



OFFICIAL REPORT

OF THE

STATES OF THE

ISLAND OF ALDERNEY

HANSARD

The Court House, Alderney, Wednesday, 24th May 2017

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

Volume 5, No. 4

Present:

Mr Stuart Trought, President

Members

Mr Tony Barnes
Mr Matthew Birmingham
Mr Mike Dean
Mr James Dent
Mr Louis Jean
Mr Graham McKinley
Mrs Norma Paris
Mr Steve Roberts
Mr Alex Snowdon
Mr Ian Tugby

The Greffier of the Court

Mr Jonathan Anderson

Business transacted

Welcome to HE Lieutenant-Governor	3
Convener's Report of the People's Meeting held on 17th May 2017	3
Billet d'État for Wednesday, 24th May 2017	4
I. Capital funding – Refurbishment of the Nunnery – Item approved.....	4
II. Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2016 – Item approved	15
III. Triggering Article 50 in respect of Protocol 3 – Notice and subsequent impact on Bailiwick's legislation noted and recognised – Policy and Finance Committee's policy and process agreed	16
IV. Policy and Finance Committee – Election of a new Committee of five Members – Item not carried	21
<i>The Assembly adjourned at 7.14 p.m. and resumed at 7.48 p.m.</i>	<i>36</i>
V. Questions and Reports – Questions	36
Building and Development Control Committee – Report on BDCC membership	41
Policy and Finance Committee – Report on ARE, ACRE and FAB actions.....	45
<i>The Assembly adjourned at 8.40 p.m.</i>	<i>50</i>

States of Alderney

*The States met at 5.30 p.m. in the presence of
His Excellency Vice Admiral Sir Ian Corder KBE, CB,
Lieutenant-Governor and Commander-in-Chief of the Bailiwick of Guernsey*

[THE PRESIDENT *in the Chair*]

PRAYERS

The Greffier

ROLL CALL

The Greffier

Welcome to HE Lieutenant-Governor

The President: Thank you very much. Before we proceed any further, now that everybody is present and confirmed as present, I would just like to welcome His Excellency the Lieutenant-Governor, Sir Ian Corder, who has very kindly joined us this evening.

Convener's Report of the People's Meeting held on 17th May 2017

5 **The President:** If we can move from there to the Convener's Report, Mrs Paris.

10 **Mrs Paris:** Your Excellency, Mr President, fellow States Members, I convened the People's Meeting on 17th May, ably assisted by the States Treasurer. There were six States Members present, including myself; the President was in attendance for part 1, as was the minutes secretary; and there were 36 members of the public and four members of the press.

The President: Thank you very much, Mrs Paris.

Billet d'État for Wednesday, 24th May 2017

I. Capital funding – Refurbishment of the Nunnery – Item approved

The States of Alderney is asked:

- 1. To approve the award of the contract for the refurbishment of the Nunnery building to Tickled Pink builders; and*
- 2. To approve expenditure of £280,000, to be charged to the Capital Account; and*
- 3. To approve leasing the building to Alderney Wildlife Trust for an initial period of 5 years.*

The President: Mr Greffier, could we move to Item I, please.

15

The Greffier: Thank you, sir. Item I this evening is Capital Funding, Refurbishment of the Nunnery.

A letter has been received jointly from Mr Dent in his capacity as Chairman of the Policy and Finance Committee, and Mrs Paris in her capacity as Chairman of the General Services Committee. The States of Alderney has been asked to approve the award of the contract for the refurbishment of the Nunnery building to Tickled Pink builders; secondly, approve expenditure of £280,000 to be charged to the Capital Account; and thirdly, approve leasing the building to the Alderney Wildlife Trust for an initial period of five years.

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25

The President: Thank you very much.

Mrs Paris, as Convener, were there any comments on this at the People's Meeting?

Mrs Paris: Yes, sir, there were. The identity of the project manager was requested and concerns were raised about his qualifications for the job, the size of the budget set aside for the project management and whether or not it was put out to tender.

30

It was advised that the work, although extensive, is only on the house, that Mr Fulford is well qualified and had carried out the dilapidations report for the States when the premises were vacated, and that this was an extension of the work. It had not been tendered. The States Treasurer advised that £40,000, which had been questioned, also included building fees and planning costs to date, as well as the project manager's fees.

35

The President: Thank you very much, Mrs Paris. I believe you wish to propose this Item as well.

Mrs Paris: Your Excellency, sir, Members, the Nunnery refurbishment. This project has taken quite some time to come to fruition. The Nunnery had been leased out to a private tenant for 50 years and 2015 saw the first tentative steps to find another way to secure the future of this important heritage asset.

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Indeed, in recognition of the Nunnery's high-level heritage status, a Nunnery covenant will be put in place and I quote a summary of its objectives: to protect and enhance the complex known as the Nunnery as a key historical site and to ensure it benefits the Island and remains accessible to the public.

45

This capital spend, already voted on last October for this year's budget and confirmed by P&F in April, will enable the house within the curtilage of the Nunnery to be carefully renovated. This

50 is with a view to an ongoing use that will guarantee public access to one of the most important Roman sites in the UK. It will also provide a home for the Alderney Bird Observatory and some field centre type accommodation for visiting nature, heritage and educational groups. All surpluses from these activities will be ploughed back into the preservation and enhancement of the site.

55 I know some reservations have been expressed about this type of use for such an important historical site, and, although it is still only emerging policy, I would draw Members' attention to our Heritage Strategy and their comments that the best way of preserving any heritage asset is for it to be used and to benefit from timely maintenance and repair work.

60 The work of the Alderney Bird Observatory is in a specialised but very popular tourism niche. The Royal Society for the Protection of Birds alone has more than one million members and the interest that has been generated to date by the activities of the Bird Observatory has been quite phenomenal. I would like to take this opportunity to quickly thank all of those who have been involved in the project so far for their hard work and commitment to bringing Alderney to the attention of so many potential visitors.

65 Quite apart from the beneficial economic implications for our tourism industry here, in the context of the Nunnery the Bird Observatory has provided us with a foundation on which to build a sustainable way to ensure the survival and ongoing improvement of this important heritage site. The project is a game changer for the Nunnery and hopefully a spur to action with regard to the many other heritage buildings we have in our trust for future generations.

70 I commend these proposals to my colleagues and I hope for their wholehearted support. Thank you.

The President: Thank you, Mrs Paris.

75 **Mrs Paris:** Mr Dent, I believe you wish to second this.

Mr Dent: Your Excellency, Mr President, fellow colleagues, this expenditure has the potential for a major impact on our economy. We are proposing a five-year lease for the Alderney Wildlife Trust in order to create one of the most important bird observatories in the British Isles. We already know that there are more birds to be observed in Alderney than at any other bird observatory in Britain. We also know that the birders are prepared to travel long distances and spend large sums of money in order to observe these rare species.

80 We now have the opportunity to create a unique facility that will put us on the world map. We will be doing this secure in the knowledge that the Roman heritage will be preserved, that access to those researching and interested in the wider heritage will be guaranteed and that this move has the support of those currently working at the Nunnery. This move does not preclude wider development of the site later should we ever obtain World Heritage status.

85 With this in mind, I ask, Mr President and colleagues, that you support this important investment. Thank you.

90 **The President:** Thank you, Mr Dent.
Does any Member wish to speak on Item I?

Mr Snowdon: Please, sir.

95 **The President:** Mr Snowdon, please.

Mr Snowdon: Your Excellency, Mr President, I am rather concerned about the spend on this project: £280,000 seems a hell of a lot of money to be spending on the Nunnery. I do appreciate it needs some work doing to it, but I and some other States Members did look around the Nunnery

100 and we felt that it was a very high assessment of the funds required. And the project manager:
£40,000 without going out to a tender is very concerning as well.

I would ask what sort of heritage impact assessment has been undertaken – I do not know if
that is for the States or the project manager to do – to assess that the work is done correctly and
in a sympathetic manner. Also, I keep going on about this figure but this figure could actually pay
105 for the swimming pool or something which would help the community and the school kids.

Going on to the Wildlife Trust, which does an excellent job, there are some concerns from the
accommodation sector that this will take potential clients or visitors away from the
accommodation sector, which is very much struggling at the moment. As I think most of you know,
I had a meeting with the accommodation sector and expressed some very strong concerns about
110 the use of the Nunnery, so I would just like to pass that on to everyone as well.

I think the five years is quite a long time to give the Nunnery to the Wildlife Trust. Also, I think
the correspondence states that they will be getting a grant from the Tourism Committee – which
I do not think is actually through me, because no one has consulted me – which is £21,000 per
year, which effectively, if my understanding is ... gives the Nunnery away rent free to the Wildlife
115 Trust.

Those are the points I would like to make. Thank you.

The President: Thank you, Mr Snowdon.

Mr McKinley, you wish to speak?

120

Mr McKinley: Your Excellency, Mr President, fellow States Members, I fully support the
Nunnery. It is a unique site. I greatly admire the work that is being done by the Alderney Bird
Observatory, by the Wildlife Trust and by others. I actually believe it should be recognised as a
heritage site and a UNESCO site and I share many of the thoughts of Mrs Paris. I also, though,
125 share some of the concerns voiced just now by Mr Snowdon.

I would ask ... if there was a dilapidations report, I do not think that any of us have seen it. I do
not think that any of us actually would be qualified to look at it, but after the private ownership
that report was made. And where is the survey report that we should, I believe, have seen, so that
we know what sort of work has to be done on the Nunnery?

130 My concern is that although we are talking about £280,000, the lowest tender actually is
£275,000 and we have to add another £40,000 on that for the fees for the surveyor and others.

I believe that there is some concern as to whether the roof requires the sixty five to seventy-
odd thousand spend on it that is being quoted. I believe that there have been two private
architects, highly qualified – one still on the Island and one has left recently – who both looked at
135 the roof and said that actually it did not need any work doing to it at all. I do understand, from
talking to the Alderney Bird Observatory, that the water supply and the drainage do need some
repairs, and considerable repair, that the electricity also needs some repair, the emergency exit
needs to be dealt with and there need to be three new boilers.

I am not sure whether part of this project actually is to do with buildings outside the Napoleonic
140 building itself. We are talking about the Nunnery, but actually we are talking about building or
repairing not the Nunnery itself but the Napoleonic building encircled in the Nunnery.

I guess that actually that figure of £240,000 is rather too heavy and I agree entirely with
Mr Snowdon when he says actually that money is much needed for the swimming pool – we have
had to cancel that at the moment.

145 I have no reservations at all about the proposed use of the Nunnery – I do not believe it should
be built into a five-star type hotel, it should be built into something which is appropriate for those
in the Alderney Bird Observatory and others who are going to stay there – but I am very concerned
about the cost.

Thank you, sir.

150 **The President:** Thank you, Mr McKinley.
Does any other Member wish to speak? Mr Jean.

Mr Jean: Sir, Your Excellency, thank you.

155 I am quite concerned about what I have just heard, I really am. But anyway, speaking on the Nunnery – and I am talking about the project and the concept itself, which Mr McKinley is also supportive of; and so, I believe, is Alexander – I have not changed my mind since all the various elements of this project came together. I feel that the costs have been driven up through disagreement and procrastination, and part of that rests within the States of Alderney ... despite this, the original proposition from start to finish for the use of the building, the building itself and
160 the organisations involved, who have worked so well together.

My thanks go out to Jason Monaghan, Director of Archaeology, Guernsey, and the various people who have joined him over the past few years in their efforts to establish if the Nunnery was indeed Roman. I thank all of those people for their time and effort establishing, as they did, that the Nunnery's origin is indeed relevant. Having established this is remarkable and required a
165 great deal of effort from many kind people to whom I am most grateful.

I thank the Wildlife Trust for their involvement, and the Alderney Society too. I am grateful for the consistency and reliability of both organisations.

The refurbishment of the building within the Nunnery walls I would like to think would receive support from the Members of our States, but having listened to what you two gentlemen have
170 just said I may be changing that – but I want the answers, of course, from the Chairman of General Services.

In time, if profits are made they are to be ploughed back in to conserve and repair this remarkable building, which, when all is said and done, in my opinion is a Roman fort and is the star of the show. That must never be forgotten, and we the States Members should never lose
175 sight of that fact.

Another aspect of this refurbishment was, in the last two years, the coming of the idea of the Bird Observatory. I am centring my remarks not so much at the project itself, because I am now concerned and I am awaiting answers to your questions ... the idea of the Bird Observatory, through John Horton. He has provided us with a great deal of information regarding Alderney as
180 a migratory stop en route for birds of all kinds. Some exceptional species have been recorded and John has informed us of the statistics of just how remarkable this migratory trail is. Migrating, passing through Alderney on the way to other countries, there can be no doubt this presents Alderney – and I echo the sentiments of the Proposition – with another vital opportunity for niche marking, from which the tourism industry can only benefit. I thank John for all he is doing for us
185 and that part of the project has my wholehearted support.

So I am now in a quandary, like you, having raised ... I am concerned over the costings and always have been. I am also upset that this project is, if I have to vote against it today, going to take longer, but I am afraid it may be a case of more haste less speed and let's get back to the original propositions and try to find out what has gone wrong, if indeed anything has gone wrong.

190 If, as was said, the swimming pool project is going to suffer at the hands of the Nunnery, that is another reason for closely looking at our finances and finding out if we can do something to reduce those costs and perhaps divide the money equally so that the swimming pool gets some as well. I am really torn over this because I see ... the remark that just has been raised about the swimming pool, to me ... You see, I have a view on the swimming pool that although we did say –
195 and I will include this in my remarks because it is relevant ... We did agree that we would not give any more money to the swimming pool project, but what has happened has happened, water under the bridge, and both of these projects are laudable, and certainly the pool, if finished, presents finally something that this States can give to the public and say, 'It's done, you can use it.' They are of enormous importance, both projects. Now I am really torn.

200 Thank you. That is the end of my remarks. I do look forward to your answers, Madam Chairman, and thank you, sir, and Your Excellency.

The President: Thank you, Mr Jean.

Does any other Member wish to speak on this Item? Mr Dean.

205

Mr Dean: Your Excellency, Mr President, fellow States Members, originally when we first started on the States, John Horton from the ABO came and made a presentation to us, and originally in that presentation was that he thought the Nunnery needed £45,000 spending on it, with £15,000 contingency fund taking it up to £60,000. Now that has rocketed, like Graham says, to £275,000 plus £40,000 for a project manager.

210

My first query is: do we actually need a project manager? Having spoken to the builder, he still does not have a detailed scope of works, he still does not have detailed plans. So my next question is: if he does not have all that, what is actually the project manager doing? Is the project manager going to be on site every day? Does he actually need to be there? If not, that is £40,000 that could be saved. And if he has not got all the detailed scope of works and the detailed plans, is this going to come in on budget? Probably not, and there is going to be an overspend.

215

Maybe we should look at doing things slightly different. Maybe we should be doing the bare minimum to get it up to standard, maybe leave one of the flats out and just do two; that would reduce the cost, and then when we had some more money we could then do the other bit.

220

So I do have some concerns. The amount of money we spend on a project manager ... If we look at the church, the church took £80,000, so for me I am torn whether I am for or against, but I do have some major concerns about the cost – and yes, some of that money could go to the swimming pool, which would benefit the community.

225

The President: Thank you, Mr Dean.

Does any other Member wish to speak on this? Mr Barnes.

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Mr Barnes: I think my other colleagues have made the points very clear. To be fair, the new States inherited this problem from the old States, and I think everyone has mentioned we have got a big concern over the costs involved. In principle, I – and I think we all do – want this project to go ahead, but not at any cost.

