



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Thursday, 1st October 2015

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Present:

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

Law Officers

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

People's Deputies

St Peter Port South

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

St Peter Port North

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

St Sampson

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

The Vale

Deputies M. J. Fallaize, L. B. Queripel, M. M. Lowe,
A. R. Le Lièvre, A. Spruce, G. M. Collins

The Castel

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

The West

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

The South-East

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

Representatives of the Island of Alderney

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

The Clerk to the States of Deliberation

S. Ross, Esq. (H.M. Senior Deputy Greffier)

Absent at the Evocation

H. E. Roberts Esq., Q.C. (H.M. Procureur);
Deputy D. B. Jones (*indisposé*); Deputy Le Tocq (*relevé a 10h 23*)

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States of Deliberation

The States met at 9.30 a.m.

[THE BAILIFF *in the Chair*]

PRAYERS

The Senior Deputy Greffier

EVOCATION

Billet d'État XVI

COMMERCE & EMPLOYMENT DEPARTMENT

XVI. Regulation on Sunday Trading – Debate continued – Propositions carried

The Senior Deputy Greffier: Billet d'État XVI, Article XVI, the continuation of the debate.

The Bailiff: Just before we rose yesterday evening, I was about to call Deputy Lester Queripel. Do you still wish to speak, Deputy Queripel?

5

Deputy Lester Queripel: Please sir.

The Bailiff: You may do so now.

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

Sir, this seems to be about a few people wanting to shop at the biggest DIY store on the Island on a Sunday and also the biggest supermarkets – which is rather odd, because the DIY store is already open from 8 o'clock in the morning until 8 o'clock at night. That is 12 hours a day, six days a week.

15 The biggest supermarkets are already open from 8 o'clock in the morning until 9 o'clock at night – and that is 13 hours a day, for six days a week. Surely that is plenty of time in which to shop. Anyway, there are numerous stores already open on a Sunday, where everything can be purchased for a weekly food shop. And to name just a few of those larger stores: the Co-op at Bailiff's Cross and the Co-op just inland from Vazon Bay are open; the Food Hall out at St. Peter's
20 is open; the supermarket at L'Islet; Marks & Spencer's at St. Martin's is already open – as are all the large garages which all sell food as well.

So there is no real need to open up the biggest supermarkets on a Sunday, because there are an abundance of shops already open.

25 And just to deal with the issue of extra trade, I wonder where this extra trade will come from. Surely if people know the larger supermarkets are open on a Sunday they will be spending the same amount of money that they spend in the week. So surely there will not really be any extra trade, just extra cost to companies.

30 Moving on to the issue of the anomalies that currently exist, where we have the ridiculous situation whereby you can buy a bottle of whisky in a shop but where you cannot buy a greeting card... That is why I think we need to support option 2, and I would like to thank Deputies Brouard and De Lisle for giving us that option, because that will address the anomaly issue.

35 Regarding the issue of the biggest DIY store in Guernsey being open on a Sunday: I would like to spend a moment or two looking at what would happen if that DIY store *did* open on a Sunday. Well for a start, all the builders' merchants would be justifiably concerned that they may lose business to their competitors if they too did not open on a Sunday – and I have spoken to some of the merchants, sir, who tell me that is the case.

40 Sir, Norman Piette on Bulwer Avenue would open, so would Gaudions at Camp du Roi, as would Annandale Building Supplies down by the indoor bowling centre. Guernsey Building Supplies in Guelles Lane, as too would Capelles Building Supplies, CDS and RB Fixing in Pointes Lane. The list is endless.

45 And it would not end there, sir. I would like to expand on that point for a moment because I think this is a key point I would like my colleagues to bear in mind, because all the stores associated with the construction industry will feel they have to open for fear of losing business. Several of my colleagues focussed on giving traders a choice to open on a Sunday in their speeches yesterday, but it is not really about giving traders a choice, because in a very real sense many of our traders will open on a Sunday for fear of losing business, not by choice.

50 And one final point on that particular issue: that means all the hire companies that hire out ladders, concrete mixers, jackhammers, Kango drills, etc. will have their delivery trucks driving all over the Island from 8 o'clock on Sunday morning until 5 o'clock on a Sunday afternoon. Sir, that will create as much noise pollution and as much traffic pollution as any other day of the week. Guernsey will become more like a small city on a Sunday than a small Island, with all the ramifications that city life on Sunday will bring.

55 I understand completely that Guernsey needs to evolve. We have in fact evolved from an Island of fishermen and growers into an international finance centre, and I accept that had to happen. But do we really have to have the pedal to the floor the whole time, running around like headless chickens, trying to keep up with the rest the world? That all seems to be a little too frantic to me, sir. I am not saying for a single second that I think we should be striving to attain some kind of utopian, idealistic, blissful, serenity type of environment on a Sunday, but I do think the operative word here as in all things, is balance. And it seems to me that once we have addressed the anomalies that exist, then we will have attained that balance.

60 I am of the view, sir, that we really do need to protect and retain what little culture and tradition we still have here in Guernsey, because that distinguishes us from the rest of the world.

65 I want to comment on this issue of somebody running out of screws or nails on a Sunday – (*Interjection and laughter*) that has been mentioned several times over the last few weeks. Sir, I have worked in the construction industry for 35 years and I have *never* run out screws and nails on a Sunday. (*Interjections and laughter*) And I have worked with friends on their houses on numerous occasions on a Sunday, and I cannot remember a single occasion when any of them ran out of screws or nails on a Sunday.

70 I have been working with my son for almost a year now helping him to renovate his house, and not once have we run out of screws or nails on a Sunday. (*Laughter*) In fact, sir, I cannot remember a single occasion in all those 35 years when anybody ran out of *any* materials on a Sunday. It is called being organised, (*Laughter*) and I really do think that the general public should be given credit for having the ability to organise themselves.

75 In general, over the 35 years of my helping friends to renovate their houses on a Sunday (*Laughter*) they have made the list of materials that they need and they have bought those

materials on the Saturday before, or on one of the other five days the previous week, and they have done that for two primary reasons. *(Interjection and laughter)* The obvious one, sir: they do not want to run out of materials on a Sunday. *(Laughter)* Excuse me, sir, enjoyable repetition. *(Laughter)*

80 On the second one, sir, they want to spend as much time as possible on a Sunday *working*. They do not want to be running around the Island getting materials when they only have a few hours in which to do the work. *(Interjections and laughter)* And even if it were a case of Islanders running out of screws and nails on a Sunday – which I can assure my colleagues, it is not – B&Q would have to sell an awful lot of screws and nails to hundreds of Islanders on a Sunday to make
85 it worth their opening!

In closing, sir – *(Interjections and laughter)* Deputy Brehaut said, ‘The final nail’... So I hope my colleagues think I have said something worth considering.

And this final point: we are often told we need a business case to justify our voting in favour of an issue, but I cannot see a business case in this report that proves beyond a shadow of a doubt
90 that we need to completely deregulate Sunday trading. Anyway, many of us in the Assembly do our own research, undertake our own surveys and structure and compile our own business cases.

I have received 18 e-mails asking me to vote in favour of complete deregulation, and 29 asking me to vote against it. I have received two phone calls asking me to vote in favour and five asking me to vote against. And in all the conversations I have had with fellow Islanders, sir, the people
95 against far outweigh those in favour. And I know that is anecdotal, but I do not tell lies – because I would have to remember what I lied about and what I said. The truth is a lot more Islanders have asked me to vote against complete deregulation than those who have asked me to vote in favour of complete deregulation.

Thank you, sir.

100

The Bailiff: Well, Members, a lot of people have attracted my attention. I have written down the speakers’ names on the following order: Deputies Le Pelley, Collins, Luxon, O’Hara, Brouard and Duquemin – and then Deputy Kuttelwascher is on his feet.

105

Deputy Kuttelwascher: Yes, I think I would like to propose what is known as a guillotine motion, that debate finish and that we go straight to the vote, sir, because – **(Several Members: Hear, hear.)** there we go.

110

The Bailiff: You are invoking Rule 14(1). So I immediately put your request to the vote and if the majority of Members voting support the Proposition, except that the Minister of Treasury & Resources Department is entitled to comment on any financial implications, and then we go through the normal closure procedures. I put the matter to the vote.

So, Members, I am putting to you the Proposition that debate be terminated. Those in favour; those against.

115

I have to go to a recorded vote, because I think some people shout very loudly *(Laughter)* and some others do not. *(Interjections)*

Actually, shall I just remind you of what you are voting on. You are voting to terminate debate. So if you vote Pour, we immediately close the debate. If you vote Contre, then debate continues. So, the Proposition is to terminate debate.

There was a recorded vote.

Carried – Pour 25, Contre 18, Ne vote pas 0, Absent 3

POUR

Deputy Harwood
Deputy Kuttelwascher
Deputy Domaille

CONTRE

Deputy Brehaut
Deputy Robert Jones
Deputy Conder

NE VOTE PAS

None

ABSENT

Deputy David Jones
Deputy Le Tocq
Deputy Burford

Deputy Langlois	Deputy Bebb
Deputy Le Clerc	Deputy Gillson
Deputy Gollop	Deputy Le Pelley
Deputy Sherbourne	Deputy Fallaize
Deputy Lester Queripel	Deputy Laurie Queripel
Deputy St Pier	Deputy Lowe
Deputy Stewart	Deputy Le Lièvre
Deputy Ogier	Deputy Collins
Deputy Trott	Deputy Duquemin
Deputy Spruce	Deputy Green
Deputy Paint	Deputy Dorey
Deputy James	Deputy Brouard
Deputy Adam	Deputy Wilkie
Deputy Perrot	Deputy De Lisle
Deputy Inglis	Deputy O'Hara
Deputy Soulsby	
Deputy Sillars	
Deputy Luxon	
Deputy Quin	
Deputy Hadley	
Alderney Rep. Jean	
Alderney Rep. McKinley	

120

The Bailiff: Well, Members, the result of the vote on the Proposition to terminate debate was 25 in favour, with 18 against. That is a simple majority in favour of closing the debate and that is sufficient under Rule 14(1) for the debate to be closed.

125

So now the Minister of the Treasury & Resources Department if he wishes to do so, can comment on the financial implications of the Propositions, and if he does not wish to speak then it is the Minister who has the right to reply to the debate.

Deputy Stewart... or some other member of your Department. You or some other member of your Department may reply to the debate, Deputy Stewart.

130

You do not wish to reply to the debate? Or do you wish to consider, within your Department, who does reply to the debate?

Deputy Stewart: I think, to be fair, I will let the Deputy Minister reply. *(Applause)*

135

The Bailiff: Deputy Brouard.

Deputy Brouard: Thank you, sir.

140

I must admit I was quite cross with the motion that was laid. I think there are a lot of Islanders who think this is a very important issue to them and it is important for the Island – (**A Member:** Hear, hear) and I think which should have the airing that it deserves. I think cutting it short was just the wrong thing, sir.

I just want to make one thing absolutely clear: on the voting at the end of the Proposition, option 2 is in fact Proposition 3, because if you vote for Proposition 2 you end up passing the legislation to remove Sunday regulations. So it will be Proposition 3 that I will be trying to encourage you to take.

145

Can I just thank the Minister, Deputy Stewart, for kindly foregoing his option to speak at the end. I think that was very magnanimous. Thank you, sir.

150

Mr Bailiff, this is not the most glamorous of issues or the most pressing, but it is important to many Islanders and it is a real litmus test to what we mean when we say 'Guernsey is different and special' – and how the States is going to help preserve our quaint ways. How many times do I hear Deputies extolling the virtues of Guernsey and we do not have to follow the UK – and other countries are also available for comparisons – and here we are looking to open all hours, chasing that last sou. But why? And what will it really cost?

