 I am going to put my cards on the table right from the word go. I am strongly opposed to unfettered, Island-wide voting, and I will do almost anything that is constitutionally approvable to stop it happening.

I am not going to explain why now, because I am trying to address purely the amendment. I think the amendment does actually serve a purpose, because it does enable us to examine two

central contentions that I believe, if I have interpreted the amendment correctly, is really the basis for the amendment being laid.

The first is this whole notion of the States' relationship with the potential referendum, its role in relation to that; is a referendum justified in the context of the States being supreme in its authority, under no way obligated to follow paths handed on to it, albeit in the last few hours of the previous administration?

Now, I have a certain amount of sympathy with that, because I really believe that we, as the new Assembly, have every right to question and, if necessary, go against Resolutions of our predecessors. I do have to say that in this particular case, because the essential issue is one of seeking clarity and opinion from the public, because that is really essential to this issue, that a certain undertaking has been given to arouse expectations, which I do not think are there at the moment and my evidence contradicts that of Deputy Ferbrache, I do not think it is an issue currently, but I think it would, as sure as fate, be an issue were we to pass this amendment, here, and we would disappoint an awful lot of expectation out in the public.

That is merely one basis on which this amendment has been laid. The other is this allegation that there is parity already on the issue. Now, Deputy Fallaize has already alluded to this. On rare occasions, it is possible to forget that Deputy Ferbrache is a lawyer by profession. This is one such occasion, because I am trying to imagine us standing here in a criminal court of law and he is defending a client against a prosecuting Law Officer, who is offering the sort of evidence on clarity that has just been offered by Deputy Ferbrache. He would decimate that argument and would be extremely disappointed, to put it mildly, if he lost the case.

I have to contradict the so-called evidence that he adduces to support his allegation that there is clarity here. We all share, surely, the same sort of attitude when we claim to represent public opinion and to gather our evidence. I suspect we are all equally adept at discarding the evidence that we find is inconvenient to our argument.

But, that aside, we do actually have genuinely different approaches as to how we gather evidence. My particular one was not really very convincing of the States when we discussed selection or non-selection in education because, if you remember, I did go to great pains to record over 800 conversations and how those conversations broke down and the States, to be frank, was pretty unimpressed with that.

We heard from, I think it was Deputy Roffey, at the time, who said:

Of course, given the constraints of the election period, you have only got five weeks in which to consult, that means you have got to knock on doors all day. In the mornings, you are only going to get the grandparents; in the afternoons, the grandparents have gone to sleep, nobody else is at home and then, from 5 p.m. to 7 p.m., the parents are all coming home. They are too busy cooking for the kids and, of course, at 7.30 p.m., you are into *Coronation Street* and whatever that other one is.

So, that did not really cut much ice with him.

Then there is the other legitimate view, which I think it was Deputy de Sausmarez who raised, when we were discussing birth right, that we are not delegates here, we should listen to the voice in our head, rather than to the voice on the doorstep or around the kitchen table, or in the sitting room, or in one case – I have to say – sitting on a garden hammock.

But I do not take quite such a clear-cut view on whether we are delegates or not and I think we really are behoven, particularly on this sort of issue, to listen to what we think the public are saying to us and, to that end, partly on this issue but partly on general issues, I have taken it upon myself in the Castel, which I think is a reasonably representative electoral district, to start knocking on doors again.

The beauty of doing it now is that I have got the whole year, rather than just the five weeks of the election; but you can have some useful, protracted conversations.

I have to say that, out of the 400 I have done so far – 2,000 still to go – when I have opened with the question, it is a year later, 'What are the issues that are bothering you?' not one person has said Island-wide voting.

2045 They have said air connectivity, sea connectivity. (**Several Members:** Hear, hear.) They have said things like the rising costs and complexity of our waste disposal system, things like that. Those are the things that are up there. Speeding on the roads, that sort of thing. Not one has come up with Island-wide voting.

2050 So I have had to drag it out of them, in the way that I do! (*Laughter*) I am aware that it is possible that I implant my own ideas into others' minds. So I am aware of that; I have been around sufficient blocks to be aware of that.

I have to tell you that, when you do actually engage with the public, I have not done the figures, but roughly half and half say, 'I want to stay as we are' or 'I would like some element of Island-wide voting'.

2055 When you drill down into it, those who want Island-wide voting do have different perceptions. Now, I do not want to get, at this stage of the debate, into the relative merits of the various options, because I think that is for a later time.

2060 But, I do have to say that, when you actually examine those, roughly the 50% who say, 'Let us have some Island-wide voting', they do tend to say, 'Well, look, really what I want to be able to do is to cast a vote for that very promising candidate in the South East, or that one in St Sampson's and so on and I cannot at the moment and it is very frustrating.'

When you actually drill down and then say, 'Roughly how many of those would you like to influence? How many of them are sufficiently well-known to you or do you think are sufficiently worth engaging with ...?'

2065 **The Bailiff:** I think you are in danger of getting into a debate on the options.

Deputy Graham: I am merely trying to make the point that it is not clear cut what the public are thinking, but thank you for the reminder and I will stop that particular train of argument now.

2070 I think I have made the point that there is a lack of clarity out there, it is not a simple issue and, to be honest, to frustrate a referendum on the evidence that Deputy Ferbrache has adduced in support of this particular amendment, I think, would be a travesty at this stage.

The Bailiff: Deputy Roffey.

2075 **Deputy Roffey:** Thank you sir, I want to start off with an apology to my President at SACC, because I said that if he was going to go right at the beginning, as Vice-President, perhaps I should hang back a bit.

2080 However, I do think, looking at the body language around this Assembly during Deputy Ferbrache's speech, it is possible, with discipline, that we could actually move to close this part of the debate fairly soon. As we have already got six amendments and we have already had warning of a seventh, which I thought was a choice between full Island-wide voting or the *status quo*; which I thought was Proposition 3 already. Nevertheless, apparently that is coming and – who knows? – eight, nine and 10.

2085 If there really is a general view that we should not stymie the idea of a referendum, full stop, then we should actually close the door on it fairly quickly. I am pretty sure we will not go with this amendment and the reason I say that is because I am probably, maybe Deputy Ferbrache more than me, the Member of this Assembly who has least time for referendums and I have made that very clear on many occasions.

2090 Not because I really dislike them, I just like representative democracy. I like people being elected to use their judgement, to look into issues in more depth than most of the public have either got the time or inclination to do.

2095 I think that that is a good system of Government, rather than a Swiss-style system, where everything goes out to plebiscites. I do not say there is never any room for a referendum. If P&R was trying to take us into the United Kingdom, for instance, then I think that sort of issue, I am

sorry it would be this Assembly, I know, on their recommendation, that would definitely require a referendum.

2100 But, how we elect States' Members? We have talked about, for the last 40 years, I have been in and out of this Assembly for the last 35 or 36 of them, and I have had numerous occasions where we have changed the way we have elected States' Members without the need to go out to a referendum.

2105 So, if I had been in this Assembly last term, I probably would not have supported Deputy Fallaize's Proposition to hold a referendum on how to elect Deputies. But I was not. While I do not share the flowery language of Deputy Lester Queripel about treachery, the simple fact is that we have built up a real expectation. A real depth of expectation that, for the first time in Guernsey's history, the electorate are going to be consulted on what is a fairly large issue.

I think it is, actually, less large than our education system, our health system and lots of other things and I doubt it will change, in a huge way, the people who are elected to this Assembly. To the public mind, it is a fairly large issue and that expectation has been built on.

2110 I do agree with Deputy Fallaize that, if Deputy Ferbrache had wanted to put down that expectation he would have been far better doing so in June of last year. A bit like Deputy Scott Ogier did when he came in totally opposed to what had happened previously with voting for a large incinerator and brought a requête right at the beginning. It was, at least, showing a clear way forward.

2115 But this amendment is not just about not holding a referendum. If it was, then my instinct might have been to go for it, even though the expectation that had been built up would probably have stopped me voting for it. It is to go straight for a decision to have all 38 Deputies elected in one election in one go. Surely, the alternative to a referendum is what I said at the beginning? Us using our judgement and, yet, I heard Deputy Ferbrache say his experience of standing amongst however many candidates there were in the old Conseillers' election would have meant that he probably would not have voted for, was it, the Wilkie requête that came to the States at the end of the last term.

2120 So, he does not want a referendum, but he does not want to use his judgement either. This is passing the buck, holding a referendum? He is passing the buck to the previous Assembly, they have made the decision – it was not a very good decision; I am going to have to go with it, or at least half of it – not the bit about the referendum, but the bit about how to elect Members.

2130 It is inconsistent. How inconsistent is that? When the Education Department that brought back proposals that did not tally with the decision – and they had every right to do so – and their majority recommendation went against the decision of the last Assembly, Deputy Ferbrache went with their recommendation. He did not say, 'Oh, it has been decided by the last Assembly, so we have to go for it.' But, when it comes to how we should elect Deputies, 38 all in one go, he is saying, 'The Wilkie requête settled that so I do not have to use my judgement.'

2135 There are two paths here. We either use our judgement – in which case I have to say, for pragmatic reasons, I am absolutely with Deputy Graham; I do not think the second part of the Ferbrache amendment makes practical sense. It would suit me down to my boots, I have to say. Absolutely, if I stand next time, the way I would love to stand and the way I think would actually favour me – although you can never tell until it actually comes ... But, for pragmatic reasons, I could not support it. So, if I am using my judgement, I am against the second part, but I am willing to suspend my judgement and, if the public of Guernsey tell me that that is what they want, despite the warnings that go out over the pragmatism, then fine. If more than 40% of them turn out, I will go for it.

2140 But, frankly, I do not believe there is more than half a dozen people in this States – maybe it will be seven or eight – having built up the expectation we have, that will go with this particular amendment. We will argue, I am sure, for a day or so, over exactly what we should put to the public.

2145

So, I urge Members – after I have spoken, of course! – to now show restraint, close down this amendment and let us move to that substantial issue, where we do have general agreement, although it might go either way about what we put to the public of Guernsey.

2150 **A Member:** Hear, hear.

The Bailiff: Deputy Smithies.

Deputy Smithies: Thank you, sir.

2155 I think we have all spotted the fatal flaw in this amendment and, if we have not, it has been spelt out to us by Deputies Fallaize and Brouard and Graham. That is the explanatory note.

This amendment is based upon an assumption which is, to me, a false premise: the statement that the public view is clear, plainly opines that the Island-wide voting is wanted by the majority.

2160 Clearly, Deputy Ferbrache and I move in very different social circles. My experience is not his. I have received no strong lobbying for Island-wide voting. I disagree that there is a clear indication, but I am prepared to be corrected. That correction can only be provided by a referendum, which will settle the matter once and for all.

2165 I am generally in sympathy with Deputy Ferbrache's strong argument that it is for the States of Deliberation to decide and that referenda are a last resort. But we are faced, once again, with the danger of policy and decisions being driven by a vocal minority. So, reluctantly on this occasion, I would like to have, hopefully, clear guidance from the electorate. Of course, it is possible that the vocal minority will be the ones who come out to vote, leaving the silent majority sitting at home.

2170 For the record, I am opposed to Island-wide voting. I would prefer that we should continue with the current electoral system, flawed though it may be by the several changes that have been imposed in recent years.

If the referendum is held and produces a desire for change, then that must be the point for arguments to be rehearsed and to decide the method of that Island-wide voting.

The Bailiff: Deputy Trott.

2175 **Deputy Trott:** Thank you, sir.

I can be very brief. Deputy Graham said that Island-wide voting is not high on the agenda. It is not high on the agenda currently because people are expecting a referendum, so I agree with his conclusions; not necessarily the methodology in how he got there.

2180 I remember, vividly, the 1990's, because it was the period immediately prior to my election to this Assembly. In 1997, I was a non-States' member and the political climate at the time, around the abolition of the Conseillers, was toxic. The fact that this Assembly made the decision without seeking the guidance from the people of this Island caused this Assembly a great deal of discomfort for many years.

2185 In my view, sir, the issue is simple. Of course, we should have a referendum. It should be binary and binding and it should be without hurdles.

Thank you, sir.

The Bailiff: Is it a fairly short speech, Deputy Yerby?

2190 **Deputy Yerby:** No sir, it is a request to invoke Rule 26(1), which I think is the only Rule Deputy Queripel left untouched! (*Laughter*)

2195 **The Bailiff:** So, this is the guillotine motion. Would any Members who wish to speak in the debate and have not yet done so please stand in their places?

Do you still wish to continue with ... yes?

In that case, what I put to you is that debate be closed. Those in favour; those against.

Some Members voted Pour; others voted Contre.

2200 **The Bailiff:** Deputy Ferbrache does have the right to reply to the debate, do you wish to do that now, or when we return after lunch?

Deputy Ferbrache: I do not mind, sir.

I shall probably be five to 10 minutes, no more. So, it is a matter for you.

2205

The Bailiff: Let us do it now; then we know whether we are back for a short afternoon or a long afternoon! *(Laughter)*

2210 **Deputy Ferbrache:** Let me say this: Deputy Roffey, on this occasion, is right, when he says the body language is clear.

I accept that the amendment will be lost, but it does not matter because it is still an issue to be raised and I am quite pleased that I have raised it, because I do not feel traitorous, I do not feel dishonourable. I do not feel that I am going to go to Traitors' Gate and have my head chopped off and other bits of me taken out; hung, drawn and quartered. At least, I hope that is not going to be the case. If it is, well, I have had 65 years and it has not been a bad life! *(Laughter)*

2215

In respect of that, I was actually a Conseiller in 1997 and I remember Deputy Trott coming and speaking to me and saying, 'Do you think I would make a good States' Member?' Well, he never listened to my advice and he has been elected! *(Laughter)*

2220 I am sure I have been inconsistent, I would say, in relation to Deputy Fallaize over time; because I think you are. Your views change. If your views are the same at 25, 35, as they are at my grand age, then you have not learned anything.

I do not think I have been inconsistent in relation to this, because when it was the Conseiller debate all those years ago, I thought it was a bad thing, because I thought people should be elected on an Island-wide basis and that was taken away by the States in the 1997-2000 period. So, there is a degree of consistency.

2225

I also think it is a degree of consistency with a point that I did not understand what Deputy Roffey was making, he was getting rather excited at the time, about the education debate, that I was inconsistent because I voted for that. I voted for what the Committee proposed, which was actually to go against the previous Resolution of the States. I would have thought that that was consistent, but never mind, we do not want to get into an hour of debate.

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Let me deal with the points and I fully accept that I do not move in the same social circles as Deputy Smithies. We come from different backgrounds. But, in relation to the points that were made by Deputy Fallaize about the amendment and its inconsistency, I will explain it.

I do not think there is any inconsistency at all. Proposition 3 would read, 'To agree that the only option for elected Deputies would be on a full-blown, Island-wide basis,' and then Proposition 4 says, 'To direct the States' Assembly and Constitution Committee, after consultation with the Committee for Home Affairs, to determine the changes to legislation, electoral policy and practice, due to be held in 2020, to be conducted "in accordance" with the options set out in option 3.'

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I think there is consistency. I did not draft it; it was drafted by somebody else very able and I think it was drafted correctly, because it interprets what we intended and I see no inconsistency with that.

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So I can move on.

In relation to this, I am sure that the amendment, sadly, will be unsuccessful. It will not cause me to go and cry and retch my clothes and do all the other things that I may have done in certain other instances, but what the States will do, if it upholds the decision to have a referendum, it will mean that if, in due course, we find that the current Committee system does not work and that we have got to change Policy & Resources, which does not really have an executive power and in the

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modern world it is not going to work, do we put that to the electorate? Where is the dividing line drawn? Once we have over-stepped that mark, that is it.

Because people will say we had an Island-wide referendum in October 2018, or November 2019, whenever it might be, and it says this, you decided that there is going to be Island-wide voting or not; now you want to change the parochial districts, now you want to change the electoral districts, we have got to have a referendum on that. That is the decision you will be making.

I do not think I have got anything further to say.

A Member: A recorded vote, please, sir.

The Bailiff: We vote, then, on the amendment proposed by Deputy Ferbrache, seconded by Deputy Kuttelwascher, and there will be a recorded vote.

There was a recorded vote.

Not carried – Pour 11, Contre 29, Ne vote pas 0, Absent 0

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Lowe	Deputy Fallaize	None	None
Deputy Paint	Deputy Inder		
Deputy Prow	Deputy Laurie Queripel		
Alderney Rep. Jean	Deputy Smithies		
Alderney Rep. McKinley	Deputy Hansmann		
Deputy Ferbrache	Rouxel		
Deputy Kuttelwascher	Deputy Graham		
Deputy Gollop	Deputy Green		
Deputy Mooney	Deputy Dorey		
Deputy Le Pelley	Deputy Le Tocq		
Deputy Meerveld	Deputy Brouard		
	Deputy Dudley Owen		
	Deputy Yerby		
	Deputy De Lisle		
	Deputy Langlois		
	Deputy Soulsby		
	Deputy de Sausmarez		
	Deputy Roffey		
	Deputy Oliver		
	Deputy Tindall		
	Deputy Brehaut		
	Deputy Tooley		
	Deputy Parkinson		
	Deputy Lester Queripel		
	Deputy Le Clerc		
	Deputy Leadbeater		
	Deputy Trott		
	Deputy Merrett		
	Deputy St Pier		
	Deputy Stephens		

The Bailiff: We will get the result of that when we come back at 2.30 p.m.

Members, can I just remind you once again that at 5.30 p.m. this evening, there will be the annual general meeting of the Guernsey branch of the Commonwealth Parliamentary Association, when the guest of honour will be Sir Malcolm Jack, the former Clerk of the House of Commons, who has been observing and, I hope, enjoying the latter stages of our debate this morning from the public gallery. A very warm welcome to you, sir.

We will rise and resume at 2.30 p.m.

*The Assembly adjourned at 12.36 p.m.
and resumed its sitting at 2.30 p.m.*

**IX. Referendum on Guernsey's Voting System –
Debate Continued**

The Bailiff: Before we continue, do we have the result of the Deputy Ferbrache / Deputy Kuttelwascher amendment? We do! Well I need to formally declare it lost by a margin of 11 to 29, so I declare it lost and we proceed with the amendment from Deputy Tindall, amendment 3. Deputy Tindall.

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Deputy Tindall: Thank You Sir, If I can find the right page. I will read out the amendment?

