



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Thursday, 1st August 2013

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Present:

Richard J. Collas, Esq., Bailiff and Presiding Officer

Law Officers

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

People's Deputies

St. Peter Port South

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

St. Peter Port North

Deputies M. K. Le Clerc, J. A. B. Gollop, P. A. Sherbourne,
R. Conder, M. J. Storey, E. G. Bebb, L. C. Queripel

St. Sampson

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

The Vale

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

The Castel

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

The West

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

The South-East

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

Representatives of the Island of Alderney

Alderney Representatives L. E. Jean and E. P. Arditti

The Clerk to the States of Deliberation

J Torode, Esq. (H.M. Greffier) [morning]
S. M. D. Ross, Esq. (H.M. Senior Deputy Greffier) [afternoon]

Absent at the Evocation

H.E. Roberts Esq., Q.C. (H.M. Procureur)
Deputies L. B. Queripel (*indisposé*) and B. J. E. Paint

Business transacted

Evocation 1053

Billet d'État XV

VI. Guernsey Financial Services Commission – 2012 Annual Report –
Debate concluded – Propositions as amended carried 1053

*The Assembly adjourned at 12.37 p.m.
and resumed its sitting at 2.30 p.m.*

Procedural concerning order of business 1086

Billet d'État XVI

States of Guernsey Accounts 2012 – Propositions carried 1086

Billet d'État XV

Amendment to the Copyright (Bailiwick of Guernsey) Ordinance, 2005
and the Performers' Rights (Bailiwick of Guernsey), Ordinance 2005 –
Removal of exemption for charities and non-profit organisations
in relation to sound recordings – Propositions carried 1101

VIII. Amendments to Statutory Minimum Wage arrangements
to come into force on 1st October 2013 – Propositions as amended carried 1104

Procedural concerning order of remaining business 1120

The Assembly adjourned at 5.35 p.m.

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States of Deliberation

The States met at 9.30 a.m.

[THE BAILIFF *in the Chair*]

PRAYERS

The Greffier

5 **The Greffier:** Billet d'État XV, Article VI, continuation of the debate on the –

The Bailiff: We need the roll call first, Greffier.

10 **The Greffier:** – Guernsey Financial Services Commission 2012 Annual Report.

The Bailiff: We need the roll call though, Greffier.

The Greffier: Oh, I beg your pardon. (*Laughter*)

15 **The Bailiff:** I know you were keen to get on with things! (*Laughter and interjections*)

EVOCATION

Billet d'État XV

POLICY COUNCIL

20 **Guernsey Financial Services Commission
2012 Annual Report
Debate concluded
Propositions as amended carried**

The Greffier: As I said before, continuation of debate on the States of Guernsey Financial Services Commission 2012 Annual Report.

25 **The Bailiff:** Overnight we have had an amendment, which has been circulated – proposed by Deputy St Pier and seconded by Deputy Soulsby – and I think we should start with that. (*Interjection*) Sorry, I am looking at the wrong amendment there. Sorry, Deputy Langlois, exactly, yes. I suggest we start with that amendment.

30 Deputy St Pier.

Deputy St Pier: Sir, I do not know whether Madam Comptroller wanted to advise her thoughts.

35 **The Bailiff:** Oh, yes. Do you wish to advise us on what could be the implications if the States do not approve the accounts of the Guernsey Financial Services Commission, which is the question I left you with overnight?

The Comptroller: Thank you, sir.

40 With the forbearance of the Assembly, I thought it actually might be helpful very briefly to just set a little bit of the information relating to the accounts in context with regard to the legislation.

Just very briefly, Members... It might be helpful if they were aware that this Annual Report, in fact, in containing the accounts and the Annual Report, is actually fulfilling two duties under the law, because under the Financial Services Commission Law, 1987, under section 6 of that Law there is a requirement for the Commission to provide an Annual Report which the Policy Council shall put before the States for consideration.

45 Sir, in effect, Proposition 1, which is currently before the States 'to note the Report', is a matter which is for their consideration, so the part of the Report relating to the annual –

50 **The Bailiff:** I think some people are having a little bit of difficulty hearing you. I am not sure whether –

The Comptroller: I am sorry. I have got the mike on, but I can speak louder if people cannot hear at the back. It should be okay.

55 So, in essence, sir, what I am saying is under section 6 of the Law, the Report of the Commission, which relates to Proposition 1 – Proposition 1 currently says, 'to note the Report' – is a matter which Policy Council must put before the States so that they consider the Report, and at the moment that Proposition simply says 'to note the Report'.

60 So the accounts, as such, which are put before the States to be laid before the States, that requirement of the legislation is dealt with under section 18, and that section simply states that... and I will read it because I think it may be beneficial for Members:

'The Commission shall –

(a) keep proper accounts and proper records in relation to those accounts, and

65 (b) prepare in respect of each year a statement of accounts giving a true and fair view of the state of affairs of the Commission.'

And then it continues:

'The accounts of the Commission shall be –

70 (a) audited by auditors appointed by the States, and

(b) laid before the States, in the same manner as the accounts of a committee of the States.'

Sir, that reference to 'the same manner as the accounts of a committee of the States' simply refers to the way in which the ordinary States accounts are laid.

75 Coincidentally, of course, we have accounts of the States of Guernsey before us. If Members can bear to look through another document – but obviously they do not have to – this document here, the accounts of the States, the Propositions are at page 120 and Members will note in those Propositions that exactly the same wording is used as is currently used in Proposition 2 before you in relation to the GFSC Report – namely that the States are going to be asked to decide whether they are of the opinion to approve the States of Guernsey accounts.

80 Sir, I raise that simply to demonstrate to Members that the form of wording in Proposition 2, currently before you in relation to the GFSC accounts, is historic practice. That is the form of wording that is normally used, but that is the form of wording which... It may be that the word 'approve' is what Members are perhaps slightly confused over, because they are not actually being asked to approve in the sense of saying that they agree with the manner in which the moneys have been spent; they are simply being asked to approve that these accounts give a true and fair view of the state of affairs of the Committee, and this is something that is quite common. It is used in other reports as well when they are laid before the States.

90 Sir, the other thing that I would like to just draw to Members' attention for their information is another requirement under the legislation in section 18 that may be of interest. Section 18(3) also requires that the Commission shall review each year, by independent persons, both the adequacy and application of their systems of internal control – so, a sort of corporate governance report – the application of their accounting policies; further, the effective, efficient and economical management of their assets and resources; and also that there is compliance with good corporate governance. That report is a separate report. It does not have to be laid before the States, but is submitted to the Policy Council, and page 75 of the GFSC accounts notes that that report, in accordance with the Commission Law, has been put before the Policy Council, or has already been completed.

100 So what I would like to say to Members... and I hope I have not made it too confusing, but in short, this Report before you... There are two Propositions. One is to note it, and one option for

Members could be to note it and express some form of disapproval, if they wish to do so. But Proposition 2, asking you to approve the accounts, is simply asking you to confirm that they give a true and accurate assessment of the Commission's accounts, no further. I think some of the confusion might revolve around the use of the word 'approve'. It is not implying that you approve of the manner in which those finances have been spent.

105

Sir, I hope that is of assistance. I am happy to take any questions if it is not clear.

The Bailiff: I think that is very helpful.

Are there any further points that any Members would like Madam Comptroller to clarify? No. Thank you very much.

110

In that case, Deputy St Pier will open the debate on the amendment that he is proposing.

Deputy St Pier: Thank you, sir.

Before I begin, I must declare an interest: I am a director and shareholder of a business which is regulated by the Financial Services Commission.

115

Sir, before we go any further, can I just perhaps ask the Comptroller again to confirm my understanding that, under Rule 15(1) of the Committee Rules, if this were a Committee or Department I would be required to withdraw at this point?

120

The Comptroller: Sir, we are in Assembly, so you would not be required to withdraw at this point. I know there is an amendment, I think, due to be made, but at the moment the present laws do not require you to withdraw as a Member of the Assembly.

125

Deputy St Pier: No, I was just seeking to understand the operation of the Rule in relation to Committees.

The Comptroller: In relation to Committees, were you to be declaring an interest right now, then yes.

130

Deputy St Pier: The point of mentioning this at this point, sir, is that this is one illustration of why this Rule needs amending, because this Rule appears to presume... its starting point is that all interests are bad and actually this is an example where I can share the benefit of my experience which my interest gives me for the benefit of all, and that we should allow participation at Committee meetings unless a benefit could be derived from participation. But we will return to that later at some point in relation to discussion of a different amendment.

135

Sir, I would like to welcome the Director General of the Financial Services Commission, who is sitting in the Public Gallery, William Mason. It is a pleasure to see him here. He is, of course, relatively new to Guernsey. This will be his first experience, I am sure, of the Assembly; and given yesterday's rather rancorous start to this debate, I think it is entirely appropriate that he is here today, and so I am grateful to him for that. However, it may – just to warn him – be a slightly uncomfortable ride for a little while.

140

I am moving this amendment with Deputy Langlois, I guess, in our capacity as Members of the Fiscal and Economic Policy Group, and to some extent, I guess, on behalf of Policy Council, albeit that we have not formally had the opportunity to consult with all of Policy Council.

145

Amendment:

To add a new proposition which will be numbered '3.' as follows:

'3. To direct the Policy Council in conjunction with the Commerce & Employment Department (and having particular regard to the latter's on-going work following its consultation entitled "A Regulatory Framework for the 21st Century") to review the funding mechanism for the Guernsey Financial Services Commission ("the Commission") and in particular whether the Commission could in future be funded by way of direct grant from the Treasury & Resources Department and to report back to the States accordingly by no later than 30th September 2014.'

150

155

Deputy Jones yesterday very validly made the point that we are sovereign, we are the sovereign Assembly. But this sovereign Assembly has created an independent Financial Services Commission, and in that sense it is a little bit like children: we create and give birth to our children, and from that moment on they never belong to us. (*Laughter*) We have to accept the fact that they are independent beings. We can bully them, but we can hopefully nurture them and help them become responsible adults.

160

At three o'clock this morning, sir, as some Members know, my 10-year-old came in to wake me up and she said, 'Daddy, I'm having a nightmare.' She said, 'There are ghouls and there are demons and there are big empty buildings and spiraling regulatory costs.' (*Laughter*) She said, 'Daddy, I don't know where I am,' and I said, 'Well, I think you're in the Financial Services Commission.' (*Laughter*) Actually, needless to say, though I have elaborated on that story she did come in at three o'clock this morning and she did have a nightmare, which left me awake. The point of telling the story is that I felt that I did believe that my sleep is sovereign and, as I am sure we all do with our children, I felt that this beautiful, delightful child can be incredibly frustrating at times, and particularly at three o'clock in the morning.

What we have here, sir, is a troublesome teenager. I want to just recount another story. Fifteen years ago, before I had children, I was watching a member of my family deal with their three-year-old. They said to the child, 'Go to bed,' and the child said, 'No.' The response was, 'Well, would you like ice-cream, then?' Instinctively, I felt that this was perhaps not the right... (*Laughter*) I did not have children, but instinctively it did not feel like the right way to set boundaries. I think what we have here is a troublesome teenager for whom boundaries were not set properly in 'toddlerdom', and perhaps they need resetting. That is what this amendment is about.

Yesterday, Deputies Queripel, Conder, Collins and Jones, I think, all either called for, or certainly intimated, or seemed attracted to the idea of showing their displeasure, which has been expressed in this Assembly over a number of years, by rejecting the accounts, by failing to approve them, and we have heard Madam Comptroller's explanation of the impact of that.

Deputy Langlois and I feel that it would be foolhardy beyond measure to fail to approve these accounts, and I want to explain why. I do hope that Deputies Stewart, the Chief Minister, Trotter, Perrot, Gillson, Soulsby and those others with experience of financial services will also counsel against doing so. I cannot counsel more strongly that we must not listen to the seductive and siren calls to reject these accounts. It will be used by our detractors in the Island, but probably much more importantly outside the Island, that we have threatened the independence of the regulator, and it is incredibly important that that independence is preserved. They may even go further and say that this is a demonstration that this Island is incapable of good governance, and we all know the constitutional implications of that charge being levelled against us. The reasons for that decision to not approve the accounts, as Deputy Soulsby said in her e-mail overnight, would be lost – they would not be heard; they are not interested – and we would damage the Guernsey Financial Services Commission, the reputation of it, and we would damage the reputation of this jurisdiction.

Sir, we have not spoken with the Commissioners, clearly, but I believe that to fail to approve the accounts would make their position completely untenable. Again, Deputy Harwood, as a former Commissioner himself, may well have a view on that. In my experience, if I was in that position, I would feel no choice but to resign. That would create a crisis of governance and confidence.

What I am seeking to emphasise, without hyperbole, is that the stakes are extremely high here. The only reason to reject the accounts – and I think Madam Comptroller was alluding to this in her comments – is that in some way we believe that they are flawed, perhaps because of a qualified audit report and so on. I think if we take the analogy with a company, shareholders never fail to approve accounts. However dissatisfied they are with the directors and management of a company, they will always use other tools available to them in the absence of some manifest problem to obtain the result that they are looking for.

Deputy Queripel, sir, yesterday found many things that concerned him, but the accounts *have* been properly prepared. They do come with a clean audit report, they meet accounting standards, and the fact that the Commission operates from a granite-fronted or marbled-floored building, or whatever it happens to be, are not, I am afraid, good enough reasons to reject these accounts.

Sir, the Fiscal and Economic Policy Group, and indeed the Policy Council, had advised the Commission against increasing fees at all in 2013. Again, sticking with my analogy of children, it felt a little bit like the Fiscal and Economic Policy Group and Policy Council saying to the Commission, 'Make sure you are home by midnight.' The Commission came back and said, 'Well, actually we are going to increase fees by...' I think it was 2% overall, so they were doing the equivalent of rolling in at perhaps 12.30 with a little bit of a smell of alcohol on their breath. (*Laughter*) So there have been some clear signals given to the Commission.

Deputy Brehaut yesterday asked about whether the regulatory environment was proportionate, given the changes in the environment here, particularly since 9/11. I think, in particular, he would have been referring to AML/CFT – Anti-Money Laundering and Countering the Financing of Terrorism – and that has increased substantially, as he rightly identified. However, there is a *massive* array of other initiatives which the Commission is having to handle: the EU Savings Tax

Directive (EUSD); FATCA; UK FATCA; AIFMD, (the Alternative Investment Fund Managers Directive); Basel III in relation to bank capital; the Vickers Commission on Banking; Liikanen, which is the EU equivalent; IOSCO; Moneyval; FATF; IMF; PRA. And good luck to *Hansard* in getting all of that right! (*Laughter*) What we have is an alphabet soup of quangos – the governance and democratic control over which would make Deputy Jones quake with anger and makes the EU look like a Utopia – but that is the environment in which our financial services industry operates and occupies, and those are the seas which the Commission has to navigate on behalf of this jurisdiction.

Sir, I submit that this amendment is the route by which this Assembly can direct and vent its frustration or anger, if it is that. It directs the Policy Council, working with Commerce and Employment, to review the funding mechanism. There is already a review, and again Deputy Stewart circulated last night the consultation paper on governance. Again, I would appreciate Deputies Harwood and Trott's confirmation of this.

This is not, as Deputy Jones suggested overnight, a sop. The Guernsey Financial Services Commission will not like this review at all. They will argue that it threatens their independence. As I have emphasised, their independence is essential, but the argument is it will threaten their independence. Like our analogous teenagers, they will say that we simply do not understand them.

What I submit to you, sir, is that there are other funding mechanisms that do exist in other jurisdictions. Financial regulators are funded by way of direct grants and subventions, and of course that is how the Commission was originally set up and it did receive direct grants up until about 2006, I believe, and indeed there is provision in the law for grants to be received. There is recognition in other jurisdictions that the regulators are funded from national finance ministries or treasuries. So it is possible elsewhere and I submit that we should look at – and that is all this amendment calls for: *we should look at* – its application and applicability in this jurisdiction.

If adopted, then the industry's fees would be collected on behalf of Government, not unlike the Guernsey Registry, and not by the Commission itself, and Government would set a budget for the Commission. It is not without risk, because it is of course essential that the Government ensures that the Commission is adequately funded. However, I would submit that that responsibility already exists. If the Commission has inadequate funds, it will turn to Government in any event and we would be obliged, or certainly very well advised, to ensure that that was always the case.

Sir, Deputy Jones made the point about sovereignty yesterday. I believe that if we were to reject these accounts it would be a tantrum: it would be a pointless but *very* damaging gesture. This amendment is a practical demonstration of the sovereignty to which Deputy Jones referred. It will enable us to look at whether the boundaries that I referred to can or should be withdrawn, but without threatening the essential independence of the Financial Services Commission.

Sir, Deputy Fallaize overnight has suggested that maybe there was another alternative, either in addition or as an alternative, which is some form of resolution which would be an admonition in some way. Sir, I would submit to you that that would be the equivalent of 'Go to bed. Okay, we'll have ice-cream then.'

What this resolution does, and I am sure Deputies Stewart, Trott and Harwood may well be able to confirm... In my view, I am absolutely certain that this amendment will obtain the full attention and engagement of the Commission. I have absolutely no doubt of that whatsoever.

Sir, like our teenager, this is the equivalent of saying, 'You're grounded.' Does that ensure perfect good behaviour? I am only at the beginning of teenagers – my eldest is 15 – so there are others who have far more experience of this than I do. (*Laughter*) I suspect saying, 'You're grounded' is not a guarantee to good behaviour, but providing it is not used too often – and it has never been used, I submit, by this Assembly in relation to the Commission – then it will be taken very seriously. That is what this resolution does, sir, and I commend it to the Assembly.

The Bailiff: Deputy Langlois, do you formally second the amendment and reserve your right to speak?

Deputy Langlois: I do, sir.

The Bailiff: Deputy Sillars, then I will call Deputy Queripel, Deputy Duquemin and then Deputy Soulsby.

Deputy Sillars: Sir, thank you.

This is a very important amendment, but there were times when I thought we were discussing Education's vision.

285 We cannot and must not reject these accounts. To the outside world it would be saying that the States of Guernsey does not believe that the figures are correct. The damage this would cause, both to the Commission but more importantly to our finance industry, would be incalculable. We would be saying that the States of Guernsey does not believe or trust our regulator. The outside world – and it would be fuelled by our competitors – would believe that and then they would lose trust in our regulator and the quality of our finance industry.

290 This is *not* what we are saying, I believe. We are saying that we are not happy with the accounts because of the costs. We must believe they are accurate, as they have been fully audited and comply with all UK accounting standards. It is the lack of detail and the scale of cost that is concerning; not, I suggest, the accuracy of them.

295 Simply rejecting the accounts with no consideration of the consequences I believe is foolhardy. I believe the Treasury and Resources Minister's amendment is the correct and more mature political response for us, as the States Members, to register our strength of feeling about the Commission's cavalier approach to control costs and its apparent oblivious disregard for the times of austerity that we find ourselves in.

300 This amendment does not damage our international reputation and will not damage our industry's competitiveness in the global market. At the same time, it shows action by the States to control the costs of the Commission, which a simple rejection of the Report will fail to do. By reviewing funding mechanisms for the Commission, this States can introduce a change and leave a legacy for the benefit of our community.

305 There are options out there, as highlighted in the amendment, in a number of jurisdictions. Financial services regulators are funded by direct grants from the national treasuries' finance ministries, rather than from regulatory fees levied by the regulator. In these models, the finance ministries' treasuries receive the regulatory fees due from the industry, rather than the regulator. This model of funding, where the regulator has to cut its cloth to meet its purse, is perfectly acceptable and does not threaten their independence. So let's look at our options calmly and rationally and with the benefit of proper consideration of the issues.

310 The amendment seeks a report, to report back to the Assembly by September 2014. Some may say that is too long and they will remain out of control. I disagree. I am sure the Commission will not have failed to register the strength of feeling in this Assembly, and with the review underway they will appreciate and respond to the greater scrutiny that we are imposing.

I urge Members to support this amendment.

315 Thank you.

The Bailiff: Deputy Queripel.

Deputy Lester Queripel: Thank you, sir.

320 The good news is I have decided to be pragmatic and only ask three questions. *(Laughter)* Will supporting this new Proposition 3 address the issues identified in the speech I made in this Chamber yesterday? If so, who will actually address the issues I identified and who will be given the responsibility of correcting them? And the last question: if this amendment fails, does the Minister have a plan B up his sleeve?

325 Sir, the GFSC are currently creating waves of demoralisation which are rippling through the finance industry, and I do not think that is acceptable. The finance industry is the *only* industry that makes our Island any real money. Therefore I think it is time –

Deputy Kuttelwascher: A point of order, sir.

330 He has already spoken in general terms and this is going off track, I think.

The Bailiff: Are you speaking on the amendment, Deputy Queripel?

Deputy Lester Queripel: Well, I thought I was, sir. I have only got two more sentences, sir.

The Bailiff: Okay.

Deputy Lester Queripel: *Short sentences. (Laughter and interjections)*

340 Sir, I think with the spiralling costs of the GFSC it is time they were brought under control. At the moment I cannot see this amendment doing that, but I hope I am wrong, sir.

Thank you.

The Bailiff: Thank you.
Deputy Duquemin and then Deputy Soulsby.

345 **Deputy Duquemin:** Thank you, Mr Bailiff.

I will speak in support of the amendment and I will also speak in general debate.

Deputy Luxon touched on a point yesterday when he expressed that often people were tongue-tied between GFSC and GFC – the Guernsey Financial Services Commission and the Guernsey Football Club. Perhaps my wife, who works in the finance industry, has the same nightmares at 350 three o'clock that the Treasury and Resources Minister has because she often asks me, when I return from Footes Lane, how GFSC have got on. I mention this only to say that the last thing she said to me, only about a week or so ago, was have I renewed my GFSC season ticket. That is perhaps pertinent, because for business the cost of a GFSC season ticket is going up and up.

355 But, to continue the football analogy, I think I would like to be one of those people who stand in support of GFSC, because in a way this is a Report of two halves. We often ignore the fact that the first half of this Report is a glowing testimony to the good work that is done by the Commission, and I think that needs to be stressed. GIBA themselves, in their open letter to all Members of this Assembly, admitted in their first bullet point that the financial services regulator is a key part of the Island's economic environment and strategy.'

360 Sir, on our own Government website we talk about the fact that Guernsey has built a reputation for being well regulated, co-operative and transparent, and that this is reinforced by the fact that external agencies, such as the IMF and the OECD, have often continually placed Guernsey in the very top tier of international finance centres globally, and that is largely because of regulation.

365 Guernsey Finance themselves have spoken about, recognised and commended Guernsey's high standards of financial regulation in their own document. Perhaps the most pertinent examples come from the industry itself. Often the industry itself makes comments about the importance of the regulator. I think we need to add this to Deputy Brehaut's request yesterday for proportionality and perspective. We do need to recognise this.

370 The Guernsey Financial Services Commission is a fantastic asset to this Island. I did a very quick trawl of a few websites this morning of companies in the industry, and these are two very simple quotes. One said:

375 'Guernsey's finance industry is regulated by the Guernsey Financial Services Commission. This autonomous, non-governmental entity guarantees that the industry continues to meet international standards. It also takes a pragmatic approach, thus assisting in maintaining Guernsey's position as one of the leading offshore centres in the world.'

Another asked the question:

380 'Why Guernsey? Guernsey is a well-regulated British Crown Dependency and remains a jurisdiction of choice. Guernsey has long been considered a centre of excellence. All aspects of the Island's financial services industry are carefully regulated by the Guernsey Financial Services Commission.'

385 As I say, this is a Report of two halves. The industry, I think Government and I think the Island in general, have no question of the quality of work that is being completed by the Guernsey Financial Services Commission, and in many ways – to use another football analogy – it is one thing that keeps us in the premier league of offshore centres.

So the question can only be one of cost, and I think this is one thing which is addressed, importantly by the speeches yesterday, but also by this amendment, and that is what it is trying to address.

390 On that subject, it does then boil down to competitiveness. The fact is that the costs of regulation have gone up almost exponentially over previous years. Those costs are passed on, not only to the companies that are paying the fees but also the end clients, and we cannot afford for that to continue. The cost of regulation, whilst not wanting to undermine the job that has also been done by the regulators, is not solely just on the fees. My wife assured me that one of the growing 395 industries in Guernsey is compliance, and these people do a job that often they are not able to recoup fees back on from clients, and it is a non-profit centre for these businesses.

So in many ways I think the amendment strikes a wonderful balance to the question of the Report of two halves. It says to the Guernsey Financial Services Commission, 'Go away, carry on doing the good work that you are doing, but all we want to do is we want to have some control of 400 the fees, some control of the budget,' and we can perhaps be in a place to control that.

So I support the amendment. I will obviously be approving the accounts, and I think I endorse everything that the Treasury Minister and others have said about the importance of doing that, but

we *must* in future have a season ticket that those in the financial services industry can afford from the Guernsey Financial Services Commission.

405 Thank you.

The Bailiff: Thank you.

I was going to call next Deputy Soulsby, followed by Deputy Trott and then Deputy Perrot, but just before I do I have had an enquiry as to whether we are debating the amendment separately or within general debate. My intention was that we debate the amendment separately, but of course I cannot prevent Members speaking generally if they wish to do so during the course of what they wish to say on the amendment. Otherwise, I was intending it would be a separate debate.

410 Deputy Soulsby.

Deputy Soulsby: Sir, I totally support this amendment and endorse the comments of Deputy St Pier. With a 12-year-old and a 14-year-old, I think his analogy very apt and it made me think that perhaps we should be grateful we do not have *two* financial services regulators to control at the same time!

415 Clearly, the costs at the GFSC have spiralled and we owe it to our financial services industry to be proactive. I know I created waves when I spoke about my concerns last year, as did Deputy Conder, and despite that, costs have continued to escalate.

The Guernsey International Business Association have openly voiced their concerns this year – the first time I have known them to state them so explicitly. Yes, there should be friction between a regulator and who it regulates – there would be a real problem if you had a cosy relationship; however, GIBA made it abundantly clear that they wanted to see something done, and in the form of what I considered a very constructive letter.

420 We must show leadership now and consider whether we have the balance right, and that means taking a constructive, positive role; not a negative one by not approving accounts.

I support this amendment seeking to review how the GFSC is funded to help ensure our industry has long-term sustainability, and urge all other Members to do so.

The Bailiff: Thank you.

425 Deputy Trott.

Deputy Trott: Thank you, sir.

430 There were some excellent speeches yesterday, when we were in general debate, from the likes of Deputies Queripel, Conder and Jones, who in my view sought to represent the views and comments made to them during their everyday duties as Members of this Assembly.

Sir, I need to make a declaration: I am a qualified and regulated director of a fiduciary company, a fund administration company and of a listed entity.

435 Sir, I will not say anything in this debate that I have not said or would not say directly to the Commissioners and their senior executives; and I start, sir, by saying that, for good governance purposes, Members should note that the Chief Minister was Chairman of the GFSC for one twelfth of the accounting period under review.

440 Sir, last year I made a speech at this very time, whilst debating the GFSC's financial statements, where I focused on whether our Commissioners could actually determine whether the accounts that they had approved were indeed a true and fair view. The argument I made was that the Commissioners need to understand all aspects of the figures that are contained within their annual financial statements, including of course the legal costs. The point I went on to elaborate on was if they are not provided with all of the information associated with that legal action, then it is not possible for them to determine with any accuracy whether they can be certain that the accrual in the accounts for any future legal expenses associated with existing action was reasonable. As a result of those comments, sir, I voted *against* noting the financial statements – not against the financial statements, but against noting them – for the reasons that have been articulated in this Assembly this morning and overnight by others.

445 Sir, I confess to being a little disappointed at how few Members of this Assembly attended the briefing given by the GFSC on these accounts. The opportunity to ask interrogative questions was there for us, and I can assure Members that I did precisely that, as did many others present. One of the messages, *strong* messages, to come from that presentation was the GFSC's determination to cap expenditure during *this* financial year – the calendar year 2013 – at 2% per annum. Now, that is laudable, sir. If that objective is attained I will be very pleased, because that is likely to come in at under the levels of inflation. What it tells me, sir, is that the Commissioners do recognise the industry concerns.

465 The GFSC also has the luxury of nearly £7 million of liquidity. We are told in the accounts that most of that is in certificates of deposit, which are to all intents and purposes as liquid as cash, and they have those reserves to fall back on should they require. But they did not stop there, sir, in making bland comments about the 2% cap. They went on to explain how that is likely to be achieved, and they believe that the introduction and the recruitment to the Enforcement Division will help drive down legal costs; and that, sir, would be most welcome, because it is the legal costs, after salaries, that has been the most aggressive growth area in recent years.

470 One of the things the Assembly needs to be conscious of is not only the international message that we would give if we voted against the accounts, but also of course the potential consequences of such action with regard to the Commissioners themselves. My belief is that the Commissioners would see it as a vote of no confidence. Whether that is true or not is a moot point, but they would almost certainly tender their resignations and that would cause us some headache. And I can tell you why, sir: it is no easy task finding Commissioners of the quality that we have.

475 One of my concerns though, notwithstanding quality – and I think Deputy Perrot alluded to this yesterday in terms of the fact that individually these people are of extremely high calibre – is there is something about becoming a Commissioner that I have never quite understood: they seem to go native the moment they walk in through the door, and having expressed concerns *prior* to their election as Commissioners with regard to costs, that is the last we hear of them, sir, and indeed the costs, as others have articulated, continue to rise. So that is something that I do not understand, and I suppose unless one is on the inside looking out one never will. Fortunately, the Chief Minister has been in that position and I very much hope that he will help me, sir, in understanding that phenomenon when he speaks.

485 Sir, with regard to Commissioners' fees, Commissioners' fees, as others have said, are not generous – let's be clear about that, if nothing else: Commissioners' fees are normal. They are within the normal range for duties of this type and complexity. Whether or not some of the executive salaries are appropriate is of course a matter that I am not in a position to comment on, for the reasons given yesterday by Deputy Lester Queripel: we are not given that information within the financial statements; and there may be good reason for that, sir, but it is not immediately obvious to me.

