



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Thursday, 8th February 2018

*All published Official Reports can be found on the
official States of Guernsey website www.gov.gg*

Volume 7, No. 5

ISSN 2049-8284

*Published by Her Majesty's Greffier, The Royal Court House,
St Peter Port, GY1 2NZ. © States of Guernsey, 2018*

Present:

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

Law Officers

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

People's Deputies

St Peter Port South

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

St Peter Port North

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

St Sampson

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

The Vale

Deputies M. J. Fallaize, N. R. Inder, M. M. Lowe, L. B. Queripel,
J. C. S. F. Smithies, S. T. Hansmann Rouxel

The Castel

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

The West

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

The South-East

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

Representatives of the Island of Alderney

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

The Clerk to the States of Deliberation

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

Absent at the Evocation

Miss M. M. E. Pullum, Q.C. (H.M. Procureur); Deputy J. P. Le Tocq (absent)

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States of Deliberation

The States met at 9.30 a.m.

[THE BAILIFF *in the Chair*]

PRAYERS

The Deputy Greffier

EVOCATION

Billet d'État V

COMMITTEE FOR ECONOMIC DEVELOPMENT

VI. Land for Industrial and Storage Uses – Propositions carried as amended

Article VI.

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 13th November, 2017 they are of the opinion:

1. To note that the Committee for Economic Development is of the opinion that the States should facilitate the use for industrial and storage purposes of any of the following areas of land owned by the States of Guernsey: Mont Crevelt/the Longue Hougue reclamation site, Griffith's Yard, Brickfield House industrial area (as described in section 5.3 of the Committee's policy letter, and excluding the field where the pump house is located), and/or Pitronnerie Road.

2. To direct the States' Trading Supervisory Board to make available any of the areas of land listed in Proposition 1, to provide: a. basic open yard facilities for the purposes of open storage of plant, materials, and equipment principally for the construction industry; and b. land for heavy industrial purposes.

3. To agree that the provision of these facilities should be in line with the policy framework set out in section 4.2 of this policy letter.

4. Subject to the approval of Proposition (1), to direct the Committee for Economic Development to review, by no later than 13th November, 2022, the provision of these facilities by the States of Guernsey.

The Deputy Greffier: Billet d'État V, Article VI, Committee for Economic Development: Land for Industrial and Storage Uses.

5 **The Bailiff:** Deputy Parkinson will open the debate.

Deputy Parkinson: Thank you, sir.

I was hoping that this would be one of the less controversial policy letters that the States would be dealing with at this meeting, but I understand an amendment will be moved to it, so perhaps there will be some discussion.

10 In short, the Committee for Economic Development is proposing that the States make available a site or sites in the States' ownership for light industry or storage purposes on a commercial basis. This is the culmination of work undertaken by the Committee and the States' Trading Supervisory Board both before and since the Fallaize-Queripel amendment to the IDP. The work has identified four sites in States ownership as well as a number of privately owned sites
15 which are suitable for these activities. The four States-owned sites are the Longue Hougue reclamation site, Griffith's Yard, the Brickfield and Pitronnerie Road.

The Committee is in fact going beyond the terms of the amendment, which required it to set out its opinion on whether the States should facilitate the use of the sites for industrial purposes. It is in fact seeking States' approval to use any of the four sites for these purposes. Moreover, the
20 STSB has been active in the anticipation of approval of this policy letter. A planning application was submitted for the Griffith's Yard in November and Marine and General have been instructed to clear the part of the site which it is hoped will be used for industrial or storage purposes by the end of March – that is about 30% of the total area. The intention, assuming that this policy letter is approved, is that the Griffith's Yard should be prepared, in terms of surfacing and fencing and so
25 on, to receive any tenants from the Fontaine Vinery site who choose to move there by the end of June. The Fontaine Vinery tenants do not, of course, have to move to Griffith's Yard and there are privately owned sites available on Route Militaire and Opens Lane, but they do need to vacate the Fontaine Vinery, part of which is designated for housing. The States-owned site or sites will be provided on a commercial basis and the policy letter provides a policy framework to guide the
30 STSB on this subject. Broadly, it is intended that the States' provision should not have a detrimental effect on the commercial market place. Accordingly, the Committee proposes reviewing these arrangements after five years to study whether or not they are having that kind of impact in the market.

So, sir, Members will see that the States has responded actively to the problem of a shortage
35 of sites for light industry and storage purposes. I think this is a success story for the States. It is the product of quiet joined-up working to solve a problem faced by one group of businesses and it has been achieved quite quickly. I am therefore pleased to commend the four Propositions to the Assembly.

40 **The Bailiff:** And there has been an amendment circulated to be proposed by Deputy Dorey. Deputy Dorey.

Amendment:

In Proposition 2, immediately after the phrase 'Proposition 1', insert '(other than the Pitronnerie Road area referred to in Proposition 1)'.

Deputy Dorey: Thank you, Mr Bailiff. May I just read out this very short amendment?

The Bailiff: Please do.

Deputy Dorey read out the amendment.

45 **Deputy Dorey:** Equally I do not think this amendment is controversial. It is seconded by Deputy Laurie Queripel, who proposed the amendment that led to the policy letter. I apologise for the lateness of the amendment; I should have taken more notice of the proposals earlier.

The Pitronnerie Road site is 1.8 acres or 4.5 *vergées*. It is the land on the right as you enter the industrial estate, adjacent to the fish and chip shop. It did have residential housing on the site as it

50 was part of the old estate. It is triangular in shape and it now has houses on two sides and the industrial estate road on the other side. The new houses are built right up to the boundary of the site. The original resolution was to identify a site of at least four acres for the types of usage that currently take place at the Fontaine Vinery. The policy letter of the 7th June 2017 Billet reviewed a number of sites which were owned by the States. The Longue Hougue site states that four-acre, or
55 9.8 *vergées*, site would use the bulk of the remaining land reclaimed on that site after the transfer station etc. Griffith's Yard, which Deputy Parkinson has mentioned, is 3.7 acres or 9.2 *vergées*. Brickfield House, which is the other site mentioned in the Propositions, excluding the field where the pump house is, is 2.1 acres or 5.2 *vergées*. The point I am making is there is more than sufficient land on the other identified sites in Proposition 1 without the need for Pitronnerie Road.

60 Proposition 2 directs the States' Trading Supervisory Board to make available any of the areas listed in Proposition 1 to provide 'basic open yard facilities for the purposes of open storage of plant, materials, and equipment principally for the construction industry' and 'land for heavy industrial purposes'. Paragraphs 3.1.1 and 3.1.2 clarify the type of businesses and I think it is worth reading those out:

3.1.1 Category 1 businesses

Businesses which require basic open yard accommodation, principally for the storage of construction-related equipment, plant, and materials. The primary requirement of these businesses is for basic and secure 'lock up and leave' storage accommodation, rather than for workshop and office accommodation, though some may benefit from the provision of some basic covered storage.

3.1.2 Category 2 businesses

Businesses which require open yard accommodation for the storage of construction-related equipment, plant, and materials but which would also benefit from the ability to undertake heavy industrial activities on-site, such as the screening of rubble and the processing of inert waste.

65 I am sure that Members will agree that these usages are totally inappropriate with land which is adjacent to new densely built housing. Members only need to drive past Fontaine Vinery to see what potentially it could look like. I therefore strongly urge Members to support this amendment as there is sufficient land on the other sites for the proposed usage without the wholly unsuitable use of this land next to housing.

70 Thank you.

The Bailiff: Deputy Laurie Queripel, do you formally second the amendment?

Deputy Laurie Queripel: I do, sir, and I would like to speak now, if you would allow me to.

75

The Bailiff: Unless the President of the Committee wishes to exercise his right to speak now. In that case, you may.

Deputy Laurie Queripel: Thank you, sir.

80 Some Members may be mildly surprised that I am seconding this amendment, but prior to debate I had exchanges with Deputy Dorey, I have also had contact with the Guernsey Housing Association and I believe their concerns, the points they have raised, are reasonable, are valid and I accept they are genuine concerns. So, with that in mind, on balance I was prepared to accept the points made and to second this amendment.

85 I was going to say that I was prepared to make a concession, but of course it is not my policy letter; it is a policy letter of Economic Development and the work will be carried out by the States' Trading Supervisory Board. As Members know, I have had a deep and abiding interest and involvement in this issue, it is a very important issue as far as I am concerned, so I suppose it would be more accurate to say not concede or make a concession but to be pragmatic and to be reasonable and to accept that the concerns in regard to the Pitronnerie Road site are genuine and
90 should be taken under consideration.

As Deputy Parkinson said, we are in this position now because of the successful amendment that was laid by Deputy Fallaize and myself. That followed a great deal of work that Deputy Fallaize, myself and Deputy Mooney carried out to get us to that point and I am grateful to them
95 for that and I am grateful to the Assembly for voting through that amendment in the first place.

