



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Wednesday, 30th May 2012

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M. M. Lowe, A. R. Le Lièvre, A. Spruce, G. M. Collins

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Representatives of the Island of Alderney

Alderney Representatives B. N. Kelly, P. Arditti

The Clerk to the States of Deliberation

S. M. D. Ross Esq. (H.M. Deputy Greffier)

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*The Assembly adjourned at 12.32 p.m.
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The Assembly adjourned at 3.11 p.m.

States of Deliberation

*The States met at 9.35 a.m. in the presence of
His Excellency Air Marshal Peter Walker, CB, CBE
Lieutenant-Governor and Commander-in-Chief of the Bailiwick of Guernsey*

[THE BAILIFF *in the Chair*]

PRAYERS

The Deputy Greffier

EVOCATION

CONVOCATION

The Deputy Greffier: Billets d'État XI, XII, and XIII of 2012.

To the Members of the States of the Island of Guernsey, I have the honour to inform you that a meeting of the States of Deliberation will be held at the Royal Court House on Wednesday 30th May 2012 at 9:30 a.m. to consider the items contained in these Billets d'État which have been submitted for debate.

Procedural

The Bailiff: Members of the States, I think this almost brings the filming to an end but it may be that the press photographers in particular would like everybody to turn and look at the camera and say 'sursis', or something appropriate – (*Laughter*) I do not know what – so when you are ready.

There was a pause for photographs.

The Bailiff: Thank you very much. Has everybody got what they need, then?
In that case, to enable the cameras to be withdrawn we will have a brief adjournment. His Excellency and I will retire and we will resume in a minute or two.

The Deputy Sheriff: All rise.

There was a five-minute recess.

Appointment of Acting Presiding Officers Deputies Lowe, Gollop and David Jones appointed for the States of Deliberation

The Bailiff: Members of the States, under Article 1(2) of the Reform (Guernsey) Law, 1948, as amended, I am required to nominate States Members to perform the duties of Acting Presiding Officer of the States of Deliberation when neither the Deputy Bailiff nor I are available to preside and, in accordance with recent custom, I have invited – and I am delighted to say that they have all accepted – the three longest serving Members to be Acting Presiding Officers and they are Deputy

Lowe, Deputy Gollop and Deputy David Jones.

I thank them very much for accepting nomination.

40

**Appointment of Acting Presiding Officer
Deputy Lowe appointed for the States of Election**

45

I am also required, under paragraphs (2) and (3) of Article 1, and paragraph (3) of Article 4 of the Reform (Guernsey) Law, 1948 to nominate one Acting Presiding Officer of the States of Election to preside when neither the Deputy Bailiff nor I are available and Deputy Lowe, I am delighted to say, has accepted that nomination, so thank you very much for that.

50

Question for Oral Answer

55

EDUCATION

**La Houquette Primary School
'One stream only' policy**

60

The Bailiff: We now move on, Members of the States, to Question Time.

I have received notice of one Question and that is a question that has been asked by Deputy Gollop of the Minister of the Education Department.

Deputy Gollop.

65

Deputy Gollop: Thank you, sir, for the honour. I do not know if I ever was presiding if I could ask myself to raise a question, but never mind. *(Laughter)*

The Bailiff: Perhaps you could answer it, as well. *(Laughter and applause)*

70

Deputy Gollop: If I had to answer my questions, the answers would be short, I am sure!

75

In view of the statistical facts that some primary schools in Guernsey have only 19-22 pupils per class and the recent Mulkerrin Report's ongoing development and implementation is still in progress, will your Board be reconsidering the 'one stream only' policy apparently in place at La Houquette School for this coming year, especially if other potential pupils materialise within that catchment area?

The Bailiff: Deputy Sillars, the Minister of the Education Department, will reply.

80

Deputy Sillars: Sir, thank you for this question.

The current number of pupils in Reception classes for September 2012 range from 19 – 30, depending on the school. All are within the Department's established maximum class size of 30. Schools are expected not to exceed this without the agreement of the Department.

85

Schools are expected to maintain an upper limit of 28, where possible. Schools are advised to aim for class sizes of approximately 24: there was a misconception that the Board has fixed the class sizes at 24, but this has never been the case. All families are likely to have been aware that, at times, their children have been in classes of above 24. The average class sizes in schools have remained extremely favourable, as highlighted in the Department's Annual Report.

90

Research shows that it is the quality of teaching that has the greatest impact on pupil progress and attainment, rather than the size of the class. The Department currently operates several successful single form entry schools, including the Forest Primary, St Andrew's Primary, St Mary & St Michael's Roman Catholic Primary, and St Sampson's Infants School – and the reception class sizes for these schools for September range from 19-27.

95

Parents were asked to register their children for a place at the catchment school by 24th February. This is important for two reasons; firstly, resources need to be planned in advance so they are in place for September and, secondly, we need to give parents who are waiting for an out-

of-catchment place a decision in a timely manner so, if agreed, their children can go to familiarisation sessions at their destination school.

100 Although it is possible that there may be one or two children not yet registered, there is still spare capacity within a number of our primary schools for these children to be accommodated. As with all States Departments, the Education Department is mandated to ensure that public resources are used to the best advantage.

105 It is a simple fact that the number of children registered for a place in reception at La Houquette School for September remains within the Department's agreed policy for class sizes, so there is no reason to reconsider running two classes, instead of one. If the States wish to set a maximum class size lower than recommended by the Department, that is, of course, a different matter.

110 The Department has reassured the parents that the fact that the Houquette only has one reception class this year is based solely on the numbers. It is not connected in any wider debate about school rationalisation. If numbers are sufficient for two classes next year, then the Department would expect that to be accommodated. Planning would, of course, begin early in the year, as now.

You may be aware that the Department's full schools administration policy is available on the website.

115 **Deputy Gollop:** In thanking the Minister, I would like to ask how easy would it be for the Department, in conjunction with the parents, to ensure that the children who cannot be accommodated within the existing one class find an easy harbour in other nearby schools?

120 **Deputy Sillars:** I think you will find that is already under way.
Thank you.

The Bailiff: Deputy Gollop, do you wish to...
Sorry, Deputy Fallaize, do you have a supplementary question?

125 **Deputy Fallaize:** I have a supplementary question, please, sir.
In his answer, Deputy Sillars advised the States of the number of schools which are running single-form entry, and also we know that the number of those schools is rising. Because of that, is his Board going to come to the States with proposals to reduce the number of primary schools in the Island, particularly given that there is spare capacity in some of the larger schools?

The Bailiff: Deputy Sillars, if that is a supplementary question, do you wish to answer it?

135 **Deputy Sillars:** I will touch on it, but I am not going to give a complete answer.
Certainly, it is alleged that there are many spare places in the primary schools, and that is a mathematical calculation. Sir, the reality is a very different figure, although we, as a Board, have not been told of those numbers. It is something that the Department is looking into but, certainly, the Board has not had any time to consider anything about rationalisation or anything along those lines.

140 That is all, really, it is appropriate to say at this moment.
Thank you.

The Bailiff: Deputy Gollop, do you wish to ask your second question?

145 **Deputy Gollop:** Yes, sir, and thank you. I have got a supplementary to it, as well.
What is the Education Department's considered view as to the most acceptable size of primary class or reception class for maximum learning advantages and optimum positive outcomes for all the children, including those, for example, with ADHD, autism spectrum or other disabilities or special needs?

150 **The Bailiff:** Deputy Sillars.

155 **Deputy Sillars:** There is no one-size-fits-all solution; of course, there isn't.
The acceptable size for a primary class is probably within the range of 20-30 pupils, depending on a range of factors: ability, the age range of pupils, physical capacity of the classroom, experience of the teacher, additional classroom support available – and this list is not exhaustive. I would repeat that the most important factor in raising pupil attainment is the quality of teaching,

rather than the class size.

160 The Department operates a range of peripatetic support services – such as Communication and Autism Support Service, Literary Support Service, Sensory Support Service and Social, Emotional and Behavioural Difficulty Service – who provide additional support to children in mainstream schools or in specialist bases such as the Communication and Autism Support base at the Amherst Primary School or the Hearing Support base at Vale Junior. The Department also provides one-to-one support for individual pupils, where required.

165 **The Bailiff:** Deputy Gollop.

Deputy Gollop: My supplementary is that I read in the *Press* that education professional union representatives are of the opinion that 24 is really the optimum, if not the maximum, classroom size. Is the Education Department having active dialogue with the teaching professionals, that they are happy with larger classes?

The Bailiff: Deputy Sillars.

175 **Deputy Sillars:** Things are all comparative. If you take England and Wales, for example, you have somewhere between 30 and 36 as a standard class. In Guernsey, I feel we are fortunate with somewhere between 22 and 28.

It really goes back to what we have been saying all along: it is all down to the quality of the teacher and the TA who supports that teacher as and when it is necessary.

180 **The Bailiff:** Any other supplementary questions?

No? In that case, that concludes Question Time and, Greffier, we will move on with the legislation, please.

185

Billet d'État XI

190 **The Financial Services Commission
(Bailiwick of Guernsey) (Amendment) Law, 2012, approved**

Article I.

The States are asked to decide:

195 *Whether they are of the opinion to approve the draft Projet de Loi entitled 'The Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2012' and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.*

200 **The Deputy Greffier:** Article I: the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2012.

The Bailiff: This is at pages 1 and 2 of the brochure, Members of the States.

Is there any request for any debate, any clarification?

205 No? In that case, we go to the vote.

Those in favour; those against.

Members voted Pour.

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

215 **The Merchant Shipping (Oil Pollution) (Bunkers Convention)
(Bailiwick of Guernsey) Ordinance, 2012, approved**

Article II.

The States are asked to decide:

220 *Whether they are of the opinion to approve the draft Ordinance entitled 'The Merchant Shipping (Oil Pollution) (Bunkers Convention) (Bailiwick of Guernsey) Ordinance, 2012' and to direct that the same shall have effect as an Ordinance of the States.*

The Deputy Greffier: Article II: the Merchant Shipping (Oil Pollution) (Bunkers Convention) (Bailiwick of Guernsey) Ordinance, 2012.

225 **The Bailiff:** This is at page 3.
Any clarification or debate sought?
No? We go to the vote, then.
Those in favour; those against.

230 *Members voted Pour.*

The Bailiff: I declare it carried.

235

The Pilotage (Amendment) Ordinance, 2012, approved

Article III.

The States are asked to decide:

240 *Whether they are of the opinion to approve the draft Ordinance entitled 'The Pilotage (Amendment) Ordinance, 2012' and to direct that the same shall have effect as an Ordinance of the States.*

245 **The Deputy Greffier:** Article III: the Pilotage (Amendment) Ordinance, 2012.

The Bailiff: Page 29 of the brochure.
Any clarification or debate?
We go to the vote, then.
Those in favour; those against.

250

Members voted Pour.

The Bailiff: I declare it carried.

255

The Guernsey Competition and Regulatory Authority Ordinance, 2012, approved

260

Article IV.

The States are asked to decide:

265 *Whether they are of the opinion to approve the draft Ordinance entitled 'The Guernsey Competition and Regulatory Authority Ordinance, 2012' and to direct that the same shall have effect as an Ordinance of the States.*

The Deputy Greffier: Article IV: the Guernsey Competition and Regulatory Authority Ordinance, 2012.

270 **The Bailiff:** This is from pages 30 to 112 in the brochure.
Any requests for debate or clarification?
Yes, Deputy Trott.

Deputy Trott: Sir, clarification, please, on page 41 of the brochure, item 11.
The St Sampson's Douzaine raised this matter:

275

'The Authority may invest any of its moneys not immediately required by it in *any* investment.'

280 That is unusual, sir. Normally, there is a list of restrictions to ensure that foolish investments in things such as Greek government bonds or collateralized debt obligations, or whatever it may be, are avoided, and I wondered if I could have clarity from either of our law officers as to why there are no restrictions in this case, sir.

The Bailiff: Mr Procureur.

285 **The Procureur:** I think the restrictions on investments are a matter of good governance for the body, in consultation with whichever political Department sponsors it, and I am sticking my neck out – Mr Harwood may tell me otherwise – but I have a feeling that that clause is the same in the Guernsey Financial Services Commission Law which I originally did in 1987, and the restrictions and controls are negotiated by the FSC. Is that not right?

290 **Deputy Harwood:** Yes, I believe that is correct.

The Bailiff: Thank you.
Deputy Trott, has that answered your enquiry?

295 **Deputy Trott:** Certainly, sir, for the trading entities who are required to invest the majority of their liquidity with the States, the States is extremely restrictive as to what it can invest in. It cannot use sophisticated derivative instruments that could carry a high risk, for instance.

300 I am surprised to learn that the Guernsey Financial Services Commission is not similarly restricted, and thank Her Majesty's Procureur for his answer, sir.

The Bailiff: Thank you.
Any further clarification or debate sought?
305 No? In that case, we go to the vote on the Guernsey Competition and Regulatory Authority Ordinance, 2012.
Those in favour; those against.

Members voted Pour.

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

315 **The Post Office (Bailiwick of Guernsey)
(Amendment) Ordinance, 2012, approved**

*Article V.
The States are asked to decide:
320 Whether they are of the opinion to approve the draft Ordinance entitled 'The Post Office (Bailiwick of Guernsey) (Amendment) Ordinance, 2012' and to direct that the same shall have effect as an Ordinance of the States.*

325 **The Deputy Greffier:** Article V: the Post Office (Bailiwick of Guernsey) (Amendment) Ordinance, 2012.

The Bailiff: This is at page 113 in the brochure.
Any requests for clarification or debate?
No? We go to the vote.
330 Those in favour; those against.

Members voted Pour.

The Bailiff: I declare it carried.

335

The Regulation of Utilities (States' Directions)

(Bailiwick of Guernsey) Ordinance, 2012, approved

340

Article VI.

The States are asked to decide:

Whether they are of the opinion to approve the draft Ordinance entitled 'The Regulation of Utilities (States' Directions) (Bailiwick of Guernsey) Ordinance, 2012' and to direct that the same shall have effect as an Ordinance of the States.

345

The Deputy Greffier: Article VI: the Regulation of Utilities (States' Directions) (Bailiwick of Guernsey) Ordinance, 2012.

350

The Bailiff: Any clarification or debate requested on this Ordinance?

No? We go to the vote.

Those in favour; those against.

Members voted Pour.

355

The Bailiff: I declare it carried.

360

**The Income Tax (Guernsey)
(Amendment) Ordinance, 2012, approved**

Article VII.

The States are asked to decide:

365

Whether they are of the opinion to approve the draft Ordinance entitled 'The Income Tax (Guernsey) (Amendment) Ordinance, 2012' and to direct that the same shall have effect as an Ordinance of the States.

370

The Deputy Greffier: Article VII: the Income Tax (Guernsey) (Amendment) Ordinance, 2012.

The Bailiff: Any clarification or debate?

Deputy St Pier: Sir.

375

The Bailiff: Yes, Deputy St Pier.

380

Deputy St Pier: Given the number of new Deputies who would not have been present when the original States Report was debated, with your permission, Members may find it helpful for me just to spend a few minutes introducing each piece of legislation – I think there are four, actually – and if Members do find it helpful then, as a matter of practice, my Department will certainly be happy to do this in the future, as legislation comes up for its final step in this Assembly.

The Bailiff: Thank you, yes, Deputy St Pier.

385

Deputy St Pier: Sir, this legislation contains a number of relatively minor amendments to the Income Tax Law, which are intended to ensure its efficient operation and to actually maintain or increase States' income.

390

The States Report which recommended these changes was approved last September and there was also a recommendation in the 2012 Budget Report, and this is the first aspect of the legislation before you on page 124, clause 2. This is intended to ensure that a wife's income is not treated as that of her husband in circumstances where *he* is not receiving the higher personal allowance for married persons.

395

With regard to the changes proposed to section 48, as is the case in many countries and jurisdictions, non-resident entertainers, such as sportsmen, who perform in the Island have been taxable here for many years, irrespective of the limited amount of time that they might spend here. Recently, events have been organised with some much higher-profile entertainers, where there is a potential for... the tax charge has become much more significant. The Law makes the payer of the fee to the entertainer liable for the tax and gives them the right to deduct this from the payment

400 made. The amendment proposed is simply to make it clear that this procedure applies even if the payment is not made directly to the entertainer themselves but is made, for example, to an agent or through a series of entities, such as a service company.

Turning now to completion of tax returns, the Income Tax Office issues a large number of returns each year, and although most do come back in good time, there are still a significant number of taxpayers who need, shall we say, greater encouragement to complete their returns on time. The current process requires significant manual intervention by staff and is cumbersome and costly to administer. In order to streamline the process, it is proposed to introduce a system of automatic penalties. As a safeguard to the taxpayer, a reminder letter will be issued at least 30 days before a penalty is imposed so that taxpayers will have good notice, thereby giving them an opportunity to complete their returns, put themselves in good order and avoid a penalty.

410 With regard to the repeal of section 75CA, Members will be aware that, in recent years, Guernsey has entered into a number of Tax Information Exchange Agreements, known as TIEAs. There are safeguards in place. TIEAs require that the requesting jurisdiction provides a high level of detail in support of any request and the Director of Income Tax will check this carefully before providing any information.

415 Initially, it was felt appropriate to introduce a further level of scrutiny by requiring that an independent person should also review any request made under the TIEA before the Director actioned it, and the intention was originally to use a member of the Guernsey Tax Tribunal. However, in light of requests received so far and also comments made in Guernsey's Phase 1 Review by the Global Forum Peer Review Group, it is considered that this additional step is not actually needed and the amendments will remove that requirement.

420 There is also a proposal in the Report which clarifies collection, enforcement and recovery. At the present time, the Director has powers to enable him to require both the taxpayer and third parties to supply him with information. These powers have only previously extended to matters relating to the establishment of a liability. The purpose of the amendment is to make it clear that information may *also* be required in respect of collection, enforcement and recovery of a tax debt which has already been established.

425 Finally, there is an amendment proposed to the Law in relation to the appointment of more than one Deputy Director of Income Tax. In recent years, senior staff at the Income Tax Office have become more involved in policy issues outside the direct administration of the tax system – for example, the Corporate Tax Review, negotiation of Tax Information Agreements and Double Tax Agreements, liaison with international bodies, and other cross-departmental issues. Recently, the complement of Deputy Directors has expanded from one to two and the proposed amendment is simply to make it clear that the role of Deputy Director may be carried out by more than one Deputy Director.

435 I do believe that these proposals will enhance the effectiveness of the Income Tax collection system and I commend them to the Assembly.

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

440 **Deputy Gollop:** Yes, sir.

I commend the Treasury Minister for explaining these occasionally slightly arcane pieces of legislation. I know Deputy Robert Jones and the Committee very much want legislation to be part and parcel of what we do here and a greater understanding of what is put before us.

445 With the Income Tax approval of Agreements, of which we have got several coming up later... They are vital and we have to commend the former Chief Minister, Deputy Trott, for doing so much work in these areas and really stepping up the pace.

450 One point of concern, though, that has been raised with me by somebody in the entertainment industry in Guernsey, is this whole business of taxing visiting artistes and entertainers, because what we do not want to see is a greater level of deterrents and complexity to the cultural fabric of Guernsey.

455 We all remember – not remember, but it is part of folk history – when the Beatles, Rolling Stones, Morecambe and Wise and Shirley Bassey played in Guernsey in the 1950's and 60's. We do not *always* see that calibre of act nowadays, although we had Kenny Ball, at the age of 82 stunning us all! (*Laughter*) And the point I am making is we do need, in a marginal, small catchment area, to very much give the greatest possible choice of artist.

I would also say that I would like to see Treasury and Resources and the Policy Council seriously look at how we could attract more creative individuals to live and work and visit Guernsey. Ireland, for example, has been extremely successful with the tax system in encouraging

460 recording artists and others and writers. I think we could do a lot more, and this kind of legislation has to be carefully monitored for its outcomes and effectiveness.

The Bailiff: Thank you.

Any further debate?

465 No? In that case, Members, we have to vote on the Income Tax Guernsey Amendment Ordinance, 2012.

Those in favour; those against.

Members voted Pour.