490 Sir, one of the other issues that came out of the presentation was the new Director General and his team's decision to introduce an Innovation Section – a section where industry will be able to go along and speak with regard to any ideas that they have about how best to innovate and how to develop the entrepreneurial flair that they have in driving their businesses forward. If that works well, then we will be in a better place. The problem is, of course, that we will be losing, at the end of this month to all intents and purposes, the Head of the Finance Sector Development Unit – which is autonomous, of course, of the GFSC – Jarrod Cowley-Grimmond, who has done a simply outstanding job (**Several Members:** Hear, hear.) and those shoes are going to be particularly difficult to fill. I am also told, sir, by the Director General and his team, that various IT initiatives *et al* will result in a speeding up of the approval process, and the more rapid the approval process is, particularly for the funds sector, the better.

495 Sir, I would like to finish by saying not only do I intend to support this amendment, but also I want to make a point that I have made publicly on two previous occasions but I would like recorded in *Hansard*, and that is the journey that we have been on over the last four or five years has resulted in a quite extraordinary circumstance. If you take what Jersey spends on the promotion of financial services and the regulation of financial services, you will arrive at a conclusion that about three quarters of that spend is on regulation and about one quarter on promotion. Here in Guernsey, over 90% of that aggregate figure is spent on regulation and a miserly 10% or thereabouts on promotion. That, sir, as I have been quoted as saying, is the politics of the asylum. It is absolute *madness* to have so little spent on promotion, particularly as a percentage reflected in the manner which I have.

500 My final comments though are with regard to the international environment that the GFSC has been operating in, really since the start of the financial crisis, which disappointingly coincided almost exactly with the start of my term as Chief Minister, sir, (*Laughter*) and all the problems that came with it. The GFSC has had to adapt, as all regulatory bodies have, and as a result of that adaptation to greater levels of external pressure, it was *absolutely* inevitable that the cost of regulation and the cost of providing that regulation was going to rise, and I think most in the industry would accept that. The problem is – and the Commissioners themselves are the very first to make this point – those costs have risen *far* faster and *far* higher than anyone could have reasonably expected; hence their decision to cap expenditure at 2%. I wish them luck with that initiative, sir, and would hope that they will go away from this discussion, this debate today, in the knowledge that whilst we are rightly critical and that is our role, we are also by and large

525 supportive of the excellent work they do in ensuring that Guernsey remains very much at the top
of the premier league of financial services jurisdictions.
Thank you, sir.

The Bailiff: Thank you.
530 Next, Deputy Perrot, and then Deputy Green.

Deputy Perrot: Every time I stand up, Deputy Wilkie walks out. (*Laughter and interjections*)
I congratulate Deputies St Pier and Langlois on their initiative in bringing this amendment,
535 because yesterday's debate was getting slightly hot under the collar, and a vote in respect of not
accepting the accounts would have done untold damage. That is still a possibility, but it would
have done untold damage not simply in respect of the issue of whether the Commission is
independent, but I think it would make people overseas think that there might be something nasty
in our financial woodshed. I simply do not think that that is acceptable.

540 Could I also congratulate Deputy St Pier on another cracking good speech? We have had a
number of them over the last couple of days.

So I very much support this amendment, but I do see the Department of Commerce and
Employment's rôle as perhaps being rather more important, and I say that simply because the
Policy Council here will be led by the Chief Minister. I yield to no-one in my admiration of the
545 Chief Minister, but he does have form here (*Laughter*) in that he was the Chairman of the
Guernsey Financial Services Commission. I think that actually it might help, if this amendment is
passed, if he would kindly sit back from this and perhaps if the Policy Council could be led by the
Deputy Chief Minister so that there cannot seem to be any idea of bias or non-confrontation in
respect of the Policy Council.

550 As to what is being proposed by way of the possibility of a grant, there is in fact historical
precedent for it, because although it is very difficult to imagine it now, before we had a Guernsey
Financial Services Commission we had one chap, and that was Bruce Riley, who was the
Commercial Relations Adviser. His post was then taken on by John Roper, and it was John Roper
who set up from nothing... I see that my friend, Mr Trott, likes to use Latin now; he used *et al*
555 earlier on. He created something *in vacuo*, (*Laughter*) and of course – thank you very much for the
useful interruption (*Laughter*) – there was no money, as I understand it, at that time from which to
create the Commission. So I think I am right in remembering that the Commission actually was
subvented by a grant in the early days, and in fact the Commission did extraordinarily well in
those days because it was under the then Director of Insurance that Guernsey firmly established
itself as a captive management and captive insurance centre.

560 So I accept that the Commission must remain completely independent, but not at any cost. The
costs must be reined in and I would see this amendment as making sure that that is done. But
whereas Deputy Duquemin said the only question is one of costs, I do not accept that. I think there
is another question too, and the question is one of the zeal in the past, on behalf of the
Commission, for excessive regulation, for regulation to a platinum standard, and I would hope that
565 actually that problem might be dealt with in respect of the review which is being carried out now
by the Commerce and Employment Department.

One last thing: Deputy Trott was being a little bit superior earlier on when he was deprecating
the fact that not all of us turned up at the presentation by the Commission. Can I just say that I
570 have now got presentation impatience, so I only go along to presentations where I really think it is
necessary? And although Deputy Trott said it would have been an opportunity to ask interrogative
questions... Are there any other sorts of questions than interrogative questions? (*Laughter*) Perhaps
rhetorical questions, I do not know... I think that the questions which I have and the lack of
answers to them are actually set out in the Commission's Report.

575 **The Bailiff:** Deputy Green and then Deputy Stewart.

Deputy Green: Sir and Members, I will speak on the amendment and generally, but I will be
relatively brief.

580 I entirely support this amendment. I support the review. I think this is exactly the correct
reaction – a proportionate, pragmatic reaction to the concerns that we heard about yesterday. And
yesterday we did hear some very good speeches from a number of people – Deputy Conder,
Deputy Queripel – and the expression of concern and worries about the costs and all the rest of it
were made in good faith. They were good-faith criticisms and it can be very satisfying to make
585 those kind of criticisms. Who doesn't enjoy lobbing a few broadsides at the regulator? It is human
nature, almost, to want to have a pop at the Guernsey Financial Services Commission, but let us

not overreact. The points have been made and I think they have heard them loud and clear, and let's certainly not open the Pandora's Box of failing to approve these accounts, because I think that would be seriously a misjudgement for this Assembly to do today.

590 One of the great advantages of Guernsey as a jurisdiction for financial services is the fact that we enjoy and have enjoyed for many years political and economic stability, and we must do all that we can to maintain that, both in reality and in perception. Deputy Perrot and Deputy Trott used some Latin, so I am going to use some Latin as well. The reputation of our financial services sector, and indeed the regulator, is a *sine qua non*, in many ways, of our economic prosperity. It is an essential element of it, it is everything, and we must make sure that we guard against doing 595 anything to damage that reputation or to damage our political and economic stability. That means that we cannot be seen and must not be seen to be threatening the independence of the regulator.

Our job here is to look at the policy and the strategy of financial services and the way we regulate it, but not to cross that line. Yes, there are legitimate issues about the cost and the burden of regulation and the consequence upon competitiveness, but let's not overreact; let's not open the Pandora's Box. 600

I support the amendment, and let's approve the accounts today.

The Bailiff: Deputy Stewart, then Deputy Luxon and Deputy Gollop.

605 **Deputy Stewart:** Mr Bailiff, I rise to speak to the amendment. I reserve my right to speak in the general debate later.

Firstly, if I could also reiterate the words of my fellow Deputies that to reject these accounts, to vote against them, would be extremely damaging for Guernsey's reputation, and our competitors would absolutely love that – and with the lot of noise that is going on around international finance 610 centers it would be disastrous.

What I would say is this amendment – and I really rise to put a little bit more flesh on the bones of this amendment – does give us a way to look at the funding.

615 What we discuss today... and the GFSC are listening and listening now very carefully, but what I will assure Members is that this work is going on all year round, and to demonstrate that, Commerce and Employment has a report on the funding mechanisms for the GFSC which just requires a few finishing touches; so in fact most of the work that is alluded to in this, where we state in the amendment 'could in future be funded by way of direct grant from the Treasury and Resources Department', nearly all of that work has already been done by the Commerce and Employment Department and it needs a few finishing touches... so by way of demonstrating that it 620 is not just what we do in the Assembly, but the Financial Sector Development Unit already has carried out some of these appraisals.

I too had a sleepless night actually, but that was mainly because I sat up reading financial supervision papers written by the IMF and OECD.

625 What I will say is that a funding mechanism by direct grant, in my view, and it is also the opinion of the head of my Financial Sector Development Unit, does not threaten the independence in any way, shape or form of the Guernsey Financial Services Commission. I think there are two key principles in independence: one is operational independence; and the second one is that they do have adequate resources to carry out their work, and I will speak more on that in general debate. So I do not believe that this amendment would in any way threaten their independence.

630 Other jurisdictions, as mentioned in the explanatory note, are funded in this way, so I would pick one from everywhere, really. For example, if you look at a Crown dependency, the Isle of Man is funded by a direct grant from central government; if you want to look at an Overseas Territory, that would be the Cayman Islands; and if we want to look at a member of the OECD, then Australia would be one of those. This is not an exhaustive list, but just by demonstration that 635 this already is the way that some are funded.

I would urge you to support this amendment and I will speak later, in general debate, more about the work of Commerce and Employment.

The Bailiff: Deputy Luxon.

640 **Deputy Luxon:** Sir, thank you.

I welcome and support fully this amendment and thank Deputies St Pier and Langlois for reflecting on the mood of this Assembly yesterday.

645 Sir, I do not want to undermine the GFSC, but this bruising is the result of previous shots across their bows that have been ignored. The GFSC can be in no doubt that this States of Deliberation intends to guard the guards.

650 Sir, we want and need an excellent regulatory body for our vitally important international finance sector. We want the very best people in the GFSC doing an excellent job and we should be prepared to pay top market dollar to recruit and retain these people. We want a stable, credible, reasonable regulatory regime, *but* we also want it to be proportionate, relevant, contextualised with Guernsey's small scale, efficient, cost effective and good value.

655 The GFSC should be looking to minimise revenues rather than maximising them through the charges to businesses they are regulating. These businesses are now competing in a very competitive global market place, and by controlling and reviewing the GFSC's own cost base, they can actually help our industry grow share and help our economy. Sir, I think the States of Deliberation want this action now.

660 Sir, I did not agree with Deputy Trott's comfort with a 2% cap on expenditure increases. I recognise that to start, but to me that feels like a light scratch on the itch rather than a meaningful deep cut *per se*. With the will – and I wish the new Director General and his team well – I believe that the GFSC *can* provide a cost-efficient service and allow us to still be regarded as highly as we are on the international finance stage.

I fully support the amendment.

Thank you, sir.

665 **The Bailiff:** Deputy Gollop, then Deputy Storey and Deputy Langlois.

Deputy Gollop: Thank you, sir.

670 I entirely agree that we should be measured in our approach and not do something that could be misinterpreted, especially now that what we do is recorded, broadcast and might be picked up in a wrong way by the media. So I urge people to not only vote for the Propositions, but to support the amendment.

I will speak, to a limited extent, generally as well.

675 Deputy Queripel identified the lease commitments as an issue in his speech yesterday and there is an intriguing point on note 10, which is that the Commission leased office accommodation at Glatigny Court when Le Marchant House ceased.

'The lease for Glatigny Court expires on 16 September 2034 and the rental payable in 2012 under the terms of the lease amounts to £646,338 (2011: £679,820).'

680 Yet underneath the figures it suggests that the same amount was paid for the two years. That appears to be an error in the accounts.

685 Nevertheless, to give more of a positive, it would appear that the new all-singing, all-dancing, marble-suite buildings are £33,000 less in quantum costs than the previous premises, and the previous premises of course were even closer to the heart of town. So one has to be cautious in making quick judgements, but nevertheless there is apparently a minor discrepancy in those accounts.

690 That is a micropoint and does not in any way question the impact of where we are going, and I indeed liked Deputy Duquemin's analogy. I remember I and Deputy Stewart participated in a comedy stand-up event and we were both beaten by somebody who made an amazing joke comparing the GFC with the GFSC, about scoring and winning, and of course the GFSC came out badly in the context of a joke, attended by mostly members of the industry.

695 But actually, Deputy Duquemin is right. I was thinking this morning: where would we be if it had not been for the strength, over the last 20 years, of the Guernsey Financial Services Commission? Would we have some less-than-desirable players in the industry? Would we have scandals? Would we have been given critical comments by the OECD, the IMF, the United Kingdom, Europe? We have survived with pride. We have done better during the recession than most other places. That has to be a tribute to the model that we have had, and we should not forget that.

700 Nevertheless, what I think is important is Deputy St Pier and Deputy Stewart have identified areas where things are done differently, such as the Isle of Man, but I took a look at the Jersey Financial Services Commission report. It made interesting reading. They have got rather more commissioners there for a start, but the fees that they pay commissioners are in fact somewhat less: the chairman there in 2012 got £48,000; the deputy chairman, £27,000. Our fees are a little bit higher, but I should make a point here that when the Chief Minister was Chairman he definitely was good value for money, (*Laughter*) and it was, of course, a lower sum at that time.

705 The other intriguing aspect of this was that in Jersey it incorporates the company registry, which is a separate entity here, but intriguingly enough, the regulatory income, taking aside the

710 registry fees, which is separate in Jersey, is £10,487,000 – somewhat less than the Guernsey
figure; and the number of staff that they have in Jersey is 117, compared to our 107, but as they
include the registry, which in Guernsey employs eight people, a comparable figure might be 115 to
117. Given, unfortunately, the Jersey industry is generally bigger than ours, includes more banking
715 entities that require stiffer regulation, and of course they have a population of 98,000, I think the
case could be made that the Guernsey Commission has more staff than the Jersey one and
therefore perhaps could look to its costs and to its fees in relation to our principal pan-Channel
Island competition.

Turning to the amendment though, it would appear, a bit like the Aurigny debate, that
720 decisions have already been made and that the direction of travel the amendment sends the
Assembly in has already been looked at by Commerce and Employment. I think Commerce and
Employment has difficulties in this area, in that it is such a vast Department with so many
responsibilities, and I note too in Jersey the Chief Minister, who has a Department and Assistant
Chief Ministers, has taken a greater responsibility for the oversight of financial services, which is
another point perhaps to take on board.

725 But this amendment actually does not in itself challenge the costs of the GFSC or even the cost
to the industry, but suggests we look at a new model – the new model being a direct grant from
Treasury. I have concerns about that because it could well be that, when we are allocating finance,
the Treasury and Resources Department would have to look to taking money from other aspects of
the public sector for a rising cost base at the Financial Services Commission, and we would also
politicise the raising of fees.

730 So I do not think it is necessarily a panacea, and the amendment actually goes to a different
place than just questioning the costs and the scale of regulation. Nevertheless, I think, as an
alternative to voting against the accounts and doing nothing – because effectively we had a similar
debate last year and the Policy Council and the other Departments did not initially get on with the
job – I think it is a useful place to go.

735 As I identified perhaps yesterday, the Scrutiny Committee's decision to look into the subject
and then drop the report was unfortunate in one sense, because I would have relished to see the
Chairman of Scrutiny, Mr Arditti, and his team interrogate – if that is the right questions that
Deputy Perrot raised – members of the GFSC in a spirit of constructive dialogue to ensure that the
industry's views and the consumers' views were put across at the same time.

740 So, with reservations, I urge you to support the amendment.

Alderney Representative Arditti: Sir, a point of correction: the Scrutiny Committee has not
745 *dropped* any review, it has not *dropped* its review about who regulates the regulator; it has simply
suspended it so as not to duplicate the expenditure of taxpayers' resources. It has suspended it, sir,
while the Commerce and Employment Department do what appears to be a duplication but may or
may not turn out to be so.

Thank you, sir.

The Bailiff: Thank you, Alderney Representative Arditti.
750 Deputy Storey.

Deputy Storey: Thank you, sir.

First of all, I would like to speak on the amendment and generally, if I may, sir.

755 But first of all, I would like to congratulate the Minister of Treasury and Resources for moving
this amendment because I think it is going to be very useful, and also for his fantastic speech
introducing the amendment, because not only was it informative but it was amusing and kept our
attention while he was speaking, so I appreciate your presentation.

760 I do believe, sir, that just looking at the finances is not the whole picture, and in that regard
perhaps a short thing on the recent history of GFSC, because in its earlier days it seemed to get
involved in assisting the industry in developing new products, and that has been dropped. It has
stopped its contributions to the Guernsey Training Agency. That was set up in the first instance to
provide training for people who were going to staff the finance industry. The reason given in both
cases was that it was not an appropriate thing for a regulator to do, but I cannot see how you can
possibly argue that ensuring that people working in the finance industry have adequate training is
765 not something that the GFSC would be interested in. In fact, I would have thought that that is one
of the areas in which they were most concerned that the people who were running the businesses
had adequate training. So, as a result, the GTA has lost £400,000, the GFSC has not only put their
fees up but they have also pocketed £400,000 that would have previously been paid to the GTA to
support training in the industry.

770 I look at the Chairman's statement in the Annual Report. On page 7, he says:

'In all that we do, we will have regard to the needs of the Bailiwick, its residents and of international regulatory expectations... We will seek to form judgements as to the risks which the firms we regulate present to the Bailiwick and to mitigate risks which we reasonably regard as unacceptable whilst helping to facilitate innovation in the financial sector.'

775

To me there is a complete disconnect with their recent behaviour and what the Chairman is saying in his report, and I think this is an area where we, as the States, need to get involved.

780 We have had plenty of comments about the level of increases in the staff and costs, and one wonders how... We, in our various Departments, are having to look very carefully at how we trim our costs to meet the financial circumstances. There does not appear to be a great deal of that going on in the GFSC. The argument has always been that increases in charges and the costs they incur, and therefore the charges they need to levy on regulated businesses, are due to increased regulation requirements, which in turn are due to international requirements. But that does not mean that they cannot be looking at ways to more effectively produce the results that they are.

785

Sir, the companies that are operating in the financial sector have been complaining for a couple of years now, or more, about both the degree of regulation and the escalation of the fees costs. In fact, it has quite often been said that the GFSC is much too enthusiastic in their application of the regulations – which, let's face it, is another cost for the regulated companies. It is not just the fee they pay for their season ticket, as Deputy Duquemin has mentioned; it is the costs associated with complying with all these additional regulations.

790

I look further into the Chairman's statement and on page 6, I think it is, because there is no number on the page:

795

'The Commission will need to improve its effectiveness and needs to develop into a leaner organisation, shifting the emphasis from administering to assessing risk and applying the regulations relevant to Guernsey and its reputation.'

800 So at least there seems to be some nod in the direction of needing a leaner organisation in the future; and I trust, sir, that these are not just meaningless words but they will actually be acted upon in the not-too-distant future.

800

Sir, industry does need more support and assistance from the Guernsey Financial Services Commission and I do not see that that is a contradiction of its rôle as a regulator, but it is not just the GFSC's fault if what they are doing now is not what we would consider, as a Parliament, to be appropriate. The Government needs to be involved more directly in the activities... well, not the day-to-day activities, but in what the GFSC is about, and I think that is where we have been failing in the past.

805

There is a piece which I would entirely agree with in the Director General's statement on page 10, I think it is, where he says:

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'It is for the States to set the Commission's objectives, and it is for the Commission to deliver those objectives without interference.'

It goes on to say, sir:

815

'Advanced economies recognise that government should not undertake financial services regulation. The business of government is not about the practice of regulation, but it does include establishing the regulator's objectives and prescribing its functions.'

820 If we are so dissatisfied – and I am one of those – with the outcomes we have and how it affects industry, then this Assembly, this Government, is also partly to blame because who provides this direction and guidance? It is us. So I am looking with great interest to the review by Commerce and Employment Department, because that is something which was instituted when I was a Member of Commerce and Employment in the last term and I echo the compliments paid to Mr Cowley-Grimmond in this respect because I think he has done a fantastic job in this area. But at the end of the day it is up to this States of Deliberation to provide that guidance of what we expect from the GFSC. At the end of the day it is this Assembly that appoints the Commissioners, and if they do not follow our guidance then the only opportunity from us is that they should go. It is no good arguing that they are not performing their duties properly if we have not given them full and proper guidance.

825

830 Sir, whilst I will support entirely the amendment before us, I do look to the Commerce and Employment review to solve some of these problems that we have with the relationship between this States of Assembly and the GFSC. Thank you, sir.

The Bailiff: Thank you.

Next, Deputy Langlois, to be followed by Deputy Lowe and Deputy David Jones.

835

Deputy Langlois: Thank you, sir.

I speak in general debate as well.

The main points, the main direction relating to particularly the amendment, have been made, and as seconder I would like to reinforce some of them.

840

I speak more with a wider experience of the implications here. I am a member of FEPG and I am a member of the External Relations Group, and for many years in business advised companies in the financial services sector on organisational issues during a time when they were, some would say, battling with the burgeoning load of regulation. That is not a criticism of GFSC; that is just a reality in the modern world.

845

The financial services industry equation between the industry, the international industry, its customers and the regulator is absolutely critical, and it is critical to this Island. It establishes our international positioning, our international market positioning, and the way it works determines what organisations can and cannot do without damaging us unduly.

850

The Comptroller's explanation has told us what we are approving with that word 'approve', and my understanding is that we are simply saying that we accept the accounts have been put together properly, that we may not like what we see in them but we have no evidence that they do not represent the true and fair view signed off by independent auditors. That is actually repeated on page 42 of the Report.

855

Just picking up on some of the comments, a number of Deputies, sir, have made supportive comments, listened carefully to what Deputy Sillars said, what Deputy Duquemin said, what Deputy Trott said – because it *does* matter here that they are saying the right things about the industry, the right things about the need for us to move forward effectively.

860

A couple of points out of those speeches were that... I would emphasise what Deputy Trott was saying about the onerous nature of the Commissioners' work these days, and in fact at that presentation the Chairman gave some frightening statistics on the volume of reading. You think *we* have got a problem in terms of volume of reading. The sort of international documents that are coming out that the Commissioners have to be familiar with are just absolutely monumental.

865

Deputy Trott also referred to the complex international environment. I do not know how he knows much about that because he is quite a stay-at-home lad, really; (*Laughter*) but he nevertheless seemed to think it was important.

So, in conclusion, sir, we cannot *not* approve these accounts today in the sense laid out by the Comptroller at the start of the debate. This amendment will undoubtedly get the attention of the Commissioners and of the senior staff team at the Commission, and make no mistake about it, we need high-quality independent regulation for this Island to continue to prosper in the way it has.

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The Bailiff: Deputy Lowe.

Deputy Lowe: Thank you, sir.

875

I too obviously share concerns about the untold damage that this is actually sending out across the world – and it *is* across the world, because the media websites, which are looked at by many people to see what is actually happening in Guernsey... the headline for today is 'GFSC accounts concerns'. Of course, there is nothing in the background of that for people who are looking on the web to see what is happening here in Guernsey, and we are sending out that message – sadly, because I believe there was no need for that message to go out. If you look at page 1087 in your Billet – or page 89 electronically, if you are looking on your iPad – it actually says in the covering letter from Policy Council:

880

'It should be noted that the Policy Council has concerns with the apparent rising cost base of the Commission.'

885

It then goes on to say:

'The Policy Council considers that both the States and industry expectation would be for the Commission to restrain and possibly reduce expenditure pressures going forward.'

890

So we have already sent out that message, via Policy Council, into the world, and indeed to the States here, by having this. What is missing: what have Policy Council done about it? This amendment should have been Proposition 3 if they really believe that actually that is what should have happened, because I ask the question, and I would like answers when it is summed up. I am not sure whether it will be Deputy St Pier or the Chief Minister.

895 It says here, ‘To direct the Policy Council in conjunction with the Commerce & Employment’
 etc to have this review. Why are they directing themselves? They meet with the GFSC annually, or
 they did; I would like to hope that they still do – the full Policy Council meet with GFSC annually.
 There used to be some very strong exchanges about the rising costs then, and I am sure and I
 would hope that that would still be in place with sending that message. It must be, because it is in
 900 the covering letter from Policy Council. So it has already been said that they have got concerns
 about rising costs with the Commission. They have met with the Commission. The Commission
 would hopefully have listened to that – because they would not be best pleased, I guess, that it is
 actually here in a States Report that they are not very happy about the rising costs.

905 Sir, my point being that Policy Council have met them and I want to know why this was not
 suggested at the time to the GFSC, or indeed what they suggested to the GFSC of the actions they
 were going to take, because if they had actually put this amendment as part of the Report and said,
 ‘and we are going to do this’, we would not have this bad publicity that is already out there in the
 outside world.

910 Policy Council, you have let us down. This should have been in this States’ Report. You
 should have been telling us what you are going to be doing, not saying, ‘They are bad, they are
 naughty, the costs are rising,’ and then leave it to the floor of the House to give the criticism that
 actually we are saying about we have got concerns about the accounts. So those are my concerns
 on that.

915 The amendment says the review is actually to look at giving a grant. Well, of course, if you go
 back to the GFSC, one of the problems that we actually had with the GFSC is that it was not seen
 as independent, and at the time the Chief Minister, Deputy Laurie Morgan, was on the GFSC, and
 I think it might have been the Edwards Report, but it was one of the reports actually highlighted
 that had to stop. The regulatory process had to be away from the States. There should not be
 funding from the States and there should not be anybody involved in the States. We set the
 920 perimeters and it is up to the GFSC to implement that.

925 This is going backwards. This is actually again, if we are going to give a grant – I know we are
 looking at it on this amendment – we are going back to actually saying, ‘You are not independent.’
 You are actually giving money, and if you are giving money, part of that, whether it is a grant, or
 however we do it, if you are getting involved in that you are sending the message out again that
 Government have got the big arm on that because ‘we are giving money and you will do as we
 say,’ rather than us setting the perimeters and leaving it to GFSC to fund themselves, and that is
 why where they are at the moment without that control.

930 The control was actually when they met annually. Once we had actually got rid of that... and I
 have forgotten how much they used to receive... once we actually removed that, was still to have
 the annual meetings with the Policy Council and that was fed back into this Assembly of the States
 to hear how those meetings went and the message that was sent.

935 Obviously people are going to support this amendment. I will support this amendment, but I
 support it on a huge note of caution, because I believe we are going back into that situation where
 it will be seen... and the perception again... we used this perception yesterday several times. The
 public perception and the industry perception will be Government are interfering with the
 regulator if you are going down the route of the outcome possibly of this amendment.

I will support the amendment for the review, but I am not quite sure I will approve of the
 outcome.

940 **The Bailiff:** Next, Deputy Jones, and then Deputy Gillson and Deputy Le Tocq.

Deputy David Jones: Thank you, sir.

I will only speak on the amendment because I have spoken generally.

945 On the point of the amendment, the amendment was put forward, as I understand it, because of
 the adverse reaction by myself and other States Members to try and prevent the States having the
 only alternative, which was not to register the accounts, which, for all the reasons that have been
 given by people who understand these things much better than I do, would have been disastrous. I
 am happy to take the advice of people like Deputy Perrot and Deputy St Pier and others who have
 warned me against not going down that route because of the international fallout that we would get
 for that. I am happy also with this amendment. I think it does send a strong message now to the
 950 Financial Services Commission.

I first met Mr Mason a few weeks ago in the sun at Government House, and my first greeting
 to him when he introduced himself as the new Director General – sort of a baptism of fire – was,
 ‘When are you going to sort out the FSC and the huge cost to industry?’ He very kindly... We got
 into talks at that point about the comparisons between their costs and the European Union, at

955 which point... (*Laughter*) In the post, two days later, was a very well written book by the Director General on his comments on the over-regulation in the European Union and his ideas on it. I was very pleased to receive that book.

I do not want to beat up on the Director General – he is new in his job – but I have to say to him, as he is present in this Chamber, that we have been making these noises for a considerable number of years and I do not believe we have been listened to. Deputy Lowe is quite right, we have had some very robust meetings when the Chairman of the GFSC and others have come into Policy Council, and that has been going on for several years.

I hope we do not have to go down this route, I hope that the review that Commerce and Employment are doing will throw up some other ideas, but most of all I hope that the Financial Services Commission will listen to the noises coming out of this Chamber and do something about it.

I also am not encouraged either, as other have not been, with the idea that 2% is okay, because I do not think it is. As I said yesterday... I had better not, because we are sticking to the amendment... but the costs have been growing and we have to do something to roll back those costs; not say we are only going to increase them with a slightly less rate below inflation. That is not good enough either, in my view. So I will be supporting this amendment.

I am grateful to Deputy Advocate Roger Perrot and others who gave me advice by e-mail overnight about the folly of pursuing perhaps a position that would have put Guernsey in a poor light.

975 Thank you.

The Bailiff: Deputy Gillson.

980 **Deputy Gillson:** Sir, first I need to declare an interest: I am a director of a small number of regulated funds.

Just referring yesterday to a couple of the speeches, I think it is unfortunate that one Member described the GFSC as unprofessional. I have worked with a number of the members of the GFSC and they are nothing but professional. They are a very professional organisation.

985 The debate, sir, has really been about the costs of the GFSC, and I can suggest one immediate area where costs can be saved, or at least not expended, and that is to scrap the idea of the consolidation of all the regulatory laws. That seems an unnecessary cost burden to continue with that project.

Concern in relation to costs of the regulator is really indicative of the increase in regulation which the industries are suffering. I think we need regulation, it is important, but it needs to be proportionate and reasonable. We do not want to be at the cutting edge of regulation, because the cutting edge soon turns into the bleeding edge.

I speak really with experience in private equity, and for a number of years now private equity funds in Guernsey have been the most regulated anywhere in the world. It does make it difficult and it adds a burden to bringing business in. It is difficult to justify to clients and explain why there are some additional hoops in Guernsey.

I can remember a discussion with members of the GFSC with regard to the Protection of Investors Law and what we were having to do in those days relating to investors. I pointed out that when you have got a fund which has got investors, often American pension funds, committing \$100 million or \$200 million to the fund, they do not need the protection of the GFSC; they are probably sophisticated enough not to need the protection of any local regulator. So it needs to be proportionate, and particularly when you are dealing with sophisticated investors and we are facing more and more international competition.

