



**OFFICIAL REPORT**

**OF THE**

**STATES OF DELIBERATION**

**OF THE**

**ISLAND OF GUERNSEY**

**HANSARD**

**Royal Court House, Guernsey, Thursday, 26th September 2013**

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R. Domaille, A. H. Langlois, R. A. Jones

**St. Peter Port North**

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R. Conder, E. G. Bebb, L. C. Queripel

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

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Deputies R. A. Perrot, A. M. Wilkie,  
D. de G. De Lisle, D. A. Inglis

**The South-East**

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M. G. O'Hara, F. W. Quin, M. P. J. Hadley

**Representatives of the Island of Alderney**

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

**The Clerk to the States of Deliberation**

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

**Absent at the Evocation**

M.M.E. Pullum, Q.C., H.M. Comptroller;  
Deputies M.J. Storey (*indisposé*); P.L. Gillson (*relevé à 11h 32*); S.J. Ogier (*relevé à 10h 10*);  
M.J. Fallaize (*relevé à 10h 10*); A.H. Brouard (*relevé à 10h 10*); Y. Burford (*relevée à 12h 34*)

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*The Assembly adjourned at 5.24 p.m.*

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## States of Deliberation

*The States met at 9.30 a.m. in the presence of  
His Excellency Air Marshal Peter Walker C.B., C.B.E.  
Lieutenant-Governor and Commander-in-Chief of the Bailiwick of Guernsey*

[THE BAILIFF *in the Chair*]

**PRAYERS**  
*The Greffier*

**EVOCATION**

**CONVOCATION**

**The Greffier:** To the Members of the States of the Island of Guernsey, I hereby give notice that a meeting of the States of Deliberation will be held at the Royal Court House on Wednesday, 25th September 2013 at 9.30 a.m., or if there remains any business deferred from the previous day at the conclusion of that business, to consider the Items contained in Billets d'État XVIII and XIX, which have been submitted for debate.

**STATEMENTS**

**Income Tax Anti-avoidance Legislation**  
**Statement by the Minister for the Treasury and Resources Department**

**The Bailiff:** Members of the States, we will start the September meeting with a Statement to be delivered by the Minister for the Treasury and Resources Department on the subject of Income Tax anti-avoidance legislation.

**Deputy St Pier:** Mr Bailiff, thank you, sir.

Sir, my Department has been reviewing the anti-avoidance provisions within the Income Tax Law, in particular anti-avoidance measures introduced to prevent Guernsey resident beneficial owners rolling up profits in a company in order to take advantage of the tax cap and I would therefore like to take this opportunity to update the States Members on the current position.

The tax cap currently applies to distributions from Guernsey companies and, of course, historically it also applied to deemed distributions. It was recognised that Guernsey resident beneficial members of companies may be incentivised *not* to make distributions from their companies, but instead could roll up the profits with a view to taking a single distribution to take advantage of the tax cap.

Anti-avoidance measures were introduced in 2009 to discourage this behaviour by charging the same amount of additional tax that would have been payable by the individual in the years of charge in which the relevant income arose or accrued to the company, had the income been distributed by the company in those years of charge.

Following the repeal of the deemed distribution provisions last year, a tax-capped individual can now limit their liability by rolling up the profits of an investment company, including property holding companies. This is because an investment was previously subject to the deemed distributions on all of its income and was not treated as carrying on a business and so it is not covered by the existing anti-avoidance provisions.

My Department has therefore decided to bring proposals to extend the anti-avoidance provisions that prevent the roll up of profits in a company in order to take advantage of the tax cap to all classes or sources of income, not just business income, and we will intend to bring this to the December States meeting with the intention that they will take effect from today. In other words,

35 the legislation we would present, if approved by the Assembly in December, will have retrospective effect to any distributions made from today onwards.

Thank you, sir.

**The Bailiff:** Does anybody wish to ask any questions within the context of that Statement? Yes.

40 Deputy Soulsby and then Deputy Gollop.

**Deputy Soulsby:** Sir, I wonder if the Minister is able to give a quantum of how much is likely to be brought in by bringing in this new legislation.

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

**Deputy St Pier:** Sir, I am not in a position to do that.

**The Bailiff:** Thank you.  
50 Deputy Gollop.

**Deputy Gollop:** Yes, sir.

In bringing forward the new legislation, how extensive will the consultation be with both the Commerce and Employment Department, and indeed the industry and perhaps even the real estate property market in Guernsey, because there is a possibility that the good intentions of the States in clamping down on unacceptable avoidance could lead to unforeseen consequences of discouraging certain forms of entrepreneur activity on the Island?

**The Bailiff:** Deputy St Pier.

60 **Deputy St Pier:** Sir, I am not entirely sure that it is an issue that touches the Commerce and Employment Department, being that this is, in essence, investment or property income, rather than business-related income.

I am not entirely sure that I take Deputy Gollop's point that measures which prevent individuals rolling up profits and then distributing in one year to take advantage of the tax gap will affect the property market in the way that he suggests, but no doubt there will be representations to that effect as and when the Billet is published, if that is indeed the case.

**The Bailiff:** Deputy Trott.

70 **Deputy Trott:** Sir, this is precisely the sort of measure that one would normally expect to see in the annual Budget and my understanding is that that is due for publication quite soon and certainly for debate by this Assembly at the next meeting. Why is this measure being introduced now in the manner it is, bearing in mind my previous comments?

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

**Deputy St Pier:** The reason for making it by Statement and indicating the intent that the measures would be effective from today is precisely to discourage any anti-avoidance, as clearly if it were published in the Budget or in any other way, there would be a gap before it would take effect. So we considered that the fairest thing to do is to make a statement of intent and then everybody knows where they are and that distributions, effectively from today, will be caught if approved by this Assembly in December.

85 **The Bailiff:** Any further questions? No.

**States' Financial Position  
Statement by the Minister for the Treasury and Resources Department**

90 **The Bailiff:** In that case, we move on to the next statement, which is also to be delivered by the Minister for Treasury and Resources Department. It is an update on the FTP and the financial position.

**Deputy St Pier:** Thank you, sir.

95 In my Statement to the May sitting of the States, I indicated my intention to provide the  
Assembly with a further update in September and I am therefore grateful to you, sir, for permitting  
me to provide this further update to the Assembly on the overall financial position, including  
progress on delivery of the Financial Transformation Programme. So this update will summarise  
the progress made during the four months since my last update and it includes the forecast to the  
end of the year and the overall FTP projections to the end of the programme, and in that sense I  
100 think it will help set the scene for the Budget Report, which is, of course, as Deputy Trott says,  
due to be published in a couple of weeks' time.

Based on the information available in the year to date, I am disappointed to inform the  
Assembly that overall revenues are down against Budget estimates. Whilst there are some signs of  
recovery in our economy, this has not yet translated into tax collections. Income tax collections are  
105 at least showing some growth against the 2012 position, but not at levels envisaged at this time last  
year when the 2013 Budget was being finalised. Receipts from ETI recovered in the second  
quarter following the first quarter... sir, you may recall that they were 4% down on the Budget  
estimate and are expected to reach £178 million by the end of the year, which is about 2% down  
on the Budget estimate, but almost 3% up on 2012.

110 In addition, in the first year of extension of the 10% corporate band, only £5 million is forecast  
to be collected, which is substantially down against the Budget estimate of £12 million. However,  
the Department's expectation is that this is a tiny difference and that this will increase in 2014.  
Overall this means that we are now expecting income tax receipts to end the year some £7 million  
or 2.5% down against budget. In addition to this, transactions in the housing market have remained  
115 subdued until very recent weeks and this of course obviously translates into lower than anticipated  
document duty from conveyances and bonds, and this income stream is now expected to delivery  
revenues totalling £14 million in 2013 against a budget of £18 million. All in all, my Department  
is now projecting a total revenue shortfall of around £10 million in 2013.

Turning to expenditure, there have been some significant underspends in the year to date.  
120 However, Departments continue to forecast budgetary pressures towards the end of the year and  
that the overall about turn will be in line with the Budget, and I will return to the question of  
spending in the last quarter later.

As detailed in the Social Security Department's recently published Report, the spend on  
Supplementary Benefit in 2013 is now forecast to be some £750,000 in excess of the original  
125 Budget estimate, although of course this is partially offset by lower than budgeted social and  
health insurance grants. The Department therefore expects to exceed overall estimates for  
expenditure by some £500,000.

In my last statement I reported that the Health and Social Services Department had overspent  
in the first three months by almost £1 million and were forecasting a year-end overspend of some  
130 £2½ million. Since that time we have been working very closely with the Department to monitor  
the position, including monthly meetings between the Minister and myself and I am encouraged  
that HSSD has put in place natural recovery actions, which are being actively monitored by its  
board, and are designed to bring the Department's spending back into budgetary balance in 2014.  
However, it seems likely that there will be an overspend in 2013, despite my Department already  
135 having used its delegated authority to increase HSSD's cash limit by £700,000 in response to  
specific cost pressures from... and that is using the Budget reserve.

HSSD have advised with a high degree of confidence, and in the event of no exceptional  
matters arising in the last quarter, that their overspend will not exceed a further £1.3 million and  
could be less. Given the progress made by HSSD and the commitment shown by the board to  
140 achieving a sustainable balanced budget, my Department by a majority, with Deputies Perrot and  
Adam dissenting, intends to use its delegated authority to increase the Department's cash limit up  
to this amount *if* required. Sir, we do remain hopeful that actions already in progress will reduce  
expenditure still further; but it should of course be noted that T&R's delegated authority is limited  
to 2% of the authorised budget of £108.2 million. Sir, if HSSD does experience any further  
145 pressure in the last quarter, it will be required to return to the Assembly.

The other material expenditure strain in the last three months of the year will come through the  
funding of the Voluntary Severance Programme, currently underway across the States. Members  
will be aware that the scheme is intended to facilitate sustainable savings to the States through  
restructuring, but it does of course come with an upfront cost which will be borne this year. This  
150 will be a one-off cost which will distort the position in this year only, but will then result in  
ongoing and sustainable general revenue savings in future years that will also help deliver against  
FTP targets. The programme of course is not yet closed and so I am not yet in a position to advise  
the States what the cost of that might be.

155 Sir, I am pleased to inform the Assembly that during June, July and August, FTP projects have released a further £2.8 million of savings, bringing the total save by the programme this year to £6.9 million – an increase of 64% from the end of last year – and this of course is a welcome improvement in the momentum of the programme I highlighted in my last update and that this has been sustained. This is a significant achievement and I would like to take this opportunity to recognise the hard work that has gone on across the States to make that happen. Once again, the majority of these savings – in fact, over 95% of them – have come from improvements in efficiency, as opposed to increased fees and charges or changes to grants and subsidies.

160 The success in delivering FTP targets, along with the general shift in the financial consciousness of the States, means that despite the expenditure pressures that I have already spoken about, I am confident that we will deliver in line with the general revenue expenditure budget of £348 million. Overall then, due to the reduced revenue so far this year, it is likely that the drawn-down from the Contingency Reserve will have to increase to some £27 million this year, which is £10 million more than budgeted, unless action is taken in the final months of the year to curb expenditure further.

170 It is of course a common phenomenon that spending in the last months of a financial year, in all sorts of organisations, shows a marked increase. This has historically been the case in the States and continue despite the ability of Departments to retain unspent balances for a number of years. There may of course be very valid reasons for these increases, but I fear that there may still be an element of the ‘use it or lose it’ mentality and I would therefore urge all departmental boards in order to minimise the drawdown on the Contingency Reserve this year to put additional departmental controls until the end of this year in an attempt to curb such expenditure. I will be writing to all Ministers in the next few days with suggestions as to how this may be done and obviously we will certainly be implementing such controls in my Department.

175 Returning to our overall position, our sustained deficit underlines the continued need for the States three-pronged strategy of eliminating deficit of increases in indirect taxes, economic growth and expenditure restraint. Although the forecast of £27 million deficit in 2013 does not reflect the underlying position of a gradual reduction in the deficit, it certainly highlights the need of continued attention to the Budget position and further expenditure restraint. It is vital that we continue to deliver on the FTP and that we reach the minimum target set of £31 million. So far we have achieved savings of nearly £18 million and I think we should just pause and congratulate ourselves on this achievement. We tend to beat ourselves up for not having delivered on this programme, but as a result of it we are already spending £18 million per annum less, year in, year out, than we would otherwise be, which is the main reason of course that we still have more than £60 million available in the Contingency Reserve Tax Strategy at the end of this year. However, we must continue the effort if we are to see a return to an overall balanced budget.

180 In my last update, I highlighted the Policy Council’s concern that the forecast benefits for the whole FTP have for the first time dropped below the £31 million target, especially bearing in mind that that was the minimum target. I am pleased to be able to report that since then positive action taken by Departments to revisit their FTP portfolios to ensure that the forecast associated with existing projects are realistic and to identify new opportunities for savings has seen the forecast steadily rise, so at the beginning of September the combined forecast of the projects within the portfolio is now £35 million.

185 As I am sure Members will appreciate, the forecast associated with a wide-ranging and diverse programme, such as the FTP, will naturally fluctuate as projects are progressed. I do not intend to list all the ups and downs that have occurred in the portfolio broadcast during the last three months, but some of the most notable changes include the identification of five new initiatives from the Social Security Department, with a forecast general revenue saving of £1.2 million; the identification of £250,000 in additional benefits from existing initiatives within PSD, which will mean that that Department will exceed its target; an increase in the overall value of the projects within the Home and Education Departments of £500,000 and £160,000 respectively; and finally, the identification of the opportunity to reduce baseline budgets by £1.6 million, without impacting on staffing levels or service provision, through the removal of the system underspend, and that was the issue that I was referring to yesterday in response to Deputy Laurie Queripel’s comments. Sir, Members may recall that this was one of the actions identified in my last statement as requiring attention and I am pleased that Departments working with the Treasury and Resources Department have been able to deliver this.

200 205 210 Sir, Members will also be aware that during this period the decision was taken to cease the market testing exercise to establish the level of savings available through outsourcing management and operation of Beau Séjour and Footes Lane. As the political sponsor of the FTP, I am fully supportive of that decision and believe that retaining the management of these facilities in-house,



215 but adopting a more commercially-minded approach to the operation is the best route forward at the present time.

More importantly, I am pleased to inform the Assembly that with this in mind, the Culture and Leisure Department has revisited its portfolio and has already identified additional savings in a number of existing projects and a number of new saving opportunities. As a result, the Department  
220 is still well placed to achieve its FTP target, despite the loss of benefits forecast from the outsourcing exercise and I commend the Department for this not inconsiderable achievement.

Despite the £35 million forecast, there is still a long way to go before we can release all of this and some remaining risks to its delivery. There will be significant challenges in the remaining 15 months of the programme and some difficult political choices. The forecast show the level of  
225 savings that are available and the question now is whether we can work together to ensure these are delivered in the remaining programme period.

Sir, thank you for your patience again for what was a relatively lengthy statement and update. As I said during my statement in May, these are crucially important matters for all of us, which my board, my Policy Council colleagues and I take very seriously. Delivery against our 2013 budget is  
230 vital, not only in returning to a sustainable balanced budget, but also in delivering the organisational development and change that makes the States fit for the challenges of the future.

Thank you, sir.

**The Bailiff:** Does anybody wish to ask any questions?

235 Deputy Hadley.

**Deputy Hadley:** Mr Bailiff, in his statement the Minister has just said that Health and Social Services Department with their delegated authority is to be granted another £2 million. He also said that if this figure was exceeded, HSSD would come back to the Assembly with a report.

240 Has he forgotten that when his colleague, Deputy Dorey, stood for election to the post of Minister of Health and Social Services Department, he undertook to bring the Department within budget, working closely with T & R, and that if he failed to do so, he would bring a report to this Assembly? Well, after nine months we have seen the Department exceed its budget even further, to cut services when most Members would consider he was elected to restore services, and yet  
245 have no report on the situation at this Assembly.

**The Bailiff:** Deputy St Pier.

**Deputy St Pier:** Sir, I cannot help feeling that perhaps that question is more directed to the  
250 Minister for Health and Social Services than myself.

All I can say is that it is the judgement of the majority of the Treasury and Resources board that there is no significant merit in requiring HSSD to come back to this Assembly with a further report and there will be no additional information. There has been a lot of information in the public domain. He knows some of the challenges which are faced by HSSD...the Phillimore  
255 Report, which was published earlier in the year. We need to get on and address those issues, working closely with that Department and supporting it through the changes which are required, and that explains the position that we have taken, sir.

**The Bailiff:** Deputy Conder, then Deputies Soulsby and Inglis.

260

**Deputy Conder:** Thank you, sir.

I thank the Minister for his very thorough presentation, as always.

Sir, could I ask the Minister whether or not he would agree with me that his comments in respect of the decline in ETI is one of the most serious parts of his presentation? Could he advise  
265 and answer me in terms of whether he expects that to continue or whether he has any forecast for the future?

Would he agree with me that the decline in ETI perhaps suggests that any ideas that we might have that we have weathered the financial storm or that we are coming out of a period of austerity, which we have heard in this Chamber, perhaps is overly optimistic?

270 What measures, if the ETI continues to decline, he would expect this Assembly and Departments to have to take in order to address falling revenues?

Thank you, sir.

**The Bailiff:** Deputy St Pier.

275

**Deputy St Pier:** Sir, just to emphasise to Deputy Conder and to Members that there has *not* been an absolute decline in ETI; it is merely a decline against budget. There has been an absolute increase in ETI and so in that sense it is simply that we have over budgeted what we expect to receive from ETI. Sir, I am not sure that the situation is quite as bleak as perhaps is presented by the nature of your question.

Certainly it is a significant issue, which the Department has spent a considerable period of time reflecting on as it prepares the 2014 Budget and considering the viability of budget forecasts for tax receipts for next year, which of course will be presented shortly and ensuring that we do have a level of confidence around this.

**The Bailiff:** Deputy Soulsby.

**Deputy Soulsby:** Following on from what Deputy Conder just said, it is very worrying to me and I would like to know whether the Minister agrees with me that, bearing in mind where ETI seems to be going, now is not the time to be putting half a per cent on employer contribution rates.

**A Member:** Hear, hear.

**The Bailiff:** Deputy St Pier.

**Deputy St Pier:** Sir, I am not sure that question arises out of the Statement. *(Laughter)*

**The Bailiff:** Deputy Inglis and then Deputy Gollop.

**Deputy Inglis:** Picking up on the theme that everyone is relating to, it is disappointing to hear that tax in ETI revenue is diminishing. I would like the Minister to reassure this Assembly that the attitude taken by Government Departments, and in particular Treasury and Resources Department, is that they put more of a concerted effort into looking to employ local suppliers and the chain of service to therefore then keep tax and ETI payments better placed in this Island, rather than off-Island?

**The Bailiff:** Deputy St Pier.

**Deputy St Pier:** Sir, obviously the question of procurement and ensuring value for money has been an issue of concern in the public domain this year and perhaps for many years. It is a very real concern to the Department. It is an issue that we are reviewing, because of course value for money is not simply about the cheapest that is available and there is ongoing work on that topic, but I certainly share the sentiment that clearly a factor in procurement is the extent to which we can retain income on the Island and the multiplying effect that comes from that.

**The Bailiff:** Deputy Gollop.

**Deputy Gollop:** On the issue that Deputy Conder raised, I heard recently... I think the States Economist gave an optimistic outlook perhaps of a 1.4% growth rate in our economy next year. Will the Department be considering an inter-departmental work stream, which perhaps would particularly involve Education and Skills Guernsey in seeing whether there is underemployment in the offshore finance and related industries, and such professionals could be redeployed or upskilled in order to earn additional monies for both themselves and the Island, because would the Department consider that perhaps the premature retirement of some people has led to this fall in the increase of ETI?

**The Bailiff:** Deputy St Pier.

**Deputy St Pier:** Sir, I think the issue and the concern which underlines Deputy Gollop's question is probably more pertinently addressed by the Economic Development Strategy and the Financial Services Strategy under construction by Commerce and Employment Department, and obviously Commerce works both with Education and Skills Guernsey and so on, on a number of these initiatives. I would suggest to Deputy Gollop that those may have a longer-term payback than is available to the Treasury and Resources Department in looking at the short-term trends for receipts of income, be it this year or be it next year.

The only other comment I would make is that a number of questions, sir, have raised the issue of ETI and I therefore think it is pertinent to make this comment because I think it is something that we will need to take into account in the personal tax and benefits review, that it really does draw attention to the fact that our tax base is narrow – it is very narrow. We have 70% or thereabouts of our income coming through income tax and of course it is countercyclical: as the economy turns down, then incomes are squeezed, as we have experienced, and then tax receipts are squeezed, as we have seen. Similarly, of course, our receipts from document duty are also driven by the state of the economy, again as transactions fall and just when you need the income, your income falls. I think that is a very real issue for us to take into account as we think about the appropriate long-term tax strategy of how broad or how narrow our current tax base is, sir.

**The Bailiff:** Deputy Le Clerc and Deputy De Lisle and Deputy Paint, but Deputy Le Clerc first.

**Deputy Le Clerc:** Sir, I would just like to ask the Minister that over the last couple of years we have seen problems of the Income Tax and collecting of data and processing of tax forms, and how much influence is had on the poor data that we have had today and the forecasting therefore being 2% down, is that as a result of inaccurate data and collecting of that information?

**The Bailiff:** Deputy St Pier.

**Deputy St Pier:** Sir, Deputy Le Clerc's question is a valid question and is obviously one which the Department's political board have also questioned and is aware of the issue, just as Deputy Le Clerc is. We do not believe that it has a significant impact on these numbers, again not least because the vast majority of income does come through ETI, which of course is an actual cash receipt and that is how it is accounted for in these numbers. So it is not perceived to be as significant.

**The Bailiff:** Deputy De Lisle.

**Deputy De Lisle:** Yes, sir.

The comments of the Minister, with regard to the reduction in ETI receipts down 2% on what was forecast and also the continual draw on the Contingency Fund obviously gives some concern, particularly to individual taxpayers. Particularly I noted the hint in the Minister's answer a few minutes ago, with respect to indirect taxation, and I just would like to know what measures he is taking to see that the impact on the individual taxpayer is minimised in the forthcoming Budget.

**The Bailiff:** Deputy St Pier.

**Deputy St Pier:** Sir, I suggest that Deputy De Lisle will have to wait a couple of weeks just to see what measures have been taken, but the reality is that if income... if our tax revenues are down, then it affects all taxpayers. So it is not possible to say that there is no pain because we have to address the issue of the shortage of the deficit and we are all in this together, to coin a phrase.

**The Bailiff:** Deputy Paint. Deputy Paint?

**Deputy Paint:** Could you enlighten on the understanding there is locally that local suppliers have taken away discounts from the States because of late payments on what they have been given?

**The Bailiff:** Deputy St Pier.

I am not sure it arises in the Statement, but –

**Deputy St Pier:** I am not sure it does arise from the statement but I think I am happy to make some comment because it will be a matter of public interest and I think, given that Deputy Paint has raised the question, it is pertinent to address it.

My understanding is there have been limited instances within HSSD where early payment discounts have been withdrawn, but they are very minimal and I think the responses in terms of quantum have been given to Deputy Gillson, I believe from memory, in response to his Rule 6 Questions. So it is certainly not in any sense material to the current situation that we face.

So I would say again, just in respect of the spending side – and again it perhaps is pertinent to this question of control over spending – despite all the discussion we had yesterday about the centre and direction from the centre, in fact Members may have noticed in my statement that all Treasury and Resources can do is encourage Departments to consider their spending in the last quarter. We have no ability to change any of the spending rules or controls or financial rules to impose any greater restraint in the last quarter. So we are left with the position where Treasury and Resources as the chief guardian of resources, although of course it is a part of every Department's mandate, can do no more than encourage that, and every Member of this Assembly who sits on the political or departmental board to have that in mind as they go into the last quarter and, as I say, left with only being able to write to Ministers with suggestions on how that might be applied. So that is a real illustration of perhaps where the centre does not have as much control and direction as perhaps some may imagine.

**The Bailiff:** Deputy Sherbourne, and this will be the last question. I am not minded to extend question time beyond 15 minutes, given that we will have a Budget debate next month.  
Deputy Sherbourne.

**Deputy Sherbourne:** Thank you, sir.

My question to the Minister is relating to the disappointing revenue approved from the extension of Zero-10. I asked a question last year about the widening of the net to include, I believe, the fiduciaries this year. Is there further consideration of extending the net to the fund industry, which happens to be the largest element of our finance industry at the moment?

**The Bailiff:** Deputy St Pier.

**Deputy St Pier:** Again, all I can say in response to that question, sir, is that the question of our corporate tax regime of course remains under review in the sense that as with all tax measures, we keep our options open in relation to the earlier statement. If we feel it is appropriate to make changes, we will make changes.

In relation to the particular issue of extension to the fund industry, it is an issue which, as I said at the last Budget, is something which we do need to keep in mind, but it would be inappropriate to make any further comments, as you say, because we are dealing with the Budget debate shortly.

**The Bailiff:** The 15 minutes have elapsed. I think we should get on with the other business of the September meeting.

Just before we do, three Members have entered the Chamber since the Roll Call. Deputies Ogier, Fallaize and Brehaut, do you all wish to be *relevés*?

**A Member:** Yes.

**The Bailiff:** Yes, thank you.

## Questions for Oral Answer

### ENVIRONMENT DEPARTMENT

#### Bus Services

#### Service credits; revenue from fares; contract tender; impact of changes; drivers' hours

**The Bailiff:** The next Item is Question Time and we have Questions to be put by Deputy Mary Lowe to the Minister for the Environment Department.

Deputy Lowe.

**Deputy Lowe:** Thank you, sir.

When service credits, or better known as penalties to most people, are applied to CT Plus, what happens to the funds recovered? Are they held within the bus subsidy budget or are they held in

455 Environment's overall budget or are they returned to Treasury and Resources or are they  
reinvested back into CT Plus to improve the service? If none of the above, what happens to the  
amount deducted?

**The Bailiff:** Deputy Domaille to reply.

460 **Deputy Domaille:** Thank you, sir.

Any service credits are deducted from the monthly invoices submitted by CT Plus and hence  
effectively reduce the amount paid out of the Department's revenue bus subsidy vote. Like the  
vast majority of all Departments votes, this money is not ring-fenced to the buses and hence could  
ultimately result in the Department budget underspend in return at year end to Treasury and  
465 Resources Department.

However, to date the Department has been able to reinvest any service credits back into the bus  
service to improve the service for the users. The service failures have reduced dramatically in  
recent weeks and hence the level of service credits accruing are now low. However, again, the  
Department also seek to invest any future credits back into the bus services.

470 Thank you, sir.

**The Bailiff:** Any supplementaries arising from that, Deputy Lowe?

**Deputy Lowe:** A supplementary, please, sir. (**The Bailiff:** Yes.)

475 Bearing in mind the bus services contract negotiations, the background paper on the website of  
the Environment Department, where it made very clear that the contract is a fixed priced contract  
with CT Plus Ltd taking commercial risk for operational costs and revenues and the contract  
includes an inflation index, going on to say that they are responsible for all operational matters and  
penalties exist in the contract and would be exercised in the event of poor service, does the  
480 Minister agree that by giving the money back to CT Plus, it actually looks like we are rewarding  
bad service?

**The Bailiff:** Deputy Domaille.

485 **Deputy Domaille:** No, sir. I do not. By way of example, what we have done with some of the  
money – actually it is the vast majority, frankly – is we have been able to improve the services in  
the Perelle area to help us to overcome some the lack of service in that area.

**The Bailiff:** If there are no other supplementaries?

490 Oh, yes, Deputy De Lisle.

**Deputy de Lisle:** Yes, there is one with regard to that, sir.

I was always under the impression that the 1.2p fuel levy, which was imposed, was going to  
finance bus services. Is the Minister saying that that 1.2p levy each year is actually being used by  
495 the Department to support the bus services?

**The Bailiff:** Deputy Domaille.

**Deputy Domaille:** No, sir. The 1.2p levy – and I am not Treasury Minister – goes back into  
500 the States' pot and then, as I recall, the exact wording of the Resolution is that the Treasury and  
Resources Department will take note of any... I call it Transport Strategy, which would also  
include the buses of course, in the allocating of funds.

**The Bailiff:** Your second question then, Deputy Lowe.

505 **Deputy Lowe:** Thank you, sir.

How much additional revenue has the introduction of a new route network and price structure  
brought in and what is the average fare now paid compared to the old price structure?

510 **The Bailiff:** Deputy Domaille:

**Deputy Domaille:** Thank you, sir.

The intention of the new network is to target the greater part of the resources to the highest  
passenger usage corridors; hence capturing additional fare income. The current average income

515 per passenger, excluding concessionary travel, is £1.02, compared to a previous average fare of 0.83 pence – that is an 18 pence difference. This figure will drop as the benefit of the summer season tourist fees drops off during the winter.

With some 472,000 fare paying passengers travelling since the introduction of new fares and routes on 12th May 2013, this has generated additional revenue of approximately £85,000.  
520 However, this must be compared with the income the company expected to achieve based on historical passenger numbers. This income has been dropping as a result of reduced passenger numbers, triggered in part by the price rises in 2010 and aggravated by the very poor summer in 2012.

During the first year of operation, ridership was 90,000 lower than anticipated when the  
525 company quoted for the contract, generating revenue lost to the company, at the old fares, of £74,700.

**The Bailiff:** Any supplementary? Deputy Lowe, do you have a supplementary?

530 **Deputy Lowe:** I have a supplementary, sir.

Bearing in mind that the greater part of resources, the highest passenger use of corridors, was considered in this, would the Minister answer the question as to how that data is actually calculated, bearing in mind there are occasions when no tickets are given by drivers enabling the Environment Department to look at these numbers and in CT Plus when they have actually got  
535 ‘full’ stated for them?