470

The Bailiff: I declare it carried.

475

**The Income Tax (Exempt Bodies)
(Guernsey) (Amendment) Ordinance, 2012 approved**

Article VIII.

The States are asked to decide:

480

Whether they are of the opinion to approve the draft Ordinance entitled 'The Income Tax (Exempt Bodies) (Guernsey) (Amendment) Ordinance, 2012' and to direct that the same shall have effect as an Ordinance of the States.

485 **The Deputy Greffier:** Article VIII. The Income Tax (Exempt Bodies) (Guernsey) (Amendment) Ordinance, 2012.

The Bailiff: Yes, Minister for Treasury and Resources, Deputy St Pier.

Deputy St Pier: Sir, I will keep my comments briefer.

490

Guernsey has a significant Funds industry, as Members will well know. Until now, exemption from Income Tax has been available to unit trusts and companies which carry on activities as Funds. Over recent years, there has been a shift in the way Funds are structured. Typically, they will now involve a variety of entities which might, together, form the complete Funds structure.

495

The purpose of these legislative changes is simply to make it clear that any entity which forms part of, or contributes to, the overall Fund structure, may claim exemption and the opportunity has also actually been made to tidy up the Ordinance, as a number of amendments have been made to it over a number of years.

These changes *are* important for the health and competitive future of Guernsey's Fund industry, particularly in difficult economic times and, again, I do commend them to the Assembly.

500

The Bailiff: Thank you very much.

Any further debate?

Yes, Deputy Lester Queripel.

505

Deputy Lester Queripel: Sir, I am sorry to focus on what could be perhaps perceived as a minor detail.

I did not notice it until recently. I do not want to be seen as a backbencher who spends the next four years focusing on minor detail – there is a lot more important work to be done – but I am in need of some clarification and I am sorry to be pedantic. The terminology at the bottom of page 133 of the mini-Billet, as I call it, schedule 2.1, states:

510

'That the body has contracted with a person for the provision of managerial and secretarial services and, where appropriate, custodian services in respect of its affairs for remuneration calculated on an arm's length basis'.

515

It is the 'arm's length basis' bit I am concerned about, sir, on the grounds that someone's interpretation of an 'arm's length basis' would not necessarily be someone else's interpretation of an arm's length basis'. I think there is a very real possibility confusion could arise and all I ask for is some clarification of that terminology, please.

520

The Bailiff: Minister, do you wish to respond to this or would you like Her Majesty's

Procureur to do so on your behalf?

525 **Deputy St Pier:** I was going to say I am sure Her Majesty's Procureur can confirm that the term 'arm's length basis' is well understood and has plenty of precedent that would enable it to be clearly interpreted.

The Procureur: Well, it depends on the length of a person's arm! (*Laughter*).
530 But the point about this is that this is a regime under which exempt status can be granted by what we used to call the Administrator of Income Tax – we call them something else now – and there is that regime for making judgements. The Administrator or Director will decide in his mind, applying the usual tests which Mr St Pier says, whether the deal has been on an 'arm's length basis', and if the applicant does not like it, he gets a right of appeal.

The Bailiff: Thank you.
535 Does anyone else wish to debate or seek any clarification?
No, in that case we vote on The Income Tax (Exempt Bodies) (Guernsey) (Amendment) Ordinance, 2012.
Those in favour; those against.

540 *Members voted Pour.*

The Bailiff: I declare it carried.

545

The Income Tax (Guernsey) (Approval of Agreements with India, Japan, Poland, Seychelles and St Kitts and Nevis) Ordinance, 2012, approved

550 *Article IX.*
The States are asked to decide:
Whether they are of the opinion to approve the draft Ordinance entitled 'The Income Tax (Guernsey) (Approval of Agreements with India, Japan, Poland, Seychelles and St Kitts and Nevis) Ordinance, 2012' and to direct that the same shall have effect as an Ordinance of the States.
555

The Deputy Greffier: Article IX. The Income tax (Guernsey) (Approval of Agreements with India, Japan, Poland, Seychelles and St Kitts and Nevis) Ordinance 2012.

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

Deputy St Pier: Mr Bailiff, as I mentioned, Guernsey has been negotiating these international tax co-operation agreements for a number of years – these Tax Information Exchange Agreements or TIEAs.

565 This process began in 2002 and, in that year, Guernsey gave a commitment to the OECD Initiative on Transparency and the Exchange of Information and, actually, the first TIEA was then concluded in that year with the US. Guernsey has since signed further TIEAs with other territories, including these with India, Japan, Poland the Seychelles and St Kitts and Nevis, which are the ones before you today. This brings the total to 35.

570 It is important that we do continue to develop our network of TIEAs. For these Agreements to have effect, each jurisdiction must confirm that they have been ratified in accordance with their own internal processes and procedures for such Agreements and, in our case, the Income Tax Law actually stipulates that this should involve this Assembly formally declaring the agreements are international agreements for the purposes of the Law and that is why this Ordinance is being presented to you today. Once again, I do commend it.

575

The Bailiff: Thank you.
Any clarification or debate sought?
No? In that case, you vote on The Income Tax (Guernsey) (Approval of Agreements with India, Japan, Poland, Seychelles and St Kitts and Nevis) Ordinance, 2012.
580 Those in favour; those against.

Members voted Pour.

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

590 **The Renewable Energy (Guernsey) Law, 2010
(Commencement) Ordinance, 2012, approved**

Article X.

The States are asked to decide:

595 *Whether they are of the opinion to approve the draft Ordinance entitled 'The Renewable Energy (Guernsey) Law, 2010 (Commencement) Ordinance, 2012' and to direct that the same shall have effect as an Ordinance of the States.*

The Deputy Greffier: Article X. The Renewable Energy (Guernsey) Law, 2010 (Commencement) Ordinance, 2012

600 **The Bailiff:** Any clarification or debate sought?
No? We go to the vote.
Those in favour; those against.

605 *Members voted Pour.*

The Bailiff: I declare it carried.

610 **Ordinances laid**

615 **The Deputy Greffier:** The following Ordinances are laid before the States: The Belarus (Freezing of Funds) (Guernsey) (Amendment) (No. 2) Ordinance, 2011; The Syria (Restrictive Measures) (Guernsey) (Amendment) (No.2) Ordinance, 2011; The Syria (Restrictive Measures) (Guernsey) Ordinance 2012; The Iran (Restrictive Measures) (Guernsey) (Amendment) Ordinance, 2012; The Income Tax (Pension Amendments) (Guernsey) Ordinance, 2012; and The Public Holidays (Diamond Jubilee) Ordinance, 2012.

620 **The Bailiff:** I have had no notice of any motion to annul these Ordinances, so we simply note them.

625 **Statutory Instruments laid**

630 **The Deputy Greffier:** The following Statutory Instruments are also laid before the States: The Registered Patents and Biotechnological Inventions (Bailiwick of Guernsey) Ordinance, 2009 (Commencement) Order, 2012; The Export Control (Military, Security and Related Matters) (Bailiwick of Guernsey) (Amendment) Order, 2012; The Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2012; The Registered Patents and Biotechnological Inventions (Bailiwick of Guernsey) Regulations, 2012; The Health Service (Payment of Authorised Suppliers) (Amendment) Regulations, 2012; The Health Service (Payment of Authorised Appliance Suppliers) (Amendment).Regulations, 2012; The Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment) Regulations, 2012; The Weighing Equipment (Non-Automatic Weighing Machines) Regulations, 2012; The Building (Guernsey) Regulations, 2012; and the Companies (Transitional Provisions) (Amendment) Regulations, 2012.

640 **The Bailiff:** Again, I have had no notice of any motion to annul these Statutory Instruments so, similarly, they are noted.

Billet d'État XII

645

PAROCHIAL ECCLESIASTICAL RATES REVIEW COMMITTEE

Election of Chairman Deputy Gollop elected

650

Article I.

The States are asked:-

To elect

1. a sitting member of the States as Chairman of the Parochial Ecclesiastical Rates Review Committee to replace Deputy T M Le Pelley, who has ceased to have a seat in the States.

655

The Bailiff: We move on, then, Greffier, to elections.

The Deputy Greffier: The Parochial Ecclesiastical Rates Review Committee.

660

The Bailiff: Members of the States, this is Billet XII, page 1975.

You will see there are three propositions there, the first to elect a Chairman of the Parochial Ecclesiastical Rates Review Committee.

I propose we take that first and then, after that has been done, that we take together propositions 2 and 3, i.e. to elect two sitting Members of the States as members of that Committee.

665

Do we have any nominations?

Chief Minister.

670

The Chief Minister (Deputy Harwood): Sir, if I may at this stage propose the election of Deputy John Gollop as Chairman of The Parochial Ecclesiastical Rates Review Committee in replacement of former Deputy Le Pelley.

The Bailiff: Thank you, do we have a seconder?

675

Deputy O'Hara: Sir, I am happy to second that.

The Bailiff: Deputy O'Hara, thank you very much.

Do we have any other nominations to be Chairman of the Committee?

No? In that case, we go straight to the vote.

680

The proposition is that Deputy Gollop be elected as Chairman of the Parochial Ecclesiastical Rates Review Committee, proposed by the Chief Minister, seconded by Deputy O'Hara.

Those in favour; those against.

Members voted Pour.

685

The Bailiff: I declare Deputy Gollop elected.

690

PAROCHIAL ECCLESIASTICAL RATES REVIEW COMMITTEE

Election of two members Deferred

695

Article I.

The States are asked:

To elect

2. a sitting member of the States as a member of that Committee to replace Deputy Shane Langlois, who has ceased to have a seat in the States.

700

3. a sitting member of the States as a member of that Committee to replace Deputy Bernard Flouquet, who has ceased to have a seat in the States.

The Bailiff: We then move on to propositions 2 and 3, to elect two sitting Members of the States as Members of the Committee.

705 Can we have any nominations?

Yes, Deputy Gollop.

Deputy Gollop: Yes, there are one or two complexities here, which is that – I thank the States for their confidence in me – but let me just explain three unusual circumstances.

710 The first is that three names have been put forward to me who are extremely good candidates and there was a possibility of a fourth and I have got to make a choice amongst those people because I was not aware that I would become Chairman at this stage and I have had no time.

715 The second is that, under the constitution of this Committee, we do, in fact, of course, have another sitting Member, Deputy Lowe, and I feel it is my duty at this point to consult with her as to which of the candidates we will put forward and, of course, now that I am Chairman, my seat as a member of the Committee has ceased to exist, or will cease to exist –

The Bailiff: So you will need a third member.

720 **Deputy Gollop:** – but not necessarily in this meeting.

The Bailiff: Right, so you are asking that this be deferred, perhaps to the June meeting? Or to after lunch, perhaps?

725 **Deputy Gollop:** After lunch would be an appropriate time for, perhaps, two of the positions...

The Bailiff: After lunch, providing we are still here after lunch! *(Laughter)*

Well, Members, do you agree, then, to defer this until after lunch?

Those in favour; those against.

730 *Members voted Pour.*

The Bailiff: We will defer it to after lunch.

Deputy Lowe, you wish to...

735 **Deputy Lowe:** No, I was just going to explain, sir, and I thank the Members for that, although I have asked Deputy Gollop five times in the last couple of weeks who he is going to put forward, so I thank Members for their patience. I have been pretty patient...

740 **The Bailiff:** Thank you, we will move on.

THE ADMINISTRATIVE DECISIONS (REVIEW) (GUERNSEY) LAW, 1986

745 Election of Chairman of the Panel of Members Deputy Perrot elected

Article II.

The States are asked:

750 *To elect, in accordance with the provisions of section 4 (2) of the Administrative Decisions (Review) (Guernsey) Law, 1986:*

755 *1. a Chairman of the Panel of Members, who shall be a sitting member of the States of Deliberation and who has held a seat in the States for a period of three years or more, to fill the vacancy from 1st June, 2012, by reason of the expiry of the term of office of Deputy R R Matthews, who is not eligible for re-election.*

760 *2. a Deputy Chairman of that Panel, who shall be one of the Deans of the Douzaines but who shall not have a seat in the States, to fill the vacancy which will arise on 1st June, 2012, by reason of the expiry of the term of office of Douzenier R L Heaume, M.B.E, who is eligible for re-election.*

The Deputy Greffier: Article II. The Administrative Decisions (Review) (Guernsey) Law 1986, election of Chairman of the Panel of Members.

765 **The Bailiff:** Yes, shall we take, first, election of the Chairman.
Do we have any nominations.

Deputy Harwood: Sir, I would like to nominate Deputy Roger Perrot as Chairman of The Administrative Decisions (Review) (Guernsey) Law, 1986, considering that he was the Deputy who introduced the Law in the first place.

770 **The Bailiff:** Do we have a seconder?

Deputy Le Tocq: I will second Deputy Perrot.

775 **The Bailiff:** Yes, Deputy Le Tocq, thank you.
Do we have any other nominations?

No? In that case, Members, the proposition is that Deputy Perrot be elected as Chairman of the Panel of Members of the Administrative Decisions (Review) Board.

780 Those in favour; those against.

Members voted Pour.

The Bailiff: I declare Deputy Perrot elected.

785

THE ADMINISTRATIVE DECISIONS (REVIEW) (GUERNSEY) LAW, 1986

Election of Deputy Chairman of the Panel of Members Douzenier Heaume elected

790

The Bailiff: Next, we have to elect a Deputy Chairman, who shall be one of the Deans of the Douzaines but who shall not have a seat in the States, to fill the vacancy which will arise on 1st June by reason of the expiry of the term of office of Douzenier R L Heaume, M.B.E., who is eligible for re-election.

795

Do we have any nominations?
Deputy Perrot.

800 **Deputy Perrot:** Well, I am something of a neophyte in this, sir, and I am not quite sure what I am supposed to be doing, (*Laughter*) but I understand that Douzenier Heaume is still the Dean of the Forest Douzaine. Indeed, I know he is, because I was with him on Monday evening, so I would propose his re-election.

805 **The Bailiff:** His re-election. Thank you.
Do we have a seconder? Yes.

Deputy Le Pelley: I formally propose the nomination, sir.

810 **The Bailiff:** You are seconding?

Deputy Le Pelley: I am seconding it, yes, sir.

The Bailiff: Thank you, Deputy Le Pelley.

815 So the proposal is Douzenier Heaume, proposed by Deputy Perrot, seconded by Deputy Le Pelley.

Do we have any other nominations?
No? We go to the vote, then.
Those in favour; those against.

820 *Members voted Pour.*

The Bailiff: I declare Douzenier Heaume elected as Deputy Chairman.
Thank you very much.

825

GUILLE-ALLÈS LIBRARY COUNCIL

830

**Election of members
Amendment carried**

The Deputy Greffier: Article III. Guille-Allès Library Council.

835

The Bailiff: Yes, and we have an amendment here proposed by Deputy Sillars.
Deputy Sillars

Deputy Sillars: Yes, sir, shall I just read it out?

840

The Bailiff: Yes.

Deputy Sillars: My amendment is as follows:

*To replace the Proposition with the following:
'To elect*

845

*1. One sitting Member of the States who is a Member of the Education Department; and
2. One other sitting Member of the States,
as members of the Guille-Allès Library Council, to serve until May 2016 in accordance with
the resolution of the States of the 25th January 2012 on Article XIII of Billet d'État III of
2012.'*

850

Ladies and Gentlemen, the explanatory note is that the States have previously agreed that the terms of office of existing States Members sitting on the Guille-Allès Library Council, one terminating in May 2012 and one in May 2013, should be terminated in May 2012 and that the new terms of office for both Members should henceforth run concurrently with the duration of the States.

855

Thank you.

The Bailiff: Thank you.

860

May I have a second... Sorry, Procureur, you were looking at me?

The Procureur: No.

The Bailiff: Do we have a seconder?

865

Deputy Le Lièvre: I will second.

The Bailiff: Deputy Le Lièvre.
Is there any debate on the Amendment?

870

No? We go straight to the vote on the amendment, then.
Those in favour; those against.

Members voted Pour.

875

The Bailiff: I declare the amendment carried.

GUILLE-ALLÈS LIBRARY COUNCIL

880

**Education Department member
Deputy Green elected**

*Article III.
To elect:*

885 *1. One sitting Member of the States who is a Member of the Education Department;
as a member of the Guille-Allès Library Council, to serve until May 2016 in accordance with
the resolution of the States of the 25th January 2012 on Article XIII of Billet d'État III of
2012.*

890 **The Bailiff:** Then what we need are some nominations.
Deputy Sillars?

Deputy Sillars: Sir, as Minister of Education, we are entitled to have one sitting Member on
the States so, from the information we have asked Deputy Green and he has accepted, as being
895 part of the Education Department, to sit on that.
It comes off the floor, as I understand it, for another Member.

The Bailiff: Yes, so Deputy Green has been proposed as the Member of the Education
Department to sit on the Guille-Allès Library Council.
900 Do we have a seconder for Deputy Green?

Deputy Le Lièvre: I will second.

The Bailiff: Yes, Deputy Le Lièvre.
905 Any other nominations? No?

Deputy Sillars: As a Deputy, I have a nomination for the second person...

The Bailiff: Shall we deal with the first one? Do we have any other nominations for that first
910 post?
No? In that case, the proposition is to elect Deputy Green as a member of the Guille-Allès
Library Council.
Those in favour; those against.

915 *Members voted Pour.*

The Bailiff: I declare him elected.

920

GUILLE-ALLÈS LIBRARY COUNCIL

Second member Deputy Adam elected

925

*Article III.
To elect*

*2. One other sitting Member of the States,
930 as a member of the Guille-Allès Library Council, to serve until May 2016 in accordance with
the resolution of the States of the 25th January 2012 on Article XIII of Billet d'État III of 2012.*

The Bailiff: Then, yes, Deputy Sillars, you have a nomination for the other post?

Deputy Sillars: Yes, sir, this is me as a Deputy. I would like to propose Deputy Hunter Adam.
935

The Bailiff: Thank you: Deputy Adam.
Do we have a seconder?

Deputy Hadley: I second.
940

The Bailiff: Yes, thank you, Deputy Hadley.
Do we have any other nominations?
No? In that case, the proposition is that Deputy Adam be elected as a member of the Guille-
Allès Library Council.
945 Those in favour; those against.

Members voted Pour.

950 **The Bailiff:** I declare Deputy Adam elected.

Billet d'État XI

955 **LADIES' COLLEGE BOARD OF GOVERNORS**

**Election of Education Department member
Mr J M Marren elected**

960 *Article XI.*

The States are asked to elect:

1. as a member of the Ladies' College Board of Governors with effect from 1 June 2012, Mr J M Marren who has been nominated in that behalf by the Education Department for election by the States.

965

The Deputy Greffier: Article XI: Billet d'État XI, Article XI. Ladies College Board of Governors.

970 **The Bailiff:** Yes, this is Page 1807 of Billet d'État XI and it is, first of all, to elect a member of the Ladies College Board with effect from 1st June, Mr. Marren having been nominated by the Education Department for election by the States.

I think there is no opportunity for any other nominations to be put forward.

975 **The Procureur:** No it is just *Pour* or *Contre*.

The Bailiff: Yes, so we go straight to the vote as to – you have the brief *Curriculum Vitae* of Mr. Marren in the Billet – we go straight to the vote.

Those in favour; those against.

980 *Members voted Pour.*

The Bailiff: I declare him elected.

985

LADIES' COLLEGE BOARD OF GOVERNORS

**Election of joint Governors and Education Department member
Mrs S A Nickolls elected**

990

Article XI.

The States are asked to elect:

2. as a member of that Board of Governors with effect from 1 June, 2012, Mrs S A Nickolls who has been nominated in that behalf by the States appointed Governors and the Education Department nominated Governors for election by the States.

995

The Bailiff: Then we need a member of the Board of Governors appointed by the Governors and the Education Department and they have nominated Mrs. Nickolls. Again, you have her *Curriculum Vitae* and we go straight to the vote.

1000 Those in favour; those against.

Members voted Pour.

The Bailiff: I declare Mrs Nickolls elected.

1005

HOME DEPARTMENT

1010

**Parole Review Committee
Mrs J Haslam elected as Chairman**

Article XII.