The President: Thank you, Mr Barnes.

Does any other Member wish to speak on this? Mr Tugby.

235

Mr Tugby: Looking at the figures, sir, it is a bit concerning because it says the actual fees for the project manager, building fees and preliminary costs to date etc. are £40,000. There is, I believe, about £10,000 contingency, so if they find anything – which they usually do when they renovate an old building – it looks as though this project could go over budget, and that is my concern. All right, it needs to be repaired and done up, but we are going to have to look at these costs very carefully before it actually goes ahead, because if the £40,000 is to date obviously it is going to be more as bills come in from the project manager and any other experts, and I do not think that £10,000 could guarantee to cover everything.

240

Thank you, sir.

245

The President: Thank you, Mr Tugby.

Do we have two Members left who wish to say anything? Mr Roberts.

250

Mr Roberts: The Nunnery: the cost of the project does worry me, if I am honest. Some of this work is non-essential and I want the cost to be lowered so the general public will see that the money is not spent without thought. It is public money, we hold the purse strings and we should display an attitude of spending wisely, saving where we can. Forty thousand for a project manager

when we have the best planning officer we have had for many years who could oversee it, to me, is wrong.

255 I do support this project and may vote for it, but will fight for the figure to be lowered substantially as we progress. I do not want the whole sum used, but things like doors and fittings that are fine kept in place. It is no good replacing perfectly good interior. Rewiring, plumbing that is essential, fine. I am asking this to be promised as I vote, Mrs Paris.

260 The costs here are huge, and when a quote is tendered ... remember, some of the quotes we had were nearly double this one. You pay crazy money here, or the job simply does not get done.

I do not agree with the Guernsey-adopted points system tender anyway. It discourages perfectly good and cheaper options. This could be reviewed. Look, Alderney is Alderney, not Guernsey. Why do we always take their second hand clothes off the shelf? They may not fit us – we are smaller.

265 The ABO is a great idea and one that can bring nature tourism, of that I have got no doubt. The RSPB has currently one million members and it would be good to get the organisation over to open it, because they could help Alderney enormously. Alderney, because of its geographics, is a unique stopping-off point for migrant birds, and rarities often crop up. Just last week a nightingale was heard singing at Rose Farm at one in the morning – beautiful, a rare bird on a rare Island.

270 In conclusion, there is no denying that this is an exciting project, Mrs Paris, but we need to cut the cost down as we go and report what we have saved to the general public. I support this but promise to lobby for this figure to be lower and ask for your support in doing this.

Thank you.

275 **The President:** Thank you very much, Mr Roberts.
Mr Birmingham, do you wish to speak on this matter?

Mr Birmingham: Yes, thank you.

280 Your Excellency, Mr President, fellow Members, I fully support the proposal. I believe the use that is intended is fundamentally a very good idea.

As Mrs Paris pointed out, one of the fatal mistakes that we make when we have heritage assets on the Island is not using them. That is when they fall into disrepair and that is when you end up with ... That is the situation that you see with Tourgis: a beautiful heritage asset that has actually fallen into disuse because it is not being used.

285 I hear the comments being made about project management. You have got to have good project management. That is a fatal mistake if you do not. Actually, the problem that we have is more, I would say here, the cost of the project manager is the cost that we have to pay because we no longer have an in-house resource of project management. Since the voluntary redundancy scheme we lost the States Engineer, the Clerk of Works and also the Assistant States Engineer,
290 who all had the qualifications that would allow project management to take place on behalf of the States. So, realistically, there is a question to be asked here: whether we need to be looking at ensuring that we have got resource within the States in the future to undertake project management so that we do not have to outsource it. But that is really a question of –

295 **Mr Jean:** May I raise a point of information, sir?

The President: Not just at the moment, please.

300 **Mr Birmingham:** What that would mean, obviously, is we will still have ongoing costs in relation to project management if we do not have in-house resource. But that is a balancing exercise because it would depend on the level of work that we have got coming through.

I have only got one other point, then Mr Jean can leap in. My concern is more about the terms of the lapsed 50-year lease. The fact that the States have been put in the situation of having to invest this sum of money at the end of a lapsed lease is my concern. It actually makes me wonder

305 about whether States leases themselves are perhaps fit for purpose and perhaps we need to take a close look at what our leases say.

The President: Mr Jean, do you wish to raise a point of order?

310 **Mr Jean:** If I may, sir. It centres around the report, which some Members did see, put forward by our own Foreman of Public Works, Aaron Bray. He produced an excellent report on the building, so I believe we do have people who are quite capable of doing this work at a relatively reasonable cost, and I just wish to make that point, if I may.

315 **The President:** Thank you, Mr Jean.
Every Member having now spoken, Mr Dent, do you wish to exercise your right of reply? No?

Mr Dent: Could Mrs Paris please –

320 **The President:** You seconded the motion – do you wish to exercise your right of reply?

Mr Dent: No, I do not.

The President: Mrs Paris.

325 **Mrs Paris:** Thank you, sir.

There are a great many points here and I hope I will not miss any of them, and please give me ... or quite possibly remind me if I do.

I quite agree that, at face value, £280,000 seems a lot of money. I would remind you that this is at the end of the 50-year lease, which I think one could perhaps refer to as some benign neglect of the establishment. If you divided the £280,000 by 50 years you would find you had spent £5,600 a year on the maintenance of this terribly important heritage asset. Whether you feel that would be value for money would not be something I would wish to force on you.

335 I think Mr Dean has the timeline incorrect in terms of how we arrived at these figures. The dilapidations report was done as soon as the lease ended in September 2015, and that was when the whole start of the process of what we should do with the Nunnery began. So that report has been in existence and the requirement for the spend of approximately £280,000 has been in existence since September 2015.

340 Various people have come up with various sums and how it could all be done more cheaply. We are very well aware in the States that we do not have the in-house resource to do many of these things, however much we would like to. This is particularly the case now, as Mr Birmingham has pointed out, in terms of having an in-house project manager. Mr Fulford is well qualified, as a chartered surveyor, to do this work, and having done the dilapidations report obviously has what we are talking about at his fingertips. I would perhaps regard it as a total waste of money that he should go and talk in detail to Tickled Pink about how they should progress this job when we have not actually agreed that it should be progressed.

345 Going on to other points, I think there is a need to do this job properly. This is a very important asset. The roof does not need totally replacing at this precise point in time. It will need replacing in the next two or three years in the hope that we do not have a big storm event or something like that. It would seem to be practical and good housekeeping, therefore, whilst the scaffolding is up, to do the whole thing properly. There is very little point in doing any interior work if your roof has holes in it. That is where you start on any building project: you secure the building by making sure that the roof is watertight and likely to remain so. This work, instead of just picking at a few bits that definitely need doing and hoping that the rest survives, should last for maybe 30 years, so that is very long term in terms of a building project.

355

The standard: I think there has been some conflation of two different things here. Because it is such an important building, we obviously have to do it to a high standard. The roof needs to be done in a manner which ... Were this placed in the UK and have proper heritage status, it would be essential that like-for-like window frames and doors and all the rest of it ... and that is what we are doing. That is quite expensive. That does not mean that we are turning it into five-star accommodation. We are merely doing a renovation on the house which is of a high standard. The accommodation is hostel; it is self-service accommodation of a very basic sort.

Mr Snowdon's point about the concerns in the tourist accommodation sector: there is no other accommodation on Island which actually fits this particular niche. The nearest thing we have is possibly the campsite. I have spoken to Mrs Sowden, who runs the campsite. She is not the slightest bit concerned about this being competition to her. She feels it will bring more people on to the Island. More people on to the Island means more people buy things. They will all be round to her to buy ice-cream – she is very happy with that.

I know the point was also raised that all these birdwatchers coming will fill the seats on Aurigny. We are desperate to have more seats on Aurigny. This has been the States' policy since I cannot remember when. This is a very chicken-and-egg situation. If we cannot attract people to come, we are never going to get more seats. So should we stop trying to attract people to come? Then we will not get more seats. We could do this circular argument for the rest of the evening.

I think – let me just check to make sure – all three tenders which were received for this work were actually over the budget, one of them by ... well, it was nearly twice as much, and the other two were in shooting distance of it, so there already has been negotiation to bring this down so that the final price – and that includes the project management – will be in the budget of £280,000. The building work – I have not got a precise figure – has been sufficiently lowered that, with a reasonable contingency fund, it will all come in at the £280,000 budget. Let us hope that is true, but please do not start taking a view, before we even get going, that we have set ourselves up above the budget, because we have not.

I think – I hope – I have answered everything. We do have a timeline on this as well. The Bird Observatory has done wonders in conditions which are not right for it to continue to operate as it stands. We need to be able to advertise more thoroughly about bringing people on Island and having accommodation available for them. These two things, the project to renovate the house and the future of the Bird Observatory, are interlinked and we stand in danger of losing one by going back to the drawing board with the other.

It is a lot of money, I quite agree; but having said that, this is probably the most important building we have on the Island and we are trying to set it up for the future. This is, as I said, a game changer of a way to look after our heritage properties. Opportunities like the Bird Observatory do not come along all that frequently, so I think we do need to be very careful about how we vote on this.

Thank you.

The President: Thank you, Mrs Paris.

Mr Jean: May I ask about one question, which I really think would be of benefit to the Members to be answered? Could I raise a point of order?

The President: I am afraid you cannot do it here. Once the right to reply has been exercised, the vote shall be taken without any further debate.

Mr Jean: Then I will have to vote against. Okay.

Mr Snowdon: Sir, a point of correction at all?

The President: If you want to do a point of order, you should do this before the closing remarks.

Mr Snowdon: No, that was my point.

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Mr Jean: The reason I need to do it now is because there is one important question that has not been answered, which the Chairman might be able to shed light on.

The President: On this occasion, rise and ask your question.

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Mr Jean: Thank you, that is very kind. Thank you, sir.

May I draw your attention to the concerns raised earlier regarding the swimming pool project and the possibility of a denial of money to that in favour of –

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The President: Mr Jean, I am allowing you to stand to ask a question –

Mr Jean: And that's all I've done!

The President: The swimming pool is not on the Billet.

425

Mr Jean: No, but what you do not understand is that ... Well, I think we should all understand it was raised during the speech and I am concerned that when the –

The President: It is not on the Billet.

430

Mr Jean: Okay, then, I will vote against it. That's fine – you sort it!

Mr Snowdon: Sir, a point of correction?

435

The President: This is highly irregular. I will allow you to ask one question, okay?

Mr Snowdon: Thank you, sir.

Just one question, really. You said that the building has not had any money spent on it since basically the tenant vacated the property. I think that is incorrect, because a considerable amount of money was spent on it when the tenant family left that property, who had it over 50 years. They spent a tremendous amount of money on that property, so that is just a point of correction I would like to bring up.

440

Thank you.

445

Mrs Paris: May I?

The President: Yes, you may.

Mrs Paris: Thank you, sir.

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I am sorry if I misled Mr Snowdon; I did not say that. What I was trying to say was that for the 50 years of the lease the States made no contribution towards the upkeep of that property. That was the point that I was making, and that we are now talking about spending a sum of money to get back 50 years of what I referred to as benign neglect.

The President: Thank you very much.

455

Mr McKinley: Mr President, could I ask a question about what we are being asked to vote for, because it is no longer very clear to me.

The President: Well, I suggest you read the Billet, because it is spelt out very clearly.

460

Mr McKinley: Right. The question is quite simple. We have been told that –

The President: Mr McKinley, you will be voting for what is on the Billet.
Mr Greffier.

465

Mr McKinley: So I am voting for £240,000, not £275,000. It's ridiculous!

Mr Roberts: Mr President, there is one question that I have not had answered –

470

The President: That is quite enough, Mr McKinley, thank you very much!

Mr McKinley: All right, sir.

Mr Roberts: Sir, there is one question that has not been answered, that I asked.

475

The President: Has anybody asked the question? Because if they have not asked it before –

Mr Roberts: I have already asked this question and I have not had an answer.

480

The President: Repeat your question.

Mr Roberts: Thank you.

Would Mrs Paris agree with me that we look at these costs and get this cost down as much as we can in the interim? I will vote for this if I get the assurance that these costs will be looked at and pared – things like shores, things that do not need replacing are taken out of it and we get those costs down and we tell the general public. I have not had an answer for that and it is relative to my vote.

485

Thank you, sir.

490

The President: Thank you.

Mrs Paris: My apologies. I had written that down, but I failed to pick it up after the debate.

As I said, two of the tenders were actually in excess of the budget that was set as a result of the dilapidations report, and therefore work has already been done to reduce as far as it seemed able, and that included not replacing everything, the things that did not need replacing – keeping doors, keeping window frames. There may well be a little more that can be done to reduce the price; we have not started as yet. I do not feel I can promise that it will reduce, but I can certainly promise that as a Committee we will look at it again.

495

500

Mr Roberts: Could I meet with you on that?

The President: Thank you very much, Mrs Paris.

Mr Greffier, after having heard that debate, you had better take the three Items that the States have been asked to approve in their own right. In other words, we will be voting on three separate motions.

505

The Greffier: Yes, sir. The States of Alderney is asked, firstly, to approve the award of the contract for the refurbishment of the Nunnery building to Tickled Pink builders.

A vote was taken and the results were as follows:

FOR	AGAINST	ABSTAINED
Mr Tugby	Mr Jean	None
Mr Birmingham	Mr McKinley	
Mr Roberts	Mr Snowdon	
Mrs Paris	Mr Dean	
Mr Dent		
Mr Barnes		

The Greffier: With 6 votes to 4, sir, that motion passes.

510 **The President:** Thank you. We move to section 2.

The Greffier: Thank you. The States of Alderney is asked to approve expenditure of £280,000 to be charged to the Capital Account.

A vote was taken and the results were as follows:

FOR	AGAINST	ABSTAINED
Mr Tugby	Mr Jean	None
Mr Birmingham	Mr McKinley	
Mr Roberts	Mr Snowdon	
Mrs Paris	Mr Dean	
Mr Dent	Mr Barnes	

The Greffier: Sir, that is 5 votes each.

515

The President: In that case, there being insufficient support to carry this motion forward, I will not use my casting vote and therefore it will not stand; it will fail.

520 **The Greffier:** Thank you, sir. Thirdly, the States of Alderney is asked to approve leasing the building to Alderney Wildlife Trust for an initial period of five years.

A vote was taken and the results were as follows:

FOR	AGAINST	ABSTAINED
Mr Tugby	Mr Snowdon	Mr Dean
Mr Birmingham		
Mr Jean		
Mr Roberts		
Mrs Paris		
Mr McKinley		
Mr Dent		
Mr Barnes		

The Greffier: Sir, that motion passes with 8 votes to 1, with 1 abstention.

The President: Thank you very much indeed.

525 **Mrs Paris:** On a point of order, could I just point something out?

The President: You may.

Mrs Paris: Thank you. The leasing of the building is dependent on its renovation. That is all I want to say.

530

The President: That is something to be taken up at a later date. Thank you very much.

Mrs Paris: Thank you.

**II. Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2016 –
Item approved**

Item II.

The States of Alderney is asked:

To approve The Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2016.

The President: Mr Greffier, could we move to Item II, please.

535

The Greffier: Thank you, sir.

Item II this evening is the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2016.

540

A letter has been received from Mr Dent in his capacity as Chairman of the Policy and Finance Committee, and the States of Alderney is asked to approve the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2016.