**The Bailiff:** Deputy Domaille.

**Deputy Domaille:** Thank you, sir.

540 I am aware, and in fact a member of the public drew my attention to a ticket not being issued this week and so I am aware that tickets are not always issued. However, the breadth of the data and system information we have leads us to believe that the data is sufficiently robust to have a reliance on the numbers.

Thank you.

545

**The Bailiff:** Deputy De Lisle and then Deputy Gollop.

**Deputy De Lisle:** So now that the visitors have mainly flown away, will the Department be continuing the £2 visitor discriminatory fare during the winter timetable?  
550

**The Bailiff:** Deputy Domaille.

**Deputy Domaille:** Sir, it is not a £2 discriminatory fare, it is a £2 standard fare and that will continue.  
555

**The Bailiff:** Deputy Gollop.

**Deputy Gollop:** Sir, I appreciate that there has been an average increase of maybe 18p or 19p per fare, but how much of that can be attributed to the new £2 tourist fare, the 20% rise in the cost of Ormer cards and the general fare increase and the rebranding to £4.50 day tickets, which are  
560 particularly popular on route 91, rather than genuine increased use, because I think if you factor all those in, the figures might suggest a *reduction* in use in some areas?

**The Bailiff:** Deputy Domaille.

565

**Deputy Domaille:** I do not have that information to hand, sir, but clearly the vast majority of the 18 pence does come from fare increases.

**The Bailiff:** Your third question, please, Deputy Lowe.

570

**Deputy Lowe:** Thank you, sir.

Given that the Department has approved fare increases and agreed significant route changes since the current contract was negotiated, are they intending to go out to tender for the operation of the contract from 1st April 2014?  
575

**The Bailiff:** Deputy Domaille.

**Deputy Domaille:** Thank you, sir.

580 The new fares and network has not turned the service into a highly profitable service – far from it. The current operator, even with the additional new fare and route income, has less funds available to operate the service in 2013 than the previous operator had in 2011.

585 In addition, no other company is prepared to quote a firm price for operating the services at the time of the tender discussions in 2011. As such, no other company has been disadvantaged by the changes to the routes and fares and hence the change to the route and fares do not themselves necessitate a need to retender. That said, the Department is just starting the process of initial discussions with the industry for the long-term future provision of bus services, but it does not at this time anticipate a change in service provider during 2014.

590 **The Bailiff:** Deputy Fallaize has a supplementary... or do you have a supplementary, Deputy Lowe?

**Deputy Lowe:** I have a supplementary, sir.

595 Can the Minister confirm whether negotiations with the previous operator and discussions with operators following their expressions of interest in November 2011 were on the basis of existing timetables and fares; and if that is the case, surely any operator that expressed an interest has been disadvantaged by the amendments to fare increases now taking place?

**The Bailiff:** Deputy Domaille.

600 **Deputy Domaille:** No, sir. I do not believe they have been disadvantaged, but it is correct that the fares, the routes and the services have changed since the tender in 2011.

**The Bailiff:** Deputy Fallaize.

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

Deputy Domaille said that the Department does not anticipate a change in service provider during next year. Could he confirm that actually the contract with CT Plus will fall unless the Department actively decides to re-engage the services of CT Plus; and, if that is the case, can he give an assurance that the Department will come to the States to seek the political direction of this Assembly before re-engaging with the operator?

610

**The Bailiff:** Deputy Domaille.

615 **Deputy Domaille:** Sir, I can confirm that, as Deputy Fallaize has said, it rightly needs a proactive move by the Department to re-engage. At this time, I have no intention of coming back to the States.

**The Bailiff:** Your next question, please, Deputy Lowe.

620 **Deputy Lowe:** Thank you, sir.

Has the Department considered the financial impact to the Island as a whole on the adverse publicity of these changes?

**The Bailiff:** Deputy Domaille.

625 **Deputy Domaille:** Thank you, sir.

Yes, of course, but the Department must balance that against the cost to the Island and not having a bus service at all. The simple fact that the money made available through the bus subsidy to the operator has been significantly reduced since 2011, such as providing the old services with less money, was simply not viable over a sustained period. To manage with less money, the operator has had to try and address any inefficiency in the operations.

630

Reducing unproductive bus waiting times at the terminus has exposed the problems with operating the old route to the old timings. This necessitated a review of those timings. The reduced passenger numbers since 2010 necessitated a refocus of resources to the most profitable routes. Increasing fares sought to return a degree of profitability to the service. In removing what has become known as ‘the tourist fare’ would simply result in an increase in the locals passenger fare.

635

If we want all the old routes and old fares back, then Government simply has to put the extra taxpayers' money back into the contract.

Thank you.

640

**The Bailiff:** Any supplementaries?

Yes, Deputy Gollop.

**Deputy Gollop:** Sir, in view of the Environment Department's answer, why has the Department, effectively, changed the policy whereby resources have been put onto the more profitable routes, rather than a social, environmental and tourist-related service for the whole Island for all the taxpayers; and, as economic circumstances have encouraged that thinking to raise money for the bus company, is it not the duty of the Department to come to the States as soon as possible with a strategy for increasing money for the bus service in one way or another?

650

**The Bailiff:** Deputy Domaille.

**Deputy Domaille:** Switch it off or switch it on. Thank you, sir.

Deputy Gollop is actually right. When we are in the process of developing our Transport Strategy, we will be coming back to the States with that Strategy. The bus service will be integral to that. I do not believe the States have ever actually had the full debate as to why you have a bus service and people have different views on why we have a bus service, but I am firmly of the view that we must have a bus service. We must have a proper bus service.

So we will be coming back to the States. If I may go back a little bit to Deputy Fallaize's supplementary question, that will also then be wrapped up into the tendering process for the new operator.

660

**The Bailiff:** Deputy Lowe, your next question, which I think is your last question.

**Deputy Lowe:** Thank you, sir.

Allegations have been made in the media that drivers' working hours are unsafe. What has the Department done to investigate this? Is there any intention to bring forward legislation to limit drivers' hours? If not, are there other measures the Department could take to protect the public from the dangers of drivers working excessive hours that would be illegal in the UK and Europe?

670

**The Bailiff:** Deputy Domaille.

**Deputy Domaille:** Thank you, sir.

While our in-depth knowledge is limited, the Department has seen the drivers' cards and compared those with UK and European standards – domestic driving regulations would apply here – and they would appear to be in compliance.

675

The Department also understands that the cards are very similar in shift patterns and timings to the cards operated prior to the new contract with CT Plus. What has caused problems is trying to operate the old timetable with reduced downtime at the terminus. This, of course, means a bus getting in late must leave immediately if it is not to carry that late running into the next service and this has meant that on occasions the drivers do not get some of their shorter breaks. The company has been seeking to address this through the revised driver cards and the new network timetables.

680

**The Bailiff:** Deputy Lowe.

685

**Deputy Lowe:** Thank you, sir.

Although I comforted that the Department has reviewed the drivers' cards, has the Department reviewed the working and rest patterns? The Minister has acknowledged that drivers may not get the planned rest breaks. Have you reviewed the working patterns to establish whether drivers are having sufficient rest days or sufficient rest between drivers' cards?

690

As a bus passenger, I am interested in how many hours a driver might be driving a week, whether drivers are working more than one card a day and whether they are taking rest days and whether there are proper rest periods between the end of one working day and the start of another. Is the Department meeting their responsibilities to provide a safe system of public transport without monitoring hours and work patterns?

695

**The Bailiff:** Deputy Domaille.



**Deputy Domaille:** Thank you, sir.

700 I am not aware of how in-depth our review has been. I will take those comments away and look into it.

**The Bailiff:** Deputy Gollop.

705 **Deputy Gollop:** Sir, the Minister has candidly revealed that they are satisfied that the bus service is working adequately in a health and safety kind of way and maybe we hear stories that are not true – personally, I am saying – but bearing in mind there has been admission that the Department’s knowledge is limited, because it is a highly specialised area of investigation, will the Department be seeking professional consultative advice on this matter, both within the States and maybe externally in order to satisfy legitimate concerns that the drivers are working in a way that is acceptable from a health and safety road standards point of view?

**The Bailiff:** Deputy Domaille.

**Deputy Domaille:** Thank you, sir.

715 As I said, I have no evidence that they are not working to those reasonable standards. However, as I have just indicated, I will take the information away and will look into it.

**The Bailiff:** Well, I see.

Deputy Brehaut.

720

**Deputy Brehaut:** Just a rather direct and frank question: is it simply not a case that the £18 million which he celebrated earlier as a saving has come at the detriment of the local bus service?

**The Bailiff:** Deputy Domaille.

725

**Deputy Domaille:** Thank you, sir.

I do not think there is any doubt at all in my mind that the bus service is underfunded and I am sure the Transport Strategy will be addressing this, but from my perspective frankly, if I could get between £300,000 and £500,000 back into the contract, I am sure I could solve many of the problems.

730

**The Bailiff:** Deputy De Lisle.

**Deputy De Lisle:** Can I ask the Minister, Deputy Domaille, whether he has decided to extend the night services into the west at Longfrie, L’Eree and Pleinmont? He was to take my request away in July and include it in his thinking, sir.

735

**The Bailiff:** That does not arise from the question. That is not a supplementary, but do you want to answer? Right.

740

**Deputy Domaille:** Yes, you did, Deputy De Lisle, and I was grateful for that. We have taken it into consideration and in fact the night service now goes as far as the Airport, which I think goes some way towards meeting those points, but I do take on board your point completely.

745

**Deputy De Lisle:** It is still a long walk, sir! (*Laughter*)

**Deputy Domaille:** But it is very good for the diet, sir.

**The Bailiff:** I think that brings Question Time to a close and we will move on to legislation, Greffier.

750

## Billet d'État XVIII

### ORDINANCES

#### **The Income Tax (Guernsey) (Approval of Agreements with Botswana, British Virgin Islands, Hong Kong, Lesotho, Lithuania and Luxembourg) Ordinance, 2013 approved**

755 *Article I.*

*The States are asked to decide:*

760 *Whether they are of the opinion to approve the draft Ordinance entitled 'The Income Tax (Guernsey) (Approval of Agreements with Botswana, British Virgin Islands, Hong Kong, Lesotho, Lithuania and Luxembourg) Ordinance, 2013', and to direct that the same shall have effect as an Ordinance of the States.*

765 **The Greffier:** Billet d'État XVIII, Article I, the Income Tax (Guernsey) (Approval of Agreements with Botswana, British Virgin Islands, Hong Kong, Lesotho, Lithuania and Luxembourg) Ordinance, 2013.

**The Bailiff:** This Ordinance is at pages 1 and 2 of the brochures. Any requests for any clarification or debate?

770 **Deputy St Pier:** Sir –

**The Bailiff:** Yes, Deputy St Pier.

775 **Deputy St Pier:** Just very briefly to explain that of course the purpose of this legislation is just to turn on the exchange of information parts of these Agreements. Members will note that there is an item later in the Agenda dealing with Hong Kong and Luxemburg, which are the Double Tax Agreement part of the Agreements negotiated with those jurisdictions, but this is just a routine application for legislation for those jurisdictions in respect of the exchange of information.

780 **The Procureur:** I do not know how much it matters, but it cannot actually come into force on 25th September, given that we are on 26th September now.

**The Bailiff:** So we need to amend that too.

785 **The Procureur:** I think so. I hope it does not make any difference, but there we are.

**The Bailiff:** Amend that to 26th September. Thank you, Mr Procureur. I put it to the vote. Those in favour; those against.

790 *Members voted Pour*

**The Bailiff:** I declare the Ordinance carried.

### ORDINANCES LAID BEFORE THE STATES

795

**The Greffier:** Ordinances laid before the States, Billet d'État XVIII:

The Libya (Restrictive Measures) (Guernsey) (Amendment) Ordinance, 2013.

800

**STATUTORY INSTRUMENTS LAID BEFORE THE STATES**

**The Greffier:** Statutory Instruments laid before the States:

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The Merchant Shipping (Convention on Limitation of Liability for Maritime Claims) (Bailiwick of Guernsey) Ordinance, 2012 (Commencement) Order, 2013;  
The Health and Safety (Fees) Order, 2013;  
The Bovine Semen (Importation) Order 2013;  
810 The Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment) (No. 3) Regulations, 2013.

**The Bailiff:** There being no request for any debate on those, so we note them.

815

**REPORTS OF THE POLICY COUNCIL**

**Greater Autonomy in the Legislative Process and International Affairs  
Amended Proposition carried**

820

*Article II.*

*The States are asked to decide:*

*Whether, after consideration of the Report dated 1st July, 2013, of the Policy Council, they are of the opinion:*

825

*1. To agree that a panel be established by the Policy Council, with the following mandate:*

825

- To review Guernsey's various relationships with the organs of government of the United Kingdom. Initially, but not exclusively, the following will be considered –*

830

- The method of granting Royal Sanction of primary legislation,*
- The method of extension of Acts of UK Parliament to the Island,*
- The extension of the United Kingdom's ratification of treaties,*
- The Island's own treaty making ability;*

830

- To make recommendations in respect of other relationships with the organs of government of the United Kingdom as identified by the Panel;*

835

- To liaise directly with the States of Alderney, the Chief Pleas of Sark, the States of Jersey and the Government of the Isle of Man as part of this review;*

835

- To bring forward to the States of Deliberation, through the Policy Council, such proposals as they think fit for the purpose of seeking greater autonomy in legislative affairs and international representation;*

840

- To review the constitutional and administrative impact and the resource implications of proposed changes in legislative process or international representation;*

840

- To take into consideration how any proposals might impact the current machinery of government or any proposals from the States Review Committee;*

845

- To review any other relationship that is identified by the Panel and make recommendations to the Policy Council.*

845

**The Bailiff:** We move on to Reports of the Policy Council, Greffier.

**The Greffier:** Article II, Policy Council – Greater Autonomy in the Legislative Process and International Affairs.

850

**The Bailiff:** Chief Minister, Deputy Harwood.

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

Members, in light of Deputy Perrot's plea yesterday, I will constrain my initial comments to no more than one paragraph.

855

The Report that is before you in the Billet speaks for itself. This is merely seeking to set up a... in the Report we suggest a panel. I am aware there is amendment which suggests we should actually create a Special States Committee and on behalf of the Policy Council I confirm that we have no objection to the amendments as proposed by Deputy Perrot and Fallaize, and also the

further amendment which will be proposed, I believe, by Deputy Brouard. So I can confirm that the Policy Council have no objection to those amendments.

This is a matter where all we are seeking to do is to create a panel or Special States Committee to review two particular aspects of the relationship with the United Kingdom, namely the ability for the Island to be able to enter into international negotiations and international agreements in its own right without having to rely upon the process of entrustment from the UK Government; and secondly, the matter of legislation to suggest and explore ways where we may avoid the necessity of having to go through Privy Council. That is the extent of the proposal as presented to you and I will be interested in considering any matters raised during debate.

**The Bailiff:** Right. We go then to the amendment proposed by Deputy Perrot and seconded by Deputy Fallaize. There have been a number of versions of this amendment circulated and as I understand it, the correct version, Deputy Perrot, is the one that contains a new Proposition 1, a Proposition 1A and a Proposition 2 and 3, but no Proposition 4. Is that correct?

*Amendment:*

*To delete the single Proposition 1 and substitute therefor:*

1. *To direct that at their January 2014 meeting, and in accordance with Rule 18 of the Rules relating to the Constitution and Operation of States Departments and Committees, the States shall form the Constitutional Investigation Committee as a Special States Committee, the membership of which shall be:-*

- a. *The Chief Minister (as chairman);*
- b. *Four sitting members of the States elected by the States (one of whom the Committee shall elect as vice-chairman); and*
- c. *Two non-voting persons who are not sitting members of the States, elected by the States.*

1A. *One of the Law Officers must be invited to be present at all meetings of the Constitutional Investigation Committee for the purposes of giving advice.*

2. *That a mandate of the Constitutional Investigation Committee shall be:*

- *to review Guernsey's relationships with the government in the United Kingdom. Initially, but not exclusively, the following will be considered-*
  - *The method of granting Royal Sanction of primary legislation,*
  - *The method of extension of Acts of UK Parliament to the Island,*
  - *The extension of the United Kingdom's ratification of treaties,*
  - *The Island's own treaty making ability;*
- *to make recommendations in respect of other relationships with the government of the United Kingdom as identified by the Committee;*
- *to liaise directly with the States of Alderney, the Chief Pleas of Sark, the States of Jersey and the Government of the Isle of Man;*
- *to bring forward to the States of Deliberation the results of the investigation as to whether or not greater autonomy in legislative affairs and international representation should be sought and if so what proposals they would recommend for the States of Deliberation to consider;*
- *to review the constitutional, administrative and resource implications of proposed changes in legislative process or international representation;*
- *to take into consideration how any proposals might impact the current machinery of government or any proposals from the States Review Committee;*
- *to review any other relationship that is identified by the Panel and make recommendations to the States.*

3. *To direct the Policy Council to report to the States with a request for approval for funding the expenditure that will be incurred by the Constitutional Investigation Committee in discharging its role.*

**Deputy Perrot:** *[Inaudible]*

**A Member:** Microphone.

920 **The Bailiff:** Sorry, I think your microphone was on...

**Deputy Perrot:** And you are correct, that that is the amendment.

**The Bailiff:** Thank you.

925

**Deputy Perrot:** I suppose I ought to explain the amendment. The backdrop to this is that last year I was very grateful to be appointed to the External Relations Group by the Policy Council. Actually, that is not quite the right phrase, I should say *pathetically* grateful to be appointed to the External Relations Group, and that as a result of my being involved with the Group, I have been involved in some small measure with the drafting of the Report. I did not see the Report between the time it left the External Relations Group and was adjudicated upon by the Policy Council and this amendment seeks to change a few things as a result of that.

930

I ought perhaps to say that in Proposition 1 of the amendment, it is not now appropriate to be directing something to happen at the November 2013 meeting and so I suggest that that date is, whichever is the earliest date convenient to the Policy Council, which may be December or may be January of next year.

935

**The Bailiff:** Chief Minister.

940 **The Chief Minister:** I am grateful to Deputy Perrot for making that correction. I would ask that we be allowed up to the January 2014 States sitting.

**Deputy Perrot:** I am content with that and I hope that my second...

945 **The Bailiff:** We will amend that to January 2014.

**Deputy Perrot:** The substantive change here is that we would now be setting up not a panel, but an investigation committee of the States and that would be populated by *inter alia* the Chief Minister and four sitting Members of the States, so they would all have a vote, and that would in total comprise five people, which generally accords with the way in which committees of the States are set up. Then there would be two non-voting Members, who would *not* be sitting Members of the States.

950

After the policy letter had been published, I was fortunate enough to receive comments and constructive criticism from Deputy Matt Fallaize and that is now why, in part, this amendment is being made.

955

Proposition 1A lays down that one of the Law Officers must be invited to be present at all meetings of the Committee for the purposes of giving advice. I certainly did not wish any Law Officers to be on whatever body was set up, whether it was a panel or whether it was an investigation committee, because I believe that that is not appropriate, but I see no reason at all why they should not be under a permanent invitation to give advice; indeed, that is always the case with all investigation committees.

960

The mandate has not changed. Perhaps I ought to say here, in correcting something said by the Chief Minister, that the purpose of this investigation committee would not be simply to look at legislation and treaties, it would be to look at all aspects of our relationship with organs of government within the United Kingdom, but the first job would be to look at Orders in Council and Ordinances.

965

I know that the Policy Council is happy with this amendment as further amended now, so that the date is now January and not November.

Thank you.

970

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

**Deputy Fallaize:** Yes, I do, sir.

975 **The Bailiff:** Is there any debate?  
Deputy Jones, Dave Jones.

**Deputy David Jones:** Thank you, sir.

I think this is a very welcome move on behalf of Deputy Perrot and Deputy Fallaize. My view is that this working group can look at the relationship between us, the Crown and more

980

importantly the relationship, sometimes very fraught relationship between us and Her Majesty's Government.

As far as I am concerned, we are a grown-up, mature democracy and it is high time we had more autonomy than we do at present over the international affairs of this Island. It is simply not acceptable to me or the people of this Island and in my view the decisions taken on behalf of this Island are taken by people we have little knowledge of, nor were elected by the people or indeed selected by the Members of this Assembly, and for that reason I hope that the working group... I do not think I shall be on it as my views are far too rabid (*Laughter*) to give any rational debate in that regard, especially when it comes to interference from the EU in UK affairs; but this is a serious point. The relationship between us and Her Majesty's Government – call it the Crown or call it what you like – but effectively as the letters I have written to Her Majesty have always come back with answers pointing out to me that she has delegated authority to her Ministers, so we are effectively dealing with the UK Government, whether we like it or not.

But the relationship has fundamentally changed since the Treaty of Rome was signed. For years the UK Government would support us in our legislation and in our affairs, even though they ran contrary, often at times, with UK Government legislation and the way that they particularly did things, but that relationship changed when they signed the Treaty of Rome and the UK Government since that time have actively been working with others to force change upon us.

The EU, effectively, I am afraid... As Graham Guille used to say that the people in Westminster believe that they have their hands on the levers of power, until they suddenly realise that those levers are no longer connected to anything. They are effectively being manoeuvred and pulled from the unelected and unaccountable in Brussels, and that happens to be the case. More and more of UK sovereignty is being salami-sliced away, with treaty after treaty signed by elected governments in the UK, and make no mistake, once it has gone there will not be a little bit of sovereignty left over for these Islands.

It is hugely important that this is a turning point, in my opinion, and that we once and for all sort out the relationship between us, the Crown and Her Majesty's Government. I thought the Alan Beith Report was a very useful Report because the Beith Report actually said that he agreed that there had been far too much meddling, certainly at the Privy Council level, in our affairs, and that legislation is passed by this Assembly. You are the elected Government of this Island, as Deputy Perrot pointed out yesterday, elected by the people of this Island to serve them and their best interests and when legislation is passed by you, it is totally unacceptable, in my view, that it is then tried to be altered, amended or changed by slick lawyers, who work for the Privy Council, who have no business interfering in those affairs whatsoever.

Sir, I welcome the setting up of this panel, and I see Deputy Bebb is grimacing – it is probably the way they do things in Wales (*Laughter*) but it is certainly not the way we do things here. (*Interjections*)

So I welcome this – (*Interjection*) I will not give way, Deputy Bebb. (*Laughter and applause*) No, please.

**The Bailiff:** I will take it you have spoken. Oh, are you finished...? (**Deputy David Jones:** No –) You are giving way, are you?

**Deputy David Jones:** I was just showing that I have better manners than Deputy Bebb – (*Laughter*)

**Deputy Bebb:** Would Deputy Dave Jones agree that there is not necessary *meddling* with regards to our legislation; it is more to do with the *timing* and whether things are actually appropriately done?

**Deputy David Jones:** I am sorry, but I do disagree. I have been on the External Relations Group for 10 years and 'meddling' is the word I use, and 'meddling' is the word I mean. (*Laughter*)

So I hope the Assembly support what Deputy Perrot and Deputy Fallaize are trying to do and I look forward to the findings of this review.

**The Bailiff:** Thank you, Deputy Jones. I take it you have spoken generally and not just on the amendment.

**Deputy David Jones:** I have, sir. (*Laughter*)

**The Bailiff:** Yes.

Deputy Bebb.

1045 **Deputy Bebb:** Thank you, sir.

Just very briefly, I welcome this amendment. However, it comes with a caveat that unfortunately committees that have been set up are in slight disrepute at this point in time, because we do have one committee that has dragged on for what I would call an unacceptably long period of time – Yes, Deputy Gollop – and I think that we need to be wary.

1050 I agree that this is probably the right way to do it, but I do sincerely hope that this committee will actually execute its business timely, so that we will actually see the report during *this* term and not something that drags over eight or nine years.

Thank you.

1055 **The Bailiff:** Deputy Gollop.

**Deputy Gollop:** I did not expect to speak about PERRC, (*Laughter*) but we on the Committee are aware that Deputy Fallaize has given us some forthright questions and we are answering those and there will be I think dissemination of more public information very soon. We are working at a fair speed on the legislation, and bearing in mind it took seven years, I think –

1060

**Deputy Bebb:** Did I ask for relevance?

**Deputy Gollop:** Well –

1065

**The Bailiff:** Well, yes, I think you invited this, Deputy Bebb. (*Laughter*)

**Deputy Gollop:** Has Deputy Bebb finished his speech? (*Interjection by Deputy Bebb*) Have you finished your speech because... (*Laughter*) Pardon me.

1070 But moving on from that, there is actually a psychological difference, I think, between a panel and a committee, because a panel suggests a body that has gravitas and expertise within it that reviews, whereas a committee, which is elected by this Assembly, implies a politicisation (*Laughter*) of activity and therefore I would say that there is a difference there. (*Laughter*)

1075 Is Deputy Bebb still speaking or am I going...? (*Laughter*) I am not clear any more. (*Laughter*)

**The Bailiff:** Not that I am aware of. (*Laughter*) Not that I am aware of, Deputy Gollop, but the floor is yours. (*Laughter*)

**Deputy Gollop:** Sir, I do support the amendment, but I think we will create a different animal. On the broader questions, I have for many years been involved with the Legislation Select Committee, and we certainly went through a phase which was frustrating a few years ago actually – I think it may even really have been before Deputy Trott's period as Chief Minister – when there was a period of delay that was emanating from the Privy Council in perhaps ratifying Guernsey's legislation. We dealt with that, although it was not our role, but we were aware of the wider questions. As we understood it, perhaps the nature of that government was slightly different to this Government, but it was possibly more, as has been implied by Deputy Jones, a legalistic issue whereby lawyers employed by Her Majesty in that context were scrutinising our legislation.

1080 We were told that one of the problems we had was the so-called 'Henry VIII clause', which was nothing to do with his six wives or Cardinal Wolsey or anything, but it was to do with devolved power, and to speed up and encourage more Ordinances, we were taking on to the States – quite democratically as we were voting for it – ways by which we had fewer *Projets de Loi*, less law and more Ordinances. I think there was a view in Whitehall at one point that that was not very democratic.

1090 Theoretically, if we started to become, I do not know, an elitist executive regime that lost our parliamentary and legislative role, they would have a point, but it was insensitive to the way we operate and I hope and – listening carefully to Deputy Perrot over many years on this – agree there are issues to investigate, not only on that point, but some ideas that have been floated around include a Channel Islands or Bailiwick of Guernsey Privy Council consisting of eminent lawyers and other expertise, who may or may not be resident, but would nevertheless work for Guernsey's interests.

1100

Another possibility is devolved powers, as I believe the Isle of Man have a stronger situation, where the Governor on occasions is able to sign legislation, rather than necessarily going through London in quite the way we do.

1105 I think there is room for co-operation with Jersey, if possible and appropriate, and this has come at a very timely moment with the successful election of Sir Philip Bailhache as their first External Relations Minister. They have arguably taken a different type of approach, which may work for them, but we have to be as smart, if not smarter, and really focus on both building up our own credible international profile and ensuring that our relationship with the United Kingdom is fit-for-purpose for the second decade of the 21st century.

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**The Bailiff:** Deputy Green.

**Deputy Green:** Mr Bailiff, Members, I will speak on the amendment and generally, if I may.

1115 I am going to support Deputy Perrot's amendment. I am very glad this amendment has been brought actually. I think provides the clarity and the position that the original policy letter did not have on some of the housekeeping matters, in terms of the membership of the committee and future expenditure and things like that, and so I welcome the amendment for that because I think, quite frankly, the original policy letter unfortunately left quite a lot to be desired on good housekeeping measures.

1120 Speaking generally, the Report is pretty good in terms of setting out...well, there are issues sometimes that arise when this Island's interests are not congruent with the UK's interest and although we have this framework document which can handle those differences of opinion when represented internationally, there is no similar provision in relation to the processing of laws of the Privy Council, or indeed in relation to Treaty extensions.

1125 But really, I do not think we should exaggerate some of these issues because as the Report itself makes quite clear, the current relationship that we have with the Ministry of Justice has actually improved of late and as Deputy Gollop made very clear, that is probably because we have started to tone down the use of Henry VIII clauses in our primary legislation and that is something that is touched upon in the Report. I think to some extent there was an overuse of Henry VIII clauses in the past and we were perhaps biting off more than we could chew.

1130 I do think it is right fundamentally that we investigate how we might practically reduce the risk of tensions between ourselves and the UK, by possibly seizing more autonomy, but it has to be done in a measured and thoughtful way and I am sure it will be in due course. However, I do want to sound some notes of caution here in terms of what the ultimate outcomes may be from this investigating committee.

1135 As I say, I totally support the setting-up of this investigatory committee, but I am thinking further down the line because if we determine to essentially circumvent the Privy Council as a kind of watchdog, to my mind that will inevitably put an increased pressure on our insular authorities and on our local Law Officers, in terms of their time, in terms of their resources, in terms of their workload, and I just want to ask the question: is that necessarily an unambiguous benefit to this community? There are already concerns about delays in drafting local legislation. Are we just going to make that even worse?

1140 Another issue is if we say that we are not going to have the Privy Council in our relations, would we actually need to therefore create our own final court of appeal for ourselves in criminal litigation and in civil litigation? What are the cost implications of that? It is all very well sounding off the rhetoric of Deputy Jones, who has now gone, but there could well be financial implications of this rhetoric and it is very satisfying to make these speeches and to sound off and to fire some broadsides at the UK Government, but what are the financial consequences going to be to our taxpayers? That is actually what people in the real world want to hear about.

1150 The other concern is probably something more of an unknown quantity and I did hesitate before starting to make this point, but I think I am going to make it anyway because if we do at some unspecified point in the future determine to develop greater autonomy in the areas identified, we do not actually know what implications that may have for our constitutional relationship with the United Kingdom, in the general sense. I think it was Isaac Newton who said that for every action there is an equal and opposite reaction. Well, we cannot know with any kind of certainty what reaction there could or would be from the United Kingdom and I think it is a sound principle that you meddle with your constitutional relationships at your peril. (**A Member:** Hear, hear.)