The States are asked to decide:

1015

Whether, after consideration of the Report dated 13th February, 2012, of the Home Department, they are of the opinion:

To approve the appointment of Mrs Judith Haslam as Chairman of the Parole Review Committee for three years, retrospectively with effect from 1st March 2012.

1020

The Deputy Greffier: Article XII, Home Department, appointment of a Chairman of the Parole Review Committee.

The Bailiff: Deputy Le Tocq.

1025

Deputy Le Tocq : Sir, I thought it might be useful for the Assembly to understand what the Parole Review Committee actually does so, just briefly, the Parole Review Committee, Guernsey Law, 1989 came into force on the 1st December, 1989.

1030

The Committee is an *independent* panel which comes under the umbrella of the Home Department and receives administrative support from Central Services. The mandate of the Parole Review Committee is to administer the parole scheme for persons who receive a custodial sentence of 15 months or more. Its duties are to consider the release, on licence, of persons whose cases have been referred to the Committee by the Home Department, the recall, if necessary, of persons released on licence and the conditions to be attached to such licences, including the variation or cancellation of such licences.

1035

The constitution of the Committee is determined by States Resolution. In December 1989 the States resolved that the Chairman of the Parole Review Committee shall be appointed by the States and shall be an independent person, in other words not a sitting Member of the States, nor a person holding judicial office, chosen because of experience and standing in the community.

1040

The ordinary members of the Committee are appointed by the Royal Court and are also independent persons.

Thank you, sir.

The Bailiff: And we see in the Billet that the Department is nominating Mrs. Haslam.

1045

As I understand it, there is nothing under the States Resolution that would prevent anybody else being nominated in the States. Are there any other nominations?

No? In that case we go to the vote on the election of Mrs. Haslam as Chairman of the Parole Review Committee.

Those in favour; those against.

1050

Members voted Pour.

The Bailiff: I declare Mrs. Haslam elected.

That concludes the elections.

1055

Billet d'État XIII

1060

TREASURY AND RESOURCES DEPARTMENT

**States of Guernsey Accounts 2011
Accounts and appointment of Auditors approved**

- 1065 *The States are asked to decide:*
Whether they are of the opinion:
 1. *To approve the States of Guernsey Accounts 2011.*
 2. *To approve the following 2011 Accounts:*
 i. Ports
 ii. Guernsey Water
 1070 *iii States Dairy*
 iv. States Works
 3. *To appoint the firm of Deloitte LLP as auditors of all States accounts for the year ending 31 December, 2012.*
 4. *To note the following Accounts:*
 1075 *i. Social Security Department*
 a. Guernsey Insurance Fund
 b. Non Contributory Services
 c. Guernsey Health Service Fund
 d. Long-term Care Insurance Fund
 1080 *ii. Elizabeth College*
 iii. Ladies' College
 iv. States of Alderney

1085 **The Deputy Greffier:** Billet d'État XII, Treasury and Resources Department: States of Guernsey Accounts 2011.

The Bailiff: I think it is Billet d'État XIII.

1090 **The Deputy Greffier:** Yes, Billet d'État XIII. I beg your pardon.

The Bailiff: Minister, Deputy St Pier.

1095 **Deputy St Pier:** Mr. Bailiff, I am please to present to you the 2011 Accounts for the States of Guernsey.

 These Accounts are, of course, a factual statement of Income and Expenditure during 2011 and the financial position at the year end and they have been audited by Deloitte.

1100 The Chief Accountant's Report gives a full commentary, on a high level, on the States financial results and explains the position of the Reserves. This, together with the narratives which accompany each set of the Parliament and Committee Accounts, aids the understanding of the Accounts and provides some indication on some key performance indicators, but I do just want to highlight a couple of the more significant points and also just to take the opportunity to update Members on the current year's position.

1105 Firstly, inflation in the year to December 2011 was 2.8%, general revenue increased by 4.7% to £346.5 million – which is a real-terms increase of 1.9% – whilst expenditure actually only increased by 0.9% to £332.9 million, so a real-terms decrease, in other words. Both of these favourable outcomes have contributed to the deficit reducing from £37.2 million in 2010 to £24.3 million in 2011.

1110 Despite remaining well within the States policy, which is, of course, a real-terms freeze on aggregate States revenue expenditure, Departments did manage to spend £2.9 million in 2011 on service developments which had been prioritised as part of the States Strategic Plan so, taking this into account, the real-terms decrease in year-on-year expenditure was actually £9 million.

1115 Now, with regard to that part of the Contingency Reserve which has been earmarked to underpin our Corporate Tax Strategy, this stood at £104.3 million at the year end. 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 had a balance at that time of £100 million. Since then we have actually drawn down £8 million in 2009, £5.5 million in 2010 and £24.3 million in 2011. The difference has been met by a £15 million appropriation into the Reserve in 2007 and, of course, favourable investment returns.

1120 However, we must continue to focus on the future. We are still running a Budget deficit, which is forecast at £27 million for 2012: this is £3 million more than the outcome for 2011, although I am hoping that the actual outcome will be less. As far as the up-to-date position is concerned, the income is broadly in line with that anticipated, but a clearer picture will not emerge until after the summer, when we have the half-year Income Tax receipts, when they are known, and it will then be possible to more accurately assess the effect of the withdrawal of Low Value Consignment

1125 Relief on both Income Tax receipts and on increased Supplementary Benefit expenditure.
 Notwithstanding the Budget measures that will be proposed later this year by my Department, the bottom-line financial position for 2013 is targeted to improve by some £13 million as a result of the Departmental targets that have been set under the Financial Transformation Programme (FTP). This should see the deficit halved in 2013. Under the FTP, £5 million of benefits were
 1130 delivered in 2011, a further £6.5 million should be delivered this year – in 2012 – and, as I have just mentioned, next year’s targets should achieve £13 million off the bottom line and a final tranche of £6.7 million is planned for 2014. These combined figures will realise £31 million of benefits as part of the Financial Transformation Programme.

1135 Providing Departments with clear targets both incentivises engagement in the process and helps to ensure the timely delivery of benefits. All Departments have identified means of delivering their targets in 2012 and it is particularly pleasing that the recurring effect will see ongoing savings of £6.9 million. In other words, the target that was set will be surpassed by £400,000 but we should be in no doubt that the delivery of the 2013 and 2014 targets will be significantly more challenging for Departments. This will require sustained focus and commitment
 1140 at both a political and officer level. The benefits will be derived from projects that are both Department-specific, as well as a number of cross-Department initiatives. Much of the work that will lead to the delivery of true efficiencies will lie in challenging and changing the way that existing services are delivered. We also need to question the appropriateness of the scope and quality of those services ,

1145 It is timely to remind Members that the States medium-term financial plan shows that if we deliver the Expenditure Reduction Plan then, along with real-terms growth in income, the States *should* achieve a balanced Budget by 2014.

One of the major priorities for my Board will be to achieve a balanced States Budget and a key component of this is the delivery of the £31 million per annum ongoing benefits that is the target
 1150 of the Financial Transformation Programme. But we must not stop there. This is just the beginning of a long run of culture change which constantly reinforces the need to save, not spend, taxpayers’ money. It is only by doing so that we will be able to afford new service developments and my Department will be seeking to assist this transformation every step of the way including, of course, by moving towards zero-based budgeting and resource accounting.

1155 Finally, I should advise Members of a minor error in the accounts. The re-stated 2010 comparatives for the expenditure on staff by States Works, which are included in the Table on page 20, was not restated to reflect the Public Services Department changing from directly employing staff to a contract basis for States Works . The comparative figure should have been 8,004 instead of 7,241. The actual expenditure for Public Services Department and the average
 1160 number of full-time employees for both PSD and States Works was, or is, correctly stated and I must apologise to the Assembly for this error.

Sir, I have not actually received any advance notice of any detailed technical questions on the content of the Accounts and I would, therefore, ask the Assembly to approve the 2011 Accounts.

1165 **The Bailiff:** Thank you.

Deputy Soulsby wishes to speak, and this will be, I believe, your maiden speech in debate.

1170 **Deputy Soulsby:** Sir, the Institute of Chartered Accountants once engaged consultants to find out why people perceive them as boring. After months of surveys and in-depth analysis, the consultants came back to them with a report of many hundreds of pages. However, the executive summary was short – the reason that people perceive accountants as boring is that accountants *are* boring! (*Laughter*)

1175 Given that the Minister of Treasury and Resources and myself are both chartered accountants, I would like to think that there are either exceptions that prove the rule or, *perish the thought*, consultants had already made up their minds before they wrote their report. I appreciate that the current Minister had no involvement in the preparation of these Accounts of 2011, as I have no involvement prior to their being signed-off by the States auditors. However, as the current Chair of the Public Accounts Committee, I feel I should make a few points regarding what we have presented to us now and how I hope things will progress in the next few years.

1180 It became evident, reading these Accounts that, whilst comprising over 300 pages they demonstrate a fundamental lack of transparency and do not provide the Members of this Assembly with the information that they need in relation to the assets in their care. Whilst we can find details of assets in various miscellaneous accounts, these appear nowhere in the main balance sheet or the notes. There is, therefore, no single statement that gives a current picture of the state of Guernsey
 1185 Ltd.

1190 Is it right that these accounts show no properties owned by the States? Is it right that capital expenditure is put through an income account? How can the States hold £2 billion-worth of investments, but nowhere is this total disclosed? No summary from the investment manager is provided, no analysis of risk strategy or investment structure, and not even a portfolio statement. How can the States Departments properly determine what capital investment in new assets is required or what level of maintenance work on existing assets is necessary if they have no idea of the value of properties held? This building is not represented in the accounts; neither are schools, police station, prison or hospitals. This is like a diverse conglomerate failing to provide consolidated accounts. Is it any wonder the people of Guernsey question major expenditure when they have no means of relating it to the value of the assets involved?

1195 I was delighted when one of the last acts of the previous States was to agree to resource accounting and budgeting and to adopt IPSAS, or International Public Sector Accounting Standards. I suppose the fact that such news makes me excited might help reinforce the chartered accountant stereotype! (*Laughter*) Seriously, a meaningful set of accounts that follow Generally Accepted Accounting Principles and provide accountability and transparency, for which we all strive, is long overdue. However, bringing in resource accounting and budgeting will not be easy, and this complexity is reflected in the not insubstantial budget of £1.3 million and the project life of four years.

1200 As the Minister will know only too well from his many years of filling in timesheets, time is money and we literally cannot afford for this project to overrun. It is with this in mind that I would like to seek assurance from the Minister that the Public Accounts Committee will be kept fully informed as to the progress of this project. At the same time I would like to offer the help and support of the Public Accounts Committee in establishing a set of financial statements that are not only true and fair but also meaningful and useful, to enable the States and its Government to run its affairs in a businesslike manner.

1210 Thank you. (*Applause*)

The Bailiff: Deputy Gollop.

1215 **Deputy Gollop:** Thank you...

I welcome Deputy Soulsby's businesslike speech... and I am sure none of the States accountants are boring at all, as well.

1220 I agree with many of her points, although I suspect the investment strategy was kind of kept, not exactly secret, but was not as open and transparent as it could be. Particularly, we need to see assets and liabilities and zero-based budgeting and I would hope, actually – bearing in mind we saved a notional £13 million from what could have been a bigger deficit – that we could slightly slow down the more controversial elements of the FTP in favour of speeding up zero-based budgeting and analysing from first standpoint what services we need to run and what services we could outsource, rather than *just* focusing on cuts.

1225 Indeed, one role I think the new-style Public Accounts Committee could fulfil, which was a dream of the last one but never happened, was there was a plan with the States Strategic Plan – the old Government Business Plan – for the Public Accounts Committee to have a role in interrogating *all* the Ministers and chief officers of Departments as to their budgets, as to their expenditures and their strategies for making efficiencies. I think that sort of approach – a bit like a Treasury Select Committee – would be useful for the Treasury and Resources Department as well.

1230 So, whilst I welcome these accounts, I think it is important that we do not work for a basis of *just* cutting, but of openness, transparency and making real efficiency savings.

1235 **The Bailiff:** Yes, Deputy Laurie Queripel.

Deputy Laurie Queripel: Thank you, sir.

We had a Douzaine meeting on Monday evening – Vale Douzaine – and the eyes of the Douzeniers were drawn to page 20, sir.

1240 At the top, No. 5, Pay – 'Senior Employees Gross Cost Analysis.' In the first bracket, £70,000-£89,999, there has been an increase of 17 employees in this bracket and, further down the page, £130,000-£149,999, there has been an increase of four employees in this bracket.

The Douzaine were concerned that, at a time when the States were meant to be showing constraint, they cannot understand why there has been such a large increase in salaries. I wonder if the Minister could explain that to us.

1245 Thank you, sir.

The Bailiff: Yes, Deputy Adam.

Deputy Adam: Thank you, sir.

1250 I start by saying it is with pleasure and a degree of relief that I am able to make a positive statement in relation to HSSD accounts for 2011: some of you go back to 2009, when the story was completely different. We have had an *underspend* of £1.6 million. You may have seen in the *Press* on Thursday, 17th May, the headline stated an underspend of £472,000, but this was the reduction in the 2011 Budget compared with that of 2010. The article also stated that tough decisions will have to be made if HSSD is *continually* forced to find savings.

1255 This Department, which has 32% of general revenue expenditure, has been compared to a large oil tanker: it takes time for it to slow down, it takes time for it to change direction. This feat is not due to one individual, but it is a team effort. It has been achieved by all the staff employed by HSSD being much more conscious of cost and expenditure. They have succeeded in containing expenditure at the same level for the *last three years* and the expectation is the same for 2012.

1260 But how was the underspend achieved? £1.6 million is an impressive sum and would be much more significant for smaller Departments. For HSSD, it is only about 1.6%.

1265 Let me try and explain why, within the HSSD budget, underspending of this amount may come about simply through good management, the situations that have arisen during the year and making the best use of available resources. For example, in off-Island placements, in the Budget there is an allocation based on assessment for potential clients requiring off-Island treatment or off-Island placements. If the management and care is provided on-Island and the cost of on-Island care is less, these moneys will not be required, so part of that £1.6 million – about £400,000 of it – was simply because off-Island placements could be coped with and managed on-Island for less.

1270 Recruitment and retention of staff – that is an unknown thing. We do not know what the staffing or availability of nurses are but, if it is successful employing permanent staff, obviously for the Department it is much more cost effective. Agency staff cost approximately two to three times more. So coincidence occurred: successful recruitment, successful retention, off-Island placements managed on Island. Ongoing savings in areas previously identified were actually achieved within the year, rather than this coming year. So these items made £1.6 million underspend in the 2011 Budget. In financial terms, a fantastic result, achieved only through the diligence and hard work of staff across all areas of HSSD and achieved without significant, if any, reduction in services and *no* reduction in the quality and safety of services provided.

1275 May this continue? I do not know, as there are many external factors that influence the cost of medical and social care services. I personally am still very wary. I still feel the amendment in the December Budget was justified, but unsuccessful. I still consider we have to ensure that cost reductions are *sustainable*. I wish to be reassured that staff members throughout HSSD services are comfortable with the changes, and especially financial changes and what it has meant to the changes in work practices.

1285 But, at the end of the day, sir, it is the Members of this Assembly who will decide, in the forthcoming years, the level of funding for HSSD compared to other Departments, and it is *you* who have to understand that, at some stage, priorities in service provision will have to be made by HSSD in relation to the amount of funding and the method of this funding.

1290 The 2020 Vision document asks for your opinion and that of this community. What services do you want? How do you wish to pay for them? Now efficiency savings have been made – *significant* efficiency savings have been made – over the last three years, these decisions will have to be made by this Assembly and by this community over the next two or three years.

Thank you, sir.

1295 **The Bailiff:** Deputy Dorey.

Deputy Dorey: Thank you, Mr Bailiff.

1300 I wish to highlight some information from the two Reports, particularly as four of the five Members of the previous Social Security Department are Members of this Assembly but not members of the current Social Security Department.

1305 Firstly, if Members turn to page 77 of the Miscellaneous Accounts and to the first paragraph, they will see, on page 77, that the Guernsey Insurance Fund, which funds a number of benefits, including pensions, had an operating deficit of £3.95 million during 2011.

On the opposite page, page 78, in the last sentence, the first block of text, it states that:

‘It is predicted that pension numbers are set to rise considerably over the next few years when the so-called “baby-boomers” born in the years following World War II reach pension age.’

1310 I am sure that such a statement will not come as a surprise to anybody.
On page 80, under the heading of 'Future Activities', it says that:

'The Department will engage in dialogue with the Policy Council's Fiscal and Economic Group over the rates of contribution necessary for long-term stability of the Fund, with a view to taking proposals to the States during 2013.'

1315 I cannot emphasise enough, in my view, the importance of increasing contribution rates to ensure
that the Fund is adequately financed over the long term. This will ensure that it can continue with
the policy of increasing pensions by the rate half way between inflation and wage increases. It is
interesting to note that the previous Assembly increased the contribution rates to the
1320 Superannuation Fund, based on actuarial reports with a direct cost to general revenue, but did not
support an increase based on actuarial reports for the contributions to the Guernsey Insurance
Fund.

Also, on page 80, above 'Future Activities', it mentions Investors in People. I believe the
Department is the only one that has Investor in People status. It provides a framework for best
practice to aid the people, the leadership, management practices, and to develop performance
1325 improvement ideas.

On page 79, halfway down, under the heading of 'Investment Funds', it shows the value and
performance of the Common Investment Fund, which is made up of the Guernsey Insurance Fund,
the Health Service Fund and the Long-Term Care Insurance Fund. During the four years, the
Department spent significant time introducing new investment advisers and fund managers. As
1330 they say in the adverts, previous performance cannot be any indication of future performance but,
in the last three years, the Fund has outperformed the Superannuation Fund by 2.4% per year in
round terms and the increased performance has resulted in an extra £50 million in the Common
Investment Fund.

The Guernsey Health Service Fund includes financing of contracts with the Medical Specialist
Group, the Guernsey Physiotherapy Group, the £12 grant when you visit the doctor, and
pharmaceuticals. The accounts for this Fund are on page 111 or, if you are a cricket fan, 'Nelson'.

Under the headings of 'Drugs and Medicines' at the bottom of that page includes details of the
costs compared to the UK average. I do not think it is appreciated just how much of a successful
policy it has been, generic prescribing. The policy was started soon after the beginning of the
1340 century and has resulted in estimated reduced costs of over £10 million per year compared to the
previous policy. The current rates of generic prescribing in Guernsey is 87%, compared to the
UK's 84%. The support of the medical profession has, obviously, been crucial to that success.

On page 112, under the heading 'Activities during the year', it gives details of the Primary
Care Mental Health Service, which is a pilot project financed by the Guernsey Health Service
Fund, but is a joint project with HSSD to try and reduce the number of long-term sickness claims,
as over a third are in relation to mental health problems. The importance and the need for such a
scheme is illustrated by statistics to date. In the first six months there were 707 referrals to the
1345 scheme, and it is also interesting to note the impact on secondary care. Referrals, which include all
GP referrals to psychiatry, have decreased by 63%, which means the Psychiatry Service can
concentrate on the patients where their knowledge is most needed.

Sir, if Members now turn to the coloured Report, called 'Accounts 2011', and to page 93,
which is titled 'Social Security Department', under the sub-heading of 'Review of main formula
led expenditure', below the pie charts, it informs the reader that the grant to the Guernsey
Insurance Fund was £13.84 million, compared to the original budget of £13.46 million. Normally,
1355 an increased cost over budget will not be considered good news, but this *is* good news because a
grant is a percentage of contributions and because the economy had performed better than
expected, contributions were higher than was expected.

Finally, sir, at the bottom of page 93, it mentions expenditure on supplementary benefit for
single parents. This is the most expensive category of supplementary benefit expenditure. It is an
1360 extremely important benefit, which includes supporting a parent and his or her children when a
relationship has broken down.

During the last four years, the previous Department reduced the age of the youngest child for
which this benefit can be claimed from being at school to 12. The proposals that were taken to the
States in March this year included reducing the age from 12 to seven for the youngest child. It is
1365 interesting to note that, although this proposal was supported by the States, it did not support any
resources to implement the proposal and therefore reduce the expenditure in this area.