I also agree with Deputy Dorey that when you consider the other three sites – Griffith’s Yard, Brickfield House and Longue Hougue – they are proven established sites for industrial activity. Griffith’s Yard is a fairly large site; compared to Pitronnerie Road, it is quite remote from a residential area. There is enough space at Griffith’s Yard, if they were going to move there, to
100 accommodate all of the tenants from the Fontaine and there would still be room besides that for other businesses, would-be new tenants who need those kind of facilities – basic storage, open compounds – to apply for a place there as well. And Brickfield Yard as well – you could not say it is in an industrial area but it is certainly a site where Guernsey Water operate from as a business. They store plant, they use plant there to service their business, to facilitate their business, so that
105 is an established area for industrial activity as well. Longue Hougue is the same too.

All in all, I think that the current and future requirements for this type of industrial activity, both categories, can be well and fully met by the three sites without including Pitronnerie Road. On balance, that is why I was prepared to be reasonable, to be pragmatic. On balance, that is why I was prepared to second this amendment. Other Members of the Assembly, sir, may think that I
110 am perhaps being a bit naïve or perhaps think I have made an error in judgement and they may feel that the Pitronnerie Road site should stay on the list. I would not be unduly perturbed if they felt that way, but having listened to the concerns, having accepted the fact that the other three sites will more than accommodate the current and the future requirements, I felt that I could second and support this amendment, so I ask Members to take on board the points I have made.

115 Thank you, sir.

The Bailiff: Deputy Gollop.

Deputy Gollop: Deputy Parkinson reassured us by saying in his introduction that he thought
120 this was one of the less controversial policy letters that unfortunately he had to bring to us. Actually, it is one of the most controversial policy letters I have ever seen in 20 years of the States because it is unusual.

One thing that is unusual is that the President who has announced it is President of two different Committees with different interests, and indeed one issue that I think this particular
125 Assembly faces in its early months and year was that there was a push from many Members, particularly Deputy Mooney but others too, to look for sites because that was clearly a need that was being expressed by many active small removal and storage firms and light industrialists. But wearing my DPA hat it was hard to actually come up with a solid evidence base for that, which led of course to the compromise, really, emerging from the Accessible Island Development Plan.

130 Firstly you have the issue that I think Members of the new – the old now – Economic Development Board very much felt that previous Committees had slightly neglected the construction, storage and backbone of Guernsey businesses and that more work needed to be done here and more facilities done. They were responding to public demand as they perceived it. But there was a feeling at the time that I inferred, perhaps incorrectly, that the more strategic
135 thinkers at the States’ Trading Supervisory Board were concerned about the potential loss of land. So that is the first unusual thing about this.

The second unusual element is that of course it has been delivered to us for consideration. Deputy Dorey, because he has been so interested in many other things recently, did not necessarily do his three or four readings the day it came out, but it did come up in November – I
140 was looking at it when I was off Island, actually – and it is signed by the former President, who is sitting to my left but he is not to my left in every respect, (*Laughter*) and a former Vice-President, Deputy Kuttelwascher, and Deputy Merrett, if I am right. (**A Member:** You’re surrounded!) I am surrounded by people who are very keen on these issues. And of course the Board has changed

145 with a new Vice-President as well. So it is an unusual example of a new Board bringing in an old policy letter – maybe Education, Sport and Culture will do the same, who knows. So there is that issue.

150 Then you have the contradictions within the text because the Committee, for example in the executive summary, makes clear that they recognise that the States is in a position to increase the availability of premises – simple for these types of businesses, delivery of commercial premises – but they also put in 1.3:

The Committee would ordinarily wish for the delivery of commercial premises to be left to market forces, and is of the opinion that there is no case for providing a financial subsidy for any such accommodation.

155 In a way, you could argue that if land is owned by the States and it is available for use for a medium-term period, that is a kind of subsidy because it gets around some of the inevitable commercial costs and legal and surveying roles, and of course by its very nature the States will adopt a realistic, I would say, rental strategy broadly based on market forces, but because it is a political body in the public eye will not just go out there for perhaps more unfair or aggressive market terms. So there is an element of subsidy here because if the land did not exist I do not think at the moment the Committees would say we are going to buy this piece of land and lease it. So there is an element within it where the state is intervening – but I do not necessarily disagree with that.

160 Then you have lobbyists worrying about Best’s Brickfields on many levels. One is obviously to preserve the industrial heritage there which is identified in the report. There are other people who perhaps might see it as a strategic site for other endeavours down the line, and indeed the report acknowledges, particularly with the Longue Hougue site, that it is potentially a strategic site, going back to my argument at 3.13 on page 5:

The Committee

165 – meaning Economic Development –

recognises that Mont Crevelt/the Longue Hougue reclamation site is strategically a highly valuable site and that accommodating Category 1 businesses at that site may not represent the most appropriate use of this resource (as there are more site options for this type of business elsewhere). However, noting that Longue Hougue is zoned for heavy/specialist industrial activities, the Committee would support the use of part of this site to accommodate Category 2 businesses.

170 Of course, since this report was originally envisaged and the amendments done there have been developments. The wider economic vision has yet to be debated, but we have seen in the case one vinery in the Route Militaire area the DPA passing the use, not necessarily approved by everybody in the locality but it did fit within the category of providing additional land and of course there may and should be other sites of that nature. So we have a situation really where Economic Development are trying to resolve a problem but we do not necessarily see what the bigger strategic picture is yet with either the use of the land or the other uses the States need to put.

175 In relation to Deputy Dorey’s amendment, (**The Bailiff:** At last!) (*Laughter*) wearing my DPA hat, my planning hat, I would say I am neutral to it in that it does not necessarily materially affect the planning position or the Island Development Plan, but as a St Peter Port North Deputy it is clear that the site is controversial. Another part of the area will be developed – at one time I used to campaign for it not to be. But I am also aware that Deputy Dorey is currently Vice-President and an active and keen member of the Environment and Infrastructure Committee. I remember
180 being on a States’ Strategic Plan Group, in the States before last actually, that envisaged part of that area not necessarily being used for housing, although that might be an option, wearing my Employment and Social Security housing hat, but it ought to be used –

The Bailiff: Giving way to Deputy Oliver.

185 **Deputy Oliver:** Sir, within the IDP I thought Pitronnerie Road was actually within the light industrial clause.

Deputy Gollop: But I am coming on to that.

190 **Deputy Oliver:** So that piece of land is actually already earmarked for light industrial, so what is trying to happen is they are trying to remove it from that.

Deputy Gollop: Yes, but I raise a point here about what comes within the category of light industrial, because of course in the States' Strategic Plan there were plans, that have never quite gone away, for a purpose-built bus depot garage in the area. That would be a specialist industrial commercial use and I would perhaps like advice as to, if we approved Deputy Dorey's amendment today, whether such a facility would also be precluded along the lines Deputy Oliver has pointed out. So I think that is an area that we need further clarification on because specifically the Pitronnerie is being removed from this list but I do not believe it is being removed for the light industrial category if it is just being removed from the list to lease out to active small entrepreneurs. So the use could still remain for a bus garage or any other light industrial use, but not be part of this list that the States would actively lease out to persons or firms that came within this category. So perhaps some clarification from Deputy Parkinson and maybe HM Comptroller might assist us in this regard.

205 **The Bailiff:** Before you sit down, I have allowed you to stray into general debate so I will not allow you to speak again when we get to general debate. If there is anything more you want to say – and I cannot believe that ... (*Laughter*) Well, if there is anything more you need to say, then now is your chance.

210 **Deputy Gollop:** I would conclude by saying because of I think the agreements we made in the first year of the Assembly in working constructively with Economic Development, I do support the policy letter as a whole but reserve my right on the Dorey amendment.

215 **The Bailiff:** Deputy Kuttelwascher, is this on the amendment?

Deputy Kuttelwascher: Oh, yes.

The Bailiff: Thank you.

220 **Deputy Kuttelwascher:** Only on the amendment, sir. Very unusual, isn't it, speaking on what should be spoken upon.

I think it would expedite debate if a member of the current Committee could actually say whether they support or do not support or whether they are neutral on the amendment. And while I am standing, if one of them would like to stand up I would happy to give way if they could give us that information. They don't know – dearie me!

Thank you, sir.

The Bailiff: Deputy Tindall. (*Interjection*)

230 **Deputy Tindall:** I stood slowly, but yes, I just wanted to say that the Committee for Economic Development did meet yesterday and it was agreed that we would not be in favour of this amendment.

235 **The Bailiff:** I see no one else rising ... Deputy Inder, just in time.

Deputy Inder: Yes, sorry, thank you, sir.