The President: Thank you very much.

Mrs Paris, as Convener, were there any comments on this at the People's Meeting?

545

Mrs Paris: There were no comments on this Item.

The President: Thank you very much.

Mr Dent, I believe you wish to propose this.

550

Mr Dent: Your Excellency, Mr President, colleagues, the financial services industry needs to be regulated and policed in a manner that deters crime and encourages the proper behaviour of all those involved. It is presently considered that the discretionary penalties that can be imposed are too low. We do not want to encourage malfeasance and we do not want those involved in the financial services industry to consider that malpractices are a risk worth taking. The penalties for being caught are low and the benefits, if not brought to account, are high. We need simply to show the world that we take malfeasance seriously and that the punishments are commensurate with the crime and the damage caused.

555

Thank you very much.

560

The President: Thank you, Mr Dent.

Mr Barnes, I believe you wish to second this.

565

Mr Barnes: Your Excellency, Mr President, fellow States Members, I have absolutely no problem in seconding this Billet. I believe, as Mr Dent has intimated, it is actually vital for our future to pass this Billet.

Thank you.

The President: Thank you very much, Mr Barnes.

570 Does any Member wish to speak on Item II? No Member wishes to speak on Item II? Yes, we do – Mr Birmingham.

Mr Birmingham: Thank you.

575 Your Excellency, Mr President, this is like a point of clarification, obviously. As we read in the summation, the Item was originally tabled in April for the States and was withdrawn until further clarity was provided on the disposition of the funds. I just wondered if it would be possible in his summation ... whether the Chairman could just clarify that for us?

The President: Thank you very much, Mr Birmingham.

580 Does any other Member wish to speak on this Item?

Mr Dent, do you wish to exercise your right to reply?

Mr Dent: Mr President, yes. The penalties will accrue to the regulator, and I think that is about it. It is their job; they regulate us.

585 Thank you.

The President: Thank you very much, Mr Dent.

Mr Greffier, would you put Item II to the vote, please.

590 **The Greffier:** Thank you. The States of Alderney are asked to approve the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2016.

A vote was taken and the results were as follows:

FOR	AGAINST	ABSTAINED
Mr Tugby	None	None
Mr Birmingham		
Mr Jean		
Mr Roberts		
Mrs Paris		
Mr McKinley		
Mr Dent		
Mr Snowdon		
Mr Dean		
Mr Barnes		

The Greffier: Sir, that motion passes.

The President: Thank you very much indeed.

595

**III. Triggering Article 50 in respect of Protocol 3 –
Notice and subsequent impact on Bailiwick’s legislation noted and recognised –
Policy and Finance Committee’s policy and process agreed**

Item III.

The States of Alderney is asked:

To note that Her Majesty’s Government has issued a notice under Article 50 of the Treaty on European Union.

To note and recognise the subsequent impact this and the withdrawal of the United Kingdom from the European Union will have on the Bailiwick’s domestic legislation and that the

legislative and other measures that will need to be taken in consequence of the issue of the notice and withdrawal.

To agree that the Policy and Finance Committee:

- 1. Maintain a close dialogue with relevant Committees in the other members of the Bailiwick of Guernsey on issues of common interest such as positions on matters of trade in goods and services, freedom of travel, data protection, financial disclosure regulation and other matters that may be undertaken by Guernsey;*
- 2. Seek to ensure Alderney is represented as appropriate so that opportunities, which may be niche to the Island, as a separate jurisdiction, can be considered as well as ensuring clarity on its status as a dependency of the Crown and its entitlement to seek delegated authority from HM Government to negotiate on certain matters, through the use of letters of entrustment, should the need arise;*
- 3. Engage, as appropriate, with the UK as the exit process unfolds and negotiations begin;*
- 4. Initiate a review, in liaison with the Law Officers, of domestic legislation that is, or is anticipated will become, outdated, as a result of the changed environment; and*
- 5. Report to the States as and when further information is obtained and decisions are needed.*

The President: Could we move to Item III, please.

The Greffier: Item III this evening is Triggering of Article 50 in respect of Protocol 3.

600 A letter has been received from Mr Dent in his capacity of Chairman of the Policy and Finance
Committee and the States of Alderney are asked to note that Her Majesty's Government has
issued a notice under Article 50 of the Treaty on European Union; to note and recognise the
subsequent impact this and the withdrawal of the United Kingdom from the European Union will
605 have on the Bailiwick's domestic legislation and that the legislative and other measures that will
need to be taken in consequence of the issue of the notice and withdrawal; and to agree that the
Policy and Finance Committee will, firstly, maintain a close dialogue with relevant Committees in
the other members of the Bailiwick of Guernsey on issues of common interest such as positions
on matters of trade in goods and services, freedom of travel, data protection, financial disclosure
regulation and other matters that may be undertaken by Guernsey; secondly, to seek to ensure
610 Alderney is represented as appropriate so that opportunities which may be niche to the Island as
a separate jurisdiction can be considered as well as ensuring clarity on its status as a dependency
of the Crown and its entitlement to seek delegated authority from Her Majesty's Government to
negotiate on certain matters through the issue and use of letters of entrustment, should the need
arise; thirdly, to engage, as appropriate, with the UK as the exit process unfolds and negotiations
615 begin; fourthly, to initiate a review, in liaison with the Law Officers, of domestic legislation that is,
or is anticipated will become, outdated as a result of the changed environment; and, finally, report
to the States as and when further information is obtained and decisions are needed.

The President: Thank you very much.

620 Mr Dent, I believe ... Convener's report.

Mrs Paris: In fact, there were no comments on this Item too.

The President: Thank you.

625 Mr Dent.

Mr Dent: Your Excellency, Mr President, colleagues, I feel a little nervous bringing this to the
States, particular after all that has been said about the work that was commissioned last year.
Brexit will, however, impact us all and we need to have a policy that we can take forward when
630 we talk to others, either in Guernsey or in the United Kingdom.

The subject has already been talked about in P&F and some have said that is enough, but I disagree. All major policy initiatives should be brought to this Chamber. (**A Member:** Hear, hear.) I also think that there is a degree of misinformation going around, so let me make a few things clear.

635 We are a small jurisdiction with limited resources and a small Civil Service. However much we might like it, we cannot carve out a separate route for ourselves. Some have argued for a path different from Guernsey or Jersey. They have talked about having our financial regulation undertaken from the UK. They have talked about a whiter-than-white financial regime that sets us apart from Guernsey and which, incidentally, just could backfire on our e-gaming industry. I can
640 see some merit in some of this earlier thinking, but we have to be practical. We simply do not have the human and financial resources needed to pursue such fanciful policy. Instead, I see us maintaining a close dialogue with Guernsey, and hopefully Jersey, talking about the issues of common interest such as our trade in goods and services, our freedom of movement and immigration policy, data protection, financial disclosure regulation and other matters, but at the
645 same time watching carefully, so that if there is a certain niche that Alderney can occupy, we can seize the opportunity.

I also want us to obtain clarity on Alderney's status as a separate dependency of the Crown. Some will tell you that we have it already; others – including, it seems, many in the Department of Justice – will tell you the opposite. This is an important status to fight for. Only if we obtain it
650 will we ever be entitled to the letters of entrustment that the other dependencies of the Crown and the Overseas Territories need in order to pursue even simple independent external relations. For example, lately we have heard much about World Heritage status. There will be those here that think this is a goal worth pursuing and those who think the opposite, but without a relationship with UNESCO it could well be a non-starter, whether we want it or not.

655 You may think 'What has all this got to do with Brexit?' and maybe the connection is not obvious, but Brexit is making us all think about our constitutional status, so let us not get pushed into a position that we later regret. Let me be clear: I am not guaranteeing that we will be successful in these efforts, but I am suggesting we should be asserting ourselves. If we do not, following Guernsey will simply not be an option we freely take; it will be an imposition the rest of
660 the world forces on to us.

Finally, you will note two other things: that I am making a call for a review of our domestic legislation that is, or is anticipated will become, outdated as a result of Brexit – this too is important.

This Proposition, which I hope you will support, puts P&F and no one else in the front driving
665 seat. Most importantly, though, it requires P&F to return to the States when further information is available and decisions are required.

Let me just finish by plagiarising my colleague, Mr Dean: 'Not Island first, always.' This instance is looking for an insular touch. I would like to say 'Alderney first, always'.

Thank you.

670

The President: Thank you very much.

Mr Barnes, do you wish to second this?

Mr Barnes: Your Excellency, Mr President, fellow Members, I would certainly like to second
675 this Billet and really I cannot add anything to what Mr Dent has said. Thank you.

The President: Thank you very much, Mr Barnes.

Does any Member wish to speak on this? Mr Jean.

680 **Mr Jean:** Yes. Sir, Your Excellency, on many previous occasions we have received the reassurance of Guernsey that we are included as part of the process in the triggering of Article 50 and any negotiations that would stem from that. I am grateful to hear the words of reassurance

685 from the Chairman of Finance that the P&F Committee will take more control over this matter – I think that we should. Last year we were all concerned when he quite rightly pointed out that large sums of money were spent. I still feel that that was not necessary and the point should be made, and that we should continue to monitor the situation, making our views known through Guernsey. They will not desert us on this and they are with us all the way and watching over our interests. I think it is important that we use the facilities of our larger mother island – very important, and very good too for the relationship between us. The Bailiwick is strong and must remain strong; we must be together. We cannot be divergent, we simply cannot. As the Chairman has pointed out, we need to work together as a Bailiwick and as a whole. Those are the points that I would make – and the Finance Committee needs to reinforce that.

Thank you, sir.

695 **The President:** Thank you, Mr Jean.

Does any other Member wish to speak on this Item? Mr McKinley.

Mr McKinley: Thank you, sir.

700 I just wish to ask, really, a couple of questions of Mr Dent. I totally agree with what my colleague, Mr Jean, has said with regard to Guernsey's support in this respect and I think it is a terribly important thing, but we are being asked to note a number of issues.

705 Issue 2 is to 'seek to ensure Alderney is represented as appropriate so that opportunities which may be niche to the Island as a separate jurisdiction can be considered as well as ensuring clarity' etc. And the other is to 'engage as appropriate with the UK as the exit process unfolds and negotiations begin'. Could I ask how we intend to do that as Alderney? Are we doing that as Alderney, or are we doing that as the Bailiwick?

Mr Dent: Sorry ... Later.

710 **The President:** Will you save that for your right to reply, please.

Mr Dent: Yes, thank you, sir.

715 **The President:** Does any other Member wish to speak on this particular Item? Mr Birmingham.

Mr Birmingham: Thank you.

720 Your Excellency, Mr President, I congratulate Mr Dent for bringing this forward because it is a very important process that is going to be undertaken and there are a lot of big risks, I believe, to the Channel Islands and Crown Dependencies in general on Brexit. I suspect that we are heading towards a hard Brexit. Particularly, that may well be on the back of what happens at the election in the UK – I expect to see a large Conservative majority.

725 What concerns me at the end of the day is how this affects people. We have to remember that on the Island we have quite a large population of EU residents in terms of Eastern Europeans who have now made their homes on the Island. I think it is very important that we need to assess what their status is as part of these discussions, and I am sure that is a matter that will affect Jersey and Guernsey equally.

I think it is essential that the Crown Dependencies, and particularly the Channel Island Crown Dependencies, work together collaboratively in whatever responses are required to Brexit.

730 **The President:** Thank you, Mr Birmingham.

Mrs Paris.

Mrs Paris: Thank you, sir.

735 Your Excellency, Mr President, I think Mr Dent makes numerous excellent points in his résumé of the current situation with regard to Brexit and the likely practical implications that it may hold for us in the future.

As I reported, there were no comments at all on this Item at the People's Meeting. It may, I think, all seem rather removed from day-to-day life here, but I think we would be complacent actually to take that view. The recent news of the imposition of fishing quotas on the Bailiwick fleet should bring it home to us that anyone wishing to trade with the EU in the future will still have to meet all sorts of EU standards and be allowed to do so.

740 We have always been outside the EU, and the UK are going to be joining us there. After Brexit, the UK will have to meet various standards, that they will no longer have negotiating powers to change, in order to have a trading relationship with the EU. This will obviously affect us as Protocol 3 falls away. So, I think we welcome the UK to the world outside Europe, but I think, as Mr Dent says, we must keep a very watchful eye on our own particular interests.

The President: Thank you, Mrs Paris.

750 Does any other Member wish to speak on this? Mr Roberts.

Mr Roberts: Yes. I am just very glad – and this is a very short comment – that Mr Dent is looking to get Alderney recognised as our own jurisdiction, separate from Guernsey, and acquire that holy grail of a Letter of Entrustment. Thank you.

755 **The President:** Does any other Member wish to speak on this particular Item?
Mr Dent, do you wish to exercise your right to reply?

Mr Dent: Mr President, I should like to thank my colleagues for their comments. To Mr McKinley I would say we will be doing it as Alderney through our liaison with Guernsey.
760 Thank you.

The President: Thank you very much.

Mr Greffier, would you put this to the vote as one Item, please.

765 **The Greffier:** Thank you, sir.

The States of Alderney is asked to note that Her Majesty's Government has issued a notice under Article 50 on the Treaty on European Union and to note and recognise the subsequent impact this and the withdrawal of the United Kingdom from the European Union will have on the Bailiwick's domestic legislation and the legislative and other measures that will need to be taken in consequence of the issue of the notice and withdrawal, and further, to agree that the Policy and Finance Committee undertake the five points as noted in the Billet.
770

A vote was taken and the results were as follows:

FOR	AGAINST	ABSTAINED
Mr Tugby	None	None
Mr Birmingham		
Mr Jean		
Mr Roberts		
Mrs Paris		
Mr McKinley		
Mr Dent		
Mr Snowdon		
Mr Dean		
Mr Barnes		

The Greffier: Thank you. Sir, the motion passes.

775 **The President:** Thank you very much indeed.

**IV. Policy and Finance Committee –
Election of a new Committee of five Members –
Item not carried**

The President: We will move to Item 4, please.

The Greffier: Thank you.

780 Item 4 this evening is a Requête. Under Section 45(4) of the Government of Alderney Law, 2004, four Members of the States have signed a Requête in relation to the membership of the Policy and Finance Committee.

The President: Thank you very much indeed.

Mrs Paris, as Convener.

785

Mrs Paris: Thank you, sir, yes, there were some comments on this Item.

790 There were several comments to the effect that currently matters were rubber stamped at the States Meetings with no public debate, therefore a five-Member P&F would be an improvement as the smaller Committee would have to report to the States, meaning that the public would not be kept in the dark and would see States Members in action.

One comment, however, did suggest that two heads are always better than one, i.e. that 10 is better than five.

The President: Thank you very much indeed.

795

Mr Birmingham would you like to present your Requête?

Mr Birmingham: Thank you.

800 Your Excellency, Mr President, fellow Members, I have now served on the States for six years and counting, and for all of that time bar a few months in – I think it was 2013 – I have been part of a 10-man, or 10-person I should say, Policy and Finance Committee.

805 As I have become more experienced as a States Member and more versed in both Government and corporate governance, I have come to conclude that the practice of all States Members having a seat on Policy and Finance is not only bad practice but it is bad government, and this led to my resignation from the Committee three weeks ago. For me, it fails in four fundamental areas. Those are scrutiny, transparency, governance and logistics, and I will deal with each of these areas in turn.