Thank you, sir.

The Bailiff: Any further debate?

1370 Yes, Deputy Le Lièvre.

Deputy Le Lièvre: Mr Bailiff, Members of the Assembly, I intend to keep this speech relatively short for me (*Laughter*) and to the point because I do not want the simplicity of the message lost in a morass of data!

1375 My comments concern aspects of the Corporate Housing Programme Fund on page 104 of Billet XIII and the detailed financial accounts relating to the non-contributory section of the Social Security accounts, to be found on page 107 of the Miscellaneous Accounts. Before anybody gets the idea that I am about to be critical of the Corporate Housing Programme, this is definitely not the case – in fact, quite the opposite.

1380 The evidence contained in the Corporate Housing Programme Fund accounts demonstrates the Housing Department's Rent and Rebate Scheme is functioning exactly as the States always intended. In one sense, it is a shame that the Housing Department has not highlighted just how successful the scheme has been. Let me elaborate.

1385 Page 104 of the accounts sets out the income and expenditure of the Corporate Housing Programme and the top four lines of the income section on that page set out the income derived from the rental of some 1,700 units of Social Housing accommodation, and that does not include, obviously, any of the income from the Guernsey Housing Association.

1390 In 2010 the gross value of rents charged by Housing totalled £15.627 million and, by the end of 2011, this figure had increased to £16.597 million, despite the loss of some 50 properties during the year, and I will touch upon that slightly later on. Annual rents charged, therefore, increased by £970,000, 2011 over 2010. Not all of this increase was collected due to the application of the rebate rules.

1395 In 2010 the Rebate Scheme for housing – social rented, not inclusive of GHA units – cost the States £8.2 million – £8.24 million, actually – and this increased to £9.2 million in 2011. What this means is that gross rents chargeable increased by £970,000 and rents collected increased by just £8,000. We must be careful here because the £8,000 is not necessarily related to the £970,000 increase, but the balance of £962,000, charged but not collected, fell into the area of the Rebate Scheme and was, in essence, paid by the taxpayer. This is not a one-off occurrence.

1400 In the years 2007 to 2011 – five years – gross rents chargeable increased by some £3.048 million, whilst rents collected increased by just £150,000 or 4.9% of that actual increase. Put another way, for every new £20 of rent charged, Housing collected £1. Whilst some Members might be shocked by this outcome, it demonstrates perfectly how the Rent Rebate Scheme protects the disposable income of the *majority* of Social Housing tenants, and I have used the word 'majority' because even with a scheme of such generosity, there are some tenants who fall by the wayside through no fault of their own. However, in general terms, and accepting there are some cases where the Scheme fails, there is absolutely no chance for the majority of tenants that they could suffer rent-induced poverty, and that is a *fact*. The Rebate Scheme works and it works well.

1410 Despite the significant cost of the Scheme, the States should take some considerable pride in the fact that a proportion of the poorest members of our community are well cushioned from the misery of financial deprivation. This increase in the value of rebates in 2011 equates to an annual increase of 11.67% over 2010 for all 1,700 tenancies. Obviously, not every tenant received a rebate or experienced an increase of that magnitude. Some received more and some received less or nothing at all. All this figure demonstrates is that, across all tenancies, the total rebate cost was increased by £962,000.

1415 It must be remembered that granting a rebate is exactly the same as giving a benefit. The only difference is that no cash changes hands. The value of the rebate is, however, very real to the tenant, although they probably would not really appreciate it until you took it away.

1420 Leaving aside the size of the increase, the rebate means that, for one reason or another, during 2011 tenants' circumstances either changed very little across all tenancies, which is probably very unlikely, or some tenants not in receipt of any rebate left Housing Department accommodation for the private sector – that is *definite* – to be replaced by tenants with a large rebate, or some tenants experienced a significant financial change in their circumstances, like redundancy, or some tenants experienced very small increases in their income or, alternatively, a member of the public either joined or left the household. Whatever the change in circumstances, the one thing we can be assured of is that the Rebate Scheme protected the disposable income, so as to allow them to use a reasonable proportion of whatever income they had on day-to-day living expenses. This means, once again, and I will repeat it again, they will not have suffered rent-related poverty.

1425 Financial outcome shown in the Accounts in 2011, in the previous four years, demonstrates beyond doubt the Rent Rebate Scheme is functioning exactly as was originally intended. Before I

1430 move on to the more concerning side of this financial information, it must be stressed that the Rent
 Rebate Scheme only provides assistance by way of a reduction in the rental charge. Nothing is
 provided in respect of the recipient's day-to-day living expenses. There sums are allowed for in
 the basic computation of the contribution to be made by the tenant and that is based on a tariff
 1435 system and not on set levels of benefit, as found in the Supplementary Benefit, to be renamed the
 Income Support Scheme. In most instances, this form of assessment, particularly for employed
 persons, is very much more generous than its Income Support counterpart.

Now, if I might turn to the more worrying comparison between the corporate housing figures I
 have just quoted and the financial data contained on page 107 in the Miscellaneous Accounts,
 Non-Contributory Benefits section of the Social Security Accounts. At this stage I should point out
 1440 there is nothing particularly scientific about the comparison I am about to make. I am not going to
 quote specific cases or such like, and I would be the first to point out that fluctuations in the level
 of benefit payments occur for a host of inter-related reasons.

Nevertheless, given that the Rent Rebate and Income Support Schemes are approximately the
 same cash value – rents charged £16 million and Income Support paid £17 million – they are not
 1445 dissimilar in numbers of tenants, 1,700 tenants in Housing Department accommodation and, if you
 add together the 300 or 400 units of accommodation with GHA, you are still talking about 2,100
 Income Support customers are about that level as well.

Furthermore, the increase in costs to the States in 2011 was £962,000 for the Housing
 Department and £905,000 for Supplementary Benefit. There should be a reasonable expectation
 1450 that increases experienced in one Scheme should be broadly reflected in the other, but that is *not*
 the case. There are huge differences between the cost increases experienced by different groups of
 Income Support beneficiary when compared with a level of additional rebate granted to social
 housing tenants via the Rent Rebate Scheme.

OAP Income Support costs have hardly increased at all – by about 1½% – probably due to
 1455 reduced numbers.

In respect of incapacitated persons, that figure increases to over 11%, but dips for the
 unemployed to below 10% and for the disabled to less than 5%. In fact, in overall Income Support
 costs, the increase was just 5.35% and, in cash terms, for benefit and for fuel allowances, that
 1460 increase was 7.37%, but over 4% lower than the increase in costs experienced by the Rent Rebate
 Scheme, which only deals with rent.

An increase of 5.35%, as opposed to 11.67%, at a time when the Island saw unemployment
 start to rise, at a time when day-to-day living costs for lower income groups is out of all proportion
 with the rises in costs of living experienced by the better off, is not a result I would have wanted to
 see because, ladies and gentleman, this is where the difference between the two Schemes lies. The
 1465 Rebate Scheme is just about rent and disposable income. The aim of the Rebate Scheme is to make
 rents affordable and to leave the tenant with a reasonably generous amount for day-to-day living
 expenses and, as I have just demonstrated, it does that extremely well.

Income Support, on the other hand, is about *total* living expenses and, for 700 or more tenants,
 total living costs include living in the private rented sector where landlords are under no obligation
 1470 to confine their increases to a non-profit-making formula, as is the practice of the Housing
 Department, and it is this crucial difference between the two Schemes, and these accounts
 demonstrate it vividly...

An 11.6% increase in expenditure just in relation to rent and 7.37%, that is the best case
 scenario for Income Support for rent, food, electricity, water, gas, medical costs, paramedical
 1475 costs, and so and so forth. We must not forget, in this process, the effect of the benefit limitation,
 which increased by the princely sum of £10, from £395 to £405, during 2011. That means, if you
 are in a private unit of accommodation, your rent went up by £20: you were already £10 worse off
 than you were before the benefit increase. That is the effect of the system. You have here two
 systems; one, generous, expensive and never commented on; and the other, mean, artificially
 1480 restrained, criticised by the media, the population and politicians alike, for being wasteful and
 overly expensive, with the result that about a minimum of 3% of our population is left with
 insufficient resources to live adequately.

We express surprise when the Citizens' Advice Bureau says that debt is on the increase. Since
 2007 when the full rebate scheme became operable, rents have risen by 22% – that is in housing
 1485 accommodation – whilst the value of the rebate has risen by 45% and that is a *good result*. This is
 what was meant to happen when family income is constrained. As I have already said, social
 housing rents have risen by more than £3 million, while the value of rents collected has risen by
 just £150,000 – £1 in every £20 collected.

You tell me if the same has happened for those tenants in receipt of Income Support in the
 1490 private rented sector – and we all know the answer. For every £20 of rent collected, or rent

increased, in the private rented sector, the landlord will collect, not surprisingly, £20. So, Members of the Assembly, now you know and I suggest if the last States had seen these figures, instead of the pumped-up estimates designed to send terror down our backbones, it would not have been so quick to commit these members of our community, most in need, to rent-related poverty. We did not know and it was not pointed out.

I would ask that, when Deputy Allister Langlois returns to the States in the next few months, the membership of Social Security will have seen fit to discuss this *appalling* unfairness with his colleagues on Housing and T & R and, furthermore, find ways to address the problem, maybe not to the tune of £20 million, or £10 million or, indeed, £5 million, but enough that just a number of these families, or those families, many of them with very young children, who are struggling to get by on a low wage, are offered this small uplift, sufficient to keep the wolf away from the door.

I would just like to touch on one other subject, and I would like to thank Deputy Jones for providing me with updated figures for the numbers of units built by the GHA. When I worked for Housing... when I first worked for Housing, just in 2000 or so, Housing had 2,000 plus properties: it now has 1,700. GHA has built 316 and there are another 217 in the pipeline. So we are approaching, when those 217 are built, a similar number of properties – social-rented properties – available to the public, that we had ten years or so ago, but we are not there at the moment.

Recently, together with some other colleagues, I attended the Annual General Meeting of the Sarnia Housing Association. Ex-Deputy Le Boutillier expressed concern with regard to the provision of emergency housing and lack of availability and the fact that, quite often, Housing approached *them* to house people who had fallen on hard times. I appreciate that the quality and suitability of the properties now in the hands of the Housing Association and in the hands of the GHA, are well beyond that I first experienced when I was at Housing. The old ‘sink estates’ have been torn down, but we still have a shortage of social housing and we still have a shortage of emergency housing.

I understand the complexities of housing people temporarily because, once they are in the home, they do not want to leave it and I can accept that and I can accept the arguments put forward by Housing. My plea to Deputy Jones and his team is for Housing to discuss with Sarnia Housing, *and* other agencies, ways in which emergency housing can be provided within their current budget. They have got a £70 million war chest. They have got properties which could be converted; they have got Cour du Parc, which is empty – and I know that is probably earmarked for other purposes – but I would like to see greater co-operation between Housing and the Sarnia Housing Association and other agencies to provide temporary and emergency accommodation for those people who, for whatever reason, find themselves on hard times.

Thank you, sir. (*Applause*)

The Bailiff: Deputy David Jones.

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

I thought that was a cracking speech by Deputy Andrew Le Lièvre. It brings us back to where we were in the last Assembly and, unfortunately, I think the criticism that was levelled at Social Security at that time, for bringing that report forward on the disparity between social rents and private-sector rental, was unfair. It was criticised by the Policy Council, it was criticised by senior staff and many other people who thought that it should not have come to the States at that time. The fact of the matter was that Social Security needed to make a moral argument and that moral argument has been reinforced this morning again by Deputy Le Lièvre.

Just to cover a few of the points that Deputy Le Lièvre has made. My Board and myself, and the new Board, agree that it should not matter which roof you live under: if you need help, you should get it. The fact of the matter is – and it has been identified again this morning through these Accounts – that if you live in social rental housing, you get quite a lot of help from the State in terms of making sure that you have affordable housing. The value of the rents does go up, because we have to maintain the value of the properties and what it costs to maintain them, so the real value of that is not lost: otherwise, over a period of years, you will just end up playing catch-up. We get, actually... the value of our rebates is about £11 million – nearly £11 million, £10.9 or something – but, like all of you, Treasury has said to us in the past that you are going to have to forego some of that and we actually get a little over £8 million back from Treasury. All Departments have suffered these kinds of cutbacks and Housing is no different, but they have looked at Housing’s economic position overall. That is what Treasury has told us that we will live with and that is what, like all Departments, we will live with.

Getting on to the issue of Sarnia Housing and emergency housing, the other issues that Deputy Le Lièvre raised, we deal with Sarnia Housing on a daily or weekly basis, but it is at operational

level. I was criticised for not attending the AGM but, to be perfectly honest, Sarnia Housing works with Housing at an operational level, looking at what tenants we have got. I would dearly love to house everybody in Guernsey who needed it. That is single people, couples without dependants: I would like to add them to the waiting list tomorrow, but how dishonest would that be? Within a year we would have, probably, 1,500, close to 2,000 people, on that waiting list, waiting for housing – I think that is a realistic figure – with *nothing* to offer them. So it is senseless in us going outside what our core responsibilities are at the moment, which are families and older people, and making wild promises to people who are single, and couples without children, that they can come on to social housing lists when the properties and the land to build them and the money is simply not there... So we do the best we can under the financial constraints that we have got and the conditions of land availability or whatever.

We have, as Deputy Le Lièvre has pointed out, actually over the last few years been playing catch up and mostly that was because we have replaced a lot of tired, old properties that were well past their sell-by date, demolished those and rebuilt. We have made small gains on every development that we have done, which is why the numbers will increase over the next 18 months or two years. We need to do more; we need to do a lot more, but every time I have brought a corporate housing programme to the States, I have always said that we are at the start of this journey, not the end of it. Just because we have built a few houses, everybody thinks the problem is over, wind the Housing Department up, let's get rid of it and move on. That, eventually, will be possible: we all know that but, in the meantime, we still need a lot more social rental housing, but the *key* to stopping people migrating from private rental across and making much more heavy demands on social rental, is to help those people who are in rent-induced poverty in private rental.

That report, that Social Security were criticised for, for bringing, needs to come back to this States sooner rather than later. The inefficiency of Housing running a rebate scheme, which as Deputy Le Lièvre has pointed out, is a benefit... that benefit should be running alongside other benefits so that you can have a holistic view of the benefits system that low income and fixed income earners are on and so that they receive the proper level of benefit for housing and other needs from a one-stop shop. The efficiencies that can be gained from that, by not having Housing staff doing it, are obvious. So our Board – and to answer one of Deputy Le Lièvre's other questions – our Board is going to revisit the issue of emergency housing.

I have never understood – and Deputy Brehaut who, as long as I have known him, has been a Member of this States, it has been the one thing that he has always been banging on about... but I am not sure – and we are at a loss to understand how it would work. Do you keep a number of properties empty, then, in case there is an emergency? All the real emergencies that we have ever had, we have been able to deal with – and I am talking about people who have been burnt out of properties, or been flooded out, when there has been a *real* emergency and a family has needed help, we have always managed to help them in one way or another.

Cour du Parc is a thorn in my side, as big a thorn as it has always been, since it has been empty, but Treasury know the situation there, they are quite happy that we are actually getting on with it. There has been some slippage because, obviously, we have had an election and a new Board and the new Board has to put forward its ideas about what it believes, but there are plans forward for Cour du Parc. We believe that one of those plans consists of no cost to the taxpayer at all for a complete refurbishment. Treasury are saying what would we get for it, if it was a complete sale.

Cour du Parc was empty; I was appalled, actually, when I first went to Housing, to see families in Cour du Parc. You do not put families in high-rise blocks with balconies, where kids can... you know. It is not part of a building that is there to function for our core business, which is families and older people, and you certainly do not put older people in buildings like that. So it never really fitted in. For me, it was a property that was built in a time when they were trying to get as many properties available, because social housing was almost non-existent.

The other good news story is that, the other day, when we took the new Board round, and Treasury went round also, to see some of the new... [*Inaudible*] we are starting, or we are finishing, back to, basically, where Jersey started. The Board was shocked at the condition of all our States housing: it is almost finished. Most of it is up to scratch, it has all been repainted, new roofs, rewiring, windows, doors, kitchens, bathrooms, drainage. You name it, we have spent £ several million over a number of years making sure that our existing stock is fit for purpose. Jersey are just starting where we are finishing: by 2014, all of our existing stock will be up to 2012 standards. That is a good news story for Guernsey.

We do not have enough social housing and Deputy Le Lièvre is right, we do not, but we have got a Corporate Housing Fund. We need to find more land and we need to carry on with the programme as best we can. In the next 18 months/two years, another 253 units will become

available. That is going to make a dent.

1615 I remember when Deputy Brehaut, at the election for ministers, was saying, ‘Well, of course, the housing list has gone up’. Well, of course, it has gone up! More people are returning to Guernsey, the people are migrating from private rental back to social and we have had to house about 300 of our own tenants so we can knock down our own properties. Where did people think these people were going to go? So, of course, the waiting list has stagnated and if there was anything I could have done not to have that, we would have done it.

1620 Those people are not going to just disappear, they need to be re-housed and that has left us with absolutely no slack at all in the system. Now, as I say, over the next eighteen months to two years that slack will become much more flexible than we have had in the past, if that is not a double negative.

1625 **The Bailiff:** I must remind you, Deputy Jones, this is a debate on the States Accounts, rather than a general –

Deputy David Jones: Sorry, yes, I was just... I accept that but I thank Deputy Le Lièvre for raising the issues and I hope I have answered his questions.

1630 **The Bailiff:** Interesting and informative as this has been, can I suggest that we get back to the debate on the States Accounts, rather than embark on a general debate on the States Housing Policy.

1635 Deputy Perrot.

Deputy Perrot: Thank you, sir.
I don’t know whether I am breaking your rule immediately...

1640 **The Bailiff:** I’ll find out! *(Laughter)*

Deputy Perrot: – but could I simply pass on a comment which emerged from the consideration of these Accounts by the Forest Douzaine on Monday evening and it is this; that given the apparently healthy state of the accounts of Guernsey Water, which appear on pages 29 and 30 of the Miscellaneous Accounts, could Guernsey Water perhaps, as an act of kindness, curb its enthusiasm for adding further charges to our water bills but I suppose that this is the Public Services Minister, really.

The Bailiff: Yes.
Deputy Ogier.

1650 **Deputy Ogier:** Thank you, sir.
As Deputy St Pier reminds us, we agreed a few years ago to use up to half of a £200 million Contingency Reserve Fund. Now, if we agreed to use up to half of a £200 million Fund, I ask Members to do the maths and work out how much we agreed to use.

1655 We agreed to use up to £100 million for the purpose of smoothing our Tax Strategy changes and would Deputy St Pier remind us, once more, how much of this £100 million we have used so far and, therefore, how much is left to be used of this £100 million this Assembly agreed?

1660 **The Bailiff:** Any further debate? Does anyone else wish to speak? No?
Deputy St Pier, then, you need to reply.

Deputy St Pier: Thank you, sir, and thank you to all the Members for their contributions.
Starting with Deputies Soulsby and Gollop, of course, they make very good points about the nature of these Accounts. In essence, these are revenue and expenditure accounts, they are not full accounts in the sense that we may wish.

1665 I, like Deputy Soulsby, am very excited by the prospect of resource accounting and I am happy to give her the undertaking that my Department will keep her Committee informed as we progress on that project. I recognise the importance of doing so in terms of delivery of the project, of keeping her informed, and also I will be delighted to have the opportunity to work, or my Department will be delighted to have the opportunity to work, with the Public Accounts Committee to improve the quality and utility of these accounts, not only to Members of this Assembly but to the wider community as well.

1670 With regard to Deputy Laurie Queripel’s question in relation to the salaries of the top earners

1675 within the States; there are a number of reasons why the number of full-time equivalent staff paid
 by the States has changed between the two years but this is not all about new people either coming
 in at the top level or, indeed, there being lots of promotions. Much of this is driven by the sort of
 normal pay rise and pay change process and people being below one bracket and moving up to the
 next so, unfortunately, the accounts can give a slightly misleading picture, which was certainly one
 1680 of the issues which was picked up in the media, I know, in the last week or so on this very issue. It
 is an issue that has already been discussed by the new Board: we do feel that, perhaps, there is a
 better way of presenting this and we will be looking at that for future years so that it provides a
 more useful picture of what is going on.