Deputy Brehaut asked a question yesterday about how significant the increase of regulation has been and he did not quite seem... [*Inaudible*] but I will give you an example of just how the regime has changed and how it could be detrimental to our economy. Members probably know that in 1998 myself and Connie Helyar, now Jurat Helyar, had the opportunity to set up Ipes and in 10 years it grew to employing 120 people, with £30 billion in assets under administration. I firmly believe we would not be able to set Ipes up like we did under today's regulatory regime, and that has all sorts of implications for the economy in terms of people starting up businesses.

I think we *have* to support this amendment, we *have* to approve the accounts, but I think that the GFSC will not only have taken note of the amendment; I think they will have taken note of this debate. There has never been such a long debate on the accounts and I think this will demonstrate to the GFSC there is dissatisfaction, not only in the Assembly but in industry, at the level of regulation that is now being applied to an industry.

1015 Thank you, sir.

The Bailiff: Next, Deputy Le Tocq and then Deputies Brouard, Ogier and Le Clerc.

1020 **Deputy Le Tocq:** Sir, I rise to support this amendment because for me it is completely appropriate and it sends a very strong signal to the GFSC in terms of what this Assembly wishes to see in terms of direction in the future.

1025 So, whilst I am changing the metaphor somewhat from Deputy St Pier's teenage metaphor – though I have had three teenage daughters; I have only got one left – if I were to use that metaphor, I would definitely think that the FSC is a teenage *girl* in terms of costs (*Laughter*) and expenses. But without going there, I am using the term 'signal' because I think, whilst it is true and many Members have said that a number of noises have been made in the past, even in the distant past – be that through the Policy Council and its relationship with the regulator, or be that in this Assembly – in terms of signals, it has been a bit like sometimes the signs that I see when I visit a French city. You get into the centre of the city, you want to find your way out somewhere and you see signs to all sorts of different towns. Then you have this one sign that says '*Toutes directions*', and you think 'How can that be true? They cannot all be correct.'

1030 The trouble is we have made a lot of noise, we have had a lot of signals in the past, but what this amendment does is to funnel them together in a very clear way that sends a very clear signal as a result. I believe, coupled with the debate and the effectiveness of this amendment, you put that all together and we will see a change of direction.

1035 It is very difficult for the Policy Council alone, with the current construct, to do more than it has done in the past. Deputy Lowe is absolutely right: Policy Council insisted on a presentation, for example; the Policy Council has been very robust in its regular meetings with the Commission. But what we are doing now is through this Assembly – which is the executive of our Government – making the signal very clear indeed.

1040 So I, like Deputy Perrot, was quite impressed with Deputy Trott's command of the Roman tongue – which is fascinating, because I do not remember him taking Latin at College, but *scien generis suem*. Nevertheless, I want to use a Latin term because effective regulation is a *sine qua non* of our finance industry and none of us, I hope, would disagree with that. We need an effective regulator and we have one, but we have also have, obviously, an expensive regulator, and what we need to find is a balance between that. We need an effective regulator that is also cost effective and appropriate and proportionate, to echo Deputy Gillson's speech, for who we are and what we are seeking to do; because this, sir, I believe, is a public service. It may well be independent, and it should be independent, but it nevertheless is a public service for the benefit of Guernsey; and so, in line with all public services at the moment, we need to have appropriate resource management.

1045 That is the clear signal that I think this amendment sends: that we want to review that to make sure that we have got appropriate management of resources that is targeted in the right direction. If we were to vote against approving the accounts, that would be a mixed signal again and I do not think that will be helpful to anyone. So I encourage this Assembly to vote and support this amendment because of the targeted nature of the signal that it sends.

1050 Thank you, sir.

The Bailiff: Deputy Brouard.

1060 **Deputy Brouard:** Sir –

The Bailiff: Oh, sorry, Deputy Trott.

1065 **Deputy Trott:** May I simply say, sir, with regard my command of the Latin language, *ignoro*. (*Laughter*)

The Bailiff: That is Greek, actually. (*Laughter*)

1070 **Deputy Trott:** Not according to Google, sir. (*Laughter*)

Deputy Perrot: I am not sure that is the right form of an imperative, actually, sir. (*Laughter*)

The Bailiff: Deputy Brouard.

1075 **Deputy Brouard:** May I continue, sir? (*Laughter*) A false start.

The Bailiff: In English, preferably. (*Laughter*)

Deputy Brouard: Thank you, sir.

1080 Like the Commission governs or regulates the finance industry, we as the States trump on top, and it is good that we, as a government hand-picked by the electors to govern, show that we are governing across all our responsibilities. We, the 47, take responsibility for the whole Island and the children we create, as Deputy St Pier alluded to.

1085 I think, on the whole, the Commissioners and the staff have done a sterling job. No reputation, no finance industry.

There are some downsides which will be flushed out by this amendment. It will put us, as the States, as funder. We, as the States, will then take the ire of industry going forward for any price increases, and the Commission will just shrug its shoulders and say, 'It's not us'. I know for sure that they do not favour this option, because as my Minister mentioned, we dusted this tool off earlier this year and were about to put it into the box, so it will be very easy for us to bring that tool back out again; so that is exactly right.

1090 We also do not want the Commission to be strapped for cash to a point that they are out-gunned in what is a very litigious world. We need the responsibility to be with them and not them coming tail between their legs back to us to say it is our fault because we did not provide the funding.

1095 And I do remember an old wise boss of mine back at the bank, who said something like, 'Praise in public and chastise in private,' and I think Deputy Lowe's comments are very... We have to be proportionate today. But again, slightly on the other side, Deputy Luxon makes a very good point that we have been putting shots across the bows but they just do not seem to have seen them – probably all the marble and glass in front.

1100 I cannot think of a better word... It is almost... 'Arrogance' is probably not the right word – but I cannot think of it; I have not got Google at the moment with me – but it is an arrogance that needs to be changed to a partnership, and I think that is where we need to get to; a partnership where we have distinct clear roles of duties that we have to do.

1105 I think also, going forward, I do not want to see either kangaroo fees where we have this... I think the word 'sop' was used... of 2% this year, but there again, actually, that 2% was masked by the retained funding from the Guernsey Training Agency, which then puts it back up to about a 6% increase. So you do not want to have kangaroo fees, where we are all lulled into a false sense of security for three or four years and then suddenly it goes up by 10% again, because in the end it is exactly where you were when you started.

1110 I will support the amendment, but just a note of caution and just a note of proportionality. Thank you, sir.

The Bailiff: Deputy Ogier.

1115

Deputy Ogier: Thank you, sir.

I will be speaking on the amendments and generally; mostly generally.

1120 This Assembly was a little heated yesterday and I would like to thank Deputies Duquemin, Gollop, Lowe and Gillson for bringing the GFSC's good work back into focus.

I think it is fair to say this Assembly is looking for evolution and not revolution. We would like to see some conservatism where it comes to the escalation of costs, and there is evidence to suggest the GFSC are already taking steps in this regard.

1125 Deputy Trott talks of only a 2% rise in fees for the Commission as evidence for this, but of course that comes on top of the Guernsey Training Agency amount of £440,000, which already on its own represents a 3.5% rise, thus representing cautious rises of close to 6%. So there is work maybe being done on this, but there is further work to do.

1130 I know we are not bound by the UK Corporate Governance Code and it can be no more than guidance or best practice, but the GFSC actually refer to taking guidance from the Code in this Annual Report, and to me it is telling which parts of the Code they chose to voluntarily adopt or be guided by and which they do not.

One element of guidance in section D of the Code, which describes remuneration, reads that companies should:

1135 '...be sensitive to pay and employment conditions elsewhere in the group, especially when determining annual salary increases.'

1140 My question is how have the directors and the Commissioners of the GFSC factored in such guidance with regard to this matter. Has the guidance offered by the Corporate Governance Code been ignored here? I do read there is an element of back pay, when looking at the Commissioners' remuneration, which has raised it above a normal annual raise, but was that element of back pay enough to double the figures from 2011 in some cases? Deputy Trott has outlined that the costs are themselves in the right area, and they probably are, but I would like to see a little more detail to scrutinise here. That would be most welcome.

1145 There is, unfortunately, no opportunity to scrutinise the executive salaries as they are not transparently reported, as outlined yesterday and today. I would have expected that they should be available, along with any incentive and bonus schemes and pension arrangements, for our scrutiny. Without that information it is difficult, if not impossible, to cast a scrutinising eye over the executive remuneration. I do know this is not a public company, but it is certainly an institution which should not be afraid to submit itself to scrutiny in this manner, especially to the entities
1150 which provide the funds for it to function.

With regard to the governance of the entity, it cannot be an easy job to work under a law for your governance. I know the UK work under the Companies Act 2006, but for the corporate governance they are guided by the latest revisions of the Corporate Governance Code by the FRC, issued in 2010 and revised only again last year. The Code is also accompanied by guidance, which
1155 keeps company secretaries busy. The Code changes, is regularly revised in the light of developments, and especially in reaction to market failings in the market place; something which is less likely to happen when the governance is laid down in legislation.

I think we need to look at something less clunky than legislation for this entity's corporate governance arrangements, and something I hope the GFSC would welcome. This more fluid document could result and should result in more transparency in their reporting and give industry and States Members the ability to scrutinise what should be scrutinised. Having to regulate this entity through changes to legislation is now no longer best practice.

I will support this amendment, but I am aware that changing the source of funding by itself will not bring about changes. If we gain control with that change of funding, then we will be going
1165 against the aims of setting the GFSC up at arm's length in the first place. If we did not get the governance right when they were set up, we should change it and not have to rely on law changes. We should not need to change the funding arrangements to change the governance, but still I will support the amendment.

1170 **The Bailiff:** Deputy Le Clerc.

Deputy Le Clerc: Thank you, sir.

I will speak on the amendment and general debate.

1175 I apologise in advance if this is a somewhat disjointed speech, but it has changed as we have gone along and I have heard other colleagues speaking.

I want to firstly point out that I do work for a financially regulated organisation. I am not a director, but I am a senior member of staff and I do work a few hours a week. That is one of the reasons why I have risen to my feet, because it can be very difficult for those within the finance industry to raise their concerns without feeling that there will be repercussions.

1180 There was recently a letter in the *Guernsey Press* regarding the GFSC review and the depth of feeling on potential repercussions. I will just read a few lines from that:

1185 '...the industry does not see the GFSC as an ally but through their regulation and supervision they are seen mostly as an obstacle, demanding adherence through heavy-handedness and micromanagement; this has been done to such an extent... that local institutions do not want to raise concerns... because it is all too easy for [the GFSC] to make life "uncomfortable" for that institution....'

I believe these comments are at the extreme end of the spectrum and the GIBA communication that we received from all Deputies was a much more balanced view.

1190 I therefore support the recent review that Commerce and Employment have undertaken and I hope that the strength of feeling felt by this Assembly will ensure that the accountability of the Commission in respect of its spending and the way in which it undertakes its regulatory responsibilities are fully reviewed. I believe this amendment is a way forward in enabling some cost restraint but still giving the Commission independence, and I believe industry will welcome
1195 these proposals.

As I said earlier, I feel this is a bit of a disjointed speech but I would like to finish with some comments on the staff costs. They have risen by 46%; however, we are advised that the significant pension funding and pension deficits burden are within this increase. I think we must at least

1200 commend the GFSC for tackling the pension question. If we look at page 36 of the Report, we can see that they did close off their defined benefits scheme to new entrants with effect from 2007 and it is only those who were already members prior to this date who are still in the scheme. New members are in a defined contribution scheme.

1205 We must remind ourselves that the defined benefits burden of the States Civil Service pension has not yet been dealt with by us, and we also continue to face year-on-year rising staff costs due to the lack of performance-related pay and incremental pay increases, a subject that will no doubt be debated when we look at the Annual accounts. The GFSC, during our visit last week, advised us in their presentation that they will not be giving any increases in basic salary this year.

1210 So I would just like to finish on that note – that they are looking at their staff costs and it is something that *we* must do ourselves before we cast the first stone.
Thank you.

The Bailiff: Deputy Brehaut.

1215 **Deputy Brehaut:** It is a very brief speech, and I hope my colleagues share the same discipline. Firstly, unlike other Members, I do not need Latin to demonstrate that I am *compos mentis*. Why break from the *status quo*; that's what I say! (*Laughter*)

1220 Sir, clearly austerity has not reached the South Esplanade; neither has fracking, so let's not lose perspective on the problem that we are facing at the moment. And just to turn the metaphor perhaps on its head – the metaphor used by Gavin St Pier – I do not think the children are to blame here. I think, actually, yesterday, the usually politically timid parents got to the drinks cabinet, had a Pimms and then got to the Guernsey Financial Services Commission Report. I think it is *very* important...

1225 Yesterday, Deputy Queripel's speech was exceptional; it was a very good speech. It was not exceptional because it was a good speech; (*Laughter*) it was a very good speech regardless of the context.

Also, Richard Conder's speech was forensic and a fantastic speech, and I think that really that was probably about the end of the matter.

1230 My concern, sir, is the message outside of this House. It is only two PMQs ago that the Prime Minister was at the Dispatch Box, saying, 'We got Jersey and Guernsey to put their tax affairs in order.' Could any member of the Opposition now go to *Hansard* and selectively pick quotations from speeches yesterday and read them back? The chances are that they can and may do that, and that is an extremely dangerous thing.

1235 I believe in regulation. Regulation can be heavy handed, but it can certainly come at less of a cost to the community.
Thank you.

The Bailiff: Does anyone else wish to speak on the amendment?
Deputy Bebb.

1240 **Deputy Bebb:** Very briefly, I was not sure if I was going to speak at all in the debate on the GFSC. However, the points that I actually wanted to make have not been raised yet and I would ask Members' patience while I actually go into the context of it.

1245 Members of the States Review Committee and Members of HSSD will be aware of my feelings in relation to regulation – I think that it is a subject that got quite heated around the HSSD table – and I think that we are actually looking at the same type of question here. Analogies have been used quite often in this debate and therefore I will use one other analogy, which Members will be very familiar with. During the recent food scandal in relation to horse meat appearing in what was labelled as beef, questions were asked by members of the public of what is the Government doing about it; not what the UK Food Standards Agency is doing about it, who are supposed to be independent regulators of food, but what is the *Government* doing about it.

1250 My contention has long been that the idea of setting up an independent regulator, completely devoid of any form of political involvement, has always been something of a façade, because members of the public do not expect your regulator to resolve it: they expect *Government* to resolve it. It is a very uneasy partnership, because at the one time we do not want such political influence over our regulators that our regulators become politicised, but let us not ignore the fact that our public, the public in general, do not expect regulators to resolve problems; they expect *governments* to resolve problems.

I am very supportive of this amendment because I feel that it does move in that direction, but I also want to sound a note of caution. At no point do I want fees raised by the GFSC to become yet

1260 another form of tax to help plug the gaps that we have in our finances. That is a very dangerous move and we must caution against it. But I do think that we are in a position where we do need to bring responsibility in house.

Members, I think that another reason that we are so infuriated at this point in time in relation to the costs that the GFSC have displayed is because we are undertaking the programme of the FTP. 1265 Let us look at how that began: that is all because of the Zero-10 regime that has been adopted, and the Zero-10 regime is here in order to protect our finance industry. There is little purpose in us pursuing the Financial Transformation Programme in order to secure our finance industry if at the same time those fees are going so wildly out of proportion that they are driving the finance industry off Island.

1270 Therefore, I think that this amendment is exactly what is required. It will bring that regulation in line. It will assist us in ensuring that regulation of the finance industry is proportionate. I personally used to like the phrase 'light-touch'. I do realise that many Members would now shy away from such a statement in the wake of the banking crisis of 2007, but I think that that is what is actually required. But I do think that it is a very difficult line, and when deliberating on how best to think about how best these fees and the funding of the GFSC should be done in the future, I 1275 would ask Members who are in that negotiation to think very carefully of how we make the system so transparent that it is evident *to all* that we are *not* raising additional tax, we are raising fees, and we do not abuse that position.

1280 Thank you.

The Bailiff: Deputy Conder.

Deputy Conder: Thank you, sir.

1285 I have already spoken in general debate, so I will restrict my comments to the amendment to the extent I am able to.

I will support this amendment, sir. I think it is timely – perhaps, a little later than timely, but I am glad it is there anyway. In the way that Deputy Lowe suggested, perhaps it was a pity it was not included in the general Report.

1290 Sir, it feels a little ironic. I was a seconder to an amendment of Deputy Bebb's a couple of days ago which was on the hoof and was described as very, very dangerous by one of my distinguished colleagues to present amendments in such a way. I am delighted to support this amendment that has been developed on the hoof, but I am equally interested that the fact that a number of us spoke yesterday against the motion, which is now amended – which was that after consideration of the report Members should demonstrate that they are of the opinion to approve the accounts... that if 1295 we dared not to approve the accounts, that would be very, very dangerous.

I should say at the outset that, after the very helpful advice from H.M. Comptroller and other comments, I will support the amendment – possibly figuratively holding my nose, but I will – because no Member of this House would wish to damage in any way any part of this Island or any part of any industry.

1300 Again, in terms of democracy, it seems strange that a resolution has been placed before this Assembly which we *have* to approve, which indeed, if we actually voted against, to quote some of my colleagues, would be a massive damage to this Assembly if we failed to approve. Another colleague said we cannot not approve these accounts. Well, actually, if that is the case, I will have to ask the same question I asked yesterday: why are we debating this? Let's just approve it.

1305 I will vote to approve this. I will never do anything that might damage this Island or damage its industry.

I have to say I do not like the constant carping and criticism of the Policy Council – they are our colleagues, they are part of this Government, part of the 47 – but how did we end up with a resolution that I am not really allowed to vote against? I will not vote against it, for the reasons 1310 that I said and for the reasons that colleagues have so eloquently demonstrated and advised. There feels as if there is some implicit criticism of those who dared to speak initially against approving these accounts and made criticisms of the content of the accounts, because it damages the Island, it has gone into the media. Well, if that is the case, let's not debate it. Nobody in this Assembly would ever dream of damaging this Island or damaging this Assembly.

1315 So perhaps when we are drafting it next year we could actually be told in some way, 'You do not actually have any choice: we cannot not approve these accounts – there would be massive damage to this Assembly if we failed to.' That would help me because I would not actually get to my feet and risk damaging in the ways suggested.

1320 So I will support this amendment. I actually am concerned that this amendment may reduce the independence of the Commission, and I do not wish to reduce the independence of the

Commission. What I want it to do is to come into the real world, the new normal: the new normal of cost cutting, cost restraint, reductions in service, reductions in fee income. That is what every one of us in this House has to do every day in terms of our responsibilities. And perhaps if this amendment does result in that, in the Commission exercising and running itself in the same way as we have to... Well, that would certainly be very positive, but I am nervous about reducing its independence. It is fundamental, as colleagues have said, to the reputation of this Island and of our primary industry.

1325
1330 Just one other point. We will be back here next year, looking at a set of Guernsey Financial Service Commission accounts for 2013. We will be back here in July, I assume, three months before we get a report back on 30th September – three months or two months... two months before – in respect of this amendment. I would ask the Treasury and Resources Minister if it is possible this amendment could be expedited, or this process could be expedited. It would be really useful, I would suggest, to have that report at the same time as we are looking at these accounts. (Two Members: Hear, hear.)

1335 In closing, sir, could I ask the Policy Council and the Chief Minister, when drafting these resolutions, to at least give us some indication as to whether we are allowed to vote against them or not. I do not really mean it quite in those terms, but the implications of voting against them, because I was in this Assembly late yesterday evening and it was like the doves in the dovecote. There was such a flurry of concern that there was a possibility that Members might vote against a resolution. That surely cannot be right. So, in drafting next year, perhaps colleagues in Policy Council could find a more transparent, better-guided form of words, which I think would be very useful to this House.

1340 Thank you, sir. I will support this amendment.

1345 **The Bailiff:** Deputy Kuttelwascher, and then Deputy Collins.

Deputy Kuttelwascher: Thank you, sir.

I will speak generally as well.

1350 I fully support the amendment. I will be voting for both the Propositions. To note something is not exactly a difficult thing to do: it really only means you have read it.

As for the accounts, I will support them purely because I have no evidence to suggest the accounts have been improperly prepared or indeed that the audit has been improperly conducted, and therein lies the reason why you might vote against them. So you could vote against them if that was the case. Maybe it answers Deputy Conder's question.

1355 I was a bit bemused by Deputy Lester Queripel about what is the plan B if this amendment fails, and it was directed at the Minister of T&R but I thought of applying it to myself. I said, 'Well, I don't need a plan B; I will just vote for the two Propositions that are in the document and then rely on the Commerce and Employment Department to come up with suitable recommendations from their review of regulation in the 21st century.' In fact, the Minister has already said a lot of the work that would be required by this amendment has already been done, so I do not think there is necessarily a plan B. I suspect the implication was that plan B was to vote against accepting the accounts, or approving the accounts, which I do not accept at all.

1360 Everybody has been going on about Latin. I have got O-level in Latin, but I will not try any. I will try a bit of ancient Hebrew: Amen. (Laughter)

1365 Thank you, sir.

The Bailiff: Does anyone else wish to –

Yes, sorry, Deputy Collins.

1370 **Deputy Collins:** Thank you, sir.

Deputy St Pier, I am 32 and believe me, my mum is not afraid to give me a clip round the ear when I get out of line! She does try to ground me but, not living with her, it does not really help very much.

1375 A little bit of... [Inaudible] action, so thank you, sir, it is very much appreciated. That is, I think, all that we really wanted.

I am glad to see that the Director General is here today with us, and we know it must be serious because Dr Sloan has turned up as well. (Laughter)

1380 Deputy Trott, you are absolutely right about controlling expenses; however, the horse has bolted. As we know, an extra £2 million... the next two or three years, £4 million to £6 million extra on regulation.

Carrying on my horse theme, I totally agree with Deputy Perrot: the costs must be reined in, but as I have just said, the horse has bolted so it is already away.

Deputy Gillson is totally right: the GFSC has noted this debate even by their presence here in the Chamber today.

1385 To be honest, I agree with Deputy Le Tocq that perhaps the Commission is a teenager, maybe female; that may explain why there are no contact details in the accounts. (**A Member:** Ooh!)

Anyway, I have turned and I will support the amendment and support the accounts.

Thank you very much.

1390 **The Bailiff:** Does anyone else wish to speak on the amendment? No.

Chief Minister, do you wish to exercise your right, as it is an amendment to a Policy Council Report?

1395 **The Chief Minister:** Sir, I am happy to wait and I will speak on the general debate.

The Bailiff: Deputy St Pier, then, will reply to the debate.

Deputy St Pier: Yes, sir.

1400 I sense a level of support for this amendment (*Laughter*) and I know that Deputy Burford, who is not in the Chamber, would wish me to be speedy so we can move on to other business. However, there have been a considerable number of points raised by the many people who have spoken and, notwithstanding the evident level of support there is, I think it is very important to address a number of the very key points that have been made and to respond to the debate, which I think has been very interesting and useful.

1405 Sir, in relation to the timeframe and putting 30th September 2014 in the Proposition, that was in recognition that Commerce and Employment had advised that they felt it would be safe to have concluded the review by the end of the second quarter. I felt, with publishing deadlines and all the rest of it, it would be sensible to allow a bit of flexibility to that. I am delighted, from Deputy Stewart's address, that in fact it may very well be possible to do things sooner. Also, what
1410 I was seeking to recognise is that there may be legislative changes required as a result of this work and time would be needed to be allowed for that if any changes were to be made.

I believe, as Deputy Le Clerc indicated, that this will be supported by the finance industry.

1415 Deputy Gollop made some very interesting comparisons with other jurisdictions and I thank him for doing that, for that research.

I agree that this Proposition is not a panacea and Deputy Gollop and a number of others have referred to the need to retain the independence, and that is absolutely critical – and I will return to that because we must leave no uncertainty in relation to the message that we are sending to the Commission and the wider world, that independence is absolutely essential.

1420 I thank Deputy Sillars for his support and Deputy Soulsby. Deputy Soulsby actually, just as a slight aside, did refer to the fact that she had two children and she was glad that she did not have two regulators. Well, actually, of course we do have the utility regulation and that is a separate problem (**Deputy Soulsby:** Yes.) (*Laughter*) (**A Member:** Hear, hear.) which, as she knows, her Department and Treasury and Resources have been actively working on, so there is some more to come there.

1425 Deputy Queripel raised some questions about who will address these issues, and I think again the analogy I used has been picked up and used by many people of this relationship between a parent and child. If the Commissioners are... it will be their responsibility. They are independent and it will be their responsibility to address the issue. What this will give us potentially, if it is found to be an appropriate solution, is a mechanism by which we can have greater ability to assist
1430 them in reaching the right decisions. Whether that is, for example, an RPI-minus formula... There was reference by a number of people to 2% being perhaps too much. Well, it may be that actually we have a medium-term plan which is on an RPI-minus formula, which of course is not unknown to regulators – normally when they are regulating others, of course.

1435 In relation to plan B, I thank my Deputy Minister, Jan Kuttelwascher, for referring to that; and yes, I can advise Deputy Queripel again, as he knows, I do not generally believe in plan Bs, so I do not have one. I am relying on the fact that this will have support.

A report in two halves, Deputy Duquemin said, absolutely; and he and Deputies Langlois and Sillars also referred to the importance of the Commission as part of our economic strategy, and hear, hear to that.

1440 Deputy Trott referred to the fact that a rejection of the accounts will be a vote of no confidence. He is absolutely right in that and I am delighted that that does appear to have gone away as a potential risk. That is absolutely right.

He also referred to the disparity between funding promotion and regulation and he referred to the 90-10 split as being disproportionate to other jurisdictions, and I think that is a good reason for
1445 potentially looking at this issue holistically through this review.

Deputy Perrot referred to the suggestion that perhaps the Deputy Chief Minister should take a leading role rather than the Chief Minister in relation to the Policy Council's work in this area. I think many may share that view and I am sure that neither the Chief Minister or Deputy Chief
1450 Minister would object to that, but perhaps the Chief Minister will comment in his general summing up.

Deputies Green, Gillson and Brouard used the word 'proportionate', and Deputy Green also referred to 'pragmatic'. Again, I think that is a key theme which I do not think we can disagree with.

Deputy Stewart identified this issue of independence and he was absolutely right to say that
1455 independence is about operational independence and adequate resources and we must ensure both, and as I referred to in my speech, adequate resources are essential and that responsibility lies with us anyway. We must understand that if, for whatever reason, there are inadequate resources, even in the current structure, as a Government I would suggest it would be incumbent on us to ensure that the Commission was correctly funded.

Deputy Luxon referred to the necessity of having the best people. I absolutely agree. We
1460 should have no fear of ensuring that there are sufficient resources to allow that to happen.

Deputy Storey referred to the £400,000, and a number of others referred to that as well, which was an additional fee increase for the current year. This was the reason that the Fiscal and Economic Policy Group and the Policy Council strongly advised the Commission in 2013 not to
1465 proceed with any other fee increases, and that advice, as I say, was not fully adopted in their response. It was responded to, but perhaps not as fully, and I think Deputy Storey is merely reflecting the conversation which others have had.

Deputy Lowe, quite correctly, has... In essence, her question was 'were the Policy Council
1470 asleep at the wheel on this?' I can confirm that the Policy Council has a regular programme of meetings, much as it did, no doubt, when she was on the Policy Council. She referred to the shot across the bows, and I think it is really to reiterate that of course the Government's review, which Commerce and Employment has been leading on, is precisely the response which Policy Council was encouraging and endorsing and it is merely that this was not a part of that governance review. There is a much wider piece in relation to the governance review, which is a response to the
1475 conversations with the Commission, and I hope that gives Deputy Lowe some reassurance. She also referred to the necessity of independence. I do not think she actually had any other suggestions other than this amendment, and so I welcome her support for that.

I welcome Deputy David Jones's change in relation to his... He feels it is important to support the approval of the accounts.

Deputy Gillson, again it was a point I thought about but did not address in my main speech and I am delighted he raised it – the fact that some had referred... We used the term 'unprofessional'
1480 yesterday. I think it is very important to recognise the professionalism that we do have within the Commission. I do not recognise at all the use of that term 'unprofessional' as being correct.

Deputy Brouard referred to the sterling job being done, and a number of others, including
1485 Deputy Ogier, emphasising that we must give due recognition, as Deputy Duquemin said, to it being a story of two halves; and the necessity also, Deputy Brehaut said, of avoiding kangaroo jumps in fees, and perhaps in Commissioners' fees as well, which is perhaps part of the problem in relation to that particular issue.

Deputy Brouard referred to it as being a partnership. I wish to stick with this analogy of it
1490 being a parent-child relationship. Partnerships can be dissolved; marriages can be dissolved. Your relationship with your children is genetic. It can never be undone. Whatever the tensions, it is that relationship of love and affection. You always have that relationship, and that is the relationship that we have with the Commission and we should see it, in my view, in that light.

Deputy Ogier referred to evolution rather than revolution and I would suggest this is part of
1495 that, as is Deputy Stewart's governance review.

Deputy Le Clerc quite rightly raised the question which many people have about the difficulty in raising concerns. Those in the industry fear that their position will be prejudiced, and that is why I think we do need to see the wider relationship between Government... if the Government is the parent and the Commission is the child, albeit an independent one, the industry is part of that
1500 wider family. We are all part of that wider family and we should see it in that relationship.

Deputy Brehaut said that the children are not blame: absolutely, I think the children are very rarely to blame; it is normally the parents who are responsible.

1505 Deputy Bebb referred, I think, in particular to the concern about it becoming a source of income for general revenue, if you like, and I think the term which Deputy Conder used yesterday was ‘hypothecated taxes’ in relation to the fees, and I think that, as everyone knows, Treasury and Resources do not generally favour hypothecation, but I think it is clearly in that relationship, or is in that nature in this particular case.

1510 Deputy Conder had raised this question a number of times in his comments about the approval of the accounts. I think we clearly need to look at the Proposition in the context of the law and the legal requirements and I have no doubt, as a result of this debate, that that will happen next year.

1515 I am coming to the close, sir, but I want to return to this question of independence. Deputy Conder referred to it, Deputy Lowe referred to it: very nervous that it is a step backwards, that the independence would be prejudiced. What I would say is that we must be absolutely clear that independence is non-negotiable. If independence is compromised we cannot proceed in this particular way. My point is there is demonstrable evidence from other jurisdictions that there are alternative ways that do not appear to compromise independence and it is that which we should be looking at, but I absolutely agree we cannot and we must not compromise that independence.