240 I find some of the themes of this, about subsidy, as though it is a bad thing, but if you look at our major sectors tourism is subsidised. It has got a whole portion of Economic Development. I cannot remember what the budget is – something like was it two and a half or three million pounds a year? So that is subsidised and probably employs less than the building trades. That is not strictly true, actually, if you include all of the foreign workers here. But then retail is subsidised and finance is subsidised. Small businesses are not generally supported and so I cannot get too –

245 **Deputy Merrett:** Point of correction, please, sir.

The Bailiff: Deputy Merrett.

250 **Deputy Merrett:** If Deputy Inder could please tell us how retail is subsidised I would be greatly appreciative of that.

Deputy Inder: I wonder if Deputy Merrett could repeat that; I just did not understand what she said. *(Laughter)*

255 **The Bailiff:** Can you just repeat what you said. If you speak too close to the microphone it distorts the sound.

Deputy Merrett: Sorry, sir. If Deputy Inder could please inform the Assembly how retail is subsidised I would be greatly appreciative.

260

Deputy Inder: We had a Retail Strategy that was put together at the end of 2014 and that was put together by members of Economic Development, so there is subsidisation and support there. The point I am making is quite clear, that the – *(Interjection)* Support the fishing industry. There you go, there is another one. Anyway, I cannot get too excited about subsidisations, and to be honest with you, the people that I know that are working out there are always self-employed, they work in the worst weather, they take the greatest risk, they eat what they kill and if they do not work – *(Interjection)* Well, it is true, and if they are not working they are not knocking on the door of ESS.

270 But anyway, moving on to the actual ... Oh, I've lost my pieces of paper now! *(Interjection)* Where do we start ... Ah, right, so first off I would like to commend the Committee for bringing forward three of the sites.

The Bailiff: So you are speaking generally, or are you speaking on the amendment?

275 **Deputy Inder:** I am, sir. I will speak generally.

The Bailiff: Are you going to speak on the amendment as well?

Deputy Inder: Probably not. *(Laughter)*

280

The Bailiff: Well, if you are not going to, then can we go to the vote on the amendment.

Deputy Inder: A bit of both, sir.

285 I am going to commend the Committee for bringing forward three of the sites and it will go a long way to assist the building trades.

Deputy Dorey mentioned the original call for sites where property services were looking for sites of four acres. I think everything was north of Pitronnerie Road and the two sites that came into play that were identified were Extensions Vinery and the Pulias Vinery as well. Sensibly, the

290 Planning Department along with the DPA rejected the latter site as an option and I put in a
substantial objection to the Pulias suggestion and that was firmly rejected – so, go me.

The initial shout for the four-acre sites was a mistake, and in fact we have four now sensibly
sized sites spread over a wider area, which I think is the way we should be spreading these, across
the Island, rather than looking for large sites. I do not believe land of this sort should be tucked
up against residential properties and so I will be supporting the Dorey/Queripel amendment but I
do commend the Committee for the other three sites.

Thank you, sir.

Deputy Ferbrache: Sir, just speaking on the amendment, it is really the exchange between
Deputy Oliver and Deputy Gollop. This land is zoned for light industrial. Now, whether you could
put a bus garage on it, that might not be light industrial but it is certainly not housing.

I am surprised in the extreme by Deputy Queripel seconding this amendment, knowing all the
work that was put in by both the Committee for Economic Development and the States' Trading
Supervisory Board over a considerable period of time and discussion with him; it did not just
emerge from the ether. And because he has spoken to somebody at the Guernsey Housing
Association and Deputy Dorey, and because it is the issue of new houses, it should housing – that
is effectively what he is saying. Well, if that is the case, it is going to be a change of use. I am not
giving way to Deputy Queripel –

Deputy Laurie Queripel: Point of correction, sir, if I may.

The Bailiff: Deputy Laurie Queripel.

Deputy Laurie Queripel: I did not say anything about it should be housing. It could still
actually be used for industrial purposes, but not the kind of open compound use that is included
in this policy letter. It may well be that a warehouse could be put there and there could be noise
shielding and industrial shielding etc., but I did not say it should automatically become housing,
sir; I just said it should not be used for this kind of industrial activity.

The Bailiff: Deputy Ferbrache.

Deputy Ferbrache: I probably misled myself because of him speaking to Guernsey Housing
Association – the second word of that little title talks about 'housing', and if this site is to be used
for housing it would need a change of use. Therefore, it is zoned for light industrial, there has
been a process which Deputy Parkinson says will have the advert. Remarkably for the States of
Guernsey, it has gone co-operatively and quickly, whereby these sites are zoned for the type of
purpose and the type of activity that is welcome and needed. These people, as Deputy Inder says,
do not get very much subsidy from the States of Guernsey, unlike the finance industry, which gets
hundreds of thousands of pounds each year paid to Guernsey Finance, and unlike tourism, which
gets millions of pounds spent on it – and rightly so, both of those rightly so, let me hasten to say.
But here we have got key sites and Pitronnerie Road Industrial Estate – my goodness me, doesn't
that also give you, in the wording of that little caption, what it is about. So you have got a site
which is eminently suitable right next to an industrial estate and which is zoned for light industrial,
and yet we are thinking of not using it for this purpose. My goodness me.

The Bailiff: Deputy Roffey.

Deputy Roffey: Thank you, sir. I have a brief couple of words on this issue of Pitronnerie Road
and I will also make my brief comments generally as well to save time.

Following on from Deputy Ferbrache, I think there is a huge difference between a possible
extension of the Pitronnerie Road industrial estate with similar sorts of activities which by and

large are taking place inside sheds and are clean for the external environment and with which I have no problem. I do not want to rezone this, I do not want to zone it for housing, I am happy that it is available for light industry; however, I do very much take Deputy Dorey's point that some of the activities that have been suggested that we make land available for, which is open storage, where often they are very dusty and dirty activities, which we absolutely must find land for and I completely agree with that ... I am not convinced. And I thank Deputy Dorey for stopping me up short, because I had not reflected on it but he has made us reflect and I actually think this is not the ideal site for that use. In voting for the amendment I am in no way trying to expunge this area as a site for appropriate light industrial activity that will fit neatly next to a residential zone. I have no problem with that at all, so I think we are conflating two totally different things.

On the general policy letter I cannot allow Deputy Ferbrache alone to have a reputation for unremitting negativity, so I am going to try and introduce a degree of my own here. I agree with Deputy Parkinson that it is a success story, it has moved quickly and it has done what we asked. They have done what we asked them to do. I do not think it will make the moans and groans of those looking for this sort of site disappear because they were moaning and groaning about two different things, availability and affordability, and I actually think it was probably the latter that was the main ... Very few of them were saying there is nowhere in Guernsey – some of them were, but not many of them were saying there is nowhere in Guernsey we can relocate; most of them were saying there is nowhere *affordable* in Guernsey that we can relocate.

The policy of using commercial rents is absolutely right and Deputy Inder is absolutely wrong because he is confusing two things. If we want to subsidise a whole industry on an equal basis with all of the players of that industry, fine, but if we are going to provide subsidised land for industrial use we had better make room for all of the players in that field, because if we subsidise some of them while others are out in the commercial world actually having to pay the full market rate, we are skewing competition and that is just not acceptable. We do not have room to provide for every industrial use, so we have to do it on a commercial basis.

I applaud this policy letter and will support it as amended, allowing three sites to be used, although my neighbour and I both agree that if we are going to keep the really dirty use away from the housing at Pitronnerie Road then probably it is Brickfield, the northern end of it, which is also next to housing, which the Planning and Development Authority should have some regard to, to make sure that it steps back from that.

I applaud it and I think it will make more land available, but do not expect the moans and groans to stop. When we tell everybody they have to get off the Fontaine Vinery and 'Here you are, here is Griffith's Yard,' we will be hearing, 'Yes, but what you are asking for it is too expensive.' So it is a step in the right direction but the root problem is that our land has a great value in Guernsey. It is scarce, there is a great demand for it and therefore it is expensive and people expect a return on it, and if we are going to match that return, which we should on behalf of the taxpayer, we have not solved the problem. But we are doing what we can and I applaud Deputy Parkinson and the previous team under Deputy Ferbrache for getting us to this stage.

The Bailiff: Deputy Le Clerc.

Deputy Le Clerc: Thank you, sir. Deputy Roffey has almost said exactly what I would have wanted to have said.

I do thank Deputy Dorey for bringing this to the Assembly's attention because it had gone under my radar. My Committee work very closely with the GHA to look at sites available for affordable housing. We already think that the area around the Bouet, Pitronnerie Road is already overpopulated with social housing, so we would not be looking for this site to be used for social housing in the future. However, I do agree with many of the concerns that have already been raised that putting open lock-up-and-leave sites next to social housing is not correct and it is not right. Many of these businesses will be working very early hours of the morning. There will be young families and older people living in those houses adjacent to that site. When I first thought

of this I thought it was going to be more of the warehouse-type buildings that we have already got on the Pitronnerie Road. I do not believe anywhere else on the Pitronnerie Road site there is this open land for scaffolding poles and builder's rubble.