The Bailiff: If you wish

Amendment 3.

To delete Proposition 2 through to 6 and replace with the following Proposition 2:

'2. To agree that the question to be put to the electorate in the referendum shall be

Do you agree that Deputies should be elected using an Island Wide Voting electoral system, such system to be agreed by the States of Deliberation? Yes or No.'

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Deputy Tindall: Short and sweet sir. In my manifesto I said I believe we should encourage democracy, discourage apathy and introduce the means to do both. Such is the introduction of Island-wide voting. I see this amendment as a step in that direction. In accordance with the February 2016 Resolutions a referendum should be held with a question requiring a 'yes' or 'no' answer as I sincerely believe the simpler the question the greater the participation by the people of Guernsey in the decision making. I want to stress this is not questioning the intelligence of the electorate, or whether Options A to E are too difficult to understand. It is about encouraging people to get engaged, to get involved. Whilst I listened intently to the debate over the Ferbrache/Kuttelwascher amendment, especially to the well-argued reasons put forward by Deputy Fallaize, arguments which, I believe also support my amendment.

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Sir, I believe that a referendum on this important subject is necessary. A referendum should get more people engaged in politics, especially the younger generation, and it would encourage a healthy interest in our electoral system, and the vast number of variations on the Island-wide voting theme. I hope it will encourage people to want to register on the Electoral Roll, and then to vote, so that they can help shape the way in which their Island is run.

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I believe to achieve this to the max, we need just one question. To state the obvious, this amendment asks a question which requires either a 'yes' or a 'no' response – an approach which has been criticised by some because of the potential 'yes' bias, but I would like to remind Members that, unlike the amendment put forward by Deputies Brouard and Lowe, Proposition 3 in the policy letter appears also to be phrased as a 'yes/no' question. Or will Deputy Fallaize be doing a David Cameron and changing the question after the decision is made?

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This was also the type of question asked in the Scottish independence referendum, Indy1, and the question was, 'Should Scotland be an independent country?' and voters were asked to choose 'yes' or 'no'. As we know, the 'no' side one won, with 55.3% voting against independence; but, more importantly, the turnout was 84.6%, which was the highest recorded for an election or referendum in the United Kingdom since the introduction of universal suffrage. I am not saying we will get such involvement here, but I see no reason why we cannot aim high.

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Although in the 2016 General Election 72.5% of those eligible to vote did so, I do not think that will increase, but we could aim to get more people on the Electoral Roll. If the Deputies in the Assembly, sir, were all engaged in the process and encouraged participation by the people of Guernsey, I believe we could increase the numbers interested in politics and voting at elections. It is not just those interested in Island-wide voting, but those wishing the electoral system remain as it is.

So why this question and not Proposition 3, or indeed the Deputies Brouard and Lowe amendment? I would like to see the populace be asked to identify with one or other type of voting system, Island-wide or the current version, and then if Island-wide voting is the preference the details should be decided by the States.

Sir, whilst I do not wish to stray into general debate, I would also like it to be made clear on what I mean by Island-wide voting. It means voting Island-wide. How can splitting the Island into more than one electoral district be Island-wide?

I did also consider other options such as the gateway question, which I now understand was used in the New Zealand referendum. In 2011 New Zealand voters were asked two questions; to keep their present system or not, and if not, what of four types would they choose. So my first thought was to ask, 'Do you want Island-wide voting and, if so, what of the four types do you want?'

Obviously I changed my mind after I attended a SACC meeting early this year. I discussed this idea of a gateway option for the referendum, but when arguing my point I realised I just wanted the 'yes/no' question. For those of you who want to know the result of the New Zealand referendum, 56.17% of voters chose to keep their current system.

It seems to me, sir, that the main argument against this simple question is that the States have been trying to make a decision themselves for many decades, and failed, and they want closure. I am sorry, but I agree with Deputy Ferbrache, I think we should be the ones making the final decision – and make a decision; we must if we are directed to do so in a referendum. Some call me unrealistic or even over optimistic. I disagree. I believe that as People's Deputies it is our job to make decisions, and we should. I believe that after a 'yes' vote we will choose an Island-wide voting system and implement it. The reasons argued by Deputy Fallaize. I might not be advocating a legally binding referendum but it will be politically binding.

If this amendment is successful then it will be the same 40 Members, sir, God willing, that will have to make the decision, and I have every confidence we will, once the electorate has told us in a referendum that Island-wide voting is what they want; and that, sir, will be the fundamental difference from previous attempts by the States to bring in Island-wide voting.

Another argument against this 'yes/no' question is that there will be confusion over what type of Island-wide voting we should introduce. It is true no one option will be identified, but I am not asking States' Members to decide now from these options, some three years from implementation. I believe the referendum debate, both here this week and in the coming months, will inform us. If Island-wide voting is what the people want we will not only have the work already done by SACC over the years, but also a better knowledge of the advancements in technology available. All of which together will shape our views.

I have to say at this point, sir, I was a little disappointed that the recommendations highlighted in the previous Registrar General of Electors Review of the 2016 General Elections were not expanded upon in SACC's policy letter. These include an automated electoral roll; anonymous registration on the roll; electronic distribution of manifestos; hustings including the use of technology; and online application for postal votes, to name a few. All of which will greatly assist with the implementation of Island-wide voting.

Then there also will be the argument that we will not have sufficient time to agree on the type of Island-wide voting if that is our direction. However, I would point out that the policy letter already envisages the need for SACC to return to the States with a further policy letter to propose the details, if Island-wide voting is chosen.

2355 So, why do I prefer this binary choice? Because, firstly, the question proposed by SACC is disingenuous because it asks for the voter to choose between only two variations of Island-wide voting, because two of the options are neither Island-wide voting and one is the *status quo*.

2360 Secondly, the argument that a binary choice will disenfranchise people, I believe, is wholly wrong actually; I believe SACC's version does just that; some would say, by removing the many variations of Island-wide voting from the ballot paper or, as I would say, by unnecessarily complicating the question. Let's not beat around the bush, every person sees Island-wide voting differently, different elements and different ways of doing it. Those who want Island-wide voting do not agree with each other. As we all know, there are more variations of Island-wide voting than I have had hot dinners.

2365 Talking about hot dinners, Deputy de Sausmarez at a public meeting last week compared choosing what order to place the five options was akin to choosing a meal from the menu. I have to say when I choose from a menu I choose what I know I like to eat. I agree that sometimes my first choice may not be available, but I do find it very difficult to choose again when it is not. But, sir, I do not have to understand what each choice means, as I do for the SACC ballot paper. I do not have to understand the niceties of preferential voting, what is instant run-off voting, or
2370 alternate vote, what is also known by the way as 'right choice voting' or 'Hare's single winner voting'. The Party-list system has also been mentioned – though whether it is open or closed, I am not sure. That, sir, is just the starter. What on earth are we to make of the main course?

2375 As to the thresholds, sir, the explanatory note states that the purpose of this amendment is to ensure one question is asked at the referendum, so obviating the need to set a threshold, or the effects of not meeting such a threshold. I would just like to point out, sir, that removing the need for a threshold is not the reason for the laying of this amendment, but just one effect of it.

I thought long and hard about whether to include a threshold, and Deputy Meerveld and I decided not to do so. It is, of course, not as important to consider a threshold with a binary choice, but I still think it would be worth arguing through when we came to that decision.

2380 With a 'yes/no' there will be two groups of opinion, two counts, and I think that whatever the turnout, provided you have informed the people equally on the choice available, you have a representative view of the populace.

2385 I also believe we should strive to get as many people to get involved, to understand what an island-wide voting electoral system could be, including how our present system works, through presentations to media, through drop-ins, and especially to the future voters of this Bailiwick, with one aim, sir, that they want to be registered on the Electoral Roll and once done, vote.

2390 Deputies Tooley, Yerby and Merrett have also laid amendments regarding threshold, and I understand it is their intention to lay their amendments even if this amendment is successful. So if threshold is a concern to any Member then I believe there will be an opportunity to introduce one by supporting at least the Tooley and Yerby amendment.

2395 Another positive to this amendment is in respect to cost. There will not need to be five campaign groups, nor equivalent officer time, supervising their selection. There are those who say that a binary choice for the EU/UK referendum led to a lack of clarity, that a binary question will lead to endless further debate on whether to have a hard or soft Island-wide voting system, or indeed somewhere in between. I disagree it is not the debate that has been the problem it is the fact that we do not stick to our decisions. Let's trust in ourselves to do so for a change, we will have been given a strict timetable by the electorate to do just that. Let's have the confidence in ourselves that we can make a decision if that is what we are asked to do, because if it is a vote for Island-wide voting then we will just have to nail our flag to the mast and actually make a decision.

2400 Sir, I believe a binary choice would enable more views to be heard and a clearer direction from the people as to whether they want Island-wide voting or not. I therefore ask Members to support this amendment.

Thank you.

2405 **The Bailiff:** Deputy Meerveld, do you second the amendment?

Deputy Meerveld: I do, sir, and reserve my right to speak.

The Bailiff: Okay.

2410 Deputy Fallaize, are you rising to speak at this point?

Deputy Fallaize: Yes, please, sir – when I eventually find it. Right.

When I opened debate I said that the Committee wanted to do everything possible to provide voters with choice, clarity and certainty, because the Committee was of the opinion that doing so was the best way, or really the only way, of allowing the people of Guernsey, genuinely, to determine their electoral system.

2415 In this amendment we are, effectively, presented with the opposite approach: a referendum which restricts choice, replaces clarity with ambiguity, and removes all possibility of certainty in the result. This amendment invites the States to hold a referendum in which voters would be not empowered but rather disenfranchised. If there is a way of proving Deputy Ferbrache right and making the referendum a waste of time and money, this amendment is it.

2420 Part of what lies behind this amendment is a wish to restrict the choices on the ballot paper, to create a set of arrangements where there is one box to vote in favour of something, and one box to vote against something. Is it that the people of Guernsey are to be considered incapable of judging between more options than one or two, despite people in other jurisdictions having managed it quite satisfactorily? If not, why is there this desire ahead of the referendum to shut down and narrow the range of choice as much as possible? What is so alarming about giving the public a reasonable range of options from which to choose? Whatever the reason is, the Committee regrets the attempt in this amendment to narrow the range of choice in the referendum. But that, sir, is not the greatest problem with this amendment. The greatest problem is that the question would create a complete lack of clarity, both for voters and for the States. This lack of clarity would be caused not by having a single option referendum, or a binary choice as some Members have called it, but by asking a question only on the concept of Island-wide voting rather than on any particular form of Island-wide voting.

2425 Deputy Tindall was quoted in yesterday's *Press* and I assume the quote was right, or maybe that is an unsafe assumption, but she will tell me if the quote was wrong, as saying: 'The public must understand exactly what it is they are being asked in the referendum.'

But the proposed question in her amendment cannot possibly achieve that. Voters answering the question in the affirmative would have no idea which form of Island-wide voting they were actually voting for. They might favour what is our option A in the policy letter – all Deputies elected Island-wide on one day – or they might despise option A and favour option E – all Deputies elected Island-wide but a third every two years – or they might despise both of those options and favour all Deputies being elected Island-wide with a half of seats elected every two years, or they might want only some Deputies elected Island-wide and some in districts, rather like the amendment which Deputy Green and Deputy Graham hope to lay, if their amendment can survive the plethora of other amendments being laid.

2445 But, under Deputy Tindall's amendment none of these voters when they mark their ballot papers will have a clue which of the many and varied forms of Island-wide voting they are actually being asked to vote on. Consequently, after the referendum if the majority have answered the question in the affirmative, neither they nor the States will have a clue which form of Island-wide voting has broad public support, and the States will have to embark on the process of trying to interpret the result. We would be in a 'Brexit means Brexit' position, or as Deputy Tindall just said, quite honestly, Island-wide voting means voting Island-wide.

2450 Although she then went on to say there are many Island-wide voting variances as I – she – has hot dinners. Well that just proves the point: how on earth is the voter meant to know what they are being asked to vote on if the question is as set out in Deputy Tindall's amendment.

There is no guarantee at all that the States would reach consensus on how to interpret the result of the referendum. I need not go back over the history of the last 40 years, or even the last four or five years, to demonstrate the difficulty the States have had in reaching a settled view.

2460 Deputy Tindall said she had confidence in the States, because if the public said, 'yes, we want some form of Island-wide voting', then a majority of Deputies, in her view, she was confident, would then go on to vote in favour of Island-wide voting. But that is naive, because what she discounts is the possibility that, let's say 30 Members of the States could say, each individually could say, 'I accept the outcome of the referendum, I will vote to implement a system of Island-

2465 wide voting,' but you may not get a majority of 21 for any particular form of Island-wide voting, and to this the Deputy will be able to say, 'Well, look, I respected the outcome of the referendum, I voted for Island-wide voting, I voted for the system where half the seats are elected on an Island-wide basis every two years, but there was not a majority for that.'

So the picture that Deputy Tindall paints is totally, not just unclear, but is totally inaccurate.

2470 There is no certainty whatsoever that a majority of Deputies – 21 Deputies – will come together to vote for a particular form of Island-wide voting, and unless 21 Deputies do that, if the decision is to be made in this Assembly, then it will not be introduced, because it is not enough for a majority of Deputies to vote in favour of the concept of Island-wide voting, nobody can do anything with that. They would have to coalesce around a particular form of Island-wide voting.

2475 In holding a referendum every effort must be made to bring this matter to a conclusion, at least for the foreseeable future. Now there is no guarantee of that, but the chances of bringing this matter to a conclusion, of achieving some kind of closure, are considerably higher under the Committee's Propositions, particularly Proposition 2, but even to some extent Proposition 3, than they are under Deputy Tindall's amendment. It is, in my view, almost guaranteed that Deputy

2480 Tindall's amendment will not bring closure, or any kind of conclusion, to this debate.

Even if the States did agree on how to interpret the referendum results, inevitably some people who voted in the affirmative would suddenly find their vote was being interpreted as support for a particular form of Island-wide voting, which actually they dislike. So if I favour, let's say, option E in the Committee's policy letter, I turn up, I vote in the referendum, I feel I have to vote 'yes' because

2485 I am being asked, 'Do you want Island-wide voting? Yes or no?' I vote 'yes' and the States then decide we interpret that the votes cast in favour of 'yes' have been cast in favour of what was option A in this policy letter. How is that creating clarity for the States or clarity for the voter? It would not do that. It would be a dog's breakfast.

I am prepared to predict that if the question is as suggested by Deputy Tindall, the referendum would indicate majority support for the infamous 'some form of Island-wide voting'. In the consultation a few years ago, four in every five respondents favoured some form of Island-wide voting, but they sharply disagreed among themselves about which form of Island-wide voting was best. A referendum on the broad concept of Island-wide voting would take neither the Island nor the States any further forward.

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2495 The key issue is not the concept of Island-wide voting; the key issue is assessing the practical advantages and disadvantages of the many various forms of Island-wide voting. Going to the effort and expense of organising a referendum only to ask a virtually worthless question on the concept of Island-wide voting only would be a waste of time and money.

Sir, there are three further reasons to reject this amendment, which I will try to address briefly.

2500 First, the Committee is asking the States to agree in advance to implement the option which wins the referendum – in effect, politically, to bind themselves. If a certain percentage of those inscribed on the Electoral Roll take part in the referendum. This allows voters, if enough of them have turned out to vote, to make the result, effectively, binding. Deputy Tindall's amendment on the other hand provides in all circumstances for an advisory referendum only. A referendum which

2505 is certain to be advisory only would interest voters less, would do nothing to boost the turnout, and would probably provoke a lot of cynicism about the likelihood of the States ignoring the result.

Second, regarding the discussion about honouring States' Resolutions and commitments to hold a referendum, the Committee has honoured the States' Resolutions, and remains committed to holding a referendum. The amendment honours the commitment to hold a referendum, but it does not honour the commitment made by the States to allow voters in that referendum clearly to express an opinion on a form of Island-wide voting in which all Deputies are elected in one district on one day and where all electors have 38 votes. That is what the States agreed would be included in the referendum. They did not say nothing else could be included in the referendum, but they said that form of Island-wide voting must be in the referendum, and it is not in Deputy Tindall's proposed referendum question. This would do nothing for the reputation or integrity of the States, if they were to welch on that commitment.

Third, the amendment seems to imply that if electors vote in the affirmative in the referendum then somehow, as if by magic, after the referendum the States will suddenly find the ideal way of making Island-wide voting work, despite it having eluded them for the past several decades.

In fact, all the possible models for full or partial Island-wide voting are in the public domain. Whole rainforests have been destroyed setting out all these methods in countless policy letters over the years. All the arguments for and against are known. I would suggest, sir, that – and I know that it may be slightly, or cause offence to say this, but I think – this is a slightly lazy amendment. I think that there is so much information that has been produced on the different forms of Island-wide voting that if Members want to propose the concept of Island-wide voting they should also propose which forms of Island-wide voting they are suggesting, either putting to a referendum or implementing without a referendum.

Now Deputy Ferbrache's amendment, at least, did that; nailing his colours to the mast. This amendment does not even do that. If we are going to continue to work on electoral reform we should be long past the time when we are dealing with a vague concept of Island-wide voting. We should be dealing instead ... and if we are going to allow the people to decide in a referendum, we should be asking them about the detailed methods of which form of Island-wide voting they prefer. There is no point asking people, 'Do you want some form of Island-wide voting?' It is like going into a restaurant and somebody comes to take your order and all you say is, 'I would like an evening meal,' then expecting that the restaurant is going to be able to produce the meal that you secretly in your mind wanted when you went into the building.

What shape do the people of Guernsey want their electoral system to take –

Oh, I will give way to Deputy Trott.

Deputy Trott: It was not an entirely fair analogy, sir. Surely, the amendment is more akin to, 'I would like to see the menu but I do not need 40% of the other diners in the restaurant to tell me whether I can make that choice or not.' *(Laughter)*

Deputy Fallaize: That refers to the absence of a threshold in this amendment. Now, I have said nothing about the threshold, I have not argued in this debate on this amendment to include the threshold. That part of Deputy Tindall's amendment matters much less to me than the central problem that it is simply asking about the concept of Island-wide voting rather than any particular form.