My thanks to Deputy Adam for his contribution on this and, in particular, I do recognise that
 his Department spends, as he says, 32% of our Budget and therefore the importance of his
 1685 Department controlling expenditure is extremely important but I think one of the points I made at
 the beginning was the need for us to challenge and change the way that we actually provide
 existing services, the way that existing services are delivered and he gave a very good example of
 how he has managed to achieve that in relation to out placement and how that has produced
 savings for his Department.

1690 I, my Board and my Department, are certainly going to be very happy to work with all the
 Ministers and their Departments on the delivery of the savings which are expected over the next
 few years, so we would be delighted to help you achieve those targets.

Thanks to Deputy Dorey for his contribution, in particular bringing his experience of having
 been on the Social Security Department in the last term. Again, Social Security is obviously a very
 1695 significant part of our expenditure. He has made some very good points about the demographic
 changes and the pressure that will put upon us. These, of course, are well made and are well
 understood and, indeed, in the conversations I have had with my opposite numbers in Jersey and
 the Isle of Man I recognise that they have very similar issues as well.

1700 In relation to the Investment Funds and the fact that there is a different sort of methodology for
 investment and performance between the Social Security Funds and those managed by T & R, that
 is an issue, again, which has been identified and I look forward to working with Deputy Allister
 Langlois and his Board to see what we can learn between the two Departments on that issue.

Deputy Le Lièvre, of course, has made some excellent policy points which are really beyond
 my report on the Accounts and in particular do touch on policy issues affecting both Social
 1705 Security and Housing – and Deputy Dave Jones has responded to some of that, which I am
 grateful for. Certainly, it is my intention that – it has already been identified that – Treasury and
 Resources and Social Security do need to work very closely during this term to produce an
 integrated fiscal approach that does actually address the sustainability of Social Security Income
 Support, of Supplementary Benefit and the other benefits that are provided through Deputy
 1710 Langlois' Department. Indeed, that dialogue is beginning this week, as I am due to have a meeting
 with him this week.

With regard to Deputy Perrot's point, which I think was well made but I think, as he has
 already observed, that is an issue for the Public Services Department and I am sure Deputy Luxon
 will take that point away.

1715 Finally, with regard to Deputy Ogier's point, again a very well made point. As I said, we did
 set aside £100 million at the time that the Strategy started. Of course, we have now transferred an
 additional £15 million to it so it is together with the investment performance since we have been
 drawing-down on it and, of course, we are expected to draw down, as I mentioned... We could
 well draw down another £24 million – sorry, £27 million – in 2012, so there is a necessity to retain
 1720 that Fund.

Of course, the anticipated return to budget, taking us out of Budget deficit by 2014 is, of
 course, predicated on growth in the economy and growth in States revenues as well, and we cannot
 be certain that is going to happen in the current economic environment.

1725 Thank you, sir.

The Bailiff: Thank you very much.

Well, Members, then, may I draw your attention to the propositions which are in the coloured
 booklet at page 114. There are four propositions and I propose to put them to you one by one.

1730 The first proposition is to approve the States of Guernsey Accounts 2011.
 Those in favour; those against.

Members voted Pour.

The Bailiff: I declare them approved.

1735 The second is to approve the 2011 Accounts for Ports, Guernsey Water, State Dairy and States Works.
Those in favour; those against.

1740 *Members voted Pour.*

The Bailiff: I declare them approved.
The third is to appoint the firm of Deloitte LLP as Auditors of all States Accounts for the year ending 31 December 2012.
Those in favour; those against.

1745 *Members voted Pour.*

The Bailiff: I declare them appointed
Finally, to note the Accounts of the Social Security Department and the non-Governmental bodies and the States of Alderney listed in Proposition 4.
Those in favour; those against.

Members voted Pour.

1755 **The Bailiff:** I declare them noted.

Billet d'État XI

1760

TREASURY AND RESOURCES DEPARTMENT

Income Tax (Guernsey) Law, 1975 Amendments and implementation approved

1765

Article XIII.

The States are asked to decide:

Whether, after consideration of the Report dated 24th November, 2011, of the Treasury and Resources Department, they are of the opinion:

1770 *1. That the Income Tax (Guernsey) Law, 1975, as amended, be revised to enable online filing and electronic communication for personal income tax returns to be the default option, notwithstanding that paper returns will still be accepted by the Director of Income Tax.*

1775 *2. That the Income Tax (Guernsey) Law, 1975, as amended, be amended to provide for compulsory online filing of returns by, and electronic transmission of assessments to, companies albeit, similar to the E.T.I. Regulations, paper returns will be permitted for certain limited circumstances at the Director's discretion.*

3. That the Income Tax (Guernsey) Law, 1975, as amended, be amended to make it clear that the relief given by section 190(ii) will not apply to companies completing Certificate 1 on a tax return, simply by virtue of their profits being subject to tax at 0%.

1780 *4. That Section 75B of the Income Tax (Guernsey) Law, 1975, as amended, be amended to make it clear that when under subsection (3) the Director gives the third party a reasonable opportunity to furnish the documents required voluntarily, before a formal notice is issued, that subsection (4) applies, so that the third party may be required not to disclose to the taxpayer that the documents have been requested.*

1785 *5. That Section 75B of the Income Tax (Guernsey) Law, 1975, as amended, be amended to provide that a reasonable opportunity to provide documents or information need not be available to an entity which is regulated by the GFSC.*

6. That Section 68 of the Income Tax (Guernsey) Law, 1975, as amended, be updated to refer to the Companies (Guernsey) Law, 2008 rather than the repealed Companies (Guernsey) Law, 2004.

1790 *7. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.*

1795 **The Clerk:** Article XIII, the Treasury and Resources Department's proposed revisions to the Income Tax legislation

The Bailiff: Deputy St Pier.

1800 **Deputy St Pier:** Sir, I do hope this States meeting is not reflective of all future meetings, with me being on my feet quite as much.

The Report before you today does propose a number of further minor amendments to the Income Tax Law, in addition to the ones that were referred to earlier, again intended to further ensure the efficient operation of the Income Tax Office and, once again, focusing on increasing revenues. I would just like to briefly explain some of the main points from each proposal.

1805 Firstly, there is the proposal to introduce compulsory online filing for companies only. The current situation is that companies do actually file their distribution returns and their ETI returns electronically and yet their company tax returns are actually filed as a paper return. My Department is, therefore, now proposing that filing a company tax return online and receiving assessments electronically should now be made compulsory.

1810 With regard to penalties to enforce completion of tax returns for companies that are currently taxable at 0%, some Members will be aware that, last September, the Assembly did agree to the introduction of a system of automatic penalties: this was to again encourage taxpayers to complete their returns in good time, in particular those companies that are subject to tax at the standard rate of 0% for whom, of course, there is very little incentive to file their returns in a timely manner.

1815 At present, the level of penalty that the Director can impose is restricted to £50, where the taxpayer can prove that if he had made a return it would not have been liable to any tax. Now I would suggest it was clearly not the States intention that the late filing penalty for local trading companies with employees be restricted to just £50 by virtue of their profits being subject to 0% and, therefore, the legislative amendment that is really being proposed in this Report is simply to clarify and put that issue beyond doubt.

1820 As far as the proposed amendment to Section 75(b) of the Law is concerned, the Director does already have powers to enable him to require third parties to supply him with information, without informing the taxpayer of such a request, for example, to establish a liability to Income Tax or to comply with obligations under one of the International Agreements that we talked about earlier.

1825 Currently, the Director is required, by law, to give the third party a reasonable opportunity to deliver that information voluntarily prior to the issuing of a formal notice. The amendment that is now being proposed is simply to put beyond doubt that the third party may not, if required by the Director, actually inform the taxpayer that this information had been directed – I am sorry – requested, and this simply avoids third parties being conflicted with any other obligations they may have, for example, as an adviser to a client.

1830 In order to ensure timely access and to reduce the administrative work, an amendment is also being proposed to remove the necessity for the Director of Income Tax to give a third party the option to voluntarily deliver the information, where the recipient of the notice is an entity that is regulated by the Guernsey Financial Services Commission. As is noted in the Report, the Director's experience is that regulated entities generally do actually require the protection of complying under a formal notice, given financial institutions' fiduciary obligations to their clients.

1835 There is also a very minor amendment being proposed to Section 68 of the Law, which is merely to update a cross-reference to the Companies Law when the new Companies Law was adopted.

1840 Finally, but perhaps most importantly, there is the proposed default option of online filing for personal Income Tax returns. Sir, at present the Income Tax Office issues around 40, 000 paper tax returns each year to individuals and this effectively makes paper the default option. Online filing enables significant economies for my Department, is obviously more environmentally friendly, and does provide a more efficient service. It follows that the greater number of forms which are submitted and assessed online, the more efficiencies that can be made. By way of example, in 2012 to date, the submission of Income Tax forms online, which has increased this year, the automatic assessment of those forms, which meet certain criteria – in other words without manual intervention – has resulted in around 175 hours of time being saved and that is net of time spent on extensive systems testing. So this does actually enable more complex tax returns to be manually assessed more quickly.

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In addition, this change will deliver up to £30,000 of direct savings through reduction in printing and postage costs, depending on the number of forms that are submitted online. However, the real prize is potentially even more significant, indirect savings of staff time in processing returns, as the take up of online filing increases over time. My Department is seeking to get to a

1855 position where it can actually reduce the number of tax returns that are required generally for those that have simple affairs that do not require a tax return.

So, in order to encourage individuals to file online, it is proposed to make online filing the default option and to cease issuing paper returns as a matter of course. I should say, at this point, that my Board, of course, has inherited the States Report from the previous Board and when we
1860 looked at it, we did have some reservations about the fact that no formal consultation has yet been held with groups representing more vulnerable members of society including, of course, the elderly. We *do* recognise that not all taxpayers will have access to the internet, to either complete their form online or even to download a paper copy for completion in the normal way. However, it is important to understand that an individual will still be able to file a paper return and
1865 communicate with the Income Tax Office by post. Individuals will still be able to obtain a paper return by visiting the Income Tax Office and collecting one from a number of proposed collection points around the Island, such as Douzaine Rooms and the Library and so on and, of course, alternatively, somebody else can download one for them.,

In addition, should the States approve the proposal, arrangements will be made to inform the public of the change throughout 2012, including via the media. It is also intended that the Income Tax Office will include reminders about outstanding returns on estimated assessments and on coding notices to ensure the best possible coverage regarding this change.

The Income Tax Office will also be working with the Association of Guernsey Charities during the remainder of this year to ensure that any concerns on behalf of vulnerable groups about this
1875 new regime are addressed, as far as is reasonably practicable.

Finally, as a safety net, where someone forgets or fails to complete a return and submit a return, they will receive a written reminder 30 days before any penalty is implemented to allow them time to put matters right.

Sir, my Department is, of course, responsible for leading delivery of the FTP savings and it is
1880 important that we do lead by example. I do believe that these proposals will improve the operation of the Income Tax Office and enhance the effectiveness of the Income Tax collection system and I do recommend them to the Assembly.

Thank you.

1885 **The Bailiff:** Yes, Deputy Kuttelwascher.

Deputy Kuttelwascher: Thank you, sir.

I would like to just add a little to Deputy St Pier's comments on proposition 1. I had an e-mail
1890 this morning about somebody saying they were not going to fill in a tax return online, they do not have a computer and whatever, so I think it is worth reiterating there will be no *requirement* to fill in a tax return online.

There are two issues, though. One is availability and access to tax returns in the future, because you will have to go and find one. The other issue is a reminder that you *need* to go and find one. I think the availability of tax returns – and they will be spread around various locations – is
1895 something that has been addressed.

As regards reminders, I did suggest at the Board meeting that the Tax Office actually call, or
liaise with, the Association of Guernsey Charities. They represent a whole spectrum of vulnerable people, not just, shall I say, possibly the elderly, but people with mobility problems and others. They send a regular newsletter via e-mail for all the charities – I got one recently – and that would
1900 be an ideal way of maybe sending a reminder to all charities that all their vulnerable clients need to remember that, if necessary, they need to fill in a tax return.

There may be other ways of doing this, although it is not ideal, and I know that certainly from Age Concern, Bailiwick of Guernsey, at an AGM all members would like to preserve the *status quo*
1905 because the easiest option is to get one on your doorstep. However, like everything else in life, there is time for change. It is a change that can be managed effectively, I think. It is a culture change, which is always the biggest problem and it is something that, certainly, the charity I represent can accommodate and others can as well. So, with the intent of saving a reasonable sum of money and also making life in the Income Tax Office more efficient, it is something that I am happy with to progress.

1910 Thank you, sir.

The Bailiff: Thank you.
Yes, Deputy Laurie Queripel.

1915 **Deputy Laurie Queripel:** Thank you, sir.

Yes, I am brought to my feet by the spectre of filing online. I am seeking assurances from T & R, for the foreseeable future, filing online will remain the default option and not become the *only* option.

1920 Some new Members may feel that I am being unnecessarily alarmist, but I believe my concerns are justified and the proof is all around us. There is increasing pressure on people to transact their business electronically. Airlines offer better deals online. Even Sure, one of our telecoms service providers, recently sent out a memo to customers, saying that charges for paying bills in any other way, except by direct debit, would be increased. We hear talk of cheques being phased out in favour of electronic payment methods. I do not want those who choose other options to be, or to feel, discriminated against.

1925 It is one thing to offer the option, but incentives that border on discrimination are, in my opinion, out of order. As I say this, I am thinking about the lottery launched to entice people to file their tax returns online. I felt that it was, at the very least, inappropriate. Doing things electronically, sir, online, is not a magic cure-all. As the world of electronic communication becomes more and more sophisticated, there is an increasing awareness around the globe amongst governments and in the private sector, with regard to security and privacy issues. Some people just are not comfortable with this format and they have a right to alternatives.

1930 We hear a great deal nowadays about rights and all kinds of strategies are proposed and put in place to ensure these various rights to help create an inclusive society. It should be no different in regard to this issue. Good progress should ensure that new ways of doing things are discovered and offered, so as to increase choice, not to limit freedom of choice.

1935 Thank you, sir.

The Bailiff: Anyone else?

1940 Yes, Deputy Soulsby.

Deputy Soulsby: I welcome the introduction of online filing.

1945 As the Minister of Treasury and Resources says, it will bring efficiencies. However, I have been aware that there have been problems with the current tax online filing system, in particular. I know those who act as agents for others trying to submit tax returns have had problems. Also, where IT systems do go down and, as is human nature, people leave their filing to the last minute, I do have concerns that people may be penalised for having not submitted their tax returns within the deadline, but it is not their fault, it was because the system was down.

1950 So I would like to ensure there was something within the Law – legislation – that accounts for the fact that it might not always be people’s fault for the filing not being done on time.

The Bailiff: Does anyone else wish to speak on this debate?

No? Then, Deputy St Pier to reply.

1955 **Deputy St Pier:** Thank you.

Deputy Kuttelwascher made a very good point that this is about a change in culture.

1960 As regards Deputy Laurie Queripel’s request for confirmation that this is a default, or will be a default, proposal, this will not be the only way in which you can submit your return. To make it quite clear, it is intended to continue to allow people to submit paper returns.

With regard to Deputy Soulsby’s point, with regard to online filing problems, I will take that point away and draw the attention of the Department to it. There have been a number of other issues in relation to the administration of Income Tax, which actually the States support has drawn out and people have brought those to my attention, so I will be adding Deputy Soulsby’s point to that list, to bring the Department’s attention to it.

1965 With regard to the penalty for failing to file, as I did say in my speech, written notice will be given 30 days before, but I certainly think it is a valid point, in looking at the drafting of the Law that would deal with this, that there is provision made for the failure being driven by the Department’s systems, rather than by the individual and I will certainly take that issue away as well.

1970 Thank you, sir.

The Bailiff: Members of the States, we then come to the propositions which are on page 1821 of the Billet.

1975 Does anyone wish to take proposition 1 separately from the other propositions?

A Member: Yes, please, sir.

1980 **The Bailiff:** Yes. In that case we will deal with proposition 1 first. That is the proposition that concerns online filing of personal Income Tax returns.
Proposition 1, those in favour; those against.

Members voted Pour.

1985 **The Bailiff:** I declare it carried.
Does anyone wish to take any of the other propositions separately, or can we take them all together?
I think we will take them all together, then.
So, a vote on propositions 2 – 7, inclusive.
1990 Those in favour; those against.

Members voted Pour.

The Bailiff: I declare them carried.

1995

COMMERCE AND EMPLOYMENT DEPARTMENT

2000 **Mergers and Acquisitions legislation Proposals and implementation approved**

Article XIV.

The States are asked to decide:

2005 *Whether, after consideration of the Report dated 13th March, 2012, of the Commerce and Employment Department, they are of the opinion:*

1. That the thresholds for the administration of Mergers and Acquisitions legislation in Guernsey should be that a merger or acquisition that met the following thresholds should be notified, and subject to the approval of the Guernsey Competition and Regulatory Authority, if:

2010 *a) The combined aggregated turnover in Jersey and Guernsey of all undertakings concerned exceeds £5m; and*

b) The turnover in Guernsey of each of at least 2 undertakings concerned exceeds £2 million and that the part of Resolution 1, Article 9, Billet d'Etat XXI of 2009 related to thresholds shall be rescinded.

2015 *2. That the part of Resolution 2, Article 9, Billet d'Etat XXI of 2009 related to the name of the "Guernsey Competition and Consumer Authority" shall be rescinded and that the name of the restructured Office of Utility Regulation shall be "The Guernsey Competition and Regulatory Authority".*

3. That Mr Mark Boleat is appointed Chairman of the Guernsey Competition and Regulatory Authority.

2020 *4. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.*

2025 **The Deputy Greffier:** Article XIV, Commerce and Employment Department, Competition Law, final implementation.

The Bailiff: The debate will be opened by the Minister of the Commerce and Employment Department, Deputy Stewart, who will be making his maiden speech in debate.
Deputy Stewart.

2030 **Deputy Stewart:** Sir, fellow Members, the proposals that are being laid before you today represent the final stage of the process of introducing Competition Law into Guernsey. It has been the subject of earlier and much more detailed reports that were approved by the States back in 2006 and 2009.

2035 During the whole process, the guiding principles that Commerce and Employment have kept in mind in drawing up Competition Law proposals, have been these two processes. The policies and principles behind Competition Law should be adapted to the special circumstances of Guernsey, in particular, as a small Island economy and the law should be administered in the most cost-

effective manner possible, compatible with its achieving its objectives.

2040 For my own part, on being elected Minister for Commerce and Employment, I wished to be certain the proposals were right for Guernsey and, in particular, I did not want in any way to prejudice the pursuit of some of the ideas I and my Board have in mind for taking opportunities to further develop the Island's economy, some of which may require the shape and remit of the regulator to change in time. However, together with my Board, we were initially of the view that, given the comprehensive nature of Competition Law, it might be useful to defer consideration of this States Report, as well as the competition and regulation legislation that was before you today, in order to provide a pause for thought, so that, either, necessary assurances could be obtained, or alternative proposals formulated.

2050 I did initially intend asking the States for permission to withdraw the relevant items from consideration in today's Billet. In the event, however, matters proceeded much more quickly than initially estimated and having now held a number of urgent meetings with stakeholders, including the OUR, and having received assurances as to the nature and consequences of the implementation of Competition Law in Guernsey, I have no hesitation in placing these proposals before you today.

2055 There are multiple advantages to the Island of Competition Law. To consumers, in respect of prices for essential goods and services, to business, and in particular, smaller businesses, in terms of access to markets and, importantly, the efficiency and competitiveness of the Island's economy, the importance of which was referred to as a priority in the recent business trends survey published by the Chamber of Commerce.

2060 So, the specific recommendations put forward today embody both the principles I have already mentioned, they help ensure the Competition Law meets the Island's specific needs, by having mergers and acquisitions notification thresholds that are appropriate for the Island and simple for businesses to understand. And they help, more importantly keeping the costs down by working on a joint agency basis with Jersey.