I thank Deputy Dorey for bringing this amendment. I will be supporting the amendment and I ask other Members to do so.

Deputy Mooney: Sorry, a point of correction, sir.

The Bailiff: Deputy Mooney.

Deputy Mooney: There is already one of the largest scaffolding companies on Pitronnerie Road: SGB.

The Bailiff: Deputy Le Clerc, that was a point of correction, so you can reply to that if you wish to do so.

Deputy Le Clerc: Sir, thank you. I have got nothing more to say.

The Bailiff: Deputy Lester Queripel.

Deputy Lester Queripel: Sir, I am going to support the amendment. Using the Pitronnerie Road site will result in a lot more traffic in Pitronnerie Road and the Bouet area, which will cause even more congestion in an area that is already prone to congestion, whereas in the other areas, particularly Griffith's Yard, being in an easily accessible area where the roads are a lot wider, entering and exiting will not be a problem. So why have an area on the list when we have far more suitable sites available?

Thank you, sir.

The Bailiff: Deputy Merrett.

Deputy Merrett: Thank you, sir.

As a member of the Committee that has brought this originally to the Assembly, I cannot recall having any concerns raised to the Committee of the Frontier Road at all at any stage. It has also been in the public domain now for over three months.

What I would say though is if Members are concerned about being near housing, I think it should not just be social housing, it should be any housing, then they should consider reflection on Longue Hougue South, because think of the residents of Richmond Court. There is going to be more traffic. If the wind is blowing in the wrong direction, potentially those houses could be affected. We live on an Island and we only have a certain amount of land mass. At the end of the day there are people living in most areas, so I hope to think that the Members who are supporting this amendment will also have due consideration for the densely populated parish of St Sampson's, which has Longue Hougue South and which has got five and a half times the amount of land above Fontaine Vinery and can certainly have the location of these sites in this area. But please also think of those houses and those people. Unfortunately, it does have to go somewhere. Longue Hougue South does seem the obvious choice, but obviously there is also housing and it is a densely populated parish.

Thank you, sir.

The Bailiff: Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

445 I think it may assist if Deputy Parkinson or Deputy Dorey when they speak could advise the States what proportion of the total land in question is at Pitronnerie Road. I think Deputy Dorey did give some numbers when he spoke, but I do not think he quite put into perspective ... I do not know what the answer is. I think that the total area of land at Pitronnerie Road is actually quite a small proportion of the total area that we are discussing. So I would just be interested in knowing whether it is in percentage terms or if Deputy Parkinson or Dorey are able to provide some sort of descriptive advice on how large the Pitronnerie Road land is as a percentage perhaps of the total space of the four areas of land in question.

Thank you, sir.

The Bailiff: Deputy Dudley-Owen.

455

Deputy Dudley-Owen: I rose without thinking too much, but I am a little bit frustrated personally at the speed at which this amendment has been brought, not giving Members the time to be able to have a proper look at the maps. It is a shame that the author of the amendment ... Obviously their attention was diverted by other matters and they did not bring it in time. If Members had had the time to be able to look at maps and to be able to look at the proximity of other yards as well to housing, they would be able to see that the Pitronnerie Road site is not alone in being close to housing. As Deputy Merrett has already stated, we live on an Island; we live cheek by jowl with business alongside housing. It is a fact and we cannot get away from that. The policy letter has been out in the public domain for quite some time now. No representations were made previously. All I can say is it is a shame that it was not brought sooner, because if Members were able to look at the Google maps – I am sure there are others (*online maps*) available – they would be able to see the proximity of this alongside other parcels of land that have been earmarked towards housing.

460

465

Thank you.

470

The Bailiff: Deputy Leadbeater.

Deputy Leadbeater: Thank you, sir.

I am going to support this amendment – not that I do not think that Pitronnerie Road should be housing; I think it should be for industrial purposes but similar to the industrial activities that are going on in that area at this point. It has been mentioned by other Members, I think – the closed warehouse-type storage facilities, rather than open yards and the scaffolders slinging 21-foot poles around at seven o'clock in the morning is not ideal when you have got social housing right next door.

475

480 I will expand a bit further on the policy letter during general debate, but I would urge Members to support the amendment.

The Bailiff: Deputy Parkinson, do you wish to speak before Deputy Dorey replies?

485 **Deputy Parkinson:** Yes, sir.

As Deputy Dawn Tindall has mentioned, our Committee did meet briefly last night to discuss this amendment, which was presented very late yesterday afternoon, and we agreed we would not support it but effectively that we would not die in a ditch over it.

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Deputy Dorey says we do not need this site for storage or light industrial purposes and that is broadly true for the purposes of dealing with the Fontaine Vinery problem. Deputy Fallaize asked for what percentage of the area is this site, and I cannot honestly give him an answer. I think Deputy Dorey said it was 1.88 acres – is that right? So it is a small but not insignificant piece of land which sits in an area zoned under the IDP for industrial use; it is an industrial land reserve. My view is that 99% of the points that have been raised so far in debate are issues that would be dealt with at planning. If somebody puts in an application to use that land for any purpose consistent

with its IDP zoning, then the details of that planning application will be considered and the rush to assume in this Assembly what will be allowed to go on there is open storage or scaffolding yards or stone breaking activities is simply jumping the gun. There is nothing at all in this policy letter or anywhere else that says that the activities that go on that are permitted on this site may be required to be enclosed in a shed. That is simply a planning matter which would be dealt with at the time. It is therefore very odd, in fact, to have an amendment moved by the Vice-President of Environment and Infrastructure, and apparently supported by the President of the DPA, which is seeking to undermine the IDP and to throw a spanner in the works of the planning process. I simply do not understand it.

As I said, we do not need this land to solve this specific problem, so we are not going to die in a ditch over it, but on the other hand I cannot support the amendment because it casts a shadow over this valuable piece of States-owned land. Everybody is always going around saying we do not do enough for industry and we do not do enough to support the real economy in Guernsey, and here is a piece of land which is zoned for industrial purposes, which at some point in the future the States will, I am sure, make use of or want to make use of for industrial purposes, and I think passing this amendment will just cast a long shadow over what might eventually happen with this land and may result, in fact, in the land sitting there redundant doing nothing for many more years. I give way to Deputy Roffey.

Deputy Roffey: Thank you.

Sir, Deputy Parkinson says there is nothing in the policy letter that suggests that it is likely to be neighbours that might be dirty or antisocial. Can I refer him to paragraph 3.8 of the policy letter. Paragraph 3.8, for those who are listening on the radio, says:

The Committee considers that it is less likely that premises suitable for Category 2 businesses will become available through market forces owing to the particular operating requirements of these businesses, planning restrictions in view of the high impact of these operations on neighbouring uses ... and the limited availability of suitable sites. The Committee would therefore also support making available premises suitable for these types of business.

Well, we would.

The Bailiff: Deputy Merrett.

Deputy Merrett: Thank you, sir.

We also refer Deputy Parkinson to 6.1, where it says:

The STSB estimated that if the sites in States ownership were developed sequentially as demand dictates ...

Thank you.

Deputy Parkinson: Well, indeed, and I thank Deputy Merrett for that intervention. There is no intention on the part of either STSB or Economic Development that these four sites be immediately developed for light industrial or storage uses. At the moment, all the demand that we need to satisfy can be satisfied on the Griffith's Yard site.

So I come –

The Bailiff: Giving way to Deputy Inder

Deputy Inder: Thank you for giving way.

I am just wondering ... Deputy Dudley-Owen mentioned that there is no residential ... She made some comparison between the yards and the residential and it is really quite a simple question: would Deputy Parkinson be happy with a rack of scaffolding 20 feet from his bedroom window? (*Interjection*)

540

Deputy Parkinson: Sir, I think I can do no more than repeat that any use of this land will be regulated by the planning process and when anyone applies to use the land for any purposes neighbours will have the right to object and their interests will be taken into consideration through the planning process.

545 This is not the time to be discussing what limits might be put on the use of the land. The land is zoned in the IDP as an industrial land reserve. That policy has been approved by this Assembly and every Member in it and the land therefore, in my opinion, until somebody chooses to amend the IDP, should be regarded as held for industrial purposes.

550 Sir, I do not really think I need to spend an awful lot more on this. I have answered in general terms most of the speakers who have spoken in the debate.

The Bailiff: You are only required to reply on the amendment.

555 **Deputy Parkinson:** Yes, absolutely, thank you, on the amendment, sir. I think I will just leave it there. I am not going to support this because it, in my view, casts an unnecessary shadow over a piece of land that we are not proposing to use immediately for industrial or storage uses and so I will leave it there, sir.