1155 I think what I really want and what I really hope this Committee will end up avoiding is some kind of group thing that suggests that we absolutely have to go down this road of greater autonomy almost with a disregard of what unintended consequences there may be. So what I am saying really is that I support this investigation committee, but we have to do it with our eyes wide open.

1160



I will support this amendment and I will support this Report, but I think we have to proceed with an abundance of caution, mindful of potential consequences, unintended consequences which may arise if we do assert increased autonomy in certain areas.

1165

**The Bailiff:** Does anyone else wish to speak on the amendment?

Deputy De Lisle and then Deputy Le Tocq.

**Deputy De Lisle:** Sir, it is good to learn from the visit this month by members of the UK Justice Select Committee as a follow-up to its recommendations to improve Guernsey's working relationship with the UK, that the Justice Select Committee will examine ways to ensure these Islands are represented internationally when they differ from the UK's views; but in commenting, their initial view was that things have worked well. They wanted to make the present relationship work as well as it can and when tackled over greater autonomy, they were not looking for a completely different relationship between the Crown Dependencies and the UK and so one is left sceptical of results of any significance coming forward from them. Certainly their comments are not delaying legislation. Making sure that government departments in London talk where issues need to be resolved are well taken and we appear to be progressing in the right direction there.

I feel that rapport is very good at the moment and we need to keep communications strong. Our relationships with the Ministry of Justice, our rapport, as I understand it, is very good at present on legislation with fewer delays, and from my point of view it is better to keep and nurture the relationship we currently have with the Ministry of Justice, rather than risk undoing what has been established over many years. So like the last speaker, I want to just express caution and to ensure that we are careful as we go forward because we already have autonomy in legislation; it is just a matter of the MoJ checking it, which they have to do anyway to see that we are not in contravention of international obligations, as they act and represent us in international affairs.

After having seen some of the large government departments that represent jurisdictions in international affairs, one has to reflect on the fact that we are a very small Island and a very small fish in the sea. I think we have to acknowledge that and be cognisant of it and tread carefully, and that might be my concern that I would bring forward to this committee that is being put together.

Thank you, sir.

**The Bailiff:** Deputy Le Tocq.

**Deputy Le Tocq:** Sir, apart from Deputy De Lisle's last comments about treading carefully, I think he is painting a picture of doom and gloom. I think it is absolutely right and proper for us as a mature modern democracy, as that is what we are, and we believe we are and improving ourselves, to review and renew our relationships from time to time.

So I support this amendment. I think it gives a greater degree of clarity and status to the body that will be responsible for reviewing our international affairs particularly and the legislative process and our connections with Her Majesty's Government in the UK.

Sir, I feel strongly about this because as a Guernseyman, we have strong historic long-term relationship with the Crown – in fact we form part of the Crown's oldest possessions – and, as such, like all relationships over time, things change around us. We do not like change. I am often saying this, but if in a relationship one party changes and the other does not, it still affects the relationship. I would argue strongly that Guernsey has changed and I will come on to that in a moment, but nevertheless the world around us, particularly the United Kingdom and the countries in Europe nearby have changed and are changing rapidly. We need to have a relationship with them for geographical reasons. We need to have a relationship with them for economic reasons. We need to have a relationship with them for social reasons. So it is absolutely right and proper, and indeed I think will be treated as a healthy thing to have a body that is reviewing this to see whether we could do things better.

But, sir, our situation in Guernsey has changed since the Treaty of Rome was signed and whilst I share some views of Deputy Jones – and I do not want to go into great detail here because that is the purpose of setting up a committee of this sort – I do not share all his views with regard to the EU (*Interjection*) and I do not want to be part of the EU, but I believe we need to have better relationships with the EU. Like it or not, the EU exists and the countries in the EU are our close neighbours and we are increasingly doing business want to do business with those countries and so it is absolutely proper that we take this seriously.

When the Treaty of Rome was signed, Guernsey was largely a horticultural/agricultural community and not surprisingly decisions were made in those days that primarily focussed on that industry, protecting that industry and through that protecting our links with the UK – particularly

to UK markets. That has changed for us in Guernsey. We are now a global player and as is often the case, the case we make, we punch above our weight. It is therefore totally wrong... it would be totally wrong for us just to continue looking solely at domestic policy and then when things do not go our way and we are treated perhaps we think unfairly internationally trying to shout loudly. We need to work before that. We need to plan before that. We need to review. We need to find our place on the stage. We may be small players, but there are many other small players in the world and they are doing a right and proper assessment of their position and their identity, and this enables us to do that.

If it was down to me, there are some changes that I would like to make. They are probably more tweaks than anything else, but I believe it is right to do so, but before going ahead and just doing those things, it is better to have a more general review, which I believe is what this policy letter and indeed this amendment will produce. So I encourage the Assembly to support them.

Thank you.

**The Bailiff:** Deputy Trott.

**Deputy Trott:** Sir, I am in a similar position to many other speakers, but for me it is paragraph 18 on page 1402 that captures the real essence of the situation we are in, and I will read from it if I may, and that paragraph tells us that on 30th March 2010, a Justice Select Committee found that the relationship between the UK and the Crown Dependencies was *mostly* working well, but raised questions over the role that the UK played with regard to legislation, international representation and good government in the Islands.

It went on to say, sir, and I think this is a credit to all of those who have been involved in this process over the last couple of decades or so, that the report acknowledged that the Crown Dependencies had developed reputation, profile and credibility with international partners and overarching sovereign bodies, and that is particularly emphasised when we look at page 1413, under the heading, 'Making of Agreements under Entrustment', paragraph 60 onwards.

Over the last few years the ability for us to negotiate in our own name under official entrustment documents from Her Majesty's Government has been extremely valuable to us. It has enabled us to sign the financial agreements with the EU member states on things such as the EU Savings Directive, and as the report reminds us, numerous Tax Information Exchange Agreements and Double Taxation Agreements, to name but three.

Our relationship is maturing and this review is clearly a natural evolution of that maturity. I would though like to make a point about those who look to the Isle of Man as being the panacea. In the Isle of Man, the Lieutenant Governor of the Isle of Man has got certain devolved functions from Her Majesty's Government in the sense, as I understand it, he can sign off on certain aspects of legislation without the requirement for that legislation to go before the Privy Council. However, remember that the Isle of Man has a *very* different form of government than ours. For instance, significantly it has a bicameral system. It has a legislative assembly – in other words, it has a second reading of legislation.

One of the weaknesses of our system of Government is the amount of time that we spend as an Assembly scrutinising legislation, and no question that the Legislation Select Committee spend hours attending to this matter on our behalf, but as a collective, as an Assembly, the amount of time... in fact the number of questions we ask on legislation, the amount of detail that we seek from the drafts in front of us is often considered by many outside to be woefully inadequate. So there are additional costs and responsibilities associated with getting greater autonomy and I think it was Deputy Advocate Green who focused in on this.

Sir, I am entirely supportive of this initiative. I commend Deputy Perrot's tenacity in bring it forward and it was certainly something that when I was Chief Minister I was very keen to see come before this Assembly and I have told him that on many previous occasions. I can also say, sir, should my experience be required that I would be happy to sit as a Member of this advisory panel should Members consider that appropriate.

Thank you.

**The Bailiff:** Deputy Langlois.

**Deputy Langlois:** Thank you, sir.

I feel that I should complete the set of total support here from the External Relations group since all of my colleagues have spoken on this. I then just add very briefly one bit of kite flying, which is a little bit unusual for me to bring it to this particular Assembly on the back of something here.

1285 I am right behind this proposal. It is absolutely right, but I think there is an unusual link which  
could be then formed, assuming this committee goes ahead, with the States Review Committee  
work. We note here... I hope the States Review Committee have noted the appointment in Jersey  
of a foreign minister, or whatever the title is, very recently and I think that that now flags up a  
slight danger that Jersey will be seen as having more focus on external relations than we do and  
please, that by no means should detract at all from the work being done particularly by the Chief  
1290 Minister, and by others on this front.

I do believe that there is scope for the States Review Committee and the new committee, if  
formed, to liaise and see whether we really should be having somebody within a new body called,  
possibly, the policy council or something similar, within a new central body of some sort. One  
person who is waking up every morning concerned about Guernsey's relationship with the outside  
1295 world and focusing on that, as opposed to the way we currently do it.

**The Bailiff:** Deputy Robert Jones.

**Deputy Robert Jones:** Deputy Trott is exactly right. I think in the Legislation Select  
1300 Committee, we do pore over the legislation and I think it is on occasions woeful the amount of  
scrutiny that is done by the Assembly as a whole. What I do hope is that the States Review  
Committee, once we have established exactly what system of Government we are going to have in  
place, will then look at what is appropriate in terms of the scrutiny, not only scrutiny of legislation,  
but scrutiny as a whole, and I think that process is well underway.

1305 One thing I did note from the Report is that I get the impression that the legislation that does  
come out of Guernsey is good. There are occasions where people may see the flaws in the drafting  
and what we produce, but what is interestingly actually when you look at it is that the process of  
making it work better was directed more to the UK side of things. What we have here is the 'How  
to' notes and it is actually quite interesting that those notes are actually issued to UK policy  
1310 officials in the UK. So it is clearly the UK side of things that we may have the focus on and the  
education of those UK officials as to the role that the Crown Dependencies play. I think that  
relationship is changing because we are becoming a more mature Island and jurisdiction and it is  
clearly the UK which we educate as to the way we operate and the role that we now play in an  
international arena, which previously I suspect was not appreciated by those UK policy officials.

1315 I will support the amendment and along with Deputy Trott, I suppose, as a Member of the  
Legislation Select Committee, maybe there might be a role on that committee for the likes of  
myself as well, but we will leave that for a later date.

Thank you.

1320 **The Bailiff:** Deputy Brehaut.

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

I am yet to be persuaded to vote for this amendment. Recently Nick Clegg, the Deputy Prime  
1325 Minister on television made a distinction between tax havens and the good work being done by the  
Crown Dependencies and I think just 10 days before that David Cameron in the House of  
Commons singled out the Channel Islands as being exemplars and that we were different to the  
Cayman and other places. I put that down to the work historically done by Deputy Trott, as the  
former Chief Minister, and work more recently undertaken by the current Chief Minister, and that  
has taken a great deal of time.

1330 We should remember that we did not have that. We never had that tight, close, mutually  
respectful relationship and what bothers me with this amendment, it feels like the dung beetle  
trying to re-establish its relationship with the elephant. We have to be very, very careful because if  
we seem to be a self-confident, and some I appreciate will say there is no harm in that... if we  
appear to be self-confident, if we look for areas where we could be more independent, then that  
1335 may come with a real cost to us and there may be benefits that we do not frankly appreciate now  
that we get from the UK.

When we speak of our long relationship with the UK, we refer to Henry VIII clauses and we  
refer to the Duke of Normandy and we look centuries back, but during the Occupation of this  
1340 Island, many Guernsey people went, as my family did, to such glamorous places as Bolton and  
Croydon, and they quite rightly refer to the UK as the mainland. Now Deputy Jones in the past has  
said, 'That ain't our mainland. France is our mainland.' Well, of course, geographically maybe,  
but there is a very close bond to the UK and this amendment to me makes me a little bit nervous  
that we do not actually appreciate what we have now and in walking around the tiger, I just think  
we need to be very, very careful.

1345 I suppose if I could say that if *University Challenge* ever has both Deputy Perrot and Deputy Jones on the programme, our specialism would be Guernsey relationship with the UK and Europe – it is something of a pet subject of theirs. I have also seen what Deputy Jones posts on such forums as the Freedom Association, and I think we have to be very careful not to appear to be nationalistic in our approach. I am a Guernseyman. I feel at times that we have a unique situation,  
1350 a unique relationship with the UK. I consider myself at times to display my nationalism in different ways, but I think that we need to not forget what we already have and what we could potentially lose.

Thank you.

1355 **The Bailiff:** Deputy Fallaize.

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

Deputy Brehaut has got me to my feet because he is ascribing to the amendment things which it does not do. It is the Policy Council's policy letter which proposes a review of Guernsey's  
1360 constitutional relationship. All the amendment does is to propose that if the States is minded to carry out that review, it be carried out by the Constitutional Investigation Committee with the membership outlined in the amendment. But if Deputy Brehaut does not want to have a review carried out by anybody, then it is the policy letter, the Proposition, whether amended or not, that he will have to vote against and not the amendment itself. The amendment deals with the very  
1365 narrow issue of who it is that carries out the review and what the relationship is between that panel or committee and this Assembly.

There is another amendment to come, which the Chief Minister has already referred to, being proposed by Deputy Brehaut, which would change one aspect of the mandate of the committee, so that rather than making an assumption at this stage that the committee ought to bring forward  
1370 proposals for greater autonomy, the committee would be required to investigate whether that is a good idea first before assuming that we ought to seek greater autonomy. So I think that is the amendment for Deputy Brehaut if he does not want to go as far as what is proposed in the policy letter, but the mandate of the panel in the policy letter is just converted into the amendment and Deputy Perrot and I have not changed any of that.

I think there have been some speeches from Members who have made good speeches, really proposing themselves as members on the committee and it seems to be, sir, that Deputy Harwood no longer needs to go through a normal recruitment process because he needs four Members and in Deputy Perrot – I am not trying to do his job for him (*Interjection*) – and Deputy Trott, and Deputy Green and Deputy Jones, he has four Members who would bring – Deputy Robert Jones  
1380 obviously, I mean (*Laughter*) – a great deal of balance to the work of this committee and I hope that he proposes them in due course and if he does not, I will.

Sir, the point I want to make in closing is on the States Review Committee because Deputy Langlois raised this point and he is right that this committee, if the States approve this amendment, will need to work with the States Review Committee and it will be assisted in that task by having  
1385 the same chairman, because of course the Chief Minister chairs the Review Committee.

The way in which the States deals with external relations is something which in many ways can be considered as one very discreet item in the work of the States Review Committee and we can deal with external relations in ways which may be completely different in terms of the structure of it than we deal with everything else in the States because there is such a difference  
1390 between the way we deal with domestic policy and external relations policy.

One of the... I think it is a problem, but it is certainly a characteristic of our present system of government, that everything is so rigid and if we form another body to deal with some kind of... in an executive sense to deal with an area of policy, like external relations, and we have an external relations minister, then we have to give the person a seat on the Policy Council and this is one the  
1395 characteristics of our system at the moment that there is what I consider to be a problem that either the number of Departments we have falls out of the ideal number of Members of the Policy Council –

**The Bailiff:** Deputy Langlois has asked if you would give way.

1400

**Deputy Langlois:** Sir, could I possibly shorten the input on this vast debate about structure?

I was making the point that somebody carrying a particular title and allocating all of their time to the issue is what is needed. I was not implying any development in the structure and all that.

1405 **Deputy Fallaize:** I accept that, sir, but that actually emphasises the point, because if we were to have someone who was the external relations minister, I think we would probably expect that person to sit on the senior States Committee, which at the moment is the Policy Council, and we do have this situation at the moment where either the number of Departments of the States falls out of the ideal number of Members of the Policy Council, which is not really the ideal way of chopping up the functions of the States or we chop up the functions of the States into the right number of departments and then just as a consequence of that, that is the number of members of the senior committee and that is not really the ideal way of determining the number of members of the senior committee.

1410 So the States Review Committee has to get its head around this problem which our present structure causes; but clearly, it is essential that in whatever form of Government we have after 2016, there is a great deal of emphasis placed on dealing with external relations policy and we will be able to learn from Jersey's experience in that regard. I can confirm that it is something that is uppermost in the minds of the States Review Committee and any opportunity to work in conjunction with this Constitutional Investigation Committee will be welcomed.

1420

**The Bailiff:** Does anyone else wish to speak on the amendment?

Chief Minister, do you wish to speak then before Deputy Perrot replies?

1425 **The Chief Minister:** Merely to say, sir, as I said at the outset that I do support the amendment and would encourage Members to vote in favour. It does go into far greater housekeeping arrangements, as Deputy Green identified. I mentioned the fact that the amendment would create a Special States Committee, that means, for example, a budget has to be identified and recognised for that, which is one reason why it does go to more housekeeping than the original Policy Council Report, but if it was a panel it would have been dealt with under the Policy Council budget.

1430 But I do urge Members to support the amendment.

**The Bailiff:** Deputy Perrot.

1435 **Deputy Perrot:** I find it hard, sir, to sum up in relation to this amendment because a number of Members have spoken generally, really, about the policy letter, but have intimated that they are speaking about the amendment and so is rather difficult to sift out the comments which relate purely to the amendment.

But can I say generally, I am very grateful to those who have spoken either for or against, and I am particularly grateful of course to my old comrade in arms, Deputy David Jones, as sometimes these nuances and subtleties of his arguments leave me confused, but it is quite clear here that he is completely on side.

1440 Deputy Bebb, I am not sure whether he was distinguishing between panels and *ad hoc* investigation committees and said that some committees are brought into disrepute. I have got some sympathy with him there. I remember the old Horizontal Conveyancing Committee, 1445 (*Laughter*) which started off in about 1971, I think, and eventually came to report in about 1984. (*Laughter*) So we have had our moments in the old days as well, if I can say that to him, but as long as I am around, I think Deputy Bebb can be reassured that I will be seeking to make sure that any committee dealt with its work with reasonable dispatch, irrespective of whether I am on that committee because this is a subject about which I am particularly concerned.

1450 When comparing committees and panels, Deputy Gollop extraordinarily said that he thought that a panel had perhaps more gravitas than a committee. I do not follow that sort of argument, as it seems to me that something which is invested with full authority from the States of Guernsey must have much more authority, gravitas and general sort of swagger.

1455 I forget one thing for Deputy Bebb, and perhaps this does not relate purely to the amendment, but he said that he thought it was merely an issue of timing, but the problem, I can reassure Deputy Bebb, is not merely one of delaying laws; there are murkier aspects to it than that.

Deputy Green was supporting the amendment, but was also speaking generally. I am very pleased to receive his comments that the policy letter was pretty good... (*Laughter*) put nothing down but faint praise. (*Laughter*) But anyway, I am grateful to him for those remarks. But he questions whether we are going to create greater delays in local legislation if all of this is passed. I do not see how that could possibly be the case and I think that if anything is going to shorten them. He says that we meddle with constitutional relationships at our peril and I entirely agree. I would have thought that both the original policy letter and the wording of the amendment, both of those are written in the most cautious of terms. After all, all we are trying to do is to set up an investigation committee.

1465

Deputy De Lisle, again it is slightly difficult to know whether this was purely in relation to the amendment, but he was saying that things have worked well. Well, yes, things do work well from time to time. Things work jolly well at one time when Lord Rippon addressed this Assembly, but then things changed afterwards and we had Prime Minister Blair, who imposed the Edwards Report on us, and we do not always have the knowledgeable and urbane people like Sir Alan Beith as members of the Ministry of Justice Select Committee. Of course, a select committee is just a select committee and its findings do not have to be accepted by the department in the United Kingdom concerned and certainly in the past we have suffered from the Justice Committee cherry picking various bits which they liked from the report of the Justice Select Committee and kicking the others into touch.

Deputy De Lisle also says that we must approach this with caution. I am not sure how it is possible to write an amendment or the original policy letter in more cautious terms.

Deputy Le Tocq, I welcome his support of the amendment, but he is slightly caustic about Deputy Jones and me in saying that our views of the European Union are very well known. Well perhaps they are very well known, but I would remind Deputy Le Tocq that when Guernsey knew that the United Kingdom was going to form part of the European Community, it was the old EEC. The European Union is quite a different bucket of fish from that and I would have hoped that Deputy Le Tocq would agree with me that it is quite difficult to know of any jurisdiction which has a greater democratic deficit than the European Union (**A Member:** Hear, hear.) and the European Commission.

**The Bailiff:** Deputy Le Tocq.

**Deputy Perrot:** Am I being asked to give way?

**The Bailiff:** I think you are.

**Deputy Perrot:** Well, I will.

**Deputy Le Tocq:** Thank you.

I would just say I completely agree with Deputy Perrot, sir, and in fact he illustrated my point perfectly that times have changed and I agree that the EEC then was very different to the EU that we have today. But again, just to illustrate my point, we have changed also.

**Deputy Perrot:** I thank him for that intervention.

Deputy Trott spoke of the development of Guernsey's international reputation and I think that this Assembly in Guernsey generally owes him a great vote of thanks (**A Member:** Hear, hear.) for all the work which he did to establish that during his time as Chief Minister, and certainly I congratulate him.

Deputy... oh dear, another intervention.

**Deputy Trott:** Sir, I beg your pardon. I did not quite hear what Deputy Perrot said. Would you mind repeating it, sir? (*Laughter*)

**Deputy Perrot:** And then we move on (*Laughter*) to Deputy Langlois, who spoke about Jersey creating the position of a foreign minister. Well, there's an idea... Deputy Robert Jones said that the UK side was the one we have to focus on and I think that he is absolutely right. I think that the process, our *legislative* process is one to be very much admired and the real problem in that it falls into some difficulty when it goes across the English Channel.

Deputy Brehaut, again in speaking the amendment, said that he was disturbed by it and he said that these days we are hearing reassuring voices from Messrs Clegg and Cameron *et al.* Well, yes, of course, people do make reassuring noises, but personalities do change and all of a sudden the Islands can find themselves the subject of some sort of predatory action by the United Kingdom Government without any prior notice. He unfortunately raised the word 'independent'. You will note, sir, I have never use the word 'independent' in any of these writings and I am certainly not proposing anything like that. What I am trying to establish is a review of the way in which we legislate. He also says that we must not be nationalistic. I entirely agree that sometimes defending oneself can sometimes appear to be some form of xenophobia, but what we must also do, always and always and always, is to stand up for ourselves (**Two Members:** Hear, hear.) when other people are trying to put the boot in.

I have tried to speak only on the amendment, because I would like to reserve my position to speak a little bit later on, but I do ask you to support the amendment.

1530 **The Bailiff:** We vote then on the amendment proposed by Deputy Perrot, seconded by Deputy Fallaize, with the slight alteration in the proposed Proposition 1, altering the date from November 2013 to January 2014. Those in favour; those against.

*Members voted Pour.*

1535 **The Bailiff:** I declare it carried.  
The second amendment is proposed by Deputy Brouard and seconded by Deputy Ogier.  
Deputy Brouard.  
Deputy Gillson, do you wish to be *relevé*?

1540 **Deputy Gillson:** Yes, I apologise for being late, sir.

**The Bailiff:** You are *relevé*.  
Deputy Brouard.

1545 *Amendment:*  
*To replace the 4th bullet point of Proposition 2 as follows:*  
*'To bring forward to the States of Deliberation, through the Policy Council, the results of the investigation as whether or not greater autonomy in legislative affairs and international representations should be sought and if so what proposals they would recommend for the States of Deliberation to consider.'*  
1550

**Deputy Brouard:** Thank you, sir.  
The amendment will obviously now slightly change by dropping a couple of words off it because I am assuming that when it goes through, it will now lose through the Policy Council as the new committee will report directly to the States. I have got a second draft if you need it, sir, but I have not circulated that. It is just removing 'Policy Council' from those words.  
1555

**The Bailiff:** Yes, and also altering Proposition 1 to Proposition 2 in the first line.

1560 **Deputy Brouard:** It would change the positioning, but it is still point 4 of the...

**The Bailiff:** Yes. So the revised wording is 'to replace the 4th bullet point of Proposition 2 as follows:', and then just everybody is clear –

1565 **Deputy Brouard:** It is just a consequence of –

**The Bailiff:** It is 'to bring forward to the States of Deliberation', and delete the words, 'through the Policy Council':

1570 *'To bring forward to the States of Deliberation the results of the investigation as whether or not greater autonomy in legislative affairs and international representations should be sought and if so what proposals they would recommend for the States of Deliberation to consider.'*

1575 That is the amendment.  
Mr Procureur.

**The Procureur:** I think we have got a superfluous 's' on representation.

1580 **The Bailiff:** Right. Yes, I have actually got an amended version that does not have that 's' –

**The Procureur:** 'Greater autonomy in legislative affairs and international representation', for consistency.

1585 **The Bailiff:** Yes. I think there is an amended version that I have and perhaps Deputy Brouard and Deputy Ogier could sign that amended version.

**Deputy Brouard:** Yes, I have got copies here, but it just did not seem to be worthwhile circulating. That is fine, sir. I did not know which one –

1590       **The Bailiff:** If you could sign that and make sure the Greffier has that amended version.

**Deputy Brouard:** I will. Thank you, sir.

Can I just at the start, sir, say I am very grateful that Deputy Perrot has allowed the addition of 1A into his amendment of allowing Law Officers through, as I think that is very helpful?

1595       This amendment is no more than a reset of the default position and I hope I explain it well, but if I do not, hopefully Deputy Ogier, who is very kindly seconding, will very kindly come to my aid.

Our constitution and relationship with the Crown is one of a number of areas that have far-reaching consequences, much of which is in the hands of others. The existing Proposition, as published, has a presumption that change in legislative affairs and international representation is needed as we are tasking the new committee to come up with proposals for seeking greater autonomy, which no doubt the committee will do, but it forces them to do so, regardless of the finding of their investigation. Our amendment gives the committee the health check, which they should do under good governance anyway, to come forward with proposals if they think we should seek greater autonomy.

1600       I did write down that I had hoped through a lifetime of experience, but I quickly changed it to half a lifetime's worth of experience because I was hoping to carry on a bit longer (*Laughter*) but during that time I have actually gained some wisdom.

My position of our Islands re the Crown and the UK and the privileges we enjoy have changed over time. I am more respectful of the unique position we hold and would be saddened if it changed without good vigour, sound reasons, with a lot of thought and as Deputy Green said, good measure. It is an 800-year marriage. Good times. Hard times, especially during the wars. We had the Royalists at one time held up in Castle Cornet for eight years while the Island was for the Roundheads and their Parliament – probably a difficult time for the Island and our officers dealing with both sides of the Crown and Parliament at the time. But together, we have been with our Crown longer than half the world has been known and maybe last Tuesday we did not agree on something – such is life in a long-term relationship and this is a long-term relationship.

1610       Things do change and relationships mature and I am very conscious of that, but on this journey we are about to embark, there is only one path. Each step we take, takes us to a new place. There is only one direction of travel. So I only want to go on that journey when it has been fully investigated as Policy Council rightly asks and demands in paragraph 3 of their Report:

‘...and when investigated to bring forward proposals’

1625       And here I add, ‘if necessary’. There is no extra work. This amendment stops nothing. This amendment slows nothing. It just gives the new committee a default position that if after their investigation they feel there are no proposals that they think are fit for the purpose of seeking greater autonomy in legislative affairs and international representation, they will not fail in their mandate as a committee in coming to that decision because if they reach that position with the present unamended mandate the committee has, they would still be forced to bring forward some proposals for change, something in this scenario they would not agree with, do not want and is not appropriate because that is the present default position: the committee is forced to bring forward proposals.

For something so important, and so important I could not think of another word for it, I want the committee to have all the tools in the box to come forward if they feel there is merit in changing or seeking to change our autonomy in legislative affairs and international representation and give those changes, if necessary, and give us those changes, if necessary, after that investigation and rigour that they are being asked to do. So rather than giving them the answer before they have even taken the first step on the journey, give them the opportunity to bring forward the answer they feel is appropriate. Just to ensure that there is a vote for the new positions on this committee, I would be pleased to have my name put forward as well.

1635       My thanks, again, to Deputy Scott Ogier, who flagged this issue and for kindly seconding. My thanks to the Policy Council and the Chief Minister, who are happy to accept the amendment. Please, this is a simple reset of the default position. It does not stop progress. It does not slow down the work, but it does avoid compromising the committee with any unintended consequences.

1645       Thank you, sir.



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

1650 **Deputy Ogier:** I do, sir, thank you, and reserve my right to speak.

**The Bailiff:** Deputy Dave Jones, you wish to speak?

**Deputy David Jones:** Yes, thank you, sir.

1655 I often agree with Deputy Brouard, but I do not agree with him on this amendment. I think that given the names that Deputy Fallaize mentioned this morning, these are all highly intelligent Members of the States and they will know when they are going through this review and carrying out this review what ground to tread on and what ground is best avoided – I think that goes without saying. The problem is that it is a shifting landscape all the time and without broadening this into anything else, but I think it is fair to mention it, that in Guernsey when Geoffrey Rippon came and sat where the Chief Minister is now, I think – it might have been in your chair, sir...I cannot remember – we were asked whether we wanted to join the EEC, which was six countries, not a federal state of Europe of 27 countries with its own constitution, its own flag, its own anthem, its own police force –

1665

**The Bailiff:** Are you speaking generally, Deputy Jones...?

**Deputy David Jones:** Yes, I am, sir, but the point is that they will know when they are going through this review where the ground is shifting or where it is not. So although it might be a belt and braces amendment, as Deputy Brehaut I think is saying, I think it is unnecessary. I wanted to speak on it because I wanted to make that point. I am ambivalent whether it goes one way or the other, but I think that it is an unnecessary amendment, given the calibre of some of the people who I believe will need to be put on that and I would like to make a bid now for Guernsey's first post as Foreign Minister while I am on my feet. *(Laughter)*

1675

**The Bailiff:** I see.  
Deputy Duquemin.

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

1680 I support this amendment. I think many and my Castel colleague here, Deputy Green, referred to the initial Perrot and Fallaize amendment as good housekeeping and I see this amendment, brought by Deputies Brouard and Ogier, simply being one of the same thing: good housekeeping. The amendment as it is now in place says:

1685 *'That the mandate of the Constitutional Investigation Committee shall be...to bring forward to the States proposals for the purpose of seeking greater autonomy in legislative affairs and international representation;'*

We do not know at this stage whether for the benefit of Guernsey we need greater autonomy and that is the question that needs to be investigated. I wholeheartedly support the investigation, but there will be advantages in greater autonomy and there will be disadvantages in greater autonomy.