155 Now, I was happy to have the status quo, warts and all, but C&E promised at the Hadley Requête, that we would do the research and come back to the States and I think we have got a reasonably comprehensive report in that way.

There are two arguments I want to make: one is against total deregulation and the other is to highlight the beauty of the second choice which continues with regulation on Sunday, but modernised to reflect the changes that society and the Island have experienced and other changes that just make plain sense.

160 To the purist, nothing can beat a blank canvass of total deregulation, but it is not quite so blank as you want to hang onto staff Sunday protection which of course is a good thing. My offering, and that of Deputy De Lisle, of the second option, not the binary choice, is an improvement to the current system and modernisation. It will never be as pure or as crisp as total deregulation, but it is the perfect choice –

165 **Deputy Fallaize:** Sir, on a point of order, this is with respect to Deputy Brouard, not a reply to the debate.

170 **The Bailiff:** No, because under Rule 12(1), Deputy Brouard, it does say that your right to speak at this stage is to reply on the debate.

Deputy Brouard: Thank you, sir.

175 **The Bailiff:** And it may be that you can still say what you wish to say by way of a reply, but it does need to be a reply to the whole of the debate, rather than just the speech that you would have made if the debate had not been cut short.

Deputy Brouard: Yes, sir, thank you.

180 Mention during the debate of the survey... and I do not want to take anything away from those who entered the survey – there were strong views expressed from strong characters on both sides who put pen to paper. But I think there would be a propensity in the survey to bring out those who would have preferred total deregulation rather than bringing those out who wanted the status quo.

185 Now, Deputy Fallaize made mention of something in the debate, sir... I will just get the note... Yes, in fact why I wanted to speak today, sir, was because I wanted to check my records, because I am a bit of an anorak and I record all the people who usually contact me about different issues and different things. And I wanted to speak today, because I wanted to check – and I am up to red book seven and I am on page 6. I know each Parish is different but I was struggling, looking through my book, as to the number of people who are complaining that they could not get hamster or lemming care manuals on the Sunday. And in fact the number of people contacting me has literally fallen off a cliff, sir. In the western parishes... we are *different* from the Vale, but I still do not get the point.

195 And the other thing I wanted to say, sir, we do at the moment have marks where we, as a society, decide certain things happen. If you are driving along the road at 25 miles an hour, you are within the speed limit perhaps in town, but you go 26 and you are out of the speed limit – there will always be something on the edge which is where the law kicks in. And I think Deputy Fallaize can draw those comparisons. But the reality is, as Deputy Lester Queripel was saying in his speech, that people manage in the middle ground.

200 Some of the speeches... I think it was Deputy James was talking about the issue of Le Friquet and the garden centre there, and of course if you go onto option 2 one of the proposals in option 2 is that garden centres will now be basically exempt and they will be able to sell their full range of goods. So that difficulty that Deputy James had will disappear. And the same in option 2 takes of the shops in town which Deputy Conder raised, on cruise ship Sundays and open Sunday days there will be access to the town.

205 And of course again, the other issue I think was raised as well by somebody, about the
legislation and the fact that legislation might be difficult and complex. There will be legislation
required if you go for deregulation anyway to rescind, but the beauty of being able to work
through this particular option 2 with the Law Officers beforehand was that we were able to put an
option forward that would work in legal terms. The indications are from the Law Officers that by
210 about the middle of 2016 they should be in a position to bring something towards the States –
that is in 10.2 in the report.

One of the things that was mentioned in the debate was about the larger supermarkets and
how we, as a society, change. I think we will rue the day that we move to more commerce on a
Sunday. The smaller shops will be under more pressure because there will be a propensity to shop
215 at the larger stores. There will not be more business on a Sunday for the smaller shops, and I
know a lot of people here are quite keen on the green aspects of this. You can walk to your corner
shop more easily than you can perhaps walk to the larger supermarket which you might be
tempted to go to, if they are now all open on the Sunday.

Just in closing, sir, I think the option 2 gives ground where it has already been taken, such as in
220 the garden centres. It gives new ground which is needed some 13 years on and it gives clarity and
consistency.

Just finally, sir, I think if we can modernise to option 2 and then we can go to deregulation in
10 years' or 15 years' time or 20 years' time – but we cannot go the other way. Once we
deregulate now, it will be *very* difficult to go back the other way. And the way of the Guernsey
225 compromise, I would strongly suggest to Members that option 2 may be it.

Finally, we have a land that is the envy of many, not because it is the *same* as their land, it is
because it is *different* to their land. We still have what they have lost and I encourage you to think
carefully about both options that Commerce & Employment have put forward, and I thank the
board for giving me this opportunity, sir.

230 **The Bailiff:** Deputy Dorey.

Deputy Dorey: Sir, point of order before we vote – and obviously I would have said it in a
speech if I had had the opportunity to make it – but four times in the report it refers to 'four
235 board members' and in brackets 'one non-voting'. The rules that I am referring to is in the yellow
section Department Rules, which is 4(2) and which very clearly says about non-voting members,
'Such members shall have the same rights and duties as ordinary members (other than the right
to vote).'¹

I think it is a very important thing that non-voting members *are* non-voting members. They are
240 non-States' members and their vote should not be recorded in the minutes and it should not be
referred to in the report. So if you look on page 2146, in paragraph 1.7, it says at the top:

'Option 1 is supported by four Board members (one non-voting)'

There are three other mentions of that, and I think it is very important that we differentiate them
and their votes are not used to influence States' Members by being recorded in the report.

You could have the farcical situation where you have two non-States' members on a board and
245 you have two political members who are in favour of it, and if you follow this logic you then have
four board members in favour of something, which only includes two political members and three
non-political against, and you could base the report on that. I think it is a very important point
and I wish SACC to actually clarify it in the Rules, because it obviously does not seem to be
understood by Commerce & Employment, that they are non-voting.

250 Thank you.

The Bailiff: Well, I do not think I want to open a debate on the meaning of the Rules, but the
point is –

255 **Deputy Fallaize:** Can I just say SACC is happy to look at it in the way that Deputy Dorey suggests, but it is actually differentiated in the report. It is identified that one of the board members who is in favour, who is a Department member, is a non-voting member. So it is differentiated.

260 If a Department tried to submit a report where only a minority of the elected States' Members of the Department were in favour, it would clearly be laughed out of the States.

A Member: Could we have a recorded vote?

The Bailiff: A recorded vote? Yes.

265 Members, the Propositions are on page 2202. I remind you that they have not been amended and I will put to you first Proposition 1, which is to approve the removal of restrictions on the opening of shops on Sundays as set out in section 9 of the policy letter. So you are voting on Proposition 1: to remove restrictions on the opening of shops on Sundays as set out in section 9 of the policy letter.

There was a recorded vote.

Carried – Pour 25, Contre 19, Ne vote pas 0, Absent 2

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Kuttelwascher	Deputy Harwood	None	Deputy David Jones
Deputy Brehaut	Deputy Gollop		Deputy Le Tocq
Deputy Domaille	Deputy Bebb		
Deputy Langlois	Deputy Lester Queripel		
Deputy Robert Jones	Deputy Gillson		
Deputy Le Clerc	Deputy Le Pelley		
Deputy Sherbourne	Deputy Ogier		
Deputy Conder	Deputy Laurie Queripel		
Deputy St Pier	Deputy Spruce		
Deputy Stewart	Deputy Duquemin		
Deputy Trott	Deputy Dorey		
Deputy Fallaize	Deputy Paint		
Deputy Lowe	Deputy Adam		
Deputy Le Lièvre	Deputy Perrot		
Deputy Collins	Deputy Brouard		
Deputy Green	Deputy De Lisle		
Deputy James	Deputy Burford		
Deputy Wilkie	Deputy O'Hara		
Deputy Inglis	Alderney Rep. McKinley		
Deputy Soulsby			
Deputy Sillars			
Deputy Luxon			
Deputy Quin			
Deputy Hadley			
Alderney Rep. Jean			

270 **The Bailiff:** Members, the result of the voting on Proposition 1 was 25 in favour, with 19 against. I declare the Proposition carried.

And then Proposition 2: to direct the preparation of such legislation as may be necessary to give effect to the above decision with an intended implementation date of 11th December 2015. I put that to you.

275 I propose to go au voix unless anybody requests a recorded vote. Au voix, then, on Proposition 2. Those in favour; those against.

It will have to be a recorded vote.

There was a recorded vote.

Carried – Pour 25, Contre 19, Ne vote pas 0, Absent 2

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Kuttelwascher	Deputy Harwood	None	Deputy David Jones
Deputy Brehaut	Deputy Gollop		Deputy Le Tocq
Deputy Domaille	Deputy Bebb		
Deputy Langlois	Deputy Lester Queripel		
Deputy Robert Jones	Deputy Gillson		
Deputy Le Clerc	Deputy Le Pelley		
Deputy Sherbourne	Deputy Ogier		
Deputy Conder	Deputy Laurie Queripel		
Deputy St Pier	Deputy Spruce		
Deputy Stewart	Deputy Duquemin		
Deputy Trott	Deputy Dorey		
Deputy Fallaize	Deputy Paint		
Deputy Lowe	Deputy Adam		
Deputy Le Lièvre	Deputy Perrot		
Deputy Collins	Deputy Brouard		
Deputy Green	Deputy De Lisle		
Deputy James	Deputy Burford		
Deputy Wilkie	Deputy O'Hara		
Deputy Inglis	Alderney Rep. McKinley		
Deputy Soulsby			
Deputy Sillars			
Deputy Luxon			
Deputy Quin			
Deputy Hadley			
Alderney Rep. Jean			

The Bailiff: Members, the result of the vote on Proposition 2 was 25 in favour and 19 against. I declare that Proposition carried.

280 And the alternative Propositions 3 and 4 fall away, because they were only to be put to you if Propositions 1 and 2 are not approved and they have been approved. So that concludes the voting on the Sunday Trading Policy Letter.

PUBLIC SERVICES DEPARTMENT

XVII. Recovering Additional Cost Caused by Works in the Public Highway – Propositions carried

Article XVII.

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 8th July, 2015, of the Public Services Department, they are of the opinion:-

- 1. To note the contents of that Policy Letter.*
- 2. To note the intention of the Environment Department (in close co-operation with the Public Services Department) to make one or more Orders under section 3 of the Public Highways (Co-ordination of Temporary Road Closures etc.) (Guernsey) Law, 2003 which include provision for the introduction of charges to recover maintenance, repair, administration and inspection costs associated with loss of service life of the public highway due to excavation works and as further detailed in that policy letter.*

The Senior Deputy Greffier: Article XVII, Public Services Department – Recovering Additional Cost Caused by Works in the Public Highway.

285 **The Bailiff:** The debate will be opened by the Minister, Deputy Ogier.

Deputy Ogier: The States of Guernsey have a responsibility to protect public assets. The cost of replacing the Guernsey road network has been estimated at over £300 million. Therefore, the importance of keeping these assets in appropriate and well-maintained condition is of paramount importance to the PSD Department.

290 Roads are one of Guernsey's most essential pieces of infrastructure. They carry on where air and sea links leave off – 98% of goods come in by sea, but 100% arrive at your front door by road. Roads do not seem important until they are falling apart, at which time it is too late. Roads get us to work, roads give us access to the goods and services we need. The network delivers food to supermarkets and goods to shops. It is also vital for those travelling by bus or bicycle. Even those

295 who never drive, still rely on roads.