Firstly, scrutiny. This is a quote from Alderney's Choices, the good governance document from September 2016. It states:

In most legislatures, scrutiny is a critical part of a member's function ... This function is wholly absent in the States [of Alderney] ... in unicameral legislatures

– that is legislatures with just one body –

it is especially important that this role is prioritised because there is no revising chamber to allow for further and better thoughts to prevail.

810 So the fundamental question should be: why do we have such poor scrutiny and how can we introduce a better level of scrutiny?

Under the Alderney Committee structure, scrutiny is possible if the non-members of a committee scrutinise the decisions of a committee in the States Chamber. We know this because this is what happens to both BDCC and GSC. Why is that? It is because only a section of the States Members sit upon those Committees. The non-members of those Committees then get to perform
815 a scrutiny function on behalf of the public by the use of questions to the Chairs of the Committees, and this is clearly laid out procedure in the Laws of the States. The problem is that with P&F this process breaks down. Why? Because if every Members sits on P&F then there is no one left to perform the scrutiny function. So, from the point of view of oversight, the 10-man Committee falls desperately short of the required level for good governance.

820 This leads on to the second problem, which is transparency. As the 10-person structure has been ingrained, the use of questions to committee chairs has almost become non-existent. Even the other committees now are asked to report to P&F, so there is no requirement for a States Member to ask questions of those other committees either. The information is provided to them. The problem: that might satisfy the States Members, but that does not inform the public. States
825 Members have forgotten how to be States Members when it comes to the scrutiny function. If everyone has been part of the process, then they do not feel the need to publicly ask challenging questions. They may be able to criticise the proposal in a closed Policy and Finance meeting, but how does that help the public? The public may have the same doubts and concerns about a proposal as a particular Member might. If the discussion and decision is not held up to scrutiny in
830 the States Chamber, how are they to know that a particular States Member has had an issue with a proposal or has tried to revise it? They do not, unless that Member briefs against the proposal in the press, and that in itself can create confusion for the public. Should States oversight take place in the letters page of the *Alderney Journal* or the *Alderney Press*? No, it should take place in this Chamber by States Members asking questions of committee chairpersons. I firmly believe a
835 smaller P&F will remind States Members of their scrutiny obligation to the public and reinvigorate debate in the States Chamber

Thirdly, let's talk about governance, particularly separating regulatory function from commercial and political influences. As Chairman of BDCC I have tried to introduce proprietary guidance to the BDCC members to aid them in decision making and to minimise issues of conflict
840 of interest and to reduce issues around predetermination. What does that mean for Government and why do it? Simply put, you cannot be poacher and gamekeeper. If you have a role as a regulator you must, where possible, keep commercial interest separate from the regulatory process. The BDCC function, as a planning authority, is an independent quasi-judicial process subject to legal challenge. For the probity of the process, members of the BDCC should not be
845 involved in the promotion of development decisions; yet the members of BDCC are forced to sit in on a 10-person P&F with development decisions being made. This is an unhealthy state of affairs and is the fundamental reason I resigned from the Committee. It is a situation that could be viewed as institutionalised corruption and can leave the planning process wide open to legal challenge. And this is not just my view. When I have had this discussion with Law Officers and
850 raised the question, the level of oohs, ahs and general sucking of teeth tells me that they have issues with it too.

So, if it is clear that the Chair of BDCC should not sit on P&F, it follows that it is impossible to constitute a 10-person P&F that is legitimate in terms of good governance. And this does not take into account that there are other regulatory functions that P&F have responsibility for and yet are
855 pursuing commercial deals with those that they have an obligation to regulate – for example, Air Alderney. I fully support this initiative, but P&F is the regulatory body for granting air route licences at the same time it is pursuing a commercial agreement including subsidy with Air Alderney. So where is the arm's-length regulatory supervision? It has gone. This is an example of the requirement for the separation of commercial interest and regulatory function. It is not
860 difficult to do. We have done this successfully for the gaming industry. The AGCC regulates; AEGL, the States marketing company, pursues business. We should have the same model for general States operation, and this cannot happen if all your States Members sit on Policy and Finance.

865 Finally, what about logistics? We are a small jurisdiction and one of our advantages should be that we are small and nimble and can react quickly. Smaller committees simply give greater flexibility, but trying to organise the calendars of 10 States Members, half a dozen civil servants – excuse me for swearing, but a few consultants – alongside the increasing demands of the Guernsey representatives who are now saddled with a three-week States’ cycle in Guernsey ... organising a 10-person committee is a logistical nightmare. I did a little research. Since January 2015 there have been 24 Policy and Finance meetings. Guess how many of those had a full attendance of the entire number of States Members? By my count, eight! One third. Can somebody please explain to me by what definition that can be called a 10-person Committee? And what is even the point of suggesting that it is? Of course, the attendance of P&F by this current States must be much better. No! One full attendance out of seven – and, by the way, that is just the States Members; I did not start counting to include the civil servants as part of that. Between flight cancellations, unforeseen circumstances, last-minute emergencies, illness, holidays and life in general just getting in the way, it is unrealistic to even assume that P&F is ever a 10-man Committee, so why keep trying to create a 10-person Committee when all logic tells you it is a logistical impossibility? A shrunk Committee reduces the chaos.

870 I have said before that a camel is a horse designed by a committee, and in the case of the 10-man/person P&F you get a camel with an extra hump. I have witnessed some of the most pointless, circulatory discussions of my life in P&F. One particular one involving the future of the Royal Connaught springs to mind: 10 different opinions, 10 different options, a decision finally made with three people sort of agreeing, and five years later it is still lays empty and under-utilised, draining public money on upkeep because of no unanimity on what to do. How can you achieve clear policy and direction when the chair of the Committee is forced to take into account so many disparate views? You cannot drive the car with nine other passengers’ hands on the wheel and the handbrake at the same time. That is not government; it is an accident waiting to happen. The 10-man Policy and Finance Committee is car-crash government that results with the States more often than not driving into a ditch.

885 There have been times, sitting in a Policy and Finance meeting, when I have been reminded of *The Hitchhiker’s Guide to the Galaxy*, particularly its section on poetry. I am sure you will all be aware that, according to *The Hitchhiker’s Guide to the Galaxy*, Vogon poetry is the third worst in the universe, but what is more relevant is that the second worst poetry in the universe is that of the bard Grunthos the Flatulent, the renowned poetmaster of the Azgoths of Kria. *The Hitchhiker’s Guide* informs us that once, in a three-day reading of his poem *Ode to a Small Lump of Green Putty I Found in My Armpit One Midsummer Morning*, four of the audience died of internal haemorrhaging and, in a desperate attempt to save lifekind, the poet’s small intestine leapt up through his throat and throttled his brain. Meanwhile, the Chairman of the Mid-Galactic Arts Nobbling Council only survived by gnawing one of his own legs off.

890 You may ask what is the relevance of that. Since January I have attended four of the longest P&F meetings in the six years I have been elected as a States Member, each lasting in the region of eight hours. By the end of them I can honestly say I could not remember what we had or had not agreed, and I do not think half the rest of the Members could either. If it is not already, P&F is rapidly turning into an ineffective talking shop. Members of the public ask why are there no minutes. It would take a full month of an officer’s time just to transcribe them, and I certainly do not wish to see the current Chairman of P&F succumb to the same fate as the Chairman of the Mid-Galactic Arts Nobbling Council.

905 In closing, I wish to make one thing clear: I have no intention of seeking membership on a reduced Policy and Finance Committee while I remain as Chair of BDCC. My time can be better utilised continuing the work of bringing the planning function into the 21st century.

I have brought this Requête forward because in my view the 10-person Finance Committee is a failed policy. I am against it, three other Members signed the Requête and are against it, the Chamber of Commerce is against it, the good governance review highlighted its weaknesses, no one spoke in favour of it at the People’s Meeting and the public want rid of it.

915 Government reform was raised at the Chief Pleas in September and it was a major topic in the
elections last November. When asked in interview by Quay FM, all candidates who stood
supported reform providing that it did not cost too much. I am giving you the opportunity to do it
for nothing. That is as cheap as it gets. This is your chance to follow up on your election promises.
And why not try it? You never know, you might like it. You could, of course, reverse your decision
920 at the first meeting or the year and return to a 10-man Committee if you so wish – except of course
it will not be a 10-person Committee because I will continue to oppose its formation and I will not
serve on it while I am still a States Member. I have pressed for the reduction of P&F since 2013
and I will continue to press for it, even if this Requête is defeated. When you have beaten your
head against a brick wall for long enough, at some time you must take a step back. If you cannot
925 climb over the wall, tunnel underneath it or go round it, you are only left with one course of action,
and that is knock the wall down. That is what I continue to try to do with this 10-man democratic
disaster and I will continue to do it until it is political rubble and consigned to the builder's skip of
history.

930 **The President:** Thank you very much, Mr Birmingham.
Mr McKinley, I believe you wish to second this.

Mr McKinley: I do, sir. Shall I speak now or shall I speak later?

935 **The President:** You speak now, Mr McKinley.

Mr McKinley: Very briefly, I agree with most of the comments that have been made by
Mr Birmingham.

I think the present procedure, actually, the 10-man Policy and Finance Committee, is viewed
940 by our electorate as not a good idea and really they believe that a lot of the important decisions
are taken privately behind the closed doors in the Island Hall without any public involvement at
all.

Indeed, Mr Birmingham mentioned the need for clear minutes. We are now making the
resolutions clear and actually issuing those quite quickly after the meetings, but all the same I do
945 not believe that is satisfying the public. We also are not able to invite the public to sit in on Policy
and Finance meetings. It was discussed at one stage but it was voted out by the States. We do not
have the same sort of system as the BDCC has, where you have public meetings. I think that we
should be more open in this case, and actually the important issues that we are discussing now,
and I could name one or two others in a moment, should be discussed here in the States, where
950 there is the Public Gallery. We are on air at the moment, I believe, on Quay FM, so that all our
decisions and our logic for making those decisions are being heard by the electorate, and therefore
they understand more greatly.

I believe we should be looking possibly at the Guernsey system which Mr Jean and I ... and
others have been down and seen it. The way in which Guernsey's States meetings happen, they
955 start off obviously with the Bailiff making some comments and then there is room for public
statements. For instance, last time, there was a statement on the accounts, there has been a
statement on health and social care by the various committee presidents. There are then reports,
which ... I believe we are going to have a statement made at the end of this meeting, which of
course is excellent, but we should perhaps have them as part of the meeting and then we should
960 have written questions, where States Members can write a question to be asked in public in a
States Meeting, and the person responsible for that particular subject or that particular
committee can answer it, and you could limit the time, as it is in Guernsey, to one minute for the
question and one and a half minutes for the answer. You could then report and debate some of
the rather more important subjects that we have debated in private over the last few months, and
965 indeed over the last two years for me – the company law reform, for instance. That should have
been debated here within this Chamber. Good governance review should have been debated here

within this Chamber. I could say the same for a very important issue which is actually going to be touched on later this evening, FAB and tidal power; the Airport and the runway; marinas; the breakwater; traffic and parking, which is becoming a major issue and which the General Services Committee is dealing with, but it needs to be open here in the public. Perhaps something else which is rather sensitive at the moment is our wartime history. There are people who wish to promote it; there are people who are against it. That should be debated here in this Chamber.

We ought to also have a system of amendments where we get advance notice of the subject matter that is coming up and the detail of it. I know we do have amendments sometimes in this States but not quite as often as we have indeed in Guernsey, and quite often actually an amendment comes during the middle of a debate and the whole States has to break up for five or 10 minutes whilst the amendment is written, and then we start the debate again. It would mean, I am afraid, that the times of debates in this Chamber would be a lot longer – they may last up to several hours, but it would be far more open. We should perhaps consider the timings: do we need to start at half past five, or should we start at half past two in the afternoon so we go on until half past six in the evening? I do not know, but we should review this, whatever.

With that, I end my speech, sir.

The President: Thank you very much, Mr McKinley.

Does any Member wish to speak on this subject? Mr Jean.

Mr Jean: Sir, I have in the past been for a five-man P&F Committee, that is true; but let me be clear, I am not for a five-man P&F Committee any more. I have even surprised myself with that statement – I never thought I would say it.

There can be no doubt this year, after the elections last December, and it has been in line with the wishes expressed in the form of votes via the public ... an interesting change and improvement in the membership of the States of Alderney. It is all fairly new. Why would anyone want to disturb such a relatively new States as it settles in to the tasks ahead for the next two years until election time comes again? That is reason number one.

Reason 2: we all discussed this in January, and in the five-man – or four-man and one-woman, not to ignore our one lady Member, Finance Committee it was decided to stay with the 10-Member system, and in my opinion this Item on those grounds alone should never have been allowed to be placed on this Billet, and certainly is an issue that should not return to this States before January of next year. Only an inexperienced States would consider placing this on a Billet so soon after discussion in January.

Reason 3: there have been many attempts in the past to return to a five-Member Committee instead of 10, or should I say nine? I supported change, was elected ... not for long – it was soon changed back to 10 only a few months later, as the disenfranchised fought back to regain those lost positions.

Reason 4: we should all learn a lesson from those various attempts to go back to a five-Member P&F. I ask: how would you feel if you were amongst the five disenfranchised Members? Half the States denied their rights to sit at the top table. They were elected by the public too, just like all of us. This creates ill feeling, it is divisive, and each time an attempt is made, usually resulting in resentment and a wish to return to the present status quo of 10 Members.

In five years we have had five different chairmen of this, our top Committee, upon which, through a decision taken under the presidency of Sir Norman Browse, the P&F Committee became 10 Members – the whole of the States of Alderney. Yes, I agree, at times it is not easy, but once a decision like that is taken to change and all Members are included ... it has taken me a long time to understand this but it is difficult to change again. And again I would say too many people, half the States, are denied their rights. This is, as *they* will see it, to sit at the top table, the top Committee. Sir Norman Browse explained the thinking behind the original proposal that a 10-Member P&F Committee should be formed at a People's Meeting, which I attended. I am sure he will correct me if I do misquote him. He said that there were Members who felt that they were

1020 denied their chance to contribute under the old system. Sir Norman felt it was only reasonable to
let the States decide, and so a Proposition was placed on the Billet back then and passed. The new
10-man Committee was born.

1025 Why have my views changed? Now is not the right time. The issues ahead of us require our full
attention. I speak of the FAB project, yet here we are again gazing at our feet instead of looking
ahead and getting to the table to negotiate with FAB a revision of the option agreement – which
we should not have signed in the first place. This is domestic trivia that should not be here today
wasting our time when we await the results of our own Government review. Our leadership needs
to be stronger and not allow attempts such as this at such a crucial time in Alderney's history –
piecemeal Government ahead of recommendations from a Government review body set up by us.
We cannot even wait to see what they say.

1030 I state clearly now that I am on the side of the soon, possibly, to be disenfranchised, the half
of the States whoever and which Members find themselves with less influence and subject to yet
more secrecy over spending, Brexit, and all of the items that have given so many of us such cause
for concern in recent months as we have found out what has been going on.

1035 I am critical of the Chairman of P&F, James Dent, for signing this Requête. In my opinion he
should not have signed up to this; he should have remained neutral. I am going to say this again:
I am on the side of those to be disenfranchised – and mark my words, some will be. Some of the
new Members are making a good contribution to this States and a little praise, in my opinion,
would go a long way towards showing some of those so new to this States that their efforts are
appreciated. Instead – and I am trying to put myself in their place – what do they see? What do
1040 they get? I will tell you again: I am on the side of the disenfranchised.