2065 On this last proposal, I would like to reassure Members that this joint working will in no way prevent the States of Guernsey taking the decisions on Competition Law and regulatory policy that it feels are appropriate to Guernsey, assurances that my Board sought before laying these proposals before you today.

2070 Working on an agency basis, the Guernsey Competition and Regulatory Authority will administer Guernsey's legislation to meet Guernsey's needs, at the same time containing costs through co-operation with Jersey, without in any way, though, compromising our own aims and objectives and doing what is in the best interests of Guernsey.

I therefore urge all Members to support the proposals, as set out. (*Applause*)

The Bailiff: Does anyone wish to...?

Yes, Deputy Perrot.

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Deputy Perrot: When the idea, sir, of a Competition Law was brought before the States in May 2006, there were some fairly strong reservations at that time and those reservations were not just on the part of Commerce and Employment, but on the part of the Policy Council and, indeed, on the part of the working party which had reported to Commerce and Employment.

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The problem was the obvious one of whether, on the one hand, to interfere in a free market economy or, on the other hand, to suffer problems with market dominance and with anti-competitive behaviour. So there were misgivings about it generally, but against the background at that time of the then purchase of Safeways and the anxiety about fuel prices, the Competition Law had it, and by 'having it' I mean it went through – the proposal went through. But I share those reservations, particularly about market interference on the part of the States or, indeed, by anybody working under the original aegis of the States.

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I am also concerned about the unnecessary build up of bureaucracy. Of course, competition has got to be encouraged and, of course, we have to be protected against unscrupulous trade practices – I accept that – but, that said, we must keep a sense of proportion and, in my view, the reaction of the States in 2006 was an overreaction. It provided an expensive cure for an occasional disease when there were so many others to eradicate completely.

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I make no criticism here at all about Commerce and Employment. It has inherited this legacy. Clearly, the propositions today will go through and I am engaging in nothing but tokenism because it is far too late for me to overturn the substantive legislation.

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It may be tokenism, but I do that even though I will be certainly in a minority of one, because I wish to register a protest against what I see to be unnecessary bureaucracy.

I hate to bring in the subject of the Forest Douzaine again, (*Laughter*) but as I was there on Monday evening and views were expressed, can I say that a range of views was expressed, going

2100 from 'Let's throw this legislation out altogether,' to one that the thresholds are too low.
Thank you.

The Bailiff: Deputy Gollop.

2105 **Deputy Gollop:** Sir, it has been an interesting time on Legislation as well, because we were not sure how the new Board would react to what was an interesting policy legacy from the old Commerce and Employment Board, but we are where we are and, as Deputy Stewart has said, the pause for thought has evolved into an ongoing dialogue.

Picking up on what Deputy Perrot says, I probably share *some* of his views, but I was minded, when I was reflecting, that let us say in the future one of the leading supermarket organisations decided to acquire Alliance and the Forest Stores, to name but two, that would be perhaps an issue that would affect us in Guernsey and the kind of thing that would raise concerns.

2110 I agree, actually, that the context of all this has changed, because 2006 or 2007, in hindsight, was a boom period and a time when some of the leading commercial players have since moved on, and perhaps we would not be looking at this legislation today, even though it is widespread even in capitalist economies like the United States of America with their anti-trust legislation... I would say that I totally accept the function of the new Competition and Regulation Authority – not consumer authority – to look carefully at mergers of a significant size.

2115 There are ambiguities with the thresholds and also in terms of market dominance because, for example, you could... An example was given me of stained glass window manufacture repair and restoration. There may only be one or two or three providers of that very important and talented service in Guernsey, and if they should merge, that would strengthen their potential to put pricing up and so on, but how big a market is that? It certainly would not be a multi-million-pound market but it would be important in that area and, although the thresholds are in this, the legislation could be used, at some future point, to actually look at market dominance of entities that did not, in practice, have a particularly large turnover or staff size, and that is why I think we need to go through the legislation with a toothcomb when it comes back.

2120 Also, there were some interesting anomalies within this. Somebody said, 'Will it be Jersey dominated?' Well, actually, of course, we have had a Guernsey-based executive director of regulation. I very much support the principle of working together, but I would also say that you probably need legislation that is harmonious, which means that the *policies* might be slightly different between the Islands. If there are two completely different sets of legislation, that would be problematic.

2125 Turning to page 1836, I just cite an example of an anomalous position. In example 1, firm A has a £2½ million turnover in Guernsey, no turnover in Jersey, and firm B has £2 million turnover in Guernsey but a £1 million turnover in Jersey. It therefore has just a third of its business in Jersey and, given the larger size of the Jersey market, frankly it is not really a big player in Jersey, but the aggregate turnover of the firm, post merger, will be £5½ million in Guernsey and Jersey together and each has turnover of more than £2 million, so the merger is notifiable. And yet we see, in another example, at the bottom of the page, another example 1, firm A has £2½ million turnover in Guernsey, no turnover in Jersey, and firm B has £2 million turnover in Guernsey and £400,000 turnover in Jersey. So, actually, both those examples have £4½ million turnover in Guernsey, but as the aggregate turnover of the firm post merger will be £4.9 million, just £100,000 below, and each has a turnover of more than £2 million, a merger is not notifiable. So, in terms of the Guernsey market for the Guernsey consumer and the Guernsey distributor, and perhaps even Guernsey firms, the position is virtually identical but, because of the Jersey element, one would be notifiable and the other would not be.

2140 It is precisely this kind of detail that I would suggest Commerce and Employment need to reflect upon and develop and maybe come back to the States in refining it so that it is a useful piece of legislation that looks at genuine monopolies and positions which are being abused and which could cause market disruption, rather than just as a box-ticking exercise.

The Bailiff: Deputy De Lisle.

2155 **Deputy De Lisle:** Thank you, sir.

My concerns were always that we enacted, in this Island, full comprehensive competition legislation that incorporated control over mergers and acquisitions. Public reaction to the merger takeover acquisition question has been as big an issue in this Island as consumer protection.

In 2006, I brought forward an amendment to the original legislation to add control of mergers and acquisitions and, in addition, lobbied the Department for the introduction of a pan-Island

2160 approach because many firms operated in both Islands and there were economies to be gained to those businesses from a common regulatory system across the Islands.

The introduction of such an ordinance was particularly important in a small Island community, where we need to ensure that business is widely held and that there is every opportunity for new entrants to succeed. So, first and foremost in the minds of legislatures in other countries has been
2165 the desire to underline a commitment to the survival of small business and concerns over bigness in the economy have resulted in legislation to avoid the situation whereby large companies might grow to dominate. Prohibition of discriminatory pricing and abuse of market position followed with time, after legislation on mergers was in place.

2170 There will always be questions about the nature of thresholds used, whether notification should be based on turnover, share of supply or both. The Islands will have to continue to test and refine notification procedures and thresholds until the best fit for our circumstances is found. The important element, though, at this point in time, is having full competition legislation in place to protect consumers and small business, and I ask Members to support this final implementation of the Competition Law.

2175 Thank you, sir.

The Bailiff: Thank you.

Next, I will call the Chief Minister, who will be making his maiden speech in debate.

Deputy Harwood.

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

I had not intended to use this occasion for a maiden speech. I really just want to make one or two comments on the proposals put before you.

2185 Like Deputy Perrot, I probably also had severe reservations back in 2006 when the original competition proposals were proposed, but, unlike him, actually, to some extent my concerns were tempered by the fact that, as a practising lawyer, I could see Guernsey firms of advocates making considerable money from having to advise clients (*Laughter*) on how to deal with the reporting procedures. Not only lawyers, but also firms of accountants and other specialist consultants, particularly with the original thresholds that were proposed at that time, which involved a very
2190 subjective and a very detailed approach to analysis. The burden on industry, the burden on companies, would have been quite enormous.

I welcome, therefore, the pragmatism shown by the Commerce and Employment Department in coming back to this House, proposing revised thresholds, which could be purely on an objective basis, which are easy to measure. They will remain appropriate. The burden on business is reduced
2195 and therefore the process, which I know has bedevilled firms in Jersey, in particular, the complexities, will be avoided. So I commend the Department of Commerce and Employment on the pragmatism shown there.

I also commend the Department of Commerce and Employment on their pragmatism, again, in seeking to work together with Jersey, because I believe this is one of the important features that we, as a House, need to recognise over the next four years in particular, that, where we can, we should try and achieve efficiencies, economies, particularly by sharing resources with our sister Island.

2200 I therefore commend the Department of Commerce and Employment on two counts: firstly, for easing the burden on industry in the reporting thresholds; and, secondly, also in helping to cement a relationship with Jersey, which I think is very important.

2205 Thank you, sir. (*Applause*)

The Bailiff: Deputy David Jones.

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Deputy David Jones: Well, I hope we do support this.

I had some reservations in the early days, as Deputy Perrot has pointed out, not so much about monopolies, because I think monopolies are not always a bad thing – we have got one electricity company and we have got a Regulator, you have to make up your mind what you think about protection of consumers via that route – but, certainly, I think that it is the abuse of a monopoly
2215 position that is the reason why we need this legislation.

I am a capitalist, like many others in this House, and I think that interfering with free market forces is not always a good thing, although I would dearly love to interfere with some of the aspects of advocacy on this Island that is making legal representation for ordinary people unaffordable (*Laughter*)... but I think that Advocates, while we are on that subject, are trained
2220 professionals and they are free to charge for their services, once they set up their practices, as they

see fit. Certainly, on issues like conveyancing, for instance, I think that that adds a huge amount of cost to people wishing to move and exchange properties and to buy a house in the first place and I did mention on Sunday that, perhaps, the Tax Department would like to give those people a tax holiday in terms of the Stamp Duty, but that is another issue.

2225 Certainly, it is the abuse of power by some companies and there was a knee-jerk reaction at the time when one supermarket was purchased and it seemed to be that this one company was slowly buying up Guernsey in small tranches and reducing the amount of choice for people because once one company owns everything, of course, the choice of where you shop is dramatically reduced because you are paying the same prices to that one company. So I hope that we do support this but

2230 I also hope that Commerce and Employment wield the stick with some thought.

2235 The problem with Jersey and comparing us with Jersey is because Jersey already has this wretched undertakings legislation which does it no good at all, quite frankly – it stops companies from expanding! Has it done anything to reduce the population in Jersey? Not a jot! They are as overcrowded as they have ever been and the control of undertakings has done nothing to address that issue. It is like saying that you should introduce paid parking because it will reduce traffic flow. I mean, it is just nonsense . . . but –

The Bailiff: You are straying off the subject. *(Laughter)*

2240 **Deputy David Jones:** I am! *(Laughter)*
I was just smiling at Deputy Brehaut, who was looking at me – *(Laughter)*

Deputy Brehaut: I remain always the unwilling accomplice, sir. *(Laughter)*

2245 **Deputy David Jones:** – but the point I am trying to make is that it is monopolies that are the problem, it is the abuse of power with some of those monopolies that is the problem. We need this Law and I hope that Commerce and Employment wield, as I say, the stick with some considerable thought and I hope the States support this extra move.

2250 Thank you.

The Bailiff: Deputy Trott.

Deputy Trott: Yes sir, thank you.

2255 Earlier on this morning I rose to ask a fairly simple question and that was whether the Competition Regulatory Authority should be allowed to invest its monies in anything it wishes to do so. Now we had an interesting answer from Her Majesty's Procureur and I thanked him at the time.

2260 Can I ask Members to look at page 1833 of the States Report and, in particular, at Paragraph 8.1. Now there, sir, we are reminded that:

‘In preparing this Report the Department’

– the former Commerce and Employment Department –

2265 ‘has been mindful of the States Resolution to adopt the six core principles of good governance defined by the UK Independent Commission on Good Governance in Public Services –’

and the Department advises us that it

2270 ‘believes that all of the proposals in this Report comply with those principles.’

Well, sir, two of the key principles of good governance, as contained within that Report and adopted by this Assembly are that good governance means ‘managing risk’ and good governance means ‘performing effectively in clearly defined functions and roles’.

2275 This morning, sir, we passed an Ordinance that will allow the Competition Regulatory Authority to invest, if it wishes, in quoted Channel Island stocks. I am not suggesting for one moment that it would but it is not prohibited from doing so. If it did, sir, it could find itself having a holding in an entity that it was having to deliberate over, that it was having to consider by way of mergers and acquisitions; that Law this morning should have specifically prohibited the Competition Regulatory Authority from being able to invest in Channel Island equities and I rise, sir, to make this point so that Members will pay attention to the detail. It is that sort of details that brings, on occasion, this Legislature into disrepute.

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2285 **The Bailiff:** Yes, Deputy Robert Jones.

Deputy Robert Jones: Yes –

The Bailiff: And this will be *your* maiden speech.

2290 **Deputy Robert Jones:** Yes, I was not expecting to stand up, either, to speak on this issue but, having inherited the problems that the previous Chair of the Legislation Select Committee encountered over the last four years, could I ask the Commerce and Employment Minister to work with me and the Committee, in terms of timetabling the legislation that you put before the Legislation Select Committee so that we have more than six days, which is what we had on a piece of legislation in relation to this the other day, so that we can properly take into account some of the issues that have arisen here today, particularly in relation to the thresholds and to the effects of those thresholds on local businesses, so that we can properly sit down and look at that.

2295 I would be grateful if he would work with me and the Law Officers in terms of ensuring that we have the appropriate time to look at those issues and that you implement those issues correctly into the final draft and, of course, taking on board what Lyndon said there, ‘the Devil is in the detail’. We would like to actively participate in that process.

2300 Thank you. (*Applause*)

2305 **The Bailiff:** Yes, Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

2310 The last two speeches have highlighted very neatly how this Assembly so easily neglects what should be its primary role as a Legislature. (**A Member:** Hear hear) I suppose the Assembly takes the view that the scrutiny of legislation, more often than not, has been delegated to the Legislation Select Committee but we have just heard from Deputy Jones how his Committee was given less than a week to scrutinise the relevant legislation. Well, clearly that is inadequate and I think the review of governance which was carried out last term demonstrated that this Assembly, in parliamentary time, spends less – spent in 2010 less than 2% of its time scrutinising legislation.

2315 Now, as a Legislature, sir, that is inadequate, frankly. The first point I want to make on the actual Report, sir – sorry for straying, – relates to a point that Deputy De Lisle made; he told us that other legislatures had been very keen to adopt mergers and acquisitions legislation. What he did not go on to say was that it has not proved terribly successful because, as I understand it, a greater part of Guernsey’s economy relates to small business undertakings than almost anywhere else in the western world, so one has to ask how successful mergers and acquisitions legislation has been everywhere else and I am tempted to join Deputy Perrot, if he will allow me in his club of one, in registering at least token concerns about these proposals, particularly in relation to Paragraph 3.1, because Paragraph 3.1, page 1825 of the States Report, is very clear in telling us the purpose of mergers and acquisitions legislation. The second sentence reads;

2325 ‘The purpose of such a requirement is to prevent the creation of companies that are unjustifiably dominant in the marketplace.’

2330 But what has not been included in this Report and what the States has perhaps not taken into account when it has debated this area of policy in the past is that there are already companies in Guernsey which would, in effect, be regarded as unjustifiably dominant in the marketplace. Some of them are very successful local companies, and the concern I have is that mergers and acquisitions legislation may have the effect, in the future, of preventing the growth and the success of the sorts of companies which today we regard as the sort of bedrock of our economy.

2335 I am not certain that if we have £200,000 to spend on consumer protection that investing it in mergers and acquisitions legislation is necessarily the most appropriate way of investing it.

I am in favour of consumer protection. I think it is very important that the States legislates in that area, but consumer protection does not have to mean the same as mergers and acquisitions legislation, and I do have a concern, sir, to pick up Deputy Perrot’s word, that the proposals before the States may be ‘disproportionate’.

2340 Thank you, sir.

The Bailiff: Yes, Alderney Representative Arditti.

2345 **Alderney Representative Arditti:** Sir, thank you very much, I will be very brief.
I just rise to say that I, and I am glad to see another member of the Scrutiny Committee – and, hopefully, all other members of the Scrutiny Committee – will offer whatever support they can to the Chairman of the Legislation Committee as he sets about trying to review the expectations and processes which are, frankly, impossible for proper scrutiny of legislation and I am hopeful that we can offer him some meaningful support.

2350 **The Bailiff:** Is there anyone else who wishes to speak in the debate?
No? Deputy Stewart, then, it is you to reply.

2355 **Deputy Stewart:** Sir, Deputy Perrot, I, too, shared some of your concerns when this originally came on my desk and across the Board table. However, some of the assurance I can give you is that we will be watching how this Law operates very, very, closely indeed and how, indeed, the thresholds do work. What we must remember is that these merger thresholds are just notifiable thresholds: it does not mean that a merger cannot take place, and I would hope and try and assure the Forest Douzaine as well, that there will not be too much bureaucracy involved in that – in fact, I abhor too much bureaucracy, as well – and that these mergers or notifiable mergers would be dealt with swiftly and fairly by the new Regulator.

2360 Deputy Gollop, to your point about mergers perhaps being more frequent back in the time when this economy was functioning well, what I would say to you is actually the time when the economy is under some strain, that is when you are likely to get more mergers, particularly for those companies trying to keep their margins and merge their cost base together to give higher efficiencies, but we must make sure that these mergers are in the public interest.

2365 What we are really looking at is a legislative backstop. If there is only one stained glass supplier we can still go across and buy from England or France or anywhere else in the world, but there are, indeed, some suppliers that are only really available, such as supermarkets, those sort of suppliers, that we would want to look at mergers and it would be sensible to do so.

2370 And Deputy David Jones, I am learning from you, I do not know how you manage to get Housing and Deputy Brehaut into nearly every speech you make, (*Laughter*) but it is clever! We will, of course, make sure that everything, as I said in my opening speech, everything is done, although we are going to be joined up with Jersey and it makes an awful lot of sense, that we do not compromise Guernsey's interests just in the sake of joining up with Jersey, but this does make a lot of sense from a cost point of view, now we have this legislation.

2375 Deputy Robert Jones: I would like to offer apologies, we were under some pressure to sort this legislation, that was my initial... having this arrive on my desk and having very little time, as a Board, to consider it, to look back at what had happened and rather than just rubber-stamp this and push it through to the States, we wanted certain assurances that, for example, setting up this joint Channel Island Regulator would not in any way prejudice what we wanted to do going forward in terms of policies that might involve a different shape of Regulator. This took some time: we have acted as quickly as possible.

2385 At the same time, my Board was under pressure to put through this joint Channel Island overarching Authority, to approve that and to bring it to the States today. We did as best as we could and, certainly, my team has worked extremely hard at Commerce and Employment, both the Civil Service and my Board, so my apologies that you had only six days to look at this.

2390 From Deputy Fallaize, I would say that, if we look at 3.1 further down in that paragraph, we do come back to the final part of 3.1, in which it says,

'In this regard, the States have agreed that market and economic efficiency should be a principal objective of the operation of competition law in the Island.'

2395 What I will say, it is a backstop, it is just that mergers are notifiable, it does not mean they will be prohibited, but I do think there has to be a point where someone should see whether the joining of two companies, both within the Island and pan-Island, should be looked at to see whether it is, indeed, in the public interest.

2400 **The Bailiff:** Members, may I draw your attention to the propositions, which are on page 1837 of the Billet.

I will put proposition 1 to you first. I will just pause while people have a chance to locate it. Proposition 1, those in favour; those against.

Members voted Pour.

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The Bailiff: I declare it carried.
I will put 2, 3 and 4 together, unless anyone requests otherwise.
Propositions 2, 3 and 4 – those in favour; those against.

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Members voted Pour.

The Bailiff: I declare it carried.

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HOME DEPARTMENT

Criminal Justice Working Group Report noted

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Article XV.

The States are asked to decide:

Whether, after consideration of the Report dated 5th March, 2012, of the Home Department, they are of the opinion:

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To note the Report prepared by the Criminal Justice Working Group and appended to the Billet and to acknowledge that reports on the Strategy's progress will be submitted to the Assembly in future years as appendices.