1520 I have also addressed the question of timing of the work coming forward, which hopefully gives Deputy Conder some reassurance.

1525 Sir, in closing, I would like to commend the Director General for being here this morning. I welcomed him earlier, but I think I do commend him for being here. It has not, I am sure, been an easy debate for him to listen to and it is always difficult for those in the Public Gallery, who of course have no right of reply; but I am sure that he is in no doubt whatsoever of the mood of this Assembly. My objective in moving this amendment was to take some of the heat out of the language, comment, which Deputy Brehaut quite rightly picked up in his comments, and I believe that that objective has certainly been achieved by moving this amendment.

1530 I would also like to encapsulate a view that was reflected by many people and to communicate that to the Director General, his colleagues and the Commissioners: that this Government is hugely supportive of the Commission, it is hugely valued as being critical to our economy, its independence is non-negotiable and quality is absolutely essential.

For those who still do not have the stomach to support Proposition 2, the approval of the accounts, I would urge them to do no more than abstain.

1535 Finally, sir, I did say that I felt this amendment had some measure of support. I am wondering if it might be possible actually to carry forward some of the excess support to perhaps some of the other things coming forward later on the agenda, sir?

The Bailiff: Deputy Queripel.

1540 **Deputy Lester Queripel:** Sir, a point of clarification, if I may, because if issues are not addressed, then issues remain.

The Bailiff: Is this another speech?

1545 **Deputy Lester Queripel:** If the GFSC do not address the issues I identified in my speech, then who will be responsible for addressing those issues? And if the answer is the Policy Council, that concerns me because, apart from spiralling costs –

The Bailiff: This sounds like –

1550 **Deputy Lester Queripel:** – the Council do not seem to recognise the fact that there are other issues. Can the Minister –

The Bailiff: It sounds like another speech to me, Deputy Queripel.

1555 **Deputy Lester Queripel:** Sorry, sir?

The Bailiff: This sounds like another speech to me. You have already spoken both generally and on the amendment.

1560 **Deputy Lester Queripel:** I was just getting to the question, sir, if I may be allowed to ask the question to the Minister?

The Bailiff: Are you saying this is a question you have already asked that he has not answered?

1565 **Deputy Lester Queripel:** Yes, sir, because his reply was that the issues would be addressed by the GFSC.

The Bailiff: In that case, he has given an answer. You may not like the answer, but he has answered it.

1570 **Deputy St Pier:** Sir, I would have no other answer to give, even if the question was re-posed.

The Bailiff: Thank you.

1575 Members, we vote then on the amendment proposed by Deputy St Pier and seconded by Deputy Langlois. Those in favour; those against.

Members voted Pour.

1580 **The Bailiff:** I declare it carried *nem con.* (*Laughter and applause*) and we return to general debate.

Yes, Deputy De Lisle.

Deputy De Lisle: Sir, I thank you for the opportunity to speak in general debate.

1585 I have just a couple of very brief points to make. Firstly, sir, I have to say that I have, in the past, appreciated the comments that are provided in the Director General's statement and also in the Chairman's statement in the reports of the GFSC, and the Director General's statement this year carries a warning and an insight into the vulnerability of the finance industry in Guernsey. He points out that:

1590 'The consequences of the global financial crisis continue to bear significantly upon Guernsey's financial services sector. Businesses are much more cost-conscious, and a number have either closed or taken steps to downsize. Those who retire are not being replaced, and redundancies have been announced by a number of the more significant operators. Conventional business flows are less rewarding, and new business is harder to win. Global competition is intense, and all this at a time when smaller international financial centres are coming under yet more scrutiny and criticism from their weightier neighbours or competitors.'

1595 He goes on to say that the finance industry:

1600 '...faces many challenges. Some reflect the relentless march of regulation; others will arise as Guernsey's place in the financial services world moves to accommodate new business opportunities as conventional business lines wither or disappear...'

Sir, I mention this to guard against, in my terms, overregulation of the industry and the need to safeguard the industry; safeguard, in fact, what we have.

1605 Secondly, sir, I would like to draw attention to one area that I feel needs consideration by the GFSC, and Government actually, on the regulatory front, and that is that in the last few years we have lost a considerable number of local positions in the finance industry as a result of outsourcing. Outsourcing has created a debate, actually, in the developed countries as to its long-term impact on business and the economy, and the advantages and disadvantages of such have been debated extensively in the United Kingdom and also in the United States.

1610 **The Bailiff:** That may be so. Are they relevant to this debate?

Deputy De Lisle: Yes, they are, sir. (*Interjection and laughter*)

1615 The outsourcing of mid-level and high professional positions to different jurisdictions by companies in the finance industry has had, sir, a traumatic effect on some Guernsey families, and all this is becoming more of an issue with people in Guernsey as comparable positions are becoming more difficult to find on Island with global recession.

1620 All I ask, sir, is that – in that the Commission has recognised that the statutory framework for the governance of the Commission, set out in the Financial Services Commission Law as amended, needs to be reviewed and modified, and as of course the Commerce and Employment Department is conducting also a review – this matter of outsourcing is considered by the GFSC in its reviews and as it reviews the challenges faced by the finance industry as it moves forward.

1625 I know that Deputy Harwood has had experience, of course, over the years in the GFSC, and perhaps I would ask for his comments also in this area, because of course it is in the regulation, it is in the law with respect to outsourcing and I would like to hear his comments. It is a serious issue and I would like that issue considered in the deliberations that are going to take place in the future with regard to the future of the industry.

1630 Thank you, sir.

The Bailiff: Deputy Sherbourne.

Deputy Sherbourne: Thank you, sir.

1635 I was very happy to support the amendment but have some comments to make in general debate, sir. I would like to take us back to yesterday afternoon, because I do not want anyone to be under any illusion of the feeling of the membership of this Assembly with regard to some of the problems that we perceive actually exist.

I wish to associate with myself with the dissatisfaction expressed yesterday by many speakers regarding the spending of GFSC as illustrated in the annual accounts.

1640 In his speech, Deputy Queripel asked many relevant questions regarding the costs incurred by the Commission and the charges levied on the industry. He correctly reflected the concerns of many in the finance industry who believe that the nature and culture of our regulatory body has in many cases become a hindrance to the development of the industry.

1645 These accounts, in a way, illustrate the lack of transparency. There are omissions which ring alarm bells with me. Why, for example, are nine salaries over £120,000 not stated? What is there to hide? One of our colleagues earlier said that we want effective regulators; true, but we also need open and transparent ones. So I would ask for that to be seriously considered in the preparation of next year's accounts. We want the detail that Deputy Ogier asked for, for us to scrutinise.

1650 Although it might have seemed humorous at times, Deputy Queripel's observations on the lack of contact details provided by the Commission does illustrate a *modus operandi* which is so restrictive to local business. The culture of communication by e-mail, rather than one of human interaction is, in my mind, unhelpful, especially for local entrepreneurs who wish to be guided and assisted by the relevant divisional personnel. I hope, having spoken to the new Director General earlier today, that that culture will change and that dialogue between the industry and the Commission will commence hastily.

1655 I wanted to ask some specific questions about those salaries. I would like to know whether they are benchmarked against similar posts within industry. I would like to know what performance-management measures are in place to ensure value for money on an annual basis. Is there a remuneration committee in place which monitors staffing costs? The new staffing structure has been announced with a new post proposed for the retiring Director General: is this a necessary additional expense? Also, is it somewhat restrictive for the new Director General?

At a time when we, as a body, are constantly being reminded of the sacrifices being made by those in the private sector, I see little evidence in these accounts that this culture is being reflected within the GFSC.

1665 If I can refer back to one or two comments made by my colleagues earlier, Deputy Duquemin quoted his wife with regard to the increase in the compliance aspect of our finance industry. I know for a fact that that is the only growth area in finance. It is not a wealth producer, it is not generating income for this Island; it is perhaps a reflection of the international demands on regulation. But isn't it sad that compliance is the only growth sector? For me, that is quite a serious matter.

1670 Deputy Lowe mentioned the problems associated with the possible outcome of the amendment with regard to independence, and if I cast my mind back to the early days of the GFSC, I believe that all personnel were civil servants and so there was no independence from the state, that is quite correct. I do not see how this amendment can be seen in the same light. The financing is one thing; personnel receiving guidance and salaries from the central body is another matter altogether and that has been dispensed with many years ago, so I do not share that concern.

1675 I attend regular GIFA academy presentations. Unlike my friend and colleague, Deputy Perrot, I am not tired of them at the moment because I feel those sort of presentations, educational experiences, enable me to gain an insight into the industry which I do not know, and I find them extremely useful. But what I have noticed... and there are usually around 200 to 300 young members of the industry... and our fund industry is actually the biggest contributor to our income. Those young people are doing their best to promote our industry. They are actually doing an extremely good job. But time and time again so many of them say to me, 'We have ideas we want to develop.'

1685 I will give you an anecdotal example of one of the problems associated with the current culture of the GFSC. To my knowledge, two young entrepreneurs – both local, both with many years in the finance industry – wanted to establish a fund in an area where the GFSC had no expertise. There was no response to their request within six months. The frustrations built to such a level over a period exceeding 12 months that these two young Guernseymen decided that maybe they ought to look to alternatives, and they have recently established that fund in Jersey. If we want that to continue in this Island, then so be it; but I do not suspect that there is a willingness amongst the people here, on this floor, to allow that sort of situation to develop. Not only have we lost a business developed, instigated, by local expertise, but we are actually paying money into Jersey's coffers as a result of it. That makes no sense to me.

1690
1695 I hope that the new Director General is listening *very* carefully to these comments; not just mine, but the general feeling of this Assembly. I am sure – I have confidence in him – that he will take steps to address that issue.

The establishment of the Innovation Division is an excellent initiative and I look forward to seeing that being successful.

1700 I shall vote for the resolutions as requested, but with reluctance.
Thank you, sir.

The Bailiff: Does anyone else wish to speak in general debate?
Deputy Trott.

1705
Deputy Trott: Thank you, sir.

I will be very brief, sir. For me, there is one sentence in the Report which is worth repeating and embellishing, and it is the words of the Chairman, Cees Schrauwers, who says

1710 ‘We [the GFSC] will be mindful of the need to protect the Bailiwick’s reputation and competitive position.’

I think if there is one message that the GFSC must take from the debate over the last few hours in this Assembly, it is this: that whilst they have done, undeniably, an outstanding job in terms of protecting our reputational status, they have not been able to find the very difficult balance between achieving that objective and at the same time enabling us to remain as competitive as we would wish. That is why, sir, I choose to wish them *fortunatus*; (*Laughter*) which, for those who are not as well versed as Deputies Perrot and Le Tocq, simply means good luck.

1720
The Bailiff: Deputy Stewart.

Deputy Stewart: Thank you, sir.

I will not carry on *ad infinitum*, (*Laughter*) but I do want to really cover off some of the points that have been raised in general debate.

1725 Of course, we do come back to the question of who regulates the regulator, and what I can assure Members of is that I think a lot of this has boiled up because so much of the work that is undertaken by both FEPG, Policy Council and Commerce and Employment is going on all the time behind the scenes. I meet every week with a huge amount of industry representatives from the finance sector. I have regular meetings with the Director General, with the Chairman of the Commissioners and other Commissioners, as do the Chief Minister and the Treasury Minister. In fact, sometimes we would have those meetings together. So there is always a huge amount of work going on because there are a huge amount of changes. The whole international regulatory environment is something which has really been wrapped up, and we only have to pick up the newspapers and read about the G8 and what is happening in G20 and FATCA and all these other things to understand that.

1735 Back to the question of who regulates the regulator, and I have worked with various regulators over something like 30 years and sat, in fact, on some UK government committees. In my view, regulators regulate, governments make policy, and that to me is an important principle: regulators regulate; governments make policy. If governments fail to make policy or fail to communicate that policy, then there will be a policy void, and generally – without any malicious behaviour, but naturally – the regulator will fill that policy void. So, clearly, this is about leadership... [*Inaudible*] but it is something that to me is a very important principle.

1740 Another principle that I agree with the Chairman of the Commissioners, who I will also add has not been there much longer than I in my position as Minister of Commerce and Employment, and I know that he is keen for change... He and I believe in the three Rs – which is reputation, risk and reward – and I think the States needs to give clear leadership on where the reputation of

Guernsey wants to sit, what level of risk should we be willing to accept, and commensurate with that comes the reward. The States needs to decide on these principles for the GFSC to regulate in accordance with the wishes of the people of Guernsey, whom the States represent.

1750 I can give you a couple of practical examples where, for example, in the late 1990's we decided to choose to regulate the fiduciary industry from a reputational point of view, following the Sark Lark and the noise that created. So, in 2000 we had the Fiduciaries Law brought in, and that, I believe, has been a very good thing for Guernsey. Now we choose to regulate fiduciaries, but in fact the UK does not. C&E, in the last year, communicated to the GFSC that we do not wish to have UK pay-day loans, who wish to decamp from the UK, setting up here and selling their wares over the internet back into the UK. Okay, it could be reputationally damaging, but, if you like, a political decision. So, as in all things, this is a matter of balance.

1755 On another subject... I just want us to put the accounts to one side. Deputy Sherbourne does make some very good points and other Members have alluded to this, so we put the accounts to one side. There was another cost, which is indeed the cost of compliance for our industry, and I think that work is underway and discussions... and I know my discussions with the new Director General and with the Chairman of the Commissioners and other Commissioners... is that we do need to ensure that the service that industry gets is primary. They do not want to wait six months for a long drawn-out no, or even eight months for a long drawn-out yes. We need to establish good service to our industry and make sure that that service delivery is timely.

1760 I do welcome – and it was something that I pushed for very much – this Innovation Department. The GFSC needs to be alive that we are in a very fast-changing environment. The whole financial services sector technology involvement means that we are having to put in a lot more work in a lot shorter space of time, and this is a step change for both us, as a Government, and for regulators, and it is to me a welcome move that we now have an Innovation Department. I want industries to be able to go along to the GFSC without being recorded, to say, 'Look, I've got this idea. How does that fit in with the regulatory framework? Can we achieve this? If you have any objections, what are they? How can we modify our plans?' So important.

1765 We are, as I said, meeting and working together. We have a financial sector strategy which will be published later, and clearly it is no good if the Government and industry agree on a financial sector strategy but the financial regulator goes off on another tangent. What I will say is over the last year the regulator has been very much part of those workshops and contributed greatly to our financial centre strategy, which will be published.

1770 In defence of the regulator, who can see all this regulation coming forward? The huge amount of work involved in AIFMD, Basel III, we have a Moneyval inspection coming up. However, I think, to quote Lester Queripel – or Deputy Queripel, sir – there is a communication problem here as well. I think as well as Government communicating its policy, the GFSC perhaps needs to up its game in communicating with industry, and when there are difficulties in coping with their existing staff, to explain why they are taking these people on, to go through the pressures that are affecting the GFSC, so that both industry and Government can understand their position better.

1775 The consultation document which I e-mailed, which is the consultation which you can see is now closed... we will be of course coming back to this Assembly with some recommendations following that consultation, once we have been able to look at all the responses. It is, in my view, though – and so important for our economy, bearing in mind that the finance sector directly drives 41% of our economy; it may be over 70% indirectly – that all three legs of this stool work closely together; that Government, the regulator and the finance sector all work closely together for our economic and future prosperity.

1780 I can assure you that the Financial Sector Development Unit of Commerce and Employment is working extremely hard all year round behind the scenes, and I do take Deputy Trott's point: Jarrod Cowley-Grimmond's shoes will be enormous to fill and he has been of huge benefit. What I can say is a lot of the work that Jarrod has started... he has agreed that he will, on his return to Brisbane, still be there at the end of the internet and still be there to help and advise in a handover period to whoever fills his shoes. In fact, we will be looking at taking on two members of the FSD Unit, so we will be looking at beefing that up in our own way to cope with the amount of regulation that is now coming our way.

1785 So, in closing, all I will say is we should support these accounts. I think the work of Policy Council, Commerce and Employment and the Financial Sector Development Unit is ongoing. It is day to day. Nothing is perfect. We have a new Director General, we have a relatively new Chairman of the Commissioners, and I think what we should do is give them a chance to turn this ship around, to allow them to modernise the GFSC; and at the same time, as we have voted already, we have this amendment where we will look into the funding mechanism and report back to the States. Thank you, sir.

The Bailiff: Does anyone else wish to speak?
The Chief Minister, then, will reply to the debate.

1810 **The Chief Minister:** Thank you, sir.

Before replying, can I just clarify one point: it has been suggested that possibly I have a conflict of interest because, as the Report and accounts of the GFSC clearly demonstrate, I was Chairman of the Commission for one-twelfth of last year. I declare that it is self-evident from the document. I do not believe it causes a conflict as what we are asked to deal with here is to approve the accounts. I had no hand in the preparation of the accounts, nor did I have any hand in the preparation of the Chairman's report, which is another aspect of this that we have to deal with, and the accounts have been approved by the Commissioners, of which I was not one. Therefore, having declared that, I do not believe that I have a conflict of interest in proceeding.

1815
1820 Sir, at the risk of extending the Latin aphorisms to the ultimate extreme, I will try and avoid repeating things *ad nauseam*.

Firstly, can I say that the international reputation of this Island is critical and absolutely vital. The Guernsey Financial Services Commission has played a proud part in the establishment of that reputation and we must remember that. We also need to remember, and it has been stated on numerous occasions now, that any challenge to these accounts... and yes, we may vent spleen and concerns about the finances of the Guernsey Financial Services Commission, but any suggestion that the accounts are rejected would be hugely detrimental. It would be an absolute gift to our competitors. The accounts are a historical record. They are, as required, a true and fair view of the state of the finances of the Commission as at 31st December 2012, and I refer you in particular to the auditor's certificate on page 42 and therefore suggest that on that basis, if for no other reason, the accounts should be approved.

1825
1830 It is also not the rôle of this Assembly, sir, in my submission, to micromanage the affairs of the GFSC. Clearly, we have the right to express concerns and that has been done admirably over the last half day, but ultimately it is the Commissioners who are responsible for the running of the Commission and it is those Commissioners who are appointed by this Assembly at various stages. It is in them that we repose the trust that the affairs of the Commission will be conducted in an orderly and efficient manner. Ultimately, as somebody has already suggested, if we were not happy, on the next occasion when a commissioner comes up for re-election, arguably we could reject that. But I have to say I would have also voiced severe concern about that process in that it is not easy to recruit commissioners.

1835
1840 Reference has been made during the debate to fees, and I think it was Deputy Conder in particular who quoted back to 2001 and then extrapolated and showed the increase in fees that had been charged by the Commission. Sir, again that is a dangerous process, because it implies that the increase in fees is solely due to the increase in the rates of fees, and that will not be the case. The increase in fees reflects the growth of the industry, it reflects the growth in the number of regulated entities, and I would refer the Assembly to pages 68 and 69 of the GFSC Report for some evidence of that, particularly that growth in the fund sector. So the increase in fees, yes, you can use a headline figure; but actually what you are in danger of doing is comparing a small number of licensed regulated entities at the beginning of 2001 with a significantly higher number of regulated entities at the end of 2012.

1845
1850 I also advise caution when comparing fees and costs across comparable jurisdictions. Even our nearest jurisdictions of Jersey and the Isle of Man have different structures, they have different styles of finance service activities, and again, if you want to do a comparison, you need to identify the numbers of licensed entities in those relevant jurisdictions if you want to draw comparisons. It should also be noted that I believe that in the Isle of Man still there is a significant subvention from government in support of their regulatory body.

1855
1860 Reference has been made to the international regulatory pressures that have occurred. Clearly, the most significant of those regulatory pressures, I would submit, is the occurrence of 9/11. It was that event that changed the whole atmosphere, the whole thrust and the whole process of regulation of anti-money laundering. Prior to that, it was mostly concerned with drug trafficking. It moved onto terrorist financing, and that has been, I would suggest, one of the greatest pressures that all jurisdictions – Guernsey is not unique in that – have faced, and it has hugely increased the burden on industries; again globally, not limited to Guernsey.

That leads on to compliance costs, and again, yes, it must be recognised that over the last 10 or 15 years compliance costs for financial services in businesses has increased enormously, but that is not peculiar to Guernsey. Talk to colleagues in Jersey, talk to colleagues in the Isle of Man, in the United Kingdom, Cayman, wherever, and they will all say the same message: that the growth area is in compliance and it is not peculiar, it is not unique to Guernsey.

1870 Sir, yesterday, Deputy Lester Queripel went through the accounts in some detail. I said at the outset I would not be able to answer all the detailed questions and that those should be referred back to the Guernsey Financial Services Commission, but what I would say... I am not trying to justify the cost base in the Commission, but to recognise, as with so many of our bodies, including the bodies of the States itself, there are elements of costs that are controllable. There are also a significant element of costs that are non-controllable, and I again refer Members of the Assembly to the breakdown of legal and professional fees contained in the Report of the Guernsey Financial Services Commission. There are fees there that are associated with enforcement actions. There are fees there which are one-off fees in relation to the Independent Evaluation Review and implementation of that Review.

1880 In relation to enforcement, having been a Commissioner for a number of years, it is very difficult to predict from one year to the next what are going to be the likely costs that will be incurred by the Commission in relation to enforcement; and not just enforcement but also the investigation that leads to enforcement, because very often the forensic investigation cost is where the Commission can incur considerable expense. You cannot, on 1st January of any one year, predict with certainty what is likely to come out of the woodwork during the course of that year.

1885 Reference has been made to Commissioners and the cost of Commissioners, recruitment of Commissioners. Again, Deputy Conder harped back to 2001 when my memory recalls that there were five on-Island Commissioners. You now have six Commissioners, three of whom are off Island, for whom it has always been recognised that there should be a higher fee because they have to come over for the whole day – at least a day, if not a day and a half – in order to attend Commissioners' meetings. The decision to appoint off-Island Commissioners is a decision of this Assembly going back over a number of years, and I believe that it has served the Guernsey Financial Services Commission in very good stead by having off-Island Commissioners of the calibre of the Commissioners that we have.

1895 There is a cost element, obviously, in the recruitment of the number of Commissioners and also in the calibre of Commissioners. Again, Deputy Queripel referred to the very small print on table 12 of the Commissioners' Report, behind page 71, and the fact that Policy Council had increased the level of Commissioners' fees. That was done on the previous Policy Council. I was not part of that, but I would say that the previous Commissioners' fees had remained frozen for at least three and a half years and I believe the current level of fees is now also frozen, or is unlikely to change in the next year or two. So there is the element of catch-up in those fees.

1900 Sir, I accept that it is entirely appropriate, as Deputy Stewart has said, that Government needs to set objectives and guidance, and the failure of Governments of the States of Guernsey in the past is that it has not stepped up to that responsibility. In the absence of objectives and guidance set down by this Assembly, then it has inevitably meant that the Guernsey Financial Services Commission over a number of years has had to itself fill that vacuum. It is to be encouraged, and I welcome the initiatives of Deputy Stewart that recognise we do need to put in place a process and a mechanism whereby in this Assembly this Government can actually set the objectives and guidance, and I believe that will be welcomed by the Commission and the Commissioners.

1910 The review that will follow as a result of the successful amendment put forward by Deputy St Pier, I share some of the concerns expressed by Deputy Lowe. We will need to be very cautious as to how we proceed with that review and the outcome of that review, and as a number of Members have already said, we must ensure that as a result of that review we do recognise the importance of maintaining the independence and the financial integrity of the Guernsey Financial Services Commission. But that should not stop us undertaking such a review.

1915 Reference is made to the reason why the States is asked to *approve* the accounts. I can find no reason why the States should be asked to approve the accounts. I think the obligation is to *lay* the accounts before the States, and the only reason I surmise that we have the request to approve the accounts is purely one of history. That is how it has been done in the past. Going forward, clearly we need to review whether it is the appropriate form of Proposition to bring to this Assembly.

1920 Deputy Sherbourne mentioned that his understanding was that the employees of the Guernsey Financial Services Commission were originally part of the Civil Service. Sir, I would wish to correct that, because one of the reasons why the Guernsey Financial Services was established back in 1987 was because of the problems that the then Commercial Relations Adviser, John Roper, had in recruiting people in order to carry out financial regulation as part of the Civil Service structure. So one of the reasons why the Commission was set up and has stood us so well is because it actually took the employees out of that Civil Service structure; they were no longer part of the Civil Service pay grades, as a result of which then it was possible to go out and to compete with the financial services industry in order to attract people of the right calibre in order to form the executive of the Commission.

1930 Deputy David De Lisle asked the question about outsourcing. I think the experience of outsourcing is that this is primarily cost driven. It also reflects the availability of qualified personnel, particularly in accounting fields. I am aware of a number of financial services businesses in Guernsey that have followed that route. Hopefully, many of those may now be reconsidering, because the cost base in the jurisdiction to which they did outsource... a number of service providers are finding it has increased quite considerably, and therefore the cost advantage they would gain from that process is beginning to reverse. I think also there are a number of practical difficulties of maintaining the outsourcing model.

I have not sought to answer every single question that has been raised.

1940 To Deputy Lester Queripel I would love to give a lecture on the intricacies of FR17 accounting treatment for pensions. I suggest, if he wishes to follow that up, that he actually asks for a meeting with the auditors of the Guernsey Financial Services Commission, who may be able to take him through it, but suffice it to say that my understanding is that the calculations for FR17, including, I believe, the reference to other finance costs which he drew to our attention in note 7(b) is part of the calculation. It does not imply that it is a cost that has been expended, but it is part of the calculation to determine whether the fund is in surplus or in deficit. I would suggest that Deputy Queripel does perhaps make contact with the auditors to have that lecture.

1945 Sir, I would urge this Assembly to vote in favour of all three Propositions: to note the Report; to approve the accounts; and also to approve the amendment that has been put forward by my colleague, Deputy St Pier.

Thank you, sir.

1950

The Bailiff: Deputy Trott.

1955 **Deputy Trott:** Sir, just one point. The Chief Minister told us he could see no reason why the Assembly is required to approve these accounts. Of course, historically, the reason is that shareholders approve accounts, and whilst we are not a shareholder, would he accept that it might be more appropriate for the industry themselves to approve the accounts, as they arguably have the greatest stake?

1960 **The Chief Minister:** Sir, if I briefly reply, the Guernsey Financial Services Commission is a statutory body. Deputy Trott is absolutely right, it has no shareholders; but I question whether it is appropriate for the industry that is being regulated necessarily to be the body that should approve the accounts. Clearly, industry has an interest in the accounts and would have questioned the Financial Services Commission and the Commissioners, no doubt, on the content of the accounts.

1965 **Deputy Trott:** I agree with the Chief Minister, sir, and that is why this Assembly is required to fulfill that function.

1970 **The Bailiff:** Members, we come then to vote on the Propositions. The original two Propositions are on page 1088, and as you are aware, Proposition 3 has been added as a result of the successful Deputy St Pier and Deputy Langlois amendment.

Unless anybody wishes them to be voted on separately, I propose that we take all three Propositions together. Those in favour; those against.

1975 *Members voted Pour.*

The Bailiff: I declare them carried.
Thank you, we will resume at 2.30.

1980 *The Assembly adjourned at 12.37 p.m.
and resumed its sitting at 2.30 p.m.*

Procedural concerning order of business

1985 **The Bailiff:** Members of the States, in light of the progress that we have made in the last two and half days, I know that the Chief Minister would like to suggest that we perhaps review what we do next, and I think he has a proposal as to what we should take next.
Chief Minister.

1990 **The Chief Minister (Deputy Harwood):** Yes, thank you, sir.
I have had the opportunity of discussing this suggestion with a number of States Members. The suggestion is that we should take the States of Guernsey Accounts next, whilst we are all in an accounting mode, (*Laughter*) followed by two items from Commerce and Employment – one relating to the copyright, which is hopefully not controversial, and then the second one, which has time-critical issues, is the Amendments to Statutory Minimum Wage; and then resume, after that, with Strategic Asset Management.

1995
The Bailiff: So that is the Proposition that I am going to put to you: that we take next the States of Guernsey Accounts, to be followed by the Commerce and Employment Department's report on copyright matters, and then their report on the minimum wage.
2000 Those in favour; those against.

Members voted Pour.

2005

Billet d'État XVI

TREASURY AND RESOURCES DEPARTMENT

2010

States of Guernsey Accounts 2012 Propositions carried

2015 *The States are asked to decide:
Whether they are of the opinion:
1) To approve the States of Guernsey Accounts 2012
2) To approve the following 2012 Accounts:*

2020 *i. Ports
ii. Guernsey Water
iii. States Dairy
iv. States Works
3) To note the following Accounts:
i. Social Security Department Consolidated Contributory Funds
ii. Elizabeth College
2025 iii. Ladies' College
iv. States of Alderney*

2030 **The Bailiff:** That brings us, then, to the States Accounts and the Minister for the Treasury and Resources Department, Deputy St Pier.

Deputy St Pier: Sir, I am sure Members will be delighted to know that I am all out of analogies.

2035 I am pleased to present the 2012 Accounts for the States of Guernsey. These are, of course, a factual statement of income and expenditure during 2012 and the overall financial position at 31st December, and they of course have been audited by Deloitte LLP.

2040 The States Treasurer's Report gives a full commentary on the high-level States financial results and explains the position of the reserves; and this, together with the narratives which accompany each set of Department and Committee Accounts, aids understanding of them and provides information on some key performance indicators. But of course, as in prior years, these Accounts are not prepared in accordance with international accounting standards, giving full recognition to all assets and liabilities.

2045 I would just like to highlight a couple of the more significant points. Firstly, inflation in the year to 31st December 2012 was 3% and general revenue income increased by 4.6% to just over £362 million, a real-terms increase of 1.6%, whilst expenditure only increased by 2.7% to £341.7 million, so a real-terms decrease of 0.3%. Both of these favourable outcomes have, of course, contributed to the deficit reducing to £20 million, from £24.3 million in 2011 and £37.2 million the year before.