So the question is: what shape do voters want their electoral system to take? Do they want a single electoral constituency covering the whole Island? Do they want the present district system? Do they want the district system but with fewer districts? Do they want some Deputies elected Island-wide, and some in districts? Do they want a general election once every four years, or are they happy for a portion of the States to be elected every two years? At this stage after all the years of reflection and debate, and the number of rainforests felled on policy letters analysing these issues, they are now the only legitimate issues to put to a referendum. What is proposed in this amendment would take us backwards, years; above all, it will not allow voters to know clearly what they are being asked to vote on. Nor will it enable the States after the referendum to know what electors have voted for.

2560 Sir, this amendment, in the opinion of the Committee, must be rejected. It will take us no further forward, it will not allow for choice, it will not provide for clarity in the result, it will not allow for any certainty that the will of the people will be carried into effect. It will turn the referendum into a complete waste of time.

2565 **The Bailiff:** Deputy Kuttelwascher.

Deputy Kuttelwascher: Thank you, sir

I will try and do this in a minute. Sir, a better drafting of this question on the referendum would have been, 'Do you agree that Deputies should be elected using *whatever* Island-wide electoral system *might* be agreed by the States of Deliberation? Yes or no?'

Judging on my last eight years, there is no chance of this Assembly agreeing by a majority to a system. So, to me, this is a complete waste of time. The most painful thing is I agree with everything that Deputy Fallaize said (*Laughter*) on this particular point. I really see absolutely no point in this. But there you go. Was that a minute?

2575 Thank you, sir.

The Bailiff: It was about 45 seconds.
Deputy Prow.

2580 **Deputy Prow:** Thank you, sir.

I support the amendment on the grounds of the simplicity argument. I do accept that the simplicity argument does run through some of the other amendments. So, I will not repeat those points if that occasion arises.

I would like to thank the States' Assembly & Constitution Committee for a thoroughly good read, which has led me to do many hours of wonderful research. From what I can understand, the Swiss absolutely love referendums, they cannot get enough. My favourite – and, sir, I believe Deputy de Sausmarez will love this one – was an annual 24-hour ban on private cars on a Sunday. Swiss referendums also included banning politicians for engaging in propaganda, which included media appearances. Theresa May would have liked that one. Six weeks' holiday for all, sir – I believe SACC are working on this one as I speak – and regulation on the price of books. Sir, fantastic, bring it on.

Mr Bailiff, you will hopefully see that I have diligently prepared. I have studied enthusiastically multi-option referendums, as SACC referred to in 5.10. Australia had one to determine its national anthem – four choices apparently, sir. I would sing them all but it might, amongst other violations, produce an accusation of tedious repetition.

Sir, I have looked at the dilemmas of the first past the post in multiple options, which is outlined in section 6.1, where no one option emerged with a clear lead, and might be determined to have won. However, with multiple options there are according to Wikipedia, which both Deputy Inder and I take as gospel, and I quote:

A difficulty which can plague a referendum of two issues or more is called the separability problem. If one issue is in fact, or in perception, related to [the other] on the ballot, the imposed simultaneous voting of first preference on each issue can result in an outcome that is displeasing to most.

2600 'Simples', as the meerkats say! This then leads to a system of preferential and transferrable voting. Sir, we all pop along to the ballot box with our very busy ballot papers, option rich, searching for clarity and certainty. Sir, that is in section 4.2, where we have ranked each option with a score of one for the one we like best and a five for the one we like least. Well, actually, sir, it is a bit more involved, apparently each voter can rank as many or as few options as they like, or vote for just one option. Initially, only the first preference votes marked one will be counted.

Sir, if I have understood, if one of the options obtains more than 50% of the first preference votes that option will immediately be declared as won. Sadly, however, if no option obtains more

than 50% there will be a second round of counting, but before this second round of counting can begin, the options which obtain the fewest first preferences will be eliminated. The ballot papers on the unsuccessful option, marked as one, will be redistributed amongst the remaining options according to second preferences shown. Or if no second preference is shown they will be discarded and Brenda from Bristol has lost the will to live.

But, sir, as previously outlined, they love it in Sweden, where they turn their ballot papers into refuse derived fuel. *(Laughter)* The policy letter describes this as a well-established system of preferential transferrable voting. But tucked into the policy letter is the one sentence at 9.2 which Deputy Ferbrache has already referred to. I quote:

There is no record of Guernsey ever holding a referendum.

Sir, after my extensive research this did not come as a shock. Despite the Resolution of the States on 19th February 2016 calling for a single Island-wide voting option, provided it should first have been approved by referendum. SACC has meticulously engineered this into a 10-Proposition extravaganza, which will excite those democracies who have embraced referendums as an established way to make multiple or awkward political decisions. Sir, in my view, that will be an expensive leap into the dark to run a multiple option referendum on our first attempt. We would have to have independent facilitators, possibly flown in from Finland, should we get a runway at this stage and the introduction of publicly officially recognised campaign groups. Sir, in my view it is not time to embrace the complexity of multi-option referendums developed in Switzerland and Sweden; let us embrace the February 2016 Resolutions. Let's get on with the job left for us to do and clearly a matter I've found supported on the doorstep prior to the last election.

Please vote for the amendment.

Thank you, sir.

The Bailiff: Deputy de Sausmarez.

Deputy de Sausmarez: Thank you, sir.

I completely agree with Deputy Tindall's aim to get more people engaged and involved with the democratic process, but where our views differ is the opinion that this amendment will actually facilitate that.

In any kind of survey or questionnaire, no matter what the subject, the way in which a question is asked is hugely important. It is an area in its own right that has been studied by generations of psychologists, market researchers and other nerdy types, meaning we have access to a lot of useful insights about the rights and wrongs of question asking. There is an extensive literature on how the framing of questions affects the choices people make.

One of the best known examples of this is the experiment in which people were asked to make a hypothetical medical decision about whether or not to have surgery. The authors of the paper published in the New England Journal of Medicine in 1982 found that both doctors and patients who were told the surgery had a 10% fatality rate were less likely to give the go ahead than those that were told it had a 90% survival rate. Now, obviously these two statistics are simply different expressions of the same fact, that 10% of patients die and 90% survive. But how that fact was framed and how the outcomes were empathised had a significant impact on the option respondents decided to choose.

Clearly, the option that emphasised the upside had an advantage, but it is not as simple as just a bias towards the positive outcome. Another factor at play is that people tend to dislike losses more than they like the equivalent or even double the equivalent gains. This is something known as loss aversion, which I know I have bored you about before.

In the run up to the Brexit referendum campaign, the Electoral Commission – which is the independent body which oversees elections and referendums in the UK – intervened and recommended that David Cameron move away from his original proposed wording of the

question. Cameron was persuaded by their arguments. This is the question he originally had in mind – in other words, the version that the Electoral Commission objected to:

Should the United Kingdom remain a member of the European Union?

2660 Now, there are two key problems with this wording. First of all, the question was framed positively in favour of the EU, a negative response would imply a loss and that plays into the hands of our natural loss aversion bias. Secondly, the answer was either 'yes' or 'no' and people, as Deputy Tindall acknowledged, have a bias towards the word 'yes'. I will expand because I think I have a little information that might clarify my position on it, which might contradict Deputy Tindall's. Following the watchdog's advice the final question was, of course:

Should the [UK] remain a member of the European Union or leave the European Union?

2665 With 'remain' and 'leave' as the two options on the ballot paper, rather than 'yes' or 'no'. Humans like to say 'yes'. Generally speaking, we find it far easier to say 'yes' than to say 'no' when we are asked a question. This is known as acquiescence response bias, the tendency to agree with a statement rather than to disagree. Especially, interestingly enough, when the respondent lacks knowledge, or is uncertain about a specific meaning of the item, or cannot
2670 evaluate the desirability of the response. Psychologists have been aware of acquiescence response bias for decades. They demonstrated acquiescence bias in various ways, but one of the tests involved soliciting statements that include in the mix mutual exclusive contradictions, so for example, 'Are you happy?' and 'Are you sad?' If you ask people to respond 'yes' or 'no', you would naturally expect to see a negative correlation between the two scales. In other words, you would
2675 expect people who respond 'yes' to one would respond 'no' to its contradictory statement. But, in fact, there is usually a high positive correlation. In other words, a surprising number of people tend to answer 'yes' to both, despite any inherent contradictions in their answers.

I give way to Deputy Inder.

2680 **Deputy Inder:** Sir, please, sir, I just wondered, I am slightly agreeing with Deputy de Sausmarez, but I just wonder, is there ever a debate where we ever hear how the people of this Island never own their own mind.

The Bailiff: Deputy de Sausmarez.

2685 **Deputy de Sausmarez:** I am struggling to find –

Deputy Brehaut: Are you speaking on behalf of them again –

2690 **Deputy de Sausmarez:** *(Laughter)* Not sure how that is relevant, so I will carry on. I am just clarifying the research that goes behind this. It is all very relevant to how the question in the amendment is structured.

2695 There are, in fact, two key components to acquiescence response bias agreement. In other words, a tendency to agree, and acceptance, or the tendency not to challenge assumptions that are implicit in the statement of question. This tendency not to challenge implicit assumptions was the reason for the Electoral Commission's intervention in the framing of the question for the Scottish referendum, which Deputy Tindall also referenced – the referendum on independence, of course. The question the Scottish Nationalist Party originally proposed was:

Do you agree that Scotland should be an independent country?

2700 The Electoral Commission removed the words 'Do you agree that ...', because those words imply that whoever was asking the question was a nationalist and it would have been contrary of any other respondent to disagree. In fact even the revised version:

Should Scotland leave the United Kingdom?

– was considered to help the SNP, framing independence as a gain rather than a loss, and issue compounded by the ‘yes/no’ format of the answer choice.

2705 Framing a question for a ‘yes’ or ‘no’ answer loads the question in favour of ‘yes’. It makes sense if you think about it. At a fundamental level humans are a social herd animal and instinct to agree and collaborate with each other is in no small part a factor in our success as a species. We like to say ‘yes’; it is a positive word that has positive associations. It tends to imply a gain or a win, and the avoidance of a loss. ‘Yes’ is also easier to say because subconsciously we tend to assume that the questioner would prefer a positive response, and humans, again because we are a bunch of social herd animals, assume that a positive response will increase our own chances of being liked. Humans like to be liked. In other words, we tend to equate saying ‘yes’ with social desirability. And that is why the word ‘yes’ plays to another of the response biases, social desirability.

2715 Deputy Tindall is quite right to point out that SACC’s own Proposition 3 suggests a ‘yes/no’ answer, but the key difference between our proposed question and Deputy Tindall’s is that (a) we used the words along the following lines, leaving room for redrafting, and (b) more importantly, we are not recommending that this Assembly chooses to support our Proposition 3, unless our strongly recommended Proposition 2 is defeated.

2720 The Electoral Commission has a very useful one-page document called Referendum Question Assessment Guidelines. These guidelines are concise, and so are worth repeating, or quoting in full:

A referendum question should present the options clearly, simply and neutrally. So it should: be easy to understand; be to the point; be unambiguous; avoid encouraging voters to consider one response more favourably than another; avoid misleading voters

We will use [we being the Electoral Commission] the following checklist to help us assess how intelligible a question is: Is the question written in plain language? That is, language that:– uses short sentences (around 15–20 words) – is simple, direct, and concise – uses familiar words, and avoids jargon or technical terms that would not be easily understood by most people; Is the question written in neutral language, avoiding words that suggest a judgement or opinion, either explicitly or implicitly? Is the information contained in the question factual, describing the question and the options clearly and accurately? Does the question avoid assuming anything about voters’ views?

2725 So, let’s take a look at the question proposed by this amendment and see how it scores against that check list? Here is the wording as described in the amendment, and it is important to bear in mind that this wording is, effectively, set in stone if we approve it as the amendment leaves no room that I can see for any alternation.

Do you agree that Deputies should be elected using an Island Wide Voting electoral system, such system to be agreed by the States of Deliberation? Yes or No.

So the first point: is the question written in plain language? Personally with my professional copy editor hat on, I would say no, the syntax is a little convoluted, and cannot truly be described as simple, direct and concise in my opinion. It has a distinctly legal tone, which I think does detract from its intelligibility, and it is slightly longer than the recommended maximum of 20 words.

2730 The second check box: is the question written in neutral language avoiding words that suggest a judgement or opinion, either explicitly or implicitly? Clearly not, it starts with the words ‘Do you agree that’, the very same words that the Electoral Commission objected to with the Scottish referendum. It goes on to frame an Island-wide voting electoral system positively.

2735 The third check box: is the information contained in the question factual, describing the question and the options clearly and accurately? Well, no, the question is explicitly unclear when it comes to the options as the interpretation of the electoral system rests entirely with the States of Deliberation rather than with the voter.

The final check box: does the question avoid assuming anything about voters’ views? It does not avoid assuming anything of the sort. The question assumes that if the voter would like an

2740 Island-wide voting system that they are happy for the States to decide on the specific variation of
it. It conflates two separate issues: the principle of Island-wide voting and the principle of States'
Members deciding on the specific method of Island-wide voting. How do you respond if you are a
voter who does want a specific form of Island-wide voting, but does not trust this Assembly to
2745 read his or her mind when it comes to agreeing the actual system? Does that voter answer 'yes' or
'no', neither are satisfactory.

A useful test for bias is to turn a question on its head. I wonder how would supporters of this
question feel if it were phrased as follows: 'Do you agree that Deputies should be elected using a
multi-district electoral system, such system to be agreed by the States of Deliberation? Yes or no?'
It is quite an illuminating exercise. If Members would not be willing to put that variation of the
2750 question to the electorate then I respectfully suggest they should not be contemplating putting
its mirror image to the electorate either.

If we accept this amendment, we will be agreeing that the question to be put to the electorate
shall be – and I emphasise the words '*shall be*', because it is important to note that once approved
there seems to be no wriggle room – a question that fails the official UK Referendum Question
2755 Guidelines on every key point. If we accept this amendment then we will be agreeing that the
question to be put to the electorate shall be a question that is inherently flawed, inherently biased
and inherently inconclusive. If we accept this amendment we will be agreeing that the question to
be put to the electorate shall be constructed in such a way as to seriously undermine the validity
of the responses.

2760 In the spirit of the official Electoral Commission Guidelines, I will conclude clearly, simply and
unambiguously. I urge Members to reject this amendment.

The Bailiff: Deputy Ferbrache.

2765 **Deputy Ferbrache:** If it gives comfort to Deputy Fallaize and Deputy de Saumarez, I will not be
supporting it; in fact I will be voting against the amendment.

But I was nearly persuaded otherwise by Deputy de Saumarez' speech. (*Laughter*) Because we
know she is an intelligent, articulate person, but I think Deputy Inder's interruption interjection or
whatever we call it, if I understood correctly, how many people outside of this room understood
2770 20% of what Deputy de Saumarez said, because I certainly did not.

I have been a lawyer and I have sat in this room and other rooms in this building for more than
three decades, and overall in court rooms generally since I became a lawyer, for more than four
decades. It is a bit like a snooker match, you can only go to the table when your opponent has
finished. You have got to listen. I have listened to thousands and thousands of hours of
2775 arguments and evidence, and most of it I have understood, I listened to 20 minutes of something
that I have rarely understood.

I almost asked if I can have a revote of the amendment that I substantially lost as a result of
that exposition from Deputy de Saumarez, because that goes in to all the gobbledegook speak
and it reminds me – I get these images that come into my mind, and I have told you that before –
2780 it reminded me when I was listening to it of *The Rise and Fall of Reginald Perrin*. (*Laughter*) That
was a programme in the 1970's when these people – not the hippopotamus one though, Deputy
Brehaut, that is the mother-in-law [inaudible] long time ago, and she is a lovely lady – but in
relation to ... they had these Mr Speaky, or these two coming in and they talked so enthusiastically
in speak, in jargon, in business speak, and they achieved absolutely nothing; they were there and
2785 good old Reginald, before he went and ran away, he used to sit there and wonder what these
people were doing; and I sat here for 20 minutes and wondered what Deputy de Saumarez was
saying. Because that is the worry of a referendum. We have decided on it, although I respect the
integrity of the ability of Deputies Tindall and Meerveld and I see where they are coming from, it
will create, for the just-a-minute reasons that Deputy Kuttelwascher said, it will take us no further
2790 forward, but really, really, really, what have we let ourselves in for?

The Bailiff: Deputy Meerveld, the seconder of the amendment.

Deputy Meerveld: Thank you, sir.

2795 I am just going to approach this from a common sense perspective. Very unusual in this Assembly, I realise!

Deputy Fallaize – and I have heard a few other people alluded to this, sir – said the States have been struggling to decide this question for 40 years. In which case why do we expect the electorate to decide it in a few weeks?

2800 Also from another perspective ... I mean at the end of the day I understand the difficulties in making this decision and in adjusting the electoral system, but are we abrogating our responsibilities? We have been elected to make this kind of a decision on behalf of the electorate. (A Member: Hear, hear.) Today we have sat down and made decisions on adoption law; traffic road charges and fees; Income Tax and Pensions Amendment; criminal justice proceedings; disclosure of financial issues. I've got a point! We have made decisions to enact these Laws. On any given day we are debating any plethora of issues and making far reaching decisions without having any particular expertise in the area.

2810 The one area that everybody in this room has some expertise in, and understands both the mechanism of and the implications once it has been put in place, and the effect on Government, is in elections. We are turning round and saying instead of us making a decision on the most efficient or best electoral system, we will delegate it to the general public who have not had that experience.

Going on, sorry –

2815 **Deputy Kuttelwascher:** Point of order.
I think that is a very misleading statement.

The Bailiff: Deputy Kuttelwascher.

2820 **Deputy Kuttelwascher:** I would have thought the most experienced people in elections are the voters. That is it really. He has just said it is us. No, we are the results of the experience of the voters, and the other thing relating to something else that I think is a bit odd because he is, I think, in a way contradicting himself, why on earth would he vote to have a referendum if he thinks we should be making the decision. I am thoroughly confused by the whole argument. I just think it is all a bit –

2825 **The Bailiff:** That is going beyond a point of order

Deputy Kuttelwascher: – misleading.
2830 Thank you, sir, I am off.

The Bailiff: Deputy Meerveld.

Deputy Meerveld: Thank you.

2835 Well, just to clarify, we have been through the electoral process, we understand how the elections work from the inside, and also the implications on the way that Government is structured as a consequence of those elections, because again we have proposals here in front of us for the idea of staggering elections, potentially.