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The Deputy Greffier: Article XV, Home Department, Developing a Criminal Justice Strategy and a Report from the Criminal Justice Working Group.

The Bailiff: Deputy Le Tocq, Minister for Home Department, to open debate.

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Deputy Le Tocq: Thank you, sir.

The criminal justice system is comprised of a broad spectrum of organisations, each necessarily with their own mandates, priorities and business planning processes, but which, together, make up a system, which happens to be one of the largest public services. We must acknowledge, early on, that some of these organisations are not necessarily Home Department, or even States of Guernsey based, while some of these organisations must necessarily also retain independence from political direction.

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Whilst there can never, therefore, be central ownership of the criminal justice system, there can be a concerted and co-ordinated effort to continuously review and monitor this major public service, to identify gaps and new ways of delivering services; to also look for lessons in the experiences of other jurisdictions; to improve communications and information sharing; and, ultimately, sir, to make the system faster, simpler, more cost efficient, so as to improve outcomes for both victims and for offenders.

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The Home Department is, therefore, pleased to acknowledge a Report by the Criminal Justice Working Group to the States Assembly on the development of a Criminal Justice Strategy. This work constitutes a proactive undertaking by professional stakeholders, as supported and sponsored by the Home Department, to create suitable conditions for the future, that is to ensure the development of services and initiatives in areas of proven need and, correspondingly, to ensure that requests for investments in specific initiatives arise from a clear, strategic context, are evidence based and deliver value for money.

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So the Home Department notes that this is entirely sympathetic to the aspirations of the States Assembly to meet the challenges that lie ahead and generate even faster efficiencies in public service delivery. The Reports offer a comprehensive overview of what has been achieved in relation to criminal justice services since the 2004 review. It also outlines how the Strategy itself has developed since 2009 and the next steps in its development, including the development of multi-agency delivery plans, for each of the Strategy's areas of focus. Many aspects of the Strategy's focus are to combat the less visible aspects of serious and organised crime. However, the Department, its services and key partners, are resolute in working closely with the community to ensure that anti-social behaviours and harm that more routinely affects Islanders is dealt with, with equal energy and commitment.

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Sir, a word on other jurisdictions. I have mentioned looking to the experiences of other jurisdictions for lessons that can be learnt and would acknowledge that this is particularly

important in view of the common challenges that we currently face, not least the economic pressures. So what are other jurisdictions doing? How does it compare with what is being pursued at a local level here in Guernsey? The answer is ‘much the same’. Whilst Jersey’s ‘Building a Safer Society’ strategy is well established, our counterparts in the Isle of Man are pursuing a criminal justice modernisation programme along similar lines to our own.

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As with all other areas of Government business, there are close links between the Crown Dependencies in the criminal justice sphere, in terms of how we can share resources, how we can benchmark performance, take cognisance of outcomes and pursue joint initiatives. I think it is well worth stating, unequivocally, that here in the Bailiwick of Guernsey we are not passive in being recipients of others’ experiences, but across all organisations we are a very real contributor to the development of professional expertise and best practice in the fields of criminal justice.

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I started with an acknowledgement of the challenges that this Assembly is well aware lie ahead for the States, in terms of generating even greater efficiencies in public service delivery. The criminal justice system is a major public service and any attempt, therefore, to proactively and continuously monitor and review this system, in order to make it faster, simpler and more cost effective, so as to improve outcomes for both victims and offenders, should be supported as being in the spirit of financial transformation and good governance. Of particular note, therefore, is the inclusion of a strategic pillar to enhance and develop preventative workstreams, encouraging a criminal justice system that intersects with all other relevant parties to prioritise early intervention and reduce incidents of harm from occurring in the first instance.

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I would note that, in the long term, such efforts must be sustainable and co-ordinated and the previous Assembly showed their commitment to this through the provision of funding for a full-time Criminal Justice Strategy co-ordinator and a corporate management tool by which the performance of the Strategy and its outcomes may be continually monitored and measured. Guernsey’s sister islands of Alderney and Sark are very much included in this work and further consultation with Alderney and Sark, in relation to specific initiatives that have developed as part of this Strategy, in the future is expected.

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So, sir, in closing, I would like to say each of the contributors to the Criminal Justice Strategy’s development as a whole has the utmost respect and energy for their work and continually strive for the best possible outcomes. The Home Department Board is pleased to sponsor this Strategy’s progression with the provision of resources and support. I encourage this Assembly, therefore, firstly to formally note the Report prepared by the Criminal Justice Working Group and appended to this Billet and, secondly, to acknowledge that Reports on the Strategy’s progress will be submitted to the Assembly in future years as appendices.

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Thank you.

The Bailiff: Deputy Gollop.

Deputy Gollop: Sir, I would like to think I know a bit about crime. Well – (*Laughter*) no, I know – I sat on the Police Consultative Committee for many years and I know the new Police Chief has other ways of consulting, such as his great contribution to the Living Streets AGM and I think we should thank very much the Procureur and Deputy Quin, who I know have done a lot on the Criminal Justice Strategy over several years. One of the successes has been the introduction, in Guernsey, of Community Service, an alternative to suspended sentences, fines, or prison sentences. That is an example of where Guernsey looked at best practice elsewhere and adapted their policies in that respect.

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I think this Strategy actually has to be fairly radical. If you are looking at doing a global search of criminal justice, you will find a lot of alternatives, from Alabama to Denmark, with quite different philosophies. I think there is within this, if you are serious about engaging with the public, you need a public consultation exercise and some of the responses you will get will be constructive and some of them – well, to be frank, many of them – will be reactionary, but you have to look at where the public is, go back to the Scrutiny Committee – we remember the vandalism of reports, which had a small part in this context – and you need to consider the *costs* of the Criminal Justice Strategy. We know that the Home Department, along with others, may be put under financial pressure in the next few years and the costs of pursuing people through the courts, even for quite minor crimes, is high. We are near capacity at the prison. Do we need another prison? Do we need a women’s prison? Do we need a more open prison structure? We want evidence about rehabilitation, about training, about people’s special needs. Is there a recidivist pattern of people who have fallen out of the educational system who are going to gaol? There is a lot of work to be done here and it is not just about working with the agencies, it is looking at evidence, which then informs policy about capital to invest and just how big a budget the Home

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Department needs and which ways it should be allocated.

So, I would actually welcome a lot more research on this, more material for the public and more consultation with States Members.

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The Bailiff: Deputy Lester Queripel.

Deputy Lester Queripel: Thank you, sir.

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Whilst I think this is a very good Report, I would like to have seen more detail, more facts and figures. If I had the confidence to say the word 'statistics', sir, I would use the word 'statistics' but my teeth do not allow me to say that word, I am afraid!

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I want to emphasise that this is not a criticism, this is an observation. I appreciate this Strategy has only recently been introduced and because it was introduced by the previous Home Department, the newly elected Home Department will have had very little input into it. However, having said that, I did have an extremely informative meeting with Deputy Le Tocq yesterday and I do thank him for meeting me and giving his time. He actually managed to squeeze me in between two other meetings, so I am very grateful for that. It was during that meeting that I learned Deputy Le Tocq was instrumental in introducing this Strategy, which was music to my ears, because he is actually at the helm now to drive it and he did assure me that future reports on the Strategy *will* contain a lot more detail and information.

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Going back to this Report, I want to cite two examples, where I have felt more information could have been included. If Members turn to page 1951, under the heading, 'Establishment of new facilities for young people', it states that,

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'Since 2004 several new facilities have been established to divert young people off the streets',

but it does not actually tell us where these facilities are. I think it would have been helpful if a list of these facilities had been included.

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On page 1955, point 2.16.7 tells us that,

'Since the inception of the Scheme in 2007, over 530 orders have been made and 40,000 hours of work done for the local community.'

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But it does not tell us the *type* of work. One could easily assume cleaning the streets and parks and gardens, but I presume there is a lot more that gets done than that. In future, it would be helpful for us all to see a list of all the types of work that is carried out.

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As I said earlier, Deputy Le Tocq did assure me that future Reports will contain much more information and I am sure that will be the case, but if I could just broaden this out for a moment, sir, with your permission, into a plea to all Departments. When you are placing reports before the Assembly, please put as much detail and information as possible into the report, especially for the newly-elected Members of the Assembly, because we will not know the history of these reports and if we need additional information we will have to make even more phone calls, set up more meetings and send even more e-mails. It would be far more effective and save us all a lot of time and money if we could have all the information required in one report. That would streamline operations and would, essentially, give the kind of value-for-money service that I know we all want to provide for the people of Guernsey.

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To conclude, sir, I think this is a well-intended Report of an excellent Strategy. In fact, I wrote and submitted a three-page thesis to the Scrutiny Committee during their 2009 survey and I did, in fact, give a copy of that thesis to Deputy Le Tocq yesterday.

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So I very much look forward to reading the next Report. I repeat that what I am saying is not meant as a criticism but as an observation, followed by a plea. I hope some of my words have been meaningful and I thank the Assembly for listening, sir.

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The Bailiff: Does anyone else wish to speak on this?

We do have more speakers, so I suggest we rise for lunch and resume at 2.30 p.m.

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*The Assembly adjourned at 12.32 p.m.
and resumed its sitting at 2.31*

The Deputy Greffier: Billet d'État XI, Article XV, the continuation of the debate.

2590 **The Bailiff:** Deputy Green will make his maiden speech

Deputy Green: Mr. Bailiff, Members of the States of Deliberation, firstly I should say that I do generally welcome this Criminal Justice Strategy.

2595 Clearly, the Strategy itself, as set out in the Billet, is a mere framework document, in my opinion. It can only ever be regarded as a starting point. However, it is really rather frustrating that, some nine and a half years after the Townsend Anti-Poverty Report of November 2002 acknowledged that a Criminal Justice Policy was needed in Guernsey, we are still at the point of only having a strategic framework document in place, largely devoid of any detailed policy.

2600 So what we have before us today is merely the bare-bones of a policy but, in my opinion, we can and must, as politicians, begin to put some real meat on those bones. I would like to make the political case today for saying that we should embrace this opportunity and be prepared, from now on, to think boldly and, dare I say, radically about the detailed strategies for different areas of criminal justice in the future.

2605 In particular, there are two areas, in my view, where we need to have sophisticated and robust policies in place, backed with strong political leadership. The first is in respect of tackling so-called anti-social behaviour in our community. Members of the States will be aware that relatively low level crime and anti-social behaviour are real threats to the quality of people's lives on this Island and that was something that I picked up very keenly from the recent Election campaign; whether it is noisy neighbours, or fly-tipping or the abandonment of old vehicles in my Parish of the Castel, or violence, or mindless vandalism, or public disorder on the streets of St Peter Port, this is an issue that has, in my opinion, for far too long been given too little political attention by Government on this Island. In my view, there has been insufficient political leadership in dealing effectively with anti-social behaviour in a properly co-ordinated way.

2615 For me, any local policy in this area must combine both strong law enforcement tactics for dealing in a short-term way with anti-social behaviour but it must also embrace more long-term preventative solutions, including ways to reduce binge-drinking, as well as policies for greater social inclusion and social justice. Secondly, there also needs to be much more political support for building up so-called 'restorative justice'. We have in this term an opportunity to drive forward on restorative justice and to reshape our criminal justice system in a way that firmly puts the victim at the very centre of the system.

2620 Too often, the rights of the victim, in my opinion, are largely forgotten. Restorative justice practices involve a consensual face-to-face meeting between the victim and an offender in the context of a supervised conference. Not only can that put the victim at the very heart of the system, it can often highlight very effectively the consequences of an offence on the victim of it, and a secondary impact of restorative justice is that it can lead offenders to make somewhat lasting changes in their behaviour, thus cutting re-offending rates. I believe it can be a particularly important approach when dealing with younger offenders, in particular.

2630 So, in conclusion, sir, Members of the States, I welcome broadly this Report from the Home Department but I do hope that we can begin to build swiftly upon this strategic framework with detailed policies and robust strategies for dealing with anti-social behaviour and for supporting restorative justice in good time. *(Applause)*

The Bailiff: Who else wished to speak?
Deputy Bebb.

2635 **Deputy Bebb:** Yes, I also broadly welcome such a Strategy as this one.

2640 As the Church Warden of the Town Church which is subject to frequent acts of vandalism, I think that the idea of restorative justice and actually bringing people in to recognise the damage that they cause not only to historical fabric, but also towards the community and those items which are of public ownership, is something that we should definitely progress.

2645 But if I may, I do slightly baulk at some of the language, and this is not particularly indicative of just this particular Report, but I do sort of find statements – and I will not bother Members with page numbers, I am sure that you will agree – you will know that I am not lying when I say it is lines such as 'The Criminal Justice Strategy focuses on outcomes for citizens and service users' ... I do not exactly know what a 'service user' actually means, but I do know that Deputy Green, for instance, talked about victims. I think that such language would be much more effective. I hate the idea of hearing about 'capturing expectations' which is another one that I do not particularly like, and there is other such language used throughout.

The other one that I am also slightly upset at is the fact that at no point is the word 'discipline'

2650 or ‘punish’ actually mentioned in the *whole* of this. Surely, justice is predicated on the fact that when someone has committed a criminal offence we should be disciplining and punishing that person? It disturbs me that the slant of the Report is in no way geared towards restoration, which is what we are actually looking for within the justice system.

2655 **The Bailiff:** Deputy Quin.

Deputy Quin: Thank you, sir.

I think I should rise as being one of the few Members left of the old Home Department.

2660 I thank Deputy Gollop for his words about the work that we have already done. I was not quite sure whether it was Deputy Gollop or – who was it else? – or Deputy Queripel who asked two questions... I might be able to help here. Deputy Queripel asked what work was going on with offenders. Well, that is a yearly Report published by Service in the Community, and that comes out as a Report from this Department. That would not be in this because this is just a framework.

2665 Deputy Gollop asked about Reports – a public Report. Well, we had a public Report in 2010, on community service orders. That came in and, at the same time, we went out to the public for consultation: another one will be held in something like two years’ time.

2670 If you are new to the House, as the Deputy there is, it is something that you probably did not know but this is just the framework... the Sports Commission also goes round to the houses, there are various States houses they go around to and they do the – They do volleyball and they do all bits and pieces, and they have got a portable court which is funded by the Sports Commission, so there is a lot being done in there.

I know you spent some time yesterday with our Minister. If you want to continue any more about this, let me know and I am quite happy to discuss it with you.

Thank you.

2675

The Bailiff: Deputy Brehaut.

2680 **Deputy Brehaut:** It may be just worth reminding States Members, sir, that the Scrutiny Committee looked at the issue of vandalism and disruptive behaviour because those two things are the most reported crimes. It is the thing that does get the public complaining to the police, so it may be worth newer Members who have joined Departments to revisit the Scrutiny Report and remind themselves of what recommendations in that Report, where the responsibility and the remedies, potentially, lie with their respective Departments.

Thank you.

2685

The Bailiff: Does anyone else wish to speak?

No? Deputy Le Tocq, then, will reply to the debate.

2690 **Deputy Le Tocq:** Thank you, sir, I want to repeat some of the things that my Deputy Minister, Deputy Quin, has said in terms of answering some of the issues raised but I will concur with the vast majority of what has been said in terms of comment.

2695 I think the most important thing that happens today, because this is encouraged so that Members of the House do note that this is a Report to *note*. It is always difficult, in a sense, to demonstrate our firm approval of a Strategy when we are asked to ‘note’ it. It does not really say very much, it is a bit of a neutral word, but I would encourage all Members of the House to engage with, and take responsibility for, as a stakeholder, not just the Home Department, not indeed just St James’s Chambers and the judiciary but all the stakeholders that are involved in this Strategy and it is just that; it is a framework, it is a strategy.

2700 Like Deputy Green has mentioned, sir, I too am a little disappointed that it has taken so long to come to this stage but, as people love saying – and I hate clichés – we are where we are, whatever that means. The fact is that we have something in front of us and my sincere hope, determination and, I believe, my Board’s political determination, is to make this work. You have my assurance that we will do our utmost to do so. It is a little bit like scaffolding. When scaffolding goes up, it is not the building itself: you are looking for something that will be happening behind that scaffolding, but we do need a structure, we need some sort of framework in order to build in a certain direction.

2710 The fact remains that although there was, if you like, a Criminal Justice Strategy before, it was piecemeal and scattered. This brings everybody around the table and for that I am very grateful. Deputy Lester Queripel said that I was involved in the initial stages. I think only in terms that I was particularly keen and encouraging, after the Townsend Report, to see restorative justice

measures brought in to this Island which, at the time – and this is going back years, obviously, to my previous incarnation in this House – those were viewed with a lot of scepticism around. I think it is good to hear so many seeing the benefits of that because not only do they benefit the victims, in victims being able not to be marginalized or left in fear, but it enables our society to be far more able, corporately, to take responsibility for the rehabilitation and correction of offenders.

2715

Whilst, again, I would agree with some of the comments that Deputy Bebb made in terms of jargon and news-speak that are in Strategies like this, I will do my best to get rid of those sorts of things: they are the unfortunate nature of such documents but that does not mean that, in the future, when we report on the progress of such Strategies that we cannot be far more down-to-earth and plain English. I would talk in terms of corrective discipline as being the way forward; punishment and discipline by themselves will not solve very much, but when they have corrective rehabilitation as the motivation behind those things, then we can help minimise the sorts of crime, including anti-social behaviour, that we have on this Island.

2720

Sir, I cannot remember who asked, maybe it was more than one person, about public consultation. I would like the House to note that the Home Department Community Safety Survey, which ran from October to December in 2010, was re-launched as a Home Department initiative in its own right and in the interests of supporting a constructive relationship with the public by providing an opportunity for regular feedback to the Department on areas of concern to them. That can then be taken, along with the Criminal Justice Strategy Group, into consideration by all stakeholders, as I mentioned before.

2725

2730

Regularity is certainly essential if such an opportunity is to be seen by the local community as a valuable means by which to relay their concerns and make their voices heard. The Department is, therefore, committed to repeating this survey at regular intervals. States Members will note that communication and engagement is correspondingly a core strategic pillar of the Criminal Justice Strategy and the results of the community survey were, accordingly, of great interest to the Criminal Justice Working Group when developing the Strategy: they will continue to be so in the future.

2735

Sir, as I said earlier, this Report is just a ‘note’, but I encourage the House, in so doing, to give their support, as a full stakeholder in the justice that takes place in the Bailiwick.

2740

Thank you, sir.

The Bailiff: Members, we come to the vote.

There is a single proposition, which is on page 185. As you have heard, it is to note the Report. Those in favour; those against.

2745

Members voted Pour.

The Bailiff: I declare it carried.

2750

Procedural

The Bailiff: It has been suggested to me that maybe we deal with the PERRC elections before moving on to the last debate and I think that would have some merit because, if it is a contested election, it would give a chance for those votes to be counted and then for the results to be announced before the close of the meeting.

2755

So, if that is the wish of the Assembly, I propose that we deal with the PERRC elections next. Those in favour; anyone against?

2760

Members voted Pour.

The Bailiff: We will do that.

2765

Billet d’État XII

2770

PAROCHIAL ECCLESIASTICAL RATES REVIEW COMMITTEE

**Election of three Members
Amendment to Propositions 2 and 3 carried**

2775

Amendment to Article I.

The States are asked:

To replace the Propositions 2 and 3 with the following:

2780

'2. To elect three sitting Members of the States as members of the Parochial Ecclesiastical Rates Review Committee to replace Deputy J. A. B. Gollop who has been elected Chairman of that Committee and former Deputies S. L. Langlois and B. M. Flouquet who have ceased to have a seat in the States.'

2785

The Bailiff: So, Deputy Gollop, do you have some... yes, in fact, you wish to lay an amendment first, I think, don't you?

Deputy Gollop: Yes, I have got an amendment here.

Hopefully, it will be successful and it will be seconded, hopefully, by Deputy Mary Lowe, who sits on the Committee, too.

2790

The Bailiff: I think it has been circulated. Yes.