Now, the Department has worked very hard to find ways to improve its management of the roads in order to operate more efficiently, to do more with its money and to achieve the best value for money solutions. Last year it resurfaced many more square metres of road than in 2013 and its own resurfacing programme is now being planned and published three years in advance so that companies, such as utilities, can plan their own works around this.

300 All Departments are aware that funding is tight and we need to do more with less. The Guernsey Roads Division is no exception and without additional funding the backlog of several years' worth of works will continue to grow and roads will continue to deteriorate in the wet winters and stormy conditions. In the longer term our road network will deteriorate due to lack of maintenance investment, and if we do not act now to protect our assets it will cost future generations much greater sums to restore the roads to an acceptable level. It therefore represents good value for money to invest in the roads. But we can no longer rely exclusively on public money to undertake work that should be funded by those who shorten the life of our roads.

305 Excavations cause visual and structural damage. No matter how well the utility works are patched, they result in long-term deterioration of the road surface, which shortens their life. This then leads to increased maintenance and more frequent resurfacing, which adds greatly to long-term costs and results in a greater burden on the taxpayer. The accelerated deterioration also results in rougher roads and pavement surfaces, which can be dangerous to the more vulnerable road users such as cyclists, motorcyclists and the disabled, and will also lead to increased potholing.

310 Islanders rightly expect a good standard of roads, and after working hard to reduce our own costs to carry out more work with the public money allotted to us – and we have – this report is the next stage in ensuring public funds are focussed on improving our roads.

We propose that any project which involves digging in the road would incur a modest fixed charge to cover the costs of administration and inspections. There will also be a separate variable element which will be set according to the size of the excavation, the age of the road and the importance of the road to Island life.

315 This report's proposal of a charging structure to cover the cost of such long-term damage by those who excavate the road and shorten its life is an equitable proposal. The utilities consulted agree that this would be a fair recovery of actual costs, but it is not simply creating a charge to raise money to spend on roads. It is also about encouraging changes in behaviour that will save the public money in the long-term. These proposals are intended to extend the service life of our roads, not just to recover costs.

320 The charging scheme has been deliberately designed to provide a way for organisations to avoid any charge. Utilities could programme works in the three years before a road is resurfaced or work more closely together to co-ordinate works, or where appropriate use trenchless technologies which are already in use by some utilities, such as Guernsey Water. This will reduce the frequency of road works which in turn should improve the condition and life of the road network. It should also minimise the potential costs being passed onto customers. In those occasions where a road surface excavation does need to incur it ensures the costs of such incursion are recovered.

340 In developing its proposals, the Department recognised that it needed to gather the views and experience of those likely to be directly affected by them. This consultation has been used to inform and influence the development of these proposals and this approach has been welcomed by those consulted.

345 This engagement has also created better working partnerships and mutual understanding between Guernsey Roads and those who need to excavate in the roads. This is a proactive scheme, designed to save Islanders money through closer coordination between the utilities themselves, as well as Guernsey Roads, to enable better scheduling of road works. To encourage the use of trenchless technologies where appropriate, and to recover costs currently falling to the taxpayer where such excavations are required. This is to help halt the overall decline in Guernsey's road surfaces, put the cost with those who excavate the roads and thereby reduce the frequency of road works, poor surfaces and potholes.

350 The Public Services Department asks for Members' support for these proposals.

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

355 **Deputy Gollop:** I am aware, being on Environment, that we have looked at the matter of road charging and indeed we inherited that from the work that Minister Deputy Domaille had done, and Deputy Spruce and so on, and it is still very much on the agenda to look at.

I think it has to be carefully thought about, because we would not want to see draconian charges that either put off major infrastructural work, or worse ended up with significantly higher costs to the consumer, whether it be a personal or commercial user.

360 But nevertheless, it is a tool in the toolbox and actually this report has come at a apposite time, because with the proposed changes that the States' Reform Committee are undertaking, as I understand it, much of what is currently done by Roads will be integrated with the Environment Department – which perhaps is something that we could have done 20 years ago.

365 This report is interesting in that it shows that really there has been a real terms' reduction of maybe 20% in expenditure since 2000 on the roads, and that impact has been felt by consumers and motorists. And indeed perhaps one area where I am in partial agreement with the sentiments of the 'enough is enough' supporters, is that the roads have been seen to be visibly deteriorating in some parts – as well as car parks and other areas – and they feel that if they are paying more taxes as a motorist to support the State, then at least higher quality roads could be part of that picture.

370 I would also point out as a pedestrian that a lot of the footpaths which are an intrinsic part of roads have deteriorated, and we should not forget that – and there are some really bad parts, even in the heart of town. I noticed the report has pictures of Fountain Street and so on, and that has to be addressed as part of a bigger picture.

375 It is interesting too, the report notes that from 2014 onwards the Environment Department were a bit more parsimonious in road closure permissions, and I think that is really correct because the Island's business community and motoring public have had a lot to put up with and as we hear, it can affect trade to shops, taxi businesses, bus services and many others.

380 So I do welcome this report but I hope that the message it brings will be firmed up in the future and we will see more action on higher quality and environmentally efficient road surfaces, we will see integration with the traffic management for the future, and perhaps we will see an even more improved computerised road closure management programme – because even today it has to be admitted we sometimes see parallel roads closed, albeit some at very short notice. But I do not want to see the States' General Revenue neglect its duties to the infrastructure, so that we end up with a stealth tax upon consumers by the users. We must have a fair approach to long-term sustainable funding.

385 **The Bailiff:** Deputy Le Tocq, do you wish be *relevé*?

390 **The Chief Minister (Deputy Le Tocq):** Yes, please, sir.

The Bailiff: Thank you.
Deputy De Lisle.

Deputy De Lisle: Thank you, sir.

395 I support these proposals, as I believe that far too many roads are being dug up, far too frequently in order to support some of these service developments that I just wonder whether they are not duplicating and unnecessary.

400 Road works certainly are costing Guernsey hundreds of thousands of pounds in terms of lost working and business losses, which all adds of course to the cost of living generally in Guernsey. I would like consideration to be made actually, to return some of the money to traders and businesses affected by these works, which in many cases close roads and seriously affect businesses. In fact just in my area in the west, Forest Stores are seriously affected in the past few years by road works, and are currently seeing five weeks of road works along the Forest Road which will again take from the bottom line of that business. And Torteval Stores is closing – and
405 one of the reasons given is the result of frequent closures along the Torteval Road, which has led to a decline in business in that particular operation.

So whilst supporting these resolutions in this policy letter, I would also call for some of the money being paid out to those seriously affected businesses on the route ways.

Thank you, sir.

410 **The Bailiff:** Deputy Kuttelwascher.

Deputy Kuttelwascher: Thank you, sir.

415 Sir, we are only being asked to note these proposals and I am happy to do that, but also offer support for them and it is the only way we can go in the short to medium term. But I would like to point out there is a volume of work going on at the moment on the possibility of being able in the longer term to divert services from under the road.

I mean, if we started with a blank canvas that is the last place we would want to put them, and that would involve crossing, maybe, private land and fields and other things. So in the longer term
420 when services have to be renewed, if such a work programme comes to fruition, we should in the long term be able to avoid road closures, ultimately, altogether – but we will see how that pans out. From a legal point of view it is a very challenging volume of work that needs to be done, but I am hopeful that it will come to something.

Thank you, sir.

425 **The Bailiff:** Deputy Green and then Deputy Brehaut.

Deputy Green: Thank you, sir.

430 Sir, I too support this report. Clearly the charges that are envisaged are entirely avoidable with proper forward planning, and as the T&R Letter of Comment points out it is consistent with the user pays principles. So I have no problem with that.

More generally, sir, I support increased investment in our roads... as Deputy Gollop said, 'vital infrastructure'. The number of potholes on our roads never ceases to amaze me and I think that in more recent years has been due to a lack of resources if nothing else, and anything which will
435 correct that I think is to be supported.

I am particularly concerned about the state of our roads because we do not have the equivalent in Guernsey of the Highways Act. In Guernsey, if a pothole develops because of natural wear and tear and somebody has an accident as a result of that, and has an injury, there is no liability on the States in those circumstances –and that particular fact weighs heavily on my mind. I
440 think there is therefore a special responsibility on the States to do more, to make sure that

potholes are dealt with effectively and rapidly, to avoid that situation where there is no liability on the States for natural wear and tear leading to accidents.

445 Finally, I note the point about the intention to try to recover the costs under the 2003 Law and I would look for some clarity on this, because it would appear that the 2003 Law did not really envisage the idea of costs being recovered in relation to maintenance and repair. So I assume that we have to confirm that today and that is what we will be doing, but obviously the original law did not intend that scope. So I would be grateful just for clarification on that in debate, but otherwise I am totally supportive of this very pragmatic policy letter.

450 **The Bailiff:** Deputy Brehaut.

Deputy Brehaut: Thank you, sir.

455 I am just interested in what Deputy De Lisle said, because I think we often overlook the fact that roads are closed to improve internet connection, to make gas services safe, to improve the capability of electricity supply, so people and businesses living in that area are getting the services to their properties underpinned, made secure, improved. And it would be somewhat ironic to not only improve these services, but then expect the consumer to pay for that rather than the companies responsible.

460 I just wanted to pick up on what Deputy Gollop said with regard to pavements, because Guernsey's pavements are becoming the equivalent of hard shoulders in the UK. They are no longer a refuge for the pedestrian. They are no longer a safe haven. Astonishingly, some days ago when I was walking past that tight corner by the Les Bourgs Hospice, a car coming the other way – I was walking on the pavement – was flashing at me and I thought it was telling the car, perhaps, behind me to come through. It was not. They wanted me to move aside so they could continue on the pavement and I would not obstruct their path. I was more angry than surprised, because that is not uncommon.

470 The Foulon Road was due to be resurfaced recently, but actually the pavement took the priority, because so many people now as a matter of course when they are coming from the Route Isabelle and up the Foulon, opt to go on the pavement to make the corner. We all know at the Bailiffs Cross Road, most people drive down that road with two wheels on the pavements – and the Fosse Andre – that people now, whether it is the width of vehicles, whether it is the fact that people simply want to maintain their speed while they are driving, they tend to drive much more on the pavement than they have ever done before. And of course people tend not to walk, because people do not feel safe.

475 Now that, combined with the fact that people do not pick up hedge trimmings, the fact that street cleaning, road cleaning, is not as common as it used to be... If you are walking on a pavement the amount of debris, the amount of pieces of exhaust, the amount of indicator glass, the amount of broken bottles, the amount of cans... because pavements are not a priority. The roads have become a priority, to a degree.

480 Whilst it may be considered to be inconvenient and unpleasant to drive at times, with potholes, as a cyclist it is plain miserable trying to cycle sometimes, because the problem you face is you cannot go too close to the gutter because you know the drain covers are now broken and cracked, and you are trying to avoid potholes in the road and the impatient driver behind you believes you are being belligerent because you have adopted the middle of the road – but you have to do that in the interests of your own safety and to ensure you do not get a puncture.

485 There a number of contributing factors with the erosion of roads that are overlooked, I think. Part of the responsibility is on the Environment Department in perhaps a peculiar way. The volume of people that have given permission to pave their gardens that have now become parking, and when people do that they take all the water for the surface runoff for the entire property or for their property onto the road, which creates the huge standing water problem particularly in parts of St. Peter Port. So then, you try walking on a pavement when you have such volumes of water that the cars are trying to drive through.