2050 Despite remaining within the States policy of a real-terms freeze on aggregate States' revenue expenditure, States Departments did still manage £4.6 million in 2012 of service developments which had been prioritised as part of the States Strategic Plan.

2055 There are three other areas of expenditure of note: first, provision has been made for the non-recovery of the balance of £2.3 million of the amount fraudulently obtained from the States of Guernsey – clearly, we have not given up hope that further funds may be recoverable following the Police investigation, but it is prudent to fully provide for the balance at this point; secondly, the Health and Social Services Department spent £2.2 million more than its authorised budget; and finally, as a result of the higher formula-led Supplementary Benefit expenditure, mainly as a result of increased unemployment during the year, the Social Security Department spent £1.9 million more than originally anticipated.

2060 With regard to the Contingency Reserve, the part which has been earmarked to underpin our Corporate Tax Strategy stood at £85.2 million at 31st December. In 2006, when the States resolved that up to half of the Contingency Reserve could be used to fund the deficit, the Tax Strategy Reserve, as it then was, had a balance at the time of £100 million. Since that time, withdrawals to fund the deficit have totalled £61.1 million with the reserve benefitting from the £15 million appropriation into the reserve in 2007 and investment returns of over £30 million.

2065 Members will recall that, as part of the 2013 Budget Report, the States agreed that £5 million anticipated would be received in 2012 from Guernsey Post Ltd in respect of a buy-back of shares and that this would be appropriated to the Capital Reserve. I am pleased to advise that the £5 million has been received, albeit slightly later than anticipated, in early 2013, which is why it does not appear in the Accounts before you. Sir, I am pleased to be able to inform the Assembly that Guernsey Post Ltd has also advised that it is planning a further share buy-back of £3.5 million during the latter part of this year and I am sure Members will agree that these amounts form a welcome addition to general revenue funds.

2070 It is perhaps timely to remind Members that the States receive dividends from their commercialised entities if they return a profit; however, the States-owned trading entities, such as the dairy, ports and so on, do not have a dividend policy *per se*. Notwithstanding this, in 2012, States Works, through the Public Services Department, transferred £1.5 million of its excess cash reserves to General Reserve. My Department will be requesting that all of the said trading entities produce comprehensive medium-term cashflow and working capital forecasts and then transfer any identified surplus as cash reserves to the General Reserve.

2080 My final comment in respect of 2012 of course relates to the significant potential future liability of the Superannuation Fund, which now stands, as calculated by reference to the now infamous conditions of the accounting standard FRS17, at over £500 million. Under current accounting arrangements, this is not disclosed on the face of the States balance sheet. My Department looks forward to considering, as soon as possible, proposals being put forward by the Policy Council which will limit the potential future liabilities and result in a favourable scheme.

2085 The favourable 2012 overall outturn, with a lower than anticipated drawdown from the Contingency Reserve despite some significant adverse items in the year, is of course good news, but we must not become complacent and must continue to focus on the future.

2090 The budget deficit in the current year is £17 million. Delivery of the final tranche of the FTP targets – including, of course, the Strategic Asset Management Plan, of which more later – in 2014 will deliver some £10 million, which will then see this deficit virtually eliminated, especially if accompanied by actual outturns being more favourable than budgeted, which has incurred in respect of both income and expenditure in 2011 and 2012, and that is an issue which my Department is reviewing closely.

2095 However, there remain significant expenditure pressures, including delivery of the FTP targets, as we know. HSSD and SSD are remaining within their budgets, and – this is critical – the impending capital prioritisation proposals, which of course we will discuss in September, where it is almost inevitable that increased appropriations will be required as a substantial portion of the current programme are actually being funded by transfers made to the Capital Reserve in earlier years.

2100 My Department is carefully currently considering measures that it will recommend in the 2014 Budget Report, which will of course this year come to the States in October, including any initial

2105 responses to the first stage of the Personal Tax, Benefits and Pensions Review, a report on the consultation phase of which will be published by my Department together with the Social Security Department later this month.

Sir, I ask the Assembly to approve the 2012 Accounts.

The Bailiff: Deputy Gollop, then Deputy Brouard, Deputy Storey and Deputy Soulsby.

2110 **Deputy Gollop:** Thank you very much.

I have been privileged to hear at least two lectures in the last few months by the Treasurer and Chief Accountant, Bethan Haines, who spoke at two evening courses and explained very clearly the complexity of States Accounts and the teapots, if you like – all the different funds that are out there. But I still need some additional tuition, I think, because although I welcome the opportunity to work with Treasury Members on the Tax, Pensions and Benefits Review, I have a residual belief that we have to ensure we have sufficient contingency funds to allow for capital development, and that is a priority for this Assembly to grapple with as well as the removal of the deficit, which is a constructive good-news story.

2120 I have one specific point – not necessarily a question, but it is an observation that yesterday, Deputy Trott, who of course served as Treasury Minister too, indicated that it might be best, from a financial point of view, for Aurigny to borrow money for the jets from the commercial sector; nevertheless, the resolution the States adopted does give the option to arrange for funding for the planes from the General Treasury Investment Fund, even though I think Mr Darby, the MD, on a BBC radio interview, indicated that was not his preferred choice of strategy at this stage, this morning. But I am wondering which fund would it come from and how would you suddenly avail yourself of a significant quantum of millions? Or would it just be from balances, as a former Treasurer and Chief Accountant indicated could have been done for the Waste Plant I am puzzled as to where that would show up in accounts and what effect it would have on our balance sheet.

2130 **The Bailiff:** Deputy Trott.

Deputy Trott: Sir, I rise simply to say my comments were precisely the other way round; otherwise Deputy Gollop was accurate. *(Laughter)*

2135 **The Bailiff:** Deputy Brouard.

Deputy Brouard: Thank you, sir.

2140 Members of the House, I just wish to first of all declare that I have a frozen States Member's pension, a lead accepted by Members of this Assembly, coming more forward, I suppose, with our finances.

2145 This is a difficult subject. We, as the States, are the employers, through Policy Council, of some 5,000 staff. I have no intention of frightening the horses or affecting our staff's expectations, and we also need to be very careful in recognising the commitments that we have given to our staff. We also have to ensure that we have a package that is competitive, so we can attract staff for a vast variety of roles, *but* we do need to have that adult conversation. I appreciate that there is a review at present underway – I think it first started in 2008-09; certainly when I was on the PSRC we made the first few enquiries – but the staff are also changing their part of the pact; not intentionally. Let me explain. When I started work in the 1970's, my life expectancy, for someone born in 1956, was that I should be dead around 67.

2150 **Deputy Trott:** Oh, my goodness! *(Laughter and interjections)*

Deputy Brouard: Deputy Trott, always one to go first! *(Laughter)*

2155 Of course, in the 1970's, the life expectancy has moved just a fraction forward at 68. However, now life expectancy is 78, and hopefully they will move the figures up before I get near to my late 70's. *(Laughter)* Working for 45 years and then having a pension for 20, 30, 40 years is not sustainable on these rates. It is brilliant, but it is not sustainable on the rates that we are putting forward. The pension scheme only works on the basis that not all Members live forever – or at least that is how the previous ones have been done. The actuaries have been constantly behind the curve. I do not think it is their fault, because in the small print they will say 'we are only doing a projection of this, this and this.' So we do not actually need actuaries; we could do with a new type of person called a 'predictor', and we will need to employ predictories who will predict what the real date will actually be.

2165 I have written a letter to the Policy Council, to the Chief Minister. They have not got it, because it is still in my hand, (*Laughter*) but when he does get it, this is what it is going to say: (*Laughter*)

2170 'I write to raise my concerns that we are in danger of missing some fundamentals. Looking at our States Accounts, the 2012 position, the overall position of our staff pension liabilities went from a deficit of £381 million to £503 million, worsening liabilities of £122 million in one year.' [14.45.08]

2175 That has to be paid by someone at some time; otherwise it would not be worth putting it down on paper in the first place. Yet our major effort and resources are put into the FTP to bring about a £30 million savings for the States budget over a five-year period, and the point I am making is we have a major issue causing a significant impact on our finances, yet it seems the larger effort is put into the FTP, which by comparison on our finances is of less significance, although very important. It just seems to me that it is like the little old lady in the storm, putting blue tac around the letterbox to try and stop the draught and not noticing that the back door has blown off.

2180 Thank you, sir.

The Bailiff: Deputy Storey.

Deputy Storey: Thank you, sir.

2185 I must start by saying I agree with everything that Deputy Brouard has just been saying. The Assembly will know I have a particular interest in pensions, and if I did not have something else that I wanted to concentrate on I would have certainly spoken about that matter.

2190 But, that is not what I wanted to speak about, sir. What I wanted to speak about is at the beginning of the Report and Accounts, on pages 1 and 2, both the Minister of T&R and the States Treasurer state, in slightly different words but more or less verbatim:

'A provision for Exceptional Expenditure of £2.3m as a prudent allowance for non-recovery of the balance of the monies fraudulently obtained from the States in July 2012.'

2195 And that is it. That is all that has been stated in the Accounts in relation to probably the most momentous happening to the States in 2012. Two lines of print in a Report from the States Treasurer running to eight pages of A4 is just not appropriate.

Furthermore, sir, on page 9, the States Treasurer states:

2200 'Departments and Committees are responsible for safeguarding the assets of the States of Guernsey in their care and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.'

Subsequently, we are assured that:

2205 'The States internal financial controls and monitoring procedures include... Regular review of the performance and security of the States' financial assets.'

And it goes on to say:

2210 'The States internal controls and accounting policies have been and are subject to continuous review and improvement.'

2215 So everything is okay, then. Well, *is* it? I do not believe the picture painted in this respect by these Accounts and the words that are printed in it. I do not think they represent the reality of the situation.

Sir, despite warnings about inadequate risk assessment and risk management processes in *three* reports – in the years 2000, 2007, and most recently by PAC in March 2012 – it is quite clear that none of these reports were taken seriously or any significant steps taken to introduce an adequate risk-management framework.

2220 The present PAC engaged Ernst & Young in November 2012 to look into and report on the States financial controls with special reference to the appropriateness of the States Anti Fraud Governance Framework. According to the report that the Public Accounts Committee has published, Ernst & Young found that the States Anti-Fraud Governance Framework pre-May 2012 was inappropriate. The recommendations made in the Internal Audit report of May 2012 and August 2012 were not unreasonable. Following the completion of their review in December 2012, the Anti Fraud Governance Framework remained, according to Ernst & Young, inappropriate. Yet we have been given repeated assurances in this Assembly by the Minister of T&R that matters

were much improved and such a fraud could not now happen again. As far as I can see, sir, there is a great disconnect between these assurances and what appears to be the real situation.

2230 One of the first things I did on election to the Housing Department in May last year was to ask for the staff to prepare a new risk register and develop procedures to deal with these identified risks. This has been progressed and the board has had reports on progress in this area, but earlier this month our Director of Finance reported that the risk management updates would be put on hold until the corporate approach to risk management across the States of Guernsey was completed.

2235 So I ask: what is going on? On the one hand we are being assured by T&R and by the Accounts for the States that everything is hunky-dory, but Ernst & Young say, 'No, it isn't,' and it is quite obvious that we do not have a proper risk management approach across the States of Guernsey because Departments are being asked to hang about a bit before they actually get the rules on how to comply. It seems to me, sir, that some 16 months after the last PAC report, 2240 14 months after the fraud, we still have not got a corporate risk management and Anti Fraud Governance Framework in place. Sir, this is quite unacceptable.

I note that PAC has now approved the commencement of stage 2 of the review of financial controls following the recent implementation of SAP and the Shared Transaction Service Centre, and I look forward to this report in the near future. However, in view of the lack of urgency to 2245 implement appropriate policies and controls in the past, I think it would be helpful and provide essential assurance to the tax payers of this Island if the annual external audit was extended for the next couple years to include a review of the appropriate list of the risk management framework, including anti-fraud governance of the States of Guernsey.

I look forward to an affirmative response to this proposal from the Minister of T&R in his 2250 summing up.

Thank you, sir.

The Bailiff: Deputy Soulsby and then Deputy Duquemin.

2255 **Deputy Soulsby:** Sir, yes, I would like to just make a few points about a few matters that have been mentioned today and then go on to the speech that I had prepared before today based on the Accounts.

The first point I would like to raise is something that Deputy St Pier mentioned during his speech, about how those reserves held by trading entities would be transferred to the General Reserve. That struck some concern with me, particularly as I sit on the Dairy Management Board and I know that the Dairy has made a lot of effort over recent years to build up its reserves in order that it could build a capital management plan and ensure that it can properly make sure that its capital and all its infrastructure works appropriately. I suspect this will be of great concern to the Management Board, that that reserve will be taken away, on top of the fact that they now cannot 2260 resolve to make even more than just minor expenditure – now they have to go to Treasury and Resources Department. So that does concern me, particularly for the Dairy because that is my experience.

I would like to bring up one point in relation to what Deputy Storey just said on the statement of financial controls. The Public Accounts Committee, which I am very grateful... for the first time we were invited to report, by the auditors, to the Treasury and Resources Department this year and it was enlightening and it was very useful. At that meeting, I did raise the issue of that statement on financial controls and said, in light of the recent experience, both of the fraud and the results of our report, that it might be more appropriate for that to have changed, but it was felt that it should stay the same. That is for the Treasury and Resources Department to decide. 2270

2275 Before I start on what I was going to say today, I would like just to go back to what we were talking about this morning. I think that, given we have just been debating the GFSC accounts, it might worth having a quick word regarding how these contrast with the States Accounts and demonstrate how the States have something to learn.

If you turn to page 42 of the GFSC accounts, if you have still got them around, you will see that there is... You will have to work back from page 39, by the way, because 42 is not numbered, but anyway... Here we have the Auditor's Report, which states that the Commission is required to prepare 'financial statements for each year which give a true and fair view', and this is also stated in the governance report at the back, on page 75. 2280

I know Deputy Trott has issues regarding the way the legal fees are presented in those accounts, and that might be something Public Accounts Committee may consider and be able to come back to you on later, Deputy Trott. 2285

But going back to the States Accounts, I now refer Members to page 9, which states the Treasury and Resources Department's responsibilities in terms of the preparation of the Accounts. In there, we see nothing, anywhere... is the requirement to prepare true and fair Accounts stated.

2290 Whilst we may not like the contents of the GFSC accounts, at least they are prepared under Generally Accepted Accounting Principles. The States accounts are not. We have a balance sheet that completely omits £2 billion-worth of assets, presents capital expenditure in the income account, and it does not adopt full accruals accounting. That is confusing for me as a chartered accountant, let alone people who have not got a finance background. So before we think the GFSC is getting it all wrong, at least these accounts, whilst not perfect, are far more compliant with practice than those of the States. So, to use a Latin phrase then, (**A Member:** No!) QED. (*Laughter*) *Quod erat demonstrandum*. The States have something to learn from the GFSC.

2295 I mentioned the point – I think it was two days ago now, but it seems longer ago than that – that to get the most out of zero-based budgeting we really need to adopt resource accounting as soon as practically possible, and I reiterate the point here. Treasury and Resources are under resolution to do so and I request again that it is given more urgent attention than it is at present, in order that the States Accounts can move some way to being a *magnum opus*. (*Laughter*) (**A Member:** Enough!)

2300 Sir, in respect of what I have prepared for today, firstly, as Chair of the Public Accounts Committee, I would like to make Members aware that the Committee has been concerned by the delay in bringing these Accounts to this Assembly. The Committee has monitored the situation over the last few months and our audit panel has received regular updates from the auditors. The Public Accounts Committee appreciates that the implementation of SAP has led to additional complications in the production of these Accounts, and the Committee is concerned that the SAP implementation will impact even more heavily on the 2013 Accounts. We therefore recommend that Treasury and Resources focus their resources in this area. The information in these Accounts will be reviewed as part of the Committee's work generally and will form a basis of future reviews.

2305 Most of the talk during this debate may well be on expenditure, and this is probably understandable. There is more information on the output and that is everyone's focus, particularly as we are all under the cosh of FTP. However, I would like to concentrate on the top line, income, and more specifically Income Tax. The States Treasurer, in her report, rightly comments that Income Tax receipts from individuals showed real-terms growth of 1.3% and a nominal increase of £9.4 million. At first glance this would appear great news.

2310 The term 'individual' can be misleading. Whilst many will think this means employees, it also includes those who are self-employed and hence represents profits they take out of the business. The fact that there has been a real-terms rise surprises me, as well as the fact that it is 1.5% of the total authorised figure. It will be surprising if this were down to pay rises, unless we believe that everything in the economic garden is rosy and employees have been giving their staff above-inflation pay rises over the last few years, (*Interjection*) or that there has been a substantial net increase in jobs. Neither of those sound very plausible to me. Neither do I believe, based on Chamber of Commerce surveys and other economic data available, that businesses have become more profitable over the last few years. The growing cost base from indirect taxes like TRP and the high cost of broadband, mixed with a difficult trading environment, make it even more unlikely that our Income Tax receipts have grown.

2315 Then what could have caused it? Well, one clue may come from an answer to the Rule 6 Question asked by Deputy Fallaize in March this year, relating to the backlog in processing Income Tax returns. In that Answer, the Minister of Treasury and Resources gave the Department's explanations for the backlog. Taking out the cyclical nature of the returns process, it was acknowledged there had been an increase arising from the change of the tax regime in 2008. The tax computations of many companies contained errors and took a significant amount of time and correspondence to resolve. The complexities of the deemed distribution regime also led to a knock-on effect of owners of companies until the companies' affairs for deemed distribution were agreed.

2320 Of course, in addition to this we have had the introduction of a new charging regime that has resulted in a rush of returns being sent into the tax office. I welcome the introduction of the new regime, by the way, and believe it is long overdue. However, we must be aware that this will have had an effect on the Income Tax figure recorded in the Accounts as a consequence of the accounting policy of recognising cash received and the amounts approved based on assessments due for collection as at 31st January the following calendar year. If this is the case, then I have a genuine concern that there is no real understanding of what our year-on-year position on Income

Tax should be. Also, importantly, the recommendations from the Tax and Benefits Review could be based on misleading figures.

2350 In this situation, Members might like to be advised that the Public Accounts Committee is currently considering undertaking a review into the accuracy of the reported position on Income Tax.

The Bailiff: Deputy Duquemin.

2355 **Deputy Duquemin:** Thank you, Mr Bailiff.

I will be brief. Members will be pleased to know that my half-written speech on the Accounts debate is at home on my laptop, but fortunately I can remember the thrust of it.

2360 I return to the point that was first raised by Deputy Brouard over the public sector pensions, the Superannuation Fund, because for me this is one of the biggest, if not *the* biggest issue that I would like this States to have grappled with and come to a solution. It was interesting that it was a huge topic at the last election and it was one of the questions that was asked by the *Guernsey Press* in their very simple yes/no survey. Having reread that document published by the *Press*, it is interesting to note that one third of the Members in this Assembly today said that the public sector final salary pension scheme should be ended. It was a third of Members. What was perhaps even more interesting is more than half of Policy Council signed up to the statement that the public sector final salary pension scheme should be ended.

2365 I go back now obviously a number of months, but it was a question that was raised at the Castel hustings, and I did some very quick calculations – which for me were very telling – on that evening, and I will mention them to you again today. Theoretically, we have, in the year 2013, an 18-year-old joining the Civil Service. As Deputy Brouard has so ably mentioned, life expectancy is changing – for the better; we are living longer – and the statistics that I have unearthed mean that the 18-year-old should live comfortably to 90. That would be the average age, but it is likely that, come almost the next century, many people are going to get a birthday card from the Queen, or Prince George. So, bearing in mind that this person could live to 100, the civil servant who is now 18 and just entering the Civil Service could still be collecting their final salary from the States of Guernsey, as a final salary pension scheme, in the year 2095. That is the situation that we are left with at the present time. If we look at the affordability of the whole scheme...

2370 Turning that back, what for me is interesting is that that is the equivalent of today having a law or a practice in place that is the same as... subtracting 82 from 2013, takes us back to 1931, and would we have wanted a practice in 1931 to be affecting us today?

Deputy Brehaut: We did: it was the Mental Health Law.

2385 **Deputy Duquemin:** I understand the actuarial valuations can ... there was a huge amount of volatility, and I suppose, in a way, the headline terms that were obviously picked up by the *Guernsey Press* and others of nigh-on £504 million as being the deficit, up almost £125 million in the year... there will be peaks and troughs. But I for one am sure a third of us all here today, and half of the people sitting on the top bench in the Policy Council, are of the belief that the public sector final salary pension scheme needs to be ended, and I would hope that that would be the case.

2390 Back in September I made contact with Policy Council, who have the Pensions Consultative Committee, because this is something that I, as presumably is Deputy Brouard, am very concerned about, and I was sent the copy of the terms of reference of the joint working group that was set up. It is all very fair, but it almost seems to be, to borrow the phrase of this morning, 'light touch', when really I think we need to be getting to grips with it this term.

2395 So my question, not only for the T&R Minister in summing up on the Accounts, but also perhaps to Deputy Langlois, who is heading up that group, is to give myself and also other Members the reassurance that a solution is not too far away – whether it be ending it to new entrants, which I know obviously affects the way the whole scheme works in terms of the viability of the scheme... but to know that we are going to grapple with this *huge* issue, because as Deputy Langlois said in one of his speeches yesterday, we only have another 31 States meetings before the end of this term and this is one problem that I hoped would be sorted during this term of the States.

2400 We mentioned about kicking a can down the road or kicking things into the long grass: I do not want this to be my children's problem. I do not even want it to be my children's children's problem because it is just carried on, because I remind you that that 18-year-old who is starting in

the Civil Service today could be collecting a pension, that we cannot afford, into the next century and I think that needs to be changed.

2410 Thank you.

The Bailiff: Deputy Adam.

Deputy Adam: Thank you, sir.

2415 Like Deputy Duquemin and Deputy Brouard, I feel that the pension puzzle is the largest problem in these Accounts.

I was on the phone-in with Deputy Luxon and the first question was an e-mail highlighting – similar to what you said, Deputy Brouard – £500 million now and £122 million over the last year. But I think one should remember, when you are talking about public sector pay, people keep thinking it is just civil servants. It is *not* just Civil Servants. It is nurses, medical consultants, teachers, fire officers, police officers, prison officers, and it is important to remember that this large group of diverse people is employed in various areas for which we have to attract them to Guernsey to work here – and if they are going to come here and get a worse deal, will they come?

2420 It is fine to say ‘Let’s get rid of it’; I fully agree with you, but we cannot just get rid of it. We have to negotiate our way, so it decreases as a liability. We might like to get rid of it completely, but you cannot do that and it affects too many other areas of people working.

The other area, of course, is a pension is very useful because it means you are less likely to have to go to SSD for Supplementary Benefit to top up if you have not got enough income, and that is one reason why the pension was introduced in the first place, in actual fact.

2425 The age of retirement will have to be looked at.

2430 The other thing is the Minister of T&R kindly mentioned the fact that HSSD was £2.3 million overspent and formula-led costs had increased by about £1.9 million, almost £2 million, which included payments of Supplementary Benefit and also legal aid costs, which increased quite significantly as well.

I would like to point out, and I have said this before, but I have to say it because I worked with the previous Chief Officer – that he had achieved the same cash spend for the three years prior to that, and this overspend was 3.6% for the year, yet inflation was 3%, and the increase in activity across the Health Department varied from some areas of 3% to some areas of 20%. For example, MRI scans were over 20% for that ... MRI and CAT, which is computer tomography, went up by 20%. Diagnostics, which is blood tests, went up by 9%. These cannot be refused, they have to be done, and therefore there is going to be an increased cost with your health services if you have an increased number of patients. And we are saying – and I remember this was said once before – it is because we are an ageing population and therefore we get illnesses; we are more likely to get cancer; hip replacements and knee replacements become more frequent. All these things cost extra money, and at some point T&R is going to have to accept that the budget for HSSD may have to be increased to allow for that issue.

2435 Deputy Storey mentioned the fraud and Deputy Soulsby mentioned the recent PAC report. Can I ask her, through you, if PAC are going to bring that report as a States report, or is it just going to remain on their website where you can access it? It is, as Deputy Storey does say... but I personally suggest that there have been huge steps taken over the last six months to improve the aspect of risk management within the SAP systems and the T&R system, and when they go to look at it again I am sure they will find that many of the recommendations have been put in place that have been suggested by it. Certainly I have also read the PAC report and understand what the situation was like when the fraud happened; but that, shall we say, has stimulated people to be much more active in relation to the management of fraud. (*Interjection*)

2440 I do not disagree with what Mr Storey mentioned there. It is just a shame it was not done five or six years ago, probably when it was first highlighted and has been highlighted, as you say, in audit reports.

2445 Thank you, sir.

2460 **The Bailiff:** Deputy Langlois.

Deputy Soulsby: Sir, can I interrupt just to answer Deputy Adam’s question? The PAC, the first report, that was an interim report, dealing with the circumstances running up to –

2465 **The Bailiff:** No. Under the Rules, you have spoken once. If a member of your Committee wishes to answer the question they can do so, but otherwise there is no right to answer it.

Deputy Soulsby: But he asked you whether he could –

2470 **The Bailiff:** Yes, but you have no right to reply under the Rules.

Deputy Soulsby: Yes, okay.

2475 **The Bailiff:** He can ask. A Member of your Committee can do so, if they wish, or you can reply through other means.
Deputy Langlois.

Deputy Langlois: Thank you, sir.

2480 Two points, I think, to cover and both of them are quite important in terms of public appreciation of what is happening.

The mention, obviously, in the Accounts of 1.9% – 1.9%; I wish it were! – £1.9 million additional expenditure on formula-led benefits I think is one which bears repeated explanation over and over again. The Minister, when he started the explanation, said that a significant proportion of that was due to the rise in unemployment, and indeed it is, but also that leads to other consequences when people then move into top-up Supplementary Benefit and so on and so forth.

2485 The important thing to remember about formula led, which is... It is a phrase which I really have *very* limited sympathy with... It is a terrible shame that it was invented, in I think it was 1991 when the first cash limits came in, in exactly that form, because it has a shady feel about it. It has got a sort of ‘you have got a special rule and therefore you can fall back on it and spend as much as you like and no-body will care...’ It is not like that. The reason it is formula-led is that, very simply, 100% of any additional expenditure results from the change in volume of an economic situation which we cannot control, which nobody can control. It is not just a proportion of it, it is not the just the variable costs, as it is in various other service-delivery Departments; it is the total amount of additional expenditure. So I have taken... Well, I have taken to task – who am I fooling? I have tried to take to task various media outlets who keep on using the word ‘overspend’ in relation to formula-led expenditure, and it is not an overspend in the same context as the others.

2490 People may think this is just playing with words, but the reality is that that formula-led expenditure is right at the centre of our financial management in the Social Security Department. We were authorised to put in a lot more work-incentivisation programmes. To guess at the resources needed to do that, the spend-to-save part from that has taken time. They are beginning to bite, they are beginning to have an effect, and in fact the announcement I made after the change in law on Tuesday will again contribute to this, but that formula-led area is one which we have a huge focus on and will continue to do so, and let’s hope, all of us, that the economic situation moves in a direction where that does not expand any further.

2495 With regard to the pensions, sir, I am going to be much more circumspect about my comments, but I would really make a plea to all of you to have a small amount of patience and, dare I say it, trust in this area. I know ‘trust’ is a dirty word sometimes, but it really is... We are making progress. These negotiations cannot take place in the glare of publicity. I remind you of the figures, round figures: we have 5,000 members; we have 3,000 current pensioners. If each one of those on average has one dependant, that is 16,000 direct stakeholders in this scheme in the Island, and that means that there are an awful lot of people whose lives and futures are directly affected by the negotiations that are taking place.

2500 We are making progress. I am not prepared at this stage to put a date on further news and steps, but there is another meeting this month which should move this forward, and that is as far as I am prepared to go. But, please, can I assure you that all the comments made by Deputy Duquemin and Deputy Brouard have been considered. They have been considered very actively by everybody involved in the negotiation. Four of my fellow Ministers attended one of the recent meetings and so on, so we are extremely aware of the severity of the issue and we are working on it and hope to come back with some results, certainly long before the end of this term.

2505 **The Bailiff:** Deputy Trott.

Deputy Trott: Thank you, sir.

2515 May I ask Members to turn to page 103 of the glossy brochure, the Accounts brochure? There, we look at ‘Law Officers of the Crown’, and under the average number of full-time equivalent staff during the year by pay group we are advised that in the category ‘Crown Officers, Magistrates and Royal Court Judge’ there are two. I have said previously in this Assembly that maths is not my strong point, but I am fairly certain that there were more than two Crown officers,

2530 magistrates and Royal Court judges during that period, and I wonder if that is a typographical error, or if the assessment or the classification is somewhat different to what I would have expected.

2535 May I now ask Members to turn to page 98, because on 98, under the heading ‘Court of Appeal’, we can see graphically that the Court of Appeal costs now exceed £10,000 per day, a quite extraordinary figure, and in many respects a figure outside of the control of this Assembly. The Court of Appeal will sit for whatever number of days the Court of Appeal sees fit and the taxpayer will find themselves accruing a bill of £10,000 a day or more.

2540 Sir, can I now ask Members to turn to page 72. On page 72, under the heading ‘Guernsey Border Agency’, we are given some interesting information. We are told that the overall cost of running the Guernsey Border Agency rose by £283,000, or 4.8%, during 2012; and a little later on in that paragraph we are advised this was mainly due to one-off staff costs associated with a major restructuring exercise. I wonder if either the Treasury Minister or the Home Minister would be kind enough to tell us to what extent those one-off staff costs contributed to that significant figure. It is in the Accounts, so I am sure neither the Treasury Minister nor the Home Minister will have any difficulty in dealing with that request.