2840 Deputy Fallaize, at the public presentation on this subject, suggested that if we had staggered elections where we were electing half or a third of the Assembly every two years, we might have to re-elect each Committee every two years. That has a massive impact on the way that Government functions, and we understand that; the electorate do not necessarily, because they

do not do it on a regular basis. I would doubt whether between now and a referendum we can really explain to everybody exactly how it works.

2845 Also, on the idea of this referendum going out there with five options, what about options F, G and H? We have already had members of the electorate coming forward saying, 'But the option I favour is not on there.' So, going back to Deputy Fallaize's menu analogy in a restaurant, in this case we are asking the electorate to walk into a restaurant with 38 items on the menu and saying, 'Sorry, we have predetermined you can only choose from five.'

2850 Unfortunately, I consider this something of a 'wreckarendum'. Also there is not a precedent for this Government to actually reform the structure of Government and the way that we are elected. We have in the last term: we have changed the Committee structures, we have changed the electoral districts recently, we have changed the number of States' Deputies that are elected; so we have gone through and reformed, we have made those decisions. This Assembly has made
2855 decisions to reform the structure of government and the way that the elections work and the system works. I do not see why we cannot do in this case as well.

It is not a contradiction to go to the public and actually ask them, 'What is your preference? Stay as we are or have a form of Island-wide voting?' because again today Deputy Graham said that he went door to door and did not have a single person coming up with the idea of this being
2860 a priority. We do not have any empirical evidence. A referendum would give us a very clear lead from the community on what they want.

Then we come to the final issue that seems to be blocking everybody. If we did have a referendum that said 'Yes, we want Island-wide voting,' how does this Assembly come to the conclusion on which form of Island-wide election to implement? Well, we can have a menu, we
2865 can have a selection like we have here. I have heard of this wonderful form of voting where we could actually have a form of preferential transferrable voting in this Assembly, to actually come to a conclusion on a system. There are ways of doing it; I am sure we can work it out.

I will, of course, be voting for this amendment, and would encourage others to do so as well.

2870 **The Bailiff:** Deputy Soulsby

Deputy Soulsby: Sir, yes, I will be brief, you will be glad to hear.

I do take issue with Deputy Ferbrache's comments regarding Deputy de Sausmarez' speech. It was rather detailed and made me think I was listening to my daughter who is currently taking her
2875 psychology A-level, but it is based on evidence which is more than can be said for the demands for a longer runway! (*Laughter and interjections*) It was focused just on the format of the wording though, when it is the fundamental principle of the amendment that is totally wrong.

Deputy Fallaize said it all – although I think he did not need to take so long saying it himself – but I am not going to repeat it other than say it will delay, confuse and take us nowhere further
2880 forward than we are now.

So this amendment is a waste of time. I think the debate is a bit of a waste of time, and as I have just spoken I hope somebody will place a guillotine very soon.

2885 **The Bailiff:** Deputy Lowe

Deputy Lowe: Thank you, sir.

Sir, I am going to support this amendment, but I think there is a word missing, and bearing in mind, I think I would call it a farce really, of where we are today, because I think what the States approved last term was pretty clear to me, and I think to all of those who voted for it ... but on the
2890 amendment here it does say:

Do you agree that Deputies should be elected using an Island Wide Voting electoral system, such system to be agreed by the States of Deliberation? Yes or No.

There is a vital word missing there, and I did actually point it out to the proposer and seconder. It should actually say, 'Do you agree that *all* Deputies should be elected using an Island-wide voting electoral system?' because you can see if this goes through somebody is going to come back and say, 'Well, it did not say all and we want to have lots of different systems that we need to consider.' But I would hope it will be taken in the spirit of what was actually meant by, and been proposed by, Deputy Tindall and Deputy Meerveld.

SACC's report is unusual, in as much as they have been a little bit selective of what is in it as well, because they talk about the amendment on page 2, that the 2020 General Election and thereafter all Deputies should be elected on an Island-wide basis, and all voters should have the same number of votes as there are Deputies' seats, provided that such a system shall first have been approved in an Island-wide referendum.

Well, of course, they omit to say that was a Deputy Fallaize amendment following a successful amendment by Deputy Gillson, and I seconded it, and the one from Deputy Gillson which has not been alluded to in here at all, and supported by the States with quite a good vote and it stated that:

For the term following the 2020 General Election all Deputies should be elected on an Island-wide basis and all voters will have the same number of votes as there are Deputies seats.

Fine, that is replicated there.

That with effect from the 2024 General Election unless the States shall have resolved that the same or an alternative system of election on an Island-wide basis shall be continued, all Deputies shall again be elected in electoral districts as at present.

It goes on to direct SACC to go away and look at the changes that were necessary.

Deputy Fallaize: Point of correction, sir.

The Bailiff: Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

Deputy Lowe – what she is saying is inaccurate, because the Resolutions which are referred to in the policy letter superseded the Resolutions which she has just read out. If I can call it the Gillson/Lowe bit, which was that, from after the 2020 General Election held on an Island-wide basis, voting would return to a district type system unless the States had first resolved otherwise, was knocked out (**Deputy Lowe:** Yes, it was.) by a subsequent amendment and the Resolutions quoted in the policy letter are complete and accurate, and the Resolution which Deputy Lowe refers to was superseded and no longer applies.

The Bailiff: Deputy Lowe.

Deputy Lowe: He is absolutely right, but it usually alludes to that it was amended and the reason it was amended; and that is the point that I was trying to make, because I then follow on to say because it was very clear the States were looking for all Deputies to be elected on an all Island-wide mandate, and Deputy Fallaize, who was concerned about the second part of the Gillson/Lowe amendment was not comfortable about that, he felt that there was going to be doubt in people's minds about what was going to happen in the future, so he produced an amendment which was successful, and that is the successful amendment which is actually in here. This is what was actually said, from *Hansard*, at that time, when Deputy Fallaize produced it, because he said as such from here. I will not read it all, but what he wanted to say was, or what he actually said was, he felt :

Deputy Gillson's amendment, voting to make a major wholesale change to the electoral system *overnight* like that without public approval. It seems to [him] that the only safe and responsible, way to do this ... it is fine, proceed on this basis if that is what the majority of the States want, proceed on the basis of having approved the 2020 General Election will be fought on an Island-wide basis with all candidates elected Island-wide. That is fine, I have no problem with voting in an Island-wide election, or standing in an Island-wide election; but I do not believe that we are making a safe and responsible decision to do that today in these circumstances, unless it has been approved in a referendum – the rules for which would be set out early in the life of the next States.

So, whatever the view of the States is on Island-wide voting, remembering that Deputy Gillson's amendment has now been approved, they are the Propositions in play. Members who support Island-wide voting and are convinced that there is a majority in favour of it have nothing to lose because, if my amendment is successful, there will be a referendum before the 2020 General Election, and presumably if they are right, the public would endorse this system in a referendum

The Members of the States who are very sceptical about Island-wide voting ought to support this amendment, because they surely would not want to introduce this new system at 24 hours' notice without the public having approved it in a referendum. On that basis I hope *all* Members of the States can support this amendment.

End of quote from *Hansard*.

2935 Now, at no time in that amendment did Deputy Fallaize add that I also think we should have other options at that time. I think if you are going to put an amendment you are asking for all Island-wide, because it was tidying up that process by going to a referendum, it did not say in that amendment and I think there should be other options considered. It was very clear, as it is in the report here of SACC, it was for *all* Members to be elected on an all Island-wide vote, and the goal
2940 posts have now moved. That disappoints me considerably. It does not surprise me, because I think it is an open secret; you have only got to look at voting records that the majority of SACC have never been fans of Island-wide voting.

So I will support the amendment from Deputy Tindall. It is not quite right, but it is better than nothing. Again, the Brouard/Lowe one coming up is really good because you can have it very clear
2945 whether a 'yes' or a 'no' or the *status quo*, but we have not laid that one yet. We are doing this one here, but in the mean time I will support this one, and I hope Members will support it as well.

The Bailiff: Deputy Roffey.

2950 **Deputy Roffey:** I have to say, sir, I am very confused by Deputy Lowe. She seemed to be saying there that really she wanted us to be focussing just on what the last Assembly had indicated what might be the way for Island-wide voting, which was everybody being elected on one day, one election, with each voter being able to perm 38 out of whatever, 75, 85. The next
2955 minute she is saying she is going to vote for the Deputy Tindall amendment, which goes in completely the opposite direction; it keeps it absolute broad about what form – she can shake her head all she likes, sir, it does, it just says ... I will read it if she likes, if she has not read it properly herself: '... that *an* Island-wide electoral system'. So it does not mean to be that at all.

Sir, there has been a lot of talk today about menus. I think I am probably the exception: I do not have a problem choosing from the menu; being a vegetarian, there is usually absolutely no
2960 choice whatsoever (*Laughter*) or, if I am lucky, two choices, most of them pretty bad. But the point about being a vegetarian is, luckily, I really, really love vegetables, and so if this Assembly were to hold a referendum along the lines of the Tindall referendum saying, 'Are you in favour of vegetables, yes or no?' I would be trooping down to the local polling station with an emphatic
2965 yes, because I love vegetables, but if the Assembly were then to come back and say, 'Well, we are interpreting that as meaning you want to be served up some butternut squash, which I absolutely detest – one of the few that I do not like, horrible, sweet, and sickly and nasty, but that is another matter – I would be upset and yet this is really that equivalent.

We know from Deputy Lowe that if it is anything other than everybody being elected at one time in one big shebang, she will not be happy with what we have decided. Yet we know from the
2970 Vice-President of the Home Affairs Department this morning that he would die on the coaches to prevent that, and yet he is seconding one, maybe two, amendments that involve a form of Island-wide voting, so I guess they can both go down and vote together a big 'yes' to Island-wide voting

of some sort to be determined by this Assembly, and yet depending on the outcome, both of them will actually be spitting feathers saying, 'This is not what I meant at all.'

2975 Deputy Ferbrache this morning castigated SACC for possibly wasting ... he said it may not be big in the scheme of things, but what about the crèche and what about everything else. You can spend £160,000; we are going to spend the same amount here and for absolutely no new information whatsoever.

2980 Look, I have reservations about many of the forms of Island-wide voting. I think there are some that could work, but even I would predict the outcome of this referendum. It would be no surprise. I think the majority ... I may be wrong, I may be wrong. I know the Douzaines reacted badly when we actually asked them about something that had nothing to do with whether they liked Island-wide voting, and came back and said do not do it in any form. But I actually think the majority of this Island would vote 'yes' to this, in some form. But many of them would say, 'What
2985 is this yes/no? Why not yes/no/depends?' Because it will depend on what sort ... I could vote 'yes' to some forms of Island-wide voting, but I have a huge 'no' to some that I think would turn out to be a complete and utter dog's breakfast.

Some people, like Deputy Prow, have said they are likely to support this amendment because of simplicity. Well, there are ways of being simplistic but being direct in what you are asking the electorate. This is simplistic and so vague as to be of no use whatsoever. I do think you have over
2990 egged how difficult preference voting is. The Church of England General Synod do it all the time, the UK Co-operative Movement do it on an almost daily basis. It is really not very difficult at all, but if Deputy Prow finds it difficult, well, I will have a session with him no problem at all.

But, sir, this really is, of all the amendments we face today ... I mean I am against a single
2995 question, but if you are going to go for a single question rather than multiple choice, make it one that means something. This means absolutely zilch. I am absolutely sure we could come back here and be gridlocked.

Deputy Meerveld said it is our job to make a decision. Fine. Well then, do not vote for this amendment and waste the money, vote against Proposition 1. Vote against holding a referendum.
3000 Then it will be our decision. Same outcome, £150,000 more that you can spend on things at Education, Sport & Culture. Might even get a sport strategy, you never know.

So, sir, I think this amendment really is the ... I do not doubt its motivation – and it is good motivation – in any way, but I really think it is the worst of all worlds. Either have a sophisticated referendum frills down, like SACC are asking, or simplify it so it is a ... I do not like the words
3005 'yes/no' because they do not agree what is majoritive but ask a simple binary choice question; but this one takes us absolutely nowhere. Let's throw it out.

The Bailiff: Deputy Gollop.

3010 **Deputy St Pier:** Sir, can I move a motion under 26(1), please?

The Bailiff: It is the guillotine motion under 26(1). Will those Members who have not yet spoken but may wish to speak, please stand in their places.

Do you still wish to move the motion?

3015 **Deputy St Pier:** Yes, sir.

The Bailiff: In that case, we go to the vote to close this debate. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare it carried.

3020 Deputy Tindall will reply to the debate.

Deputy Tindall: Thank you, sir.

As this is my first summing up please forgive me if I try and make it as fluid as possible and do not succeed.

3025 Firstly, to address Deputy Fallaize's points, I feel that quite a lot of the questions posed were answered in my speech. I did try and pre-empt as many as I could think of, and obviously he did defend SACC's own policy letter. So, as Deputy Soulsby said, I do not feel there is much more to answer other than one particular point – or rather two points.

3030 The quote of: 'I do believe that the voters should know exactly what is being asked by the question.' And I do feel that the question is indeed what it says, that we would then decide on what type of Island-wide voting would be appropriate. The answer is yes, and I do believe that that could include the choice of option A, so it does fulfil the Resolution.

3035 Deputy Kuttelwascher, obviously, very pessimistic, whatever we might agree, there is no chance it will be agreed by the majority. I am paraphrasing, but if we did not then there would be a reason for the electorate to feel betrayed, if we did not agree by the majority.

Deputy Prow, very obviously, very grateful for the support, and also the Swiss list of referenda, or Swiss roll perhaps.

3040 Deputy de Sausmarez, I thought did make a great deal of useful points, which I do find illuminating. But, also the most important point is that it is important the way a question is asked, and she referred to the Scottish referendum where, despite the fact that there was a redraft there, was still considered bias towards leaving the Union, but that did not work, that was actually a remain one outcome.

The Bailiff: Are you giving way to Deputy de Sausmarez?

3045

Deputy de Sausmarez: I am very grateful to Deputy Tindall for giving way, especially notwithstanding her comments about trying to make this free flowing, so I do feel very guilty. I just want to put that comment in context, that of course, the leave campaign started from a much lower base, the original polls were down in the low 30's, I believe, so actually it is a relative thing.

3050 Thank you.

Deputy Tindall: Thank you for that comment. I feel that it may well be another long debate on what actually happened in that referendum as to whether there was a bias or not, but I certainly do feel that Deputy Inder with his interjection himself made a good point, is that when are we actually going to listen to the people and know their mind. I do feel that my question does actually, as proposed in the question I have put forward in this Proposition is basically as Deputy Ferbrache indicated, inherently simply, and I think that is the point.

3055

I thank Deputy Lowe for her support, and I do acknowledge that we did not add the extra word. We did also, however, consider various forms of wording, including a neutral wording of the same question, but again I was persuaded by the Scottish referendum being a 'yes/no' question. It does show the importance of words, but I consider few words are better.

3060

Deputy Roffey's comment on 'yes/no or depends', as I say, I also thought of putting forward a third question to mine, being a partial form of Island-wide voting, versus a full form of Island-wide voting, but felt again this was too complicated and went back to the single question.

3065

Obviously, Deputy Meerveld – I thank him for his support.

I can only add in summary that this amendment has certainly drawn out the apparent wish of the Assembly for a simpler question, and I would ask Members to support this amendment.

Thank you.

3070

The Bailiff: We go then to vote –

Deputy Lester Queripel: A recorded vote please, sir.

The Bailiff: A recorded vote on the amendment proposed by Deputy Tindall and seconded by Deputy Meerveld.

There was a recorded vote.

Not carried – Pour 11, Contre 29, Ne vote pas 0, Absent 0

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Lowe	Deputy Fallaize	None	None
Deputy Smithies	Deputy Inder		
Deputy Paint	Deputy Laurie Queripel		
Deputy De Lisle	Deputy Hansmann Rouxel		
Deputy Prow	Deputy Graham		
Alderney Rep. Jean	Deputy Green		
Alderney Rep. McKinley	Deputy Dorey		
Deputy Tindall	Deputy Le Tocq		
Deputy Gollop	Deputy Brouard		
Deputy Trott	Deputy Dudley-Owen		
Deputy Meerveld	Deputy Yerby		
	Deputy Langlois		
	Deputy Soulsby		
	Deputy de Sausmarez		
	Deputy Roffey		
	Deputy Oliver		
	Deputy Ferbrache		
	Deputy Kuttelwascher		
	Deputy Brehaut		
	Deputy Tooley		
	Deputy Parkinson		
	Deputy Lester Queripel		
	Deputy Le Clerc		
	Deputy Leadbeater		
	Deputy Mooney		
	Deputy Le Pelley		
	Deputy Merrett		
	Deputy St Pier		
	Deputy Stephens		

The Bailiff: Well, Members, the voting on the amendment proposed by Deputy Tindall and seconded by Deputy Meerveld, was once again 11 in favour and 29 against. I declare it lost.

Now, I was going to take next the amendment proposed by Deputy Brouard and seconded by Deputy Lowe, but I understand that the Committee wish to lay an amendment at this stage and, in accordance with normal convention, I will allow that to be placed next.

Can it be circulated first?

Deputy Fallaize: Thank you, I do not think it has been circulated yet.
Thank you.

The Bailiff: It needs to be circulated, and let people read it.

Amendment 8.

To insert immediately after Proposition 3 –

'Or, only if Propositions 2 and 3 shall have been defeated,

3A. To agree that the question to be put to the electorate shall be along the following lines –

"Should Deputies be elected –

(a) using an Island-wide voting system as follows –

1 island-wide electoral district

Each voter would have 38 votes at each election

Each Deputy would serve for 4 years

An election would be held every 4 years for all Deputies at once,

or

(b) using the current system?"

The Bailiff: Perhaps while it is being circulated, Greffier, can you just read it for the benefit of anybody who might be listening.

The Deputy Greffier read the amendment.

3090 **Deputy Ferbrache:** I do not understand this. Can I ask for clarification, because it has just been circulated, and it says '... only if Propositions 2 and 3 shall have been defeated...' so, surely we should not be debating this now, because we should be debating ...

The Bailiff: It is to be inserted into the Propositions.

3095 **Deputy Ferbrache:** It says insert '... after Proposition 3, or only if ...' now I am just asking because this is 3A, does this mean if this amendment is –?