Also, the Home Department have a responsibility here... We know that resources are tight, we know that, but the volume of people that can drive on the pavement, even near schools with impunity, knowing that nobody is going to stop them, knowing that it is an offence, knowing that they should not maintain that speed but still do it. Why? Because nobody is going to stop them doing it. If the Police just had more of a presence and discouraged it.

And I have to say, walking here today the amount of people – I am digressing – sat in cars, slowly rolling forward, texting or messaging and occasionally looking up to see where they are going, that too is an offence. So I hope the Home Department will do something with regard to that.

But our roads are in a terrible condition generally, it is an inconvenience if you are a motorist but it is just plain miserable if you are a cyclist, and please let's put some focus or try and reallocate some resource into regular street cleaning and ensuring that the pavements are safe for pedestrians too.

Thank you.

The Bailiff: Does anyone else...?

Yes, Deputy Brouard.

Deputy Brouard: Thank you, sir.

If I could just reinforce Deputy Brehaut's concern about pavements and cleaning. Certainly out in the other parishes we do not get the same street cleaning that they do in St Peter Port, but we are trying to encourage people to *use* the pavements as much as possible.

The other thing is, sir, we have had a few issues out west where we have got some major roads being refurbished and I just sometimes wonder if perhaps the money would be better spent on sorting out some of the potholes instead. So we may be spending £100,000 or £200,000 on resurfacing a whole stretch of road, however, that money spread out repairing the pot holes as a separate issue, may be a better use of the resource.

I just wonder if Deputy Ogier would be happy to agree that he would come out to the west to have a look at some roads and actually walk them with me, and we can see whether it is actually worthwhile completely resurfacing – or whether a better use of money may be actually to do the potholes, and then maybe when we have got more money to do the full resurface?

Thank you, sir.

The Bailiff: I see no one else rising.

Deputy Ogier, do you wish to reply to the debate?

Can you put your microphone on.

Deputy Ogier: Thank you, sir. I thank Members for their general support.

Deputy Gollop does not want to see draconian charges, but the charges that we are implementing in this report have been consulted with the utilities and they have agreed that they are a fair and equitable set of proposals.

He says that spending has been reduced in real terms over the past few years, in line with a general spending freeze and this is having a detrimental effect on our roads. This is true. This is something that the Public Services Department have already highlighted and are taking steps to remedy, including becoming more efficient so we can do more with less – which we are doing – but also bringing this report with its many advantages.

Deputy De Lisle supports the proposals and believes far too many roads are being dug up far too frequently and he mentions the idea of losses to businesses. Well, reducing the frequency of road works, which this report will help to achieve, will help the businesses on the Island but he wants Government to charge a punitive rate which will be introduced by PSD on the utilities, where businesses may be affected – and I will *pass* on his idea. No, sorry I will *pass on* his idea. *(Laughter)*

545 Deputy Green supports the report and believes the charges are avoidable, which they are. He
berates the incidents of potholes and points to the lack of resources as the cause, but it is also the
unintended consequences of other actions such as having numerous telecom operators on the
Island who have been known to dig up the same road to lay similar cabling, as they have been
unable to reach a sharing arrangement for infrastructure or trenching. We have also had serious
550 programmes of main drains which have caused road surfaces to require early replacement over
the last decade or so. The supervision of reinstatements has improved and standards are
improving, so this is helping us ensure that those trenches that are laid in the public road surface
are put back in a much better way and give a much longer term to the roads that have previously
been enjoyed. So there are a variety of causes and a variety of remedies that we have and which
555 we are implementing, and this report is one of those remedies.

Deputy Brouard talks about maybe refocussing our investment towards potholes instead of the
road surfaces, and this is a conversation I have had with the technical advisers on the roads. What
they advise – which is what makes sense to me – is if we refocus and reprioritise our investment
on the potholes, all those road surfaces are busy eroding and degrading across the Island, which
560 will in turn cause more potholes. So actually refocussing onto dealing with those potholes as they
crop up is not in the best long-term interests of the road network, because repairing the roads
and resurfacing the roads long term, leads to much fewer potholes. So our investment is better
being put in to patch the potholes temporarily but to continue maintaining that road resurfacing
network, which will reap much longer-term benefits.

565 That is not to say potholes are not important, they clearly are. Part of our budget is set aside to
deal with the potholes, but refocussing our spend on dealing with every single pothole when it
occurs and really going to town on the potholes, would mean that we would lose focus on that
longer-term road maintenance which is more important to reduce the frequency of potholes.

I thank the Assembly for its support.

570 Thank you.

The Bailiff: Thank you.

Members, there are two Propositions on page 2238. I put both Propositions to you together.
Those in favour; those against.

Members voted Pour.

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

COMMERCE & EMPLOYMENT DEPARTMENT

XVIII. Purchase of a Replacement Fisheries Patrol Vessel – Debate commenced

Article XVIII.

The States are asked to decide:

*Whether, after consideration of the Policy Letter dated 2nd July, 2015, of the Commerce and
Employment Department, they are of the opinion:*

- 1. To approve the purchase of a replacement Sea Fisheries Patrol Vessel by the Commerce and
Employment Department at a cost not exceeding £2.625 million (to be adjusted for exchange
rate fluctuation and variation in proceeds from the sale of the Leopardess).*
- 2. To authorise the Commerce and Employment Department to continue exclusive negotiations
with Damen Shipbuilders BV to finalise the vessel construction contract.*

3. To delegate authority to the Treasury and Resources Department to approve the Full Business Case, award the contract to Damen Shipbuilders BV and open a Capital Vote not exceeding £2.625 million (to be adjusted for exchange fluctuations and variation in proceeds from the sale of the Leopardess) charged to the Capital Reserve.

The Senior Deputy Greffier: Article XVIII, Commerce & Employment Department – Purchase of a Replacement Fisheries Patrol Vessel.

The Bailiff: And the debate will be opened by the Minister, Deputy Stewart.

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Deputy Stewart: Mr Bailiff, fellow States' Members, there are some fundamental and far-reaching questions which have been raised during the run up to this debate. These have been raised in the press and through social media. As we all know sometimes the victim often in these situations is, indeed, the facts.

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Worryingly I think the integrity and skill of some senior officers and the validity, robustness of the SCIP process has also been brought into question by some – a process followed to the letter by Commerce & Employment.

590

Now Deputy Fallaize – and it is a shame he is not sitting there – will probably enjoy what I am going to say next. There is a process here and I believe it is a robust process, and that process should in my view – and has been – followed to the letter. So there you have it. I have been assimilated and I am now a process monkey as well.

595

All of us who have dealt with T&R and the SCIP process know how tough it is. The officers are no pushover and I certainly know that it has been a tough and sometimes frustrating experience for our officers at Sea Fisheries as they put this business case together, and that is what this is in front of you today. It is a business case.

So are we arguing about the process here or are we arguing about the business case which sits before you? Or is it both? Or is this an argument which is that we should buy local, even if it is unproven and does not really fit in with what we actually require?

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So if we may, let's look at that process which started back in 2012. The proposal to procure a replacement patrol vessel has been, and continues to be, progressed through the States' Capital Investment Portfolio System, which aims to ensure that taxpayers' money is used wisely on needed purchases, providing the States and the taxpayer the best value for money.

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In this process, Commerce & Employment has had to make a convincing case justifying the project, covering both the need for a fisheries vessel and its replacement. So we start off on the basis do we actually even *need* a fisheries vessel? And then a costed analysis to show that the right vessel is being proposed to achieve all of the identified needs of the States of Guernsey and finally that an appropriate procurement route is followed.

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Now the Commerce & Employment Department, supported by Treasury & Resources Department, has been focussed on ensuring that the project delivers the right vessel and also ensures that the best value for money is obtained. And the SCIP process required the Department to undertake an evidenced expressions of interest process to test the market. The outcome of this process, designed to ensure that an open approach to procurement is used, is detailed within the policy letter you have in front on you. This was the subject of external review prior to an exemption to tender being granted more than 12 months into this project.

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So why replace? Well, the proposal to replace with a new vessel is not based on age, but on a careful analysis of the total cost to the Island. The vessel can be refitted and maintained, but at a cost, and calculations shown in the policy letter and business case clearly demonstrate that replacement now is the lowest cost option. It is a little like us, and I am having that debate with myself at the moment: I have an old car, do I wait until the clutch goes next year or do I trade it in now? Do I replace the shock absorbers? We all do those calculations ourselves.

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If it was not the lowest cost option then the proposal would not have been supported in any of the various project reviews or by the board of the Commerce & Employment, or by Treasury &

Resources Department. (**A Member:** Hear, hear.) And it is anticipated that if the project goes forward as proposed, the existing vessel will be part-exchanged making the most of its residual value. It will be subsequently refitted and sold for use somewhere in the world.

Now, around the publicity for this – because this has been no States' secret, this has been out there since 2012. The project was made public in outline formally, I suppose, in August 2013 and an expression of interest process was used back in May 2014 to test the market and see which boatyards were capable of building a proven – and I say a *proven* – patrol vessel, and interested in this project. A total of 10 yards were identified and written to requesting the information on potential vessels and providing an outline specification, and details were all contained in the outline business case. It should be noted that the process included Aquastar, despite the acknowledged fact that the local yard had built GRP boats and mainly pleasure boats and the basic vessel specification called for an aluminium hull.

Now, the expression of interest – the EoI process – was supported by a visit from an officer from C&E Sea Fisheries Section to Aquastar in May 2014. This gave the local yard, in a way, a bit of an inside track because no other yards were visited, but also an opportunity to develop, question and refine the yard's EoI submission. During these discussions it was made clear that the Department's officers would at that stage be willing to look at other hull constructions methods, if suitably *detailed* information was provided – suitably detailed information was provided. All companies in the EoI process that had not replied to the Department, were contacted again in July 2014.

Let's talk about this aluminium hull because a lot of what we have heard in the last two weeks is focussed around that. Commerce & Employment and Sea Fisheries are well aware that GRP is popular and an often-used hull construction technique, but the judgment was made on 17 years' experience that an aluminium hull – as successfully used in the *Leopardess*, the current patrol vessel – offered greater durability, resilience and if needed in the coming years, adaptability.

Commerce & Employment took into consideration that its fisheries patrol vessel has to stand alone, with little opportunity for backup and so it was necessary to balance operational risk and a proven design against the benefits for the Island from the use of a local boatyard. And I would mention around that backup, if a lifeboat is damaged they can get another lifeboat – they can get another one, there are lifeboats that they can get hold of with very, very short notice. We do not have that luxury with a specialised Sea Fisheries protection vessel.

And it is true: the *Leopardess* hull did suffer from corrosion and did require precautionary maintenance to the hull and that was done at absolutely no cost, under warranty. And I would say that the technology around protecting aluminium hulls from corrosion has advanced enormously in the last 17 years.

So let's look at the two hulls. Aluminium: it is lightweight, therefore it is much more efficient to operate. It is durable, it does not hole easily even when hit by the odd stray cruise liner tender, as we witnessed this summer. (*Interjections*) Whoops – I wandered off-script there a bit!

It is resilient –

The Bailiff: Deputy Harwood has a point of correction.

Deputy Harwood: Sir, in Deputy Stewart's absence perhaps earlier this week, this matter was discussed. I think it was the Minister of Public Services Department actually said there was no conclusive evidence that it was caused by a tender.

Deputy Stewart: I stand corrected, sir... by a boat, this summer, in the harbour.

It is resilient. There are no special tools or moulds required – actually to fix it, a hammer and a bit of paint might be sufficient to put forward or right dents. The construction methods are similar to steel. It is easy to repair without specialist skills or equipment and can be repaired with normal fabrication equipment, which is widely available on the Island. So if we need to fix a dent it can be done here. More than likely in most cases it would be done here, unless it was a really severe ding.