1690 If I may indulge Members for just a few moments, through the benefit of my electric communicator I was able to find a copy of my manifesto and it did remind me of one of the advantages that we have. As Deputy Brouard said, we have a relationship with the UK that has many advantages and I was interested to read the words of wisdom that I penned all those many months ago, and it was this:

1700 *'...that the UK Government set aside a staggering £1.2 trillion to bail out the British banks, including the banks on our own high street. If we in Guernsey had had to cover our share of that, the States of Guernsey would have needed to find up to £1.2 billion from our own black hole to put in the pot. That would have been £20,000 each for every man, woman and child living here. There are advantages to the relationship.'*

The manifesto then quoted:

1705 *'We didn't have to put our hands in our pockets, but our banks stayed open for business and the ATMs kept working. There are some positives to our arms-length relationship with the UK but an investigation is needed'*

– and it made clear in the manifesto –

1710 ‘...there are negatives too and successive UK Governments appear to want to employ a stronger arm that even before to exert more pressure over what once were their “dear Channel Islands”.’

Deputy Dave Jones will be pleased to know that it then said:

1715 ‘Decisions affecting Guernsey should be made in Guernsey, not by those elected to Westminster or even Brussels.’

But I will not carry on reading, but it did say an investigation was necessary and that was one thing that I supported. But I think the point here, that I would just stress once again, is that this amendment brought by Deputy Brouard is just that: it is housekeeping. It keeps the door open to the positives of greater autonomy, but also it reserves the right to find that the investigation may reveal that there are negatives that outweigh those positives. I will be supporting the amendment.

Thank you, sir.

**The Bailiff:** Deputy Perrot and then Deputy Fallaize.

1725

**Deputy Perrot:** I do not know whether this will help, sir, but I am perfectly happy with the amendment and I am prepared to vote in favour of it.

Just to correct something which Deputy Duquemin was talking about in relation to banks being bailed out by the UK, they were of course banks who had their registered offices in the UK and not in Guernsey.

1730

**The Bailiff:** Deputy Fallaize.

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

1735

Yes, the UK Government bailed out the banks, but unfortunately some of the banks or one of the banks I use is bailing out anyway – damn Co-op! *(Laughter)*

First of all, sir, I want to make two points in relation to this amendment... well, three, if you include this one. First of all, Deputy Brouard said when he laid his amendment that our relationship with the Crown dated back to half the time the world has been in existence. Sir, the known age of the world is about 4.5 billion years and although our relationship with the Crown is quite long-standing, it is not over two billion years.

1740

Sir, picking up on a point –

**The Bailiff:** Deputy Brouard.

1745

**Deputy Brouard:** Sir, if I could have the opportunity, the words I was trying to say was that we have been in a relationship with our Crown longer than half the world has been known.

**Deputy Fallaize:** Yes, sir, and the world has been known for four and a half billion years. *(Laughter)*

1750

**Deputy Brehaut:** But the Douzaine has been around for longer. *(Laughter)*

**Deputy Fallaize:** I know this, sir, because Deputy Perrot told me that when he saw it at the beginning... *(Laughter)*

1755

Sir, there is a difference between the mandate of a panel and the mandate of a committee in this sense. The Policy Council was proposing that initially in its policy letter that a panel of its own creation would carry out the review and I assumed when I read that that the policy Council itself, having explored the issue in a preliminary sense, had reached the view that the panel ought to come to the States proposing greater autonomy in legislative affairs and international representation. I accept that that may well be the Policy Council’s view, but now that this review is not going to be carried out by a panel of the Policy Council and is going to be carried out by a committee, a separate committee elected by the States, we cannot possibly know what the views of those Members of that new investigation committee will be. Therefore it seems to me that given that this is going to be a new committee with an unknown membership, it is probably right to give the Members of that committee the freedom to determine first whether we ought to seek greater autonomy in these areas before tying them to proposals which invariably seek greater autonomy.

1760

1765

I would also just reiterate something which I think Deputy Perrot said, or certainly intimated in an earlier speech, that we are dealing here with legislative affairs and international representation. Even if the amendment losses, the committee will not be required to come forward with proposals which change our constitutional relationship with Her Majesty’s Government in any way. This is

1770

about the passage of legislation which is approved in this Assembly and also the way in which we project ourselves externally and I do not think there is any chance that the committee is likely to propose some fundamental change to our constitutional relationship with the Crown.

1775 Thank you, sir.

**The Bailiff:** Does anyone else wish to speak?

Deputy Stewart.

1780 **Deputy Stewart:** Just really to help out my Deputy Minister. If you are a creationist, then the world is only 10,000 years old.

**Deputy Fallaize:** And hopefully we have not got any of them. (*Laughter*)

1785 **The Bailiff:** Deputy Gollop.

**Deputy Gollop:** Sorry, excuse my coughing earlier.

I am not sure about this amendment. In a way I am surprised to hear its support because it appears to be a watering down because it presupposes that this body will deliberate as to the direction of travel, rather than starting from a perspective of already building what I think has been our agreed strategy, which is a degree of greater international profile and international autonomy.

I think that has been the message of Sir Alan Beith, the Ministry of Justice Committee, successive governments in recent years, visits by ministers and the various Chief Ministers we have had, but this indicates that we would all go in a room and sit down and think about what we want and be a bit like PERRC and sit around for seven or eight years deliberating and gathering evidence and I do not think that is what we want at all. I think what we want is something dynamic.

I am a fan, I must admit, of an external affairs minister, or an individual perhaps with a department who goes out every day, every week, and does things and meets people and makes a difference, and a structured committee is not empowering; it is burying.

1800 So I am going to have listen carefully to the rest of the arguments before backing this amendment.

**The Bailiff:** Anyone else?

1805 Deputy Ogier.

**Deputy Ogier:** Thank you, sir.

I will be brief. Bullet point 4 instructs the panel to bring forward to the States of Deliberation, through the Policy Council, such proposals as they think fit for the purpose of seeking greater autonomy in legislative affairs and international representation. I am not ready to make that decision. I am not ready to say, 'Yes, let's seek greater autonomy.' To me, the case has not yet been made.

I do not wish... I have not decided that. As Deputy Fallaize says, we do not know who will be on the panel, and I do not wish to instruct them right at the start that they are mandated to come back with proposals to seek greater autonomy. Some Members may be ahead of me and feel that we need greater autonomy. I do not feel that that case has yet been made.

I want them to investigate the issues and report back which issues they wish to change, rather than send them off with the express purpose of seeking greater autonomy. I do not want to start them off that way. I want them to identify the issues, wrestle with them and then bring back recommendations as to the direction of travel.

1820 I ask you please to support the amendment.

**The Bailiff:** Deputy Laurie Queripel.

1825 **Deputy Laurie Queripel:** Thank you, sir.

I, like Deputy Dave Jones, normally welcome Deputy Brouard's cautionary approach, because I, too, after all, like to tread carefully and not to step on anybody's toes or ruffle any feathers and, sir, I like attention to detail and good housekeeping as well, but I think this amendment could well be, on this occasion, the equivalent of cleaning behind the fridge. So I will not be supporting it, sir.

1830 Thank you.

**The Bailiff:** Any other speakers. No?

Chief Minister, do you wish to speak?

1835 **The Chief Minister:** Just briefly if I may, sir.

I am happy to support this amendment for the reasons that Deputy Fallaize has also intimated, that this will be a special committee of the States of Guernsey and will not be part of the Policy Council.

1840 If Deputy Fallaize is right, in the report the Policy Council presented, there was a presumption, I think, taken by the Policy Council that the Policy Council believe that there is a need for greater autonomy. I fully accept that that view is not necessarily the view that will be adopted or accepted by this new special committee. I therefore think it is entirely appropriate that this amendment should be accepted. We should not at this stage be pre-empting the outcome of the views of that new committee, sir.

1845 **The Bailiff:** Deputy Brouard.

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

1850 Thank you to those who have spoken in support of the amendment, which I think is a majority of the speakers.

I think, to Deputy Dave Jones, mandates are so important, especially the fine detail and I think the new committee will need to look at that mandate of what it is asked to do and I only wanted them to come forward with a proposal that they think are worth doing. Previously, if you take the original mandate, they have to come forward with proposals, whether they think they are worth doing or not, and it was just to get over that particular hurdle.

1855 I thank Deputy Duquemin for his support. This is good housekeeping. And to Deputy Fallaize as well, bringing the point that it will be a new committee with a fresh look at this.

Deputy Ogier, thank you again for your support making it absolutely clear.

1860 Deputy Laurie Queripel, yes, we need to clean behind the fridge. This is so important. There is nothing else. This is the big thing. It is a full spring clean.

Finally, I would just like to thank Deputy Harwood for his support on behalf of the Policy Council. Please support the amendment.

Thank you.

1865 **The Bailiff:** We vote then on the amendment proposed by Deputy Brouard, seconded by Deputy Ogier. Those in favour; those against.

*Members voted Pour.*

1870 **The Bailiff:** I declare it carried.

Does anyone wish to speak in general debate who has not already done so?

Deputy Lester Queripel and then Deputy Bebb.

1875 **Deputy Lester Queripel:** I have not quite finished my speech yet, sir, so could I –

**The Bailiff:** I said Deputy Lester Queripel and *then* Deputy Bebb.

**Deputy Lester Queripel:** Yes, sir. I have not quite finished my speech –

1880 **The Bailiff:** Oh, sorry. I thought you had not started it. You mean you have not finished writing it.

**Deputy Lester Queripel:** Could we change it around, please, sir?

1885 **The Bailiff:** Deputy Bebb.

**Deputy Fallaize:** An ideal time for him to speak, sir. *(Laughter)*

1890 **The Bailiff:** Deputy Bebb.

**Deputy Bebb:** Thank you, *Monsieur le Bailli*.

Tempting as it is in order to propose a guillotine motion at this point in time (*Laughter*)... However, Deputy Lester Queripel might need to be very quick because I am going to be very brief.

1895 Understandably my focus recently has been on other matters and therefore this report within this Billet has been within my attention only recently.

The one concern that I have is that it speaks only of certain aspects of our relationship with the Privy Council and the one thing that seems to be missing is that court of ultimate appeal. I do not doubt that there is some need in order to revisit the whole of it, but I think that if we talk about our constitutional relationship through the Privy Council in one matter, we have to look at the whole.

1900 I do not expect that the Privy Council would say, 'Well, if you do want more autonomy here, then you have to take more autonomy in other areas', but I do think that we need to take on board that if we undertake any amendments to our constitutional arrangements with the Privy Council, then we should also sound out how they feel about it. It is a relationship that we are in; it is not one-sided.

1905 Thank you.

**The Bailiff:** Deputy Lester Queripel, are you ready? Yes, looks as if he is.

1910 **Deputy Lester Queripel:** Possibly, sir.

I fully support these proposals. In my opinion we bow down to the EU and the UK far too easily (**A Member:** Hear, hear.) and far too often, that I am surprised we have not all got back ache, sir, due to the amount of bowing we have to do. In fact, perhaps we could attribute some of the back problems our fellow Islanders suffer from to the fact that we, their Government, sign up to every piece of legislation the UK and EU instruct us to sign up to, and we certainly need to review that.

1915 Sir, I know several islanders who have simply had enough of bowing and they want to stand up and say with pride, 'Hey, I am Guernsey and I am proud of it.'

1920 Sir, I hope that the recommendations that arise from the work of the committee are robust and potentially effective, and I am sure they will be knowing Deputy Perrot's dedication to the cause, but my plea, sir, is that we do not let those recommendations merely sit on the shelf, as recommendations often do, and I look forward to the day that those recommendations are laid before this Assembly, sir.

Thank you.

1925

**The Bailiff:** Deputy Trott.

**Deputy Trott:** Sir, on a point of order.

1930 The EU does not tell us to sign up to legislation; it merely offers us the opportunity to consider certain aspects of inter-governmental relationships that will enable them to continue to trade with us on their terms. There is a very big difference.

**Deputy Lester Queripel:** Sir, if I had put it like that, it would have lessened the impact of my speech. (*Laughter*)

1935

**The Bailiff:** Deputy Perrot.

1940 **Deputy Perrot:** From my own perspective, this Report began its life with the imposition of the Edwards Inquiry, shortly after Mr Blair was elected in the 1997 Election. Without any prior consultation or notice, Messrs Blair and Brown decided to review the probity of the financial services industries in the Islands. Happily the resulting inquiry did not produce what Messrs Blair and Brown doubtless expected and we received a high level of praise and commendation for us, but it could have gone the other way with a corresponding disastrous effect on our economies. Thus had we been at fault, the Government at Westminster would have destroyed our prime industry when subsequent events have revealed its own financial services industry was a cesspit of fraud and mismanagement.

1945 In fact I recollect Lord Wallace having the effrontery to write about what was happening in the Islands. Alas, as so often, the media had misquoted me and had used the word 'independence' which is the last possible thing that I want. Lord Wallace at the time said, 'Well, if the Islands are trying to change their relationship with the UK to any degree at all, we are going to see criminality in the Islands.' What happened shortly after that? We read all about the expenses scandals, not only in the House of Commons, but in the House of Lords, where his noble lordship lived and

breathed and had this big... I have to say that his remarks did eventually give some quite lively correspondence between the two of us. (*Laughter*)

1955 Anyway, there was strenuous objection at that time in some quarters at least to the unilateral imposition of inquiry and eventually the Blair Government said that lessons would be learned and that there would not be a repetition of that sort of thing and the imposition of an inquiry, but of course lessons were not learned at all were they because not terribly long ago we have the Foot Inquiry into our financial probity, from which we also emerged unscathed.

1960 So I realised when the Edwards Inquiry was imposed upon us, even if I had not done so other than rather opaquely before, that the old happy and amiable connection between Westminster and the Islands had ruptured, but shortly we had separate agendas. Westminster had become, in many aspects at least, a creature of the EU and no longer, it seemed to me, would there be a truly benign, eternal, understanding attitude to the Islands. Before, it has to be admitted, there were occasionally calls upon us for contribution to defence, but those calls were always resolved without comprising our constitutional position, and by and large the relationship worked well.

1965 As late as 1989, Lord Rippon, again, but this time in Jersey at a meeting of the Institute of Directors there, said to the Assembly:

1970 ‘The Home Office and your many friends in both Houses of Parliament stand ready to defend your interests if ever that should prove necessary.’

Lord Rippon was articulating in a political way the close relation we have had with what was then England since the 13th century. I cannot really go back into millions of years ago, I have to say to Deputy Brouard, but certainly we have had that relationship since the 13th century. It is often said that we owe allegiance to the monarchy in England since King John lost continental Normandy in 1204, but actually technically our constitutional position derived from the Treaty of Paris in 1259, but that is neither here nor there. For all purposes, pretty well from time immemorial, we have had allegiance to the monarch of England, but not to her ministers.

1980 In the process of evolution of a constitutional monarchy, the concept of the Crown has undergone a metamorphosis and so far as we are concerned the consequence has been an insinuation of the Government of Westminster into our relationship with the monarchy. Our relationship with Her Majesty’s Government has been stated to be founded on mutual respect and support. On the Westminster side that requirement for respect and support has been found wanting on a number of occasions in recent history, and I cite the withdrawing of low-value consignment relief and the Reciprocal Health Agreement merely as two examples of that.

1985 As we all know, the Crown is responsible for our external relations, for our defence and for our good governance. As a result of this overarching responsibility, the Crown is of course the decision maker of last resort as to whether our primary legislation is allowed and as to whether we are to be governed by an international treaty.

1990 As to primary legislation, the Privy Council, advised by the Ministry of Justice, signs off our Orders in Council on behalf of the Queen and there has been serious difficulties with this in the recent past. On one occasion, we experienced a go-slow in approvals coming through because the Justice Minister of the day was frustrated with the difficulties which he was experiencing with Sark in respect of the European Savings Directive and he wished Guernsey to do something about it, which we could not, but consent was withheld on our legislation until we did.

1995 We also experienced many delays a few years ago because Westminster objected to our Henry VIII clauses, as mentioned I think by Deputy Gollop earlier on, and those occurred in our primary legislation and they were clauses which allowed the States to amend Orders in Council by subsequent Ordinances. There was a great harroosh about that at Westminster, despite the fact that they put Henry VIII clauses in their own legislation and their own legislation is changed by subsequent Statutory Instruments. At one time, 13 of our Laws were extensively delayed awaiting sign-off, all because of enabling clauses which Westminster objected to, but used itself.

2000 Jersey also found themselves in a similar position in connection with proposals to copy our legislation with our international business operations and this time it was because Westminster was embarrassed at the proposals because of its membership of the OECD.

2005 As the Justice Select Committee acknowledged in its 2010 Report, it was inevitable that the UK Government would forward the interests of the UK before that of the Islands. The Select Committee had recommended that the UK find a mechanism to ensure that the Crown territories were adequately represented in international negotiations, but that recommendation was rejected by the Ministry of Justice, which said that it would be unrealistic to expect a UK official to put the interests of a Crown Dependency above that of the UK. Well, that problem must not reoccur.

At present, as Deputy Domaille said earlier on, things are working well. They are working well actually principally because we made a complaint to the Justice Select Committee in 2010. Nevertheless, we are all happy to hear what Sir Alan Beith had to say recently in respect of the Select Committee's most recent visit to Guernsey; but as I said earlier on, not everybody is understanding and obeying, as Sir Alan, committees and departments change and we never know what is going to happen next; thus we are not truly masters of our own legislative destiny.

I personally think that we do need to do away with Privy Council involvement and that we ought to be setting up some sort of equivalent Council of the great and the good later, but that is just my view and I accept that any such idea needs the greatest possible consideration; hence the need to set up an investigation committee.

Let me reiterate because I know that mistakes, just occasionally, occur in the *Guernsey Press*, (*Laughter*) for those in the media who wish to represent my view as a first step to independence, that is not so. I regard the Islands as being inextricably bound to the monarch and loyal to her and to the British people, but certainly not to Europe and certainly not to Westminster politicians and certainly not to Westminster civil servants. (**A Member:** Hear, hear.) My preferred option, if anybody were to ask my opinion, (*Laughter*) would be akin really to the legislation process which they have in Gibraltar, as one of the dominions, but that is not a matter for today's debate; that is a matter for another day.

As to international treaties, of course Guernsey must play its part. As we all keep saying, we are a mature, responsible jurisdiction and we must show maturity and responsibility by adopting the sensible treaties by which other jurisdictions are judged. But we believe in the rule of law and in obeying the law and we should not therefore sign up to treaties that ignore them subsequently, as say France and Spain do. If a treaty is generally worthy, but could harm one of our industries, we should negotiate a carve out. We have a chance at least of doing that, if we are the negotiators because we know our own industries – the UK does not. It might say it does, but it does not. When signing the treaty on our behalf, Westminster ought to have looked only at whether we have given the matter a proper consideration and whether the treaty complies with rules of good governance.

The UK should not be motivated by its own interests. Unfortunately, and certainly in the recent past, that has not always been the case and one of the most outrageous examples of that recently was the FATCA treaty. Guernsey has enquired of its own financial services industries whether they would be supportive of Guernsey agreeing to the United States demands that we give the USA information about American investors' bank accounts here. As there were not many such accounts, the financial industry did not object, but when we asked the Privy Council to sign the FATCA treaty, the response was a refusal, unless Guernsey entered into a similar treaty with the UK, which was a different matter altogether. Thus Westminster used its position, and if I may use this word, to 'whitemail' us. (*Laughter*)

Doubtless, those who favour the *status quo* will find a whole host of reasons why nothing whatsoever should change: it is the costs, perceptions of stability, lack of manpower and our diminutive size on the international scene. At this stage, all that I am asking is that the matter be looked at and that we discuss it with Jersey.

**The Bailiff:** Deputy Trott.

**Deputy Trott:** Sir, that was a very good speech indeed, as I think most Members would have expected, and in it Deputy Perrot explained some of the journey we have been on and I will attempt to do that equally graphically, if I can.

The Edwards Review predates my time in this Assembly – it was in the late 1990's as Deputy Perrot advised – and my understanding is that at that time it was very much imposed upon the administration of Guernsey of the day.

When Foot came many years later – Michael Foot's CDs' Review – that was very different. I was sat in Deputy Harwood's office at the time and that was a very different process. We were involved in the terms of reference. We saw immediately the benefits that such a review could bring and indeed Deputy Perrot had the good grace to say that that is precisely what happened and Michael Foot's Review painted the Channel Islands in a very good position, and finally gave us a document that enabled us to advise the international community and in particular with much relevance, UK parliamentarians about just how significant the contribution from the Crown Dependencies to the City of London was and this, remember, was at a time when liquidity within the City of London was particularly scarce and the contribution even more significant. I think that shows how significant the journey has been from imposition to genuine dialogue.

Deputy Perrot tells us that he favours potentially a system of legislation competence, not dissimilar to that that exists in Gibraltar. Well, there you see is an immediate dilemma for the

2075 entity that we are in the process of creating because Gibraltar is an overseas territory and we are a Crown Dependency. The relationship between the United Kingdom and Gibraltar is very different as a result. It is so different in fact that the Whitehall entity that acts as guardian of our good governance is the Ministry of Justice, whereas correspondingly for Gibraltar it is the Foreign and Commonwealth Office – that is how significant the difference is.

2080 There have been references both within the States Report and by others, including Deputy Perrot, to the Henry VIII clauses. In fairness to the UK Government at the time of the logjam, we have changed the way in which we used Henry VIII clauses very, very significantly indeed. They were, prior to the issue, a rarity. However, in the months preceding, they became commonplace to the extent that they were plastered over every aspect of our legislation.

2085 Until such time as we seek to change our relationship with the United Kingdom, they are constitutionally responsible – as Deputy Perrot has advised – for three aspects: defence, and that is dealt with through a relatively minor contribution that we make towards the Alderney breakwater, as our Alderney Representatives in particular will recall; through some of our international relations, unless of course we have the Deeds of Entrustment, which we discussed earlier; and also for the good governance of Guernsey, in terms of should there be any breakdown in law and order.

2090 Clearly, if we are at a situation at the flick of a switch from the constitutional relationship we have with Her Majesty in Council to virtual total self-determination in terms of legislation through the introduction of a plethora of Henry VIII clauses, that is a different relationship and one that needs to be negotiated in the manner in which Deputy Perrot envisages.

2095 So I think what I am saying, sir, is that the journey over the last few years has been one that I believe has been of increasing benefit to our community and I would even say that one has to look at UK FATCA and US FATCA, not through rose-tinted spectacles. If we as a jurisdiction are prepared to tell a country like the United States, who I admit we have little business with or much less business with than the UK, that we are prepared to enter into an international agreement with them, but we are not prepared to enter into the same international agreement with our UK cousins, that sends out a very difficult message. So whilst I accept there is a little element of coercion in the way those negotiations appear to have been undertaken, it is not as unreasonable, I would argue, as maybe Deputy Perrot sought to portray.

2100 So I very much hope that he and I do have the opportunity of sitting around the same table together because he will not find me quite as passive as some that he has maybe spoken to on this matter in the past.

2105 Thank you, sir.

**The Bailiff:** Does anyone else wish to speak in general debate? No?  
Chief Minister then, would you like to reply to the debate.

2110 **The Chief Minister:** Sir, I would be delighted.

Before I do so and before I start addressing some of the points that have been made during debate, may I at the outset, as we did in our Report, acknowledge the support that the Island has from the Ministry of Justice?

2115 Deputy De Lisle talked about rapport. The Island has got a very good rapport in recent years and I think Deputy Trott has acknowledged this with the Ministry of Justice, particularly since the Justice Committee Report, as Deputy Perrot identified. As a result of that, there is a very good working relationship. The logjam of legislation has by and large diminished; notwithstanding that, however, in my submission, sir, it is still entirely appropriate we do have to be cognisant of the relationship. It is appropriate to carry out an investigation, as is proposed because again, as Deputy Perrot has intimated, personalities change. Ministers change, the political agendas will change and therefore it is something that I think we do need to be very cautious of, but I did want to make clear that at the moment, certainly on behalf of the Policy Council, we are very happy to acknowledge the very good rapport that we do have with the Ministry of Justice.

2125 Sir, there are certain key themes that have come through during the course of this debate. Firstly, there is an acknowledgment that relationships have changed. Deputy Jones, who has obviously just come back fired with enthusiasm after his weekend with Nigel Farage – (*Laughter*) I hope you did not make any reference to cleaning behind fridges, because otherwise you will be out – (*Laughter*) but clearly, he is absolutely right: the relationship between the UK and the EU has changed and the relationship within the EU itself is changing. We have to be alert to these changes in relationships.

2130 Deputy Le Tocq also identifies again that there are changes in relationships. The relationships, not only with those organisations, but with other organisations like the OECD and IMF, all these other bodies. We have to acknowledge that we are in a continuum. Our relationship is not just with



2135 the UK, it is with a vast range of new bodies and we have to be in a position, particularly with those other bodies, where we should have, in my submission, some degree of autonomy.

I do not, however, agree with Deputy Jones' reference to slick lawyers. (*Laughter*) We are certainly by no means short of our own slick lawyers if we need to put them up against the Privy Council.

2140 Deputy Bebb, yes, any States committee that is set up as a result of this debate today, I can assure you if I am chairing it, we will report in a timely fashion.

To Deputy Gollop, again, I do not share your concern that by having a States of Guernsey Special Committee that you will necessarily lack of gravitas. If I did it with the number of Members of this Assembly who put their names forward for membership of that committee, it is clear that there is suitable gravitas within this Assembly to satisfy that.

2145 To Deputy Green, yes, we must be cautious. We have to approach this in a cautious fashion. We cannot be gung-ho. We cannot be perhaps as quite as robust as Deputy Jones might want us to be. We have to work with a relationship. We have to build on a relationship and build on the rapport we have currently, but that should not necessarily prevent us from examining and investigating the nature of that relationship. Of course, yes, we must also be very cognisant of any unintended consequences and that should go without saying.

To Deputy De Lisle, again the same message about caution, the same recognition that we do have a very good rapport and we have to keep that communication going.

2155 Deputy Le Tocq, again, yes, you have already spoken about the relations and the development of relations.

To Deputy Trott, can I just say that I will repeat words that I think Deputy Perrot used earlier? Can I acknowledge and congratulate you on the contribution that you have made to the evolution of our international identity during your term as Chief Minister. We certainly would not be where we are now and able to talk to the people we are now without your contribution and that should certainly be acknowledged. (**A Member:** Hear, hear.)

2160 I will not comment further on your correction of Deputy Perrot's misunderstanding, perhaps, over the nature of the Foot Inquiry. I believe, Deputy Trott, that you are correct, that in fact there was a degree of discussion before Michael Foot commenced his Inquiry, but of course that was an Inquiry not only about Guernsey and other Crown Dependencies, but also extended to the overseas territories as well.

2165 Sir, to Deputy Langlois, I am well aware of his kite flying. He has tried to fly the same kite in discussions with me and Deputy Fallaize has responded on behalf of the States Review Committee, I think with particular reference to that matter.

2170 To Deputy Rob Jones, yes, one of the interesting features, and again I think this goes back to the Justice Select Committee Report, there is a great awareness of the legislative process in the United Kingdom. You made reference to the 'how to do' documents and information, which is issued by the Ministry of Justice, which is a very good example of how the relationship and that rapport has built up. Again, I am happy to acknowledge that I think that has been of considerable benefit.

2175 To Deputy Brehaut, mixing his metaphors, going from dung beetles to walking around tigers. Well, yes, there is nervousness and again this links back that we have to be cautious with how we approach this whole exercise. We have to preserve the best of what we have got. We should not damage the relationship, but that does not stop us carrying out an investigation.

2180 I am very grateful to Deputy Fallaize for acting as a recruitment sergeant for the new committee. All applications, please, on an envelope to Deputy Fallaize.

To Deputy Brouard, yes, you have also identified the vital importance of that relationship we have with the Crown. You identified it correctly, the relationship with the Crown, as Deputy Perrot has done, but that does not necessarily mean a relationship with UK politicians or UK Ministers, who are by nature politicians. We have to again recognise and preserve the relationship we have with the Crown and I do not think anybody is suggesting otherwise.

2185 To Deputy Duquemin, again, yes, you recognise the advantages of the relationship and you accept and acknowledge that investigation is necessary.

To Deputy Bebb, in the Report in relation to the relationship with the Privy Council, the Policy Council identified particularly the legislative process. Whether or not it is appropriate or proper for this new committee to be investigating the role of the Privy Council in its judicial role, is something I would need to take, I think, advice from Her Majesty's Procureur whether in fact that really does form part within the mandate.

To Deputy Lester Queripel, I suggest that Deputy Jones sends you an application form for UKIP and I am sure he will be looking to –

2195

**Deputy Lester Queripel:** Gratefully received, sir.

2200 **The Chief Minister:** – recruit you into one of his fan clubs. But Deputy Queripel is absolutely right, that any recommendations that comes from this investigation, this review, I would hope also should not sit on the shelf. We should be able to work with the relevant authorities to see if we can develop and actually implement changes.

I will not begin to address the very erudite comments made by Deputy Perrot. This Report owes to some extent to an initiative that he took back... I think it was 2009 when he organised a public meeting at which the issue of constitutional relationship was first raised.

2205 Again, can I emphasise, and repeat for the benefit of the media, we are not talking about independence. We are talking about seeing if we can create a better way for dealing with our autonomy, which is totally different. This is not a review of independence. It is a review as to how we might take back to ourselves certain powers which give us greater autonomy. There is a vast difference between the two.

2210 Sir, I am grateful to all those who have spoken in the debate. It has been a very useful and informative debate. I sense the debate is broadly in favour of proceeding with the review, with the Propositions as amended, both by Deputy Perrot and by Deputy Brehaut, and I commend the Propositions as amended to this Assembly.

2215 **The Bailiff:** Deputy Brehaut.

**Deputy Brehaut:** Excuse me, I was going to ask for a give way, but I think the Chief Minister has finished.

2220 There has been mention of funding, sir... numbers. For example, bearing in mind the statement we had from the Treasury Minister, what will this cost the Policy Council? How will it be funded? What will they *not* do because of this? What is the staff resource for this exercise?

**The Bailiff:** Chief Minister.

2225 **The Chief Minister:** I am happy to take that question.