3100 **The Bailiff:** We already have in the Propositions the words 'or, only if Proposition 2 shall have been defeated.' That is already in the Propositions. Then this is adding a further one, 'if Propositions 2 and 3 shall have been defeated.' But no doubt Deputy Fallaize will explain when he opens, so Deputy ... (**Deputy Ferbrache:** Thank you, for that.)

You are on notice that at least one Member is confused, Deputy Fallaize, so perhaps rather than me try and explain it, it is best that you ...

3105 **Deputy Fallaize:** But it is Deputy Ferbrache! (*Laughter*)

The Bailiff: You try and explain your own amendment.

Deputy Fallaize: Okay. Yes.

3110 Well, I know, I think I know why he is confused. It seeks to add a new Proposition 3A, which would be voted on if Propositions 2 and 3 are defeated, but the way that it has to be worded with the kind of quotation marks before the 'or' just picks up all of the text which has to be dropped in to Propositions immediately after Proposition 3. Deputy Ferbrache is nodding, so I think that is clear.

3115 Earlier Deputy Brouard circulated an amendment which he was considering laying, or is considering laying, I suppose, for what has been referred to as a binary choice, a type of binary choice where the voter at the referendum would be faced with two options, either: what I call full blooded Island-wide voting, but what is option A in the policy letter, all Deputies elected Island-wide on a single day and voters having the same number of votes as there are seats; or the
3120 current electoral system, that kind of binary choice.

Now, I can see that there would be some support for that approach, and I am happy to incorporate it, and the Committee is happy to incorporate it into the Propositions. Deputy Brouard and Deputy Lowe are chuckling, but probably with good reason. But there is a difference – there is a difference – because I do not want it inserted, or the Committee does not want it inserted, in the
3125 same place in the Propositions where they wanted to insert it. The amendment, not laid but circulated, by Deputy Brouard wanted to insert this option, this binary choice option, effectively, instead of Proposition 2. I want to insert it, but not instead of Proposition 2.

So what I am suggesting is it is inserted, but that we create, as far as the Propositions are concerned, a sort of logical sequence of voting. First of all, the States notwithstanding any of the
3130 other amendments which may be laid, the States would vote first on Proposition 2, a multi-option referendum; if that lost, they would vote on Proposition 3, which is a single option referendum on full blooded Island-wide voting only, and if Proposition 3 lost then the States would vote on Proposition 3A, which was the idea that Deputy Brouard and Deputy Lowe had where the voter

would be given two choices, either full blooded Island-wide voting or staying with the current system.

Actually, there is very little difference between our Proposition 3 and what would be under this amendment, the new Proposition 3A, the Brouard/Lowe idea. It is, effectively, asking the same question, it is just that the voter has a second box to put a cross in, if they wish, next to the current voting system to indicate their support for that, but otherwise it is the same as our Proposition 3.

Now, my version of this amendment, as opposed to the version that Deputy Brouard circulated earlier, also protects the Deputy Green/Deputy Graham amendment. Now, I should not be doing this, Deputy Green should be doing this, I suppose, but I hope he is grateful, because under the way Deputy Brouard wanted to set it out, because he would have been changing Proposition 2, he would, in effect, have knocked out the Deputies Green/Graham amendment. That amendment would just not have been compatible if the States had voted for the amendment from Deputy Brouard.

Now, I do not want to vote for the Deputy Green amendment, incidentally, the Committee does not want to support it, but I do not think it is fair ... Deputy Green has prepared this amendment in good time, in the proper time, if you like. I know from speaking to other States' Members that there is some support for Deputy Green's amendment. Hopefully no more than 20 Members, but I know there is some support for it, and I do not think it should be knocked out by another amendment laid on the day. So my version of this amendment allows Deputy Green still to lay his amendment and the States to take a view on it, and then, if this amendment in this form is approved, when we got to general debate we could debate the three different styles of referendum in one single general debate, multi-option, versus two options, versus one single option. It seems to me that that is the preferable way to do it.

If this amendment fails and Deputy Brouard lays his, and the States vote for it and they knock out Proposition 2, then what that will mean is that under Deputy Brouard's terms, if I can put it that way, he does not even want the States to have a vote on whether there should be more than two options on the ballot paper.

Now, I know that Deputy Brouard does not want more than two options on the ballot paper, but it seems to me it is going a little bit far to say the States should not even be allowed to cast a vote themselves on whether there should be more than two options on the ballot paper. So if we do it this way, if the States approves this amendment, inserts this new Proposition 3A, we can debate and vote on Deputy Green's amendment, we can debate and vote on the original Proposition 2, we can debate and vote on the original Proposition 3, but we can still insert the idea that Deputy Brouard and Deputy Lowe have had as a new Proposition 3A.

So I hope the States will support this amendment and see the sense of ordering the debate and the Propositions in this way.

Thank you, sir.

The Bailiff: Deputy Roffey, do you second it?

Deputy Roffey: I do, sir.

The Bailiff: Deputy St Pier.

Deputy St Pier: Sir, I did not want to interrupt Deputy Fallaize whilst he was speaking and give him an opportunity to respond when he replies, or perhaps another member of his Committee, to respond to this particular question ... perhaps Deputy Roffey when he speaks, to explain why 3A has been presented in the way it has as opposed to amending 3; in other words why are we retaining 3? I would have thought, for the reasons that Deputy de Sausmarez clearly articulated in her speech, there is a preference for 3A rather than 3, so perhaps if he could address that issue when he speaks, I will be most grateful.

The Bailiff: Deputy Ferbrache.

3190 **Deputy Ferbrache:** Sir, the Committee have had since February – well, they did not come into
existence in their present form since 1st May 2016, and comment was made earlier today by
Deputy Fallaize, and I think also by Deputy Roffey, but certainly Fallaize said it on more than one
occasion. Why didn't people like Ferbrache and others, if they did not like the Resolution about a
3195 referendum, do something about it before? And here we are because of – if it is laid, and I think it
will be – the sensible amendment from Deputy Brouard and Deputy Lowe, we have got this, which
I regard as a hi-jacking manoeuvre. I think that is exactly what it is, I think it shows how ill thought
out their proposals are, and he will judge they are.

I cannot ask for a guillotine because I have spoken, but I hope somebody else gets up and
does that now.

3200 **The Bailiff:** Deputy Parkinson.

3205 **Deputy Parkinson:** Sir, I would actually like some clarification from Deputy Fallaize as to what
he feels the effect of a 'no' vote button by the electorate against the question in Proposition 3, as
originally drafted, would be, because I had assumed when I read this States' Report that if the
question put to the electorate was as set out in Proposition 3, and if the electorate voted 'no', that
by default we would keep the *status quo*. In other words, that it was a binary option for the
electorate and it could be explained to them as a binary option; and although, in a way, I
appreciate that this makes it more clear that it is a binary option and that retaining the existing
system is one of the options on the table. I cannot see in principle why this is different from the
3210 original Proposition 3.

The Bailiff: Deputy Trott.

Deputy Trott Thank you, sir.

3215 Notwithstanding that this question apparently has 50 or so words and we were told earlier by
Deputy de Sausmarez that 26 was apparently the optimum number, which I find somewhat
perverse, this is clearly illogical in this order. We should not be considering Propositions 1 and 2
first; we should, of course, be considering this question first. That was what SACC, and as others
have said, were asked to do by the previous States but it is, of course, for this Assembly to test the
3220 previous States' resolve. So what we should be doing is voting on this question on this
amendment first.

If this amendment is rejected, we then have the opportunity to consider the hybrids in the
detail that they would deserve, but not the other way round; the other way round skews the
debate, roughly on the lines of the concerns that were expressed by Deputy de Sausmarez earlier.
3225 It should not be this order.

I believe that two experienced parliamentarians of the ilk of Deputies Fallaize and Roffey know
that, and I would be delighted to hear their reasons for this particular format, and addressing
those questions in particular, and give notice that I may move an amendment, with others, along
the lines to provide the order in the logical format that I have explained.

3230

The Bailiff: Deputy Roffey.

3235 **Deputy Roffey:** Sir, as an experienced politician, I think the logical order in which to put
things, as a Committee, is to propose first, having been given a task, what you believe is the right
response to that task, and to invite States' Members to vote for it; and that is just what
Proposition 2 does at the moment.

Now, Proposition 3, I think really Deputy Parkinson understands exactly where we were coming from. We were aware that we may or may not be able to persuade States' Members that what we clearly think – *unanimously* think – are positive that the multi-choice referendum, which would
3240 give real choice to the people of Guernsey, and I have to say for those who want to narrow it down, what are they afraid of? Why don't they want to know what the people of our Island think? Why are they so sure that they know other peoples' minds, so that they won't give them any other options? Well, that is a debate for a few minutes time.

Going back to the ordering, the first thing you do is you put forward what you think is the right
3245 answer, and that is what we have done: Proposition 1 obviously says to carry on and hold a referendum; Proposition 2 puts forward what we think is the right way to do it. But we knew there would be a body of opinion in this Assembly that said that that is not what they want; they want a single referendum on the idea of every Deputy being elected in one district at one go with 38 votes for each Deputy.

3250 I give way to Deputy Yerby.

The Bailiff: Deputy Yerby.

Deputy Yerby: Would Deputy Roffey agree with me that perhaps Deputy Trott might be asked
3255 when the Members of this Assembly might be trusted to know their own minds?

Deputy Roffey: I did not quite catch that, sir, can you say it again?

Deputy Yerby: Would Deputy Roffey agree with me that Deputy Trott might be asked when
3260 the Members of this Assembly might be trusted to know their own minds when voting on the Proposition? (*Interjection*)

Deputy Roffey: I hope Deputy Yerby is right, yes. I thank her for that helpful intervention.

Coming back to Deputy Parkinson, therefore we felt it was right to offer, without needing to
3265 bring an amendment – because we have far too many amendments in this Assembly; I am responsible for most of them, I know – to offer that alternative. If they turn down our preferred option then the alternative was to go with a single option, and yes, of course, the implication was going to be that if it came back with a 'no' vote, although hopefully we could word it slightly better than 'yes/no', but if it came back not endorsing that way forward then the implication
3270 would be that the current system would remain in place.

Now, it looks like Deputy Brouard feels that that was not clear enough, and he wanted to insert something slightly different that actually made people vote between those two options, the *status quo* and option A, effectively, in here. That is exactly what we thought Proposition 3 was doing, so I really do not understand why it was needed; but if people do feel that it is needed and really do
3275 want that instead of a single choice, a binary choice, and this is why we did not do it earlier, because we absolutely did not think it was necessary, but if it is felt that it is necessary then the best place to bring it in is, I think, in 3A.

My own view, personally, is that both of these amendments could go to the wind, and we would be in exactly the same place voting for Proposition 2 first, whether we want a multi-choice
3280 referendum or Proposition 3, which, effectively, means a choice between option A and the *status quo*. However, if the prevailing view in this Assembly is not that way, then I agree with Deputy Fallaize, which is why I was happy to second it, that it should come in in the appropriate place, so that we do not stymie thoughts, so that we do not allow people who have not produced something out of their hat on the day of the debate, but have actually thought about it and laid
3285 things down and want to make their arguments to be able to do so.

If people think that is wrong and they want to cut these arguments away at the knee and not even hear them then fine, they will not go for our option they will go for the Deputy Brouard option. I think that would be sad, I think that would be quite antidemocratic. I want to go for

3290 Proposition 2 anyway, and actually find out what the people of this Island think. Again, I say why on earth do some people have to worry about finding out what their electorate actually think?

The Bailiff: Deputy Gollop.

Deputy Gollop: Thank you, sir.

3295 I am tempted to say in response to Deputy Roffey that I do not want to know what people think. Well, I do, but I think you have to be open minded about the questions you ask them.

There has been a lot of talk about menus, and going in for a meal and just being served what you are given; well, I have been to many a dinner over the years and you would be given what the group was given, it would be the standard fare, whether it be on a religious retreat or the old style
3300 business lunch, you had what they choose to give you and you accepted it or you didn't. That is how it was. I do not really understand that argument, and as for the vegetables, I do not particularly like the vegetables, not all of them anyway, not all of the greens.

But, as you heard, I had a certain amount of tepid support for the first two amendments which have bit the dust. The main critique I have against SACC – and will come up again in the
3305 Green/Graham amendments, if we get to them, and I have an alternative to them, should one of them, especially the second one, falter, I will go into the reasons perhaps later ... although there is a lot to be said, as I have told Deputy Fallaize, for the multi-option menu approach to looking at rational constitutional change, as Deputy Roffey has just said, listen to the people. You need, if you are going down that route, a plethora of choices. I mean why five, why not 10?

3310 I have certainly met older Islanders – no doubt Deputy Graham has as well – who would like to see the return of the traditional Douzaine representative. I have met people who would like to see the return of real Conseillers, the Aldermen, and women occasionally, who were chosen by the Electoral College. I have met people who would like to see Island-wide Deputies but much less of us, 12, 15, 20, 28, not 38 – (*Interjection*) Yes, or 10. I have certainly met people who would like to
3315 see districts that were not particularly based on anything, not dissimilar to one of the SACC options, and I have even listened to one person who wanted to include Alderney in the northern electoral district of the Island, which perhaps not everyone would agree with. But the point is there is a whole smorgasbord of choices out there.

But this is the clincher: in Channel Island recent political history there have only been two
3320 Island-wide systems that we can have pragmatic experience of, as Deputy Meerveld has observed. One is the old-style Conseiller system, that Deputy Ferbrache reminded us of this morning, and Deputy Trott; or the golden era when we had three Island-wide elections, including one by-election when Deputy Lowe and Deputy Ferbrache were amongst the winners in one of those elections. That option, which probably a third of the Island supported, I know the turn-out was not
3325 as high as it could have been, but it certainly was an option that had wings at the time. The States in 1992 endorsed it. It is not on this menu.

SACC want to listen to the people but have not included a classic – another classic golden oldie perhaps. The other, and of course, technically the Conseiller system, which referred to six-year terms, it referred to having to have established membership of the States. My option would
3330 be perhaps simpler than that, but nevertheless nothing like it is there. The other one that is not there, which Deputy Green and Deputy Graham picked up on early on, was the current Jersey model whereby on their General Election, which they are going to have again after another failed attempt to change, will see eight senators elected at the same time on the same day in a form of Russian roulette, because any candidate can only choose a district and parish or stand for Island-
3335 wide election, you cannot do both unlike in Guernsey, and they are doing it, and it works after a fashion. Some might say that it has led to their governance being a little bit more pro-government and pro-right wing than you might expect, but it is not for us to judge what people in Jersey want, or how their system works.

3340 **The Bailiff:** Are you coming back to the present amendment at some point?

Deputy Gollop: Yes. It reminds me too that we have not got a golden vote, but we will not go there, on the golden egg.

3345 But the point ... this amendment is, as has been observed already, a scoop-up of a good idea that Deputy Brouard and Deputy Lowe were coming up with, and I suppose, on balance, I will support it being placed because, for the reasons I have just gone into, we have not had a measured debate on the old style and innovative Graham and Green amendments; and, should we not support this amendment, we would run the technical risk that if the Brouard/Lowe amendment won then we would not have a debate on the Graham/Green amendments should
3350 they be successful. So for those reasons I do support this amendment.

But I am puzzled, in a way, that the Tindall amendment was not been supported more, because it is extremely similar to SACC's Proposition 3, before 3A. There is not really a material difference between 3 and this one, because the 3 is a specific on a system of 38 Deputies, whereas the Tindall one actually would have called for a further round of consultation or referendum. But in
3355 practice we could have done that in a variety of other means using, let's say, adverts in the paper or something.

So I do support this amendment but with frustration, shall we say.

3360 **The Bailiff:** Deputy Brouard.

Deputy Brouard: Thank you, sir.

This amendment looks very familiar to me. So I will be supporting it, I am very happy for the committee to adopt it and insert it into the Propositions, and I think we should go to the vote fairly soon on it to add it in. Just to help – or hinder, whichever side of the fence you are on – I will
3365 still be intending, Deputy Lowe, with your permission, to place the amendment anyway, so we can amend option A or Proposition 2, and that will then speed up debate. But I do appreciate the issues that would have with some of the other amendments which may then fall away, but I will address that when we place our amendment, but I think this is an eminently sensible plagiaristic amendment (*Laughter*) and I am very happy for it to be inserted.

3370 **The Bailiff:** Deputy Tindall has been waiting a while.

Deputy Tindall: I would like to invoke Rule 26(1) please.

3375 **The Bailiff:** Oh 26(1). Sorry, I thought you were waiting to speak.

When people are wishing to raise 26(1) they can always shout out that they are doing so, because if they are just standing I assume they are waiting to speak.

Right, so 26(1): those who have not yet spoken but wish to do so in the debate on this amendment, please stand in your places. I think it is only two standing. Do you still wish to
3380 proceed?

Deputy Tindall: Yes, sir.

3385 **The Bailiff:** We go to the vote that debate on the current amendment proposed by Deputies Fallaize and Roffey be terminated. Those in favour; those against.

Members voted Pour.

The Bailiff: I believe that is carried, but if anybody wishes to challenge that ...? No. So, it is for Deputy Fallaize then to reply to the debate.

Deputy Fallaize: Thank you, sir.

3390 What Deputy Green was going to say (*Laughter*) was that if this amendment is not successful and Deputy Brouard's amendment is successful then it is not a technical risk that the Green/Graham amendment may not be voted on; it will be gone, it cannot exist (*Interjections*) in a sort of binary option. That may still be the outcome if Deputies Brouard and Lowe get their amendment through, but we shall see.

3395 Deputy Brouard said this was plagiarism, and yes, I admitted it at the beginning it was, it still is, and shamelessly so.

Deputy St Pier said why not just replace the existing Proposition 3, particularly after Deputy de Sausmarez' point about the problem with 'yes' or 'no' questions.

3400 Actually, though, Proposition 3 proposes asking a question along the following lines, you do not find the words 'yes' or 'no' in it, because certainly under any of the Committee's options, unless the Committee is sort of forced into something else by amendment, under any of the Committee's options there will not be the words 'yes' or 'no' ... will not appear on the ballot paper, because all the independent advice, for the reasons Deputy de Sausmarez outlined, that I will not bore Deputy Ferbrache with again, was not to include 'yes' or 'no'.