675 It is adaptable, the vessel can be modified without major structural issues. That has been done
on the *Leopardess*, they had to modify the hull on that to install enhanced fire-fighting facilities.
Aluminium is widely used for work patrol boats because of that durability, so it is proven
elsewhere around the world. And it has worked well for us, we got 17 years' worth of data and
experience. So we are confident around aluminium hulls and experienced – and arguably a higher
680 re-sale value in the future. And it is no more difficult to maintain. The corrosion in the *Leopardess*
was dealt with in 2007 under warranty. The survey in 2012 confirmed the problem had been
solved and the new boats are even better, as I said.

And for those of you that are concerned about the environment, an aluminium hull is
recyclable – GRP hulls go in a hole in the ground.

685 GRP: so let us look at that. There are high tooling mould costs, it makes one-off builds
expensive, but that aspect clearly would be covered and something for a tender process, if you
actually got that. It needs complex construction methods to avoid excess weight – obviously we
need to be minded around fuel consumption. The high quality control needed during
construction to ensure the structural integrity of a laminated hull is really important and it is easy
690 to damage, and of course with a Sea Fisheries Protection Vessel, there are instances where you are
perhaps in the course of your duty deliberately rammed or bumped up against.

There is also potential time off station is arguably a much greater risk. We do not have a back-
up Sea Fisheries vessel, that keeping it on-station all time is hugely important. It is difficult to
repair without specialist skills and equipment and it is difficult to modify without special tooling. It
695 is true though, local yards do build these boats.

Well over 50 vessels of the type that we are looking from the Dutch shipyard, are in service at
the moment – 50 vessels by Dutch, German fisheries or police authorities. Fifty vessels – we have
tried them, we have been on them, we know their capabilities. We have talked to the people that
own them: 'Are these vessels giving you good service? Is the yard giving you good back-up?'
700 These are certainties. This is real evidence.

Now, looking at maybe keeping it in service and looking around maintenance cost estimates,
marine engineers had advised that the current engines in our current vessel were approaching the
end of their serviceable lives. I will point out that these marine engineers were *local* marine
engineers. So local marine engineers advised that the current engines in the *Leopardess* were
705 approaching the end of their serviceable lives.

We sought quotations for engine replacement as part of our contingency planning and
replacement engines of a modern and efficient type – the Volvo Penta D30 series – were priced at
around £125,000 each. The best estimate of the cost of replacement of the engines was: two
engines £250,000; fitting, vessel modifications £110,000; contingencies £40,000. The cost was
710 cross-checked against the experience of the Dutch Customs Service, who operate the sister vessel
to the *Leopardess*, which was the subject of a €1 million refit in 2013.

So even changing those engines, we can test it, we know what it has cost on an exactly like-
for-like vessel.

Let's talk about the use of local yards. Commerce & Employment absolutely supports the use
715 of local suppliers. Why on earth wouldn't we? If we can buy local, if local suppliers – and I am not
just talking about sea fisheries' vessels here. If we can use local suppliers of course we would, and
of course our Civil Servants are minded to. Most of them are Islanders too. They have their
children, their grandchildren here, they want to put money into the economy. And I think most of
us will try and buy local wherever we can, if it suits our requirements.

720 The Department has made use of local yards and suppliers in the past for routine maintenance
of the *Leopardess* and of course the RIB which is launched off the back of it, and is advised by a
local marine engineering firm. The process of specifying equipment to be fitted to a new vessel
has prioritised, and so what we have tried to do is prioritised equipment that can be supplied and
maintained by local companies. So whether it is some of the firefighting or the electronics within
725 the vessel, we have tried to choose things wherever possible they can be maintained by local
companies. And whilst the Department seeks to make the best use of local resourcing, it also

730 supports the principle that the Island must invest its limited financial resources in the most appropriate vessel for the task to be required of it, taking into account *all* of the costs, *all* of the requirements and more importantly all of the risks, to try and get some certainty around what we are spending.

735 The question that has been raised is: did we deal with Aquastar correctly and in accordance with procedure? Well, the project team followed all due process accordingly and this has been confirmed by our colleagues at Treasury & Resources. Aquastar was included in the EoI process and this was supported, as I have mentioned before, by a visit by a member of our project team to meet with them and discuss the requirement. They were told in the same way that other interested boat builders were told, that the project team *would* accept a variance in the design specification – in other words they knew that a GRP proposal *would* be looked at. And even though we did say aluminium was preferred, we were prepared to look at it and we were prepared to listen.

740 In response, Aquastar's submission was not compliant... and we are back to the process now, because there is a process, because that process must be transparent, it must be open to scrutiny. And that process – and I can see Deputy Fallaize nodding, and he never thought I would say this – that process must be followed.

745 So in response, Aquastar's submission was not compliant. What they sent us was a brief overview of the types of vessel they build, essentially photographs. They explained that they had a 60-foot Cara Marine jet drive vessel in operation and were building, and due to have in service, a 60-foot shaft driven model in operation by September 2014. But no further information relating to the specification, build time, costs or operational costs was supplied, as required – and as was supplied by *three* other yards. That is on page 2330 of your Billet.

750 From a personal perspective I really do not understand why, after nearly 18 months and on the publication of a Billet, that suddenly Aquastar come forward with their claims. I had a visit myself, about 18 months ago, where it was quite obvious they were very busy and were building, amongst other boats, a fabulous pleasure craft – I mean it was really fantastic. And they do build, there is no doubt about it, fabulous pleasure craft.

755 They were building this boat, it was a very big boat, it was for a high net worth individual and the specifications were enormously high. Geoff Wilson himself gave me a tour of the yard and then took me aboard in the harbour, one of their finished vessels, which again was an absolutely beautiful boat and beautifully finished. And something that I absolutely acknowledge and we all can acknowledge, and internationally Aquastar are acknowledged, of building high quality pleasure craft.

760 In common with these visits I always leave my card and I am very proud of the access to Government that we give all industry, and I always make the point that my mobile number is on that card – and I always say at those meetings, 'There is my card, there is my mobile number. If you ever have any problems, please ring me.' To date, I have not received a call.

765 And I was actually unaware until the brouhaha blew up on Facebook and in the press, that there were any issues around what I thought until then was basically a routine SCIP proposal. Commerce & Employment had followed the regulations, we had worked with T&R, it had been through our board, it had been through the process. And until a few weeks ago, I had no idea.

770 In common with you, fellow Members, I am a policymaker. To me a boat has a blunt end and it has got a sharp end. I have no qualifications, absolutely no expertise in boatbuilding. I do, however, believe that due process has been followed and that this Assembly has in front of it a credible policy letter laid before it, with a sensible and logical argument based on evidence from people with the relevant professional qualifications and expertise and based on 17 years of data, knowledge, invoice and servicing, back-up from existing yard, repairing it under warranty – all the above.

775 We can of course re-examine this process, with all the costs and opportunity costs – and there will be further costs if we have to now re-examine this. Opportunity costs of officers' time,

because they then spend more time on this project rather than other projects which are pressing. And my view to now revisit it – and it is the view of my board – is unnecessary.

780 The question before you is: do we look at buying something that is not even on the drawing board at the moment? Or do we look at a vessel where some 50 are in service, being hammered every day, where we have been on them, we have seen their sea-keeping qualities, we have spoken to the people that use them? And they have given us their third party, absolutely independent assessment, of what is good and what is bad.

785 Finally I just say, as much as I am sure we all want to support local business and within this whole new vessel proposal, we will get as much as we can locally and we will make sure as much of this vessel and its ancillary equipment can be serviced locally. But are you prepared to risk taxpayers' money on a one-off process? And I have to ask you, do you believe that both Commerce & Employment and T&R have been diligent in going through this SCIP process, as I
790 believe they have?

Thank you, sir.

The Bailiff: Deputy Soulsby, you have circulated a sursis. Do you wish to lay that sursis?

795 **Deputy Soulsby:** I certainly do, sir.

The Bailiff: Now is the time to do so, then. Do you wish to read it or have it read, or move on?

Deputy Soulsby: I will read it.

800

The Bailiff: You will read it. Thank you.

Sursis:

To sursis the Article until the March 2016 meeting of the States of Deliberation, and, in the meantime, to direct Commerce and Employment:

A. As part of the SCIP process, to commission an independent survey report of the Leopardess by a suitably qualified marine surveyor as to her present condition and as to her likely future maintenance costs, in order to establish whether she needs replacing now or whether it would be economically more sensible for her to remain in commission and be the subject of appropriate maintenance.

B. To seek appropriate authority to release funding for the above independent survey from the Capital Reserve.

C. If, as a result of the survey, it is concluded by the Department that the Leopardess requires replacement, to re-open the tender process so as to include any local boatbuilders who can demonstrate the ability to build commercial vessels, and to widen the specification so as not to exclude glassfibre composite for the hull, and to amend the Outline Business Case accordingly.

D. To report back to the States by the March 2016 meeting of the States of Deliberation, such report to include the independent survey noted above.

Deputy Soulsby: Sir, Members will be aware of the concerns that have been raised by various parties as to the recommendations within this policy letter since it was published. Whilst we have to be cognisant of the fact that some may have a financial interest in a different decision, that has
805 certainly not been the case of the vast majority.

I am laying a sursis because of the uncertainties arising, not only from the representations made by those with marine expertise, but also from the contents of this report. Firstly, I question the immediate need for replacement. According to the outline business case attached to this report the vessel was surveyed by – excuse my pronunciation – Van Woerkom, Nobles & Ten Veen
810 in 2012 who concluded that, 'She is in good, to very good condition for her age. The... engines

and hull life could last for a further 10 years... if she is maintained to the highest standards... ' And unsurprisingly with age can come 'an increasing risk of age related failure.'

815 I therefore question the urgency of a replacement now. Those with a knowledge of the vessel believe that with the appropriate planned maintenance, the risk of age-related failure and emergency repairs is reduced and that there are many serviceable years ahead for the *Leopardess*. This is a vessel that only undertakes 600 to 700 running hours a year. To replace a vessel in such a condition concerns me, that the best value for money option has not been chosen.

820 Secondly, I am concerned that the tender process did not give a sufficient opportunity for local businesses to tender. The decision to choose an aluminium hull at an early stage, as well as the fact that the requirement for prior experience meant that all other potential bidders were effectively disqualified, does not bother me that due process has not been followed and therefore the best value for money option has not been chosen. Commerce & Employment, of all Departments, has a duty of care to ensure that local businesses are given every opportunity to do the work they want. After all, its mission statement is, 'To strive for the creation and maintenance

825 of a dynamic and diversified economy for the benefit of the island community'. And surely marine trades are areas of expertise we should be encouraging.

Thirdly, I have concerns over the costings that have been used in the policy letter as follows: capital costs that calculate increase at higher than the rate of inflation, but maintenance costs are not. It is unclear why that is the case. Option 6 is to replace at the end of the vessel's design life in

830 2018, but capital expenditure is included into 2019 and 2020.

Similarly, option 8 is to replace in seven years' time, but capital expenditure is shown in 2022 and 2023. Both changes would reduce the capital costs and maintenance over the period. The level of maintenance from refit costs are not explained. In terms of the refit, it is unclear whether this has been assessed by an independent surveyor or a marine engineer.

835 Now, the outline business case states that the costs of the *Leopardess* since 2007 have been approximately £500,000, but it is not clear whether all these costs arise from general maintenance or include specific one-off incidents that should be excluded in any assessment of the costs of running the vessel.