If Deputy Brehaut would like to turn to the amendment that has been tabled by Deputies Perrot and Fallaize, paragraph 3 actually directs the Policy Council to report to the States with a request for approval for funding and the expenditure will be incurred by the Constitutional Investigation Committee in discharging its role.

2230 The point I made earlier that had we proceeded with a panel, which had been really a creature of Policy Council, it would have to have been dealt with within the Policy Council's own budget, but this actually does require the Policy Council to bring back to this Assembly a request for approval for funding.

2235 **Deputy Brehaut:** Sorry, sir, but it says that 'will be incurred' and that sounds almost after the event.

**The Chief Minister:** No, with due respect, the wording is:

2240 '... will be incurred by the Constitutional Investigation Committee in discharging its role.'

**The Bailiff:** Just before we come to it, Deputy Burford entered the Chamber during the course of that debate. Do you wish to be *relevée*? Right.

2245 We vote then on the Propositions as replaced and amended by the Deputy Perrot and Deputy Brouard amendments. Those in favour; those against.

*Members voted Pour.*

2250 **The Bailiff:** I declare them carried.  
We will rise and resume at 2.30 p.m.

*The Assembly adjourned at 12.34 p.m.  
and resumed its sitting at 2.30 p.m.*

POLICY COUNCIL

**Armed Forces Legislation**  
**Propositions carried *nem. con.***

- 2255 *Article III*  
*The States are asked to decide:*  
*Whether, after consideration of the Report dated 15th July, 2013, of the Policy Council, they are of the opinion:*
- 2260 *1. To approve proposals to implement on a Bailiwick-wide basis in local legislation provisions corresponding to those in the Armed Forces Act 2006 pertaining directly to the criminal law, the courts and the civilian authorities of the Bailiwick, and to make any necessary related provision relating to other United Kingdom armed forces legislation.*
- 2. To approve proposals to seek the extension of such other provisions of the Armed Forces Act 2006 as require legislative force in the Bailiwick by way of Order in Council.*
- 2265 *3. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.*

**The Bailiff:** Greffier, we move on to the next item which is the Policy Council's Report on Armed Forces Legislation. Chief Minister.

2270

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

The Report speaks for itself; the purpose of this is to seek approval from the Assembly to implement legislation, to effectively bring into local legislation the equivalent of the UK Armed Forces Act 2006. There was a possibility we could apply to extend the UK Act to this jurisdiction as you will see from the Report. There is a feeling – certainly in Guernsey and Jersey – amongst the Law Officers that in matters relating to criminal law and the courts of civilian authorities of this Island, this matter should be the subject of insular legislation rather than merely having permissive extension of the 2006 Act.

2275 It should be noted that unless until we do introduce this legislation, the previous Service Discipline Acts (SDAs) which are described in paragraph 2.2.1, those have now ceased to apply and there is a lacuna and therefore that lacuna needs to be filled. Therefore I would submit the report to this Assembly and seek approval to proceed to implement and introduce legislation.

Thank you, sir.

2285 **The Bailiff:** Any debate?

No, in that case we go straight to the vote. The Propositions are to be found on page 1431 of the Billet, I put them to you together. Those in favour; those against.

*Members voted Pour.*

2290

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

TREASURY AND RESOURCES DEPARTMENT

2295

**Double Taxation Arrangements with**  
**the Government of the Hong Kong Administrative Region of**  
**the People's Republic of China and the Grand Duchy of Luxembourg**  
**Proposition carried *nem. con.***

- Article IV.*  
*The States are asked to decide:*  
*Whether, after consideration of the Report dated 13th May, 2013, of the Treasury and Resources Department, they are of the opinion to ratify the Agreements made with the Government of the Hong Kong Administrative Region of the People's Republic of China and the Grand Duchy of Luxembourg, as appended to that Report, so that they have effect in accordance with section 172(1) of the Income Tax (Guernsey) Law, 1975.*
- 2300

2305 **The Senior Deputy Greffier:** Article IV. Treasury and Resources Department – Double Taxation Agreements with the Government of Hong Kong Administrative Region of the People's Republic of China and the Grand Duchy of Luxembourg.

**The Bailiff:** The Treasury and Resources Minister, Deputy St Pier will open debate.

2310 **Deputy St Pier:** Sir, I shall be very brief.

The States Report before Members is self-explanatory and is in standard form. The only thing I would draw attention to Members, should they wish, is paragraph 2.11 of the Report on page 1434 and 1435 it simply draws attention to the various... highlights some of the particular provisions which have been made in the various agreements.

2315 Otherwise I have nothing to add, sir.

**The Bailiff:** Thank you very much. Any debate? No.

We go to the vote then, the Proposition is on page 1489. Those in favour; those against.

2320 *Members voted Pour.*

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

2325

## TREASURY AND RESOURCES DEPARTMENT

### Tax on Real Property Appeals Panel

#### Additional Members

#### Propositions carried *nem. con.*

*Article V.*

*The States are asked to decide:*

2330 *Whether, after consideration of the Report dated 28th June, 2013, of the Treasury and Resources Department, they are of the opinion:-*

*1. To reconfirm the appointment of Mr Legg as a member of the Tax on Real Property Appeals Panel.*

*2. To appoint Sir de Vic Carey as an additional member of the Tax on Real Property Appeals Panel.*

2335 *3. To appoint Mr Harry Gold as an additional member of the Tax on Real Property Appeals Panel.*

*4. To appoint Mr Boyd Kelly as an additional member of the Tax on Real Property Appeals Panel.*

2340 *5. To appoint Mrs Shelagh Mason as an additional member of the Tax on Real Property Appeals Panel.*

*6. To appoint Advocate Julia White as an additional member of the Tax on Real Property Appeals Panel.*

*7. To note the resignation of Mr Vaudin from the Panel with immediate effect and the resignation of Mrs Evans with effect from 30th October 2013.*

2345

**The Senior Deputy Greffier:** Article V. The Treasury and Resources Department, Tax on Real Property Appeals Panel – Additional Members.

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

2350

**Deputy St Pier:** Sir, in the spirit of the Rule change which was on the back of the Chief Minister's amendment to the SACC Report yesterday, I just wish to provide a little bit more information to Members in relation to the TRP Appeals Panel.

2355 First of all, it might be helpful for me just to outline to Members what the process has been. The Department conducted an open recruitment process for panel members, advertising for interested applicants at the beginning of April. This resulted in 44 enquiries and as a result of that we actually received 18 applications which were short listed and then myself and the senior officer interviewed the candidates from which we are now recommending five be appointed to the panel, for the reasons that are set out in the Report, the need to have additional panel members.

2360 In respect of the nominees, in no particular order, just a little bit more information on them.  
Mr Gold has been in Guernsey since 1988, he is an English solicitor who has practised for many years. He is now retired, but practised for many years in property matters.

2365 Former Alderney Representative Boyd Kelly will be known to everyone in this Assembly and of course needs no introduction to Members. He is the only tribunal member, or if he is elected today, he would be the only panel member from Alderney, which we felt was appropriate that given that this is a Bailiwick Law, to have somebody on the panel from Alderney was perhaps relevant. Of course, in practice, to the extent that there any appeals from Alderney, he may well be refusing himself should he have any contact or knowledge of the particular appeal but nonetheless, to have somebody from Alderney was considered to be pertinent.

2370 Advocate Julia White is a lay member of the Planning Appeals Tribunal and also currently the Vice-President of the Tax Tribunal and has trained via the Judicial Studies Board as a tribunal member so she is very well experienced in the role of being on the tribunal.

Sir, one of your predecessors Sir de Vic Carey of course needs no introduction, and his experience and ability to serve on our tribunal is of course beyond doubt.

2375 And then finally sir, Shelagh Mason is an English solicitor who again, principally her focus is practicing in commercial property. She has been the Chairman of the Guernsey branch of the IOD and also is a member of the Guernsey Tax Tribunal and again, has experience of being a tribunal member.

2380 All are willing to serve as members of the panel and I have no hesitation in recommending them to Members, sir.

**The Bailiff:** Is there any debate? No.

Well, Members of the States, there are seven Propositions all on page 1494. I put them all to you together. Those in favour; those against.

2385

*Members voted Pour*

**The Bailiff:** I declare them carried and those people duly elected as members of the Tax on Real Property Appeals Panel.

2390

## COMMERCE AND EMPLOYMENT DEPARTMENT

### **The Electricity (Guernsey) Law 2001 Special Agreements Propositions carried *nem. con.***

#### *Article VI*

2395 *The States are asked to decide:*

*Whether, after consideration of the Report dated 18th June, 2013, of the Commerce and Employment Department, they are of the opinion:*

2400 *1. To approve the proposals to amend the Electricity (Guernsey) Law, 2001 in order that the considerations set out in paragraph 5.10 of that Report shall be taken into account when determining the reasonableness or otherwise of requiring a supply of electricity to be provided by a public electricity supply licensee and to enable the considerations to be amended in future by regulations of the Commerce and Employment Department.*

2405 *2. To approve the recommendation in paragraph 5.12 that the Electricity Law be amended to make it clear that research and investigation costs are expenses that can be defrayed under the provisions of Section 13 (1) of the Law.*

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

2410 **The Senior Deputy Greffier:** Article VI. Commerce and Employment Department – The Electricity (Guernsey) Law 2001.

**The Bailiff:** Deputy Stewart, the Minister for the Commerce and Employment Department will open the debate.

2415 **Deputy Stewart:** Mr Bailiff, comrades – *(Laughter)* sorry, too long at the Labour Party Conference I think. Again, I will be rather brief. I do not intend to say too much on what is a straightforward States Report which explains the reason for an update to the Electricity Law (Guernsey) 2001, for which I hope I can generate your support. There are not too many shocks in there. *(Laughter)*

2420 As commerce changes, so has the nature of some of our business consumers of electricity. If I can draw your attention to page 1501, paragraph 5.1, the considerations for Guernsey Electricity to take into account when asked to supply electricity. That is really the nub of the first Proposition.

The second Proposition allows Guernsey Electricity to defray any research or investigational costs into looking at putting in a very large supply for a major business supplier.

2425 So hopefully to short-circuit any debate here, whether positive or negative, I will answer your questions, but if the legislation is amended, this will give GEL more certainty, avoid domestic consumers potentially subsidising large industrial customers, who may require some changes to the electricity infrastructure.

So I ask Members to support this Report and the change to the Law. Thank you.

2430

**The Bailiff:** Deputy Lester Queripel.

**Deputy Lester Queripel:** Thank you, sir.

2435 Bearing in mind the distinct lack of commas in this Report, I was thinking of laying a Requête that seeks to rename the Department, ‘Lack of Commerce and Employment’, but that aside, I do have some concerns about this Report and point 3.4 on page 1497 tells us that the purpose of this Report is to provide the legal framework in respect of the electricity supply to data centres and large scale developments. I think it is absolutely vital that we define the terminology, so I would like to ask Her Majesty’s Procureur some questions through the Chair if I may, sir *(Laughter)* and the answers will determine whether I need to make a speech or not. *(Laughter)*

2440

**The Bailiff:** Mr Procureur.

**The Procureur:** What answers would he like? *(Laughter)*

2445

**Deputy Lester Queripel:** The right answers would be much appreciated. *(Laughter)*

The questions I need to ask, sir, are: the word ‘reasonable’ appears on 22 occasions in this Report so I need to ask, is there a legal definition of the word ‘reasonable’ and if so, what is that legal definition? That is the first question, sir.

2450

**The Bailiff:** Mr Procureur, I think Deputy Queripel is waiting for the answer. *(Laughter)*

**Deputy Lester Queripel:** It is quite a reasonable question.

2455 **The Procureur:** I hope there are no supplementaries to this. *(Laughter)*

The word ‘reasonable’ is used throughout the law in statutes and in judgements. It has got a very long standing and well established definition and it essentially means ‘that which can be justified by the application of reason.’ It is not a subject in law, it is not a subject of concepts that you might say in every day speech – ‘Well, I think that is reasonable, 50 pence for a bus fare is reasonable, 55 pence is not in my opinion.’ It is not that sort of thing. It does have an established definition, yes.

2460

**The Bailiff:** Thank you. Deputy Queripel.

2465 **Deputy Lester Queripel:** So am I to take it that means the word itself is open to interpretation in a court of law?

**The Procureur:** Is that the second or a supplementary? I am not going to get into a great argument; I have given the best advice that I can. That is the legal definition of reasonable: that which can be justified by the application of reason.

2470

**The Bailiff:** Yes, yes.

2475 **Deputy Lester Queripel:** Sir, I need to be clear because I think it would be irresponsible of me to vote for something that I am not clear on. So I also need to know please, sir, what is meant by 'or otherwise' because the first recommendation reads:

'shall be taken into account when determining the reasonableness or otherwise'

2480 so what is actually meant by 'otherwise'?

**The Procureur:** 'Otherwise' in the context of what is reasonable means that which cannot be justified by the application of reason.

2485 **Deputy Lester Queripel:** I am in a dilemma, sir. I am not sure whether I should carry on with my speech or not, in that case. *(Interjections)*

**A Member:** *Au voix!*

2490 **The Bailiff:** Mr Procureur.

**The Procureur:** I would advise no.

2495 **Deputy Lester Queripel:** I think I am reasonably satisfied by the –

**A Member:** Oh! Or otherwise.

**Deputy Lester Queripel:** – by the answer, sir, so I will put my six-page speech aside. *(Laughter and interjections)*

2500 **The Bailiff:** That is reasonable, thank you.  
Anybody else wish to debate? No.

We go then to the Propositions on Page 1511. There are three Propositions; I put them to you together. Those in favour; those against

2505 *Members voted Pour*

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

2510

## COMMERCE AND EMPLOYMENT DEPARTMENT

### The Competition (Guernsey) Ordinance 2012

#### Amendment

#### Propositions carried *nem. con.*

#### Article VII

*The States are asked to decide:*

2515 *Whether, after consideration of the Report dated 18th June, 2013, of the Commerce and Employment Department, they are of the opinion:*

*1. To agree to amend the Competition (Guernsey) Ordinance, 2012 to enable the Guernsey Competition and Regulatory Authority to invoke investigatory powers to request and obtain information to comply with a request by the Commerce and Employment Department for a report, advice, assistance, or information.*

2520 *2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.*

**The Senior Deputy Greffier:** Article VII. Commerce and Employment Department, The Competition (Guernsey) Ordinance 2012, Amendment.

2525 **The Bailiff:** Deputy Stewart again.

**Deputy Stewart:** I will be reasonably brief on this again, Mr Bailiff.

2530 This is really a balancing of the law in Jersey where CICRA already have these powers. It is really to help us particularly in the research that CICRA are doing in many areas at the moment if they are engaged in research and approach a company and ask them for information, that company could say that they do not wish to share that information with them and that would then mean that CICRA would then have some difficulty in getting a balanced view of what is actually happening in the market. With this law it would give them the legal powers to actually have that information under the law.

2535 Obviously, what is likely to happen is the fact that the law is there will mean that people will co-operate and this is the situation that exists in Jersey. I think this may have been something that perhaps was an oversight at the original drafting of the law, but does, if we can approve this today, it will give CICRA the power to make sure that the market research, and there are quite a few areas that we will be looking at over the coming months and years, that they can actually get the information that they require to come to a balanced judgement on fair competition within the Bailiwick.

2545 **The Bailiff:** Deputy Dave Jones.

**Deputy David Jones:** Sir, I hear what the Minister says and I am happy to support this but CICRA have not had a good track record in the past on acting on information they have received and protecting the consumer in the way that we were first led to believe that they would.

2550 They seem to have grown as a body in terms of cost and numbers of staff employed, and yet the consumer of this Island has not seen the real benefits of regulation that we expected when this was set up.

So I hope that them having the ability to force companies to give up information might lead them to be more proactive than they have been in the past.

2555 **The Bailiff:** Anyone else? Deputy Gollop.

**Deputy Gollop:** Sir, this is one of these ‘softly, softly’ kind of things that come to the States from time to time, without necessarily knowing what outcome they will have. If one turns to pages 1514 and 1515, the case is made for investigatory powers, market studies and paragraph 4.2 says:

2560 ‘Such studies are therefore generally carried out into sectors of the economy where it cannot reasonably be established, especially at the point of commissioning, that there are “reasonable grounds” for considering that there may be, or have been, infringements of the law.’

2565 Well, that is put in a rather ‘gobbledygook’ kind of way, but I suppose it means that the CICRA – Competition and Regulatory Authority – are prevented from necessarily seeing the full picture unless they have reasonable grounds of a specific contravention, where the powers kick in. The problem, though, is that I would not wish these powers to be seen as implicit evidence that there are necessarily infringements.

2570 Surely the market studies should be just that: they are impartial studies and not necessarily be perceived as indication of any wrongdoing. I think maybe the reason it was omitted from the Guernsey Law, whereas the Jersey Law had it, was when we signed this off a few years ago, I think most Members will recall that the view was that the worst excesses of market abuse were perhaps falling away at the time and we had the recession anyway, and that to a degree, Guernsey wanted a lighter touch than Jersey.

2575 So although the authority is pan-Island, we did not necessarily want to replicate perhaps some of the early mistakes that Jersey made, and this potentially could become very bureaucratic and expensive and top heavy and question the representation of businesses who should not necessarily be held up in a poor light.

2580 The other point I would like to make is that I am actually heartened at the new approach of CICRA – I think a lot of what they have said has been valid, but I am concerned that there are real outcomes. The model is not a cheap model and we need to see for voters and consumers real benefits, especially for consumers at the lower edge of the income market. For example, we recently had an exercise into comparing general practitioners and medical fees and the outcome of that was perhaps a change of practice and a variation in fees, but to be honest the variation in fees were not particularly significant – I mean less than 1% or 2% – and I cannot necessarily see the justification for some of the expense.

2585 I accept this today but I think, as an Assembly, next year, we need to do further work on ensuring that the regulatory model is bringing real benefits to businesses and real benefits to consumers and choice and the economy.

2590



**The Bailiff:** Anyone else? No.  
Deputy Stewart to reply then.

2595 **Deputy Stewart:** Mr Bailiff, Deputy Jones, I agree with him, I think what we need is a proactive regulator and this really covers the points that Deputy Gollop has made as well.

As a Commerce and Employment Board, I think we are all agreed that we really do need to see far more proactive work from CICRA – and I think as a Board at the moment, we feel that CICRA – has been perhaps a little Jersey-centric in some of its approach, but I do know, in terms of these powers, that they have had some difficulty in some market studies that they have undertaken to date. I think perhaps given these extra powers, being able to actually really to be able to get hold of the information that they need for a comprehensive market study, will make them far more effective as a regulator.

2600 But certainly one thing that the Commerce and Employment Board notes, as both Deputy Gollop and Deputy Jones has said, I think there does need to be more proactive work from them.  
2605 In a lot of instances, whether it is for roaming charges for phones or doctor's fees or dentist fees, I think many members of the public would agree there is probably a lot more work that needs to be done on this.

So I would ask Members to vote in favour of the Propositions. Thank you.

2610 **The Bailiff:** Members there are two Propositions on page 1518 and I put both of them to you together. Those in favour; those against

*Members voted Pour.*

2615 **The Bailiff:** I declare them carried.

## HOME DEPARTMENT

### Guernsey Police Central IT System Replacement Request for a Capital Vote Amended Proposition carried *nem. con.*

#### *Article VIII*

*The States are asked to decide:*

2620 *Whether, after consideration of the Report dated 1st July, 2013, of the Home Department, they are of the opinion to approve a capital vote of £1.5 million to fund the replacement of the Guernsey Police Central IT System to be charged to the Capital Reserve.*

**The Senior Deputy Greffier:** Article VIII. Home Department, Guernsey Police Central IT System Replacement – Request for Capital Vote.

2625 **The Bailiff:** The Minister for the Home Department Deputy Le Tocq will open the debate.

**Deputy Le Tocq:** Sir, whilst this is a request for a capital vote on a technical issue, I think the report before Members of the Assembly is quite self-explanatory.

2630 This is a very important part of not just the Police, although the Police are the lead agency here; it is the foundation of the Joint Emergency Services Control Room work and the timing issue particularly here – which is the reason why I am about to lay an amendment, a minor amendment to the Propositions – is absolutely key so that our other emergency services, notably the Fire and Rescue Service and St John's Ambulance do not end up having to spend money repairing or replacing their IT equipment, which would be counter-productive to us coming to the place of  
2635 having one Joint Emergency Services Control Room.

So there is some background information in the Report but I would like to lay this amendment now if I can.

2640 **The Bailiff:** Has it been circulated?

**Deputy Le Tocq:** It should have been. I have got a signed copy here for the Greffier.

**The Bailiff:** Right, so you wish to go straight into speaking on the amendment.

2645 *Amendment:*  
*To delete the Proposition and replace it with the following:*  
*“Whether, after consideration of the Report dated 1st July, 2013, of the Home Department,*  
*they are of the opinion to delegate authority to the Treasury and Resources Department to*  
2650 *approve a capital vote of £1.5 million to be charged to the Capital Reserve, once the project*  
*for the replacement of the Guernsey Police Central IT System has achieved a green gateway*  
*review.”*

**Deputy Le Tocq:** If I could do sir that would be... The amendment is being laid because at this particular juncture in the process the Gateway Review is still at amber but it is very close to being turned green, we would therefore ask that delegated authority be given as in the explanatory note there to T&R. T&R are in agreement with this because we are that close.

The contractual problems have caused us not to be able to come with a green light at this stage but we really would ask that Members allow the delegated authority to take place so that it can press ahead as this was really due some years ago, and the system is currently failing as it is and it is absolutely essential that we press ahead with this now.

2660 So I ask Members to support the amended Proposition.

**The Bailiff:** Deputy Le Tocq, it seems that some people may have the amendment and others not. Could I just ask perhaps that you read the amendment so that those who have not seen it know what it says?

**Deputy Le Tocq:** Certainly sir. It says:

2670 “To delete the Proposition and replace it with the following:  
“Whether after consideration of the Report dated 1st July, 2013, of the Home Department, they are of the opinion to delegate authority to the Treasury and Resources Department to approve a capital vote of £1.5 million to be charged to the Capital Reserve, once the project for the replacement of the Guernsey Police Central IT System has achieved a green gateway review.”’

2675 **The Bailiff:** Yes, so in effect it is just delegating authority to the T&R Department, that is the thrust of it.

Deputy Quin do you formally second the amendment? (**Deputy Quin:** Yes.)

Does anybody wish to debate? Yes, Deputy Soulsby.

2680 **Deputy Soulsby:** I would only very briefly say I could not believe it when I read the Report that the Home Department has got a computer system dating back to early 1990’s. I mean the World Wide Web did not come into existence until 1991 and Pentium Processor 1992/1993, Yahoo did not exist until 1994 and the fact that they have a computer system that still goes on now I think is amazing. If Culture and Leisure are thinking about setting up a computer museum, I think that might make a perfect exhibit. (*Laughter*)

2685

**The Bailiff:** Deputy Bebb and then Deputy Dave Jones.

**Deputy Bebb:** Thank you, *Monsieur le Bailli*.

2690 This particular project that is before us actually demonstrates part of the issues and I fully support what Deputy Soulsby just said. Within the States of Guernsey and specifically with regards to the FTP, I hear the line frequently ‘we need to do more with less’. Well, for that I frequently read, ‘We need to do more with computers’, because that is where we seem to achieve most of the efficiencies these days, by enhancing computer programmes and so forth – and I do not disagree with this movement.

2695 But on the other hand, we are facing a greater reliance on our IT infrastructure than ever before. One can only imagine the disaster that would actually ensue if we were to lose the computer systems currently at the PEH, if we were to lose the computer systems currently within the Police Department or if Social Security’s computer systems would actually go down. There is a fairly substantial risk and I know that we do control some of it, but we have not kept up to date.

2700 Our portfolio of IT equipment is actually a little antiquated, as has been pointed out, and we are running this risk without due consideration. I think that overall, we need to try and start thinking about a due process of governance of all computer systems across the States of Guernsey.

2705 We would not allow 1930's wiring in parts of our buildings because Health and Safety would not permit it; but we run similar risks in relation to our IT Department because we are not keeping up to date. If it is ticking over, we think that it is good enough but it is not. Things go out of contract, they no longer are supported and one day or another, things may come to a stop and they will come to a stop in a fairly unattractive way. Realistically it is time that we started thinking about a proper governance programme for all of our IT systems across the States of Guernsey so that we do think of regular upgrades and regular patches, regular maintenance.

2710 In relation to this particular project, I am afraid that whereas I will support it, it is with reservations.

2715 Once again, I see that we are talking about capital costs that have not been broken down between the costs of the licences that we will pay, in order to operate the software and the cost of the infrastructure. But companies and departments running their own hardware is becoming a more antiquated way of working and we have not given due consideration as to whether or not we could utilise different means of platforms to deliver those services. I recognise that some people here do not understand exactly what all these things are but that is exactly the danger. We make those decisions without understanding and it is time that we did have a proper means of governance of all these systems.

2720 On this occasion yes, it seems as if there is little that I can do other than support it because the Report gives me no further information. But we do, within the States of Guernsey, need to rethink the means of delivery, the means that we actually conduct ourselves with regard to our systems.

2725 On this particular issue as well, I think that there are questions in relation to some of the bids that were actually received concerning this particular project. Once again I am not completely convinced with regard to the tendering process but there is a concern that I have, that I realise that it may need to be addressed privately with the Minister of Treasury and Resources.

2730 But yes, I will support it, but once again we see computer systems being introduced and the costs are not separated in a way that I would consider acceptable were I would be looking at this as an IT project. We really need to have infrastructure and licences and therefore the on-going cost of licenses separated out.

Thank you.

2735 **The Bailiff:** Deputy Dave Jones.

**Deputy David Jones:** Well the moment has gone really, but what I was going to say is that the Home Department have also got another computer, he is a little short PC who is locally known as 'laptop'. (Laughter)

2740 **The Bailiff:** Deputy Lowe, then Deputy Gollop.

**Deputy Lowe:** Follow that one.

2745 I declare an interest as a Member of the St John Ambulance and Rescue Board. The St John Ambulance and Rescue are fully committed to the joint emergency services control room project and support the benefits that it provides to the inter-operability of the emergency services. The emergency services work together not only for large incidents, but increasingly on a day-to-day basis in the front line, providing the Island with much more joined-up response to emergency calls than ever before. It makes absolute sense to support this inter-operability with a joint emergency services control room facility.

2750 The realisation of the joint facility will ensure that control staff are multi-disciplinary and provide for an increased level of resilience on a more cost effective and efficient way across all three emergency services. The St John Ambulance and Rescue Service currently dispatch vehicles to respond to emergency calls using a paper based system and some front line operational staff instead of a 24/7 dedicated staff. At the present time they are unable to ensure that appropriate advice is provided to persons making emergency calls whilst they are waiting for the arrival of an ambulance as they do not have a medical prioritisation and dispatch system.

2755 It is anticipated that the recent review of the ambulance service will fully support the implementation of a computerised medical prioritisation and dispatch system as part of the Joint Emergency Service Control Room. Therefore the ambulance service will in future be able to give appropriate lifesaving advice to 999 callers and have an accredited system to assist in decision making for those calls which could be dealt with in another way other than by an ambulance response.

2760 Therefore they fully support the Report before you today.

2765 **The Bailiff:** Deputy Gollop.

**Deputy Gollop:** Yes, when you read about care and custody management resource functions and platforms, I do not understand it all, but I will speak about it anyway. (*Laughter*)

2770 No, actually it is interesting because I think the point was made at our Douzaine Deputies' interface really, that it is very hard for Members, lay members – and to a degree most of us are lay members in this respect – to identify whether any IT system is (a) fit for purpose and (b) value for money. So one really does need to take it on trust from experts and project managers and I know Deputy Bebb had a career in the private sector in this sphere.

2775 But there are perhaps some points of scrutiny that emerge from this. The first is that in our four-yearly capital project cycles, four years ago it was approved under the system and yet it did not happen and that is a paradox.

2780 The second is that actually, in a way it was a good thing it did not happen because not only has the need to integrate the services become more apparent, as Deputy Le Tocq has referred to, but on page 1521, THEMIS was being developed to replace the Customs Intelligence System, but in-depth assessment in 2011 of the potential costs identified that it was no longer the most cost effective or appropriate option.

2785 And there is talk here about going more to an off-the-shelf mixture and yet these are not off-the-shelf packages I could buy at *Guernsey Computers* or some other shop. They are specialist and by their very nature, they are supplied by a small number of professionals to 16 or whatever different Police Forces in the United Kingdom. But by definition they would not necessarily be easily adaptable to other emergency services and that has to be borne in mind.

2790 And an emphasis here has been made on trying to not only reduce cost but to integrate this with other States of Guernsey systems and I just hope that the mixture this time is correct. Because the point I am making is sometimes, the first draft of a project is not the best solution or the optimum solution and the time delay, regrettable in itself, may have led to a better outcome.

2795 And the other point that I think needs to be put across is on page 1524: there is the argument made that the project has increased from £1.2 million to £1.5 million partially because of the inclusion of a 15% contingency, rather than a change in the process, but there has been a cost increase, 20% in four years seems expensive, especially in the context of a better solution having been formulated and IT packages sometimes becoming more competitive. If this is not a warning of the need to be more focused on achieving economies with IT across the States, then I would be uncertain as to what is.

2800 But I do support the project and compared to some of the amounts that we have spent on education in the past, with mixed results, this does seem to be, relatively speaking, value for money.

**The Bailiff:** Deputy Brehaut.

2805 **Deputy Brehaut:** I was just seeking clarification – sorry, if the moment has passed – but when Deputy Lowe declared her interest in St John Ambulance and Rescue, is it charitable work that she does or is she a Member of this Assembly to see the well-being of public funds that go through the organisation, or is it entirely charitable work, sir?

2810 **Deputy Lowe:** I am a non-paid Director of the Ambulance and Rescue. It is on the Interest Book.