3405 The difference between Deputy Ferbrache ... I mean touché really, fair play to him, he got up and said I criticised him this morning for not putting forward his ideas sooner, and he said why has the Committee not put forward this idea sooner? I think the difference is Deputy Ferbrache was trying to knock out a Resolution which the States made in February of last year, 16 months ago, this amendment is a reaction to another amendment that was circulated at half past 11 this morning. So I think there is quite a difference. My reaction time is a bit quicker than Deputy Ferbrache's (*Laughter*) in terms of amendments, if not necessarily physically.

3415 Now Deputy Parkinson. Look, Deputy Parkinson is right, the Committee felt that Proposition 3 did in effect offer a binary choice between the full-blooded Island-wide voting and retaining the current system, but the fact is Deputy Brouard did not, and he had circulated and was about to lay an amendment, and I think that the States may have supported it, and I do not want to see Proposition 2 knocked out unless the States decide by a majority that they do not want to support it when we vote at the end of the debate, so the point is that is the reason that the Committee wants to incorporate Deputy Brouard's idea, if I can put it that way, into the Propositions.

3420 There is a slight difference between this idea and the existing Proposition 3, in that the existing Proposition 3, if the voters vote, well it will not be no, but if the voters vote against the full-blooded Island-wide option, it could be said that it is not clear that the voters have voted to retain the *status quo*. It may be that some voters voted no when their preference would be a different type of Island-wide voting. So I think there is a bit of a difference between our existing Proposition 3 and the suggested 3A, which we want to insert.

3425 Deputy Trott said there is, was it, 56 words I think, in this amendment (*Interjection*) and he can count to 56 at least, which is encouraging, and he said that Deputy de Sausmarez had made the point about 20 words, but again, if you read the amendment, it says, 'the question to be put to the electorate shall be along the following lines,' we are not asking word for word the question to be agreed, because that will have to be dealt with in legislation subsequently.

3430 He has a view about the correct order of voting on Propositions. I do not agree with him. I think the sensible way is for Committees to set out Propositions in their order of preference. I think it is sensible for a Committee to put the Propositions it is recommending first, followed by any alternative Propositions which it is not recommending next.

3435 Like Deputy Roffey, I do understand why some Members are nervous about multi-option referenda, but I do not know why they are so determined to prevent the States even having a vote on whether we should have options in the referenda. That seems to me completely unnecessary, but I hope that – and I am grateful, by the way, to Deputy Brouard for saying that he will support the amendment; I am afraid I will not be able to reciprocate when he lays his amendment, but I hope that – Members will insert this new idea, which is Deputy Brouard and Deputy Lowe's idea, 3440 but in the right place at Proposition 3A and not instead of Proposition 2.

Thank you, sir.

The Bailiff: I will just allow those Members who are currently standing to resume their places. Then Deputy Lester Queripel is wanting to stand possibly to request a –

Deputy Lester Queripel: Recorded vote please, sir.

The Bailiff: A recorded vote. I thought you might be.

So, a recorded vote on the amendment proposed by Deputy Fallaize, seconded by Deputy Roffey.

There was a recorded vote.

Carried – Pour 33, Contre 6, Ne vote pas 0, Absent 1

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Fallaize	Deputy Inder	None	Deputy Mooney
Deputy Lowe	Deputy Prow		
Deputy Laurie Queripel	Deputy Ferbrache		
Deputy Smithies	Deputy Kuttelwascher		
Deputy Hansmann Rouxel	Deputy Trott		
Deputy Graham	Deputy Merrett		
Deputy Green			
Deputy Paint			
Deputy Dorey			
Deputy Le Tocq			
Deputy Brouard			
Deputy Dudley-Owen			
Deputy Yerby			
Deputy De Lisle			
Deputy Langlois			
Deputy Soulsby			
Deputy de Sausmarez			
Deputy Roffey			
Deputy Oliver			
Alderney Rep. Jean			
Alderney Rep. McKinley			
Deputy Tindall			
Deputy Brehaut			
Deputy Tooley			
Deputy Gollop			
Deputy Parkinson			
Deputy Lester Queripel			
Deputy Le Clerc			
Deputy Leadbeater			
Deputy Le Pelley			
Deputy St Pier			
Deputy Stephens			
Deputy Meerveld			

Footnote: After the conclusion of the meeting upon preparation of Hansard it was noticed that Deputy Tindall and Deputy Dudley-Owen did in fact vote Pour and not Contre as recorded on the Voting record. This means that the result differs from that declared in the Chamber by the Bailiff. The official result of the vote was Pour 33, Contre 6.

The Bailiff: Well, the result of the voting on the amendment proposed by Deputy Fallaize, seconded by Deputy Roffey was 31 in favour with 8 against. I declare it carried.

We move on to the amendment to be proposed by Deputy Brouard and seconded by Deputy Lowe.

Deputy Brouard, would you like it to be read, or will you read it.

Deputy Brouard. No thank you, sir.

Amendment 7.

1. In Proposition 2, to delete from 'Option C' to the end;

2. In Proposition 6 for 'each of the five options A to E', to substitute 'both of the options A and B'.

Deputy Brouard: Mr Bailiff, Members of the Assembly, first of all my apologies for the late placing of this amendment.

Basically this amendment says that it will enable the electorate to make a straight choice between the SACC Committee's option A, which is Island-wide voting, which is the full Island-wide voting as the States have already discussed, which is one Island-wide electoral district, each voter having 38 votes at each election, and each Deputy would serve four years, an election would be held every four years for all Deputies at once.

It also reiterates the existing *status quo* system and it is a binary choice, which I believe, I know it is not Deputy Roffey's first choice, but it is certainly Deputy Roffey's second choice, from what he was saying earlier.

First of all – but no, seriously, my apologies because it was late in the day, and it was literally this morning looking through the amendments and all the work that everybody else has put in, and I could just see how it was going to end up as quite a difficult choice for electors so therefore I thought perhaps some simplistic offering which would clarify the issue once and for all.

In fact, part of the reason for having Deputy Lowe to very kindly second it, is because we are polls apart, I do not particularly want to have Island-wide voting for all districts; I would probably, if you pushed me, prefer the *status quo*. Deputy Lowe, on the other hand, requires the complete opposite.

So we are literally giving the electors the choice that I think the majority want to see, and it almost crystallises Deputy Tindall's amendment earlier, which was very close to it with the 'yes/no', but this just puts a little bit more meat on that particular bone, and I do take Deputy Fallaize's point, it is similar to his option 3, but again, we just give more clarity, we know exactly what we are voting for.

I think Deputy Fallaize used the term this morning that he had three c's, which were 'choice, clarity and certainty'. Well, I am adding another three to those, which are basically: make it 'clean', so it is nice and simple; it is 'candid', so it is fair for everyone; and it is 'civil'. It is a very civil, clean way of offering this option to the electorate.

It basically distils and simplifies the election that our public will be asked to do. It also, and I make no apology for this, takes away this preferential and transferable vote, which I think is confusing. I do not quite understand it, and the more options you put in of one particular bias, and I hope I will come back to Deputy de Sausmarez, the more chances that bias will feed through, so if you have one option which is the *status quo*, and another 10 options which are Island-wide voting, then by the very fact that your second choice has to be one of the Island-wide voting ones, you are going to end up with some form of Island-wide voting. So it is the mass as well. So I hope people follow what I am saying there.

So this basically is a straight choice – do we really want it? And it will answer the question on the back of Deputy Ferbrache's amendment this morning. He feels that there is a very strong feeling that Islanders do want it. Deputy Graham this morning was saying that actually it is not so burning an issue at the moment for his parishioners, but this will give that clarity, as to whether or not the *status quo* is in fact the majority or not. It also gives the clarity to the result.

Now, I know people will say it gives clarity to the result with the preferential voting system, but I do not think it does, because you get the situation that, 'Well, that is my third vote that has been moved across to my third worst position, which has been added up with somebody else's second worse position.' I do not think it gives that clarity.

At least with this, unless we get that awful tie of so many thousand votes one way and so many thousand votes the other and they are exactly equal, we will, I am pretty sure, get a result. Now it may be a very fine result, it may be a narrow result, but that is a risk we run whatever system we put to the public. We will always have, even if we put out in Proposition 2 ... there are five options there, options A, B, C, D and E; each of those could all have 20% each of our public, and how do

we interpret that, and what happens if all their second choices all match out. So, at least with a straight binary choice there will be a winner; it may be a marginal winner, but there will be a winner.

Deputy Fallaize very kindly made mention that Deputy Green and Deputy Graham will not have the chance to place their amendment or option. Well, they do have an option now to speak on theirs to defeat this amendment. So I would think that would be the chance for them to have their debate now.

We have wrestled with this problem for quite a number of years in the Assembly, and I do think the options do come down to option A, which is literally the Committee's first choice, and B, the Committee's second choice; and I do not know whether they are putting any weight as to how they put the numbering into the States of A, B, C, D, but I am guessing it is between A and B, and I think we should be offering that A and B to the public.

The difficulty I have with option C that the Committee have come up with is why two electoral districts? Why not serve for six years? Why not serve every two? As Deputy Meerveld said, the menu options just go on and on. The Deputy Green amendment, which I do have some sympathy for, I call it the sheep and goat amendment, that is nothing personal for themselves, but what do you do; what do you do with the people who have been elected on the Island-wide mandate? Where do you put them? It may be a populist person, it may be an accountant, it may be a banker. Do they have a higher position in the States once they are elected? Do they have more power? Do they sit on a different table? What do you do with them? This is one of the issues. That is the reason why it is not in SACC's Propositions. So I am a little bit concerned that Deputy Fallaize would want to make sure that we debate it, if he wanted to make sure we debated it, it would be here as option F, but it is not, and that is why.

So that is one of the difficulties I do have if the Deputy Green and Deputy Graham ... I have some sympathy for it because I want to retain that parish system, but I am not too sure what I am going to do with those particular States' Members when they come forward – what I will do – because we are going back almost to the Conseillers' system again.

What I would be happier with is if we moved to option A, if option A is the one, Island-wide and then tweak that, once we have had the benefit of that being in use, or we continue with our existing system.

So I think that gives that real clarity.

The same with option D, that Deputy Fallaize and his team has put forward: four electoral districts. Why not three? The permutations go on. Then, of course, you have option E, which is probably about as bad as it is going to get, just imagine every Committee being broken up and then reformed every two years. I mean we would have a chance of going backwards pretty quickly, the disruption that that would cause for that influx of 33% of the States coming in every two years. Where do we put them; are they in the right places? If we have a banker coming in would they have the right place to go to? If somebody comes in with other social skills, will they be able to find a Committee easy enough if all those places are taken? That is why we have wrestled with this problem over and over again, and that is the simplicity of the amendment that I am putting forward.

I do apologise to some of the other amendments as well, because they would then fall apart, because you do not then need to start to look at some of the more detail. It gives us a very crisp, clear position and I hope, from what Deputy de Sausmarez was saying earlier about how you balance and propose the question, by having the *status quo* and something different, we could have a very clear question to our electorate and really understand exactly what they want from the result from that.

Again, Deputy Ferbrache this morning was mentioning 'simpler the better', everything was too complicated. This really is very simple, but it actually gets to the heart of the matter.

Deputy Kuttelwascher, as well, was mentioning what we have had in front of us was complicated.

3565 I do not think our amendment is perfect; it is not, but we are not in a perfect place and we never will be, but I think it is the best offering we can have this afternoon, and it will, of course shorten considerably some of the debate that we may have on going nowhere fast.

I think I have said as much as I would like to say. I commend the amendment to you. I hope I can find support. It is not that I would particularly ... If there was an amendment to say just have the *status quo* I would have voted for it, and I think if Deputy Lowe was here, was talking now, she would say, 'Well, just have an amendment that just said Island-wide voting and that was it.' We need to go to the public, it is one of our remaining duties to do so.

3575 This is, I think, the simplest and as far as possible – and it goes back to those six c's – it gives choice to the electorate, it gives clarity to the electorate; and on the result it gives a certainty on that result as well, because there will be a number one way or the other, and it is very clean, and it is very candid.

I would recommend the amendment to the States.

Thank you, sir.

3580 **The Bailiff:** Deputy Lowe, do you second it?

Deputy Lowe: I formally second it, and reserve my right to speak, sir.

The Bailiff: Thank you.

3585 I see Deputy Roffey on his feet. Are you wishing to exercise the Committee's right as Vice-President to speak?

Deputy Roffey: If my President will allow me to, yes.

3590 **The Bailiff:** Sorry, Deputy Yerby, I think, is –

Deputy Fallaize: because I want to speak –

The Bailiff: You want to speak –

3595 **Deputy Fallaize:** – in the debate before Deputy Brouard sums up.

The Bailiff: I think Deputy Yerby may be seeking to invoke one of the Rules.

3600 **Deputy Yerby:** I would like to try and invoke Rule 24(4).

The Bailiff: You would like to try and invoke 24(4), which is to see how many Members support debate. If you support debate on the amendment stand in your places.

I see more than seven people standing, so debate will proceed.

3605 Deputy Fallaize, I think you said you would like to speak, is that right?

Deputy Fallaize: Just at some point, sir, but not now.

The Bailiff: Oh, at some point. Well, Deputy Roffey.

3610 **Deputy Roffey:** He is probably better at containing himself and hanging back to the end of the debate than I am.

3615 Sir, I have two basic reasons for thinking that this amendment makes no sense whatsoever, but before I get on to them can I just say, I know we are all very busy at the moment, but I really do find it disappointing when we have the proposer of an amendment that is going to shoot holes through a set of proposals speaking when he clearly has not read the policy letter.

Deputy Brouard said, or he assumed, that options A and B must be SACC's favourite or why would they be listed as A and B. It is set out incredibly clearly in the policy letter, how the letters were attached to those, and that it bore absolutely no relation to the preference of SACC. Then he went on, or I think he said it earlier actually, that if there was a multiple choice it could be an even finer thing, because they could all get about 20% and you would be no further forward.

A big chunk of the policy letter explains how transferable votes, or preference voting ... and if he had not read the policy letter, he only had to listen to the explanation, albeit said with a slightly sarcastic voice to make it sound complicated when it is very, very simple indeed, by Deputy Prow this morning, in which he explained that that is not a situation you will be able to get in under Proposition 2, because one Proposition will emerge with a majority.

Having got that off my chest, I will go on to the reasons why this is such a rotten amendment. I quite like amendments and having people's views, but utterly, utterly, unnecessary amendments, surely waste the time of this Assembly. We have heard a lot of talk about menus today. The option that Deputy Brouard is putting forward is already on the menu. It has been put on the menu by you, this Assembly, a few minutes ago. But this amendment tries to have it appear twice on the menu, (*Laughter*) but if you pick it from this part of the menu, then Deputy Green does not get his day in court – and it is not just Deputy Green, I think we heard intimated by Deputy Gollop that he is considering an amendment if the Deputy Green one fails. These are ideas that need to be discussed. (**Several Members:** Hear, hear.)

So we have two ways of achieving exactly the same end: voting for this amendment which stifles debate, or voting against – if you want to, I urge you not to – but voting against Proposition 2, against Proposition 3, and going for the 3A that you have just inserted. So why on earth would you, as democrats, try and get exactly the same result in a less democratic way? It has to be nonsensical.

Talking about democracy, we are told that this is a simplistic amendment, it is indeed simplistic. We are urging the thousands, and tens of thousands of Islanders to turn out and choose between the *status quo* and electing every single Deputy on a single day choosing 38 out of possibly 80, in one Island-wide district. I tell you what, there is a huge swathe of this population that does not support either of those options. So what are they supposed to do, just stay away from the ballot box on the day, go and put a spoiled paper in?

Now, I accept that even with five options there will be people who would have supported a sixth, a seventh, and an eighth, and some of them, I think, may try to be added today; and ideally, to give them maximum choice, we have got to put 20 options in, as Deputy Meerveld intimated. But there had to be a compromise between allowing people to express their genuine view and having a workable system. This moves away from that compromise, it really is denying choice to Islanders.

I think we could get an extremely low turnout because how ... Look, I do not support the *status quo*, and I do not support option A either; I do not support option A or B. I mean they are both viable systems – well actually I am not sure about option A, but certainly it could be made to work with all sorts of difficulties, but I do not support it. So I guess I am being told, 'Do not go vote on the day.' I really think this is anti-democratic in two ways: it is saying ... Actually, Deputy Brouard said I think I know what people think, I think I know that what is in mind is either the *status quo* or option A. He does not know that, sir. He wants that to be the case, maybe. Look, let me narrow it down to the option that I prefer out of these, because I think I know that is what the people of Guernsey want. You would laugh me out of court, and I think you should do the same with this one as well.

So it is doubly anti-democratic. It seeks to limit choice, but if you want to limit choice at least limit the choice which allow people who have thought about this deeply – not people who have not read the policy letter, clearly, but people who have thought about this deeply – over the last couple of weeks and who have got amendments they want to lay, to do so. This option is already on the menu. Do it in the proper way.

Several Members: Hear, hear.

3670 **The Bailiff:** Deputy Graham.

Deputy Graham: Thank you very much, sir.

I suppose, in a way, I ought to be flattered, and Deputy Green ought to be similarly flattered, that those who are so terrified at the prospect that our amendment is going to be debated and
3675 might even be carried, that they will resort to any sort of procedural device (**A Member:** Hear, hear.) to try to stop it. I for one am not fooled by the disingenuousness of his offer that Deputy Green and I can argue in favour of our amendment during the discussion of his amendment. I am sure the Bailiff would pull me up almost exactly as he pulled me up this morning.

I have to say that I do understand why some people might be terrified that our amendment
3680 might be considered later on, because really it would threaten the prospect that they would hope for, of this absurd 38 votes for 38 candidates all on one day, which would actually help those high profile characters, high profile Members of the Assembly, who know for sure that they really would not need any more to knock on doors, they would not really need to face the hustings any more, they could rely on their high profile to get them elected. Now, it has been said in the past,
3685 and I know, for example, when Deputy Roffey, in my view, unnecessarily feeling defensive about his fairly regular column in *The Press*, would say, 'Well look, for every vote that I gain, I might lose one.' I would say for every vote that you might gain you could lose two and still get in. If you look at the experience in Jersey, the Senators there who are elected on an Island-wide basis were getting through on about one third of the vote that was cast in those elections. So, anyway I have
3690 made that point and people can make of it what they wish.