1045 I talk now of two new Members of this States and how the establishment have welcomed
them. They have been put before the Code of Conduct Board in their first months with us and I
am disappointed to say no effort seemed to be made to deal with this in house. The findings of
the Code of Conduct Board showed only minor infringement, if any at all. I was fascinated that in
a thing such as this they were denied the right to represent themselves, and on top of that now
they may be amongst the disenfranchised. I welcome these new Members, even if I do not agree
with all they do or say. I understand how difficult all of this is for them. They have my
understanding, my respect and my sympathy for what they have been through. Have other
Members thought how this looks from their point of view? If not, do so now. I doubt it. Shame on
1050 us!

1055 It is my belief that those Members who signed this Requête – including our brand new
Chairman, who should *not* be involved in the division of power in a united States – are clearly not
satisfied with the current 10-Member system. I call upon them to do the honourable thing and
step down, resign now and leave those Members who are not unhappy with the current system,
10-man or five, to get on and elect a new leader and committee – I do not include Mr Birmingham,
he has already resigned, meaning our number has already reduced to nine – because if this
Requête succeeds the States is split in half anyway. Back off now and avoid the unnecessary
resentment that will be forever with this administration should you succeed in this wretched
Requête.

1060 Some of the excuses for attempting to change from five to 10 Members: not enough items
being passed up on to the Billet for discussion, taking place in P&F in meetings that last all day
with meetings of the full States lasting sometimes less than 20 minutes. I agree. Do you want to
reverse that and we will have eight-hour meetings at the full States? We could do it that way.

1065 I have asked for items to go on the Billet many times, and so have other Members of P&F. That
is not the fault of P&F members; they have made these points time after time, long before some
of the new Members were here. In my opinion, it is the fault at the top of this States. People are
running all over the place while not attending to or running this States properly. I look to our new
CEO, when he comes, and our interim CEO, who is with us now, to help us with these problems,
and the President, to start to take more interest in running *this* Government here in *this* Island –

1070 before we go looking at Brexit and other matters covered by Guernsey, we do not neglect our interest as part of the Bailiwick.

I would ask you to change the way you approach this subject, as I have. Again I say I am not on the side of those who may be disenfranchised. It is clear to me that once that decision was taken it cannot and should not be overturned, and more especially now than ever. The resentment
1075 caused is not worth it, a States split in two is not worth it and recent past history shows that a victory in this case would not last long: in a few months' time it would be overturned.

Thank you, sir, Your Excellency.

The President: Thank you, Mr Jean.

1080

Mr Jean: Oh, sorry may I just ... I have got a couple of notes here I put down. Could I?

The President: Be as quick as you can, Mr Jean.

1085 **Mr Jean:** So sorry, I have nearly finished.

Mr Birmingham raised points on scrutinising work done. No one, because of the 10-man committee, left to fulfil scrutiny: not so. I have often made public my views, and so have others, against proposals and decisions made by P&F. Not so.

Logistics: trying to organise a 10-man committee is a nightmare. My view is that as long as
1090 there are 10 members, if one or two cannot attend then that is okay too. We must go with the flow, and, particularly when facing decisions like we are about to face this year, to disturb the continuity of the States is not on.

Thank you, sir.

1095 **The President:** Thank you, Mr Jean. You have finished, yes?

Mr Jean: I have finished.

The President: Thank you.

1100 Does any other Member wish to speak on Item IV? Mr Barnes.

Mr Barnes: Your Excellency, Mr President, fellow States Members, it is interesting listening to Mr Jean but I think he also misses many points.

Over the past few years many people on and off the Island have called for more transparency
1105 and more openness and I am on this side of the fence. I cannot see many ways to resolve this issue but this Requête has certainly brought it to the table.

(1) There is no real transparency. We have now found that we cannot use *Hansard* – it is impractical and expensive for this type of meeting. It still remains secretive in the public perception. It is not secretive but that is what the public see.

1110 (2) There is categorically no form of scrutiny other than debate. We are all together and there is no additional input and final debate. We have said this earlier. When you think Policy and Finance can last four to seven hours and the States half to two hours, I am not aware of anywhere, any democracy, working in this way.

1115 (3) Another concern has been the lack of knowledge of events and issues. There cannot be an argument. All States Members may attend any committee meeting at any time as an onlooker and that would give them even better scrutiny.

1120 (4) This one has not actually been covered at the moment. As it stands, we have Members who sit on only one committee and others who sit on three. Currently, there may be a potential issue of committees not being quorate, so perhaps reducing the numbers on Policy and Finance would free up Members' time to serve on other vital committees.

(5) There is also a complete fall-back position for Members to ask questions at States Meetings to dig deeper into an issue – again, it will give greater transparency.

So, Your Excellency, Mr President, fellow States Members, I fully endorse this Requête to reduce the Policy and Finance to five Members, both for myself and for the people of Alderney.

1125 Thank you.

The President: Thank you, Mr Barnes.

Does any Member wish to speak on this Item? Yes, Mr Tugby.

1130 **Mr Tugby:** Sir, I am a States Member who has been on the States longer than anybody else here and I was on the States when it was a five-man committee, or a four-man committee, and it did cause divisions – there are no ifs or buts about that. What was happening, it seems, was being decided without the rest of the States Members being present.

1135 We are told here that we do not debate anything. Well, I think we debated something on the first Item on the Billet tonight – we gave that a thorough debating. Where the problem is ... I am sorry, but the Chairman of Policy and Finance should be bringing more things for debate in the States instead of having so many meetings of Policy and Finance every fortnight, when actually this year we are having them more or less every fortnight and –

1140 **Mr Dent:** Point of information?

The President: Please provide.

Mr Dent: It has been every three weeks, like clockwork.

1145

The President: Thank you very much.

Mr Tugby: Every three weeks, but at other times we have had them, other years ... All the time I have been on the States there has been one once a month. Last year we did not even have that, which was quite annoying.

1150 When debates are going on, like they are this year, all day more or less, you have got to ask why. All the years I have been on the States, the Policy and Finance meetings have been over by one to half one. That is the latest. Most of them would finish at 12.30. Very rarely would we ever have to go back in the afternoon, and yet we used to bring the policies and everything to this Chamber and there used to be very strong arguments and we had some very strong States Members. At the present time it is obvious who the two will be on the new committee, if it is formed. There is the present Chairman of Policy & Finance and the Chairman of the Finance Committee, two Members who have had less than five months' experience in the States. Well, I am sorry but that just cannot be right.

1160 Earlier in the year Mrs Paris brought up that I had a conflict of interest, because she wanted to be Chairman of General Services. Well, if that is the case and I have got a conflict of interest, I cannot serve on the Building Committee, I cannot serve on the General Services Committee because of my work, so if I do not get on the new Policy & Finance Committee I have got no committees at all. All I have got is the opportunity to say something in here on the few items that will get brought to this Chamber. And then we cannot really have an argument in here over something where you may disagree, because you say what you have to say first off and then you have the Chairman at the end of it who comes up with some clever answers and you do not really get the chance to contradict – and that is not debating in my book. In the Policy and Finance meeting we can really thrash and argue and all the minor things can be sorted out there, but all the main things should be brought to this Chamber and not debated in the P&F. They are just dragging on far too long and I do not know why.

1170

1175 I would be in favour of a five-man Committee if we had some real whizz kids who could go on
it and who would bring many different items to the full Chamber to push this Island forward, but
I am afraid, with lack of experience and everything else, we have not at the present time. Over the
years, I have seen major debates in this Chamber, even in spite of having a 10-man Policy and
Finance Committee, so I do not see why, all of a sudden this year, we must not have a 10-man
Policy and Finance Committee. Do some people think they are more important than the other
Members who have been voted on and are representing the public? I have topped the election
on a number of occasions and second on another term. The people know what I stand for and yet
1180 they still decided to vote for me, and I was on a 10-man Policy and Finance Committee.

So where on earth are we going if we have got to isolate five Members? And don't anybody
say that there is not. In the past it was and it is now. We have had three Members the other week
isolating the rest of the Policy Committee because it was confidential. We are all equal on this
States and the nonsense I am hearing about confidentiality – well, only three Members knew
1185 about it and yet I am told outside what was going on! Something has gone wrong somewhere
along the lines when the States Members who are elected by the public are not allowed to know
and yet the public can hear. So somebody is spilling the beans. I do not know who, but somebody
is.

When you have 10 States Members on Policy and Finance you can get ideas brought forward.
1190 What we need is a Chairman who will not say 'No, Guernsey will not allow us' without having a
debate and try and take it forward. I have tried on a number of occasions over the years about a
marina. We nearly had it one time until the Chairman decided that we were not allowed any more.
I have tried for a cargo/passenger ferry. Now I am told, 'Oh, Guernsey wouldn't allow it.' Well, if
that is the case, Guernsey should stop complaining about what money we have got here because
1195 they are holding us back.

At the end of the day, if one of the Members brings forward a proposition to the Policy and
Finance Committee it should be then put on the Billet and debated in here. All right, some of the
ideas may not be possible but we should debate them in here to let the public know what we are
doing. But no, they do not even get debated in the Policy Committee, so what will happen when
1200 five Members are isolated from it?

Well, if I am not on it I will have a very easy life because I will only have one meeting to attend
once a month in here, and that, I am sure, is not what the public voted for.

Thank you, sir.

1205 **The President:** Thank you, Mr Tugby.
You have a point of order?

Mr Dent: Mr President, I have two points of information. P&F voted and I believe that we voted
1210 for the confidentiality on the particular issue we were talking about.

Mr Tugby: Sir?

The President: Yes, just let –

1215 **Mr Dent:** And the second point is, as Chairman of P&F I have never ever denied anyone the
opportunity to bring a subject to debate on P&F and I never will.

The President: Thank you very much.
Mr Tugby, you wish to respond to those?

1220 **Mr Tugby:** Sir, at the Transport Committee meeting I brought it up and I was told there was no point because Guernsey would not allow it.

The President: Thank you very much.

Does any other Member wish to speak on the Requête? Please, go ahead.

1225

Mrs Paris: Thank you.

Your Excellency, Mr President, fellow States' Members, I have to admit to having great difficulty with this subject. I can see both the pros and the cons of this issue and I take seriously the comments made in favour of a five-Member P&F at the People's Meeting.

1230

Since I was elected three years ago, P&F has always been a Committee of 10 and I think my considered view over those years is that it is a cumbersome beast and it requires strong leadership. I do take the point that P&F can have the appearance of the States acting in camera and that this is not compatible with the level of transparency that ideals of good governance now require. We could do much better in discussing matters at the States Meetings even before they become policy.

1235

On the positive side, it does mean that all 10 of us have the opportunity to bring forward, to comment upon and to discuss all matters of policy put before P&F Committee. A valid criticism would be that even when policy is passed with a considerable majority we do tend to keep revisiting matters instead of getting on with implementation.

1240

The reduction of P&F to five Members has been discussed in some detail at recent governance meetings and undoubtedly has the merit that it might increase the speed and the efficiency of bringing policy forward to the whole States. However, it was discussed as part of a raft of proposals to be introduced together, including the checks and balances for such policy to be thoroughly scrutinised. I am concerned that in isolation and only five months into the life of the new States this could be a very divisive move. Merely to say more could be debated here in this Chamber may not be an adequate scrutiny mechanism for the five who sit on P&F to call the five who do to account.

1245

I do think there could be much merit in actioning a five-Member P&F as part of an overhaul of several aspects of Government, and if that was what was being brought forward here it would have my enthusiastic support; but I am yet to be convinced that this isolated proposal ... and maybe further speakers will change my mind, but I am further to be convinced that it is the right thing to do at this moment in time, especially when we have so much work of a real and pressing nature to do.

1250

1255

The President: Thank you, Mrs Paris.

Does any other Member wish to speak on this Item? I will take you first, please.

1260

Mr Snowdon: Your Excellency, Mr President, just to shadow Mrs Paris a bit, and other Members, I think this is really something that we need to discuss in January. We are halfway through the year and we have got a lot of important matters to debate and sort out. I do not think it would be helpful at the moment to split the States in half, as has been suggested, and isolate the potential two Members that would not really have any other committees to sit on if they did not get into P&F.

1265

So I am concerned about that, but also I do think members of the public should be allowed to, in my personal view, taking the example of the BDDC ... and it should be open for the public or whoever to sit in and be able to listen in. I think Mr Birmingham has done a very good thing bringing that in with BDDC and it is very transparent.

That is just my observation. Thank you.

1270

The President: Thank you very much.

Mr Dent, you wish to speak?

1275 **Mr Dent:** Your Excellency, Mr President, colleagues, this Requête, in my view, is about returning debate to this Chamber. It is actually about forcing debate back into this Chamber. Many people say that P&F is the States in camera, and for much of the time these people are right. Some people say open P&F to the public, but why? Why have two forums doing exactly the same job, or nearly the same job? No, P&F is the place for business. It has some element of confidentiality, where Members should be able to express opinions and ideas in private. In many ways it is a think tank. It is our equivalent of a cabinet. The States is the Chamber where draft policies, once in digestible form, are taken for open debate, ratification or even rejection, and sadly, policy debate is very rarely taken to the States.

1280 This States has lost its oomph; it has lost its pizzazz. I want to go back to the time when this Chamber was important. I believe that much of the material that is now taken to P&F should not be taken there at all; it should be taken straight here. In here there should be more debate and there should be questions and answers demanded here of those, like myself, chairing our committees.

1285 Why should a Member who wants to know the progress of plans for microwave links, who wants to know more about our air services or the possibilities of funding shipping services, or who wants information on our spending powers, who wants to know whether we can contribute another x hundred thousand pounds on a project for the new swimming pool ... Why do these Members bring these subjects up in the confines of a closed committee? Let him or her bring them up in public and let the Members and the public hear the answers and the arguments. Sadly, I must tell you this: it is those who are opposing this Requête the most that I think are misusing P&F the most. I do not want simple 35-minute rubber-stamping debates here; I want real debates. I do not want those eight-hour sessions in P&F, but if we have to have long sessions I want them here.

1290 Most importantly, I want those Members who may no longer be included in P&F to be put to the challenge. They will have the most important of all work. I want them to scrutinise in public the actions and recommendations of P&F and hold that body to account in public. Yes, they will be outside the tent, but the way we work at present limits the opportunity for real opposition. This is the important tent, not P&F. The system is too cosy.

1295 It is strange: when I was standing for the States I was amongst the few who said they really wanted a role on P&F. I was one of the few who said I would not stand easily aside, and once elected I suggested we continue with the old system of all Members on P&F at least for a trial period. I agreed with my colleague, Mrs Paris, who suggested we keep the old system going for a period of say six months and then reconsider, and I think I said this publicly. It was February, I think, when it was suggested again in a meeting with Sam Mezec, our colleague from Jersey, that the best way to reinvigorate the States would be for P&F to be rejigged in size. And Mr Jean, here, he was there too –

1310 **Mr Jean:** Ah, wasn't it!

1315 **Mr Dent:** – and he said he wholeheartedly agreed. Indeed, he had always had this opinion and would always support moves to reduce P&F's size. Well, it is not quite six months, but Mr Birmingham's resignation from P&F and his Requête have made me think that now, May or June, is the time to test the waters.

1320 Can I now ask my colleagues to think about the most controversial issue that is now facing the Island. If two of our Members sit on both BDCC and P&F there is a real danger that we make our Island the laughing stock of the world. Few other jurisdictions would allow its Members to be conflicted in this manner; if we do, we must accept the consequences. We cannot easily sit with P&F negotiating or pronouncing on commercial agreements that will be subject to a planning application and then later sit on the body adjudicating that application. I am going to put it to you that one of the greatest dangers that those of us trying to negotiate a better deal for the Island

face is the prospect of endless judicial reviews brought about by perceived conflicts of interest. You cannot simply adjudicate on a planning application that you have publicly declared against.