**The Bailiff:** Anybody else with to debate the amendment?  
Yes, Deputy Le Clerc.

2815 **Deputy Le Clerc:** I would just like to say thank you to those Members who have already given their support to this project. I have been involved in this project since becoming a board member last year.

2820 I just want to say that LinkWorks that we have currently got, as Deputy Soulsby has said, is very, very out of date. It is not fully supported and does leave us exposed when it fails. Unfortunately it has failed a few times in the last year, and although that did not actually affect our services and our delivery of our service, if it failed when we had a major incident then the outcomes may have been very, very different.

2825 I think the solution that we have got... I went out and had a look at a couple of other solutions but actually, this is a very, very small market and particularly the size of the Guernsey force, to find a supplier to provide us with the budget that we have got was actually very, very difficult. But

I have looked at the product and I am very, very comfortable with what has been put forward. I think it does provide robustness, it is very well supported and it will keep us up to date and in line with UK and global policing practices.

2830 It does provide the solution to a command and control centre that will be flexible, fit for purpose and will enable the Police, Fire Brigade and St John Ambulance to work together which I think is a fantastic step forward and shows good co-operation between the various services.

So I hope we can look forward to your support to this amendment and our proposals.

**The Bailiff:** Anybody else? No.

2835 In that case we need to vote first on the amendment, but Deputy Le Tocq, you may wish to reply to the debate on the amendment?

**Deputy Le Tocq:** I could do it all at once.

2840 **The Bailiff:** There has not been much debate.

**Deputy Le Tocq:** No, there has not, so could I just sum up altogether, sir, and then we will ...

**The Bailiff:** Well, there may yet be general debate once this ...

2845 **Deputy Le Tocq:** This is true. I have nothing else to add to the amendment except to ask the States to pass it.

2850 **The Bailiff:** So we vote then on the amendment proposed by Deputy Le Tocq seconded by Deputy Quin. Those in favour; those against.

*Members voted Pour.*

**The Bailiff:** I declare the amendment carried.

2855 Is there any more general debate?

No. In that case Deputy Le Tocq, you may sum up.

**Deputy Le Tocq:** Thank you, sir.

2860 I will be brief. First of all I thank those Members who supported this. Deputy Soulsby started off by remarking how surprised she was that the Police are still using an IT system that dated back to the 1990's. I think it is true to say that in the 1990's, and this is not only true for the Police but it is true for other areas of the States of Guernsey I am aware, the system was a bespoke system designed – and in fact in some ways it was not a world leader, it was a leading system in this part of the world and served well, but for far too long. That can often be the case in our Island infrastructure, we have systems that were top class years ago but they are no longer the case and to do that again now would be a mistake and so that is why the decisions have been made to go in this particular direction.

2870 Deputy Bebb commented also on those sorts of things and the need for backup. There is back up in this system and in fact in terms of risk management, as I am sure he is aware, because of the connections not only with other emergency services but also with the hospital, that there is a mitigation of risk because of the interoperability of the system, so that will certainly help. At the moment the risks exists anyway, but we are operating on totally different systems all the way round so having one system that can operate between the emergency services where effective communication can be done on a par will mitigate that risk.

2875 He talks about licences and infrastructure. Now he will have noted that the running costs are mentioned in the Billet Report and that is £180,000. They have gone up. The Home Department is committed to finding those within the department. The reason they have gone up primarily is because it is no longer just looking at a police system that are based, that will then be outworked through the other emergency services as well. Obviously much of that cost goes towards on-going licensing and continual upgrades of the system so that it is up to date and we are not left in the lurch as obviously we were in the past.

2880 The advantages of having a system that is off the shelf, so to speak, is that we are not limited to a few people on-Island perhaps, or even off-Island, who can improve the system and keep it upgraded, but actually we have quite a number of places to go.

2885 I thank Deputy Lowe for her support and Deputy Gollop also for his support. The reason that it did not happen, and he is quite right to analyse it, it was a good reason, a good job perhaps we did

not go in the direction of THEMIS years ago, but the one thing that has changed in the last four years is that we have a new Chief of Police, who has different experience and a different background and wants to work in this way. That is a reflection on his experience and I think particularly outside and because he has been involved in particularly procurement projects with the FTP, he has seen this as a way forward.

Obviously, in terms of the increase in the capital vote, it is more than four years ago, but actually the benefits that we are getting overall, because it is not just for the Police and it will not be the sort of technical infrastructure that is going to cost us more as time goes on, the important part for us is to know that we will have something that serves for the future in our project for a Joint Emergency Services Control Room.

Deputy Gollop could not buy it off the shelf because as far as I know, Deputy Gollop is not an emergency service. *(Laughter)* But maybe he might need one in the future, so I will bear that in mind. *(Laughter)*

I thank Deputy Le Clerc for her involvement, particularly because we had political involvement with the group that has been leading this project. Deputy Le Clerc has been heavily involved in that and has been able to scrutinise it and give her advice as time has gone on. Obviously, as she mentioned, there is the potential with the current system for there to be a life threatening situation where that alone should be cause for us to say we do need to do this now, but it could also result in action being taken against the States and we certainly do not want that to happen. So I do urge, sir, for the whole Assembly to support this Proposition, please.

Thank you.

**The Bailiff:** We vote then on the Proposition as amended by the successful amendment. Those in favour; those against.

*Members voted Pour.*

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

## HEALTH AND SOCIAL SERVICES DEPARTMENT

### Amendments to the Transfrontier Shipment of Waste Ordinance Propositions carried *nem. con.*

#### *Article IX*

*The States are asked to decide:-*

*Whether, after consideration of the Report dated 3rd July, 2013, of the Health and Social Services Department, they are of the opinion:*

*1. To approve the transfer of functions currently conferred on the Health and Social Services Department under the Transfrontier Shipment of Waste Ordinance 2002 to the Environment Department for policy matters and to the Director of Environmental Health and Pollution Regulation for regulatory, operational and administrative functions.*

*2. To approve the removal of the current prohibition, in the Transfrontier Shipment of Waste Ordinance, 2002, on the export of waste for disposal to Jersey and replace the reference in that Ordinance to the Strategic and Corporate Plan with a reference to the Environmental Policy Plan part of the States Strategic Plan.*

*3. To take such action as is necessary to clearly implement the current 2006 EU Waste Shipment Regulation as amended or replaced from time to time.*

*4. To direct the Law Officers to prepare the necessary legislation to give effect to the above decisions including any necessary consequential amendments to any enactment.*

**The Senior Deputy Greffier:** Article IX. Health and Social Services Department – Amendments to the Transfrontier Shipment of Waste Ordinance, 2002.

**The Bailiff:** Deputy Dorey, the Minister for the Health and Social Services Department will start the debate.

**Deputy Dorey:** Thank you, Mr Bailiff.

2945 In 2002, the Board of Health introduced the Transfrontier Shipment of Waste Ordinance to regulate the transfer of waste across international borders. The Ordinance implements the requirements of international agreements relating to the transfer of waste between Guernsey and other Basel Convention jurisdictions. The Basel Convention was intended to prevent the dumping of waste by more developed countries on their less developed neighbours. It creates an international framework governing the disposal of waste. The States of Jersey joined the Basel Convention in 2008 but when our Transfrontier Shipment of Waste Ordinance was first introduced, Jersey was not a member. As a result, the shipment of waste from Guernsey to Jersey is currently prohibited.

2950 Since 2002, there have also been many changes in our local legislation which has developed environmental pollution laws which establish a statutory framework for waste policy, waste management and regulation and the creation of the Office of Environmental Health and Pollution Regulation. In light of these developments, this Report proposes a number of amendments to the existing Ordinance to improve and update the controls over waste shipments and to align policy, operational and regulatory issues with the current legislative framework.

2960 The changes proposed include the transfer of the policy remit for Transfrontier Shipment of Waste from HSSD to the Environment Department in keeping with the responsibilities outlined in the Environmental Policy Plan. The related regulatory operation and administrative provisions will continue to be delivered by the Director of Environmental Health and Pollution Regulation as at present.

2965 Now that Jersey is a member of the Basel Convention, it is prudent to update the Ordinance so that shipping of waste to Jersey is no longer prohibited. I must stress that this Report does not propose that we should start shipping waste to Jersey. It simply proposes an amendment to the Ordinance that would give the States the freedom to consider this as a potential option in future.

Given the range of recent development, it is sensible to update and amend the Transfer of Shipment of Waste Ordinance 2002 and I will ask States Members to support this very simple Report.

2970 **The Bailiff:** Is there any request for a debate? No, I see no-one rising.

We will go straight to vote on the four Propositions that are to be found on page 1531 and I put all four of them to you. Those in favour; those against.

*Members voted Pour.*

2975 **The Bailiff:** I declare them carried.

## Billet d'État XIX

### TREASURY AND RESOURCES DEPARTMENT

#### Capital Prioritisation Debate commenced

##### *Article I*

*The States are asked to decide:*

2980 *Whether, after consideration of the Report dated 23rd July, 2013, of the Treasury and Resources Department, they are of the opinion:*

*1. To approve that Category A and B projects, as detailed in that Report, are classified as pipeline projects for Capital Reserve funding and direct that further work be undertaken by Departments to develop each project's specifications, following an option appraisal, and refine their costs.*

2985 *2. To approve the establishment of a States Capital Investment Portfolio as set out in paragraphs 34 - 44 of that States Report and direct the Treasury and Resources Department to submit a States Report, for consideration during the second quarter of 2014 as set out in paragraph 47 of that Report.*

2990 3. To authorise the Treasury and Resources Department to approve expenditure on progressing to capital vote request stage those projects that have been categorised as pipeline projects funded from the Capital Reserve.

4. To direct the Treasury and Resources Department to include, within the 2014 Budget Report, a recommendation as to the 2014 appropriation to the Capital Reserve and indications as to the 2015-2017 appropriations to fund the States Capital Investment Portfolio.

2995 5. To direct the Policy Council to consider and determine whether capital investment through the Corporate Housing Programme Fund or by the trading entities (Ports, Guernsey Water, Dairy, States Works, Social Security Funds) should be taken into account when assessing compliance with "... the assumed 'norm' for permanent capital expenditure to be 3.0% of gross domestic product..." in the Fiscal Policy Framework.

3000 1679

6. To delegate authority to the Treasury and Resources Department to approve capital votes, without financial limit, for projects funded from routine capital allocations.

3005 7. To agree that from 2014, the operating surpluses before depreciation of the Ports Holding Account are retained to fund capital expenditure of the Ports as an interim measure as per paragraph 74 of that report.

8. To authorise Cabernet Limited to borrow on a short-term basis from the States General Investment Pool until such time that the Treasury and Resources Department has reported to the States with proposals for the recapitalisation of and future funding arrangements for the company in 2014.

3010

**The Senior Deputy Greffier:** Billet d'État XIX. Treasury and Resources Department – Capital Prioritisation.

**The Bailiff:** Deputy St Pier will open the debate.

3015

**Deputy St Pier:** Thank you, sir.

First of all, thank you to the Members who were able to attend the two presentations which the Department was able to hold in respect of this Report and in view of those, and in view of Deputy Perrot's comments yesterday, in a sense I will take the contents of the Report as being read and simply wish to draw out a number of key points.

3020

I think the key issue here to draw out, sir, is that this is a very different process to the one that was conducted last time round and this is iteration and a development of what has gone before. In particular, what this Report is seeking to do is to suggest that we approve a pipeline of proposals which go forward for the next stage of development and it is proposing that the States makes the key decisions at the right time and Treasury and Resources is simply acting, if you like, as a facilitator in the States making those decisions. Of course critically what we are not doing today perhaps compared to previous capital prioritisation debates is allocating funds to any projects at this stage.

3025

It is important that we make sure that we do have the right projects with the right scope, aiming to achieve the desired outcomes and it is about changing the emphasis away from the list of projects and then leaving the Departments to go off and drive those when and how they wish and only returning to the Assembly as and when those Departments are ready at the tender stage. By which time, time and money will have been invested in developing the project to tender stage and in a sense it becomes too late to change the framework of the project at that point, so leaving the States essentially disempowered.

3035

We obviously need to continue to invest in public infrastructure, it is essential to maintaining the quality of our public services. But of course as we all recognise and not least from the statement this morning, the financial climate has changed and so the process that we are proposing we believe will increase the transparency of the programme and importantly also to contractors as well, through a project pipeline for the next four years.

3040

We will be building on the States Approach to Scrutiny and the assurance of projects which has existed and still currently exists in relation to project boards. We are not suggesting any changes in relation to that, it appears to be a tried and tested methodology and importantly, we are not seeking to change departmental responsibility to deliver projects, but seeking to adopt a more consistent approach to the development of business cases and their appraisal.

3045

Sir, I spoke – it is in the Report and I spoke also at the presentations – about the process which had been followed in relation to scoring and in particular that the scoring does not provide the answer. It is not a black box, it has really been an assistance to the process in bringing these recommendations to the Assembly today.



3050 So why are we doing things differently? Well, of course, if everything, as has been said before, is a priority, then nothing is a priority. So we are looking simply to recognise the good work that has gone on in terms of maintaining a good control of capital projects in recent years, but we do believe that further improvements can be made. As I said before, I think we believe that the States have been asked to make the final decisions in relation to capital projects and spending quite late in their life cycle and the States should be deciding on what it will deliver against required outcomes rather than signing off the money at one sitting like it has been a done deal.

3055 We believe that the benefits of this approach will give greater visibility of the States major capital investments, there will be more information to this Assembly and it will ensure that Treasury and Resources is focusing on the delivery of the portfolio and providing oversight of that with better scrutiny, consistency and assurance.

3060 But of course, what about the money? Again as the Report highlights, we have, we believe, around £67 million. It will be available in the capital reserve. A very rough estimate of the costs of this portfolio, from those that will be funded from general reserve, is about £225 million, emphasising that those are very broad estimates. We are not currently putting enough into the capital reserve to meet that requirement and we will have a shortfall, therefore, based on those estimates of around about £70 million which would require an additional £17 million each year to meet that gap. So we either need to increase the funding or reduce the amount that is done, but clearly we need to do the next stage, which is actually to have a better understanding of the projects, their scope, our requirements and actually the costs of those.

3070 If we do make a decision that we want to not do projects, then of course many of them will still need doing at some point, and so we are merely kicking the can down the road. We will need to understand the consequences of those decisions, if those are the decisions which we are faced with in due course. So we will be coming back with funding options as the States Report makes clear, sir, and there is of course a link both with the Budget and the Personal Tax and Benefits Review, 3075 in terms of our overall spending and tax needs. We will be making proposals as part of the Budget Report, but further work will be required in the first couple of quarters next year.

3080 So what happens next if this Report is approved, amended or un-amended, that we will be working with Departments to identify the practical delivery issues early and so we can help the significant projects succeed from the outset. Then we will be returning to the Assembly with an actual portfolio for approval. Departments would then work up the business justification stage, Gateway 1 in the process, which would scope the Report, the project in more detail and undertake a detailed option appraisal, making the case for change and exploring the preferred route forward.

3085 Sir, despite having the delegated authority, if Members turn to page 1643, there is a table which is headed Category A and Category B, which identifies those projects which do or do not have delegated authority. In fact it is not our intention, it is not the Department's intention to exercise that delegated authority; it is the intention that all projects will come back after Gateway 1 to seek States approval, so applying the same scrutiny process to all the projects.

3090 After successful completion of Gateway 1, then the States will sign off on the project in more detail and at this point, depending on the size and the risks associated with the project, it may be appropriate for the Assembly to grant us delegated authority to approve a project, provided it remains within the scope or within certain tolerances. But equally if, depending on the size and the risk, it may equally be appropriate to return to the States and I think those are the kinds of questions we will want to face on a case by case basis.

3095 As the project progresses and the budget is firmed up, then the Department would be expecting to report back on spending and to ensure that we are staying within the programme and be reporting to the Assembly at least annually.

3100 So I think it is probably worth, it may assist just making a few comments. I will be speaking on the amendments in summing up, but just to give some guidance to Members it may assist the debate on the amendments, I think in relation to the Health Department amendment to include the re-profiling of the PEH, we will be neutral on that amendment, and I will explain why in the debate on that.

There are then two amendments from Deputy Bebb. Deputy Bebb was kind enough to share –

3105 **The Bailiff:** Are those amendments being laid, I do not know...  
Deputy Bebb, are you laying any amendments?

**Deputy Bebb:** Well yes, I am actually laying an amendment. I am just –

3110 **The Bailiff:** Oh, you are laying an amendment, okay, right.

**Deputy St Pier:** So there are two amendments. There is a shorter amendment. Deputy Bebb was kind enough to share his thinking that he was going to bring one or more amendments with me, although we were not aware of the final form of that and it was obviously laid, or the intention to lay it this morning.

3115 Our Board has met this morning: we will be supportive of the first shorter amendment. It is consistent with what we have said in paragraph 44, that the Category D project should follow the same Gateway process and be admitted into the States Capital Investment Portfolio at the appropriate time. The key qualification is 'at the appropriate time', which is why we have not brought our own Proposition on this, because I think, as both the Ministers of PSD and Housing will I am sure comment, the different funding streams mean that the financial approval arrangements which are referred to in the second part of the amendment, may need to be different, but I will address that further, sir, once we get into the debate.

And the third amendment, the longer amendment which seeks to break up List D, the Department will be opposing sir.

3125 **The Bailiff:** Okay, I have one of those amendments; I do not have the other. So if I could have the other one circulated to me, I would be grateful. If this could be done before we get to it...

We will take the Deputy Dorey amendment first. Deputy Dorey.

3130 **Deputy Dorey:** Sir –

**The Bailiff:** Sorry, Deputy De Lisle?

**Deputy De Lisle:** Yes sir, there is a further amendment being laid by myself and Deputy Gollop that was not mentioned.

**The Bailiff:** Right, has that been circulated?

**Deputy De Lisle:** That has to be circulated, sir.

3140 **The Bailiff:** Right well, in that case, perhaps you could arrange with the Usher for copies to be made so it can be circulated.

But we will start with the Deputy Dorey amendment. Deputy Dorey.

3145 *Amendment*

*To delete Proposition 1 and replace it with the following propositions:*

3150 *"1. Subject to Proposition 1A below, to approve that category A and B projects, as detailed in that Report, are classified as pipeline projects for Capital Reserve funding and direct that further work be undertaken by Departments to develop each project's specifications, following an option appraisal, and refine their costs.*

*1.A. To approve that the project described as "Re-Profiling of PEH wards and departments" in the table in paragraph 31 of that Report be deemed a Category B project."*

**Deputy Dorey:** Thank you, Mr Bailiff.

3155 The amendment is seconded by Deputy Brehaut, due to Deputy Storey's illness.

3160 The Princess Elizabeth Hospital is at the heart of our health system. Thousands of Islanders pass through the hospital every year. Many more depend on services based there to support their care they receive at home. The hospital is of course open 24/7. It provides services to people at every stage of life, through every unexpected health crisis. Its professional and dedicated staff bring over 600 children into the world each year, nurse thousands of people through illness and injury, carry out thousands of diagnostic tests and provide high quality health care from intensive care through to rehabilitation.

3165 Behind the scenes, cleaners and infection control staff keep the hospital safe. Catering staff provide hundreds of hot and cold meals to staff, patients and relatives each day and numerous other staff, from maintenance to porters, to medical records, work together to ensure that the PEH can provide essential services to the Islanders round the clock every day of the year.

3170 Given its constant use it is inevitable that the hospital will experience considerable wear and tear. Not only that, but good practice standards, hospital buildings and services continue to evolve. Developments in medicine and surgery require changes in equipment, procedures and facilities and the changing health needs of the population affect the demand that a hospital has to meet and the services that it has to provide. Significant parts of the Princess Elizabeth Hospital now require

repairing, refurbishing and rebuilding or reorganising to deliver services which are fit for purpose. States Members have all received HSSD's leaflet 'Why Re-Profile the PEH' which explains some of the challenges. I want to outline these in brief now.

3175 The area which was built in the 1970's includes the adult surgical wards of Ozanne and Giffard, Sterile Services and the four operating theatres. Asbestos was used when this area was built. It was stripped from Ozanne Ward, Sterile Services, Theatre and the Pharmacy in 2006. However, during routine monitoring in 2011, HSSD's Health and Safety team found that traces of asbestos remained in Ozanne Ward. Following inspection, asbestos was also found in the roof void above the theatres. This might concern Islanders, but I can assure Members that this means that HSSD cannot carry out significant maintenance work in these areas and that just cannot continue with the risks that involves, but lives are not at risk.

3180 The HSSD at that time in 2011 decided to re-strip Ozanne Ward and then mothball it until a decision is made on the overall re-profiling of the PEH. The asbestos situation with the theatres is on-going, and HSSD has submitted another bid which has been classified as Category A to resolve this, and I will return to that later.

3185 In addition, asbestos was never stripped from the ceiling of our largest adult surgical ward, Giffard. This is now a priority, as services run in the roof space and repairs to these services will require a sudden forced closure of that ward. Also that ward is tired, it needs a major upgrading for a number of reasons, including its layout and lack of facilities. HSSD cannot run the risk of having to suddenly close it. Therefore we are planning to close it in the next six months and we are investigating a number of temporary solutions.

So in approximately six months' time, what were our two main adult surgical wards will be closed.

3195 As Giffard is directly above Ozanne, we will have the opportunity to reuse that space for another purpose and/or knock down and rebuild, that is part of the re-profiling.

3200 The need to upgrade and improve the facilities in these surgical wards is not new; it has been accepted for many years. Looking back through the Billets, in 1995 the Board of Health took a site development plan to the States which included upgrading Ozanne and Giffard Wards, the two adult surgical wards. This work was not progressed and in 1999 an updated plan was presented to the States which included a new proposal for extending the ward because of the need for additional facilities. The estimated cost then was £1.3 million. This again this was not progressed. This illustrates the improvements to surgical wards has been outstanding for many years.

3205 As I mentioned earlier, HSSD has submitted a separate bid for the sterile service and theatres, which has been classed as Category A because the work is such a high priority. This bid includes replacing equipment in sterile services and upgrading facilities. The work on the theatres includes some upgrading and stripping out the remaining asbestos in the roof void. The Category A bit includes temporary relocation of sterile services and if the theatres need to be closed for too long, then mobile theatres will have to be brought in to the PEH site at considerable cost.

3210 Also, intensive care, which is next to the theatres, has too few beds which results in some operations being cancelled. There is also inadequate space around the beds and there is a lack of facilities for the patients. The re-profiling will give us an opportunity to investigate the most cost-effective, long-term solution for this part of the hospital.

3215 There is also much room for improvement across other parts of the hospital infrastructure which will be included in the re-profiling plan. The three wards built in the 1930's – Sherwill, Divette and De Sausmarez – are currently not used as wards. HSSD plans to re-open De Sausmarez Ward as a surgical ward at the beginning of November, so that we can increase the number of surgical beds and increase income from private patients on Victoria Wing.

Sherwill requires a ceiling and considerable upgrading before it can be used.

3220 With the imminent closing of the adult surgical ward, Giffard, we are looking at all options or short-term solutions including these areas. The use of 1930's wards will not be an acceptable long-term solution for the people of Guernsey.

3225 In the re-profiling, we also want to investigate the following areas of the hospital: the Pathology Department which is located in the 1930's blocks also faces space and health and safety issues. Wards and departments built in the 1990's are already falling behind good practice standards and many areas require expansion and refurbishment.

In Accident and Emergency, the space around the beds is now considered to be too small for nurses to work, and the curtained off cubicles do not sufficiently protect patients' privacy and dignity.

3230 Loveridge, the maternity ward is too far from the theatres, which is not ideal if an emergency caesarean is required in child birth and the delivery rooms need upgrading.

Victoria Wing, the private wing of the hospital requires a thorough overhaul to meet quality standards. Some of the rooms need to be enlarged to accommodate the equipment that some patients require. The nurses' facilities need to be improved for infection control requirements.

3235 In addition to challenges there are opportunities. The Princess Elizabeth Hospital has a lot of unused space. This gives us the possibility of bringing together all outpatient services instead of spreading them across HSSD and MSG premises. The re-profiling could allow HSSD to expand the day patient unit and reduce pressure on hospital beds.

3240 By taking an overall view of the changes that are needed, rather than a piece-meal and patchwork approach to issues as they arise, we will have the ability to provide better services from better facilities in a more efficient, cost-effective way.

If the States embarks on the re-profiling project now, difficult changes will probably not be made for another two years, as all the planning and design work obviously needs to happen first. But if the States waits for the next capital prioritisation cycle to start this work, no major changes will be completed at the hospital until the early 2020's. The hospital cannot wait that long and the States will struggle to deliver health care without these changes.

For all these reasons, the Health and Social Services Department has submitted this amendment to the Capital Prioritisation States Report for the re-profiling of the PEH to be classed as a Category B project and progress the next stage during the 2014-17 capital prioritisation cycle.

3250 HSSD has put a figure of £20 million, without seeing any planning in the bid, but with States support for this amendment this would allow the project to be properly scoped and costed in line with the proper process for all Category B bids. Then, T&R would have the information to come back to the States in Quarter 2 as they stated next year, with its Capital Investment Portfolio and States Report.

3255 As part of the re-profiling project, we will have to predict how many beds will be needed in the future in the various sections of the hospital, with the changes to the demographic profile of the population. We will need as much as possible to ensure that we have flexibility, just like in Phase 5, the clinical block completed in 2010 which was designed for medical patients but which can also be used for surgical. The key point is that we want a flexible, workable overall plan so that any work that we do now, does not compromise the most cost effective solution for the future.

3260 Finally sir, I would like to thank States Members for taking the opportunity to see the challenges of the hospital first hand in two tours we organised earlier this month and for expressing their support.

3265 These improvements are so important; we cannot wait six more years. I urge you to support the amendment.

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

3270 **Deputy Brehaut:** I rise to formally second sir, thank you.

**The Bailiff:** I wonder, can that Deputy De Lisle amendment just be circulated? We will just pause while that is done and then we will open debate on the Deputy Dorey amendment.

That has now been circulated.

3275 I had not seen the amendment before it was circulated, and I am minded to suggest that we have separate debates on all the amendments. Yes. Right, I see Deputy De Lisle ...

3280 **Deputy Fallaize:** Before we take the Bebb amendment that has got number 2 in the left hand corner and this one from Deputy De Lisle, are we suspending Rule 13 to take both of these amendments, because they inevitably will affect the timing of works, will they not?

**The Bailiff:** Well, shall we come to that when we come to those amendments? At the moment, we are just dealing with the Deputy Dorey amendment.

Are you suggesting we need to suspend Rule 13? No, okay, let us debate then the Deputy Dorey amendment.

3285 Deputy Dave Jones, you wish to speak.

**Deputy David Jones:** Thank you, Mr Bailiff.

I am going to support this amendment although I do understand that given the statement that the Treasury Minister made this morning about trying to cut our cloth to suit our coat...

3290 However, there are a couple of issues I want to raise. I am going to support it because the two signatories of this amendment have found themselves in a position where most of the problems they are facing are historic.

Now, I worked on the 1970 part of the hospital for Gamble and Blair, and I worked on the 1990's part of the hospital putting the roads and the drains in for Higgs and Hill, so I know a great deal about it. You might also know that there were huge amounts of money at that time that was wasted. If any of you go up and look at the 1990's building, you will see underneath all the windows, a row of blue engineering bricks that go right round the entire building and they cost £1 each. A complete and utter waste of money in my view, but there you are. I could not say anything at the time because my contract prevented me from doing so. (*Laughter*)

However, the points I want to make are the ones that I made at Policy Council on Monday and was supported by a 35-year-old veteran nurse who was representing Social Security at the time in what I had to say and that is this: who is designing these buildings? The 1990 building is not that old really and yet no sooner was the paint dry on that new building, I remember seeing teams of builders going in to re-configure areas of it and change huge areas of that new part. The Victoria Wing, which we have heard today does not have sufficient room in the wards for private patients, is not that old.

The thing that infuriates me most, however, is the clinical block – not for the reasons you may think, but because somebody designed that new clinical block without even putting in a changing room for the nurses. The most valuable asset of any hospital is its staff and the nurses were getting changed in the toilets. That is simply disgraceful, (**A Member:** Hear, hear.) and the fact is, we employ these consultants who are supposed to know about hospitals, are supposed to know about clinical wings and all the rest of it, to design these buildings and yet, quite frankly, their designs have been a disaster because now – apart from the asbestos problem, which is another reason why I am supporting this, because the Minister and the Member of the Board of Health who signed this could have not foreseen that the asbestos was going to be the problem it is going to be – but, the consultants that we pay millions for – and I mean *millions* in these contracts – to design these hospitals, and our schools for that matter, never seem to get it right. We would be better actually going and asking the front-line nursing staff, talk to them, talk to the staff nurses and in the old days, the matrons, and ask them how they would like to see these wards laid out for the comfort of their patients. And here is my ally in this, just entered the Chamber again.

But what I ask is that when this refurbishment is carried out and the re-configuration of this ward, please consult our nurses, please consult the people who actually work in the hospital, instead of these desk-bound experts who sit behind desks somewhere else, and give you an idea of what they would like to see. Because here we are back again, major changes in a building that was only built a few years ago – the 1970's bit is a different matter – and the clinical block which was built even sooner and I just think that we do not pay enough attention to the staff who work in these places. If you want to know how to set a hospital out and you have got somebody on their board who has worked in nursing all their life, she might be able to help you out.

Thank you.

3330

**The Bailiff:** Deputy Adam.

**Deputy Adam:** Thank you, sir.

I discussed most of this stuff with the previous Chief Officer about two years ago, because as Deputy Dorey said, asbestos was found in Ozanne Ward and was cleared out at that time. It was thought there was no point in re-doing it as it was, because it was outdated and therefore it was, rightly or wrongly, assumed it would get capital prioritisation to do the re-profiling as has been described. However, as Deputy Jones says, this has to be thought out carefully. Money has been wasted up there.