The Bailiff: Deputy Dorey.

560

Deputy Dorey: Thank you, sir.

Thank you to those who have spoken in favour of the amendment. Deputy Queripel, my seconder, started and he said on balance there are sufficient alternative sites, and I think that is the key thing: we do not need to use this site, and I will come back to that.

565 Deputy Fallaize asked about the proportion. If you take the Longue Hougue site four acres it is potentially larger than that. There is a total of 11.6 acres, so this is 1.8 acres of that, which is roughly 15%. But the original Proposition was to identify four acres and there are 11.6 acres identified, so there is more than sufficient space.

570 Deputy Gollop spoke about the bus garage. This would not exclude the use for the bus garage. It is just removing it from the resolution in Proposition 2, which is to make available the sites for the use of basic open yards or land for heavy industrial purposes. That is all we are doing. We are not stopping it for us as a bus garage or any other light industrial use. As Deputy Inder said, it is tucked up right next to a residential site and for these particular industrial uses it is totally inappropriate.

575 People have mentioned about housing. Well, I was on the housing when we originally decided that we did not need this area of land for housing and it was going to be used for industrial in order to not have such a high density of development in that area. Deputy Le Clerc has mentioned that as well. There is enough alternative space. This is different to an industrial estate, as Deputy Roffey has said. This is potentially dusty and dirty usage, which is just totally inappropriate and I do not think this Assembly should be giving a direction to make use of this site for these purposes.

580 I think a number of points have been repeated by different speakers, so I will not repeat my comments in relation to them, but in relation to Deputy Parkinson, this is not jumping the gun, this is not undermining the IDP; this site will remain zoned for light industrial and the warehousing I think will be a totally appropriate use for that site, but what it is doing is stopping this Assembly giving a particular direction to make this particular site available. I emphasise that it is for basic open ... The Proposition directs the States' Trading Supervisory Board to make available any of the areas of land listed in Proposition 1, which include Pitronnerie Road, for 'basic open yard facilities for the purposes of open storage of plant, materials, and equipment principally for the construction industry' and 'land for heavy industrial purposes'. Those are totally inappropriate for this site and I urge Members to support this amendment and remove that site from that list.

590

Thank you.

The Bailiff: We vote, then, on the amendment proposed by Deputy Dorey, seconded by –

595 **Deputy Dorey:** A recorded vote, please, sir.

The Bailiff: – Deputy Laurie Queripel, and there will be a recorded vote.

There was a recorded vote.

Not carried – Pour 20, Contre 17, Ne vote pas 0, Absent 1

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

600 **The Bailiff:** The voting on the amendment proposed by Deputy Dorey and seconded by Deputy Laurie Queripel was 20 in favour, 17 against. I declare it carried.

We will go into general debate for those who have not spoken in general debate. Deputy de Lisle.

605 **Deputy de Lisle:** Thank you, sir.

Turning to the policy letter itself, as a body I believe that we should welcome this policy letter and its recommendation that the States should facilitate for industrial and storage purposes the use of States' land to provide basic open yard facilities for the purpose of open storage of plant, material and equipment for the construction industry and land for heavy industrial purposes.

610 Sir, we have gone through years, as you will recall, or argument between Environment and Commerce & Employment on the need or otherwise for providing States' land for industrial purposes with respect to these industrial uses. In 2006, following the planning inspector's recommendations on Belgrave housing target area outline planning brief, the two Departments, Commerce & Employment and Environment, supported through a joint policy statement on land for industry a policy to allow industrial uses requiring no permanent infrastructure to use part of the Belgrave area on an interim basis. So this was to be temporary, but that temporary has been consistently renewed and renewed over time since 2005-06 and this has led to frustrations, not only from the businesses themselves having to renew all the time but from neighbours also and of course the Douzaine overlooking the site at the Vinery area. One can also argue that the conditions there are cramped to say the least, there is no cover for working and there is a waiting list of firms still for a location on the Fontaine Vinery site.

620 So I think, sir, all in all it is time for longer-term measures to make sites available but on commercial terms through the auspices of the States with no form of subsidy. It is something we

can look at again in five years' time if there is a concern of competition with private land. But it has been very difficult to release the private land that is around for this purpose in the past.

625 So I call on Members to support this policy letter, sir, and we can be done with this particular problem that has been before this Assembly for many years. Thank you, sir.

The Bailiff: Deputy Stephens.

630 **Deputy Stephens:** Thank you, sir.

Although I voted for the last amendment, I am very much in favour of using States' land as this report suggests. Deputies Gollop, Parkinson and Inder have all referred to a private site on Route Militaire and from my perspective as a close observer of the process to bring this site forward for use I want to make a few points.

635 Firstly, many of the arguments against the use of the Pitronnerie Road site have been raised by residents on the perimeter of the extension Vinery and in my view those objections have very little effect on the change of use decision. Despite much effort I really do not think that the process of identifying private sites has been hugely productive to date, and for me that is a strong indication that States' land should be made available to the Fontaine Vinery tenants. Also I am not convinced
640 by the optimism of 3.15 in the report regarding recent planning applications for private sites coming to full approval and use, although a five-year review will indeed demonstrate how successful the private route to gaining sites has been. The one site that has change of use permission at present – and this process began, to my recollection, in 2017 and not 2018 – still has planning conditions outstanding yet to be met and it is not being used by tenants, so I am
645 absolutely sure that a pragmatic response to the express needs of small businesses is needed and I support this amended report.

Thank you, sir.

The Bailiff: Deputy Brehaut.

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

I just wanted to challenge something perhaps that is the context of this because there is an assumption always that all business is good business, and on occasions that is not the case. Some businesses are noisy businesses, some businesses do not pay their States' insurance, some
655 businesses do not pay tax and some businesses are extremely well known to the Health and Safety Executive on the Island, and I think if we are providing States' land for all businesses that we perceive need assistance we do need to vet some businesses that would benefit from the provision of that land.

660 It has also been stated that the tourist industry and the finance get enormous subsidies and of course the building industry does not. That is not quite true. If you look at some of the people who have been claiming what used to be Parochial Assistance, if you look at people who need wage top-ups and people after a 40-hour week who still cannot afford to keep themselves and their families, they are working in semi-skilled and unskilled positions usually within construction and building and I think we need to bear that in mind where there are hidden subsidies and
665 where organisations and businesses get assistance.

Deputy Leadbeater: Point of correction, sir.

The Bailiff: Deputy Leadbeater.

670 **Deputy Brehaut:** I will give way.

Deputy Leadbeater: I do not believe that individual subsidies for Income Support is actually subsidising the industry itself.

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

Deputy Brehaut: No, I disagree, as not all businesses are good businesses. If you are going into business and you realise that the only way you can sustain your personal income and live the lifestyle you want to live and be self-employed but you cannot afford to pay the people who are working for you a good living wage, I think you need to look at that business model again. Not all business is good business. If people are going into business and have a model that relies on Income Support for that business model, I suggest they take a good long look in the mirror and I have no issue with raising that.

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685 I did not speak on the amendment, sir, but I did vote in favour of the amendment because social housing has made great strides in recent years if we look at the quality of the build and we look at GHA and what the Housing Authority or Housing Department have built of late. I think there were risks. Having open yards so close to high-density social housing, as we know, in the past has never proved to be that productive.

690 I do support this report, sir, but I think we should not be too timid in looking at some of the companies that may be seeking to make use of this land.

The Bailiff: Deputy Tindall.

Deputy Tindall: Thank you, sir.

695 I just really wanted to rise to confirm detail that was raised by Deputy Stephens. Just for information purposes, the application for small-scale storage or industrial use of a redundant glasshouse site outside the centres under the Island Development Plan policy OC7 as of 11th January this year are one refused, two approved and three pending. Thank you.

700 **The Bailiff:** Deputy Parkinson, do you wish to reply?

Deputy Parkinson: Sir, I do not think there is anything I need to respond to, so I would just urge Members to support the Propositions.

705 **The Bailiff:** Yes, Members, I remind you there are four Propositions, the second one of which has been amended as a result of the successful Deputy Dorey, Deputy Laurie Queripel amendment. Unless anyone requests otherwise, I will put all four to you together. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare them carried.

STATES' TRADING SUPERVISORY BOARD

VII. Merchant Shipping – Introduction of New Commercial Vessels Code and Consequent Minor Legislative Amendments – Propositions carried

Article VII.