1325 My colleagues, Mr Snowdon and Mr Dean, are probably two of our hardest-working Members and I would hope at least one of them would continue on P&F. I would be loath for P&F, in fact, to lose either one of them. For the interests of our wider reputation in the world I would ask each to consider their position.

1330 As this point I suppose I have to make my own position on FAB clear. I think we got a rotten first deal. I think there is scope and reason for renegotiating and I want a deal that is in the interests of the Island and can be redebated later this year here. I cannot guarantee that we will succeed, but we will try and I want the real redebate, as I said, to be in this Chamber.

1335 Before I sit down, one more thing: if this Requête does pass, I would ask my colleagues only to vote on to any new P&F those Members they know will work hard for the Island. Please do not vote for your friends. Do not even just vote for the Members who share your views on the most pressing issues of the day. If you are not open minded, later votes in this Chamber will simply reverse all of your efforts. Remember, ultimately it is this Chamber, not P&F, that will have the final say.

1340 Should I be elected to any new P&F, should I be honoured with the position of Chairman, I for one will not be looking for a P&F that simply supports my own ideas. I will be looking for a P&F that is open minded. Above all, I will be looking for a P&F prepared to work and to work practically towards the common good. I will also be looking for a P&F that has learned from its past mistakes from Members who, when they lose a debate, are prepared to move on.

Thank you.

1345

The President: Thank you, Mr Dent.

Does any other Member wish to speak on this Item? I think we have ... Mr Roberts.

Mr Roberts: Yes, please, sir.

1350 The reason for the length of these meetings, Mr Dent, is for the large number ... numerous presentations that seem to have cropped up over the years. You go and the presentation may take two or three hours, right in the middle of our meetings while we are talking.

1355 I would like you to all take the views of the two longest-serving States Members that we have against your own experience of these Committees and what happens on them. This is our very own gunpowder, treason and plot, (*Laughter*) neatly folded under the guise of openness and transparency, cooked up behind closed doors with private meetings. Some of the names on this proposal paper campaigned at the election on openness and transparency and were elected by the people that believed in a new creed, hoping for a change in Alderney's fortune via this promised application. A five-Member P&F has been tried before. It only breathes dissatisfaction within. Dissatisfaction is the mother of incompatibility, and Alderney States needs to be compatible to work as one.

1360 Let's sort out the real issues: air, sea and transport, the FAB link mess, attract business and tourism and encourage investment, not waste time on personal egotistical preferences. If this Requête is achieved, the States will divide into two factions, one making decisions and the other a second tier of slack, constantly unhappy with exclusion from important matters and kept in verbal darkness. This still happens to a lesser extent, but it could be far worse should this Requête prevail. Consign it to the Impôt. Fellow States Members, how many times has a member of the public asked you a question about the States and you cannot answer, or they tell you something later that you find out to be true and it has been agreed and you knew nothing about it?

1370 Let's take the arguments for the rubbish Requête. It will be argued that we can always read the minutes, like the general public. Well, I am a twice-elected States Member – I do not want to read the minutes, which take an age to publish. By the time we read that, the decisions have been made.

1375 It will be argued we can sit and listen as long as we, as States Members, keep our mouths closed. What good is that? Democracy?

It will be argued that it can be discussed in the full States. That is rubbish! How many times have I heard 'this is not to go beyond this room'? What happens with these issues? Promised transparency for the public, which you all advocated, is not for fellow Members then? The British Cabinet do not meet in the House of Commons – it's an absolute nonsense!

1380 It will also be argued the Chairman of P&F, with respect – him or her – cannot control his meetings with too many views. If that is the case, then perhaps the Chairman should consider he is in the wrong job.

1385 The gross product of this proposal actually cuts the general public's voice on the States by 50%. They were elected to have voices and not to sit in silence. You cannot expect to be excluded, to behave like nodding donkeys to suit. Who would vote for a nodding donkey? If this is what you desire in local government, go and live in China!

Some members of the public do think this is an idea. Well, if you knew what I knew, you would see that this is a bad idea. It will set the States on the back foot.

1390 Some will pretend to fall on their swords, claiming they do not want to be on P&F. That gets the numbers down anyway. If you have no interest in P&F, do not muddy the pool, leave it to people who care about improving Alderney. Do not split the States. Finally, they will claim policy cannot operate with 10. Well, democracy cannot operate with five.

Thank you.

1395 **The President:** Thank you, Mr Roberts.
Mr Dean, do you wish to speak?

1400 **Mr Dean:** Your Excellency, Mr President, fellow Members, I have not had the benefit, obviously, as I am a new States Member ... so I have only sat with 10, but I have gone out and found some previous States Members who have sat on 10 and sat on five and some of their comments were very interesting, but I will not go into that now.

1405 Personally, by reducing P&F to five Members we are effectively making the other five States Members redundant, pointless and useless. This is because, obviously, as we all know, at the moment all major business is discussed and agreed at P&F. By cutting P&F to five you actually create a situation where a majority of three – that is 30% of the elected Members – can make a major policy decision. Even if the other 70% of the elected Members strongly disagree, the three will and make that decision. This is not good governance; this is very bad governance. Even worse, it is not democratic and it opens the door to yet more self-interest and even possible corruption. Ultimately, if this is passed, it is going to go horribly wrong and the public will condemn us for it.

1410 All of us spoke, when we were on the campaign trail, about open governance and good governance. Reducing this to five is neither. I am not saying we do not all need an overhaul, but from the top. Like Mrs Paris, I do agree, yes, things are not correct, but starting now, five months in, on one committee will not be the answer. If we vote to reduce to five we must significantly reduce the powers that the P&F can decide upon. If we do that, that then makes that Committee useless. What we have to do is put more stuff on the Billet, more stuff in the Chamber to be debated – therefore everybody will get what they want. The Chamber is open to the public and the press, therefore we will all be achieving the promises that we were elected on: more transparency, more public accountability, more open and democratic States.

1420 Therefore, I am totally and utterly against this proposal. It represents an attempt to destroy the States as we know it and is not something that I can support.

The President: Thank you, Mr Dean.

As everybody has now spoken, Mr McKinley, do you wish to exercise your right of reply?

1425 **Mr McKinley:** No, sir, I have said enough. I think we have all said enough, actually.

The President: Thank you very much.

Mr Birmingham, do you wish to exercise your right of reply?

1430 **Mr Birmingham:** Thank you, Mr President.

There were a few interesting comments in there. The whole point of the Requête was to have a good debate about good governance. What I particularly enjoyed about the debate is that, despite the fact that I brought up four major issues at the start, I did not really hear anybody say anything to disagree with what I said. What I actually heard was a lot of ... well, I can only describe it as the turkeys not voting for Christmas defence. (**A Member:** Disgraceful.)

1435

Firstly, sorry to say, Mr Roberts, I do have to take issue with you suggesting that there is some Machiavellian purpose in me bringing forward this Requête. At the States at the start of the year I was the only States Member who spoke against a 10-man P&F. Before, in the earlier part of last year, I think it was fairly well known from the comments that had been made on the radio that there was a States Member who was against the 10-man P&F and who had actually said he was going to resign. At the start of the year I was only persuaded by Mr Dent to stay on because the view was, 'Well, there are new States Members coming on and therefore maybe they should get the chance to see exactly how this works, settle themselves in and then we will again discuss it at a later stage.'

1440

I have resigned from P&F fundamentally on grounds of governance. I cannot sit in there as Chairman of BDCC while certain development issues are being talked about, so I have to excuse myself out of it. My view is that I think there are two different views of what the States Member's job is. There is the view where States Members say, 'I have been elected, therefore I am entitled to my say.' My view is slightly different: I have been elected to represent the people of the Island and serve them where I can best serve them.

1445

1450

I heard some comments made that really it was, 'Oh, dear, poor States Members – there'll be resentment.' Frankly, that is just ridiculous! States Members need to grow up. They are elected by the public to do a job, not have stroppy hissy fits just because they are not being involved in a decision.

1455

I think it is pretty clear that this Requête is not going to pass. As I have said, let the people who do not wish to follow this route explain themselves to the public; I do not need to. I have done what I said I would do: I resigned. I put forward this Requête, I did not lobby for anybody to sign it – I said I would put it on the table and if any States Members wished to sign it and have this matter debated they could do. I lobbied no one to sign it. I left it to the discretion of States Members to do so, so there was no gunpowder, treason and plot, Mr Roberts.

1460

Mr Roberts: That's a relief!

Mr Birmingham: Well, we have had a debate and everybody can now see where the States Members stand on it.

1465

I would say I would partially agree with one thing that Mr Jean said. Obviously we do have a Constitution Group that is looking into the matters of the Government and hopefully there will be a green paper that will come forward on that at that point. I look forward to that green paper. I look forward to it saying that perhaps there should be a reduction of P&F in its membership and I look forward to seeing how the Members will debate it then when a recommendation of that sort comes forward.

1470

Thank you.

Mr McKinley: Mr President –

1475

The President: Thank you very much indeed.

Mr McKinley, unless it is a point of order, no. If it is a point of order, yes, and there are three things you can make a point of order on.

1480 **Mr McKinley:** Well, it is a point of order. It is a statement that was made by Mr Birmingham that is not entirely true.

The President: Well, in that case that is a point of order. You may stand and make it.

1485 **Mr McKinley:** The point of order is this: that as far as I am aware, and other States Members could tell me if I am wrong, the Review of Good Governance has ceased and we are no longer continuing with it – we should be, but we are not.

The President: Anyone want to answer that?

1490

Mr Birmingham: Shall answer the question?

The President: I think you should do, yes.

1495 **Mr Birmingham:** At the start of the year we formed a Governance Review Subcommittee of P&F.

Mr McKinley: Oh, really?

1500

Mr Birmingham: Yes.

The President: Yes.

Mr Birmingham: I am pretty sure about that because I am on it.

1505

Mr McKinley: Oh, good! That's the first I have heard of it.

Mr Birmingham: I am pretty sure it was dealt with in the first P&F meeting of the year.

1510

Mr McKinley: Sorry. Thank you for that. Interesting point.

The President: Just for the record, my understanding is there was a committee formed with the mandate of P&F.

1515 **Mr McKinley:** I would agree it is a very important committee and I hope it reports back soon, sir. *(Laughter)*

The President: Good.
Yes, Mrs Paris.

1520

Mrs Paris: As a point of order first, the Committee has been discussing the reduction of the P&F membership to five, as I said in my speech, as part of the overhaul of Government, which is where I think this issue should be placed.

1525

The President: That's past your point of order. **(Mrs Paris: Sorry.)** Thank you. Mr Greffier, would you put this to the vote, please.

The Greffier: Thank you, sir.

1530 Under section 45(4) of the Government of Alderney Law, 2004, a Requête has been received and the States have been asked, firstly, to revoke its resolution to appoint all States Members to the Policy and Finance Committee, and to elect a new Policy and Finance Committee consisting of a Chairman and four Members.

A vote was taken and the results were as follows:

FOR	AGAINST	ABSTAINED
Mr Birmingham	Mr Tugby	Mrs Paris
Mr McKinley	Mr Jean	
Mr Dent	Mr Roberts	
Mr Barnes	Mr Snowdon	
	Mr Dean	

The Greffier: With 4 votes to 5 with 1 abstention, the motion fails, sir.

The President: Thank you very much.

1535 We are having an exceptionally long States Meeting this evening, so I am going to propose that we take a five-minute break for those who want to take a comfort break. We will reconvene at quarter to.

*The Assembly adjourned at 7.41 p.m.
and resumed at 7.48 p.m.*

V. Questions and Reports – Questions

The President: Mr Greffier, we are reconvening now at 7.48.

1540 **The Greffier:** Thank you, sir. For the sake of the record, I can tell you we remain quorate. Item V this evening is Questions and Reports.

The President: Thank you very much.

1545 We will start with the verbal questions. Mr Dent, I believe you have a verbal question for the Chair of BDCC.

Mr Dent: Mr President, I have two questions for the Chair of BDCC. Shall I read out the first one, or shall I read them both out together?

1550 **The President:** Read them both out together and then he can reply to both.

1555 **Mr Dent:** First: would the Chairman of BDCC agree that the planning process for major projects presents a real challenge for administrations such as Alderney? Does he also agree that there could be merit in requiring, as part of the planning application process, that sponsors of large projects, such as FAB, present an outline business case that incorporates an analysis of the economic costs and benefits to the Island? Would it be sensible that such projects demonstrate positive economic returns to the community before they are approved? I believe that if this had already been incorporated into our legislation, many of the dilemmas we now face in regard to FAB would never have occurred. Would he agree with this?

1560 The second question is: given the result of the vote on the Requête, would the Chairman of BDCC outline his views in regard to the good governance issues that arise from there being Members who may still serve on both BDCC and P&F?

Thank you very much.

1565 **The President:** Thank you very much, Mr Dent.
Mr Birmingham, would you care to reply to the question, please.

Mr Birmingham: Yes, thank you.

1570 Your Excellency, Mr President, I think I made that five questions as opposed to two, but I will deal with them from the start.

The first part of the first question was would the Chairman of BDCC agree that the planning process for major projects presents a real challenge for administrations such as Alderney. Major projects do present a significant challenge for Alderney. Our planning department is small for a reason. The majority of planning applications are relatively minor day-to-day operations and it would be out of proportion to create a planning department that caters for exceptional cases. To solve this, the BDCC have adopted the practice of contracting work out to other bodies on the specific project. An example of that would be the assistance of ARUP with the statutory requirement of a review of the Land Use Plan and collaborating with Guernsey Environment, where specialist expertise is required on technical matters. My long-term aim would be that we create a scheduled specialist resource that can be called upon when required, and this would provide the most cost-effective method of delivery of the planning function, and also I believe it is the process that would best suit major projects when they arrive.

1580 His second part was: does he agree there would be merit in requiring, as part of the planning application process, that sponsors of large projects should present business cases, and would it be sensible that projects demonstrate positive economic returns to the community before they are approved? Well, firstly, such an analysis would depend on the nature of the project. It might not be appropriate if the project was dealing with essential infrastructure – let's say the breakwater, for example. But what I see is that nearly in all cases in any major development in Alderney it involves some level of States involvement at one level or another, whether that is promotion by the States or association with the States in terms of the land that might be being used by it. Proposed developments of Fort Tourgis and marina proposals have been good examples of both.

1590 The benefit gained to the Island should be explicit in the fact that the States are promoting the project. However, I think in some cases that gain has not always been properly quantified, which can lead to problems. In my opinion, what is required is a clear process by which Policy and Finance consider if a major project is of significant strategic interest and then that it is adopted as part of the Island's economic development plan. The reason for that is it separates planning from the commercial aspects, which is important because you have to separate the planning function from promotion of development. As it happens, as part of the work that is being done on the Land Use Plan, a draft major project policy will be out for consultation as part of the Land Use Plan review, but this deals with the planning aspects of a major project, not the promotion of such projects.

1600 As I have said, it would be direct conflict of the statutory role of the BDCC if you got involved in promotion. However, having said that, part of that is developing a procedure for the promotion of development projects, particularly those that are constrained by designated area restrictions but are identified as of strategic interest.