2545 Could I now ask Members to turn to page 8, which is the States Treasurer’s Report, and in particular the last three paragraphs where – and others, including the Treasury Minister, have referred to FRS17 – we are told that, as a result of FRS17, the funding level has decreased to 66% and that is mainly due to a change in the discount rate assumption. So the discount rate assumption at the moment is at or around 4%, 4.1%, that sort of figure, and of course reflects quite extraordinarily low real interest rates. The reality is that those extraordinarily low real interest rates are almost certain to go in one direction in the years ahead. In fact, we are already seeing a reduction in the levels of quantitative easing in the US; another signal to the markets that US interest rates will rise soon. The person who predicts precisely when will make a small fortune, so I shall not try to do that. *(Interjection by Deputy Storey and laughter)* Well, I am not sharing it with all of you, anyway, Martin! *(Laughter)* But the direction of travel is clearly in one direction. In other words, the discount rate is almost certain at its very lowest level. The discount rate will rise in line with real interest rates, which means that the existing FRS17 deficit is probably at the very lowest we are likely to see it. You could argue, as a result of that, that the pension deficit is at its most extreme. That is not to say that we should not, as Deputy Duquemin and others have said, have this as a very high priority, dealing with the pension issues, but I also think in these sorts of debates we need to be fair, honest and reasonable with the audience – in this case, it is public sector workers – in saying that that is probably the worst-case scenario.

2555 Sir, can I ask Members to look at the Miscellaneous Accounts of the States, which is the white brochure that accompanied the main glossy brochure, and in particular pages 62 and 63. On page 63 we are advised that the Public Services Department’s States Works Division generated income per employee of £58,724, which is very impressive, and when one divides that crudely by the number of staff members at year end, we see that that was a profit per employee of £1,660. But that was before equipment. If one flicks over to page 62, one will see that capital expenditure was a fairly consistent £1,092,000, so when that is included – that is capital equipment like replacing of essential vehicles; otherwise, States Works would not be able to function – we see that there is a loss of £705,000. That is a loss of over £3,000 per employee. I know that many in this Assembly over the years that have said that States Works has a real strategic value, and that may be the case, but notwithstanding that, it is losing a fairly consistent £3,000 per employee per year.

2570 My final comments relate to the glossy brochure, and in particular the States Treasurer’s Report and a figure that the Treasury Minister did not focus in on, and that is the revenue surplus, the 2012 actual revenue surplus before routine Government expenditure and other larger big-ticket capital-expenditure issues are taken into account. That figure is a very impressive £20 million, and that is a better position than I ever imagined we would have been in back in 2006 when we first brought the Zero-10 fiscal proposals to this Assembly, because I had anticipated by now that we would have, at this stage, already exhausted or been very close to exhausting the contingency reserve tax element component. That is still a rather healthy £80 million or so, I think, from memory, and it shows just how well this Assembly has done over the last six or seven years. So a big pat on the back to all, particularly those at the Treasury and Resources Department.

2585 Thank you, sir.

The Bailiff: Does anyone else wish to speak?
Deputy Collins.

Deputy Collins: Thank you, sir.

2590 Ideally, I am just really going to talk about pages 18 and 19. Having been a previous member
of T&R, I think we talked about it very briefly, but ideally I want some more information in here.
Obviously, there are some very useful facts and figures, but to be honest the pay grades... I would
love to see that from £1 to £10,000; I would love to see the breakdown of who is in what group;
2595 how many consultants and how many doctors and the different groups of pay group split in there.
So I was a little bit disappointed, but I cannot criticise because I think, personally, as
Deputy Soulsby already mentioned, the Accounts may be late but at least we have got them,
considering what has happened on SAP. So I was just a bit disappointed with that, as we did
discuss it. Hopefully next year we might see some more facts and figures in there.

2600 Thank you.

The Bailiff: Deputy Bebb.
Oh, sorry, Deputy Queripel had risen.

2605 **Deputy Queripel:** Thank you, sir.
After the events of the last 24 hours, to say I am 'accounted out' would be something of an
understatement.

I do have a fundamental concern about these Accounts, but I do not feel the need to criticise
them in the same way I criticised the Accounts of the GFSC.

2610 My question is – and I apologise if I am missing a fundamental point – do States Accounts
really need to be printed in such an elaborate, glossy, full-colour format? The Miscellaneous
Accounts are contained in a simple black-and-white format resembling a Billet. This is at a time
when we are supposed to be saving money and looking for efficiencies everywhere, so hopefully
the Minister can tell me: is there a reason why the main Accounts have to be printed in what would
appear to be a very expensive format; and is there any way he can give me the figures for
2615 producing a format like this and the format for the Miscellaneous Accounts, please, sir?

Thank you.

The Bailiff: Deputy Bebb.

2620 **Deputy Bebb:** Very briefly.

Actually, following on from Deputy Queripel, I have to say that, personally, I would not mind
actually seeing a little bit more colour. There is nothing more annoying under artificial light than
these 50 shades of green. (*Laughter*)

2625 There are a few points that I would like to raise that actually relate back to a few other things
that were said in this debate. First of all, I would counter that the debate concerning public sector
pensions is far more complex than anything that can be covered within a debate on the Accounts. I
am lobbied heavily on a regular basis concerning very real issues that are concerning our civil
servants, and I would counsel real caution in making very populist statements on how we need to
2630 tackle this issue when actually there are some fundamentally difficult questions to be asked. I
really would not like to go any further, but I think that we tend to enter into a simplistic debate.
Really, this is the wrong time and the wrong place for it.

2635 There is one other thing that I would actually like to harp back to on the Freedom of
Information debate that we had, and that is, of course, appendix 2, where you will note that, as a
result of a successful amendment by Deputy Lowe, the wages that each one of us has drawn is
actually published in the Accounts. Therefore, when it comes to the question of accountability and
being open, I have to say that, once again, the States of Guernsey is taking a huge move in that
right direction. So, when we see those claims that this Government is closed to information, I have
to counter that we are once again displaying how we are being so incredibly honest about the
amounts that we actually are spending and about the public purse.

2640 I think that the one other point that I would like to raise at this point in time is the question that
has been raised previously in relation to the idea of formula-led expenditure. It is a term that I am
uncomfortable with, because there is that question... and I do harp back to, unsurprisingly, what
happened to the previous HSS fee board and formula-led expenditure... and I understand why it is
2645 acceptable on so many levels because we cannot fully control the numbers of people who are
unemployed, but I find it therefore difficult for us to also understand that we cannot fully control
the number of people who enter into the services of Health and Social Services, and therefore I
find that type of decision and judgement as to whose expenditure is more acceptable than others a
deeply uncomfortable situation that we have had in the past.

2650 HSSD's expenditure over the last year was, of course, £2.2 million over what was budgeted
for. I can only apologise for that, but I would ask Members to please bear in mind that if we are

comfortable with spending £1.9 million on those people who are unemployed, more than expected, why are we therefore so uncomfortable with spending £2.2 million on those people who are ill or who are in dire need of our assistance and generally the most vulnerable members of our society?

Thank you.

2655

The Bailiff: Deputy Luxon.

Deputy Luxon: Sir, I did not intend to speak and I will not speak long, but Deputy Trott brought me to my feet. Members may not have realised that Deputy Trott was actually complimenting the States Works Department and PSD, although it would not be obvious, even if you went back and read *Hansard*.

2660

Just to put into context his helpful comment in terms of States Works, in spite of the continuing challenges of internal States Departments' increasingly competitively negotiated service level agreements, where States Works provide services for less money but at the same level, States Works still managed to release a £1.5 million cash surplus back to T&R Department, and indeed there may well be some more to come. But more importantly, PSD, over the last four years, from 2009 to 2013, will have actually reduced its call on general expenditure revenue by almost half, from £8.4 million to £4.4 million, which by anybody's book is an incredible performance, and capital expenditure has been absorbed within the trading entities of PSD, and in fact capital expenditure was less than £2 million, which was below budget from the previous year.

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So I realise Members may not have quite understood all that Deputy Trott was trying to explain to the Assembly, and I am delighted to have been able to clarify that for him and us. (*Laughter*)

Thank you, sir.

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

Deputy St Pier, then, will reply.

Deputy St Pier: Thank you, sir, and thank you to those Members who participated in the debate. I will seek to address those questions which have arisen.

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Deputy Gollop asked in relation to... Well, he made a couple of points, but in relation to the capital prioritisation and capital funding in particular, I think I just want to respond by saying that the capital prioritisation report will be coming to the States in September. A programme of works will be recommended and will then be for this Assembly to consider and accept, reject or amend, and then the Treasury and Resources Department will need to go away and think about the funding requirements of that and feed that into both the 2014 Budget and beyond.

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In relation Aurigny and the funding, if we were to lend from the general investment pool, as Deputy Trott referred to yesterday, how would that be accounted for, I think, was Deputy Gollop's question. On the face of the balance sheet, it would simply be a reallocation of asset classes within the investment line, essentially along the top of page 13, so it would not actually change the overall level of investments because the loan itself would be treated as an investment of the States, albeit replacing other asset classes that we are currently invested in.

2690

In relation to Deputy Brouard, perhaps on behalf of Policy Council I could apologise for not responding to the letter we have not yet received. (*Laughter*) I may as well get the apology in early. Deputies Brouard and Duquemin made comments in relation to the pension scheme, which I think Deputy Langlois has largely responded to. I think, from Treasury and Resources' perspective, this is a matter for Policy Council, as the employer, and we were merely commenting on it. I do not think there is much more that I could usefully add.

2695

He did raise the question, quite rightly, that there are big numbers in the pension scheme and yet we are messing around with the smaller numbers on the FTP, and why is that. It is a fair enough question, but of course it is a question of what is within our span of control. To some extent, until we grapple with the structure of the pension scheme, in a sense we have what we have and we have to just deal with the bits that we can control, i.e. general revenue, hence the emphasis on FTP; but I think his point was noted.

2700

Deputy Storey made a number of points. I think he started by criticising the lack of information in relation to the comments on the provision for the fraud. Well, Deputy Storey will know very well, given his experience, as well as many Members in the Assembly, that of course the Accounts are simply a record of events during the year, and in a sense I struggle with this because there is not much more to be said in relation to that provision. It has been flagged. Attention has been drawn to the fact that provision has gone in there. I struggle to know how much more could or should properly be put in these Accounts, but I appreciate that that will not be a satisfactory answer for Deputy Storey.

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2715 However, Deputy Storey went on to make a more serious comment, which was in essence – and I do not think I am overstating this – that the Accounts were in some way misleading in the level of comfort that should be derived in relation to internal audit controls and the reassurances which I had given this Assembly following the fraud. The statements which I have made in relation to the fraud were that the internal controls had been changed in relation to the events which led up to this fraud, and therefore I was as confident as I could be that this type of fraud could not occur again. There are obviously a wide and large number of fraud risks, and indeed other risks which Treasury and Resources and the States more widely face and that has been 2720 addressed, as he quite rightly says, in a number of reports over a number of years. I absolutely agree with his comments and I referred back, to refresh my memory, on a statement I made to the Assembly in September last year where I made exactly the same points: that report after report had landed on desks and been ignored, and I said then:

2725 ‘In my Board’s view, **firm** political leadership is now required to ensure that these reports are finally taken seriously and acted upon as soon as is reasonable.’

I went on to advise the Assembly that the Policy Council was taking control and an interest in this area, that risk was beyond just a Treasury and Resources mandate and there is a draft States report which will seek to formally transfer risk from Treasury and Resources to Policy Council. In the meantime, Policy Council is taking a close interest in it. I referred to a Risk Steering Group – myself, the Chief Minister and Deputy Luxon, who are meeting regularly with the senior officers of the States to drive this issue forward. That group has met. Just looking through my diary, it has met, on average, every other month. It is on the Policy Council agenda for Monday. So progress is... 2730

I would reassure Deputy Storey it is very much not being forgotten, not least because of the initial PAC review report. It is not being forgotten. Risk is much higher up on everyone’s agenda, as it should be. The Policy Council has received presentations on, for example, IT risk as well. I hope that does give Deputy Storey some reassurance that I absolutely share his concerns, but I have not sought to reassure the States, because I cannot do so, that all forward risk has been eliminated. Clearly, there is always a risk and it is a question of ensuring that we have the right frame-working in place, and indeed one of the issues which we will grapple with at some point is Deputy Bebb’s Requête and the implications for that, and I will suggest in discussion then that that will have implications for the management of such things as corporate risk. 2740

In relation to extending the audit report, as Deputy Storey suggests, that obviously would come with a cost, but in any event that is why we have an Internal Audit department. That is very much part of their rôle and remit, in agreement with a work programme in agreement with the Chief Executive, and now with different reporting lines to ensure that concerns are properly elevated to the Chief Minister and Ministers as is necessary. 2745

Frankly, I would respond to Deputy Storey that we have had, actually, all the reviews we need: we have the reviews that were conducted immediately following the fraud; we have Internal Audit’s review; we have had PAC’s review, together with the input from Ernst & Young. It is now a question of actioning those recommendations, and that is what is being done and that is what is being overseen by Policy Council. 2750

Deputy Soulsby began by expressing concerns in relation to the comments I made on the States trading entities. The review by Guernsey Post Ltd of their capital means I would suggest was entirely appropriate, and that is all that I am suggesting: that in relation to the States trading entities, we should review the capital requirements of those entities which are within our control in a much more direct sense than the commercialised ones. Their capital needs should be tested and questioned, and if Deputy Soulsby takes off her Dairy Management Board hat and puts her PAC hat back on, I am sure she would agree with me that it is entirely appropriate that Treasury and Resources should push to ensure that actually the capital requirements in those businesses are appropriate, and if not then we should look to address that. So I make no apology for that, but to the extent of her comments in relation to the Dairy, if they do have that need for capital and that is demonstrable then that is absolutely fine, but I think it is appropriate that Treasury should be pushing and asking the question at the very least. 2760 2765

Deputy Soulsby referred to her Committee’s attendance at a Treasury Department meeting with the external auditors and she made comments about the statement of internal controls. For the record, I do not actually remember her comments in relation to that at that meeting. Given that she has made those comments in this place, I think it is appropriate for me to say that, but that is only my recollection. 2770

In February 2012, the States did resolve that we would be moving to international public sector accounting standards for the States, which would obviously change the nature of these Accounts –

2775 including, as I said in my opening statement, a full recognition of assets and liabilities – and the implementation of SAP was, of course, the first step in that journey.

2780 Deputy Soulsby also re-emphasised her personal view and commitment in relation to zero-based budgeting, on which we touched in the last couple of days, and I absolutely agree with her that that is linked to the Government Service Plan, and in the Governments Service Plan Report in relation to the request for resources we did make the point that the key areas of focus for this one-off resource are to provide physical tools to complete the process as well as in such key themes as zero-based budgeting and so on. So, given the decision of the Assembly yesterday, but with the amendment not to provide the resource, I will need to work with the States Treasurer to work out how we will now resource that and how that affects the timeline for the adoption of zero-based budgeting.

2785

Deputy Soulsby: Sir, a point of clarification. By resolution, T&R have been given £1.3 million to implement resource accounting; so you have the resources there already.

2790 **The Bailiff:** Deputy St Pier.

Deputy St Pier: Yes, it is within the context of the management of *all* priorities, which of course is what the GSP was about, and that was the management of all our priorities.

2795 In relation to process, our key focus in Treasury is being able to prepare the 2013 Accounts in a more timely and accurate fashion, and that work is ongoing now, so hopefully that will address Deputy Soulsby's concern there.

Finally, I think all I can do is note Deputy Soulsby's comments in relation to PAC's interesting work on Income Tax and look forward to that further.

I thank Deputy Adam for his comments.

2800 Deputy Langlois, the Minister, can always be relied on to make his comments in relation to the language and the use of the term 'formula-led expenditure', and he did not disappoint on this occasion. (*Laughter*) I am sure he felt reassured that I made it quite clear that Social Security spent more than originally anticipated – so recognition of his previous comments.

2805 Deputy Trott, thank you for your comments. It is interesting that you obviously worked from the back to the front. I do not know what that... (*Interjection*) Sir, I would refer Deputy Trott to page 98, which he did refer to, but the table on page 98 is where the missing Crown Officers are – the allocation between the Royal Court and the Law Officers. I suspect that addresses his question.

Page 72, his question in relation to the Home Department, which the Home Minister has perhaps ducked because he is not in the Chamber. I am not in a position, sir, to be able to deal with that now.

2810 His comments on page 8, in relation to the discount rates, I think are very well made and I have nothing to add to add to that.

2815 Page 62 of the miscellaneous and the States Works accounts, the only additional comment I would make is of course capital expenditure would normally be spread over the life of the capital asset, obviously, rather than all being charged in one year, and that would make a difference to the results, which is why it had not been reflected in that way.

2820 Yes, I think we should acknowledge the comments that Deputy Trott made in relation to the operating surplus on page 2. Deputy Trott again can always be relied upon to point out the good news. However, I would of course remind the Assembly that we do have routine capital expenditure and we do need to fund capital expenditure by transfers to the reserve, so we cannot ignore the fact that, in that sense, we do have an ongoing structural deficit that does still need to be addressed. So just a little note of caution, reining back Deputy Trott's customary enthusiasm.

Deputy Collins' facts and figures and the comments he made there: I think it is always a question of balance and the amount that goes in the Accounts, but the States Treasurer I think will perhaps note Deputy Collins' comments and give that consideration for the future.

2825 Deputy Queripel and Deputy Bebb, in relation to the 50 shades of green – I think that probably goes to show that you cannot please all of the people all of the time. However, to reassure Deputy Queripel, at the request of the Treasury and Resources' Department that these Accounts should be produced more cheaply than prior years, there was a focus on just using two colours and that makes it a lot cheaper; hence just green and the rest, and the 50 shades of green. That does reduce costs. The use of a colour is simply to aid the user, to make it a little easier to use. The cover is a less glossy version than has been used before. I can reassure Deputy Queripel that in the production of this year's Accounts there was a saving on last year. I do not have the figure to hand, but the States Treasurer will let Deputy Queripel know directly.

2830

2835 Finally, sir, in relation to Deputy Bebb's comments on pensions, I think again I have got nothing further to add.

On the question of information being pushed out, I think it is a point that he has made very well, that we should not forget that we do push a lot of information into the public domain already and we should not lose sight of the fact that we are open and transparent in very many ways, but always capable of improvement; hence yesterday's discussion.

2840 I have nothing further to add, sir, and once again would commend the Accounts to the Assembly.

The Bailiff: Deputy Storey.

2845 **Deputy Storey:** Sir, the Minister's answer to my question was so ministerial that I did not really understand the answer –

Deputy St Pier: I'm flattered! (*Laughter*)

2850 **Deputy Storey:** – as to whether or not he would consider extending the external review on an annual basis for at least a couple of years to give us a check on the progress being made on the risk management processes.

The Bailiff: Deputy St Pier.

2855

Deputy St Pier: No.

Deputy Storey: Yes or no will be perfectly adequate.

2860

Deputy St Pier: No.

The Bailiff: No, that is not...
Deputy Trott.

2865 **Deputy Trott:** Sir, the Treasury Minister did an outstanding job and he was even more ministerial with one of my questions because he ignored it completely, sir. (*Laughter*) It was the question on page 72, the delicate issue of the one-off staff costs associated with the major restructuring exercise at the Guernsey Border Agency. The Accounts show to make reference to it; all I am asking is for slightly more detail.

2870

The Bailiff: Deputy St Pier.

2875 **Deputy St Pier:** I suspect Deputy Trott may not have been listening entirely to me, sir, because I did make reference to the fact that that was a matter to which I felt the Home Department Minister was in a better position to respond. Clearly, there is a lot of information in here which is provided directly by Departments, and indeed the Health Department, as you know, issued a correction into one of the tables that appears in here. The information is best sought from the Home Department and I will ask the Home Minister to respond to you directly, but I am *deeply* flattered by Deputy Trott's comments.

2880

The Bailiff: Members of the States, there are three Propositions. They are on page 120 of the not-as-glossy-as-last-year Billet XVI. (*Laughter*) I will put the three Propositions to you separately.

2885 The first is to approve the States of Guernsey Accounts 2012.
Those in favour; those against.

Members voted Pour.

2890 **The Bailiff:** I declare them approved.

The second Proposition is to approve the 2012 Accounts for Ports, Guernsey Water, States Dairy and States Works.

Those in favour; those against.

Members voted Pour.

2895

The Bailiff: I declare those carried.

Thirdly, to note the following Accounts: the Social Security Department Consolidated Contributory Funds; Elizabeth College; Ladies' College; and States of Alderney.

Those in favour; those against.

2900

Members voted Pour.

The Bailiff: I declare them carried.

2905

Billet d'État XV

COMMERCE AND EMPLOYMENT DEPARTMENT

2910

**Amendment to the Copyright (Bailiwick of Guernsey) Ordinance, 2005
and the Performers' Rights (Bailiwick of Guernsey), Ordinance 2005
Removal of exemption for charities and non-profit organisations
in relation to sound recordings
Propositions carried**

2915

Article XIII.

The States are asked:

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1. To approve the repeal of sections 88 and 93(3) of The Copyright (Bailiwick of Guernsey) Ordinance, 2005 and paragraphs 19 and 24(2) of Schedule 1 to the Performers' Rights (Bailiwick of Guernsey) Ordinance, 2005, and direct the drafting of such legislation as may be necessary to give effect to the aforementioned decisions.

2925

2. To approve the establishment of a Subsidy Scheme set at £3,000 per annum to be reviewed annually, which will be financed from within the Commerce and Employment Department's existing budgetary provision for the reimbursement in whole or in part of music licence fees for charities and NPOs in accordance with section 10 of that Report.

The Bailiff: In light of the decision earlier, I think we move on to Article XIII of Volume 2, Greffier.

2930

The Senior Deputy Greffier: Billet d'État XV, Article XIII: Commerce and Employment Department, Amendment to the Copyright (Bailiwick of Guernsey) Ordinance, 2005 and the Performers' Rights (Bailiwick of Guernsey) Ordinance, 2005: removal of the exemption for charities and non-profit organisations in relation to sound recordings.

2935

The Bailiff: Deputy Stewart.

Deputy Stewart: Sir, I have got a feeling this could be my *magnum opus*.

2940

We are going to start just with a little bit of history. This is, of course, about the Berne Convention, as Members can see from the report. We were originally signatories to the Berne Convention. Our copyright law was only recently updated, back in 2005, from 1911; so we waited a long time until we updated our copyright law.

2945

This is really about repealing just two sections, 88 and 93(a) of that law that we brought in to update intellectual property (IP) law in 2005, to enable us to be signatories to the Berne Convention.

2950

It is quite a complex area and I do thank all the Deputies... 11 attended a presentation by Commerce and Employment. Then we ran an open day for charities and non-profit-making organisations at the Guernsey Registry, and about 20 people attended there, which subsequently fielded quite a few phone calls. Phone enquiries from charities and NPOs and the drop-in visitors all appear to be comfortable with our proposals, with many of them actually falling into the exempt use categories and others accepting that they will need to purchase licences in the future, but we will come on to that.

If Members turn to page 1259, the main benefits derived from us extended to the Berne Convention mean that it will help Islanders and other people who register their copyright in

2955 Guernsey to be able to enforce those rights. This includes a huge range of economic activity, cultural entertainment, lectures, musical compositions, dramatic works, maps, plans; and more importantly, for some of our development work, software and applications and computers is actually a literary work within copyright law, and the Berne Convention extended to us will provide protection for such works in the countries signed up to that Convention. There are now
2960 166 members of that Convention, so a composer here... In fact, even the Deputy Chief Minister has probably gone out to pen another tune, but he gets money paid to him by the collecting agencies for some songs he wrote back... They were not in the charts, but he tells me they were very good... (*Laughter*) and an architect who receives copyright protection for his design plans and architectural drawings. This will make it a lot easier for them to enforce their intellectual
2965 property rights.

Just going back to why we need Berne, our intellectual property laws were designed to comply with international standard provisions. This brings us up to international standard. IP laws are national, but trade in IP is international and Berne sets the standards which the national legislation must meet for access to those international conventions. Those conventions are extended to us
2970 through the UK and the UK is quite happy, once we have our law in place, to then work on extending that Convention, which will probably take a few months or so.

The Berne Convention does give us reciprocal protection on all of our copyright matters. The benefits are plain, I feel. They will give benefits for our finance and legal industries and anyone who creates creative works. Bailiwick legislation, copyright and performance rights ordinances will have to have minor changes to conform to those standards, and if Members do accept the
2975 Propositions today, I think the earliest we can bring the ordinance to the States will be October.

If if we do approve this report, representatives from PRS for Music and PPL will need to undertake quite a communications exercise with the charities and not-for-profit organisations. I think one of the things that came out of our wide consultation was a real lack of understanding of
2980 copyright. Those who were exempt – for example, the Alzheimer’s Society... using music in that sort of way they do is totally exempt. If someone presents music at Les Bourgs Hospice in a domestic setting, that is also exempt. However, if you have a radio on in a charity shop, playing it to the customers and the staff there, you are not exempt. The communications exercise and using a fairly basic flow chart will make it quite simple and straightforward, I think, for a lot of the
2985 charities to understand the law. PPL and PRS for Music will work hard. There will also be a period of grace for 12 months for charities to work out whether they need licensing or not, and as you see, the second Proposition is for Commerce and Employment to establish a fund of £3,000, which we think will be adequate to compensate the charities who may be out of pocket.

I do not really wish to say much more on this. We have done extensive consultation and education on it. I do ask the States Members to support our recommendations and enable us to
2990 become, yet again, a signatory to the Berne Convention.

Thank you.

The Bailiff: Does anybody wish to speak?
2995 Deputy Gollop.

Deputy Gollop: Sir, I was contacted in advance by at least one of the staff because of the interest it might hold for me in my disabled people’s champion rôle and having a certain contact
3000 with some of the organisations. I must admit I heard one or two interviews at the start of this process which were questioning the wisdom of this move, but I knew about it in advance because I sit, with Deputy Rob Jones, on Legislation and we did indeed have a preview of both the legislation and the policy letter.

As far as it goes – and I think the Minister has given us a very good explanation – I can support
3005 it. I do see the merits of us being signatories to the Berne Convention. I attended an interesting Chamber of Commerce lunch on the creative industries and this fits in very... in a great synergy with that. I know Deputy Stewart and Deputy Soulsby in particular are following those issues up.

I too am pleased to hear of the exemptions for the Alzheimer Café and understand that there are funds that are flexible, that will be made available for charities that are out of pocket.

I do not want to reinvent the wheel, the old cliché. This is operating in the United Kingdom
3010 and clearly there have been some pragmatic resolutions of issues, but it does concern me a bit that on the top of page 1264 they define the Performing Rights Society (PRS):

‘PRS for Music charges 1% of “defined income” for a community building, with a minimum charge of £44.50.’

3015 – and –

'PPL charges a flat fee... up to and including ... For community buildings with a defined income of over £10,000 per annum, the PPL fee is 1% of that defined income.'

3020 If you were a successful community hall in Guernsey and you had a gross income of maybe £100,000, paying £1,000 for using piped music seems to me a bit excessive, but maybe I have misunderstood that, and I do think there are solutions to it. All of the charges that are identified in this seem to me reasonable, especially given the level of support Commerce and Employment is undertaking to give, and I know they have liaised with the charities too.

3025 And so at this stage I support the Propositions and hope that they will be administered in a sensible way, although I have to say in the past some tourist establishments on the Island were not entirely clear of their obligations and got themselves into a difficult legal and contractual situation, and that may well have represented a misunderstanding on their parts. I think Commerce and Employment are now more focused on delivering information to everybody across the Island in that respect.

3030

The Bailiff: Deputy Bebb.

Deputy Bebb: Thank you, Monsieur le Bailli.

3035 Very briefly, I am fully supportive of what Commerce and Employment is actually bringing here today, though I am a little bit disappointed on two points.

3040 First of all, I do not know whether I need to declare an interest in the fact that I sing within the Town Church choir, but I would quite like to see the fees much higher for religious places, for the simple reason that piped music has, over the years, replaced live music. Live music does, in many instances, provide some form of additional income to members of the Island and I do think that if we are to compete with piped music, which to my mind is just an abomination upon my ears, (*Laughter*) realistically I would not object to additional fees.

3045 The other thing that I would actually object to is £3,000 being set aside. I do not think that it is the place of this Government, or any government, to be further subsidising charities. I do not actually think that £3,000 should be set aside. I think that the fees should actually be raised accordingly. We forget sometimes that certain charities can be very profitable. I realise from the noise in the Chamber that I am probably in a very small minority here, (**A Member:** Hear, hear.) but I would also say that, if we start with £3,000, where does it end, and I would like an assurance that we will not see an ever-increasing amount of money actually being set aside in order to subsidise in that way.

3050

Thank you.

The Bailiff: I see no-one else rising.
Deputy Stewart to reply to the debate.

3055

Deputy Stewart: Yes, sir.

I thank Deputy Gollop for the work that we have done together before we have actually brought this to the States. It has been very useful to have a disability champion that we can liaise with.

3060

I am not sure if there are many community halls that actually charge out about £100,000 – I do not think St Peter's actually get up to that sort of value – but I think your comment is noted. We will keep an eye on this over the... There is a period of grace for one year before the fund comes in, but we will monitor it very closely.

3065

Deputy Bebb, there is an exception for churches; so funerals, weddings and family gatherings are thought of as a domestic setting. So whatever music you want played – live or sung or recorded – at your funeral or wedding, (*Laughter*) it is exempt.

3070

I would say that the Board, in bringing this, felt that £3,000 was a small matter for the Commerce and Employment Board; however, for some smaller charities, another £100 here... We really put it there as a hardship fund, and we felt that was very appropriate in these times as a gesture, as we are taking away a right that they currently have under the law, an exception under the law.

Thank you, sir.

The Bailiff: We will vote, then, on the Propositions on page 1275.

3075

In the light of Deputy Bebb's remarks, I do not know whether he would like the Propositions taken separately. No. Unless anybody else does, we will take both Propositions together.

Those in favour; those against.

Members voted Pour.

3080 **The Bailiff:** I declare them carried.

3085 **Amendments to Statutory Minimum Wage
Arrangements to come into force on 1st October 2013
Propositions as amended carried**

Article VIII.

The States are asked:

3090 *1. To approve The Minimum Wage (Prescribed Rates and Qualifications) (Guernsey) Regulations, 2013, as set out in Appendix 2 to that Report, which increases the Minimum Wages Rates, as set out below:*

Adult Minimum Wage Rate to be set at £6.50 per hour (For workers aged 18 and over).

3095 *Young Person's Minimum Wage Rate to be set at £5.25 per hour (For workers aged of 16 and 17).*

2. To approve that 1st October 2013 shall be the date for implementation of the Commencement Order and the Regulations to give effect to the Law.