I have to confess that I myself considered a similar tactic in my aim of thwarting unfettered Island-wide voting. I had said to myself, look, surely the electorate in Guernsey cannot be so – how can I put it? – unenlightened that they would vote for this absurd prospect of one day facing
3695 up to about 90 manifestos, and voting for 38 candidates, on the basis that they would only know a few of them, and would not have had a possibility of engaging with them in any meaningful way. I could not believe that that would happen, expect that in the conversations I have been having around the Castel now, and you may gently smile at the very image that comes to your mind.

I have to say, and I was going to say this before the Bailiff halted me, quite rightly, this
3700 morning, that of the 300 conversations I have had, and they were meaningful conversations, only four people stuck to their guns and said they wanted unfettered Island-wide voting; but what worries me is that when I then said to them, 'If the question is only *status quo* or Island-wide voting, which way would you vote?' and they said, 'Well, we will vote "yes" for Island-wide voting,' even though that is not what they want. Now it seems to me that the whole of this policy letter
3705 from SACC is designed really to answer that dilemma. I do not think it is too sophisticated and too complicated for the Guernsey electorate. It has not proved so for Jersey, and I for one think that anything they could do we could do just as well.

I am going to allude to Deputy Brouard. He did slightly open the gate for me to talk about Deputy Green's amendment, which I am supporting, because he did ask rhetorically what we
3710 would do with any Island-wide candidates who were elected Island-wide. I will tell him what we would not do, we would not call them Conseillers, and we would not stick them on the top bench, (**A Member:** Hear, hear.) because that is where I think the last episode really fell down.

There is a tradition in this Assembly, certainly ... not to harp on how many votes certain
3715 candidates got and others did not. Looking round at the Assembly here, I see Deputy Fallaize who had an enormous number of votes and has not been elected to a Principal Committee; on the top bench we have Presidents of Principal Committees who secured less than one third of the votes that Deputy Fallaize secured. I have not heard anybody try to buy in in this Assembly on the strength of the number of votes they have got, and I have to tell anybody that if anybody tried to

cash in on being top of the poll or anything like that, I would consider it slightly bad form. (**A Member:** Hear, hear.)

Members of the States, I believe that Deputy Green's and my amendment deserves to be heard and debated. But, even if I cannot carry you on that particular thing, I would say that this amendment has all the prospects of putting in front of the Guernsey electorate a question that they do not want to be given. It certainly gives them the prospect of an answer that they will be very disenchanted with.

The Bailiff: Deputy Green.

Deputy Green: Sir, thank you.

I would encourage Members to reject this amendment, because it really does not serve the purpose that it really ought to. It will disenfranchise, not only people in the referendum, by not having the opportunity to potentially vote for a hybrid system, which is the amendment that Deputy Graham and I will hopefully lay in due course, but it will also disenfranchise Members of this Assembly, in not being able to even vote for or debate those amendments, and that cannot be right. As Deputy Roffey said, that is fundamentally anti-democratic, and I implore Members to reject this on that basis.

Now Deputy Brouard encouraged me, and encouraged Deputy Graham, to talk about our amendment now, but we cannot do that if we are following and obeying the Rules of Procedure as we should. It is irrelevant at this stage to be talking about the fine detail of amendments that have not even been laid yet.

I see this amendment, sir, fundamentally as an opportunity to stifle debate, in a way that is not actually practically necessary, because Members have already backed amendment 8, by majority, and I put on record that I am grateful to SACC for proposing that amendment, and I am grateful to Members for carrying it. I did not have an opportunity to speak in that debate because Deputy Tindall decided to guillotine that debate. But the other point I just want to drive home is this: what is it that we are really denying both Members and members of the public from being able to even consider a hybrid model.

Well, let me remind Members, sir, of what the consultation, the public consultation, in 2010 actually recorded as the result, because the most popular option following that consultation, which involved a total of 6,837 people, which is an impressive number, bearing in mind subsequent consultations, the most popular option ... can anyone guess what the most popular option was – 31.2% of the vote: 2,134 people favoured a hybrid system. Therefore as Deputy Roffey says, let's not talk about it, let's just clear this out of the way, let's not include it in the referendum, let's not even allow Members to debate it. That sounds like an absolute recipe for disaster.

So, Members should very clearly and very substantially reject this amendment on that basis alone.

Several Members: Hear, hear.

The Bailiff: Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

This really is bizarre, because the States have just inserted a new Proposition 3A, which sets out a referendum question which is exactly the referendum question which Deputy Brouard now wants inserted as Proposition 2. Why don't we just insert this referendum question at Propositions 1 to 10, just in case the first nine lose, then we have got the backstop of Proposition 10? I mean, it is ludicrous to put the States in this position.

I know it was Deputy Brouard's idea. It was not my idea to insert this amongst the Propositions. Deputy Brouard and Deputy Lowe deserve all of the credit for the insertion of that

option in the Propositions, but why do they want it to appear in the Propositions twice, why is it not enough for it to be in at Proposition 3A? Why does it have to go in at Proposition 2 as well?

3775 It is clearly completely unnecessary. If the States vote for this amendment we will end up with a Proposition 2, which sets out a referendum question, which Deputy Brouard wants, and a Proposition 3A which sets out exactly the same referendum question, which Deputy Brouard wants. Why would the States do that?

Now, I have to stress that I do not support the Green/Graham amendment, because I want the Committee's preferred options A to E, but I feel as if I am doing a reasonable job of trying to convince the States to support it, but surely it does deserve to be debated.

3780 I suspect, actually, my view is – and I have said this to my Committee for the last few weeks – if that amendment is laid I think it will be carried. I think that option will be inserted in the options on the ballot paper. I will argue against it, because I think our options A to E are better, but I think it will be carried.

3785 Now, if Members want the opportunity to insert that on the ballot paper why should they be denied it by this completely unnecessary superfluous amendment which tries to insert a Proposition which has already been inserted.

Deputy Brouard – and I do not blame him, it was quite clever – when he spoke introducing his amendment, all he spoke about was the actual referendum question that he wants to see. He told us that the question would be clear and candid, and he made a case in favour of the type of referendum question which he prefers; but he did not need to, that is not actually what he is proposing in this amendment, because all of his ideas have now been incorporated in Proposition 3A. What he should have told us is why he needs to knock out Proposition 2, so that his ideas can appear twice in the menu of Propositions.

3795 It is anti-democratic, this approach, and I do not know what it is that some Members are so fearful of about Proposition 2. If a majority of Members believe that Proposition 2 is not the right basis upon which to hold the referendum, amended or not by the Green/Graham amendment, if it is laid, then they will vote against it, and it will not be the question that is on the ballot paper. Why does it need to be knocked out of the list of Propositions before we can even get the opportunity to debate it, and vote on it?

3800 I have to make the point, hopefully briefly, but all over again about the case for choice in this referendum, because Deputy Brouard's amendment, if it is successful, and the multi-option referendum is knocked out, Deputy Brouard's amendment will have denied voters choice. He will have prevented States' Members even having a vote on whether the public should be presented with a range of options at the referendum and I think, I still think, that the referendum is more likely to bring certainty and clarity and closure to the debate about the electoral system if the public are presented with a range of options, rather being presented only with one option or two options. Not least of all because the multi-option referendum is more reflective of the way that most people think.

3810 There are ... I am not one of them, I often am very strongly on one side or the other in a debate, but I am not over the business of Island-wide voting. I am quite indifferent to the pros and cons of Island-wide voting, and I have always said that. There are quite a lot of Members in the States who are trenchantly opposed to any form of Island-wide voting, and there are some who are trenchantly in favour of Island-wide voting, but that is not how most people in the community think. Most people in the community – not all, but most – in my view, will have a more nuanced view, and they will have preferences. They will think, 'Yes, I would like that option; that would be the one I would want most, but if I cannot have it I would like that option there.' They will see the world, or see the electoral system in the kind of binary black and white way that a lot of Members do here. I think, for that reason, that the multi-option referendum is preferable, but I do, at least, think that when we get to general debate, and vote at the end of general debate, 3820 States' Members should have an opportunity to cast a vote on whether we have a multi-option referendum, and not have it knocked out half way through the debate.

I also think that if a multi-option referendum is taken away, it probably will depress engagement and turnout. Because there are some people – and we cannot know how many, but there are some people – who will favour or would favour options, C, D and E, and some people who would favour the Green/Graham model, if that is inserted. Now, as Deputy Roffey said, if this amendment is carried they will not have the opportunity to have any of that on the ballot paper. I think some of those people will be discouraged from turning out.

What I think should alarm the States most of all about this attempt is Deputy Brouard presented it as a strength, he was not a supporter of Island-wide voting, and his seconder Deputy Lowe is a strong supporter of Island-wide voting. I do not think that is a strength in this amendment. I think it is a weakness. I think there are some Members who are tempted to vote for a binary choice on the purist or most extreme form of Island-wide voting because they believe it will lose. They want it to lose, they believe it will lose, and therefore that is the option they want on the ballot paper. Well, the last politician who thought he knew what the outcome of a referendum would be was a bloke called Cameron. I think that people should not base their judgement on what should be on the ballot paper, based on the outcome of the referendum which they would prefer.

If this amendment is carried and the States do not even have an opportunity to vote on a multi-option referendum, the States will still stand accused of having favoured the *status quo*, a lot of people will still say, 'Well, you have put up only the most extreme form of Island-wide voting, in order that it loses. I am not sure it will lose, but in order that it loses, and therefore you have favoured the *status quo*.' You have made the outcome of the referendum biased against any change.

The other thing is, I do not know why Deputy Lowe, as the seconder of the amendment, is so keen on denying voters the opportunity to express choice about the electoral system, because the consultation which Deputy Green referred to, and which I keep referring to, was held by SACC when Deputy Lowe was the Vice-President of the Committee, and I remember, I was a member of it, and I remember that Deputy Lowe was adamant that the consultation should include options. There were four options, and Deputy Lowe frequently cited it as evidence subsequently and so I do not know why there is this sudden desire to want to deny the voters choice. But before we get to what the voters should vote on, please do not deny the States choice. There is no point in us having a Proposition 2 which is identical to the new Proposition 3A. We should debate all of these options in general debate, including the Green/Graham amendment, if it is passed, and then States' Members can make an objective view about which referendum question they want on the ballot paper. This is not the correct way to go about it. So please reject this amendment.

Deputy Lester Queripel: Sir, I would like to invoke Rule 26(1) please.

The Bailiff: Rule 26(1). Those Members who have not yet spoken but may wish to speak in the debate, please stand in your places. 1, 2, 3, 4, 5, 6 of you. Do you still wish to go ahead with the –?

Deputy Lester Queripel: I do, sir.

The Bailiff: Okay. Well, I put to Members that debate be closed. Those in favour; those against.

Members voted Pour.

The Bailiff: Well, that is closer, but I still believe it is carried. So Deputy Brouard will close the debate.

Deputy Brouard: Thank you, sir.

3870 My second apology for this afternoon is obviously, I feel like Deputy Fallaize's and Deputy Roffey's dentist, I have obviously sort of touched some sort of nerve that I had not intended to.

3875 The idea of continuing to place the amendment was, obviously, just to speed up our procedures here, if people are minded that they wish to have a very simple and very clear Proposition to our public, I think it a better offering to have a binary choice rather than the multi-option, and the multi-option has only come about, I think, through SACC; I do not think it has come about through any Propositions of the States. The States never sent SACC away to come up with a multi-option. I think SACC has decided of their own volition to come back with that, and I think that is the reason why I am trying to take it back to the basics of what the previous Assemblies have wrestled with time and time again, and this is where we end up back with, which

3880 is that simple binary choice to start with.

So I will not say much more, sir, I recommend that we accept this now, and give our electors a real choice between having the existing system or moving into Island-wide voting.

Thank you.

3885 **The Bailiff:** We vote on the Deputy Brouard –

Deputy Lester Queripel: Recorded vote please, sir.

The Bailiff: – with a recorded vote.

There was a recorded vote.

Not carried – Pour 14, Contre 25, Ne vote pas 0, Absent 1

3890

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Inder	Deputy Fallaize	None	Deputy Mooney
Deputy Lowe	Deputy Laurie Queripel		
Deputy Paint	Deputy Smithies		
Deputy Brouard	Deputy Hansmann Rouxel		
Deputy De Lisle	Deputy Graham		
Deputy Prow	Deputy Green		
Alderney Rep. McKinley	Deputy Dorey		
Deputy Ferbrache	Deputy Le Tocq		
Deputy Kuttelwascher	Deputy Dudley-Owen		
Deputy Leadbeater	Deputy Yerby		
Deputy Trott	Deputy Langlois		
Deputy Le Pelley	Deputy Soulsby		
Deputy Merrett	Deputy de Sausmarez		
Deputy Meerveld	Deputy Roffey		
	Deputy Oliver		
	Alderney Rep. Jean		
	Deputy Tindall		
	Deputy Brehaut		
	Deputy Tooley		
	Deputy Gollop		
	Deputy Parkinson		
	Deputy Lester Queripel		
	Deputy Le Clerc		
	Deputy St Pier		
	Deputy Stephens		

The Bailiff: Well, the voting on the amendment proposed by Deputy Brouard, seconded by Deputy Lowe, was 14 in favour, with 25 against. I declare it lost.

We move swiftly to amendment 1, to be proposed by Deputy Green and seconded by Deputy Graham.

3895 Deputy Green.

Amendment 1.

In Proposition 2, for 'Option C' and associated bullet points, substitute –

'Option C

1 island-wide electoral district (represented by 10 Deputies) plus the 7 existing electoral districts (represented by 28 Deputies, with precise allocation per district to be determined in accordance with respective populations)

Each voter would have 10 votes at each election in respect of the 1 island-wide electoral district and 3, 4 or 5 votes (or such other number of votes), depending on appropriate allocation of Deputies, in their own electoral district

Each Deputy would serve for 4 years

An election would be held every 4 years for all Deputies (i.e. for both the 10 island-wide and 28 existing districts' Deputies)'.

Deputy Green: Could I ask the learned Deputy Greffier to read amendment 1?

The Deputy Greffier read the amendment.

The Bailiff: Deputy Green.

Deputy Green: Sir, thank you.

3900 There is also an explanatory note, which I will just briefly read:

This amendment would replace in the referendum the current Option C with a new option involving an electoral system that would combine an element of island wide voting (for ten Deputies) together with district representation (twenty-eight Deputies).

Sir, Members of the States, I thank Deputy Graham for seconding this amendment.

It appears there has been quite a lot of discussion about this amendment by the Members already, so perhaps I can put the arguments in favour of this amendment now.

3905 Neither Deputy Graham nor myself say this model is perfect, but the simple point we would make is that it really ought to be on the ballot for a number of reasons, perhaps three key reasons, that I will now outline.

First of all, the first reason is that a hybrid model is essentially a proven system that has worked previously in Guernsey, and still does operate effectively in Jersey. So why wouldn't it be in the referendum list of options?

3910 So when I first read the SACC policy letter, I was struck by the lack of choice that was being offered. I could not help but notice one big omission in their options A through to E in the list that they proposed to put to the people in the Island referendum – a very big omission indeed. They had failed to include the one model that this Island has direct practical experience of; the one model that Jersey has at present, and to which they have direct practical and modern experience of; the one option that clearly attempts to hold the ring, if I can use that phrase, between the obvious and vital need for continued district representation but together with an element of Island-wide voting.

3920 Therefore, sir, this amendment quite simply seeks to replace the current option C, which does not represent an Island-wide option, nor does it seek to maintain or continue a district or parish system, as we presently understand it, with a model whereby 10 Deputies would be elected on an Island-wide basis and a total of 28 Deputies would be elected in the districts, all on one day. That is the key point about amendment 1: we are talking about electing the 10 and the 28, i.e. the 38 Deputies on one day. I will not say anything about the other amendment, because that will not be laid unless this amendment 1 is unsuccessful.

3925 Sir, this is a system that manifestly can work practically, it is feasible, it is manageable, it is proven, it is proven not to result in chaos, and on any objective analysis this ought to be one of the five options in the multi-option referendum.

I suspect, sir, that this option is both a familiar and relatively popular model, but although it is a somewhat obvious choice for electoral reform referendum, it has been disregarded by SACC. I

3930 will go into some detail in a moment about the reasons that they rather optimistically have put forward in terms of trying to persuade Members that this is not a sound option for the referendum.

3935 Sir, Members, the first reason why Members should support this amendment is because, really, frankly, it is perverse to conduct a once-in-a-generation referendum on the voting system in this Island where we know, and SACC admit this, that public opinion on the electoral system is already very diverse. It is perverse to conduct that kind of referendum without a modernised updated version of a system that is tried and tested and we do have previous experience of. In essence, we should not be narrowing, unreasonably, the range of options that we put to the people in the referendum in an unnecessarily partisan way.

3940 This amendment – Deputy Graham’s and mine – puts on the ballot paper a model with a form of Island-wide voting, whilst also keeping the much cherished parochial system.

Sir, the second argument in favour of this amendment is based on a significant and legitimate fear that I, and others, have about this referendum – a fear that the turnout will be too low, and that it will end up being a largely fruitless exercise if we fail to engage our community at large, properly.

3945 Holding a referendum outside of the general election in Guernsey carries real risk. I fear that unless we offer a referendum with a fair range of reasonable options and choices, we will not actually get a 40% turnout, and this whole exercise begins to look rather academic.

3950 In 2013 Jersey recorded a turnout of just 26% in their electoral reform referendum. A similar turnout figure in Guernsey in 2018 at our referendum would be simply a disaster. We need a high turnout, and we need to capture the imagination of our Island on this. We need to do everything possible to maximise turnout and voter engagement. But, the point is, sir, you do not do that by restricting the choices in the referendum, and you do not do that by running the risk of disenfranchising the not insignificant number of people in our community who are either, on the one hand, expressly sympathetic to the hybrid model that offers up district representation and an element of Island-wide representation, nor on the other hand, those who are not entirely sold on full Island-wide voting, but who also harbour serious doubts about the *status quo*.

3955 Those in the former category – perhaps best illustrated by former Deputy Roderick Matthews – may well fail to engage in the referendum if their option is nowhere to be seen on the ballot sheet on referendum day. That might well apply too in relation to the latter group. Now, I know this myself, sir; I know that I will personally struggle to get involved, or to get too excited by the referendum, if we do not get proper choices. There is no hybrid option in the five choices as it stands at present. That is a problem because SACC are going to need all the help they can get from Deputies, from the media, from community leaders and others to get the vote out next year; and it will not be easy if some prominent Members of this Assembly have zero enthusiasm for the options on offer.