1605 The process that is being proposed at the moment – but, as I said, it is still in the case of being formulated – is that this would most likely involve a resolution being sought by the full States from Policy and Finance to exempt a development from designated area restriction, and it is quite possible that such an approach would be appropriate for all major developments involving private developers. That way the commercial and economic benefit considerations are kept separate from the planning considerations of the development, so I think that would be a better route.

1615 Your third point was, I believe, that if we had already incorporated into our legislation such a major project policy, would many of the issues we have had with FAB not have occurred. Well, again, the planning issues around FAB are planning issues. They are a separate set of issues that have been identified within the law. In terms of an actual proper strategy for a major project coming to the States, I do not think that needs legislation. If Policy and Finance had a clear protocol for the promotion of strategic development whereby it required a social-economic analysis of the project to be undertaken so that strategic benefit could be demonstrated, that specific objective could then be, again, as I said, rolled into the Economic Development Plan. So, if such a proposal were to gain P&F support as a sponsor of the project, with the developer having proved the benefit to the Island, then it could be promoted to the States as a major project and the States then could have their say in it. In my view, this would be aided by the Island Economic Development Plan being brought to the States for a yearly debate. Of course, that does not happen because of the 10-man Policy and Finance Committee, where it is discussed behind closed doors.

1620
1625 Given the result of the Requête, what is my view on good governance? Well, in terms of good governance it is inappropriate for a member of the BDCC who has the statutory role of adjudicating on a development application being the individual promoting it. If a member of the BDCC brings forward a private planning application, they must step down from the Committee and the rest of the Committee adjudicate, because otherwise it would be, clearly, a conflict of interest if they did not. What is the difference if the Member is on the Policy and Finance Committee that is promoting a development? Well, there isn't one, really. Technically, you can still say it is a conflict of interest, but I will say there is some proprietary guidance that exists, that sets a certain level of standards that allow politicians still to be able to make strategic decisions about a development that might be considered of strategic interest that does not mean that they then conflict in terms of predetermination, because that is actually where the issue comes in to be predetermined to an outcome before you get to planning. Yes, you can take the view that the proposal may be in the public interest and therefore you are entitled to express a view, but it can blur the lines between an individual's responsibilities as a States Member on two different committees, and I think in those circumstances it is very important to listen to Law Officer advice on that, and that is what I always fall back on: if we are unsure, let's get Law Officer advice and then we will be in a much clearer position.

1635
1640 Other than that, I think that has dealt with everything that you have asked in your questions, so I hope that has answered your questions.

1645 **The President:** Thank you, Mr Birmingham.
Does any Member have a supplementary question for Mr Birmingham

Mr Jean: Yes, I do, if I may.

1650 **The President:** Please.

Mr Jean: Thank you, sir.

1655 Would the Chairman agree with me that in choosing a member of the public to serve on BDCC ... does the Chairman feel a full and frank discussion on or at P&F Committee may have found a new member or a solution to the problem?

Would the Chairman agree with me that this kind of discussion should have taken place before he brought this Item to the States?

1660 And finally, could the Chairman confirm, because I certainly was not aware of the problem, that he has tried to talk to people to resolve this issue? I have certainly got a solution or two myself.

Thank you, sir.

The President: Thank you, Mr Jean.

Mr Birmingham, do you wish to answer those questions?

1665

Mr Birmingham: Your Excellency, Mr President, I can do, but I think that is more on the substance of the Report rather than the supplementary questions that I have been asked. But I am happy to answer them now.

1670

The President: Are you saying that you will be answering them during your Report?

Mr Birmingham: Well, I can do, or I can answer it now. I may as well answer it now.

The President: Just answer now.

1675

Mr Birmingham: Yes, I think it is simple enough. In terms of a discussion about whether we should be talking about co-opting professionals on to the BDCC, the discussion has taken place – it has taken place in BDCC, because BDCC have the responsibility here. Myself, Mr Snowdon and Mr Dent have discussed whether we should be looking at bringing forward recommendations, and that is what we are doing.

1680

Mr Jean: May I?

The President: At the moment, it is a point of order. If you wait until he has finished ...

1685

Mr Jean: On a point of order, that is not what I asked.

Mr Birmingham: I am sorry, I thought it was.

1690

Mr Jean: What I asked was would you ... could you ... do you agree with me ... Let's go through this again. Does the Chairman agree with me, in choosing a member of the public to serve on BDCC ...? Does the Chairman feel a full and frank discussion on or at P&F Committee may have found a solution to the problem, and would the Chairman agree with me that this kind of discussion should have taken place first at P&F level?

1695

The President: Thank you. You can answer with a simple yes or no, if you would like.

Mr Birmingham: Well, no, I had better not add it on, because it is not the role of P&F to decide what happens on BDCC.

1700

The President: Right, thank you.

Does any other Member have a supplemental question for Mr Birmingham with regard to the question he was asked by Mr Dent? No? Good. Thank you very much.

Mr Dent, I believe you now have a question for the Chairman of General Services Committee.

1705

Mr Dent: Your Excellency, Mr President, colleagues, yes, I do have one quick question for the Chairman of GSC. We have just dealt with a motion on the subject of the Nunnery and the motion was jointly sponsored by the Chair of GSC and myself. I acknowledge the development and the use of this important site as being controversial and I am hoping that we may be able to learn some lessons from our efforts. Does the Chair of GSC have any view?

1710

Mrs Paris: Thank you.

1715 Your Excellency, Mr President, fellow Members, the short answer to Mr Dent's question is yes – and many of you may feel that, given the time reading this, is not sufficient; however, there are five points I would like to raise in answer to it.

Given the loss of part of this proposal earlier this evening, my first comment would be on the ... I do not know what to call it, really ... lack of commitment or our endemic failure to make the final push on almost any project which comes before us. My shelves are filled with reports about good stuff, all of which have failed at the last fence.

1720 We have known about the cost of the Nunnery proposals since May last year. It went through on the Billet in October as part of the revenue and capital budgets for 2017 unanimously. That means the five of us who were States Members then all voted for it and it was voted as a majority on P&F in April. I rest my case.

1725 I think the other point which comes out of this is our lack of overarching policy as guidance to individual decisions such as this one. Hopefully, in this particular instance ARUP would have been very helpful to give us some guidance.

1730 The next point is the sheer time it has taken to get to this point. Thank you to all who voted for it, but the fact remains it has taken nearly two years since this all came up to begin with and we still have not stuck a spade in the ground. Our systems creak and have not been helped in this instance, I would admit, by a lack of continuity as a result of changes in States Members and civil servants and in areas of responsibility that people have held. But all of this breeds the desire to keep revisiting decisions that really should have already been made.

1735 I think also one of the lessons we need to learn is better acceptance that with a small Civil Service we do need to outsource work to individuals and/or companies with appropriate qualifications and recognise that as a general rule they anticipate being paid at the going rate for their expertise. I am well aware that this raises the further questions of how to choose them and how to balance any pitfalls arising from the general preference to use on-Island resource whenever possible, but those are not questions for right now.

1740 Connected to the length of time that such projects take is the high risk of rumour and misinformation to abound even amongst States Members. Our apparent inability to help the public sift through facts and alternative facts in a timely way hampers us with nearly every major decision we make. In my opinion, we need a press officer who is mindful at all times of Mark Twain's view that a lie is round the world before the truth can get its boots on.

1745 Thank you.

The President: Thank you very much, Mrs Birmingham.
Does any Member have any supplementary questions for Mrs –

1750 **Mr McKinley:** I beg your pardon?

The President: Sorry, for Mrs Paris. I do apologise. *(Laughter)*

Mr McKinley: Who is Mrs Birmingham?

1755 **The President:** Don't worry, Graham, you can go back to sleep, it's late! *(Laughter)* Nothing has happened while you have been asleep!

Mr McKinley: Just let me know who Mrs Fleming is later! *(Laughter)*

1760 **The President:** Does any Member have any supplementary questions for Mrs Paris? No? Good. Thank you very much.

**Building and Development Control Committee –
Report on BDCC membership**

The President: We move on to the Reports. Mr Greffier, could you introduce the first report this evening.

1765 **The Greffier:** We have received a report from Mr Birmingham in his capacity as Chairman of the Building and Development Control Committee entitled 'BDCC Membership'.

The President: Thank you very much.
Mr Birmingham, do you wish to introduce your report?

1770

Mrs Paris: Sorry –

The President: Yes?

1775 **Mrs Paris:** The Convener's report?

The President: Were there comments on this? If there were, please let's have them, yes.

1780 **Mrs Paris:** It was pointed out by a member of the audience that BDCC is quorate with its current membership at three.

Queries which arose were: if more members were needed, why don't other States Members sit on BDCC, as some do not appear to sit on any committees; how would the unelected members be chosen; and what would happen about conflicts of interest?

1785 The Chair of BDCC was asked to respond and advised that a Committee of four or five will help to cover absences and conflict of interest and will strengthen BDCC with outside experience. He confirmed that there is no procedure in place for choosing unelected members and that he is in discussions with the interim Chief Executive, about to go ahead, but any such procedure would require the full approval of the States.

1790 In the interests of transparency some States Members felt they were too conflicted to sit on BDCC and the Convener confirmed that all conflicts of interest are recorded.

It was further suggested that both the Finance Committee and the Tourism Action Group could also bring in expert help in this way. It was advised that this would be a matter for the consideration of those Committees.

1795 **The President:** Thank you very much, Mrs Paris, as Convener.
Mr Birmingham, would you care to introduce your Report.

Mr Birmingham: Thank you, Your Excellency, Mr President. Would you like me to read the Report for the record?

1800

The President: No, it is entirely up to you.

Mr Birmingham: Well, the Report is on the Billet. I think it is fairly self-explanatory. I would like to, though, mention two points.

1805 Firstly I mention, of course, that Mr Roberts has stepped down from the BDCC and I would particularly like to thank him for his four years of service on the Committee. I know it is a difficult and stressful position and I know he has had to undertake it, at times, in personally trying circumstances, so I thank him for his service.

1810 **Mr McKinley:** Thank you, Mr Roberts.

1815 **Mr Birmingham:** Secondly, to advise Members, of course, that Mr John Young is due to retire from the position that he has as full-time Senior Planner at the end of June, and I particularly want to take this opportunity to thank Mr Young for all his hard work over the last two years. Without him it would have been impossible for the fundamental reforms of the planning system recommended by ARUP to have been undertaken. I am glad to say that Mr Young has agreed to make himself available to the States on an advisory basis and he will be working remotely on some of the further law changes that are needed, particularly in relation to a new appeal system for planning, and also he is going to assist us with the Land Use Plan process, so he will attend when the Land Use Plan review takes place to assist at that point.

1820 In terms of have we taken this any further yet: no, not yet. I have lost a few weeks. My fellow members of BDCC will confirm that we have been somewhat preoccupied with the Land Use Plan review and its date has come forward. I will be making another report to the States, I would imagine, at the next States Meeting in relation to that, though we will be looking at publishing the draft Land Use Plan very early in June. I think it is scheduled for 12th June.

1825 However, this still does not solve the problem of potential issues about quorum in the long term and obviously the absence of that professional guidance that we have with Mr Young stepping down, and hence the suggestion from the members of BDCC is that perhaps we look at the process of co-opting members on to BDCC because we believe that would be probably the most effective way of going forward – though, as was pointed out, there is no procedure under the States actually for how that co-opting takes place, so we need to have discussions relating to that, which we will be doing with the Chief Executive to find the best method for such a method of co-opting.

1830 That really deals with the substance of the Report.

1835 **The President:** Thank you very much, Mr Birmingham.

Does any Member have questions for Mr Birmingham on his Report? Mr Dean.

1840 **Mr Dean:** Speaking from my own personal point of view as a newly elected States Member and being on BDCC, I would just like to point out I am very disappointed –

The President: Is this a question?

1845 **Mr Dean:** Yes, I will get to it.

The President: Thank you.

1850 **Mr Dean:** I am very disappointed that the other six States Members have not come forward to put themselves on this Committee. The Committee is one of the most important committees because the decisions it makes have an immediate and lasting effect on our community.

1855 My question for Matt is: I do have an issue because, because of the impact of the decisions, can we legitimately co-opt members of the public who are not democratically elected and therefore they are not accountable? Furthermore, they are not constrained by a code of conduct, as we all are, and therefore they cannot be regulated, so how would we regulate this?

The President: Can I answer that? They can. Under the 2004 Law, section 49, the States co-opt people who are non-elected to sit on their committees.

1860 **Mr Dean:** And will they come under a code of conduct?

The President: They do not come under a code of conduct, no.

Mr Birmingham: May I, Mr President?

1865 **The President:** Yes, go on.

Mr Dean: They claim that there are issues.

1870 **Mr Birmingham:** Yes, I agree that there are issues, and that is particularly one of the reasons that the Chief Executive is looking at various options that are open to us. There are different ways of delivering the planning function. If you go to Jersey, they have all elected Members. If you go with the Isle of Man, they have all appointed members. If you go to Guernsey it is a bit in between. I think we have to look at seeing what is the most appropriate method for us.

1875 In terms of democratic accountability, yes, you could say there is an issue there, but I would look at and say it this way: that we three Members are currently the lay members of the Committee. We are the elected lay members on that Committee. Would just electing more lay people actually help? Would that improve the planning process? I am not so convinced.

1880 At the end of the day, though, whoever ... Let's say it is proposed and how we finally decide to get to that method of the quotas, they still have to be elected by the States Members on to that Committee in this Chamber, so there is still that aspect of the democratic part that will take place. Particularly, obviously, that will mean it will still have to get on the Billet, it would then have to be discussed in People's Meetings to get feedback from the public, and then of course the States Members themselves would have a say on the matter. So I think that might fill the democratic deficit that perhaps you have mentioned.

1885

The President: Thank you.

Does any other Member have, yes Mr Snowdon.

1890 **Mr Snowdon:** Your Excellency, Mr President, just a quick question: have we actually officially asked our fellow States Members if they would like to join? It would be fantastic if we could get another States Member rather than going to the public, which is the last resort, in my view. Have we actually asked our fellow States Members officially?

1895 **Mr Birmingham:** Have I sent them all a letter officially inviting them to be a member of the BDCC? No, I have not. I think you are quite right, I will do that and see what official responses we get. I suppose I am working from bitter experience of when asking for volunteers for BDCC and there is the usual sound of 10 people taking a step backward. I think that is how I ended up as Chairman in the first place.

1900 **The President:** Thank you very much.

Does any other Member have a question for Mr Birmingham with regard to the response he gave to Mr Dean?

Mr McKinley: Only one very brief one, sir, if I may.

1905 You mentioned non-elected members of your Committee. Do those non-elected members have a vote? Are they able to vote?

1910 **Mr Birmingham:** The point would be that as co-opted members of the Committee they would have a voting right on the matters that came to BDCC. What I am suggesting is that that would be on matters of planning notifications. I do not think necessarily that would mean matters of policy, but again that is what we have to look at more closely. And of course, as I said, the one problem that we have is actually, under the Rules of Procedure or protocol, there is no protocol actually for a process for co-opting members on to States committees. At best case, what we could still

1915 end up with is a proper protocol in place that we then adopt in the future, which would help the States with just every committee, I believe.

The President: The current Law says that they can actually be appointed, which would give them the same rights as any other member of that Committee.

1920 **Mr McKinley:** Thank you, sir.

The President: Mr Jean, is this a question for Mr Birmingham?

Mr Jean: Yes.

1925

The President: Good.