3. To approve that should a wider review be deemed appropriate as set out in that Report it shall be undertaken by those responsible for Social Policy.

3100 **The Senior Deputy Greffier:** Article VIII, Commerce and Employment Department: amendments to Statutory Minimum Wage arrangements to come into force on 1st October 2013.

The Bailiff: Deputy Stewart.

3105 **Deputy Stewart:** Sir, we again have consulted very widely on this and I know we have a lot of amendments to be laid on this subject, so I will start briefly because I think a lot of the debate will be around the amendments and perhaps some people's concept of a living wage.

3110 I just start with: is the rate high enough? The objective of the Minimum Wage Law was to provide a statutory minimum level of pay, to prevent the worst forms of exploitation, for workers. The rates suggested provide that level. There are many factors which have an effect on market rates for wages and the minimum wage provision is just one of those factors.

3115 The Law really lists a number of factors which the Commerce and Employment Board need to be considering when deciding on the appropriate rate, and I thought it was just best to remind us all what those are. They are the current rate of minimum wage in the United Kingdom, the Isle of Man and Jersey; the current economic and trading conditions prevailing in Guernsey; the rate of inflation in Guernsey; the rate of unemployment in Guernsey; current rates of pay in Guernsey; and the increase or decrease in rates of pay in Guernsey over the previous 12 months.

3120 Other factors that we do take into account, which are relevant: the public and political expectations; the 2010 States resolution establishing the policy objective of equalising the youth and adult minimum wage rates, and you can see that reflected in quite a big hike, I think, from £4.50 – I am not looking down at my notes – to £5.25 on that youth rate, and I feel that is an appropriate big step forward now to that; creating a level playing field for employers recruiting staff from off Island in competition with the UK, Jersey and the Isle of Man; and, finally, and I think very importantly, because these were the biggest respondents to our consultation... I will just check my notes, but I think there were something in the region of 65 respondents. Nearly all of those were from industry. I think we identified five Deputies, but most of them were from industry and you will not be surprised that most of those were from horticulture and from the hospitality sector.

3130 This is a job that we do not relish as a Board, but I feel what we have tried to do is act in accordance with the States resolution and the Law. I need to say that the minimum wage and the living wage are two totally different concepts, two totally different ideas. I think that is why what we have said under our recommendations is that, under (c):

3135 '... should a wider review, as set out in paragraph 3.2(i) of this Report, be deemed appropriate it should be undertaken by those responsible for Social Policy.'

If we turn to paragraph 3.2(i), which is on page 1136... the final paragraph on page 1137, this is really the whole section on the living wage:

3140 The Board, however, recommends that any wider review that is done should be undertaken when considered appropriate by Social Policy Group focussing on issues relative to Social Security Department, Housing Department and wider economic and social policy for the Island.'

3145 We feel that any wider review, other than the one that we are mandated to carry out, which is minimum wage, really needs to be co-ordinated by Policy Council.
That is all I have to say for now, sir.

3150 **The Bailiff:** A number of amendments have been circulated: I think it is six in total. What I propose is that we take first Deputy Langlois' amendment, and then we will come to the other amendments, some of which I understand may or may not be laid, depending on what progress is made on different amendments.
Deputy Langlois.

3155 **Deputy Langlois:** Yes, thank you, sir.
Hopefully, this will not be contentious or take very long. It is a very simple amendment, but I think it is an important one in the context of future use of the minimum wage and other labour market indicators. To pursue the Latin theme today, I am not quite sure whether it is an *et cetera* or an *addendum*. It is one or the other.

3160 The amendment will serve to actually amend recommendation 6.1(c) in order to make it more definite and clearer what is going to happen and put a timescale on it, and my belief is that the Commerce and Employment Department have discussed it and are prepared to accept it.

Can I also say at this point, if it is accepted it does not preclude consideration of any of Deputy Fallaize's amendments which follow?

3165 The minimum wage was introduced –

The Bailiff: It would be helpful if you just read it. I think some Members are still trying to find out what the amendment is.

3170 **Deputy Langlois:** Indeed, certainly, sir. My apologies.
What we are proposing is to substitute proposition 6(1)(c) –

3175 **The Bailiff:** Actually, sorry, it is Proposition 3: 6.1(c) is the paragraph within the report. In terms of the Propositions on page 1149, it should actually be Proposition 3, if we could make that amendment.

Deputy Langlois: That change needs to be made to the amendment, then:

3180 *To substitute proposition 3 with:
'Direct the Policy Council, with the assistance of the Social Security Department and Commerce and Employment Department, to investigate the implications for, and impact upon, Guernsey of the establishment of a "living wage" measurement and to report back to the States with the conclusions of its investigation by no later than the 30th April 2015.'*

3185 Briefly, the background. The minimum wage was introduced in 2009 in Guernsey and what we are seeing is an evolution of it. As quoted in the report and to repeat something that Deputy Stewart just said, the purpose of the minimum wage is defined as ensuring that the worst cases of financial exploitation are eliminated. That is the defined purpose.

3190 The purpose of the minimum wage remains the same – nothing we are suggesting should change that – but economic and social thinking in the UK and elsewhere has advanced since this was put together for Guernsey. The simple avoidance of exploitation has now become somewhat confused and conflated, in my view, with much more important, much broader poverty issues.

3195 It should be remembered that, both outside of this Island and here, a full-time job on the minimum wage will probably still place somebody in a position when they can claim a Supplementary Benefit top-up, but the minimum wage still has a purpose in the labour market and it will be particularly important relating to part-time, short-term and other casual jobs where exploitation can be a really important issue. In the economy overall, that type of work, that rapidly changing short-term work has significant economic and social value.

3200 The *living wage* concept is now established in the UK. Out of interest, it is currently set at
£7.45 an hour in most of the UK and £8.55 an hour in London, and that is set alongside a UK
minimum wage of £6.19. If, in due course, Guernsey is to follow suit, we must be sure that we
have an appropriate Guernsey version of this which we can produce and maintain affordably and
be sure that it serves the right purpose.

3205 To be effective, a Guernsey living wage measure must be the right one. It must be simple and it
must be affordable as a national statistic. In this case, we simply cannot accept or mirror the UK
model, but we must learn lessons from it. The UK has recently set up a Living Wage Commission,
which is going to be chaired over a period of a year by John Sentamu, the Archbishop of York. Its
deliberation will be of considerable interest to us and will enable us to evaluate the options for
Guernsey more effectively; hence the timescale that we have put on this amendment. This
3210 amendment will allow us to do that. As a Government, we need to have much more robust social
statistics, but we must produce them within our available resources. This is an ideal opportunity to
find one that will contribute to labour market flexibility, the economy and social equity.

Please support this amendment.

3215 **The Bailiff:** Deputy Inglis, do you formally second the amendment?

Deputy Inglis: I do, sir, and if I may say a few words now?

The Bailiff: Yes.

3220 **Deputy Inglis:** Thank you.

Members, as Deputy Langlois has outlined, in practice there is limited knowledge of how
wages are calculated, little detailed understanding of the role that a living wage might play in
addressing endemic levels of low-paid work.

3225 Much of the idea lies in simplicity: the view that working people should be paid enough to
afford a minimum acceptable standard of living. It is said that a living wage encompasses
inclusion of disabled persons in the workforce and fits in with social Policy Group aims. For
Members who went to the Community Foundation poverty debate recently, it was emphasised, the
need for a living wage, and this came from the floor and not the panel, and it was a belief that
work should be the surest way out of poverty. Having a living wage is more than just the money; it
3230 is about life worth living.

Please support the amendment.

The Bailiff: Deputy Gollop.

3235 **Deputy Gollop:** Very briefly from me, I sit on Social Security but I too, like Deputy Inglis, am
aware that the living wage is a growing measure to combat low earnings, poverty, the real costs
people have, and it perhaps is a more effective yard stick than the minimum wage. He mentioned
people with disabilities and impairments, disabled people, and that is certainly a reason for the
States, as distinct from the pressure groups, to build up a body of evidence and research and move
3240 forward on this one.

I support the amendment.

The Bailiff: Thank you.

Does anyone else wish to speak?

3245 Deputy Queripel, and then Deputy Storey.

Deputy Queripel: Thank you, sir.

3250 I am in need of clarification, actually, sir. Hasn't the minimum wage already been determined
by the Loughborough University Minimum Income Study 2011?

Deputy Langlois: Sir, a simple clarification: no. *(Laughter)*

3255 **Deputy Queripel:** Could I have a little bit of elaboration on that, please, sir? It just seems to
me there is... The conclusion of that study was that a couple with two children living in social
housing need £1,000 a week to live, so hasn't the foundation for the living wage been identified
there, sir?

The Bailiff: Deputy Langlois will have to reply to that at the end of the debate.
Deputy Storey.

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Deputy Storey: Thank you, sir.

I do not have a problem with a subsequent investigation being undertaken. I do not fully understand the wording in the amendment and perhaps we could have a fuller explanation: ‘to investigate the implications for, and impact upon, Guernsey of the establishment of “a living wage” measurement’. I trust that such investigation would include the implications on the potential problems with pay differentials which would inevitably occur if we start bringing in a living wage concept, and I would just like confirmation from the Minister that that would be included in the investigation, sir.

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The Bailiff: Deputy Bebb.

Deputy Bebb: Members, given the opprobrium from a previous speech which I made, I am sure that I will face further opprobrium now.

I would like to read out a piece written by Dr Eammon Butler in relation to *minimum* wage. By the way, this is in relation to the UK position. It says:

3275

‘A report out yesterday said that in real terms, the minimum wage in the UK has lost much of its value. That is making life really hard for the people who have to live on it. Both statements are true, but there is a wider picture.

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First, the minimum wage only helps those who are actually in work. Their wages have to be higher than they might otherwise have been. But minimum wages do nothing at all to help people who do not have a job and so don't have a wage — indeed, they help to create this situation in the first place. And there are millions of those, including around a million young people.’

3285

Minimum wage, I believe, is actually a wrong move in the first place. I feel that it actually damages the market economics. The question in relation to how it actually affects those people who would have received just above it is that there is general evidence that there is a race to the bottom and that those who are just above the minimum wage actually now receive minimum wage payments.

3290

My contention is that a *living* wage would actually further damage, because a living wage would only be higher than minimum wage. I am not such a free marketer that I would say that there needs to be no involvement whatsoever in the market, and I will get to that in general debate, but I would actually contest that this blunt instrument of a minimum wage, and to actually consider a further exasperation of the problems that it creates by increasing the rate to a living wage, can only be even more detrimental. I would contend that it is not in the best interest to actually conduct a further survey into a *living* wage when I think that the question as to the benefits of a *minimum* wage are still held in the balance, and I would ask Members to please rightly reject this amendment.

3295

Thank you.

3300

The Bailiff: Deputy Green.

Deputy Green: Sir, Members, I am happy to support this amendment.

We all know from our dealings with constituents that the recent and ongoing squeeze on people's living standards has focused minds of late on the concept of the living wage, as opposed to the minimum wage, and I applaud the concept very much.

3305

It is fair to say, however, there is a general lack of clarity on a number of things concerning the living wage: on how it is going to be worked out; very little analysis on what it might actually do for all incomes across all sectors; what it will actually mean for employment prospects; as well as little idea as to what Government should actually be doing on a practical level to actually introduce a living minimum wage – in other words, should it be mandatory, should it be by consent with employers etc. So there is whole raft of issues that need clarification.

3310

I am going to support this amendment because I think this is a means whereby we can get some clarity on these issues, and I very much welcome seeing a proper analysis of the pros and cons, an objective, rational analysis of those advantages and disadvantages put forward, and I think that really should be supported. My only reservation really is the somewhat leisurely timeframe – we are talking about returning no later than 30th April 2015 – but I take on board what the Minister of Social Security said on that. In any event, I will support this amendment and I look forward the results of this review in due course.

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3320 **The Bailiff:** Deputy Le Lièvre.

Deputy Le Lièvre: Thank you, sir.

I came into the Assembly with the determination that this should be rejected outright, and I am not *quite* in favour of voting for it at the moment, but I can see there is a certain attraction.

3325 There is no doubt in my mind that Deputy Langlois is ideally placed to provide the information on which to base much of the living wage, or at least to help determine what the living wage should be, because his Department was able to provide me with a significant amount of detail, although it refused some time later. When I was a member of the Board I was able to get my hands on it; since then, the Freedom of Information Act has stopped me doing so. (*Laughter*) There are
3330 some downsides to this. I asked and Doctor Sloan refused on at least three occasions, his argument being that if I wanted it everybody might want it and they could not do that. That was the case and I accept that, but what worries me about this is that a living wage could well drive down wages paid to people, or leastways reduce or restrict increases in wages to some people and set a lower level.

3335 At the poverty meeting, I said in Social Security I have seen wages for a farmhand advertised at the minimum wage. Anybody who wants to work with cattle dung and urine for the minimum wage, for 40 hours a week in all weathers, come summer or winter – and I do not quite know which is worse – then they are welcome to, because I would not and I would not expect anybody else to either. It is a disgrace. I would not want to see that sort of abuse applied to a living wage
3340 and I think there is a real chance that that will be the case, because... I do not expect Members to be able to see this, but the fact of the matter is that when you look at the statistics – and these statistics are accurate: they are from week 36, 2011; okay, we have moved on from there, but nevertheless they are still accurate – there is a remarkable difference, a *huge* difference, between the numbers of people in the sexes who earn below certain levels. So you can get a combination of sex and age and you will see one chart, and if you look at sex and age it will be completely different, and the lower you go down the pay scale, the bigger the differences. So when you start talking about £450 a week, in the age group 40-44 you will see, for instance, 251 males, but in the same age group for women you will see 664. In the age group 50-54, the difference is even more stark: 240 men; 740 women. It is three times as high. That could well be because they are part-timers, it could well be because women are paid, in many instances, a lower rate of pay possibly, or it could be a combination of those two things; but certainly there are *very* few men earning below £320 a week, which is a 40-hour week at £8 an hour – *very* few, and many of them are quite young – but there are twice as many women earning below that rate. Some of those will be part-timers, but it even goes into the young people as well. So I think there is a degree of evidence. It could be argued that such bare or bald statistics are not evidence itself, but they are an indicator that there is a difference and the numbers are very small.

3350 As you go up the scale, then those numbers reverse. Many more men are on higher wages than women, until you reach the peak, where it is just about even; but even then there is a tendency for more men than women. So we have a differential between men and women, we have a differential in age, and I would not like to see that situation changed as a result of the start of a living wage.

3360 If you go back to 1971... and everybody will say, ‘Oh, he’s back in history, again’. That is not the truth: it is still the Law that is operated by Supplementary Benefit and by Social Security and the Minister of Social Security. That Law and its implementation ordinance had a living wage as the guide. The greenhouse worker’s wage was the maximum a person could receive in Supplementary Benefit, and the reason that was so was because a very large proportion – over half of the Island’s population – was employed in either horticulture or agriculture and wages were very low. Therefore, it was quite reasonable for the Supplementary Benefit Law to set the living wage at the rate of the greenhouse worker, but that is no longer the case. Furthermore, in those days, many more men than women worked. We are in a completely different ball park now, and that worries me from the point of view of investigating this, because once you have investigated it and you have come up with a figure, it is going to be very hard not to apply it; and when you do that, I suspect that as many people will win as will lose, and in the long term I think you will see more losers than you will winners.

3370 That leaves me in a bit of a quandary as to which way I vote for this amendment. I think on balance I will probably vote against it, but I would have hoped the proposer and seconder of the amendment, certainly the proposer, would have had a little bit more detail for us to gauge which way to go, because it is a bit of a mystery. I think there are clear indicators that the numbers of men earning below a living wage – let’s just say it is £8 – are so small that the chances will be, if it came back at £8, in the longer term you would see more at that level than you see at the moment.

3380 Thank you, sir.

The Bailiff: Deputy Dave Jones.

Deputy David Jones: Thank you, Mr Bailiff, Members of the States.

3385 I am glad, actually, Deputy Langlois and Deputy Inglis brought this, because I believe that we should have a... even though I have severe doubts about the concept of a living wage in the terms of comparing it to a UK working party, because clearly their living wage is going to be significantly lower than ours because the cost of living in Guernsey is significantly higher.

3390 The point I want to try and make is even if you come up... and there are many working couples out there – and I spoke to one the other day – who are on very modest wages, and it used to be a living wage, until they are effected by rent rises and things that we do in this legislature to make life even more difficult. I will give you an example. Every time we increase freight charges down at the harbour, because we have to generate revenue to make the harbour pay, those freight charges are in turn passed onto the supermarkets who bring their goods... I think the Minister, Deputy Luxon, told us at some point that about 98% of all the goods that come to Guernsey come by sea and freight. Those charges are then passed on to the supermarket, who put them on the prices on the shelves. So the things that we do in this Assembly have a direct effect on people.

3400 Our inability to be able to control private rental costs is driving people into... ‘rent-induced poverty’ I think was an old world that the former Health Minister used to use, and it is a pretty accurate description of what happens. So you can have a liveable wage and then the problem is that that liveable wage is then almost wiped out again by the living costs that are, I believe, artificially high in many areas in Guernsey.

3405 Yesterday, just to digress, the Social Security Minister warned us that the unemployment figures are going to show an artificial blip because we are asking young mothers whose children are over the age of 12 to seek work (**A Member:** Seven.) – sorry, seven – and the issue again yesterday came up... That is all very well, but the cost of childcare in Guernsey – because the States have ignored childcare for years; we still have not really done much – will make it impossible for those young women to go out to work because they simply will not be able to find anybody to look after the children at the sort of costs that are going to be charged.

3410 So, while I am happy to support Deputy Langlois’ amendment... Why wouldn’t we? What is he really doing? He is asking that we have a close look at whether this is a feasible concept or otherwise. There is much more that this States needs to do before you come up with a living wage. The whole concept of a living wage presupposes that somebody, an employer, is going to have to pay that wage. It is not a complicated system for employers, Deputy Inglis. The fact is they employ people at the rate that they can afford to keep their business viable. Where we have let ourselves down in many respects – and it is a two-edged sword – is that we have allowed lots of cheap labour to come into the Island that has affected the level of wages that can be earned by local people because that cheap labour is readily available. Now, on the other hand, we have got 1,000 more jobs than we have got people to fill them. So that is also the other side – and I said it was a two-edged sword... That is the other side of that coin.

3420 If we did not have lots of guest workers coming into the Island, there would be many companies who would likely no longer be here, and they already employ lots of local people. My neighbour, for instance, works for a large vinery, a very famous grower who employs some immigrant labour but also lots of local people. If we said, ‘You are not having any more guest workers working for you; we are going to close the door,’ the local jobs at that vinery would no doubt be threatened and they could find themselves out of work. In fact, unfortunately, due to the downturn in the economy, I understand that particular business is already laying off several people. What I am trying to say is that we can pick a figure – anything you like – and come up with a living wage, but if the employers cannot afford to pay it because their business cannot sustain it at that level, then we are in trouble.

3430 I do agree also with Deputy Langlois on the distinction between a minimum wage and a living wage. A minimum wage says that this is a level of pay that we are not prepared to see anybody fall below; so, whatever job they do, that is the minimum that you must pay them under the law – and I fully support that. All I am saying to you is that when this review is done – and it is a shame it is going to be 2015; and I forgot the Bishop’s name, no doubt you will remind us – when their findings come back, we have to treat those with a little bit of kid gloves, simply because our percentages in Guernsey are much higher than the UK.

The Bailiff: Does anyone else wish to speak on this amendment? No.

3440 In that case, unless Deputy Stewart wishes to exercise his right to speak immediately before Deputy Langlois replies?

Deputy Stewart: Only to say, sir, that this amendment was considered in the Board of Commerce and Employment and the Members unanimously supported it, sir.

3445 **The Bailiff:** Thank you.
Deputy Langlois, then, will reply to the debate.

Deputy Langlois: Sir, on this occasion I will do the traditional thing of just thanking those who have supported it and answering some of the questions.

3450 I apologise, first of all... Deputy Queripel's question. I have forgotten what was, but I remember the answer: it was no. (*Laughter*) Ah, yes, I know what it was: has the work already been done? There is a methodological link between the minimum income standard and the living wage, but they are not the same thing.

3455 Deputy Storey, you asked for a clarification. I had hoped that that wording was clear, but what I was very worried about, and one of the main reasons for putting this amendment, was that it would be all too easy to come up with a figure, and in fact another speaker said we would pick a figure. We are not going to pick a figure. We have got to look way beyond that. We have got to know how that figure is worked out, and if it were applied in any general way what would be particularly the economic impact, because the economic impact and the social impacts are intrinsically linked and I wanted to be sure that that impact has been properly looked at before we go anywhere near it.

3460 That, in a way, also answers Deputy Bebb's concerns, except that he talked about doing further damage. My answer to that one is very simple, and one of my reasons for presenting this is that the living wage concept already exists, and bear in mind that as the largest employer in Guernsey, the States of Guernsey, for example, deals with union leaders who are already using this concept and trying to apply it just as a blanket mechanism to negotiations for Guernsey; and yet we have got no equivalent that we can reliably use.

3465 Deputy Green, very well expressed. Thanks for your support, and very well expressed in terms of the lack of clarity we currently have. The leisurely timeframe... I acknowledge the jibe, the dig there. It is totally linked with this business of what is going on in the UK, because the concept is being born in the UK but it is now being reviewed. I think they rushed into it – funny that; they would not normally do a thing like that – but, sorry, some politician had a good idea and made an announcement before we went near it, before anybody else approved it. I am trying to avoid that. I am trying get the learning. The report from the Commission should enable us to save a lot of work because we will see all the angles they have looked at, and those are angles we will not have to look at; we will just have to look in terms of them us giving us the right questions. Very often in this sort of area, once you know the questions the answers are much easier; and so the basic work, I think, will come from some of that Commission's work.

3470 Deputy Le Lièvre: it could drive down wages. I think the cause and effect that you are expressing is somewhat too direct. I think there is much more linkage between producing a single indicator and going straight to a point where wages are driven down. I once again say we cannot put our head in the sand. This figure is going to exist in relation to the UK, and if it is translated over here improperly, incorrectly, it is not going to do any good.

3485 With regard to the gender differences in pay, it is a very good example. My hope would be that if it is properly worked out and it is truly local and it is produced at an economic rate in terms of the resources that go into it, it is a very good example of where it could be a lever – sorry, a Le Lièvre... a lever – for getting it right and beginning to narrow some of those differences. A measure on its own will not solve social issues, but I think it is more difficult to solve the social issues in the absence of robust measures, and that is why I hope you change your mind and support it. In terms of can we have more detail, well no, you cannot have more detail because we have not done it yet and that is why I am asking for permission to do it.

3490 In Deputy Jones' comparison with the UK, funnily enough, I almost put a comparison with Europe in here, but then I thought no, that is one vote I cannot lose. At least we have got him on side with restricting it to the UK. The comparison with the UK... Let's get this right: I am talking about the methodology that the UK use, sir. It is not directly lifting figures that they come up with and saying that will do for Guernsey. The fact that it is complex means that we must look at it closely, and Deputy Jones is in a *very* good position to know, from one or two professional contacts that he has dealt with in the same room as me recently, that the union leaders are not slow at mentioning this concept and it is very important that we do not just pick a figure.

3500 For all those reasons, could I please have your support?

The Bailiff: Deputy Le Lièvre.

3505 **Deputy Le Lièvre:** Just so that the public who are listening, sir, are not misled... and I do not know if Deputy Langlois corrected Deputy Jones, but in the calculation of Supplementary Benefit, where somebody has childcare the childcare is offset as an expense associated with employment against the person's earnings, so they do not actually lose out as a result.
Thank you, sir.

3510 **The Bailiff:** Members, we vote on the amendment proposed by Deputy Langlois, seconded by Deputy Inglis.
Those in favour; those against.

Some Member voted Pour, others voted Contre.

3515 **The Bailiff:** I declare it carried.

Next, I propose that we take two of the amendments proposed by Deputy Fallaize and seconded by Deputy Conder.

3520 When they came to me they were marked A and B, but I am not sure if they have been marked that way for anybody else. They are amendments that delete Proposition 3 and, in case of one of them substitute therefor a Proposition split into three sub-paragraphs (a), (b) and (c); and the other one a Proposition split into four paragraphs, (a), (b), (c) and (d).

Those are the two that I suggest you take next, and Deputy Fallaize... debate them both together, I would propose.

3525 **Deputy Fallaize:** I was going to make one speech, laying them, and let them be debated together. They were not marked A and B, but –

3530 **The Bailiff:** Yes. It deprives you of the opportunity to make a second speech, I know, but we could take them both together. *(Laughter)*

Deputy Fallaize: They were not marked A and B by me either.

The Bailiff: Oh, maybe it is in my office.

3535 **Deputy Fallaize:** I do not know who marked them A and B, but they...

I circulated initially an amendment to delete Proposition 3 and substitute therefor a single paragraph, new Proposition 3. That is not the one I am laying. I am laying the two amendments that are to substitute paragraphs (a), (b), (c) and (d), and in the other one, (a), (b) and (c):

3540 *Amendment A:*

To delete Proposition 3 and substitute therefor:

'3. To direct that:

3545 *(a) the Policy Council, pursuant to that part of its mandate which makes it responsible for "...the allocation of responsibilities and functions to Departments and Committees...", shall lay before the States as expeditiously as possible recommendations to clarify which committee of the States is primarily responsible for minimum wage policy;*

3550 *(b) whichever committee the States subsequently resolve is primarily responsible for minimum wage policy shall investigate, in consultation with all relevant parties including other relevant committees of the States, all aspects of minimum wage policy and minimum wage rates to assess the extent to which they are fulfilling the policy aims, objectives and themes of the States, as resolved in March 2013 after consideration of a report entitled States Strategic Plan 2013-17 submitted by the Policy Council, and to report to the States by no later than April, 2015 with the conclusions of its investigation and any recommendations it considers appropriate;*

3555 *(c) the investigation referred to in b above shall include an examination of the implications for, and impact upon, Guernsey of incorporating a living wage measurement in legislation or policy relating to the minimum wage.'*

Amendment B:

3560 *To delete Proposition 3 and substitute therefor:*

'3. To direct that:

(a) the Policy Council, pursuant to that part of its mandate which makes it responsible for "...the allocation of responsibilities and functions to Departments and Committees...", shall

3565 *lay before the States as expeditiously as possible recommendations to clarify which committee of the States is primarily responsible for minimum wage policy;*
 (b) *whichever committee the States subsequently resolve is primarily responsible for minimum wage policy shall investigate, in consultation with all relevant parties including other relevant committees of the States, all aspects of minimum wage policy and minimum wage rates to*
 3570 *assess the extent to which they are fulfilling the policy aims, objectives and themes of the States, as resolved in March 2013 after consideration of a report entitled States Strategic Plan 2013-17 submitted by the Policy Council, and to report to the States by no later than April, 2015 with the conclusions of its investigation and any recommendations it considers appropriate;*
 3575 *(c) the investigation referred to in b above shall include an examination of the implications for, and impact upon, Guernsey of incorporating a living wage measurement in legislation or policy relating to the minimum wage;*
(d) the investigation referred to in b above shall also include an examination of the case for linking minimum wage rates to a set percentage of the median of all employees' earnings, whether immediately or over a longer period of time, with particular reference to the extent to
 3580 *which such a policy would contribute to the policy aims, objectives and themes of the States.'*

Sir, I agree with Deputy Langlois' amendment, or what is now the substituted Proposition 3, in three respects: first, I agree with him that the original Proposition 3 in the Policy Letter was
 3585 inadequate; I agree with him that consideration should be given to the impact and the implications of incorporating a living wage measurement into Guernsey's minimum wage policy and legislation, and I will not go through all of the arguments for that because the States has just voted for an amendment to carry out that kind of review, so I accept the States is in favour of that; and I also agree with him that the conclusions of any investigation should be laid before the States by April 2015. So all of those parts of Deputy Langlois' amendment, which the States has just
 3590 incorporated into the new Proposition 3, are maintained in both of these amendments that I am now laying before the States.

But in other respects, Deputy Conder, who is seconding my amendments, and I disagree with Deputy Langlois. The first point, and it is not the major point, but the first point is that we disagree
 3595 with what is expressed in Proposition 3(a) of our amendments, and that is to do with the committee of the States which carries out this review. Deputy Langlois wants any review of minimum wage to be carried out by the Policy Council, and I do not think the Policy Council is the right Committee of the States to do that. The Policy Council's primary functions are strategic policy formulation and the co-ordination of other Committees' policies, and I do not think that actually carrying out the review, doing the review itself, of one very small aspect of minimum
 3600 wage policy fits into the Policy Council's mandate. So yes, I think I absolutely want the Policy Council to co-ordinate the policy development of other Committees, but I do not think the Policy Council should take over the policy development in this area.

Certainly there is some confusion or ambiguity about which States Committee is responsible for minimum wage policy at the present time. That is demonstrated by Commerce and
 3605 Employment's policy letter, because as soon as the Department has considered the possibility of a wider review of minimum wage policy they advise the States that it is outside the mandate of the Commerce and Employment Department. They put the view that, because it does not fall neatly into the mandate of any other Committee, it should be absorbed by Policy Council, and I do not think that is the Policy Council's role. But the principal point is that Deputy Langlois' amendment
 3610 does not resolve the ambiguity about minimum wage policy. Okay, it says that just for this one particular issue – this review of the living wage measurement – that should be done by the Policy Council, but it does not resolve the long-term problem of which States Committee is primarily responsible for minimum wage policy.

My new Proposition 3(a) does that, because it requires the Policy Council, pursuant to that bit
 3615 of its mandate which deals with the allocation of functions to Committees and Departments, actually to propose to the States which Committee ought to be primarily responsible for minimum wage policy. The States can then resolve that – I submit that it can be done very quickly, certainly this year – and then we will know, going forward, which States Department is primarily responsible for minimum wage policy. I think Deputy Langlois' amendment perpetuates the lack
 3620 of clarity and that is why I am putting forward this new Proposition 3(a), to allow us to remove this lack of clarity.