When a new X-ray department was built, it was the one which was refurbished afterwards because it was not properly designed. Loveridge Ward when it was built, there was a theatre there but there was no anaesthetic room so they could not do operations in the theatre, they could do forceps, but not caesarean sections, and of course, they forgot to build the fire escape so they had to do away with the doctors' room and go down the side of the Vic Wing. Frossard actually was fine, there were no problems with that part, but then you had this room in the middle of the corridor and no outside windows.

So Deputy Jones, the reason why there is no changing room in Clinical 5 was because there was one just in the old part of the building and there is no need for it, sir.

**A Member:** He has got a point.

**Deputy Adam:** But yes, therefore before you can even start this, as Deputy Dorey said, you have to look at what you think your requirements are going to be and if possible, in the next 20 years. I am not saying that is possible, but hopefully it is possible. Also, you have to look and see how you are going to provide your medical cover, your medical care, your nursing care etc, because if you do not know how you are going to manage that side of things... we are not a normal hospital, because our consultants who are employed by the MSG are self-employed; nursing staff are employed by the hospital; X-ray and blood test area is covered by the hospital as well as analysis of bits of your body that are taken out for analysis for cancer, called pathology. So it is a mixture of supply.

The first thing you have to do, and I have said this more than once, is you have to have a health care review. You must plan ahead – and yes, Deputy Fallaize, you are smiling, but I am sorry, if you do not know how you can provide your services, you do not know what you are going to provide.

**Deputy Fallaize:** It is not my fault, though! (*Laughter*)

**Deputy Adam:** So first of all, I would say a health care review is essential before anything and then, as Deputy Dorey said... and yes, Deputy Dorey, I know you are going to do it in modules, etc, over the next year or so, but I feel we need the answers so we know how you are going to set your things out.

As far as the hospital is concerned, the very old part, yes, Ozanne and Giffard need refurbishing. Deputy Jones mentioned asbestos. Asbestos was meant to have been removed from these wards in 2002 and Theatre was meant to be removed from these wards in 2002. I remember that very well because, believe it or not, all the theatre wards had to be closed, as [*Inaudible*] and there was nowhere else to do an operation safely. Nowhere else – yes, it was a shame. D Patient Unit Theatre was not up to scratch and, sir, you may remember that case as well, because I sued – because there just were not the facilities.

And that is one of the other problems, we have only got four theatres there in one place, as Deputy Dorey says, if they have to be closed you can bring other theatres in, but it would have been much better, when last time the theatres were refurbished, to make sure the one in DPU was brought up to standard so it could have been used as an extra emergency theatre, instead of putting an extra one into the theatre block. But that is beside the point – mistakes happened, made in the past.

But the logistics of this is horrendous. You must try and plan patient time, operations etc. Deputy Dorey says Loveridge Ward should be moved to – I forget which one is the lower one, is it Ozanne or Giffard? I think Ozanne is the lower one beside Theatre, because of the number of sections.

Personally, I think it is more important to have a high dependence ward there because of the number of operations. If you think of the operations, the population is getting older, like all of you are getting older and you might need more care after your operation because of your age or because of your chest and your breathing, etc or your weight, and it is helpful to have a high dependency ward just next door to theatres. I do not think it is necessary to shift Loveridge.

But the other area, Staff Services, is outdated and needs to be refurbished – there is no doubt about that. Theatres, I did not realise there was still asbestos in the theatres, but it is frightening.

I assume we are going to look at insurance for the people, but I know the firm of Ozannes has gone bust already and whether we will get any insurance money for that I am not too sure.

So my concern is - make up your mind how you are going to provide your medical services. Make up your mind. Loveridge I am not convinced about; the other two you are quite right – the other two wards should be surgical.

Vic Wing, if anyone goes there, compared with Spire, which is across near Southampton – there is a private hospital – it is chalk and cheese. The rooms are bigger, you have got en-suite facilities, etc and if we want to provide a private service for patients who have private insurance, then we need to have proper facilities. The path lab, that used to be the old Carey Ward for delivering babies. There is A&E, a very important part and it has stayed the same since the 1990's.

So all in all, yes, this needs to be done but it needs to be planned carefully, and if it starts within the next three years, I will congratulate you on getting it on so quickly, but it is a big thing. Logistically, it is a huge case.

Another thing you have to remember, we are all talking about the PEH and how much money we are going to spend on it. Please remember, if we do not want people staying in hospital too long, we have to provide more community services. If you are giving up extra care housing and people are living longer in their own home you need more community services. So we cannot just

throw all the money at the PEH, we have to look at community services, increasing and improving them.

3415 So the plans that must be made must be thought through extremely carefully but yes, I do believe that some of these areas will have to be done within the next four years, but I am not convinced you will get them all done, because of the logistics of it all.

Thank you, sir.

3420 **The Bailiff:** Does anyone else wish to debate the amendment? Deputy Soulsby.

**Deputy Soulsby:** Sir, aside from having no idea of what the likely costs are for each of these proposals, something that concerns me about the whole process, there are some areas that do perplex me from reading HSSD's Report and I would like to ask the Minister when summing up to provide further explanation.

3425 The first is the fact that the Report is just a list with no indication of whether some are of higher priority than others; I think something that Deputy Adam alluded to in his speech. Are they really of equal priority? I would have thought that it would be impossible that all work could be undertaken at once and some priority list would be produced.

3430 The second element that perplexes me is in relation to day patients. Whereas on the one hand the Report states there is a need to increase surgical bed numbers, on the other it states HSSD will be looking at reducing the number of overnight admissions, presumably linked to surgery, and try to increase the number of day cases in order, and I quote:

3435 'to ensure more efficient working thus helping to reduce the pressure on bed spaces.'

The last area that I think needs clarification is in relation to consultant-led services to be provided from one site and it should be the PEH. I would like to know how this impact on Mill House just down the road, which is a modern building from which consultant-led services are currently being provided.

3440 I am minded to support this amendment, but would like clarification on these matters.

**Deputy Adam:** Sir, I feel –

3445 **The Bailiff:** Yes, Deputy Adam.

**Deputy Adam:** I feel, since you are talking about Mill House and Alexandra House, I have to accept that I have shares in the building company that owns that property, but I have not got above the 10%; I have got less than a 5% share.

3450 **The Bailiff:** Thank you Deputy Adam.  
Deputy Gollop.

**Deputy Gollop:** Yes, sir.

3455 I was one of those who walked around the hospital, and certainly it was depressing on a number of levels to see that, even some of the brand new or new facilities would be designed differently now, and they will need amendment in the fullness of time. Also, to see that some of the existing wards, indeed named after eminent Bailiffs, have fallen on harder times perhaps and are needing to be considerably refurbished, if not replaced. Certainly, they are not fit for purpose and the fact that they have been left idle in some cases for a while, partially due to the financial restraints that the other Departments of the States sat upon, Health and Social Services in recent times, has actually accelerated their decline.

I think too that we know that mistakes were made in the past, the distant past as well, such as when the asbestos was not fully recovered and so on.

3465 But we are where we are and I very much support the enhancement of these projects to Category B and therefore the amendment.

3470 Of course, what we do not know, is how we are going to afford these projects, because that is still a work stream to be completed, which is general to the whole issues, but I think you cannot just see the capital programmes in isolation, because if I am speaking of the disabled community, they suffer from old-fashioned hospital facilities and indeed, as we have heard from the last speaker, and indeed Deputy Bebb raised this point when we went round on the tour, the private sector facilities at the Victoria Wing, although good, could be bigger, could be better, they are no longer ground breaking, they are not on a par with the Spire in Southampton or some other places

and yet as an Island, we endorsed a philosophy – consultants were brought indeed, at the time of the last election – in which we paid experts to say health tourism was a potential earner for Guernsey. I believe it could be. I believe too there is spare capacity in the Victoria Wing and that we could have earned more money, maybe half a million or more in the last year, if plans had been different. So I would say that the enhancement of that is not just desirable, it is useful to the budgeting and the viability of both the Health Service and the wider economy.

But from a disabled people's point of view, it is not just the quality of the infrastructure in all of the wards, including Victoria Wing for those who are going there, and of course, it should also be mentioned that Victoria Wing is a reserve facility for when the other wards cannot be used and so it has a double purpose. Because if you are extending services into the community which is usually a cheaper option than institutionalisation or hospital, you have to ensure that the hospital is fit for purpose.

One does pick up stories of people who are moved from ward to ward, from place to place, who are not necessarily in a position to remonstrate or fully articulate their needs, and this process gets worse when you have got a budget constraint and an institution that needs rehabilitation on the capital and logistical front.

So the lives, the outcomes, the emotions of people with impairments worsen if we are not looking after the infrastructure. Because this kind of process maybe only comes along every four years, one has to be prepared for expenditure and budget accordingly, and I am concerned that the lives of many people with illnesses, with disabilities, some we may not even know about yet, will have their life chances and potential for rapid recovery undermined if we do not give the Health Board, the HSSD Department and their advisers, who are actually skilled professionals, the full benefit of enhancing and upgrading the need for a refurbishment of the hospital and a re-configuration of the internal aspects – apart from the fact it is a good economic use of infrastructure to ensure that it remains fit for purpose and not behind the times.

**The Bailiff:** Deputy James.

**Deputy James:** Thank you, sir.

Obviously I will be supporting this amendment, you would expect me to.

I apologise that I missed part of Deputy Jones' speech, but heard him mention my name as I came in, and I think I probably got the gist of what he was saying in terms of wasted expenditure in the past, and I would have to agree wholeheartedly with that comment.

I did not hear the whole of his speech, so I am rather anxious not to support everything he said, not having heard it.

**Deputy David Jones:** It was the same one I made in Policy Council.

**Deputy James:** Oh right, well, I would have heard it then.

He is indeed absolutely correct and I am sad to say that over the years, I have indeed witnessed massive, millions I would guess, of wasted expenditure at the then Board of Health. In terms of the width of the corridors in the new block, he might have mentioned, absolutely ridiculous waste of space but the rationale was for two beds to be passing in the corridor at the same time in the event of a major incident procedure happening.

Then when you actually looked at what space there was for nurses to work in, and we have heard of lack of changing facilities, so those were just some of the scandalous decisions... When the Lighthouse Units were built – and for those of you that do not know, they are the three wards in the PE Grounds that were built for the elderly mentally ill, three units of 20 beds each – the powers that be... certainly not nursing staff, nursing staff were not involved in building and designing these units. At the eleventh hour, we were asked if we wanted to make any comments on it and we said for a 20th century provision for the elderly, elderly care, respect and dignity should be very much on the high end of the agenda and we would expect at least en-suite rooms for these people that we were caring for.

In fairness, the then Director at the time did listen and there were hurried plans amended to accommodate en-suite facilities for the elderly people. However some bright spark decided that they would have light coloured carpets in the unit and the nurses were saying absolutely no. You do not need me; you can use your imagination to see the unsuitability in carpeting such areas.

So I could list many, many examples of where I witnessed absolute unbelievable waste of taxpayers' money. Deputy Hunter Adam has mentioned a number, so I will not repeat all those.

The one thing that I have to pick up on and reinforce what Deputy Adam said, we do need to plan and make provision for the future and be very, very clear in our minds about what the future



3535 health care, health and social care needs are for the people of this Island. It is absolutely  
imperative we ensure that we fund community services appropriately and adequately. I think just  
to come back to the three Lighthouse Units at the PE – and this links in to my gripe, I think, in  
terms of the lack of management and maintenance of some of the properties – I am not standing  
here saying something that many of you are not aware of, but certainly the roofing on the three  
units built I think 11 years ago has been leaking almost since the day they were built. It is beyond  
3540 me, as a new politician and maybe someone can explain to me why, because if it was my roof at  
home, I would not wait 11 years and close single room provision and deny the beds because the  
roofs are leaking.

And I am not the only one at Board level; I am not the only one that bangs the drum at Board  
level. Every member of that Board cares passionately about what is happening and here we are yet  
3545 again, keeping promise that these roofs will be addressed and dealt with. But it is not just about the  
roofs, if you look across the site and I make no apologies for highlighting that in this Assembly, it  
scandalous. None of us would allow our own homes to deteriorate to that extent.

Now whether I am... I do not know who to criticise in this process. I keep being told there is  
insufficient money to maintain the buildings. So we can agree this today, hopefully – sorry, Barry  
3550 (*Laughter*), you will vote for it – but I really want to assure you that all the current Board members  
do care passionately. We will make sure, not just me as a nurse, Deputy Jones and all the Board  
members will take a very, very keen interest and give you an absolute assurance that, given that  
you vote this through today, this amendment, we will make sure that this money is spent and it is  
spent wisely.

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**The Bailiff:** Deputy Hadley.

**Deputy Hadley:** Mr Bailiff, I of course, like I hope most of the Assembly, will support this  
amendment.

3560 I think a couple of things stood out when I went round on the trip and that was to hear one of  
the doctors there say that when he came to the Island 13 years ago, the hospital was far superior to  
those in the United Kingdom and that now it was not. We have slipped behind the UK and when  
you read all the criticism of the National Health Service, there should be a sense of shame to feel  
that we have slipped behind it.

3565 Again, we were told that because of the amount of asbestos and the state of the wards and  
theatres, there would be a real possibility that were a major incident to occur with the  
infrastructure, then that could mean a closure of the theatres, which of course would mean  
everybody needing an operation would have to be flown off the Island. I think anybody that has  
had anything to do with HSSD knows that off-Island treatment is extremely expensive and can  
3570 cost six figures for one patient.

I think also, I would like again – although it might be slightly off the subject – to emphasise the  
fact that the worries about the hospital... you have got to look at everything across the board.  
When I was on a health authority in England, we had problems discharging people from hospital  
from time to time because of lack of care in the community, but our problem was that the care in  
3575 the communities was dealt with by a different authority. It was dealt with by the county council  
and not by the hospital authorities. Here we have not got that problem and yet I heard recently that  
there was one patient who has been in hospital for a month because there is not the care in the  
community to discharge that patient. Now this is a tremendous waste of the authority's money and  
until the Department gets to grip with care in the community and the support that is needed outside  
3580 the hospital, we will continue to waste large sums of money.

So sadly this Board does not seem to have got to grip with these issues, but I urge that we  
focus later on in getting some of the other issues as well as dealing with the big infrastructure  
issues.

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**The Bailiff:** Deputy Sherbourne and then Deputy Laurie Queripel.

**Deputy Sherbourne:** Thank you, sir.

I too was fortunate or perhaps unfortunate to visit the hospital and walked away from the visit  
and the meeting that followed that feeling quite depressed. So many rooms closed, so many wards  
closed, taped up. Ceilings which had been taken down and ready for refurbishment, probably as  
3590 much money already spent on removing asbestos as to actually refurbishing the wards. As far as I  
could see, that was what the HSSD Board are actually faced with and for their managers at the  
hospital, it must be an absolute nightmare trying to actually plan around it.

3595 I was horrified, to be honest, with regard to the conditions that people have obviously been working in and was saddened that the hospital was suffering from what I call a historical double whammy. Dr – sorry I have elevated Deputy Jones. (*Laughter*) (A **Member:** Honorary doctor!) Already elevated of course, yes. (*Laughter*) I think he summed it up for me in that the planning of the past, the architectural design, certainly at a time when we knew that flat roofs have a habit of leaking almost immediately – there are three or four schools in the Island that have, as he said, 3600 suffered from that problem – but the hospital has really suffered from that double whammy of asbestos and I saw rooms that really were quite reasonable, I would not mind spending a night there to be honest, but there was evidence of a leak from the ceiling and the room could not be touched because of asbestos. So it is a nightmare for the managers there and I think that this Assembly must do all it can to improve that situation and I would urge all Members to support this 3605 amendment.

Thank you, sir.

**The Bailiff:** Deputy Laurie Queripel.

3610 **Deputy Laurie Queripel:** Thank you, sir.

Before I offer my own few meagre thoughts on this matter, I would like to align myself totally with the words of Deputy James. A number of us, even before we came into this Chamber, have been saying for years that it is very, very wise to carry out regular maintenance on buildings and infrastructure. It extends their life and their usefulness greatly and it is really important that we pay 3615 attention to maintenance programmes.

I think I will support this amendment. I am sure that many of the words that Deputy Dorey has spoken are justified, but the danger with this kind of amendment is there is always just a tendency to put one too many eggs into the pudding.

As Deputy Sherbourne said, I was fortunate or perhaps unfortunate enough to end up in the 3620 Accident and Emergency room a few weeks ago and I was wheeled into one of the cubicles and there was a curtain drawn across and I must say I found it adequate. There seemed to be enough room in there. I think I was seeing double at the time, (*Laughter*) so perhaps that is why there seemed to be enough room, but there seemed to be enough room in it, it seemed to be adequate and after that I was taken up to Giffard Ward and I got the same impression again. Okay, it was 3625 not state of art but it seemed to be adequate. There were four beds to a bay and when you needed privacy a curtain was pulled around the bed and I was quite happy with that.

I always get concerned when I hear these terms like ‘fit for purpose’ and ‘state of the art’. Not everything has to be state of the art. As long as it is adequate and is satisfactory, often that will do.

I think I will support the amendment, but I hope that there will be a measured approach taken 3630 to this and only things that need to be done will be done. I do not think everything needs to be done at once. I think there needs to be a scale where the most important, the most desperate things need to be done first and perhaps we could take a bit more of a pragmatic look at the things that are further down the list, things that are sort of adequate.

I would just say a word too about some of the things that Deputy Jones said. Deputy Dave 3635 Jones spoke about a consultant, but I have been told for many years now that in regard to States building projects – I could be wrong but I have been told that – so often we use off-Island consultants and so often the on-Island consultants who seem to have the skills and qualifications seem to get ignored. I think perhaps we could look again at that, perhaps there is not always a need to bring in an off-Island specialist. There are some very well qualified and very able consultants 3640 here and perhaps we should look closer to home.

So I think I will support this amendment and I will just plead that we look at these things in a measured way and only do what really needs to be done and spend what really needs to be spent.

Thank you, sir.

3645 **The Bailiff:** Deputy Green.

**Deputy Green:** Mr Bailiff, Members.

I too rather sympathise with this amendment. I did not have an opportunity to take up the Department’s kind invitation to Members to visit the facilities in question, but I did have an 3650 opportunity to read the helpful document that was circulated in terms of why re-profiling is necessary and I found that a persuasive document.

So I think on balance I am going to support this. I do have some concerns that I will go into in a moment, but clearly this is only one single capital project and we must remember, we must remind ourselves that one single capital project is not an end in itself and we do generally need to

3655 get away from this idea, this mentality that seems to imply that finishing a particular capital project or projects is somehow the whole ball game. Because in essence, capital projects are only ever going to be part of an overall strategy for providing a core public service or at least that is my view.

3660 But I think I can see pretty clearly from what Deputy Dorey has said and from what Deputy James has also said, that this particular re-profiling project is one such project which really is quite a key component part of providing an overall health strategy for providing public services and I think that certainly is not manifestly the case with some of the other projects that did not make the cut in Category A or B.

3665 I was interested by what Deputy Gollop said actually because I think he, as he often does, put his finger on something which nobody really has quite articulated clearly this afternoon on this amendment, which is that the clear consequence of accepting this amendment inevitably has to be that the shortfall of £70 million that has already been identified is only going to go up. That must follow and we do need to be very honest about that and in due course we are going to need to be very open and honest about the funding mechanism, bearing in mind that shortfall. This amendment, which I think I will support, will only up the ante on that.

3670 So I will support this because I think it does make good strategic sense with regard to the overall provision of health services in our community, but we really are going to have to look at the implications in terms of the funding on this.

I would urge everybody to support this.

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**The Bailiff:** Deputy Ogier.

**Deputy Ogier:** Thank you, sir.

3680 I am in a bit of a quandary over this and many of the items in the C Category, because I want a lot of them. I really do. I particularly want the commercial solar photovoltaic project and I nearly brought an amendment to bring that forward. I want the re-profiling of the PEH wards, I really do want this. I want the transport infrastructure, I want the Roman ship to be over here, I want Ladies College to be redeveloped and other things in Category C – but we cannot have them all.

3685 We see that we have £155 million available to us, leaving a shortfall of £70 million, perhaps up to £90 million short, so I am not going to be supporting a lot of what we have already prioritised in that because I do not intend to spend any more than we have available to those capital projects.

So do I vote with my heart and put this into a pot of projects that I am not going to be supporting anyway? And if we are going to be putting projects into pots that we are not supporting anyway, why not put a few others in here that I would really like to see? (**A Member:** Hear, hear.)

3690 I am going to have to make one of those difficult decisions. Members will remember the difficult decisions that many of us spoke about during the hustings in 2012 and *this* is exactly the sort of decision that we were talking about, difficult decisions that we find really hard. With our head we want thing and with our heart we want another.

3695 You cannot have everything, Members. So unfortunately I am going to take one of those difficult decisions. I see the sense in this, I really want it, but we cannot have everything. I am not going to put it into a pot that I cannot support anyway.

So for me, I am sorry, but I will not be supporting this amendment.

**The Bailiff:** Deputy Brehaut.

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**Deputy Brehaut:** Thank you very much, Mr Bailiff.

I think Deputy Jones said that the two signatories on the amendment were not on the Board. In Deputy Storey's absence – he is unwell, sir and I wish him all the best – I am now, as Members will know, formally seconding the amendment.

3705 When Deputy Heidi Soulsby spoke, I just wanted to... This is an observation, please, not a criticism. This morning when we okayed yet another review committee to look at our autonomy, we agreed... well, we did not agree a budget because we do not know what the sum was. We sort of agreed staff allocations, staff resources, but we do not know what the staff resources will be, yet we hear from the Scrutiny Committee and the PAC Committee that there are things that they cannot do if they do not have the staff resource, they are not able to do it.

3710 I would like Deputy Soulsby to be able, in the future, to take a report from HSSD or any Committee, put it in front of her full Committee with staff report and absolutely take it apart, come back into this – and, incidentally, with school closures – and come back to this Assembly and tell us why it cannot be done and why it is not in the best interests of the taxpayer or for that matter, value for money.

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Picking up on another point that Deputy Jones made, he is right, there have been... Deputy Hunter Adam used to say, one thing you cannot buy at the hospital shop is a retrospectroscope and I am afraid that is what we tend to use when we look back. It is all very well to say that the building does not work, but it may not work 20 years after its construction and may not work 10 or 15 years after its construction. But there are certainly things I agree to be gained by speaking to nurses, clinicians and staff that work within hospitals, and other Members have said that these things need to be planned carefully and we need to listen to everyone, and we do that.

But of course there is this bind: politicians set policy. We do the policy bit. When you are around the table, it is very, very easy, especially with something that is so politically sensitive that the public is so aware of, not to get all operational when you start discussing matters about healthcare and people's wellbeing.

But what I will say with regard to what is operational, and clearly maintenance is, like Members here I was taken on the tour of the PE, looked at some of the facilities and I was frankly ashamed and embarrassed that there was standing water on rooftops, that fascia boards were not clean, that soffits were dirty and that there appeared to be rooftop gardens where there should never have been any. That is simply not right. These are assets of the community and I will apologise because I have been a member of HSSD on and off over the years, if there has been neglect in that area but it is now spoken about frequently around the board table.

Deputy Jones said he was intimately involved in building both the 1970's and 1990's block and now we know they are falling down. I feel that culpability is probably something we should embrace when we sit... (*Laughter*) but I think to make a serious point, those buildings are of that time. They were right in the 1990's and they were right in the 1970's, but healthcare moves on.

I was going to say Dr Laurie Queripel, but Deputy Laurie Queripel said that he felt that in his recent experience that it was adequate and I take that on board, it is adequate. But one of the restraints that we work to as a Department is infection control and I know that the space between bed heads that people... there is no cross infection and there are moves in the UK to have what is called dirty surgery and clean surgery within the same space, which creates something of a challenge. They design hospitals now with that in mind, so you do not segregate; you have spaces big enough to cope with both procedures.

But my main argument or main supportive argument is a press cutting – can I do what if I may call a 'Lester Queripel' sir, can I produce a press cutting from 2006? And I straight away pick up on Deputy Ogier's point. Deputy Ogier is saying that we are going to make a tricky decision here and it is unpalatable and all the rest of it and he acknowledges it is a devil of a decision.

There are more than two parties involved in health care but the crucial is the cared for person and the carer. Back in 2006, I was saying that we needed to ensure that our hospitals were up to standard, that we had the right pay and conditions, otherwise we would be facing something of a nursing crisis. And if people will remember back to then 2004, 2005, 2006, what we had to do to get staff here was to look to India, look to Finland and look to the Philippines to get staff to come to Guernsey and that is how we dealt with it then. We do not do that anymore.

So what keeps people on Guernsey is the place they work which is beneficial to them because it is a good environment to work in and it is that double whammy because the patient feels better because they are in an environment that seats and suits them, so both the carer and the cared for individual need the best environment. So while we could view this as a capital project, a material thing, it does something more than that. It attracts people to Guernsey and it means that they stay here because they like working here.

I think one of the proposals, I know one of the proposals from the consultant who was with HSSD for a time was that perhaps during holidays, we could run with skeleton staff levels – no pun intended, those were his words – and I think there are dangers in doing that. There are a number of people pictured in this photograph, one of them seems to have disappeared into obscurity – Sandra James, I do not know what became of her. (*Laughter*) I say that, sir, because what Deputy James says in the piece next to this article is that nurses need to do more to get their voice heard, that they need to do more to take their own visibility up and I think there has been a lesson for both parties, both for the management of the PE, political Members and nurses is that if you get yourself heard, if you get representation, you do not end up with hospitals that you feel you cannot work in.

I hope Members support this but I certainly take on board and acknowledge Deputy Ogier's point, that this is a clumsy, unwieldy, imperfect process that we are engaged in.

Thank you, sir.

**The Bailiff:** Anybody else? Deputy Duquemin.

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

I too was one of the Deputies that accepted HSSD's invitation to visit the hospital. One of the questions that I asked as we visited one of the wards that was shut and in need of renovation before it could be opened to patients again was about budgets. The figure that we were given – I think Deputy Dorey has repeated that figure today – is that the sum of the capital expenditure that may take place in this instance is circa £20 million. That was one of the figures that was quoted.

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For me that was an interesting figure because the next question I asked was how much of HSSD's general revenue is spent on the hospital. Obviously their budget is circa £108 million, I think it is – £106 million to £108 million – and I was informed that the Princess Elizabeth budget, as a single entity hospital, was circa £60 million.

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So in many ways, often when we are on Boards and we are sitting down looking at the capital expenditure, those are the figures, those are the numbers, the telephone numbers that make your eyes water so to speak. But here, in a way it is the general revenue that is the very big eye-watering figure of £60 million and the 'cap. ex.' that is being spoken about is £20 million, which is a third.

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The question that I would ask Deputy Dorey in his summing up is that, in many ways, I do have sympathy and I am minded to support the amendment because I think that having experienced and witnessed with my own eyes the situation at the Princess Elizabeth Hospital, there does need to be a short term fix, if we call it that. But the question I ask is twofold: (1) in the short term, are there any tangible spend-to-save initiatives that could happen that would actually mean that a £20 million expenditure actually means that we could save on the £60 million of general revenue, instead of that going up exponentially over the years; and (2), when will there be consideration to perhaps a long-term solution?

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I know Jersey are embarking on a huge new hospital, (**A Member:** Hear, hear.) £250 million to £300 million (*Interjection*) – £400 million, I am being told – but the question is, if that means huge savings in a budget of £100 million plus year on year, then *perhaps*, just perhaps, it could be the best way to spend the money to give ourselves a 21st century health solution that the Island can be proud of and that does deliver value for money.

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So as I say, I am minded to support the amendment but what I would like is a bit of understanding and feedback on how the £20 million, or whether it be more than that, can actually be spent in such a way as to impact positively, or negatively if you like, on the £60 million of general revenue that the hospital does cost us each and every year.

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Thank you, sir.

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**The Bailiff:** Does anyone else wish to speak on this amendment?  
Deputy Sillars.

**Deputy Sillars:** Sir, I would just like to align myself with Deputy Dave Jones and Deputy James.

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I also went round and saw where the equipment does need to be replaced, seven or eight years old, and equipment I think does need to be kept pace with. I was also quite surprised at some of the lack of quality and I understand why they need to be upgraded.

But returning to a favourite topic of this Assembly on flat roofs –

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**Deputy Brehaut:** I am sorry sir, I cannot hear Deputy Sillars. Thank you.

**Deputy Sillars:** I am glad you want to hear, thank you.

Returning to flat roofs, I was quite shocked at the amount of vegetation growth, I could make a bad joke about the amount of water – perhaps we could use them in Education – but there is a lot of water on the roofs and I did actually find the hidden hut, but actually it was well hidden and I was with Deputy Jones at the time – we both discovered it together. The vegetation must have been many feet high, it would not have been an exaggeration, and I did ask, how an earth can we let all this money go to waste by not maintaining it properly. The quick answer I got was we do not have the maintenance staff to do all of it. Well, as with every house, if you cannot build, then just ignore it; you have got to put those two together.

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So I will support it but please let us ensure that what we have got stays in a good condition.

**The Bailiff:** Deputy Lester Queripel, were you rising to speak? Perhaps you were not. Oh, you were. (*Laughter*)

3835 **Deputy Lester Queripel:** Thank you, sir. I have not quite finished my speech, but...  
I rise to wholeheartedly support the passionate pleas made by Deputy James, Deputy Dave Jones and Deputy Laurie Queripel in relation to design and maintenance.

3840 As I said in a recent speech on the SAMP project, the people who design public buildings seem to inhabit another world – a world that is impractical and totally illogical. To repeat what I said in my sub-speech, after having run my own business in the construction industry for 28 years with four partners, I am only too aware that practicalities, logic and common sense are hard to find in the construction industry. The people to blame for that are the planners, the designers, the people who work from text books and who have no practical experience whatsoever.

3845 So to echo Deputy Jones, I only hope that the people who have to work in the buildings and the establishments are consulted with in relation to the designing of them.