Mr Jean: Would the Chairman agree with me that P&F should be involved and that P&F should select the person involved? The reason I say this is I think that every member should be concerned that if a list were submitted from BDCC, P&F Committee should be involved in the decision in choosing that member for your Committee co-opted.

1930

The President: Can I respond to that? They are currently looking at a protocol for appointing these people, and part of that protocol would be that all of the full States would be involved, so it would not just be P&F, it would be the full States here.

1935

Mr Birmingham: Could I reply, sir?

The President: Please do.

1940

Mr Birmingham: No, because it is actually, as the President just said ... You have to remember, and I am sorry about this, but it is quite obvious, I think, from my various opinions, that I do not genuflect to the great god P&F. BDCC is a States Committee in its own right. BDCC is mandated by this body at the start of the year for its responsibilities. When we come to make a decision I will be bringing it to this Chamber. It does not need to go through P&F and there is no reason why it should. It is *this* Chamber that makes the decision.

1945

The President: Thank you very much.
Do you have a point of order, Mr Jean?

1950

Mr Jean: Yes, I do have a point of order. I think that by bypassing P&F we may find ourselves in a situation where yes, it should come before the States but it also, for the final selection of say two or three members of people to choose from, should come to P&F.

1955

The President: Is this a question?

Mr Jean: It is a question.

The President: Right, thank you. Right, okay.

1960 Does any other Member have a question for Mr Birmingham with regard to his response to the questions from Mr Dent? Did you wish to say something, Mr McKinley?

Mr McKinley: No.

1965

The President: Good. Thank you.

Mr Roberts: I would like to say something.

1970

The President: Is it a question?

Mr Roberts: I have a question.

The President: Go on then, please.

1975

Mr Roberts: But I also have a remark on the makeup of the Building Committee.

The President: Unfortunately, unless you can express that in the way of a question ... Please now proceed.

1980

Mr Roberts: Okay, well, I will express it in the way of a question.

The President: Well, stand and do so, then.

1985

Mr Roberts: This is a question. *(Laughter)* I have done four years on the BDCC. I have worked with you, Matt, I think we have got on very well and I do not think we have ever fallen out. Would the Chairman like me to come and stand for the interim and stay on the Building Committee until a replacement is found? I am offering my services to come back until you put this in action

1990

Mr Birmingham: Well, I have no problems with that. Unfortunately, I do not know what the protocol is in those circumstances, so we would have to –

The President: I think that is a question to be taken outside this Chamber. I think your offer is received by the Chairman. I think whether that can be done and how it is done can be dealt with outside of here. Thank you very much.

Policy and Finance Committee – Report on ARE, ACRE and FAB actions

1995

The President: We now move on to the next Report, which is a Report from Mr Dent. Mr Greffier, would you care to outline the Report, please.

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The Greffier: Thank you, sir. The Report is entitled ‘The States of Alderney actions taken this year in regard to ARE, ACRE and FAB’.

The President: Thank you very much.

Before you announce it, I would just like to make it clear that there will be no comments from the Convener because this was introduced after the People’s Meeting, in line with Rule 19, which requires four days’ notice. Therefore there were no comments from the People’s Meeting.

2005

Mr Dent, would you care to introduce your Report.

2010

Mr Dent: Your Excellency, Mr President, colleagues, this is the Report on the actions taken this year in regard to ARE, ACRE and FAB. There has been much speculation amongst the public in regard to these actions and in order to reduce the amount of speculation and in order that the public are aware of the most important actions the States have taken and are now taking, I would like to place some information in the public domain.

2015 Before I start, I would like this Chamber to know that the States have been acting only after
careful legal, commercial and technical advice and in a manner designed to protect and further
Alderney's interests. We have had to be exceedingly careful. Our general approach was debated
2020 at two P&F meetings in January and in February. At these meetings it was resolved that all
proceedings and debate would remain confidential and that a two-person, later increased to
three-person, group – myself, Mr Graham McKinley and Mr Tony Barnes – would liaise with the
team of professional negotiators who would conduct all the interactions with FAB on our behalf.
Given the close nature of our community and the propensity for leaks and misinformation, and
2025 not least because many of us socialise with persons who have an interest in the project, this was
deemed the most appropriate course of action. The group's intention was that only when there
was something substantial to report would any public announcements be made and only when
there was a clear decision to be made would there be debate within P&F or the States. The
intention was to seek a substantially improved offer that could be of economic benefit to the
island.

So, first in regard to ARE, ARE has not met a number of its obligations under its agreement and
licence with ACRE.

2030 ARE is in default of its technical obligations under the seabed contract, in that they have failed
to comply with both the development schedule and also with provisions that require a continuous
and complete development of their seabed blocks and the completion of a development schedule
which is to be regularly reviewed and updated.

2035 ARE is in default of its financial obligations. The extent of their default is at least £545,000 and
potentially exceeds £1 million. At a minimum the default is comprised of a failure to pay the block
fees of £172,500 for the period July 2016 to December 2016 and the block fees of £172,500 for
the period January 2017 to June 2017, and their failure to pay the up-front fees of £200,000 due
on 1st January to AEL.

2040 ARE is obligated to make further payments under a consolidated loan agreement in respect of
earlier block fees. ACRE has given ARE notice that it is in breach of the licence and provided it with
an opportunity to rectify the breaches. An official letter was sent to ARE by ACRE on 3rd February,
bringing to ARE's attention the fact that it is in breach of the contract and allowing it 14 days to
remedy the breaches before ACRE would have the right to terminate the agreement. To date, 108
days have passed and ARE has failed to remedy the breaches. ARE did respond to the breach notice
with an offer to enter into discussions with the States in order to renegotiate the seabed contract
on new terms. However, ARE's premise for those discussions would have included ACRE accepting,
2045 amongst other things, a reduction in the number of seabed blocks that ARE would rent, a
reduction in the block amounts of money that ACRE would receive, and incomplete/lack of
remedy for the historic breaches.

Broadsheets have also been published by ARE that provide little clarity in regard to technical
proposals for the works and timetables.

2050 Consequently, a formal letter has now been sent to ARE by ACRE giving notice of the
termination of the agreement and requiring the payment of all outstanding money within 10 days.
If payment is not forthcoming, there are to be further legal moves to recover what ACRE, the
States of Alderney and AEL are due. This action will remove ARE's access to the Alderney seabed
and restore control of the seabed to the States and ACRE.

2055 Next, in regard to ACRE, the States are in the process of downsizing the organisation. This is
mainly in order to reduce costs. The Law Officers are assisting with this process. The States does,
however, need to retain a nascent organisation for two purposes: to recover any sums owed by
ARE and to administer licences following any future retendering of the seabed.

2060 And now, most importantly, in regard to FAB, our professional negotiating team have been in
regular contact with FAB Link Ltd, in particular Transmission Investment's project director. The
submission of any planning permission for the cable will require an amendment to section 12 of
the Planning Law. This will take some time, though this does not preclude FAB Link Ltd from taking
its own action to improve the States' and the public's perception of the project. They can do this

2065 by making offers to improve the payments to the States under the wayleave and/or improving the benefits that the residents of Alderney will receive from the FAB Link and/or proposing new, less contentious routes for the project.

2070 With ARE no longer holding the licence to exploit the sea bed, questions may arise over the need for a converter station, which in any event would require a number of consents from the States of Alderney. Notwithstanding this, our legal advisers are of the opinion that we now have in place everything that is required should we wish to veto the converter station.

2075 Finally, any reasonable forthcoming proposal made by FAB may, subject to the later agreement of the States, be the focus of a public consultation exercise, and I, as Chairman of P&F, believe this is the proper course and will be fighting vigorously for this.

2075 As permitted by clause 19(f) of the Rules of Procedure, I request that this Report is published in the Deliberations for today.

I hope that everyone in this Chamber will accept the need for continuing confidentiality in any future negotiations. Thank you.

The President: Thank you.

2080 Does any Member have any questions for Mr Dent? Mr Dean.

Mr Dean: Your Excellency, Mr President, fellow States Members. Thank you for that announcement, James. I have just a couple of points of clarification before I get to my question.

2085 Initially, when the FAB group of two was then three at no point did I ever vote for them not to come back and inform the States Members of what was going on. Like all the other action groups on the P&F, they go off, they have their little meetings, they come back, and whoever chairs that meeting comes back and reports to the main group, and I am sure the other States Members here will agree with that. We never agreed for it not to come back to States Members so we knew what was going on.

2090 Also, he mentioned the seabed block fees that are outstanding. What you have not actually mentioned is they are also index linked, so those block fees are not actually the correct figures. I think now the block fees are over £200,000.

2095 My question ... You will not be surprised what it is going to be; it is an obvious one. What will Transmission Investments and what remains of Fablink do now that ARE are no longer a viable player? What is going to happen to Mannez Quarry? What is happening with the lease agreement on Mannez Quarry if ARE no longer have any tidal blocks? We keep going forward with negotiations and spending public money, but what we actually have not got is a legally binding statement of intent about the project, not only so the rest of the States Members can be informed, the public can be informed and everybody can make their own opinion ... We keep saying we are negotiating for a better deal. Yes, we all agreed to that, but what we actually need to know is what is actually coming. Before I got on the States I could not find out. Now I am on the States I still cannot find out. So it is really important. We are spending public money and negotiating. If we do not actually know what we are negotiating for, I am at a loss. For me, the first bit is if we get a legally binding statement of intent, then we can put it to the public and the public can decide, and we do not have to go on and waste any further money.

2105 I know I have already spoken to you by email about this –

The President: Mr Dean, can you ask your question, please.

Mr Dean: Okay. That is my question: why do we not have a legally binding statement of intent?

2110

Mr Dent: Mr Dean, you said that I would not be surprised by your question, and indeed I am not.

Why do we not have a legally binding statement of intent? Well, sadly I cannot force Transmission Investments to make a legally binding statement of intent. I apologise for my impotence on this subject, but I think your question really should be directed at others. We have tried.

2115

What will Transmission Investments do with all these things? Well, that is a very, very good question, but once again I am not a representative of Transmission Investments. We are still in contact, I can say this, and we are still taking it forward and we are still attempting to get a much improved offer from Fab Link. So that is what our intention is and when we get, or if we get, an improved offer, this Chamber will be the first to know.

2120

On the subject of confidentiality, well, I think it is important. It seems very difficult to keep confidentiality, in fact. I find things out on the streets before I have even found them out for myself! I think in any commercial negotiation, if you want a good deal you do not declare your hand in public. If it is the States' genuine intent that they want a much improved better offer, then they are going to have to live with a certain amount of confidentiality.

2125

Thank you very much.

The President: Thank you, Mr Dent.

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Does any other Member have a question for Mr Dent? Yes.

Mr Snowdon: Mr Dent, could I ask you to actually email all the Members what you have read out tonight?

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The President: It will go on Deliberations.

Mr Snowdon: Okay.

The 10-day period, when is that up? Is it sometime soon?

The other thing is that basically you are stating that you want a better deal, or an improved offer. My personal view, and nothing to the BDCC, is I think we should ask the members of the public what they want – for example, some sort of questionnaire or consultancy – and then we could establish what we should be doing. I think we are pre-empting –

2140

The President: And your question is?

2145

Mr Snowdon: Sir, to ask members of the public, really, what we should be doing.

The President: Is it you asking him if he is going to ask them?

2150

Mr Snowdon: Two questions. Thank you.

Mr Dent: Mr Snowdon, when is the 10-day period up? I have to tell you quite honestly I do not know. No more than 10 days away. Do rest assured. *(Interjection by Mr McKinley)*

2155

The President: Mr McKinley, there is somebody speaking, please let them have the floor.

Mr Dent: Sorry, your second question?

Mr Snowdon: Public consultation.

2160 **Mr Dent:** Oh, the public consultation on what we want. I think this is very difficult because I think amongst the 10 of us we have 10 different views as to what we might find acceptable. We have never really put it down even amongst our own ten members here what each of us would find acceptable. I think out in the public there are probably fifteen hundred views. I think the first thing to try and do, as I see it anyway, is try and get Transmission Investments to put a better offer
2165 and, from our point of view, we try and enforce the best offer we can and then we put that to the people.

What form a public consultation will take? We have not debated that in P&F, as you well know. I think that is something we should take to debate and we should take to the States here, but I think it is very important when the time comes.

2170 Thank you.

The President: Thank you.

Does any other Member have a question for Mr Dent with regard to his Report?

2175 **Mr Jean:** Would the Chairman agree with me that the rest of the States should have involvement in the revision of the offer, and that when revision comes those suggestions should be taken into account along with the involvement of the rest of the States in the final decision as to whether we accept that offer?

2180 **Mr Dent:** Mr Jean, it is not for us to say what the revision of the offer will be, it will be for FAB Link to say what the revision of offer may be; but yes, I agree with everything you have said.

Mr Jean: Okay.

2185 **The President:** Mr Tugby, you wish to speak?

Mr Tugby: Yes, sir.

The President: A question on the Report?

2190

Mr Tugby: Yes.

Mr Dent, the States has given notice to ARE. What is your proposal for the plan B if FAB Link bypass the Island?

2195 **Mr Dent:** Mr Tugby, it is always possible that FAB Link will choose to bypass the Island, but I put it to you that if it does what do we get anyway? We get £70,000 a year – nothing. The Crown Agents have a formula for calculating what is a reasonable sum and I can tell you £70,000 is nothing in that book.

2200 What we do get, though, with the present action against ARE is we get the right to retender the seabed to whomsoever we wish and start again, and I think that is very important and very valuable.

The President: Is this a point of order or supplemental question?

2205 **Mr Tugby:** Yes.

The President: Right.

2210 **Mr Tugby:** Sir, you say the reason for you giving notice to ARE was because they did not pay their block fees. Well, at the end of the day I can understand why they did not, quite frankly: they had the full States ... well, a number of States Members against it, a number of the public were against it, and they have invested many millions of pounds in it so far. When they can see that there is a good chance that they would not get permission in the end, so that could delay any type of development in the future, they offered to continue to pay the electric and negotiate the block fees, but in their wisdom the majority of the States decided to throw that out, and in my book that was the biggest mistake we ever made because they did make an offer and we were not prepared to negotiate.

2215 You say £70,000. Well, ACRE, whom we have paid a lot of money for to look after our interests, had said that without the cable going through Alderney there are no other big players in tidal energy willing to come to Alderney, and yet we are risking losing the cable going over Alderney, and –

The President: The question is?

2225 **Mr Tugby:** The question is: what ...? You say £70,000; in fact, we have already lost £200,000 or £300,000 in block fees on a regular basis and you have more or less thrown away that. What do you propose to remedy their short payments?

The President: Yes, please, sir.

2230

Mr Dent: I must tell you I think that was more of a statement of your views there than it was a question. We have always been prepared to negotiate but we have not been prepared to negotiate a downward review of what we were previously promised. ARE have substantial backers but they weren't prepared to remedy the situation.

2235 As to ACRE's view, I suspect it is better if ACRE present their opinion rather than I speak for ACRE, but I have every confidence that there will be others wishing to come in. It is not my view. Thank you.

The President: Thank you.

2240

The artifice of giving an opinion followed by a question is not one that I encourage, so if anybody has questions on this Report, please ask the question with regard to the Report. Bearing that in mind, does anybody have any more questions for the Chairman? Are you certain nobody has any more questions for the Chairman?

2245 Right, in that case, I would ask the Greffier to close the meeting. Thank you all very much indeed.

PRAYERS

The Greffier

The Assembly adjourned at 8.40 p.m.