840 There are also other uncertainties that arise from claims that have been made by local marine experts who hear that engines could be procured at significantly less cost than quoted in the report, with the work being able to be done here. The outline business case shows on page 2335 that the difference between the discounted total whole life cost of option 6 and option 8 is only £170,245 or 4% of total cost, which could be considered negligible given the uncertainty surrounding estimates, such as a discount rate of 3½% compound for MPV, building inflation,

845 which has been set at 6%, and the maintenance cost.

850 These issues raise enough uncertainty to me that we should not be making any decision today to approve the recommendations in this report. And given the fact that we have a funding deficit on the Capital Reserve I believe extra care and caution is needed to ensure we do not approve a project which may not be of the highest priority. Whilst we could just reject the recommendations, this will give no direction to Commerce & Employment. Accordingly, this sursis seeks to have the Department commission an independent survey to establish the *Leopardess's* present condition and future likely maintenance costs, to see whether she should be replaced now or not. At the same time, it also makes sure that if replacement is found necessary that the tender process is reopened.

855 I request that Members support this sursis.

The Bailiff: Deputy Burford, do you formally second the –

Deputy Burford: I do, sir.

860

The Bailiff: Right. Members, I remind you that under Rule 13(5) debate must now be limited strictly to the sursis, and that no other issues relating to the matter should be debated until the sursis has been voted upon.

865 Deputy Stewart, either you or a Member of your Department has the right to speak now. I know Deputy Trott is itching to speak. Do you wish any other Member of your Department to speak before he does?

Deputy Stewart: No. I am happy for Deputy Trott to speak, sir.

870 **The Bailiff:** Deputy Trott will speak next, then.

Deputy Trott: Thank you, sir.

Sir, this sursis is completely bonkers – of that there is little doubt.

875 I would like to start by asking the Chairman of the Public Accounts Committee whether she has indeed followed best practice herself? I would like her to tell me when she has spoken with staff at the Commerce & Employment Department. I would like her to tell me when she has spoken to staff at the Treasury & Resources Department. And I would like her to tell me how she enjoyed the pre-debate workshop that was offered by the Commerce & Employment.

880 Now, sir, I know the answers to these questions (*Laughter*) but I think it would be better if we hear from Deputy Soulsby personally – and I will be delighted to provide the answers later if she is unwilling to.

885 Sir, in a nutshell why is this sursis bonkers? Well, number one, it will induce delay and cost. Number two, it completely ignores the advice of the Treasury & Resources Department and their Procurement Team that have respectively endorsed and approved the processes used. Sir, the proposed tendering process in the sursis, element C, would be contrary to procurement policy that we have set, and best practice. The States has agreed not to bias any procurement process in this way. And, sir, if there is evidence that the process followed has not been open and transparent or has treated someone unfairly, then it should be abandoned and started over again as a new process, not a reopened procurement as proposed – and there is much evidence over
890 the years of how quickly we become unstuck.

Now, sir, Deputy Stewart, in his opening remarks, said that he was no expert on boat building and neither am I – I am a lifetime *user* of boats of all sizes. And neither am I an expert on procurement but fortunately, sir, the Treasury & Resources Department employ people who *are* and this what they had to say... And it is really worrying, if I am going to be honest with you, sir –
895 it is. It distresses me particularly that this amendment should come from someone who is responsible as Chairman of the PAC, or *Chairperson* of the PAC, for a significant mandate.

This is what the Procurement Department at T&R say, 'As I understand it, the procurement process followed to date is sound and compliant with the existing rules and policy. Local boat builders were offered the opportunity to submit proposals on how they could meet the needs and Aquastar were included in this process and, indeed, were visited and given the added benefit of having a discussion with the Department, during which it was confirmed a proposal for a GRP hull would be acceptable. I understand Aquastar failed to deliver any such proposal.'

900 These are the words of the Procurement Team, sir. 'I believe there are no grounds to abandon the current process.' No grounds to abandon the current process. 'It is not unusual for a buyer to revisit their need, especially when the acquisition process takes time to reaffirm the requirement still exists. This is not, however, sufficient grounds to abandon the existing tender process. Therefore, we should continue with the process from the position we have reached now.'

910 Now, Treasury & Resources Department's Procurement Team go on to say, sir, 'If there is evidence that the process followed has not been open and transparent or has treated someone unfairly, then it should be abandoned and started again as a new process, not a reopened procurement. The suggestion that we must specifically include local boat builders is contrary to

procurement policy and best practice, as agreed by this Assembly. The States has agreed not to bias any procurement process towards...'

915 Now, I could go on, sir, but it is the same message over and over again. To paraphrase, sir, they are saying, the professionals, this is barking and they are advising the States to have no truck with it. There is much more information that I could impart now, sir, and maybe other members of Treasury & Resources and Commerce & Employment will seek to do so, but I think I have said enough – or at least I should have said enough – to convince the States to reject this sursis immediately.

920 Thank you, sir.

The Bailiff: Deputy St Pier.

Deputy St. Pier: Thank you, sir.

925 Sir, on this issue the Treasury & Resources Department are wearing several hats. First of all, of course, we are the guardians of the States' Capital Investment Portfolio process which of course has been approved by this Assembly. We also of course have our general financial oversight hat on as well. And thirdly, as Deputy Trott has pointed out, we are the Department in which corporate procurement sits and so we are the Department that provides the procurement rules, advice and guidance. And I can confirm what the Commerce & Employment Minister has said and indeed, Deputy Trott, in response to the sursis, which is that due process has been followed. It has been meticulously followed.

930
935 The Treasury & Resources Department considered this business case in May, but we have also looked at it again within the last couple of weeks to test and retest the whole issue and, in particular, our role as the guardians of the process with our general financial oversight hat on and with our corporate procurement hat on, that all ground has been properly followed. And I would agree with Deputy Trott that there are no grounds to abandon this process at this point, albeit that I think that ignores the political reality in which the Department finds itself.

940 The procurement rules actually preclude any feedback being given on the expressions of interest and so again meticulously following that advice, no feedback was given on the expression of interest and in particular in relation to Aquastar. It is fair to say that their expression of interest was not as high a quality as the others that had been received. Now, it might have been beneficial to have allowed that feedback to have been given in some way, because I think that would have eliminated many of the concerns which now are apparent.

945 A couple of years ago, sir, the local tender rules were changed to ensure that an appropriate weighting was given for local tenderers in the tender process, and that of course was welcomed within this Assembly and indeed by the commercial sector in our community. My board have now asked as a learning experience from this process, that we should now look at whether and how the procurement rules could be changed to allow a sensible dialogue to be had with local tenderers without undermining the credibility of the procurement process, because it is very important in order that we achieve value for money, that we do have a robust, defensible process.

950 Having said all of that we are firmly of the view that the States Capital Investment Process must not be so rigid that we cannot pause to ensure we have got value for money, and that of course is exactly what this Assembly has chosen to do with the La Mare de Carteret project. And Treasury & Resources are deeply concerned that the wrong decision will be reached for the wrong reasons. So for that reason, sir, we have advised Commerce & Employment that in our view it would be better for them to withdraw this policy letter to allow more time for them to explain the work that had been undertaken, and to try and address any perceived loose ends and to return to this Assembly in a month or so, quite possibly with exactly the same policy letter, but Commerce & Employment would then stay in control of the process.

960 Now, I do understand Commerce & Employment's wish not to do so, but our view is that the sursis would actually be better than losing the whole report and project. And Deputy Trott, speaking on behalf of the Department, has said that the sursis is 'bonkers' which I think is exactly

965 why the Department should withdraw, because if we follow the Commerce & Employment
Department's advice as given to us by Deputy Trott on behalf of the Department and reject the
sursis, then the project will be lost and the wrong decision will have been reached for the wrong
reasons. This, sir, feels to me a little bit like Charge of the Light Brigade stuff. I think it would be
better for the Department to withdraw the letter, it will enable them to manage bidders in a more
controlled fashion than having a sursis forced upon the Department. I think not to withdraw does
970 feel if I may say so, sir, a little petulant.

But I think it is fair to say that we, sir, do have reservations about the sursis. I think we could
well end up with the same recommendation, but just have incurred more costs in getting there. I
think to achieve a survey and a new tender and the outline business case by the end of this year
so that it can return for a mid-March debate, is again probably unachievable. And I think the
975 reference to 'demonstrate the ability to build commercial vessels', it would also perhaps have
been better to have a reference to a track record as well, because I think that is important for a
vessel that we are going to rely on. We do not necessarily want to be the first.

Sir, if Commerce & Employment will not withdraw and avoid being deliberately rammed or
bumped into, to coin Deputy Stewart's phrase, then Treasury & Resources will reluctantly – and I
980 have to say probably very reluctantly – support the sursis. I think there is still time for Commerce
& Employment to withdraw even at this late hour, and I do urge them to consider doing so and if
necessary to seek an adjournment if needed, and I hope the Assembly would still permit them to
do so if that is the course of action they choose to take.

985 **Two Members:** Hear, hear.

The Bailiff: Deputy Brouard and then Deputy Burford.

Deputy Brouard: Thank you, sir.

990 I do not think I am hearing straight today, sir. Is Treasury saying to me that the processes that
we have all put in place, and made them the guardians and gatekeepers of, are not robust
enough? That is exactly what I have just heard, sir, and I think that is terrible. We have been
criticised so often in the past for our procurement methods, that somebody comes along at the
last minute who says, 'We can do it faster, better, quicker' – and then we all fall apart.

995 We have been putting these processes in over the last seven or eight years to ensure we do
not get to the position that Treasury seem to think we are at today. We have a SCIP process which
goes right to the raw basic start of, 'Do we need to do this particular thing in the first place?' Right
the way through to, 'Yes, this is the vessel, or the school, that we want' – or whatever it is.

1000 We make sure that our process is ethically fair, that we have the knowledge and resource to
objectively look at it. We make sure that it has got value for money. I just cannot understand why
the Chairman of the Accounts Committee is putting forward something which goes against all the
proposals that you would expect them to do, because when you look at the proposals that we
have in the SCIP it goes through a myriad of different things, testing out every single aspect of the
procurement process – and then to come at the last minute from leftfield and say, 'Oh, you forgot
1005 about Fred.'

No, Fred was included in right at the very beginning. Unfortunately, that particular company
did not go through to the final part. That is why we have the processes in place. If you want to
throw all that out and it is just going to be, 'Well, Uncle Fred will do it next time. No trouble at all.'
We can just scrap the processes. We have put T&R in charge of our process, they are gatekeepers
1010 and they have gone through it properly. They did not come back to me last week or three or four
weeks ago to say, 'Oh by the way SCIP process does not look too good at the moment.' They are
robustly behind it and in fact they have written half my speech here and I am just going to touch
on it now, because they have actually written this.

'In September 2013, the States agreed that the replacement of the Fisheries Protection Vessel be assigned as a category A project and classified as a pipeline project for funding from the Capital Reserve. The proposal submitted by the Commerce and Employment Department at that time included an indicative cost (at 2013 values) of £2.7 million. In May 2015, the Treasury and Resources Department considered and endorsed the Outline Business Case submitted by the Commerce and Employment Department for the purchase of a replacement Fisheries Protection Vessel. The Outline Business Case is a very comprehensive document which clearly sets out the conclusions and recommendations of the detailed investigative work undertaken by the Commerce and Employment Department in determining the most appropriate way forward for the purchase of a replacement Fisheries Patrol Vessel.'

1015 I appreciate not everyone is involved here, but certainly from the Ministers' point of view, who are bumping up against the SCIP process, it is a pretty tough process to get through.