And to focus on the issue of future maintenance, it makes no sense at all to spend millions on a new building and not maintain it, because if regular maintenance is not carried out then that can only result in further expense, stress and trauma.

3850 On Saturday, at the St Peter Port Parishioners drop-in, Deputy Gollop and I spent a long time trying to console two very distressed ladies who were extremely concerned that one of their relations has been transferred from one of the Lighthouse Units because they are now considered to be uninhabitable. I think I am right in saying these buildings are only nine years old. That to me is absolutely unacceptable. The two ladies asked a fundamental question: why were the buildings not maintained? Because if they had been, all the stress, trauma and expense could have been avoided.

3855 Well, sir, I went through a range of emotions trying to respond. I was angry, I was frustrated and at one point I felt completely ashamed to be associated with the States of Guernsey and Deputy James asked... no, she did not ask; I think she simply said she did not know who was to blame. Well, I do not think I want to go down that particular road, for fear of saying something that I should not say.

3860 I am going to vote in favour of Deputy Dorey's amendment, but I want an *absolute* assurance from Deputy Dorey that we will not hear the excuse in future that lack of funds are to blame for lack of maintenance. If I do not get that assurance, then I will not be voting in favour of the amendment.

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**The Bailiff:** Deputy Stewart.

**Deputy Stewart:** Thank you, Mr Bailiff, Members.

3870 I really rise because of Deputy Ogier. I remember the hustings and having to make these difficult decisions. We said, particularly in where we are now – post-2008, Zero-10 – we are going to have a lot of these. You are absolutely right and that is exactly why we have got scoring, to help us make those difficult decisions.

3875 So what I would ask the Minister is – why is it the rules never seem to want to apply to HSSD? We have scoring in there. This helps us make the difficult decisions. It is very difficult to make comparisons, what is more important: we can tug at the heart strings and say hospitals; should it be the motorcycle park; should it be something cultural; should it be Ladies' College?

We have a scoring mechanism in there, to try and help us make these decisions and I ask the Minister, why should we, as a States, throw the rule book out of the window and just move this up to be... why should it not be something else?

3880 Thank you.

**The Bailiff:** Chief Minister, Deputy Harwood.

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

3885 May I say that I have every sympathy with Deputy Scott Ogier in this matter and also I share Deputy Kevin Stewart's views? We have to take difficult decisions. There are times, and there will be times in the near future when we have to take decisions ruled by our head rather than by our heart.

3890 Deputy Scott Ogier has already made the point that if we accept this amendment, which is fine, we are not actually committing to doing anything today, but it will be included therefore in the pipeline. There will be possibly another – we have heard a figure of £20 million, so that will mean that the shortfall goes up to £90 million. It is unlikely we will be able to find £90 million hanging on a low branch or low fruit, and therefore the question we have to face is, by all means accept the amendment now, but you are delaying the inevitable decision that we will have to make, which is

3895 when we come back with all the costed estimates, we are then going to be faced with that dilemma and the precise issue that Deputy Ogier has identified – we have to take hard decisions.

I would submit, sir, that in this instance, it would be better to take that decision now by not accepting the amendment, recognising that we are going to have... even within the items in the pipeline category, there are a number there that we will never be able to attempt to deal with. By accepting this amendment, we are creating false expectations, perhaps false hopes.

It is with regret that I will be voting against this amendment, sir.

**The Bailiff:** Deputy Gillson.

3905 **Deputy Gillson:** Sir, I just stand to answer Deputy Stewart's comments.

The reason why this amendment can be passed and we do not have to blindly stick with results of the assessment is because it is a guide. Members will know that I raised questions with the Treasury Minister about the nature and integrity of the scoring system and he replied to me saying that it is a guide. That is it. It is not a definitive rule book, it does not produce a definitive answer, it is not a 'two and two plus four' system. It is a general scoring system to provide a guide from which political decisions are drawn.

This amendment is asking us to make a political decision. That is what we are here for. The logic that Deputy Stewart had of 'That's the scoring, take it or leave it. We're tearing up the rule book by changing it', actually defies the need for us. Why bother having you here? We have got the score book, just throw it straight and let civil servants deal with it.

3915 The nature of politics is that we take those scores, we use them as a guide, we say we like them or we do not like them and we come here with an amendment and we approve it if we think it is right. I think there is nothing wrong with that. It is not tearing up the rule book; it is part of the process we have got.

3920 I think we should approve this amendment.

Thank you.

**The Bailiff:** Deputy Fallaize.

3925 **Deputy Fallaize:** Thank you, sir.

Just to add to what Deputy Gillson has said, it is true to say I think that there are projects which have been placed into Category A which explicitly did not score highly enough through the multi-criteria analysis or whatever it is called, to be included ordinarily on the list of projects. So if that multi-criteria analysis were to be followed blindly, there would be various projects knocked out of Category A.

3930 One of them might be the replacement fisheries protection vessel being put forward by C&E. I do not know whether it would be or not, but certainly there are some projects in that Category A list which, were it not for political decision-making at a stage earlier than this, would not be included on Category A.

3935 In addition, in Category D, there are all sorts of projects which may not have got through the multi-criteria analysis; but because they have a separate funding source, something which we will be debating when we consider Deputy Bebb's amendment, they effectively can proceed to the next stage of consideration as well.

3940 And a third point is that not only is the multi-criteria analysis – I would call it more than a guide, but it certainly is not a definitive judgement – not only that, but it was also done entirely by officers. I can accept that process but clearly, on top of that, once that has happened, there needs to be a very considerable degree of political decision-making, otherwise, as Deputy Gillson says, we might just as well all go home and let civil servants run everything.

3945 So sir, that of itself does not mean that the States should vote for Deputy Dorey's amendment, but I do think the States ought to discount the arguments against it which have been put by Deputy Stewart.

Thank you, sir.

**The Bailiff:** Deputy Bebb.

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**Deputy Bebb:** Thank you, *Monsieur le Bailli*.

I thank Deputy Ogier and Deputy Harwood for those objections because it was feeling a little bit of a strange experience that everybody speaking was speaking in favour. Those who have subsequently spoken against, I think there are Members here who are concerned with the passing

3955 of this amendment. But there are a few things that I would actually like to expand upon as to why I will be voting for the amendment.

When you look at the Category A items that have been described and the Category B items, I asked the question of the Minister of Treasury and Resources that given that I believe that the re-profiling of the PEH should progress to the next stage, what do I need to do in order to de-prioritise? The answer came: 'You do not have to'.

3960 The way that the process works is that you simply have to prioritise and you do not need to de-prioritise, which creates even of itself a very strange situation that I do not need to pick an argument with Commerce and Employment about the fact that I need to de-prioritise the replacement of the fisheries vessel. I do not need to pick an argument with the Home Department that I do not actually agree with the CCTV. Why would I enter into that difficulty? I recognise that I may have upset the PSD department later on, but why would I enter into that difficulty when I can just simply say well just put mine up there?

That is why this amendment is simply in order to actually move the PEH up to the category.

3970 For those who have said that they are concerned with regard to the amount of money spent, I cannot allay all of that fear, but one of the things that I would say is that currently you will find in Category A the replacement and upgrade of sterile services and equipment. Without explaining too much about exactly what they are, essentially when someone goes into theatre, instruments are used which then need to be sterilised before they can be re-used, which is a very simple way of stating what is indeed an exceptionally complex process, as you can imagine that infection control is just paramount within that. The location of the sterile services is quite closely linked to the location of your theatre.

3975 If this amendment is approved then that piece of work, which will proceed because it is in Category A, will also be incorporated so that it becomes one project and therefore the costs of re-profiling the whole of the PEH and the sterile services will actually come into one. Therefore if you do move, as this amendment asks, the re-profiling of the PEH up into the... to proceed then, it will reduce the overall cost. You are not talking about an addition of £20 million, if that is the right figure – we do not want to actually talk about exact figures – you are not talking an exact additional amount because some of those costs would actually be dealt within that existing Category A item.

3980 The other thing that I have to say that I am slightly disappointed at is this question as to the HSSD not looking after its assets. I am not for one moment trying to excuse some of those items that have already been highlighted, but I would say a couple of things in relation to HSSD caring for its assets. That is it is a lot easier to look after those assets which were built in a later time. It is unsurprising that you might find a roof garden growing on top of a flat roof and you will not see many flat roofs appearing these days within the hospital. Maintenance costs on new buildings are essentially much lower because maintenance is factored into the profile of most new buildings and therefore that makes things easier.

3990 But I would also say that HSSD has an issue in employing sufficient people because we are not exactly the best payers in this area, in order to maintain our facilities. HSSD has a large number of buildings that it looks after and it is very disappointing to me that we worry about some grass growing on a roof, which I frankly care little for, when some of the facilities that we currently have service users living in, are below acceptable standards, in my opinion.

4000 The focus of the Department, when it comes to the maintenance of its assets, must surely be that those people who have to reside within some of the assets that we currently run... is brought to an acceptable standard, and that is a lot more important as to whether or not we have got a bit of grass growing on a roof. That is where the focus of the Department is.

4005 I do not dispute that we also need to deal with the grass on the roof but I am saying that it is a lesser priority and therefore, please, when you are actually talking about the superfluous things that you see, there are some real concerns about actual maintenance which is far more important to the Department and we do prioritise as much as we can, the maintenance works of our facilities.

**The Bailiff:** Deputy Inglis.

4010 **Deputy Inglis:** I would like to pick up on what Deputy Bebb has just spoken about. I thought that when people had the misfortune or maybe want to go in hospital, they need reassurance by going in there. If you go into Accident and Emergency as it stands at the moment, it is a very depressing entrance to what should be a very reassuring place, especially for patients that, let us face it, they do not really want to be there but they are brought there to deal with the problem that they have.



4015 So I disagree with Deputy Bebb in terms of looking at your assets. It is very important that you must look after these very expensive assets. I too went on the walk and it was quite an eye opener. If as in business you are charged with looking after accommodation, then you should be setting aside money to do that and I ask the Minister to reassure us as to what is the approach to maintenance within the hospital area.

4020 Another area we went in was like a part building site. I asked, 'What is happening here? Is this in-house work?' and yes sure, it is being done in-house. I can assure you that doing anything in-house when you are running the budget is the first area that you will stop doing work if another priority comes along. I can emphasise that anyone who works or is involved in the construction industry, when times are lean and we do not have anything to do, we refer to a job as a 'hospital case', and this clearly is a hospital case that needs dealing with.

4025 I too, like Deputy Ogier, feel that maybe this is not the right thing to make a decision on. Let us get the house in order and please can you reassure me Minister that that is the case.  
Thank you.

4030 **The Bailiff:** Anyone else? No, then Deputy St Pier, do you wish to speak then, before Deputy Dorey replies?

**Deputy St Pier:** Yes please, sir. Thank you very much.

4035 Sir, as I said in opening the debate, the Department is neutral on this amendment and therefore Members will vote as they see fit. That really is because, as I explained at both of the workshops or the presentations and earlier this afternoon, the Treasury and Resources Department is a facilitator of this process, and as Deputy Gillson has said and echoed by others, the scoring process is merely an aid to making the decisions, we are not holding it out as being a perfect system, Deputy Brehaut said that it is far from perfect and we would echo that. It is simply an aid to enabling decisions to be made and as Deputy Fallaize has said, there is a political judgement and subjective opinion is required.

4040 Of course, anybody who supports this amendment today is not bound to support the project going forward as and when it does comes back to the States that is a decision for another day. So the States decision today is 'Should it be in the pipeline, should HSSD be devoting time and resources to working up the project, looking at what the alternatives are and scoping it and costing it?' That is the question that in essence we are being asked by this amendment; we are *not* being asked to commit to the project.

4045 As Deputy Bebb has said, he has correctly recounted the exchange or the conversation we had, which is that if a project is added to the list in the pipeline, it does not require an equal and opposite matching of something to come out – not least because the costings are so broad at this stage it would be very difficult at this stage to do it.

4055 So all that will happen, if this amendment is passed, is that more work will be done to scope this additional project and that it will go into the portfolio, and in that sense it has no immediate impact on Treasury and Resources, other than again it becomes part of the workload along with the many other projects which we are recommending in Lists A and B.

4060 But again, as has been said by those who are struggling with the process in the context of not having enough resources, we may need to decide further down the line to remove one or more projects including this one if it is in the pipeline if insufficient funding is available. The proposal did actually score reasonably well and it just was not included because you have to draw the line somewhere and, as has already been noted, List A includes a number of projects which were elevated there because it was in essence seen that they are replacements which are needed to keep services going. That in itself is a judgement. Again it reflects partly the scoring process, a significant part of the score was against the States Strategic Plan objectives and indeed that is the reason that some of the replacements did not score highly but that in a sense, made no sense which is why the common sense judgement was applied.

4065 I do not think I can add any more, other than my objective is to seek to explain to Members the consequences of either accepting or rejecting this amendment, sir.  
Thank you.

4070 **The Bailiff:** Deputy Dorey.

**Deputy Dorey:** Thank you, sir.

And thank you to all the Members who have contributed to this debate and those who have spoken in support of the amendment.

4075 Deputy Jones asked about who is designing the buildings and I think HSSD has learned from the past. We do need professional designers. In the past, some of the designs have been done by local non-professional designers and yes, if we have got local designers, Deputy Queripel, we will use them. But we need to have professional hospital designers to make sure we design a hospital to meet the current standards, aware of where standards are going and make sure that, in technical matters like infection control, we have got the right design, so that we do not cause problems down the road.

4080 But of course, we need to, as has been mentioned, involve staff in that and I think when we designed the mental health and wellbeing centre, there was a lot more involvement from the staff into the design, so that we were very well aware of what their views were and hopefully most of their views were included. And it was not just staff, it was users as well.

4085 Deputy Adam mentioned that he discussed most of this with the previous Chief Officer and I think that outlines that these are not new proposals they have been out there for a while and needed to be done, in terms of improvements to the buildings. He mentioned about Ozanne, it was outdated and because after the asbestos was cleared – that was one of the adult surgical wards – it was decided not to do any work to bring it back into use because it would be included in the capital prioritisation.

4090 That is precisely the point, and that comes back to the point that Deputy St Pier just made about how these bids were scored and often replacements did not get the highest score. Because most of what we are talking about is replacements; it is not talking about providing something new.

4095 As I said, the surgical wards have just had their day and they need to have a major refurbishment. It was recognised in 1999 that it was needed. It has not been done, so we have had to close one and are about to close the other. I do not think that is acceptable to go back into the 1930's part of the hospital.

4100 He mentioned about mistakes made in the past. Yes, we have and hopefully we have learnt from those mistakes and we will ensure that what we do in future will be nearer to the perfect – but nothing we ever do is perfect. There are always mistakes but we will try and eliminate as much as possible and make sure that we learn from the mistakes and approach of the past which led to mistakes in the designs of the buildings.

4105 He mentioned about the insurance and asbestos. Well, the company which stripped out the asbestos initially went out of business before the asbestos was rediscovered in 2011. HSSD then sought legal advice from the Crown Officers Department at that time and it was suggested that it would not be cost-effective to pursue a defunct company's insurance. The Department is now reconsidering this and seeking further advice.

4110 Deputy Soulsby mentioned about the costs of the various parts. Well, precisely, we have not done... We have just put a number there. We have not done the planning, we have not done the costings, so we do not know the costs of the various parts that we are proposing. What we want to do is to come up with an overall plan. It might be that there are limited funds and we cannot do everything, but at least if we have a plan for how we are going to re-profile the hospital, being aware of all the current problems, we can prioritise that work and we can do the work that we are able to finance. We might not be able to do the whole building, but we can do part of it.

4115 She mentioned about day patients. Well, the Department has for a while worked closely with MSG to ensure that we maximise the number of day patients because if we can have more day patients, then we do not have to have overnight ward beds. That is the current policy and we are doing as much as we can but we know with demographics that there will be a greater demand on the hospital and one of the things is, as people live longer, people have more than one problem and they come into the hospital and need a greater level of care. So we can maximise the day patients for those people who do not need overnight beds, but we know that there will be an increasing number of people who will need overnight beds and perhaps even longer. That is the latest statistics that actually, in the acute wards, the average length of stay has increased. This is because of the complexity of some of the patients.

4120 I thank Deputy Gollop for his support. He mentioned about the Victoria Wing, and about private patients. Currently most of Victoria Wing are private patients and it is being used for contract patients because we do not have other wards available. We are going to open De Sausmarez Ward which will allow us to increase our private patient income but we will still have some of the contract patients in Victoria Wing because for particular types of surgery it is necessary for some people, for infection control reasons and other reasons, to have single rooms. The only single rooms we have available for surgical patients is in Victoria Wing so we have to use some of those rooms for contract patients.

4135 I thank Deputy James for her support and the theme of maintenance. She mentioned about changes to the Lighthouse Wards. We are very aware of the current problems with maintenance and it is something that I have discussed with my Chief Officer and I have asked for a paper to be presented to the board on our general policies in relation to maintenance and we are determined to maintain our buildings properly. But just as Deputy Bebb said, we have to prioritise the maintenance work. If we have got a limited budget we have to prioritise it, but we will re-examine what the budget is for maintenance and if it is necessary in order to maintain our buildings, we have to ensure that we increase our maintenance budget. But we will very much work with States Property Services, they are the property experts just as we are working with them on the Lighthouse roofs to find a solution, and I think we are very advanced to find a solution.

4145 There are a number of beds in the Lighthouse Wards which are currently closed so we will be able to repair them, repair the leak and re-open those wards. We want to spend our money wisely and also use professionals to ensure that we do that.

Deputy Hadley mentioned that a number of years ago, it was considered that our hospital was more superior and that now we have slipped behind. That is very much so and that is why projects which were proposed for example in 1999 have not gone ahead.

4150 Deputy Queripel mentioned maintenance. Again, I have covered that point and I have covered about using off-Island designers.

Deputy Green, Deputy Ogier and others have mentioned the total number in the budget which is mentioned in the capital prioritisation report, and we already know that the projects which are in there are above the amount of money which is currently predicted to be available. That is why T&R have to come back to this Assembly with their report in 2014 and, as Deputy St Pier said, this is just the first stage, this project is going to go into the pipeline and will be considered, be properly scoped. It has not been properly scoped and will be considered against other projects.

4160 I think in terms of that process you have to take into consideration that a lot of this work is replacement and not new work. But the capital prioritisation process is not an exact science. We are told in the report that the capital reserve fund is £46 million better off than it was predicted when we had the last capital prioritisation debate. Part of that is because £38 million of projects have not gone ahead. One of those projects was an HSSD project where an alternative way, using the Housing Association, was found to finance it. So we, in fact HSSD has contributed to £6 million more being available in the fund.

4165 At this stage, these numbers are not exact numbers and I think Members need to consider that once they have been scoped, we will get more exact numbers, but until they actually go out to tender, we will not know the exact numbers.

I think in paragraph 47, it specifically says that the:

4170 ‘funded States Capital Investment Portfolio (revised if necessary due to the availability of funding) along with the timetable for delivery. The States Report would also set out, in detail, the recommended framework for the planning and delivery of capital projects through the States Capital Investment Portfolio including the governance and financial approval arrangements for projects not funded from the Capital Reserve (Category D projects).’

4175 So this is the first part and I hope Members have understood, from what I have said, that I believe that this needs to go ahead to the next stage.

It is interesting the number of people who have been round the hospital and said they have had their eyes opened. That is very much where I am as well. Until you actually go round and see what the situation is, I do not think you fully appreciate what work needs to be done and what areas really are not acceptable any more for the delivery of healthcare services. I think it is just not right that we should be closing wards and going back into the 1930’s part of the hospital.

4180 Deputy Duquemin mentioned about what we can do to save money. Well, when you do a new building, you have modern lighting, modern heating, modern technology, better levels of insulation which can help to save running costs. Also the design of wards can be so... for example, the nurses’ station can see the patients that it needs to. When you go into ones like De Sausmarez Ward, it is in separate rooms and you have to have several nurse stations in there, because the nurses cannot see the patients because they are in separate rooms. So there are savings from design, but the care of people is the most expensive part. We are not going to make significant cost savings by building new, but we will produce better quality.

4185 The long-term solution for the PEH: the policy which has been followed by this Assembly and previous Board of Health and HSSD Boards, is to gradually re-build sections of the hospital and that is what we have done. I think the Jersey solution to re-build the whole thing is not viable.

4190 Various projects have happened over the years and this is a continuation of what we have to do. We modernise one part, we modernise another part and that is the policy in relation to the site.

Having spent so much money on modernising, for example the new clinical block, it would be wrong not to use that and look elsewhere.

I think the points made by Deputy Stewart have been covered by Deputy Fallaize and Deputy Gillson. I would urge Deputy Harwood to reconsider his view. This should be in the pipeline. I think this project is important enough. We cannot wait in relation to our surgical wards and it needs to be at least considered in the pipeline alongside other projects. I would urge him to rethink and look at including this in the pipeline so it can be considered.

I think that covers the points made. I will just finish up by saying this amendment would classify the re-profiling of PEH as a Category B project. This means that it will be one of the projects included in the next stage which T&R are working with Departments, in order to review and refine the specification and the scope so that T&R can issue its States Capital Investment Portfolio and States Report in Quarter 2 of 2014. The arguments for including this project are clear. Some hospital wards such as Ozanne, Divette, De Sausmarez and Sherwill stand empty. Others such as Giffard Ward are nearing the point of closure. Upgrades are needed across the board, from A&E to Theatres to the private patient wing, in order to meet good practice standards which people who use Guernsey Healthcare Services should reasonably be able to expect.

Our hospital facilities need to be able to meet the changing demand arising from the changing demographics. This means both more bed capacity and greater use of day patient services. The only way to do this without significant expansion is to put the existing space across the PEH to better use. The re-profiling plans I have outlined will enable this to happen.

Phase 5, the Clinical Block completed in 2010, was a very necessary investment for the States in our healthcare infrastructure, to stop using 1930's wards and provide good modern facilities. The contrast between Phase 5 and the older area of PEH highlights better than any words the necessity of periodic investment in updating the facilities proposed by this project. I think that was the eye opener for me and for many who went round on the tours.

Our buildings must support the delivery of our services that are fit for purpose and be able to meet the needs for the future. There are challenges to resolve in terms of tackling asbestos, bringing old facilities back to date and in line with best practice standards. There are opportunities to build on what we already have and improve the Island's healthcare infrastructure so that we can continue to deliver high quality health services from a high quality hospital. This is part of the legacy of excellent healthcare and social services which the States committed to providing to the people of Guernsey when it unanimously supported the 2020 Vision.

Sir, I ask Members to vote in favour of this amendment.

**The Bailiff:** So we vote then on the amendment proposed by Deputy Dorey seconded by Deputy Brehaut and there is a request for a recorded vote.

*There was a recorded vote.*

**The Bailiff:** I believe that is carried.  
We will take next the Deputy Bebb/Deputy Trott amendment. Deputy Bebb.

**Deputy Bebb:** Thank you, *Monsieur le Bailli*.

Because two amendments have been circulated, I will read to all Members which amendment I am laying at this point in time:

*To insert an additional proposition as follows:*

*'9. To agree that, notwithstanding the different funding model, the Category D projects, as detailed in that Report, should be considered pipeline projects of the States Capital Investment Portfolio and should be subject to the same oversight as all other pipeline projects; and to direct the Treasury and Resources Department to report back to the States on the detailed governance and financial approval arrangements for these projects by the end of June 2014.'*

The amendment I think says pretty much all of it and I feel that in a way that it is just tidying up the Report and the Propositions. If Members were to look at the Propositions – for instance, Proposition 5 actually says:

*'To direct the Policy Council to consider and determine whether capital investment through the Corporate Housing Programme Fund or by the trading entities (Ports, Guernsey Water, Dairy, States Works, Social Security Funds) should be taken into account when assessing compliance with "... the assumed 'norm' for permanent capital expenditure to be 3.0% of gross domestic product..." in the Fiscal Policy Framework.'*

It simply makes sure that we cannot have one part of the States spending money in one way and another part of the States actually ignoring any possible controls that there are on expenditure.

4260 It also ties in with regards to – and I understand that because of the different funding models, then it does need some consideration by Treasury and Resources as to how that would happen – and therefore it ties in well with Proposition 2:

4265 ‘To approve the establishment of a States Capital Investment Portfolio as set out in paragraphs 34 - 44 of that States Report and direct the Treasury and Resources Department to submit a States Report, for consideration during the second quarter of 2014 as set out in paragraph 47 of that Report.’

4270 Therefore Members, realistically what I am saying is that if we have an overall objective which the Report speaks of, and I am fully supportive of, which is to have the proper governance in place that capital expenditure of the States of Guernsey do not in any way go in an uncontrolled manner and that we actually keep investment, which is a fairly substantial investment within the building industry and if we keep that at a regular level we must incorporate all of it. The States Treasury and Resources Department make reference within their report to the need to bring Category D items within the whole of the Capital Prioritisation Process and indeed in four years’ time, I think 4275 that the intention is that everything falls in. This brings that forward, brings that date forward to 2014.

I would also suggest that given that we currently know that there is a shortfall in the funding we need to understand that on as many items as we possibly have control over, that we do not increase the general cost of living on the Island and of course, charge this levy through the rental rate and charge this rate through such items as the water board and so forth. They do have an effect on the money that people have in their pocket and of course, if we are going to have to discuss raising taxation, that needs to be considered in the round of everything that we have influence over.

4280 That is as much as I want to say because I feel that it is actually a fairly straightforward proposal.

4285 The only other thing is that I must apologise for the late circulation. I was working with the Treasury and Resource Department on the other amendment, which I may or may not lay later on, and some of the questions and answers in relation to that one were slightly delayed in coming to me and therefore I can only apologise for what is perceived to be a late circulation of this amendment.

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

4295 **Deputy Trott:** I do, sir, and will reserve my right to speak later. Thank you.

*Deputy Dorey/Deputy Brehaut amendment:  
Carried – Pour 40, Contre 6, Abstained 0, Not Present 1*

**POUR**

Deputy Kuttelwascher  
Deputy Brehaut  
Deputy Domaille  
Deputy Robert Jones  
Deputy Le Clerc  
Deputy Gollop  
Deputy Sherbourne  
Deputy Conder  
Deputy Bebb  
Deputy Lester Queripel  
Deputy St Pier  
Deputy Gillson  
Deputy Le Pelley  
Deputy Trott  
Deputy Fallaize  
Deputy David Jones  
Deputy Laurie Queripel  
Deputy Lowe  
Deputy Le Lièvre  
Deputy Spruce  
Deputy Collins  
Deputy Duquemin  
Deputy Green  
Deputy Dorey  
Deputy Paint

**CONTRE**

Deputy Harwood  
Deputy Langlois  
Deputy Stewart  
Deputy Ogier  
Deputy Perrot  
Deputy Inglis

**ABSTAINED**

None

**NOT PRESENT**

Deputy Storey

Deputy Le Tocq  
Deputy James  
Deputy Adam  
Deputy Brouard  
Deputy Wilkie  
Deputy De Lisle  
Deputy Burford  
Deputy Soulsby  
Deputy Sillars  
Deputy Luxon  
Deputy O'Hara  
Deputy Quin  
Deputy Hadley  
Alderney Rep. Jean  
Alderney Rep. Arditti

4300       **The Bailiff:** Well, Members, the voting on the Deputy Dorey/Deputy Brehaut amendment was 40 votes in favour, 6 against. I declare it carried.

Is there any debate on the Deputy Bebb amendment?

4305       **A Member:** Can you just clarify 1 or 2?

**The Bailiff:** Yes, that is why Deputy Bebb read it – it is number 1, the shorter amendment.

**A Member:** So number 2 is going to be laid...?

4310       **The Bailiff:** Well, he has just said he is still thinking about it, he may lay it, he may not. But at the moment we are just looking at amendment 1. Any debate?  
Deputy Gollop.

4315       **Deputy Gollop:** Yes, I have not the time, at this stage, to go through all the Category D pipeline projects, but I think as a principle the Bebb amendment is a dangerous one because it... We actually heard from Deputy Stewart what I thought was a good speech about should we be putting health projects higher, just like that, over say cultural or educational projects, and that is part of the process. It is part of the parliamentary process to re-assess the work that is done.

4320       But the States by its nature has had a long tradition of what used to be called, I think, 'commercial trading boards', and if one puts Category D projects with a funding stream into the same pot as Category A, many of them will have less emotive appeal than say the hospital facilities that we have just overwhelmingly voted for. Because of that, the tendency for these organisations to modernise and invest at the right time for the right reasons will be lost and therefore the process should not be changed.

4325       **The Bailiff:** Deputy Fallaize.

4330       **Deputy Fallaize:** Sir, with respect, I think Deputy Gollop may be speaking to the wrong amendment, because the reallocating into different categories amendment is Deputy Bebb's other amendment. This one just deals with the financial approval arrangements for Category D projects, does it not? (*Interjections*)

4335       **Deputy Gollop:** [*Inaudible*] ...the right amendment. It does apply to this one, because it makes it clear they should be considered pipeline projects and should be subject to the same oversight. Well, 'oversight' does indicate that Treasury and Resources would effectively give them the same kind of approach to the business case as they would other projects, and therefore you are no longer differentiating between the commercial projects and the other projects.

4340       **The Bailiff:** Deputy Dave Jones.

**Deputy David Jones:** Sir, can I make a suggestion. It is close to 5.30 p.m.

These clearly have implications for Housing and other Departments. We have not had a chance to meet to discuss these amendments. Deputy Bebb has admitted they were laid very late –

4345       **Deputy Gollop:** It is very confusing.

**Deputy David Jones:** I would like the opportunity to take overnight to discuss with my Board and others, about the ramifications if these are passed. Could I therefore suggest that the States ends the session today and we resume this debate in the morning.

4350

**Several Members:** Hear, hear.

**The Bailiff:** Members, I put to you the Proposition that we rise now. Those in favour; those against.

4355

*Members voted Pour; one Member voted Contre. (Laughter)*

**The Bailiff:** We will resume at 9.30 tomorrow.

*The Assembly adjourned at 5.24 p.m.*