The States are asked to decide:

Whether, after consideration of the policy letter entitled 'Merchant Shipping – Introduction of New Commercial Vessels Code and Consequent Minor Legislative Amendments', they are of the opinion:

1. To note the intention of the States' Trading Supervisory Board to issue a Small Commercial Vessels Code governing construction standards, crew licencing, operating limits and other related matters under regulations to be made under the Merchant Shipping (Bailiwick of Guernsey) Law, 2002.
2. To agree to the amendment, repeal or suspension (as appropriate) of such legislative provisions as is necessary to facilitate the introduction of such a Code.
3. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

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The Deputy Greffier: Article VII, States' Trading Supervisory Board, Merchant Shipping – Introduction of New Commercial Vessels Code and Consequent Minor Legislative Amendments.

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The Bailiff: Deputy Parkinson, as President of the States' Trading Supervisory Board.

Deputy Parkinson: Thank you, sir.

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This States' report is seeking Members' approval for the amendment and repeal of a small number of outdated legislative provisions. My Board wishes to undertake this tidying up exercise to allow for the issue of a new Small Commercial Vessels Code to be made under regulations which will better regulate and assist local operators of those vessels.

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The proposed Code is based on existing similar codes enforced in other jurisdictions and will establish in one document a single reference point that will contain detailed provisions in respect of construction standards, crew licensing, operating limits and related matters to apply throughout the Bailiwick. This will be a major step change in this area providing local operators with a modern regulatory regime that reflects the best of current practice while ensuring it remains appropriate and proportionate for domestic waters. The Code and its parent regulations will also be easily amendable, making it easy to ensure that standards in this area remain current as demands and expectations change over time.

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The Harbourmaster has undertaken two extensive consultations on the draft Code which the Board is now ready to issue with its appropriate regulations under the Merchant Shipping (Bailiwick of Guernsey) Law, 2002. The first consultation on the Code took place in December 2016 and sought views from the professional mariners and operators of small commercial vessels operating within the Bailiwick. A strong response was received to that initial consultation from 45 consultees. This feedback was carefully assessed and reviewed. A revised draft Code was then reissued for a second round of consultation over the summer. Only six feedback responses were received as a result of the second round of consultation and none of that feedback was considered sufficiently substantive to introduce further changes to the draft Code.

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Since lodging the States' report, the States of Alderney General Services Committee have only recently reported that Alderney wishes to remain independent of the Code and as such will not be included in any changes. I confirm that the Harbours and Shipping Committee of the Government of Sark remains supportive of the proposal.

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Guernsey Harbours had hoped to be able to introduce the new Code in January; however, this target was missed largely as the consultation process on that first draft of the Code took longer than anticipated. Guernsey Harbours has worked carefully through the detailed comments received, including feedback from the UK's Maritime and Coastguard Agency, and the Board is of the firm view that taking proper account of the consultation responses in respect of this substantial and important piece of work was vital and has achieved an appropriate and proportionate resulting document. It is expected that the Code will be issued in the first half of this year.

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The resolutions then for you to consider are: (1) to note our intention to issue a Small Commercial Vessels Code; (2) to agree to the amendment, repeal or suspension of legislation provisions to facilitate the introduction of that Code; and (3) to direct the preparation of

legislation necessary to implement those decisions. I can confirm that the Propositions as laid out in your Billet have secured the unanimous support of my Board.

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The Bailiff: Deputy Green.

Deputy Paint: Sir, first of all I should declare an interest in this because I was a Member asked by some of the small boat owners to discuss the item with the Harbourmaster. This is going back a year or so ago.

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What you have before you in fact is an English code that has been amended and 'Guernseyfied' by the process of consultation with stakeholders, as you have already heard. It has not been an easy route to follow. Many believe that it is unnecessary – and I am not talking about Government, I am talking about boat owners – and that the piece of work when implemented will be detrimental to many small vessels' chartering operations. For example, a small vessel taking fishing parties out may have only two anglers on board. That is a worry, because in that particular charter it may have to carry an extra crew and that would make it unviable for the small boat owners to actually go to sea – they would be losing money. That is a worry I have got because it is small business gone for small boat owners.

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As you have already heard, the States of Alderney do not want anything to do with it and I also understand that Jersey does not want to implement any sort of legislation like this, so I feel that I cannot vote for this but I will leave it to the Assembly to decide that.

Thank you, sir.

775

The Bailiff: Deputy Leadbeater.

Deputy Leadbeater: Thank you, sir.

I would just like to totally echo the words of Deputy Barry Paint. I feel this is totally unnecessary and I feel it can have and will have a detrimental effect on some of the smaller commercial fisheries operators that we have in Guernsey, so I will not be supporting it.

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The Bailiff: Deputy Oliver.

Deputy Oliver: I would just like to echo what Deputy Paint said as well, but I think the bigger problem with this Code is it is actually putting our commercial shipping, the small vessels, at a disadvantage to Jersey and I just feel that it is actually unfair. The majority of the vessels that I have had representation from are not happy with this Code, so I will not be voting for this.

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The Bailiff: Deputy Ferbrache.

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Deputy Ferbrache: Sir, I am adding to the Deputy Paint list of people who are going to oppose it, unless Deputy Parkinson can tell me why we should put ourselves at a disadvantage to Jersey and why we should be doing something adverse to the small industries.

Unlike Deputy Brehaut's last debate, most people who employ people are good, most businesses are honourable and most people do their best with their employees, so Deputy Paint's point about small businesses being perhaps put out of business – that is really what I think he has said to us – is a matter of great concern to me, so I would be interested in Deputy Parkinson's response if he could say why we need to be different, as is explained by Deputy Paint, to Jersey.

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The Bailiff: Deputy Inder.

Deputy Inder: Very similar to the last four or five speakers, sir. In 2.3 it states:

The Jersey Maritime Administration have also had sight of the Code and are considering the merits of adopting the Code to enable a Channel Island Code to be in operation.

I do not see any reason why we should go first, putting us potentially at a disadvantage. It is not clear to me how Alderney have got a get-out-of-jail-free card either, sir.

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The Bailiff: Deputy Gollop.

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Deputy Gollop: Sir, I sit on Employment & Social Security and I like going to the health and safety breakfasts and things that are held from time to time when we have increasingly emphasis on the need to update health and safety, and indeed have been impressed at the number of guys particularly who go at 7.30 in the morning to these talks. The next one is in the evening, on drones, funnily enough.

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With regard to this, it does not exactly explain in detail, beyond the obvious point that maybe our laws are outdated, as to why we need to update, and I would like to hear, in view of the quality of the previous speakers, views from Deputy Parkinson as to why Alderney has decided, after having been consulted, not to adopt it at this stage.

The Bailiff: Deputy Kuttelwascher.

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Deputy Kuttelwascher: Sir, I will not be supporting this. It is just another example of the States being asked to create an obstacle to economic development. (**A Member:** Hear, hear.) Very small scale, I know, but it still is and we have been doing this quite a lot over the last couple of years. (**A Member:** Hear, hear.) My view is we should be removing obstacles or at least mitigating them, so I cannot support this and it is not necessary.

825

Thank you.

The Bailiff: Deputy Tindall.

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Deputy Tindall: Thank you, sir.

Having read the policy letter, I initially felt that there was nothing that was so untoward as has been raised this morning, in particular the information about Alderney and Jersey, and I would seek confirmation whether or not this can be withdrawn and further information provided to the Assembly so that we can make a fully informed decision.

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Thank you, sir.

The Bailiff: Deputy Roffey.

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Deputy Roffey: I am torn, sir, because I do not want to be over-bureaucratic and I do not want to be at a disadvantage to Jersey, but I also notice this Code is going to be applied to small commercial vessels. 'Commercial' suggests that people are going to be paying for the use of those vessels and I think that some type of basic enforcement of standards so that people paying as a customer to make use of a commercial service is entirely appropriate. I think there need to be some base standards. I think if cowboys were allowed to operate commercial vessels it would worry me.

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Whether or not what is being proposed is proportional I do not really know; I have not been through this Code, I have not been a consultee. I give way.

The Bailiff: Deputy Leadbeater.

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Deputy Leadbeater: I thank Deputy Roffey for giving way.

This is not small commercial vessels, it is purely not fishing trips; it is other commercial activities where there are some operations who will have to employ extra crew, which would make that business unviable.

855 **Deputy Roffey:** As I was saying, sir, proportionality is important, but I am not sure we get proportionality either by going over the top or by having no code of best practice at all.

What are we being asked to approve today? We are being asked to note the intention to do this. Well, I do not think I can vote against noting the intention because if that is what they intend to do me not noting it is not going to make any difference. What I am not clear on is whether the
860 legislation that we are being asked to agree comes back will actually spell out the Code and therefore allow us to adjust it if representations are made to us that it is OTT in some way, or is that just made somewhere in private that we never actually get to endorse or amend and the legislation just being a few lines enabling it. So maybe I have missed something, but I would be grateful to Deputy Parkinson if he can explain the process going forward because I do not want to
865 put a rubber stamp on something that may be over the top and may suppress legitimate economic activity in what is a maritime area where we want people to enjoy the sea, but I also do not want to be some type of ... going back to the 18th century where we are saying that people should just be able to do what they want, taking money from people to do things without actually guaranteeing a degree or level of safety and services.