'As a consequence of favourable movements in exchange rate, it is anticipated that the cost of this project will be no more than £2.625 million, which is below the cost indicated in 2013 and, therefore, the predicted shortfall in funding within the Capital Reserve to meet the estimated cost of all of the portfolio, will reduce slightly. The Treasury and Resources Department will continue to work closely with the Commerce and Employment Department as this project progresses...'

It does not say, 'And progresses to a sursis.' (*Laughter*)

Then when we look at the other guardians of this process where we are all working together: the Policy Council.

'The Policy Council supports the proposals in this Policy Letter and confirms that it complies with the Principles of Good Governance as defined in Billet d'État IV of 2011.'

1020 Now, I took the opportunity – and I am not going to do it, because it is not fair on people – of going through *Hansard* and my goodness you should see some of the words some of you people are saying in support of the SCIP process to make sure... And especially those from Deputy Soulsby and Deputy St. Pier... showing the virtues of going through the SCIP process, the way that we should be acquiring goods – and not this 'on the back of a fag packet' 'last minute, I can do it faster, quicker, better' which is where we have got into problems in the past and it is the very
1025 process that we put in. What message do you think this is going to send out to other suppliers? You can spend hours, years... and sometimes some of these contracts are not cheap to put together your proposal. A business has to take a view, is it worth our while putting together a business case? It may cost tens of thousands of pounds to do so.

1030 What message do we send out to those firms? 'It is not worth going to the States, because Deputy Soulsby will bring up a sursis at the last minute and somebody else will get it.' What a way to run a Government. (**Several Members:** Hear, hear.) We have put these policies in place and I am very, very disappointed in Treasury & Resources for starting to knock their knees together as they get a little bit nervous. You should be supporting your staff and the process in place.

1035 And of course Deputy Stewart is absolutely right. Why wouldn't Commerce & Employment want to have the boat built locally? Of course we would. *Of course we would.* But that was not the way it has turned out. So please, we have got a process in place, reject this sursis. It will put us back 10 years.

Thank you, sir.

1040 **The Bailiff:** Deputy Burford.

Deputy Burford: Thank you, sir.

I agree with the Treasury Minister and I am seconding this sursis in the absence of this policy letter being withdrawn, which I believe would be a preferable option.

1045 I do not for a minute underestimate the work that Commerce & Employment have put into this policy letter and I am absolutely certain that they have followed the procedures of the States and the SCIP process in order to produce what we have before us today, and I would also like to thank the staff at Commerce & Employment who have responded to my numerous questions.

1050 However, I have agreed to second this sursis because it is quite clear that some Members of
this Assembly and many people in our community, including those IN various marine trades, are
not satisfied that the proposals in this policy letter are the right ones. One can understand
Commerce & Employment's irritation when having followed a process laid down by this Assembly,
people come forward at the eleventh hour with new ideas and suggestions. Much has been
1055 written in e-mails and in the media about a possible role for a local boat builder and it is clear that
more proactive stance from them earlier in the process would have been extremely useful. (**Two
Members:** Hear, hear).

Due process has indeed to be followed, but sometimes one has to revisit aspects of the
process. To quote W. Edwards Deming:

'Your system is perfectly designed to give you the results you are getting.'

1060 It may be the case with further explanation and dialogue, that Commerce & Employment
return in some months with an identical policy letter and Members feel that various outstanding
issues have been explored sufficiently in order for support to be given. I am not certain that we
are at that place yet.

1065 I will outline just a couple of points that concern me. The cost of purchasing an aluminium
boat by Damen has risen by 6% per annum since the *Leopardess* was purchased. This is significant
because this rate has been used going forward and in option 8 it adds a projected £1.15 million to
the capital cost of deferring replacement until 2022. Indeed the financial argument for
replacement now would appear to be almost entirely driven by this projected inflation rate.
Clearly if the price of something is rising quickly it is better to buy it sooner, but if the price of
1070 aluminium boats is accelerating ahead of other price indices so fast then perhaps that is also good
reasons to look at other materials rather than just resort to buying an aluminium boat quickly.
Interestingly, although the cost of aluminium itself has been volatile, in the period since the
Leopardess was commissioned until today prices of the commodity have only risen by about 20%
or less than 1% per annum.

1075 The other issue is that the various options in the Billet in the real world, have different end
dates. However, I am advised that it is a requirement of the SCIP to use a common end date as
has been done – and I could see why this would be so. But I would nevertheless like to see a
sensitivity analysis using different common end dates and also different inflation rates.

1080 I am supporting this sursis to allow more time to consider different options, even if we end up
going forward with plan A. We need time to carefully address the concerns of Islanders and local
industry and to instil confidence that whichever route we take on the Fisheries Patrol Vessel is the
right one, a confidence which does not exist at present and which I believe is unlikely to be
achieved today.

Thank you.

1085 **The Bailiff:** Deputy Fallaize and then Deputy Lester Queripel.

Deputy Fallaize: Thank you, sir.

1090 In fairness to Deputy St. Pier, I think what he is probably saying is that in taking *realpolitik* into
account, concerns have been raised which will resonate with a sufficient number of Members, that
if the Commerce & Employment Department do not withdraw their report they are running the
risk of losing it and that it would be better for them to as it were, retire gracefully and temporarily
rather than push the States into giving the Department an answer they may not like. (**A Member:**
Hear, hear.)

1095 However, I think that Deputy Brouard generally made a very good speech in that it is
somewhat concerning to come to a States' debate and for the States to get involved in wanting to
reopen a tender process, because the tender process has not given the answer which a particular
company wants. And we are now running the risk – and I thought this was the risk of the sursis –

of the States debating what sort of boat should be purchased, what the thing should be made out of, who should be making it, etc. Now that really is not what we are here to do.

1100 We are here to scrutinise the proposals that Commerce & Employment have put before the States. We are here to give consideration to whether the proposals offer value for money. We are here to decide whether a replacement Sea Fisheries vessel should be purchased. Now I think I came in this morning expecting that I would probably support the sursis, but one of the characteristics of this States that it does not share with its predecessors is that it is overly kind. 1105 (*Laughter*). Oh it is true... and it is represented – I hope he does not mind me saying this – most of all by the Treasury & Resources Minister, who is much kinder than all of his predecessors and is always looking for ways to assist other Departments.

1110 Actually, if the States are not satisfied with either the process that has been followed or with the case that has been set out for the Sea Fisheries vessel, the correct course of action really is just to chuck it out. That really would be the appropriate way for the Assembly to behave – (**Two Members:** Absolutely.) rather than messing around with the process itself, because if the sursis is accepted I think what the States are saying is, 'We think there is the need for a replacement Sea Fisheries' vessel, or we are not really sure that the process of procurement has been followed correctly' – even though we know that it has been really, because getting through T&R SCIP 1115 process is... almost no capital project can get through it. So the fact that this one has must say something.

1120 But concerns have been raised at the eleventh hour by one of the failed tenderers and we are nervous about that, particularly because it is a local company and therefore there could be something wrong with the process... and even though we know there really is not, we want to give some kind of comfort to the community that we are prepared to send Commerce & Employment around the houses again. And the other thing is that Commerce & Employment are likely to come back with similar proposals. I mean, if you look at the terms of the amendment it is commissioning an independent survey, but who is going to commission the independent survey? The very Department which is putting the proposals to the States in the first place.

1125 So I think the conclusion I have probably reached... what I am saying is I do not think the States ought to be debating the very fine details of the replacement Sea Fisheries vessel. Now I personally am not convinced that we need to replace the Sea Fisheries' vessel. (**A Member:** Hear, hear.) I am not convinced that this policy letter sets out a sound case for the expenditure of £2.625 million. I am concerned about the opportunity cost. My view, having applied the level of 1130 scrutiny I am able to apply to this policy letter, is that we could likely spend £2.625 million better than is set out in these Propositions.

1135 But that is not really an argument for voting in favour of the sursis. Potentially if we vote for the sursis, there will be expenditure incurred having an independent report, then Commerce & Employment will come back with exactly the same Propositions and the States may well find themselves voting for them at greater cost than they are presented before the States today.

1140 So I can see what the sursis is trying to achieve. I actually suggested to Deputy Soulsby – I had better say this before she does, when she sums up – that it might be better to lay a sursis than to write to the Commerce & Employment Department asking them to withdraw their report, because I know there was a letter being circulated asking States' Members if they would be prepared to sign it, which was asking the Department to withdraw the report. It came to me to make up the numbers when I do not think enough other Members had indicated that they would –

Deputy Soulsby: Point of correction, sir.

1145 I did distribute a letter and I had the support of over the half the Assembly before I approached Deputy Fallaize.

Deputy Fallaize: Well, okay, congratulations to Deputy Soulsby. But I was approached some days after Members were saying, 'Are you going to be signing Deputy Soulsby's letter?' So, I had

1150 rather concluded that I was in the category of loyal supporters of Deputy Stewart and Commerce & Employment, which is slightly unfamiliar territory.

But actually although I think the sursis is probably preferable to asking the Department to withdraw the thing by an internal letter, I think on balance the States ought to decide either basically, whether the Sea Fisheries vessel needs to be replaced at this time or whether it does not need to be replaced. If it needs to be replaced, then we have to back the processes which we and States' Committees have put in place to procure capital equipment. If we are not persuaded of the case to replace the Sea Fisheries' vessel, really we ought to just reject the proposal.

I will give way to Deputy Bebb, because that is always –

Deputy Bebb: I thank Deputy Fallaize for giving way.

1160 Could I ask to also give consideration that, if the sursis is successful today that realistically this States has sent a message that we probably need to revisit the whole of the SCIP process?

Deputy Fallaize: Probably, I think so. I do not really know how else one would... I think all the points that Deputy Brouard made about the process were correct.

1165 We cannot run a capital procurement process on the floor of the Assembly. We clearly cannot do that and I think the sursis originates out of the inherent kindness of this Assembly not to want to reject outright proposals that it faces. But sometimes – and Deputy Bebb has made this point himself – the States do need simply to kick out proposals that Departments and Committees lay before them. We should do it in respect of milk distribution later on... (*Laughter*) (**A Member:** Hear, hear.)

1170 I will give way to Deputy Trott.

Deputy Trott: Sir, I am very grateful because I wondered if my knowledgeable friend was aware that our cousins in Jersey experimented with preferential tender treatment for Jersey projects under something called the Regulation of Undertakings Law and they threw it out following its consummate failure.

Deputy Fallaize: I was not aware of that but I thank Deputy Trott for his interjection, and of course our processes do provide weighting to local companies and many of us have argued for that for some time and that has been introduced in the procurement process.

So on balance I do not think we can effectively pass a vote of no confidence in our own procurement process. If we are not persuaded of the need for the proposals in this Billet, just chuck them out.

1185 **The Bailiff:** Deputy Lester Queripel and then Deputy Perrot.

Deputy Lester Queripel: Sir, I have not been in the best of health recently but I will not bore you with the details. I am sure you will be delighted to hear I am getting back on track, sir.

1190 **The Bailiff:** Indeed.

Deputy Lester Queripel: And I am going to support this sursis and I would like to explain to the Assembly, sir, why I am supporting it.

1195 One day whilst I was laying in my sick bed with my Billet, (*Laughter and interjections*) I got to thinking about this whole *Leopardess* issue and I spent a considerable amount of time analysing it, pulling it to pieces and then trying to put the pieces back together again. But the more I tried to put the pieces back together, the more the pieces did not seem to fit. And the reason the pieces did not seem to fit was because I did not feel as though I was fully informed – and we always say in this Chamber that we need to be fully informed to enable us to make a decision when we come to vote.