3970 Deputy Graham will speak further about the levels of support for this sort of hybrid model when he speaks later, or at least I hope he will. But Deputy Graham and I both know that there is a residual sympathy for this sort of model in the parish that we represent, and that might well be not unrepresentative of the wider Island amongst middle of the road voters.

3975 So, if that is the case, why effectively disenfranchise those people when, (1) we simply do not have to do so, and (2) we simply need to maximise the turnout in whatever reasonable way we can? I have already made this point in relation to the Deputy Brouard amendment a moment ago, but it is worth adding that in the public consultation on Island-wide voting done in 2010, 31.2% of respondents, the most popular option favoured the hybrid model. Now, technically speaking, the hybrid model that was put in that consultation was of a different complexion to the one that Deputy Graham and I are proposing in amendment 1. But, in principle, the most popular option in that consultation was the hybrid model, and to not have a hybrid model in this referendum, sir, is perverse.

3980 Thirdly, I see very little merit and indeed very little public clamour for the current option C in the policy letter. I see a system of two electoral districts, with elections every two years, for half of

the Assembly each time is, frankly, a big recipe for voter fatigue and disengagement. There is no appetite for constant elections in this Island. If anybody wants to contradict me on that, feel free to do so now. I notice nobody is contradicting me, sir.

3985 Secondly, it would inevitably adversely affect the continuity of Government, and this is a point that, I think it was, Deputy Meerveld was making on the *Sunday Phone-In* last week, which is that if you have elections on that kind of timeframe it will have an adverse effect upon the continuity of Government, it will have an adverse effect upon the continuity of Committee work, it will have destabilising effects, by having elections every other year.

3990 Thirdly, it would, effectively, kill the notion of true parish representation, without doubt, as it would arbitrarily link together parishes into two big lumps whilst also manifestly not delivering a form of Island-wide voting.

All in all, sir, I think the current option C is not a credible or desirable system. It is an untested model, a somewhat theoretical model that would probably fail to inspire many, or perhaps any, cheerleaders during the referendum campaign. We know that SACC want to have different campaign teams for the referendum. I cannot see people queuing up to volunteer their services to argue passionately for option C. Again, I may be wrong and if anybody wants to contradict me right now then feel free to do so.

4000 So what it is the point of option C? It is, in my judgment, something of a make weight option, that if ever put into practical effect would – perhaps this is also true of option E, currently in the policy letter – lead to an almost constant state of electioneering, and we need that, Mr Bailiff, like a hole in the head, in my view. Therefore option C, I think, is fatally flawed and there must be serious doubts about its inclusion in the referendum on our electoral system.

4005 Now, I want to briefly turn and dispense with some of the arguments that are sometimes used against the model that Deputy Graham and I are proposing. Members might want to refresh their memories of the policy letter. It is pages 45 and 46 that are the relevant pages in that regard, and it is paragraphs 20 to 27 which really encapsulate the arguments that SACC are putting forward as to why a hybrid model is not on the ballot paper, as it were.

4010 Now, it is sometimes said, sir, in principle that it is wrong to divide a parliament into Deputies with different mandates, the argument goes that it is apparently divisive and goes against good government to have some Members with an Island-wide mandate and some with a district mandate. The argument goes that creating two classes of States' Members is detrimental to good government. Well, I think that argument is exaggerated. Deputies with different types of mandates are quite different from Deputies with different sorts of powers. Nobody here is talking about increasing the powers of the 10 Island-wide Deputies, *vis-à-vis* the other district Deputies. The 10 elected Island-wide, if this amendment is carried, are not going to have super powers. They are not going to have super powers from the moment that they are elected. In my view, you only end up with a two-tiered States, in reality, if some Deputies have different powers from others, not simply different mandates, and I think that is the key distinction.

4020 Can I just refer to two examples? Jersey is the first example. Now, there are many things, sir, that our friends and enemies in Jersey do badly in terms of politics, and many things that they do badly in terms of policy, but their distinction between Senators and Deputies ... fundamental point, sir, is that once they are elected, both the Senators and the Deputies of Jersey, they have, essentially, equal powers even if their mandates are different. Indeed, look at the current Council of Ministers – that is if it has not changed in the last 24 hours: out of 11 Ministers, only five are Island-wide elected Senators; a majority are, in fact, Deputies. Jersey Deputies, once elected, have the same powers as Senators, albeit with different mandates. That in practise is not nearly as divisive as some people assert. My own view, sir, is the reality in Jersey ... is that actually the *quasi* ministerial system of government that operates in Jersey is the real cause of division in that Island, not so much, or not at all, the distinction between Senators and Deputies.

4030 The other example I would like to give is that of the Welsh Assembly – and I do not make this point quite so vociferously, but the point I am driving at with the Welsh Assembly is: in Wales, out of 60 AMs elected to the Welsh Assembly, 40 AMs are elected from single-member

constituencies, and 20 AMs are elected from regional closed lists using an alternative vote. These 20 members are called the additional members. The point is that all AMs in the Welsh Assembly do not have the same mandates, but they are elected equally to the Assembly in terms of their powers. The obvious point, sir, is that neither Jersey nor Wales have any obvious issues with good government as far as I can see it based on a different categorisation of parliamentarian.

Sir, we can, and should, draw a distinction between having different mandates and having different powers in parliament. Nobody here in this debate is arguing for the latter upon the election of Members. Now, even if Members do not accept that, there is an alternative way of looking at this, which is, alternatively, Members do not accept or feel that that is correct, and indeed if Members believe that we should not have a system where we have two categories of Member on offer at elections, it might be worth reflecting on the possibility that we already do have different categories of States' Member; we just determine those different categories in here, in this Chamber post-election – whereas the people do not get that opportunity themselves to choose the different categories. The model that Deputy Graham and I are proposing would actually give the people some influence over the categories of States' Members that they currently do not have afforded to them.

Moreover, sir, I believe that it is important that some people in the States should be able to speak with the authority of having a full Island-wide mandate, even if some other Members have a different sort of mandate. Candidates would have to exercise their own personal preference in these matters. Diversity in the sorts of mandate that Members have, in my opinion, is not an inherently bad thing, if they have equal powers upon election.

Indeed, in the system that Deputy Graham and myself advocate we would insist that the 10 Island-wide election Deputies would be called Deputies and not something else. The district Deputies likewise should be called Deputies, and there should also be absolutely no question of the Island-wide Deputies sitting on the top bench, which is a point Deputy Graham made a moment ago – absolutely no question of the Island-wide Deputies sitting on the top bench as a matter of right because they are Island-wide Deputies.

Neither should they have any presumption in law nor in fact that a Deputy with an Island-wide mandate should by right be automatically entitled to a seat on Policy & Resources, or indeed a President's role on one of the Principal Committees; that is just not what we have in mind. The particular model that we have in mind is not going to have those kinds of things in it.

One of the other points that SACC raise in the policy letter, which is paragraph 21, is the point about the conflation of electoral popularity and suitability for senior office. I think that is a quite separate point to the point about different classes of Members, in my view. I do not accept at all that the present system that we operate at the moment avoids that conflation, because it does; there is still not an insubstantial number of people in our community who feel, even in our current system, that the top jobs in government should go to those who feature high up in the upper echelons of their districts poll. I do not believe that we will ever really get away from that conflation, regardless of what electoral system is, or is not, being used. But the point is it is not a problem that only occurs with a hybrid system; it happens under the *status quo*.

Now, the argument about the allegedly low turnout, as seen for the Conseillers election in 1997, is an argument that my Castel colleague, Deputy Dorey, often makes, and that is set out in paragraph 22. I think that is an argument that should be treated with some caution as well. We should be very slow indeed to conclude that the electoral system itself, in 1997 was the only direct cause of the lower turnout in that Conseiller election, when there are a whole variety of factors that affect turnout. We must not confuse causation with what is probably just correlation.

Finally, I just want to deal with the points in paragraphs 26 and 27 of SACC's report. Holding elections on the same day does have some implications – that is the substance of amendment 1 – but similarly holding elections on different days has other implications. We accept all of that. Deputy Graham and myself really favour holding to the concept of a General Election for the Island on one single day, but for both the Island-wide Deputies and the district Deputies. The

4085 points raised by SACC, particularly in paragraph 26 – the second sentence of that, I am not sure that is entirely valid – and I quote from paragraph 26, sir:

In addition, potential candidates for senior office who have a strong base of support in their own districts may be discouraged from seeking election island-wide, which would be in conflict with the public perception which is bound to be created that the island-wide Deputies are more senior than the district Deputies and should therefore hold the senior offices.

4090 But the recent experience, sir, certainly in the 2014 General Election in Jersey when there was marginally more competition for seats in the Senatorial election than there was in the Deputies election. There were 18 candidates for eight Senatorial seats, and 55 candidates for 29 Deputies seats. In my view, and in Deputy Graham's view, it tends to suggest that that kind of conjecture is not necessarily something that will be seen in reality.

In any event, sir, those comments in paragraphs 26 and 27 seem to elevate matters of pure conjecture and potential issues of practicality well above matters of principle, and I think that is the wrong way of looking at this, at this stage.

4095 So, sir, in conclusion, what we need to do is to offer proper choice in this referendum, and not to disregard a viable and obvious option such as this hybrid model. We know from the consultation in 2010 that a hybrid model was, at that time, the most popular option, so why entirely disregard it from the referendum now? We need to offer proper choice; primarily we need to offer proper choice to help maximise turnout, and we need to see off option C, to that end, because I do not think the current option C really helps.

4100 The final point, sir, is the complaints that are often made against the hybrid system are exaggerated and they need to be seen in the context of all of the other models which have their own defects as well. This hybrid system will give the voter that all important element of Island-wide voting, but it also combines it together with the maintenance of the parish or district link. It is a practical system, and it should be on the ballot paper in the referendum.

4105 Some Members will have their reservations about a hybrid model, we accept that, but I think most Members, in their heart of hearts, will know that this sort of option really ought to be on the ballot paper next year.

4110 **The Bailiff:** Deputy Graham, do you formally second the amendment?

Deputy Graham: ...[Inaudible]

The Bailiff: Deputy Roffey.

4115 **Deputy Roffey:** Thank you, sir. Are you calling me?

The Bailiff: I am calling you.

4120 **Deputy Roffey:** Thank you very much indeed.

The Bailiff: I thought you were standing to speak, and I was calling you.

4125 **Deputy Roffey:** It is difficult, because SACC are castigated for not including a hybrid model, and Deputy Green is quite right, we thought about hybrid models and we decided that the past experience of this Assembly with sheep and goats was not a particularly positive one, and it was probably one of the reasons why Deputies Ferbrache and Lowe's term of office was cut short, I am sure it was not because they were occupying those seats – maybe it was (*Laughter*) – but I think it was actually a general feeling that having these distinctions was not particularly helpful. Therefore we did not include a hybrid model.

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But I actually take Deputy Green's point that a hybrid model does have a degree of support in the Island. So maybe we should have considered putting one in, even though we do not believe it is the right way to go. My difficulty here, sir, is there are all sorts of different hybrid models. We have got one laid before us today. I actually think Deputy Green's second one has got advantages over his first one, but he has not laid that yet, and I also understand that there may be an amendment coming from Deputy Gollop, which echoes the second amendment of Deputy Green, but puts it in as a sixth option rather than replacing one of the five, which I actually think ... we are remarkably unanimous, SACC, but I think it is one area where I might be out of kilter, certainly with my President, and maybe with other members, that I would actually prefer that approach, to replacing option C for reasons I will go on to explain.

But we can only discuss the amendment that is before us. It does two things, it inserts this system and deletes option C, so what we have to do is compare and contrast the relative advantages and disadvantages of what is put forward in amendment 1, with option C.

So I will start with what is in the new Proposition. I realise I will probably have to stop in three minutes because you have got a meeting, and I do not think I will finish but I will carry on in the morning if that is all right. Or I can keep going. It is –

The Bailiff: I think it is probably better that you keep going

Deputy Roffey: Okay, that is fine with me. The wheels of the CPA might ground to a halt if I went on too long.

This option, I think it was described as 'familiar' by Deputy Green, very much like the old Conseiller system, but of course it is not, not at all. His second amendment is far closer to that. This is having a general election on one day where people opt to choose to stand Island-wide or in their own district – very different to the old Conseiller system.

Now, what is the likely outcome of this particular approach? It seems to me there are two possibilities. We could have the 20 strongest, most popular, most able, most dynamic States' Members and contenders to be States' Members all saying, 'We want an Island-wide mandate. We really like that big mandate. We want to offer ourselves to the whole Island,' and go in for it, and that will make for a cracking Island-wide election. But the other thing it would do would be absolutely sure that at least 10 of the most able and popular Members of this Assembly, or people trying to get into this Assembly, are lost to politics. No back door, no election in a few weeks' time.

Maybe Members feel that the abundance of talent in both this Assembly, and that last one, and the one before, means that we can afford to shed 10 or 12 really able candidates, and we will not notice the difference because there are enough good people left. I am not so convinced of that, to be honest, myself.

Or the other outcome might be absolutely the opposite. Actually a lot of the big beasts, a lot of the big hitters in this Chamber who already have really well established mandates, always come first or second in their district, think, 'Blow this for a game of soldiers, why on earth should I take this risk? I know I am going to get back in the Castel or the South East, or the Vale or wherever,' and they do not go for the Island-wide mandate, because they know that they are probably almost certain to get back.

So those of us lot, I might give it a stab, a string of us B streamers will go for the Island-wide election and be elected and no matter what Deputy Graham and Deputy Green say about, 'There should be no relationship between where your mandate comes from and the post you get,' I think a lot of people out there will be thinking those people with the big Island-wide mandate should be given big roles.

Deputy Green quoted Jersey: only five members of the Council of Ministers are senators; there are only eight senators, so five of them have made it through, so there obviously is that presumption there at the moment. I do not think that we would do it, I think we would have the discipline to elect people to those posts who had the most ability, in our view, but I think it would

actually bring the electoral system into more disrepute because people would be saying, 'We have been giving this massive Island vote to these people and therefore they should do it.'

4185 There is another outcome of this amendment doing it all in one day, of course. I do not know if people have had a chance yet to study the table that has been circulated about what would remain for the other 28.

I give way –

4190 **The Bailiff:** Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you, sir.

Yes, we have not had that circulated to us as Members; I believe it was only SACC that had that information given to them.

4195 **The Bailiff:** Thank you. Deputy –

Deputy Fallaize: Sir, I will make sure it is placed on Members' desks first thing in the morning, if I may. May I please?

4200 **The Bailiff:** I have not seen it, so I would not know. I will have a look at it later, Deputy Fallaize.

Deputy Roffey: I will explain what is in it anyway. Obviously, if 10 people are taken out of the district system, leaving 28 to be elected by district then, a bit like the Jurat arrangement for the States of Election, the population would govern who votes where, how many votes they have in their district. Now, if you are lucky and live in St Peter Port North, you will still get to elect five district Deputies, as well as being able to vote for the 10. If you happen to live in the West you are unlucky, you are the loser in this lottery, because you would go down to having only three district Deputies. *(Interjection and laughter)* That is what the formula says. It is not SACC trying to pick on the West; it is the inevitable outcome of applying the Rules after taking 10 Island-wide.

Now, of course, all 10 Island-wide Deputies might come from the West, in which case they will not have a problem; but none of them may come from the West, in which case you will only have three Members of this Assembly who will actually come from that part of the Island. I am not totally convinced that this is a good idea.

4215 Now, let me put quickly the other side of the argument. Deputy Green says you may as well stick this in because option C is a make weight, it is coming from nowhere, it is no good, there are no enthusiasts. Let me try and whip up some enthusiasm for it. You could say it is neither fish nor fowl, it is not district and it is not Island, but the dilemma, I think, that this Island has been struggling with for the last 30 years is electors want to vote for as many, ideally all, of the Members of their parliament as they possibly can. That is what they want.

At the moment, they used to only be able to vote for about a tenth, depending what district you were in, but now just about everybody votes for about a seventh of their parliament. The other six-sevenths go around doing things in their name and they say, 'I never get the chance to get rid of them, I never get chance to endorse them.'

4225 So they want Island-wide voting, but when they come to Island-wide voting, now we come back to the practical problems that Deputy Graham was talking about. History tells us, and I have been there and been through it, the 11 in St Peter Port, the 13 in St Peter Port, the 12 that originally stood for Conseillers ... actually running elections of up to about 9 or 10 people actually works fine, and getting people to choose from 20 candidates for up to 9 or 10, that works fine; 4230 you go past that threshold – and these are not my words, but I remember them being said widely throughout the Island, it is a circus, it is a lottery, it is a farce; the people at the bottom are getting in with almost no votes, so once you get to about 12, 13, 14 or more, that is the problem.

So how do you square the idea that people want to vote for as much of their parliament as they can with the fact that if you give them bucket loads of people to choose from, for bucket loads of seats, it tends to descend into a system that does not work very well. Now, option C, I

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think, is a noble attempt at compromise between those two extremes. Under option C, instead of choosing a seventh of their parliament, members of our public would choose half of their parliament. I know they would prefer to choose it all, but they will choose half under a system where they would only be voting for nine or 10 candidates, something that history tells us is entirely manageable. When there were nine in St Peter Port it worked fine, when there were 10 in St Peter Port it worked fine. So, please, do not dismiss this. Please do not dismiss this.

If you want to put in a hybrid system, if it emerges – you never know what is going to emerge from Deputy Gollop, or what does not – I think, actually, for the reasons I have said, having a two election system like the old Conseiller system is preferable, because otherwise you either get people not going for it or you lose some talent, and I think we could just about cope with a sixth option, and option C is worthy of staying there.

So, I am certainly going to vote against option 1, I am actually going to vote against Deputy Green's option 2, I think, but if Deputy Gollop comes forward with his revised version of option 2 as an extra thing to go in – please do not go to seven, but I think six we could just about cope with, and sorry to be a heretic on SACC – I think I would probably support that.

The Bailiff: Well, Members, we will rise now and I remind you the CPA, Guernsey Branch will convene here for their AGM as soon as possible.

The Assembly adjourned at 5.36 p.m.