870 So, what I want to know from Deputy Parkinson is if we vote for this today, what happens going forward and will this Assembly have any ability to influence or change what will be in the final wording of the Code when it is embodied in law.

The Bailiff: Deputy Parkinson to reply.

875 **Deputy Parkinson:** Well, sir, basically what we are asking the Assembly to do today is to make some amendments to the pre-existing regulations, which go back 30 years, to enable a new Code to be introduced. This has been widely consulted upon. The industry has had two opportunities to input into that process and a number of issues that were raised in the first round of consultation were dealt with and excited no response in the second round of consultation, so I do not think
880 what is proposed is particularly controversial in terms of the industry.

Members have asked whether it would place Guernsey at a competitive disadvantage and why are Alderney not signing up to it. Well, Alderney evidently want to have their own code – I am not quite sure what they expect to put into that.

885 I draw Members' attention to paragraph 2.3 of this report:

The Jersey Maritime Administration have also had sight of the Code and are considering the merits of adopting the Code to enable a Channel Island Code to be in operation.

I cannot tell you that we are going to have a Channel Islands code but Jersey at least is amenable to the concept of having one code operating across Jersey, Guernsey and Sark, so that would possibly simplify things for vessels that operate in two sets of waters.

890 I do not see this as a competition issue. It is a matter of updating regulations which are 30 years old and which are in some respects out of date. The draft regulations that it is proposed to introduce to update the outdated legislation have been widely consulted upon and have been broadly accepted. I do not understand why Members of this Assembly find this so very controversial, so I would urge Members to support the Propositions and allow this work to proceed.

895 **The Bailiff:** There are three Propositions. I put all three to you together with a recorded vote on Propositions 1, 2 and 3.

There was a recorded vote.

Carried – Pour 22, Contre 13, Ne vote pas 2, Absent 1

POUR

Deputy Brouard
Deputy Yerby
Deputy de Lisle
Deputy Langlois
Deputy Soulsby
Deputy de Sausmarez
Deputy Roffey
Deputy Tindall
Deputy Brehaut
Deputy Tooley
Deputy Parkinson
Deputy Le Clerc
Deputy Trott
Deputy St Pier
Deputy Stephens
Deputy Fallaize
Deputy Lowe
Deputy Smithies
Deputy Hansmann Rouxel
Deputy Graham
Deputy Green
Deputy Dorey

CONTRE

Deputy Oliver
Deputy Ferbrache
Deputy Kuttelwascher
Deputy Gollop
Deputy Lester Queripel
Deputy Leadbeater
Deputy Mooney
Deputy Le Pelley
Deputy Merrett
Deputy Inder
Deputy Laurie Queripel
Deputy Paint
Deputy Meerveld

NE VOTE PAS

Deputy Dudley-Owen
Deputy Prow

ABSENT

Deputy Le Tocq
Alderney Rep. Jean
Alderney Rep. McKinley

900 **The Bailiff:** The voting on the policy letter from the States' Trading Supervisory Board on Merchant Shipping – Introduction of New Commercial Vessels Code and Consequent Minor Legislative Amendments was 22 in favour, 13 against, with 2 abstentions. I declare those Propositions carried.

COMMITTEE FOR HOME AFFAIRS

**XI. Amendments to Criminal Justice Legislation
in respect of Money Laundering and Terrorist Financing –
Propositions carried**

Article XI.

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 11th December, 2017, of the Committee for Home Affairs, they are of the opinion to endorse the policy approaches set out in the Policy Letter:

- 1. to agree to amend the regulation making powers of the Committee under the Disclosure (Bailiwick of Guernsey) Law, 2007 and the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 to include the power to identify the type of reports which trigger the information –gathering powers of the Financial Intelligence Service, and the power to put in place protection against claims of breach of confidence for any reports made to the Financial Intelligence Service that would not be covered by the existing breach of confidence provisions in those Law;*
- 2. to agree to amend the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 to*
 - a. include specific terrorist financing offences in respect of terrorist fighters and ransom payments;*
 - b. replace the current definition of proscribed organisations with a definition which expressly incorporates the list of proscribed organisations under the Terrorism Act 2000 by way of ambulatory reference;*

c. replace the current definition of cash with a definition which expressly incorporates the definition of cash in the Cash Controls (Bailiwick of Guernsey) Law, 200 by way of ambulatory reference;

3. to agree to amend the Terrorist Asset-Freezing (Bailiwick of Guernsey) Law, 2011 to extend ambulatory references to all relevant EU lists;

4. to agree to amend the definition of cash in the Cash Controls (Bailiwick of Guernsey) Law, 2007 to make provision for recent innovations in the storing and transfer of asset; and

5. to direct the preparation of such legislation as may be necessary to give effect the foregoing, including any necessary consequential and incidental provision.

905 **The Deputy Greffier:** Article XI. Committee *for* Home Affairs. Amendments to Criminal Justice Legislation in respect of Money Laundering and Terrorist Financing.

The Bailiff: The debate will be opened by the President, Deputy Lowe.

Deputy Lowe: Thank you, sir.

910 The policy letter recommends some amendments to the criminal justice legislation in respect of money laundering and terrorist financing. HM Comptroller has advised the Committee on the content of this policy letter and I thank him.

915 The amendments relate to the information-gathering powers available to the Financial Intelligence Service, a division of the Guernsey Border Agency, in support of investigations that they undertake. They also include some technical changes to definitions in respect of terrorism, terrorist asset freezing and the definition of cash for the purposes of cross-border declarations and the powers of seizure and confiscation. Except for the amendment to the Civil Forfeiture Law, all these amendments may be made by ordinance.

920 Sir, the Committee *for* Home Affairs unanimously asks the States to agree these proposals.

The Bailiff: Deputy Tindall.

Deputy Tindall: Thank you, sir.

925 As this Assembly is aware, I am a supporter of the Bailiwick following international standards but I wish to focus on the recommendation by Mme Procureur supported by the Committee *for* Home Affairs at Proposition 2a. This Proposition states:

2. to agree to amend the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 to
 - a. include specific terrorist financing offences in respect of terrorist fighters and ransom payments;

930 I am reliably informed that we have the largest captive insurance industry in the world and provide what is known as kidnap and ransom insurance. This policy letter is proposing we follow the UK and Jersey's approach to the Financial Action Task Force (FATF) recommendation on tackling the financing of terrorism. However, it is unclear to me how these specific changes fit in with those recommendations. I would first ask for further clarification, either from the President of the Committee *for* Home Affairs, the Policy & Resources Committee or HM Comptroller in the absence of HM Procureur, on why there is a need to introduce this now, as mentioned at page 6, and how this complies with FATF's recommendations. Secondly, the UK and Jersey do not have

935 the same captive insurance industry, and so can we really say, as HM Procureur says at page 7, that they are comparable jurisdictions? So why are we doing this and doing so now?

940 Having noted there has been consultation with the Guernsey Border Agency and the States' Director of Financial Crime Policy but no others, I note we are not advised of any consultation undertaken on these proposals with our captive insurers who do provide kidnap and ransom insurance. So, sir, I would therefore like the reassurance that these are indeed proportionate and appropriate changes to our legislation properly reflecting the requirements imposed internationally and suitable consultation has been undertaken.

Thank you, sir.

The Bailiff: Deputy Prow.

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Deputy Prow: Thank you, Mr Bailiff.

Sir, I rise in support of the five Propositions as outlined on page 10 of the policy letter as laid before us.

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May I start by drawing attention to the excellent and recent Guernsey Finance Industry update held in a packed St James. In particular, I refer to the upbeat and positive presentation from the Chief Executive of Guernsey Finance where he was promoting the need to attract new business as crucial to the finance industry. In doing this, he said:

We need to maintain our position in the mainstream of international standards with regard to tax transparency, regulation and clean money and for our reputation for excellence in service delivery.

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Sir, in the keynote speech the Chief Executive of City UK entirely endorsed those comments and highlighted the need to be in the top tier of well-regulated and international compliant jurisdictions. Furthermore, in the presentation I heard it was made abundantly clear that whilst we are just that we must not be complacent, as we receive very unfair and inaccurate criticism despite our jurisdiction being recognised as meeting the very best international standards. Sir, this is whether we are talking about tax transparency, information exchange or anti-money laundering and combatting terrorism financing.