The bigger problem with the new Proposition 3, which was expressed initially in Deputy Langlois' amendment, is this: although he proposes a review, he wants the review to be very tightly restricted to the concept of a living wage. I cannot see any point in commissioning any

3625 kind of review of the minimum wage and then tying the hands of the reviewers completely behind
 their backs. I want a review of the concept of a living wage – I have just voted for
 Deputy Langlois’ amendment – but I do not want a review of that concept to the exclusion of all
 other aspects of the minimum wage. I think there is merit in us now having a complete review of
 3630 *all* aspects of the minimum wage. It is now six years since the States agreed the principles and the
 policies of the minimum wage and it will be eight years by the time there is a report coming back
 to the States in April 2015. I think that is a reasonable period of time – six to eight years – to
 reconsider the principles and the policies upon which the minimum wage was established, was
 agreed by the States initially in 2007.

3635 Actually, if the States looks at the initial Proposition 3, which does not exist any longer
 because it has been amended, it did read:

‘To approve that should a wider review be deemed appropriate...’

3640 and Commerce and Employment’s policy letter refers to a wider review of the minimum wage. I
 would argue that the States, in voting for Deputy Langlois’ amendment, has just constrained the
 possibility or the likely terms of reference of the review, because Commerce and Employment was
 initially talking about a wider review and now the States has voted for a review which is restricted
 purely to this issue of a living wage measurement.

3645 I think that is far too prescriptive. I think, if we are going to have a review, we ought not to tie
 the hands of the reviewers behind their backs; we ought not to make this review too restrictive. I
 think that that is too prescriptive. In fact, some of the concerns that were raised during the debate
 on Deputy Langlois’ amendment highlight that it is not wise to consider the concept of a living
 wage in isolation from all other aspects of minimum wage policy. We have had issues raised about
 the gender gap that the minimum wage policy and legislation reveals. We have had all sorts of
 3650 other concerns raised during debate. None of those can be addressed simply by an analysis of
 incorporating a living wage measurement into our minimum wage. The only way we can do that is
 to have a wider review.

There is actually an extant States resolution for a wider review. In 2010, the States resolved to
 direct the Commerce and Employment Department to report to the States as to the effectiveness of
 3655 the policy and the appropriateness of the wage rate. That was carried unanimously and that review
 has not been carried out. So there is already a States resolution requiring a wider review. They
 were meant to report back to the States before the end of 2011. That review was not carried out.
 There is nothing in their policy letter which gives any commitment to it being carried out, there is
 nothing in Deputy Langlois’ amendment which gives any commitment to it being carried out; and
 3660 that is why, in my amendments, I am proposing that the States resolution established in 2010
 should now be fulfilled and there should be a wider review of minimum wage policy. In fact, I
 think there must be now a stronger case for it, given that we are three years further on.

I also think we need to be a bit careful about slavishly following the agenda set by the UK. I am
 not suggesting... I know it is not Deputy Langlois’ intention, but he admits quite freely that the
 3665 UK has led this agenda, or some people in the UK have led this agenda of consideration of a living
 wage concept; and following that, what the States has now done is to say, ‘Well, okay, we ought to
 carry out our own analysis of the concept of a living wage in Guernsey. But just because the
 minimum wage debate in the UK is dominated by this consideration of a living wage does not
 mean to say it should be in Guernsey. I think there might be some Guernsey-specific aspects of
 3670 minimum wage policy which we ought to consider alongside our consideration of a living wage.

I also think, sir, that the wording in my new Proposition 3(b) – and (c) and (d), actually – is
 preferable to what the States voted for with Deputy Langlois’ amendment. A minor point: mine
 includes the requirement for the reviewers to consult with all relevant parties, whereas
 Deputy Langlois’ restricts the obligation for consultation only with Commerce and Employment. I
 3675 think perhaps there are other States Departments involved, there is also industry, and there are
 employee groups as well whom I think ought to be consulted.

I have also included in the amendment that any review should assess the extent to which the
 minimum wage is fulfilling the policy aims, objectives and themes of the States as resolved in the
 States Strategic Plan that was debated in March of this year. Whereas, as a consequence of
 3680 Deputy Langlois’ amendment, Proposition 3 is restricted to looking only at the living wage, I think
 it is better to give the reviewers a free hand to look at all aspects of minimum wage policy but to
 restrict their review or set their review, the terms of reference of their review, by the strategic aims
 and policies and objectives of the States.

3685 The difference between the two amendments is expressed in 3(d) in one of them. Well, 3(a) to
 (c) is what I have just been saying, but 3(d)... I think that there is some merit in making it clear

3690 that when there is a review of minimum wage policy it ought to give consideration to linking the minimum wage to median earnings. I am not saying that the case for that is absolutely cast iron, but I do think that there is some merit in us giving a direction to the reviewers of minimum wage policy to give consideration to establishing such a link; but if the States does not want to do that, if the States does not want specifically or explicitly to direct the reviewers in that way, then I would at least ask the States to vote for the amendment which is 3(a), (b) and (c), which is a review of all aspects of the minimum wage, including consideration of the living wage concept, which the States has just voted for via the Langlois amendment.

3695 In respect of both of these amendments, sir, they require a resolution of this longstanding uncertainty about which Department is primarily responsible for minimum wage policy, they require any review of minimum wage to be related to the strategic aims agreed by this House, and most of all they require that any review should be of all aspects of minimum wage rates and policies and should not be tightly restricted to the concept of a living wage only.

3700 Sir, as a bonus, a *major* bonus, of voting for one or other of these amendments, if one of them is approved I will immediately withdraw two of my other three amendments. (*Laughter*)

Thank you.

The Bailiff: Deputy Conder, do you formally second both amendments?

3705 **Deputy Conder:** Yes, I do, sir, and reserve the right to speak on the amendments.

The Bailiff: Thank you.

Does anyone wish to speak on these amendments?

3710 Deputy Stewart.

Deputy Stewart: Mr Bailiff, if we look at (a), the mandate is clear: the mandate is that of Commerce and Employment. We are responsible for minimum wage, as directed by the States and under the law, and that is exactly what we do. In my opening speech I outlined the law that we have to take into account and other factors. It is the Department of Commerce and Employment, under the current law, that is responsible for minimum wage, so (a) is totally superfluous. (*Interjection*) Steady!

3715 Part (b): again, totally superfluous. We do not need that. It is Commerce and Employment. There is no doubt about that. We are looking after minimum wage, as directed and under the current law.

3720 In terms of (c), that is now overtaken by the amendment we have all just voted in favour of. I know it is tempting that he might withdraw a couple of amendments, but I would reject them.

3725 Then, if we look at (d) on amendment B – sorry, we are going to get confused here; it has been a long day – about connecting minimum wage to some sort of median earning, if my memory serves me well, although I was not in the States at the time, I think this was an amendment brought some while ago by Deputy Fallaize, which was firmly rejected for the very reason that –

Deputy Fallaize: Sir, on a point of order, it lost on a tied vote. I do not know whether that is firmly rejected, but...

3730 **The Bailiff:** Fair enough.

Deputy Stewart: Accepted, thank you. If you start connecting things like minimum wage to median earnings, then we are starting to play with our economy and micromanage this economy and starting to open trapdoors that we may not be able to close, and I would countenance that is very, very dangerous indeed.

We have widely consulted on minimum wage: 65 responses, some of them quite lengthy – I think it is a good response to a consultation.

3740 I think one of the things that has been taken into account is all the offsets. I should have mentioned in my opening speech that last year we did not raise the offset either for accommodation or food and accommodation. This year there has only been a small rise, which in effect gives even a further rise to the minimum wage.

I urge States Members to reject these amendments.

3745 **The Bailiff:** Does anyone else wish to speak? Deputy Conder.

Deputy Conder: Thank you, sir.

I take the point that Deputy Stewart just made, but I think in rejecting 3(a) under the amendment... I would just read back the notes in the report. It says:

3750 ‘Such a wider review, which could encompass a consideration of a “living vs. minimum wage”, is a far more complex and time consuming matter than a review of the Statutory Minimum Wage Rates only. Having looked at the matter the Department is firmly of the opinion that this is outside the mandate of the Commerce and Employment Department and falls more naturally under the heading of “Social Policy”.’

3755 I readily accept what Deputy Stewart has just said, that he retains and takes back to his Department the minimum wage, but minimum wage and living wage are so closely linked, and certainly in all the research that I have made, which I will refer to in a moment, it is difficult to separate one from the other. So I think in terms of the amendments that Deputy Fallaize has laid and which I second, it does make a lot of sense for the Policy Council to identify one Department
3760 that can address all and both of these issues and, as I am coming to in a moment, everything in between, rather than respond to the Department of Commerce and Employment’s concern that it is outside its mandate to look at and compare minimum wage and living wage and make recommendations. As Deputy Fallaize has said, I am uncomfortable with it lying with Policy Council. It seems to me there is obviously one Department that can look at all of these mandates and should have the mandate for minimum wage and living wage and everything in between, so I
3765 fully endorse and would urge colleagues to vote for our Proposition, as amended, 3(a).

If I may just come back for a moment to the whole issue of living wage versus minimum wage, I frankly struggled, and maybe other colleagues did, to actually get into my head just what the difference is between the two and the implications. If it helps colleagues, the definition is a living
3770 wage or a subsistent wage is the minimum income necessary for a worker to meet basic needs. These needs include housing and other incidentals. It generally means that a person working 40 hours a week with no additional income should be able to afford the basics for quality of life: food; utilities; transport; healthcare; minimum recreation; one course a year to upgrade their education – excellent; childcare; savings for retirement; less common legal fees; and insurance.
3775 Taking care of sick and elderly family members is not included.

If you turn to the Low Pay Unit of the UK, there is a suggestion in their latest report that the national minimum wage should be converted into a living wage. They quite correctly state that this is misconceived for two reasons.

3780 First, what constitutes a living wage will vary by household type. We have heard this figure of £48,000 in Guernsey for a family of two with two children. We do forget that what constitutes a living wage will vary by household type: single people, childless couples, single parent families, two parents one earner, and more than one child – all have different needs.

A report by the Resolution Foundation – which is a think tank campaigning for better living standards for 15 million people on middle and lower incomes – identified that the minimum wage
3785 abolished the worst excesses of low pay but – and this is the key – struggled to help the group earning less than the living wage. They make the point that, in the early years of the minimum wage, the UK were successful in tackling some of the worst excesses of low pay and exploitation, but they predict – this was the number-one priority – the challenge for the next 15 years is much harder: how to help people earning above the minimum wage but below the living wage. That is
3790 the challenge, and on current forecasts they think that the gap between minimum wage and living wage will widen over the coming years.

That is why I think this amendment is so important. I also voted in favour of Deputy Langlois’ amendment as a longstop, but Deputy Langlois’ amendment deals with the *living* wage. What this amendment tries to do in all its parts is to identify, I would suggest, the gap between the national
3795 minimum wage and the living wage. It seems that we are in just the same position as most other jurisdictions. We will struggle if we simply... I would suspect an investigation of purely the living wage will say we cannot afford it, almost inevitably, and indeed representations I and other colleagues have had would suggest that many employers on this Island suggest the same, and again research has shown that the living wage will have and could have detrimental effects of
3800 employment.

So the massive benefit for me and the reason I am pleased and proud to second this amendment is it addresses just what has been identified in the UK and other jurisdictions, which is how do you close the gap between the national minimum wage and a living wage, and what are the implications for doing that.

3805 Sir, I was pleased to support, as I said, as a longstop, Deputy Langlois’ amendment, but I think this actually takes us much further and it will actually give us, to use that ghastly phrase, evidence-based information. It will actually give us the information which is much wider than the simple living wage.

3810 I would recommend to colleagues to support all of the amendments in the first Proposition, (a), (b), (c) and (d), because I think it will give us a much better level of evidence than we will have simply by looking at the living wage, which as I said, I think will simply give us one answer: we cannot afford it.

Thank you, sir.

3815 **The Bailiff:** Deputy Langlois.

Deputy Langlois: Thank you, sir.

3820 Apologies: on this input, obviously not knowing what the two proposers were going to say, there is some danger of repetition here from the previous input.

Can I just clarify what the States has just kindly agreed to by a very large majority: that is the production of a robust, individual, statistic – social statistic, economic statistic – which can be put to many different uses? That was what the amendment was meant to be and was meant to put in place.

3825 I just simply do not understand the ‘tying the hands of reviewers’ phrase. I have tried to make things simple. Deputy Fallaize, unusually here, is trying to complicate things, and we have never seen that before! He is making it complex. He is trying to wrap the solution of multiple social issues and economic issues all into a single set of recommendations, and I do not think we can do anything until this second benchmark is produced.

3830 I take... sorry, ‘take offence’ – gosh, that is far too strong. I do not take offence at virtually anything. I *question* the throwaway phrase of ‘glibly following the UK’. You all know me better than that. I do not go along with that line. I am saying that the timing just happens to coincide with when the term ‘living wage’ is coming into common use, particularly in wage negotiations, and when the UK is beginning to use it as a phrase. At the moment, it is produced by a particular methodology with a particular parentage. It is going to become a very general measure, just like long ago there was no such thing as RPI or RPIX or whatever, and then there was no such thing as CPI, and gradually it came in and you started to use it as a matter of course. So the label is something which is not tied down totally yet.

3840 The link with median earnings: the amendment which you have already approved and hopefully will approve as a resolution, already puts you in a position where, if any further referencing to median earnings needs to be made, it can be made. It does not stop you doing that at all.

3845 Deputy Conder is absolutely right, there *is* confusion between the minimum wage and the living wage, but more and more importantly, *more* importantly, there is *massive* confusion – and this is so much of a problem for us at Social Security on an ongoing basis – between an individual’s income, the wages that somebody receives for a single job, and the household income; and none of these Propositions in the amendment, in my view, are going to do anything to remove that confusion.

3850 What is low pay? We talk about it; we keep on talking about it. I think the introduction of the single measure, properly and robustly put together, is going to be useful to help us define what could be regarded as a band which can be seen as low pay.

3855 Finally, the other thing I would worry about is something that Deputy Conder said, and that is there is a danger that we cannot afford it. Please, if anybody thought that my amendment was proposing that the living wage should then be enshrined in law and take the place of the minimum wage... I am sorry, you really have misunderstood what I am proposing. That is *not* what I was saying. It is not a matter of what the economy can afford; it is literally a matter of finding a benchmark where we can begin to say below what level you are low paid.

I was certainly amused at having been appointed as the longstop. He has obviously never seen me play cricket!

3860 **The Bailiff:** Deputy Gollop.

Deputy Gollop: Sir, these amendments that Deputy Fallaize has put forward... I can understand why he is putting them forward, but they are amendments too far at this stage.

3865 It is an intriguing point, because some of us on Social Security Department have questioned whether Commerce and Employment Department is the right body to manage the minimum wage, and I think, in the long term, they are not. If you look across to the island of Jersey, it is clear there that Senator Le Gresley... the Social Security Department is responsible for the minimum wage, and Work and Pensions in the United Kingdom has been. But we are where we are, and the point of the exercise now is to explore the living wage.

3870 We are not fantastically full of resources across the Departments – Social Security, if anything,
has lost some of its policy input; Commerce and Employment, we know, have lost one or two key
members of staff in the last year – and the Policy Council, with its Economics Unit, is the logical
3875 place for this work to be done at the present time. In addition to that, one should not confuse the
minimum wage with the living wage. If one looks at the two key Departments in this – Social
Security and Commerce and Employment – they both, in a way, have a vested interest, because
one could argue, looking at it from a sceptical point of view, that there might be a tendency for
Members of the Commerce and Employment Board to look at the issue with an eye to considering
the employer’s interest, which I suppose in the abstract would tend to mean less pay for workers,
3880 and the Social Security perspective perhaps can be influenced by the budgetary constraints of that
Committee and the need to protect against unemployment. But, actually, unemployment is not the
problem in Guernsey, as a rule; the problem is lower wages and the disparity of incomes.

It is not often you can say that Guernsey is a world leader in many ways, but Deputy Langlois’
Department *is* a global leader. It is number one in the world. You cannot say more than that. There
3885 is the exception of Monaco, which is a casino-type special principality, an African country that
does not have data, and one of the Gulf States. If you take those three out of it, look on Wikipedia
and you will find that the official International Labour Organisation (ILO) unemployment rate is
the lowest in the world for Guernsey: better than Jersey by some way; better than the Isle of Man;
better than any other country, big or small. We really do well on unemployment and placing
3890 people for jobs. (**Two Members:** Hear, hear.) It is possibly our most successful global index. So
why do we keep on worrying about *unemployment* as the only game in town? The issue is actually
about affordability, access to public health, ability to pay rents, minimum income – all those
issues, and we need to go beyond the simplicity of earlier policies.

The Policy Council, as the name on the tin suggests, is the right place to look at this at this
3895 stage.

The Bailiff: Deputy Luxon. (*Applause*)

Deputy Luxon: Thank you, sir.

I am not so sure it is going to be that good, but thank you for the round of applause, Members;
3900 that is very kind of you. (*Laughter*) I am not sure a round of applause is what I am going to get!

Sir, as we are about to go home and I will have the whole of the evening to recover, I am about
to make a grave mistake, I think. I am going to try and quote the Rule Book to Deputy Fallaize,
but I think it could be a mistake. If I could just read the amendment that we have just successfully
3905 passed, which said – Deputy Langlois’ amendment – ‘Direct the Policy Council, with the
assistance of the Social Security Department and Commerce and Employment’ to do the bits.
Deputy Fallaize said the Policy Council is not the right body to be doing this. Well, on page 3 of
the Policy Council mandate, it says:

3910 ‘The formulation and implementation of economic, fiscal, human resource, environmental and social strategic and
corporate policies to meet objectives agreed by the States;’

And on page 5, it says:

3915 ‘To examine and report to the States, or to require a Department or Committee... to examine and report to the States,
or to the Policy Council, on any matter which falls outside the mandate of any Department or Committee.’

So, it sort of says that if there is a bit of a muddle or a cross-departmental issue, then actually
the Policy Council is a good body to try and bring that together, and Deputy Langlois’ excellent
3920 amendment does exactly that, what the Rule Book says.

Sir, I may have made a grave mistake and I am sure Deputy Fallaize will tell me, but thank
you.

The Bailiff: Does anyone else wish to speak on these amendments? No. Deputy Fallaize, then,
3925 to...

Oh, sorry, Chief Minister.

The Chief Minister (Deputy Harwood): Thank you, sir, very briefly.

The amendments proposed by Deputies Fallaize and Conder have, in my opinion, considerable
resource implications. To do the exercise that is suggested in the amendment, particularly at
3930 paragraph (b), for both amendments will, I think, tie up resource both within the Policy Council

insofar as we have the economic team, Social Security Department, and also Commerce and Employment.

3935 The advantage of Deputy Langlois' amendment is that this has already been identified and we believe that we can actually deliver this particular report to identify the living wage. To go further than that and deal with the detailed report that has been suggested in this amendment by Deputies Fallaize and Conder – both amendments – will, I suggest, considerably strain the resources.

3940 Therefore, on the basis of resource, if for no other reasons, I would urge the States to reject the two amendments from Deputies Fallaize and Conder and rely upon the amendment from Deputy Langlois, in which we believe we can identify and provide the information which has been requested and at least we can then identify what we mean by a living wage for the future. I would therefore urge Members to reject the Fallaize and Conder amendments.

Thank you, sir.

3945 **The Bailiff:** Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

3950 Deputy Stewart started off by making an appeal for the States to understand that Commerce and Employment was already clearly responsible. I accept that Commerce and Employment Department is clearly responsible in law for recommending minimum wage *rates*, but as soon as the Department itself has considered a wider review of minimum wage policy, they have admitted to the States in their policy letter that it is outside their mandate. I believe that is completely contradictory with Deputy Stewart saying to the States it is absolutely clear Commerce and Employment has this in its mandate now, because if it had it in its mandate now he would have said, 'We have got it in our mandate; therefore, we will undertake a wider review of minimum wage policy and report to the States in due course.'

3955 At the moment, I say again, the responsibility for minimum wage policy is unclear. If I want to hold a Department to account for minimum wage policy, or any other Member of the States does, we do not know which Department is responsible. We may know which Department is responsible for setting the minimum wage rate, but that is not the same thing as the underlying minimum wage principles and policies of the States. But if it is Commerce and Employment, if the rest of the Policy Council agree that it is Commerce and Employment, then the Policy Council will simply come back to the States and say, 'Look, it is absolutely clear. Here is a proposition: we vest complete responsibility for the minimum wage in Commerce and Employment,' and the States can resolve to do that at that time. There is no complexity in that whatsoever. But at the moment it is unclear. I think that responsibility for minimum wage policy should be resolved.

3960 He criticised my new 3(d) in the amendment as if I were proposing immediately establishing a link between the minimum wage rate today and median earnings. Well, clearly I am not. He did refer to an amendment which I laid. Even that amendment, in 2010, was not to establish a direct link there and then; it was for Commerce and Employment *to take into account* the possibility of linking minimum wage and median earnings. All I am suggesting in 3(d), in one of the amendments, is that the investigation into the minimum wage policy should include an examination of the case for linking minimum wage rates to a set percentage of the median of all employees' earnings, whether immediately or over a longer period of time, with particular reference to the extent to which such a policy would contribute to the aims, objectives and themes of the States. I am quite obviously not trying to link today minimum wage rates to median earnings. If that (d) goes too far for the States and they do not even want the review to give consideration to that issue, then I would at least ask the States to vote for the amendment 3(a) to (c), even if they do not want to vote for 3(a) to (d).

3975 Deputy Langlois kindly told the States what they had agreed to by voting for his amendment, and I know all of that, but this amendment protects that. There is nothing in my amendment which undermines what was in Deputy Langlois' amendment. In fact, more or less, I took the words from his amendment and incorporated them into my 3(b), so the States will not be undoing what it voted for in Deputy Langlois' amendment if it votes for mine. I just do not want to establish a review of minimum wage policy and then immediately restrict it to the consideration of the living wage only. Therefore, my 3(b) is that there should be an investigation, in consultation with all relevant parties, into all aspects of minimum wage policy and minimum wage rates to assess the extent to which they are fulfilling the aims, objectives and themes of the States. That is the wider review that I am proposing.

3990 The lack of resources argument was interesting because I have already said there is a States resolution directing a wider review of minimum wage policy, which clearly is not going to be

3995 done. There is nobody who seems to be prepared to take it on, although it is a States resolution. I do not really think it is adequate for Committees of the States to say, 'Well, the States has directed us to do something but we are not going to do it.' That was carried. This morning, the Policy Council... An on-the-hoof amendment, if ever there was one – it was the right thing to do, I think; I voted for it and I think the States carried it unanimously – for the Policy Council to carry out a review of the funding mechanism of the GFSC. That was not a review that was conceived by the Policy Council two days ago or three days ago. It emerged out of debate yesterday. So I really do think that the argument about a lack of resources to carry out a review over the next 18 months to 4000 two years is not a valid argument.

4005 Deputy Gollop said that the Policy Council has some statistical staff, which is true, but I am sure the Policy Council is not an organisation which operates in a silo, (*Laughter*) and if the Department of the States which is responsible for minimum wage policy wants to have some assistance from members of staff who happen to sit in the Policy Council's Statistical Unit, then I am quite sure that the Policy Council will be prepared to provide those staff, given that they are responsible for assisting co-ordination of Committees across the States.

4010 I really did not want to get bogged down in this issue of who is responsible for minimum wage policy, because the main point here is that I want to have a wider review of all aspects of the minimum wage, but Deputy Luxon also raised the issue of political responsibility and quoted from part of the Policy Council mandate. Well, the formulation and implementation of strategic and corporate policies – there is nothing strategic about a review of the minimum wage. There might be about population policy – that is why the Policy Council dealt with strategic population policy – but the minimum wage is no more strategic than the organisation of primary education or the allocation of social housing units and those things are vested in States Departments; they are not sitting in the Policy Council. 4015

4020 Then he quoted the bit of the mandate of the Policy Council, which is to require a Department or Committee to examine and report to the States, or to the Policy Council, on any matter which falls within the mandate of any Department or Committee. That has no association at all with my amendment. That bit of the mandate clearly does not give the Policy Council any kind of responsibility for dealing with issues which fall between Departments. Policy Council has the power to say to PSD, let's say, 'You will report to us in six months' time with proposals for a new policy on charges at the tip.' It does not have any relationship to this amendment.

4025 The key in what I am trying to establish in this amendment is that if the States reviews minimum wage policy, given that it is six years since the States agreed to introduce the minimum wage, any review of minimum wage policy should not be restricted very tightly, very prescriptively, only to the concept of a living wage. I think it should be a review of all aspects of minimum wage policy and minimum wage rates. Get that report before the States by April 2015 and then the States can make an informed determination about the future of minimum wage policy. 4030

I would ask the States to vote at least for one of these two amendments, please, sir. Could I ask for a recorded vote, and could we please take 3(a) to (c) first, sir?

The Bailiff: Yes, that is what I was going to propose.

4035 Members, it is a recorded vote on the amendment proposed by Deputy Fallaize, seconded by Deputy Conder, which proposes to delete Proposition 3, which of course is the new Proposition 3 substituted by the Deputy Langlois amendment, and to substitute therefor paragraphs 3(a), (b) and (c).

4040 *There was a recorded vote.*

Carried – Pour 15, Contre 29, Abstained 0, Not Present 2

POUR	CONTRE	ABSTAINED	NOT PRESENT
Deputy Brehaut	Alderney Rep. Jean	None	Deputy Le Pelley
Deputy Robert Jones	Alderney Rep. Arditti		Deputy Laurie Queripel
Deputy Sherbourne	Deputy Harwood		Deputy Paint
Deputy Conder	Deputy Kuttelwascher		
Deputy Lester Queripel	Deputy Domaille		
Deputy Ogier	Deputy Langlois		
Deputy Fallaize	Deputy Le Clerc		
Deputy Lowe	Deputy Gollop		
Deputy Le Lièvre	Deputy Storey		
Deputy Collins	Deputy Bebb		
Deputy Green	Deputy St Pier		
Deputy Dorey	Deputy Stewart		

Deputy Adam
Deputy Burford
Deputy Hadley

Deputy Gillson
Deputy Trott
Deputy David Jones
Deputy Spruce
Deputy Duquemin
Deputy Le Tocq
Deputy James
Deputy Perrot
Deputy Brouard
Deputy Wilkie
Deputy De Lisle
Deputy Inglis
Deputy Soulsby
Deputy Sillars
Deputy Luxon
Deputy O'Hara
Deputy Quin

The Bailiff: I think that is lost, but let's just get the formal vote before we move on to the next amendment.

4045 Do you want a recorded vote on the next one as well, Deputy Fallaize?

Deputy Fallaize: No.

The Bailiff: No.

4050 Members of the States, the votes cast on the first Deputy Fallaize, Deputy Conder amendment were 15 in favour, 29 against. I declare that amendment lost.

I understand that Deputy Fallaize does not require a recorded vote on the next amendment. Is that correct?

4055 **Deputy Fallaize:** That is correct, sir.

The Bailiff: So I just put that to you *au voix*. I am talking about the amendment proposing to substitute new Propositions 3(a), (b), (c) and (d).

4060 Those in favour; those against.

Some Members voted Pour, others voted Contre.

The Bailiff: I declare that one also lost.

4065

**Procedural
concerning order of remaining business**

4070 **The Bailiff:** It is now 5.30. I think it might be helpful to Members if the Chief Minister could just indicate what order of debate the Policy Council will be suggesting tomorrow. Of course, it is a matter for the Assembly at the end of the day, but what would you be proposing, Chief Minister?

The Chief Minister (Deputy Harwood): Thank you, sir.

4075 After consultation, there are three items in the Billet which clearly need to be dealt with before any capital prioritisation debate can take place in September. Those are the Strategic Asset Management Programme, the Education Vision, and also the Coastal Defences.

4080 Quite clearly, we not going to be in a position to deal with all three tomorrow. Having spoken with the Minister of Education, I understand that there is a particular time-critical matter for him, and therefore I would propose that we deal with the Education Vision before dealing with the Strategic Asset Management and then deal with the Coastal Defences, in that order.

4085 If anything has to be carried forward into September, the Agenda, I think, will be kept very light, so the only major item on that Agenda will be the Capital Prioritisation, so it should allow time for outstanding matters to be dealt with, sir, before we deal with the September business.

The Bailiff: Okay.

Deputy Domaille: Sir, I would only add that if there is a flood it is on his head.

4090 **The Bailiff:** Deputy Bebb.

Deputy Bebb: Could I just briefly ask for a clarification as to business that will not be dealt with in this meeting: will it be the first item in the next meeting, or will be just assumed that it will form the full agenda, as is normal?

4095 **The Bailiff:** If it is carried forward to the September meeting – and obviously that is a matter that Members will be asked to decide at the end of business tomorrow – my understanding is that we would finish off this Billet before we move on to the September Billet, yes. Shall I put that to Members now, because I think...

4100 Sorry, Deputy Trott, are you...?

Deputy Trott: I was just going to make the observation, sir, that in the knowledge that we will not finish this month's business tomorrow, should we consider starting earlier and taking less of a lunch break tomorrow? The three items that the Chief Minister has prioritised, quite sensibly, should really be finished by tomorrow if we possibly can.

4105

The Bailiff: You are suggesting, then, what? Starting at nine o'clock?

Deputy Trott: My suggestion would be to start at nine, to only take an hour for lunch and maybe look to continue to six o'clock as a backstop.

4110

The Bailiff: Let's take it one step at a time. *(Laughter)*
I put to Members that we start at nine o'clock tomorrow morning.
Those in favour; those against.

4115 *Some Members voted Pour, others voted Contre.*

The Bailiff: We will start at nine o'clock and we will decide at lunchtime how long we take for lunch.

4120 **Deputy Trott:** Whilst I completely accept that guidance, sir, there will be some who will have lunchtime meetings. If they were to know now, it would make it easier for them.

The Bailiff: All right, we will take a vote now, then.
Those in favour of having one hour for lunch tomorrow; those against.

4125

Some Members voted Pour, others voted Contre.

The Bailiff: I think the *Contres* have it on that, so at the moment it will remain a two-hour lunch hour. As I say, we can review that at lunchtime tomorrow.
We will rise, then, and resume at nine o'clock tomorrow morning.

4130

The Assembly adjourned at 5.35 p.m.