2795

Deputy Gollop: The point is to elect three sitting Members of the States as members of the Parochial Ecclesiastical Rates Review Committee to replace me, Deputy J A B Gollop, who has been elected Chairman of that Committee, and former Deputies S L Langlois and B M Flouquet, who have ceased to have a seat in the States. So it is basically to create three places to serve on the Committee. The fourth place, of course, is occupied by Deputy Lowe and continues.

So I lay the amendment.

2800

The Bailiff: Thank you.

Deputy Lowe, you second it?

Deputy Lowe: Yes, I formally second the amendment.

2805

The Bailiff: Does anybody wish to debate the amendment?

No. We go straight to the vote, then. Those in favour; those against.

Members voted Pour.

2810

The Bailiff: The amendment is carried.

PAROCHIAL ECCLESIASTICAL RATES REVIEW COMMITTEE

2815

**Election of three Members
Deputies Conder, Green and De Lisle elected**

Amended Article I.

The States are asked:

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To elect:

three sitting Members of the States as members of the Parochial Ecclesiastical Rates Review Committee to replace Deputy J. A. B. Gollop who has been elected Chairman of that Committee and former Deputies S. L. Langlois and B. M. Flouquet who have ceased to have a seat in the States.

2825

The Bailiff: We therefore need three nominations.

Deputy Gollop.

2830

Deputy Gollop: Sir, over the lunch hour I have been consulting with different people, including Deputy Lowe, and I think we have agreed unanimously on three candidates – *(Laughter)*

if you can be unanimous with two people!

My three choices – and it would be wonderful if it could be an even larger committee, but one has to choose – the three candidates I am putting forward are, firstly, Professor Deputy Richard Conder; secondly, Deputy Christopher Green; and, thirdly, Deputy David De Lisle.

2835

The Bailiff: And do you have a seconder?
Deputy Lowe, are you willing to second?

2840

Deputy Lowe: Yes, I formally second all three nominations.

The Bailiff: Thank you.
Do we have any other nominations?

2845

No? In that case, we will go straight to the vote on the proposition that Deputies Conder, Green and De Lisle be elected as Members of the Parochial Ecclesiastical Rates Review Committee, proposed by Deputy Gollop, seconded by Deputy Lowe.

Those in favour; those against.

Members voted Pour.

2850

The Bailiff: I declare them elected.

STATES ASSEMBLY AND CONSTITUTION COMMITTEE

2855

Declaration of Members' Interests Amended Rules of Procedure approved

2860

Article IV.

The States are asked to decide:-

IV.- Whether, after consideration of the Report dated 12th April, 2012, of the States Assembly and Constitution Committee, they are of the opinion:-

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1. To amend, with immediate effect, Rule 20 of the Rules of Procedure of the States of Deliberation as follows:

(i) in Rule 12(8) delete the word "financial";

(ii) delete Rule 23 and substitute therefor:

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"23.(1) The Greffier shall maintain (whether electronically or otherwise) a Register to be known as the Register of

Members' Interests in which he shall keep all declarations of interests lodged with him in accordance with paragraph (3).

(2) The Register of Members' Interests shall be available at the Greffe for public inspection whenever the Greffe is

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open for normal business. Current entries in the Register of Members' Interests shall also be published on the States' website.

(3) All Members shall

(a) during the month of June 2012 or, if elected after the 1st June 2012 within one month of being elected;

and

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(b) subsequently during the month of May annually; make and lodge with the Greffier a Declaration of Interests.

(4) All Declarations of Interest required to be lodged with the Greffier under paragraph (3) shall be in the form set

out in Schedule 1 to these Rules.";

2885

(iii) delete Schedule 1 and substitute therefor the Declaration of Interests and Explanatory Notes set out in the Appendix to this report.

2. To amend, with immediate effect, the Code of Conduct for Members of the States of Deliberation as follows:

(i) delete paragraph 13 and substitute therefor:

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"13. Members must comply with the requirements of the Rules of Procedure of the States of Deliberation concerning 1993 declaration of interests in respect of gifts and hospitality. Any money or tangible gifts received by a Member which are required to be declared must not be

retained but must be transferred or delivered into the ownership of the States”;
(ii) delete Schedule 1.

2895 **The Greffier:** Billet d’État XII, Article IV: States Assembly and Constitution Committee, Declaration of Members’ Interests.

The Bailiff: The Chairman of the States Assembly and Constitution Committee is Deputy Fallaize, who will open the debate.
2900 Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

I will start by drawing Members’ attention, if I may, to the amendment which I have had
2905 circulated, to be seconded by Deputy Dorey on behalf of the Committee.

It is perhaps going a bit far to describe it as a technical amendment, but it is not really much
more than that and I thought, sir, with your permission, that I might lay the amendment now and
then I can address the amendment when I speak addressing the proposition within the States
Report:

2910 *To insert before the full-stop at the end of proposition 1 (iii) the following additional words:*
‘, save that

(a) in Part 7 of the Declaration of Interests the words “and state whether they hold (either
2915 *directly or indirectly) any real property in the Bailiwick” shall be deleted and the words “and*
state what real property, if any, they hold (either directly or indirectly) in the Bailiwick” shall
be substituted therefor; and

(b) in Part 7 of the Explanatory Notes the words “whether any real property” shall be deleted
and the words “what real property, if any,” shall be substituted therefor.”’

2920 **The Bailiff:** Fine. So your opening speech will deal with the amendment, as well.

Deputy Fallaize: Yes.

The Bailiff: That seems to make sense. Yes.

2925 **Deputy Fallaize:** Okay. Thank you.

In March this year the States approved a series of reforms to the Register of Members’
Interests to strengthen Declarations in respect of 10 specific areas. I will not repeat them now, but
they are laid out on pages 1976 and 1977 of the Billet.

2930 Furthermore, the States directed the States Assembly and Constitution Committee to report to
the States with any amendments to the Rules of Procedure which it considered necessary to give
effect to the reforms which had already been approved in principle and the Report which is before
the States today sets out those necessary amendments to the Rules.

2935 Proposition 1 on page 1993 asks the States whether they wish to amend Rule 20. The States
will not wish to amend Rule 20 because Rule 20 deals with elections. I do not really understand
how Rule 20 has crept into this Report but, hopefully, sir, you will allow the words ‘Rule 20 of’ to
be omitted without the need to put a formal amendment when we go to the vote. I think it was an
error which was transported from the Committee’s Report into the propositions prepared by
whomever they are prepared by.

2940 **The Bailiff:** Right. So –

Deputy Fallaize: Rule 20 –

2945 **The Bailiff:** So, Proposition 1 should just read, ‘that the Rules and Procedure of the States of
Deliberation be amended with immediate effect.’

Deputy Fallaize: Yes. I do not know how Rule 20 has managed to find its way in here.

2950 **The Bailiff:** I think that is probably right, is it not, Mr Procureur?

The Procureur: It is right, save that it is not the fault of whoever does the propositions
because it is taken directly from the recommendations –

2955 **The Bailiff:** Yes, I was not seeking to apportion fault. I was just trying to see –

The Procureur: So, yes, it is... Who would have done the recommendations, then? I cannot think.

2960 But, anyway, that is where the error crept in. So we just need to delete that reference to Rule 20.

The Bailiff: Yes.

Deputy Fallaize: Thank you.

2965 I had already volunteered – but I thank the Procureur for underlining that it was the Committee's mistake. (*Laughter*) It is also... (*Laughter and interjections*) The Committee's mistake is also responsible for the real amendment, which I have had to circulate.

2970 Another oversight in drafting for which, as the only returning Member of the Committee, I suppose I have to bear full responsibility (**A Member:** Hear, hear.) (*Laughter*) but the proposition that relates to Part 7 of the Declaration of Interests does not fully comply with the reform which was approved by the States in March.

2975 The way that it was laid out in the original Report, or the Report that is before Members, had the Committee proposing that Members who have a qualified interest in a limited liability company would have to declare whether that company held any property in the Bailiwick. What the States actually voted for in March was that Members would have to declare not just *whether* any property was held, but exactly what that property was.

So the amendment, which I am proposing and Deputy Dorey is seconding, merely brings the propositions into line with what the States agreed in principle in March.

2980 Other than that, sir, I trust that Members will see that the Report fulfils the directions that were issued to the Committee in March. The present Declarations regime is comparatively weak and these reforms, although they do not turn the regime into one of the more onerous for States' Members, they do at least strengthen Declarations and provoke greater transparency and the Committee is anxious that the revised regime should be established without delay because an easily accessible, comprehensive and, above all, robust Register of Interests is an essential component of a democratic parliament. What is before the House today, while proportionate and pragmatic, is certainly more robust than the, frankly, unsatisfactory regime which, happily, the last States directed us to replace.

2985 But, in closing, sir, I would simply point out again that all SACC is doing here is proposing changes to the Rules of Procedure in order to give effect to what the States has already decided in March of this year. So I ask Members to support the propositions, as amended.

2990 Thank you, sir.

The Bailiff: Thank you.

Deputy Dorey, you formally second the amendment, do you, and reserve your right to speak.?

2995 **Deputy Dorey:** Yes, I do, sir.

The Bailiff: We will take debate on the amendment and the substantive propositions together. Does anyone wish to speak in debate?

3000 Yes, Deputy Trott.

Deputy Trott: Thank you, sir.

Sir, I would like to make two points, both of which I made in the March debate but, this time, somewhat more freely than when in my previous office.

3005 The first, sir, relates on page 1977 to Item (g). Under these new Rules we will be required to disclose the name and address of all Trusts of which the Member is either a beneficiary or a trustee, excluding professional trusteeships, and that would include retirement annuity trusts that many in this Assembly will have.

3010 For those who are not familiar with retirement annuity trusts (RATs), what they effectively do is ensure that if you have a pension pot, upon your death the pension pot can transfer to your heirs rather than, if you have not got a RAT, to the estate of the pension company with whom you have the pension. So by disclosing to our community that we have a RAT, we do nothing other than demonstrate to our community what sensible people we are, sir, when it comes to estate planning. It is those that have a pension pot that do not have RATs that are, arguably, demonstrating a

3015 failure of good fiscal planning or good financial management. I would think that that would be of more interest to our electors than the fact that we have responded, or attended, to our concerns in an appropriate manner. So I remain of the view that retirement annuity trusts should *not* have formed part of that disclosure, for that reason.

3020 But my main reason for getting to my feet, sir, is really to challenge the conclusion of this Report, under paragraph 13, Principles of Good Governance. We are advised that

‘the proposals contained in this report are in accordance with the principles of good governance.’

3025 Well, I challenge that on the grounds that these proposals only extend to *elected* Members of this Assembly, not to the non-elected Members.

3030 I refer, in particular, to the very competent, the very eminent, Procureur and Comptroller. We are not to see, sir, whether or not they have any outside interests that could in any way conflict in their delivery of legal advice to this Assembly. I do not for one moment think that there would be any conflict, sir. I know these two people well and I think that they carry out their duties with the utmost integrity. However, it is not about me, it is about the outside world, and if this Assembly is receiving advice on a contentious legal matter, for instance, it is in the best interests of good governance that we know, formally, that the holders of those offices, and indeed, may I be so bold, sir, at the office of the presiding officer, the Bailiff, him or herself, that there are no conflicts of interests that could, in any way, impede upon the delivery of the impartial advice that this Assembly relies upon.

3035 I made these points in March. The Assembly of the day did not agree with me. I suspect the Assembly of today will not agree with me, but I make the point, nonetheless, sir, that the principles of good governance are not complete unless all Members of this Assembly are covered by the Resolution.

3040 **The Bailiff:** Yes, Deputy Domaille.

Deputy Domaille: Thank you, sir.

It is a very quick one, I think, but it is probably another error, I am afraid.

3045 If Members would like to turn page 1984 and 1985, the amendment refers to Part 7 of the Declaration of Interests. I think they mean Part 6, which is the real property, rather than common shareholders.

Deputy Fallaize: Should I clarify that now, rather –

3050 **The Bailiff:** Yes.

Deputy Fallaize: No, the amendment relates to companies holding property in the Bailiwick, companies in which the Member has a qualified interest in the share capital of that company.

3055 The origin of this was that Deputy Brouard moved an amendment when the States debated this in March, which would require Members to declare, as I said before, not just *whether* the company holds property but what that property is, and the States voted for that. But it is definitely in relation to Part 7 and not Part 6, sir.

3060 **Deputy Domaille:** Thank you, sir.
That is very clear, thank you.

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

3065 **Deputy St Pier:** Sir, just a very minor point, which I identified as Deputy Trott spoke in relation to Trusts.

3070 The form does refer to the name and address of each Trust. Of course, a Trust does not have a separate legal personality or identity separate from its trustees. Therefore, if you have more than one trustee with different addresses, this implies that it is a separate entity, which is not perhaps correct. So it is a very minor technical point.

The Bailiff: Anyone else?
Yes, Deputy Langlois.

3075 **Deputy Langlois:** Sir, we realise, of course, that this is the enactment of some States Resolutions and they have been carefully lifted.

I would draw Members' attention to the fact that Proposition (i) in the original – if we turn to page 1978 – Proposition (i) was rejected by the States in terms of membership of a relationship with trade unions, *blah, blah, blah*; if we then look at Part 4 of the Appendix, the explanatory notes for what you need to declare under offices held, there is an explanation – I was going to say a clear explanation – but let us qualify that. There is an explanation, saying

‘An office holder is someone who by virtue of that office is able to take part in the making of executive decisions’

3085 so that left out the Policy Council, anyway!

But before we go any further into those dangerous waters, I have got two questions for Deputy Fallaize. I cannot personally make a link between the propositions that are being passed and what I would see as the *reintroduction* of this mention of ‘social clubs and other organisations’ in an area which was rejected when we first debated this. Taking that, then, one step further, I will be a little bit nonplussed as to where we go with this because the way the propositions are laid out it might be quite hard to, without going to an extra amendment, to get rid of Part 4 but, taking that a bit further, I struggle with the sense of proportion in the explanatory note.

3090 So, if x is an ordinary member of The Natural History Society, it would not be declarable, but if they were a member of the Society's Council, it would be declarable and then I would suppose we then move on to members of the family, infant children or spouses or partners. If they were, let us say, Treasurer of the Bees and Wasps sub-Committee, whether that carries executive responsibility or not, I genuinely am concerned (*Interjection*) that we are trying to reintroduce something which the previous States did reject quite roundly and to no real effect. I am very concerned about that Part 4.

3100 **The Bailiff:** Does anyone else wish to speak?
No? Deputy Fallaize, are you ready to reply?

3105 **Deputy Fallaize:** Thank you, sir.

Deputy Trott is correct. He did make the same points in March and I have to stress again that the proposals which the Committee is putting today simply reflect what the States voted for in March, notwithstanding what Deputy Allister Langlois has just said and I will return to that in a moment.

3110 Declarations of Interest are not meant to uncover which Members employ good financial planning and which do not. They are there, as much as anything, to protect Members themselves so that there is full transparency between the electorate and the elected and that when any Member is voting on any matter in which he or she may have a personal interest, financial or otherwise, that that is disclosed. That is the purpose of these declarations.

3115 The unelected Members, of course, do not vote in the States. Now I do accept that there may be occasions when they are offering advice but the same is true of civil servants and yet I do not think that we would expect civil servants to make declarations along the lines that are proposed for States Members, so I think it is quite a material difference that the unelected Members, while they may sit in the States of Deliberation, they do not vote. For example, they do not vote on legislation which may have a material impact on matters in which they may have some personal interest.

3120 Deputy Langlois asked where is the link between what the States voted for in March and Part 4 of the proposed form and the explanatory notes. Well, the link is in what was Resolution (a) (ii) on page 1976; 1(a) reads ‘to direct the Committee to draft amendments to the rules to provide that Members should be required to make annual Declarations stating if (i) employed or (ii) the holder of any office, the name and address of any employer, partnership firm *etcetera, etcetera*, whether or not they are in receipt of remuneration.’

3125 That is the link between what the States agreed in March and what the Committee is proposing today. I take his point that the Declaration – in some respects, the Declarations may go further than some States Members are comfortable with. I think it is very difficult to arrive at a Declarations regime which is perfect. I think, by its very nature, it is either likely to be too weak or, in some cases, unnecessarily strong but I think it is in the interests of the Members themselves and in the interests of the States collectively that, if in doubt, the Declarations regime . . . we err on the side of caution and we ensure that the regime is stronger rather than weaker but I am in no doubt that, technically, with the exception of the amendment that I have had to move, these proposals do accurately reflect what the States voted for in March.

3135 The Committee would have been required to withdraw this Report, had it wanted to re-open

negotiation and put new proposals before the States. It decided not to do that, although the newly-elected Committee does wish to keep the Declarations regime under review but the decision that we took was that we would lay these proposals before the States in order to bring into effect as soon as possible what the States voted for in March.

3140 I think that answers all of the questions, sir, thank you.

The Bailiff: Deputy Langlois.

3145 **Deputy Langlois:** Sorry, sir, just to labour this one point further; if you go to 1(a), it clearly, in my view, says that,

‘whether or not they are in receipt of remuneration, the name and address of every employer/partnership/firm...’

3150 and it refers to ‘business or work’ – and membership of the sub-Committee of the Natural History Society, I am sorry I cannot make that link. Can we have some clarification from, perhaps, Her Majesty’s Procureur?

3155 **The Procureur:** The bottom line with all these things is that there are areas – we had it under the previous Rules – where Members are called upon to make judgements as to what to enter and what ought properly to be entered in the Register.

3160 There are some things which, quite patently, ought to be registered and if they are not, there would be a Code of Conduct issue arising or breach of the Rules arising. In other areas, as some Members with whom I have had discussions well know, there is a difficult judgement call and what I would always advise a Member in those circumstances is to err on the side of caution.

The Bailiff: Thank you.
Deputy Trott?

3165 **Deputy Trott:** Sir, on a matter of clarification; could Her Majesty’s Procureur confirm that my understanding is correct, that if someone was the director of an entity that had five protected cell companies operating underneath it, that would constitute six separate entities, and, under these rules, six separate Declarations would be required?

3170 **The Bailiff:** Procureur?

The Procureur: I know... No, I will not say what my former colleague would have said! I know practically nothing about protected cell companies (*Interjection.*)

3175 **The Bailiff:** In other words, he is not able to answer that question without notice, Deputy Trott.

Deputy Trott: Well, let me put it another way, then, sir.
The Rules, as drafted, say ‘all limited liability companies’. A little later on they say

3180 ‘any other interest or benefit received which was not required to be registered under any other headings might reasonably be perceived by other persons to influence actions as an elected Member.

It would be my view, sir, and I suspect the view of the majority of this House –

3185 **The Bailiff:** Is this a second speech?

Deputy Trott: No, sir. No, it is not one.
In the absence of useful legal advice, I think it is acceptable for me to expand, is it not, sir?

3190 **The Bailiff:** As long as it is not a second speech, but you did have a speech earlier...

Deputy Trott: Well, I was seeking legal clarity and that legal clarity was not forthcoming, with respect, sir.

3195 The point is this; that *surely* any separate legal entity will be caught by these Rules, so that if one is a director of a protected cell company, Declarations will need to be made accordingly.

The Bailiff: Members, let us go to the vote.
We have the Amendment to deal with first; it is the Amendment proposed by Deputy Fallaize,

seconded by Deputy Dorey.

3200

Those in favour; those against.

Members voted Pour.

The Bailiff: I declare it carried.

3205

The substantive Propositions, then, are at pages 1993 and 1994, obviously as just amended.

Unless anyone wants the Propositions to be taken separately, I will put all of the Propositions to you together. Nobody is requesting that they be separate, so I put Propositions 1 and 2 to you together.

Those in favour; those against.

3210

Members voted Pour.

The Bailiff: I declare them carried.

Greffier, am I right in thinking that concludes the business for this meeting of the States?

3215

The Deputy Greffier: Yes, sir.

The Bailiff: Can I just remind Members of the States that there will be an Annual General Meeting of the Commonwealth Parliamentary Association, Guernsey Branch, following shortly, so those who wish to attend, would they please remain within the precincts?

3220

The meeting will start shortly.

Greffier, if you could close this Meeting of the States.

THE GRACE
The Deputy Greffier

The Assembly adjourned at 3.11 p.m.