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Sadly, we must at every opportunity remind our detractors of the real tangible evidence of our outstanding achievements. I should therefore applaud Deputy Trott for recently doing just that, albeit tucked away on page 4 of *The Guernsey Press* – not his fault. This was a response to a politically motivated attack from an organisation I will not name, as I do not want to give them any credibility in this Assembly. He was right to highlight that Guernsey should be praised for its achievements with regard to meeting the standards of information exchange with law enforcement agencies, which is part of the paper before you, and tax transparency. Recently in this Assembly I, along with other Deputies, made reference to Deputy St Pier's robust challenge regarding the stolen papers referred to in the media as the so-called Paradise Papers by going on the front foot in international media to point out our real record in international standards.

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Sir, as the President of Home Affairs has outlined, it is necessary to extend the information-gathering powers of the Financial Intelligence Service. The ability of the FIS to obtain information is likely to come under intense scrutiny by the UK and other jurisdictions as part of the forthcoming review of beneficial ownership information exchange between the UK and Crown Dependencies. In the current political climate, particularly the UK-EU27 Brexit negotiations and the release of the stolen data in the so-called Paradise Papers I referred to, the legal framework will be closely examined. It will be important to demonstrate the powers of our FIS to obtain information is at least as robust as the other Crown Dependencies and that there are no potential gaps in the legal framework. Therefore, the proposed changes giving wider information-gathering powers to the FIS are required as soon as possible.

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Sir, we also need to amend our terrorism finance explicitly in line with our obligations under the United Nations sanctions framework. In 2015 the United Nations extended the application of certain Security Council resolutions on terrorism to include the criminalisation of payments to terrorist fighters and ransom payments in response to demands issued by terrorists. The Law Officers previously advised this Assembly in 2015 that paying the costs or travel or ransom demanded by terrorists would almost certainly constitute a direct or indirect breach of the generic provisions of terrorism financing under the Bailiwick's existing terrorism legislation. At that time a detailed advisory memorandum was circulated to industry and was published on the States' website. Furthermore, direct discussions were held with representatives of the relevant local firms offering kidnap and ransom insurance to ensure that they were fully aware of the UN position and the need for necessary procedures to avoid breaching those prohibitions. Since then the responsible UN organisation for these matters, the Financial Action Task Force, have amended their standards to make these matters the subject of specific recommendations. Both the UK and

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Jersey have amended their legal framework to make explicit reference to terrorist fighter and ransom payments. It must be understood that terrorism is a global evil and the international effort in tackling the financing is one very effective way of countering terrorism. This is why when the jurisdiction is evaluated against the FATF recommendations on AMLCFT by the IMF or by Moneyval they look for international consistency on how this type of activity is prohibited and seek to avoid the exploitation of loopholes as potential differences between domestic legal frameworks of comparable jurisdictions. We cannot be perceived to be a weak link.

In particular answer to Deputy Tindall's questions, as I understand it in 2017 the FATF recommendations at sections C5 to 8 deal with the terrorism financial sanctions which have to be applied. These refer to UN Security Council resolutions preventing ... and the suppression of terrorism and terrorism financing. There is a particular UN resolution 2133, which was passed in 2014, which calls upon member states to prevent terrorism from benefiting directly or indirectly from ransom payments or political concessions. Sir, as this Assembly would expect, the precise wording of such offences will be a matter for the Law Officers and there is no mention to depart from the standard drafting practice regarding the mental element of this kind of offence. Therefore, criminality would be limited to circumstances where the person making the relevant payment knows, suspects or has reasonable grounds to suspect the link between the payment and terrorism. Furthermore, it is intended that the relevant firms would be further consulted by the legal draftsman on the wording of the offence.

The legislation also intends to improve the efficiency of the ability to update the scope of prescribed organisations that are listed in schedule 1 to the Terrorism Law so they may become updated automatically, giving immediate effect to international developments in order for this Bailiwick to comply with its international obligations and to prevent abuse from financial systems.

Finally, sir, following a review of risk appertaining to the moving of criminal assets, it has become necessary to widen the definition of cash to include store value cards, cash passports, tokens or other devices that electronically store or provide access to funds.

Sir, I commend all the Propositions as outlined to this House. Thank you, sir.

The Bailiff: Deputy Roffey.

Deputy Roffey: Just as a precaution, sir, I would like to declare a potential interest as a director of a regulated entity that does from time to time make reports of suspicious activity to the relevant authorities, more often relating to money laundering than to terrorism but nevertheless potentially this could impact on that entity. I nevertheless fully support these proposals.

The Bailiff: Deputy Leadbeater.

Deputy Leadbeater: Thank you, sir.

I would just like to thank my colleague, Deputy Prow, for outlining it brilliantly and fully explaining the situation. AMLCFT is not a nice-to-have or an option; it is a necessity, certainly for a modern financial jurisdiction like Guernsey, so I urge everybody to vote for this.

The Bailiff: Deputy Gollop.

Deputy Gollop: Sir, some of the obviously informed views of Deputy Prow worried me a bit because it makes me think that supposing I went to another island not so far away, outside of the Bailiwick, and I got kidnapped by ... I don't know ... the St Helier Freedom Fighters Association, and they put up a ransom that hopefully well-wishers could provide, apparently on that basis any moves made to free me could come within the categorisation of potential sympathy to terrorism. Of course, I have given a silly example, but there are real examples in other parts of the world where loved family members or relatives or people behind me wanting to.. (*Laughter*) could be

1045 affected. So I would welcome the opportunity to review the legislation in more detail should it be passed, as explained by HM Comptroller.

The Bailiff: Deputy Inder, are you standing?

1050 **Deputy Inder:** Sir, I only rise to commend both Deputy Rob Prow and Deputy Tindall to have that kind of talent in the Assembly. The majority – I will give way.

The Bailiff: You are giving way for Deputy Tindall.

1055 **Deputy Tindall:** It is very kind of Deputy Inder not only to give that compliment but also to allow me to give way in order to explain to Deputy Gollop on that particular point that the St Helier Freedom Fighters – or Freedom Fighters of St Helier, whichever way you wish – would have to be designated terrorists to be able to be caught by this legislation.

Thank you again.

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Deputy Inder: Thank you for ... I think I am thanking myself (*Laughter*) for allowing myself to give way to a previous speaker, but that is all I really have to say. I am just very grateful that we have got Deputy Tindall and Deputy Rob Prow in the Assembly with that kind of level of knowledge.

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Thank you.

The Bailiff: Deputy Trott.

1070 **Deputy Trott:** Sir, there are two reasons for rising. The first is to thank Deputy Prow for his complimentary remarks about the Guernsey Finance update and I shall take those comments back to the board. Members may be interested to know that far from the excessive amounts of subsidy that were given to the financial services industry, the contribution to our marketing campaign remains modest and yet despite that Guernsey Finance can now boast an 80%-plus satisfaction rating from its members, who are satisfied or better with its offering.

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Sir, the main thrust here is around kidnap and ransom insurance. There are only two providers in Guernsey of this. Neither of them are captives but bespoke insurance companies. They have been widely consulted with and while one has asked to be kept in the loop as the legislation develops, neither have offered any opposition to this. And why is that? Well, the reality is, and I think Deputy Prow may have covered this, this sort of activity under our existing AMLCFT legislation is already caught generically so this is simply a more specific piece of legislation that will to all intents and purposes have absolutely no effect on current business activities in this Island, so it is in this case absolutely nothing for this Island to be concerned about.

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Thank you, sir.

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The Bailiff: Deputy Lowe will reply.

Deputy Lowe: Thank you, sir.

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I do not think I have got anything to add. There have not been any questions other than Deputy Tindall's, which Deputy Prow ... I thank him very much for answering that and indeed Deputy Trott for endorsing that the two providers have been consulted and been involved with it. It is a technical amendment that we need to do and Guernsey cannot be left behind and leave a gap here for us to be very vulnerable. We have a reputation to protect and this report before you today does exactly that. I ask Members to support it, please.

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The Bailiff: Members, I put the Propositions to you all together. Those in favour; those against. I declare them carried.

POLICY & RESOURCES COMMITTEE

**XII. Schedule for Future States' Business –
Proposition carried**

Article XII.

The States are asked to decide:

Whether, after consideration of the attached Schedule for future States' business, which sets out items for consideration at the Meeting of the 28th February 2018 and subsequent States' Meetings, they are of opinion to approve the Schedule.

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

The Bailiff: Deputy St Pier.

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Deputy St Pier: Sir, I lay this. As ever, I think this is self-explanatory and I have nothing further to add.

The Bailiff: Nobody rising.

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I would just add that having received a resignation from Deputy Roffey yesterday from the Scrutiny Management Committee, I will be adding a Proposition to the Billet for the election of a member of the Scrutiny Management Committee. That is a matter for the presiding officer and that is just for your information.

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We go to the vote on the Schedule for Future States' Business. Those in favour; those against. I declare it carried.

That concludes the business, Greffier.

The Assembly adjourned at 11.15 a.m.