1200

The reason I did not feel fully informed was because I had not been fully informed. Up until that point I had been getting so many mixed messages, I could not possibly be expected to know what the facts were – and I may have even been misinformed for all I know. How could I know? There were so many unanswered questions.

1205 Questions such as, is a replacement actually needed at this moment in time? If we need a new boat, what type of boat do we need and who is capable of building that boat? What type of material will need to be used to build it and how much is it going to cost? All extremely fundamental questions, sir – one of which were really answered in the C&E report, in my view. Surely, if we are to be fully informed to be able to obtain value for money for the taxpayer, those questions do need to be answered. And, sir, I have the utmost respect for the Department, but I do find myself wondering if there has been some kind of communication problem going on here.

1210 In closing, sir, I am a great believer in keeping as much business as possible on Island and as we can all see, element C of the sursis directs C&E to:

‘... re-open the tender process so as to include any local boatbuilders who can demonstrate the ability to build commercial vessels.’

1215 And on that note I would just like to say that I had the pleasure of being part of a States’ delegation on a recent visit to Alderney and in a shop window in the town I noticed a sign which said, ‘Buy Local or it is Bye Local.’ And I certainly resonate with that, sir. So I urge my colleagues to support this sursis.

1220 **The Bailiff:** Deputy Perrot and then Deputy Brehaut.

A Member: Thank you, sir.

1225 **Deputy Perrot:** I am deeply troubled by what is happening in respect of both the policy letter and this sursis. I will be supporting the sursis, but for me being a member of the Treasury board there is a real problem here, because I do believe in the SCIP process. I do think that the old system whereby the first to get in an application for a capital project was likely to get that capital project through at the expense of somebody who had perhaps a [*Inaudible*] project, but put it through at a later stage. So I think that capital priority – I am sorry.

1230 **A Member:** Could you bring it a bit closer to you. Just bring it a bit closer to you.

Deputy Perrot: Oh, was I not speaking... I am sorry if I was not speaking loudly enough. As I am deaf I cannot hear myself terribly well. (*Laughter*)

1235 So what we have here is a policy letter and a project which I have to accept went through all due process properly. I do not think anybody can argue with that and I certainly do not. But the real problem is that as far as I am concerned, the political reality is that information has come to me – it has come to all Members of the Assembly – and that leaves me with doubts as to whether this indeed is the right project. I am now not sure that the *Leopardess* does need to be replaced.

1240 I am not sure that we cannot have a vessel which with proper care can go for very many years in the future. For me this has been something of a wake-up call, because I am on the Treasury board so I have accepted the passage of this policy – but I now have *real doubts* about it. And that is why I thought... Incidentally, I commend the measured approach taken by the Treasury Minister, not because I am sucking up to him but because he has been the object of some harsh criticism, not least from my – what does Deputy Trott say – my great friend, Deputy Brouard. And I think that criticism was over-harsh. I think that the Minister’s speech was very measured.

1245 I also commend the approach which was originally taken by Deputy Soulsby because she wanted to write a letter asking Commerce & Employment to hold back on this policy letter so that this policy could be looked at again. I think certainly reputationally for the States, that would have

1250 been the better way to do it and it is a great pity that she was not able – or she did not feel able – to go through that and therefore went through with this sursis.

I think that Aquastar – because that is what we are talking about – in large measure anyway, quite apart from process... And I agree with Deputy Fallaize that we are not here to design the boat or to choose who the manufacturer might be or to say what sort of engines are in it, but I do think that although Aquastar did not engage properly at the outset, sufficient doubt has arisen for it at least to be allowed to have its say. And I think that it is worthy of there being a delay. I use rather coarse language here but for Aquastar either to prove itself or hang itself.

1255 It was wrong I think to write to Commerce & Employment in such a disengaged way, but now I think it ought to be given the benefit of the doubt in the sense that it ought to be able- if it can – to make out a case.

1260 The facts which... they are not facts they are assertions. The *information* which I have received and which I think other people have received, have come not just from Aquastar itself as a potentially interested party, but actually from a boat surveyor who I respect mightily, and what he says chimes with me because he is questioning several things. He is questioning whether the *Leopardess* really does need replacement, and what he is saying, it was a kind of –

1265 **The Bailiff:** Deputy Brouard.

Deputy Brouard: I thank Deputy Perrot for giving way, sir.

1270 The point I was trying... and if I was I pass my apologies to the Treasury Minister... but we have put the Treasury Minister and the Treasury Department in charge of running our process and the very fact, in the business case development part, we go through five cases. The strategic case or the business case that we go into great detail with, with Treasury, demonstrate that the project is supported by a clearly defined case for change, which fits the States' objectives. There is an economic case, there is a commercial case, there is financial –

1275 **Deputy Perrot:** And how can I argue against that, sir?

Deputy Brouard: The point I was trying to make –

1280 **The Bailiff:** I think you have given way, so I think you have to allow him to have his say now, Mr Perrot.

Deputy Brouard: The point is, sir –

1285 **Deputy Perrot:** I was not giving way. I thought it was a point of correction. (*Laughter*)

The Bailiff: It was not!

1290 **Deputy Perrot:** In that case, I will stand up again! (*Laughter*)

The Bailiff: Well you gave way, I am afraid!

Deputy Brouard: A lot of the points that Deputy Perrot is making, sir, are all part of the strategic business case. As Deputy Soulsby will know from the accounts side of things and also from the Treasury's point of view, all these things are meant to be teased out by the SCIP process. That is why we have the SCIP process, sir.

So it is a little bit strange to hear now members of Treasury saying that they did not think it passed. If we need to change the SCIP process, fair enough. You know, hands up.

1300 **Deputy Perrot:** I rise again, sir. Is it appropriate during an intervention, for there to be in effect a second speech on the same subject from somebody who has spoken before? That does not seem to me to be the right way –

1305 **The Bailiff:** The purpose of giving way is to advance the debate rather than to reiterate points that have already been made in the debate – I think that is the purpose of a give way rule, to enable the debate to be advanced and progressed.

And Deputy Brouard was perhaps moving on to reiterate points that he had already made.

1310 **Deputy Perrot:** It was about half an hour ago, sir, I have rather forgotten where I was before Deputy Brouard intervened, but I think that I was saying that the surveyor was questioning whether the *Leopardess* really did need replacement.... Finished the theatre?

1315 That did chime with me because all of us will have considerable experience, even the Commerce & Employment Minister who does not know the blunt end of a boat from the sharp end of a boat will know, anecdotally at least, that boats of all sorts of materials will last for a very long time indeed.

1320 When I think of the boats in which I am interested, which are wooden boats, they actually last well over 100 years if they are looked after properly. My own boat... you might just as well know this... why not, it adds a bit of levelling to the tone... which was built in 1968 I think is better now than it was at the date of launching. It is all to do with making sure that you look after the vessel. So that was the point which the surveyor was making.

He was also commenting on the cost – if the vessel does indeed need replacement – of whether it could be done more cheaply locally than is proposed by Commerce & Employment. So on those two bases I think we ought to allow there to be some time for this to be reviewed.

1325 Now, I know the SCIP process is something which we have all signed up to and we have endorsed, and yes Treasury & Resources are the people with whom this process now reposes. But it does seem to me that the SCIP process – which incidentally is in its fairly early days... I think that if a process is over-ponderous or over-bureaucratic and is unable to respond to information which comes into the public domain, then that process... yes, is flawed. And if someone is saying that we need to look again at the SCIP process, well maybe that is what we have got to do.

1330 I have great sympathy for Commerce & Employment. Rather, as Deputy Brouard is clearly doing... I would spitting tin tacks if I had brought a policy letter to the States and something was being raised in opposition to it by way of a sursis right at the last moment. So it is not too late.

1335 I would say to Commerce & Employment, do not let 'committee-itis' set in. You are not going to lose anything, you are not going to lose *face* by doing it. You are going to be observing *realpolitik* if you simply withdraw this policy letter for the moment, look into the matters which have been raised and then bring it back before the States. But if you are *not* prepared to do that then I will be supporting Deputy Soulsby's sursis.

1340 **The Bailiff:** Deputy Brehaut.

A Member: Oh dear! (*Laughter*)

Deputy Brehaut: Thank you, it is a very brief speech, sir.

1345 I was out walking the other day. I was at home on Sunday and I ran out of screws (*Laughter*) and I –

A Member: We are using rivets on the *Leopardess*, sir! (*Laughter*)

1350 **Deputy Brehaut:** And in meeting members of the public... and I have to say I sent an e-mail to Deputy Stewart some weeks ago saying that I would be supporting this States' report, but I think

things – with the *realpolitik* that people have referred to – do change. And there has been a failure on both parties... on *numerous* parties here.

1355 I think it is somewhat embarrassing for Aquastar to start canvassing Deputies in the manner that they did two weeks, perhaps ten days, before a vote to air their concerns, when the SCIP process had been live forever and the tender process had been established. And also the Guernsey Confederation of Business, or whatever they are... I mean *two days* before a debate to raise concerns about a process and feeling they were representing aggrieved parties, is simply... And bearing in mind the time now... the date on which Billets are published anyway.

1360 But that aside, we can say today that we have got absolute faith in the SCIP process – we can say that. But some are not saying that... thank you, Deputy Bebb. But generally speaking we can say that we broadly have faith in the SCIP process - but do the community have faith in that process and do they understand? Clearly boat builders don't, marine engineers don't, surveyors don't – and the marine trade generally don't.

1365 Now, what it will mean is that if we do not support the sursis and we back Commerce & Employment, that new boat will represent a failure of a process. And we know what this small community is like... that the States went against the grain, they went with a vessel that is not fit for these waters, I don't know... or that is not the right vessel and that it could it have been manufactured locally. It will be said. It does not matter whether it is a huge success or otherwise that would be the way that the community view it.

1370 And I think that Captain Stewart this morning – with his now first mate, Deputy Trott – that that heading out in 'HMS Brinkmanship' into stormy political waters... (*Laughter*) All I would suggest to them – and it is a serious point, despite the manner it is being delivered perhaps – is just return to the safe haven of the Members' Room. Please do that, give it some thought and leave here today... I know pride may come before a fall, but please reflect, take some time – I am about to sit down, Deputy Stewart – and reflect on whether you want to press ahead with the risk today that you could leave here and lose something that you believe is of real value to you.

1375 Thank you.

The Bailiff: Deputy Harwood, then Deputy Le Pelley, Deputy Sherbourne and Deputy Hadley.

1380 **Deputy Harwood:** Thank you, sir.

1385 Can I say that I will support this sursis... I suppose out of kindness, because the alternative would be just to chuck out the entire policy letter. In supporting the sursis I am not questioning the SCIP process. The process, itself, I believe, has been gone through... (*Laughter and interjections*) Hold on, hold on. Nor am I actually challenging the procurement process. The procurement process has gone through due process, but it had been based on certain assumptions and it is those assumptions – and it is a lack of challenge to those assumptions – that I believe shows the flaw in the initial outline business case.

1390 Those assumptions were firstly, that the design life of the *Leopardess* was only 20 years. What evidence is there for that? Secondly, there was the even more ridiculous assumption that if you re-engine the boat it would only extend it by five years. All the financial projections are therefore based on those assumptions. That has driven the whole SCIP process and it is not altogether surprising that therefore the financial figures that have been produced, based on those assumptions – and there is no evidence those assumptions have been challenged – it is not surprising the process has actually turned out... 'Yes, we have to go back to the Dutch yard and build a new *Leopardess*.'

1395 So it is the *assumptions* that were never challenged. And as Deputy Perrot said, there are surveyors who are now saying that actually those assumptions are probably flawed. And I agree. The flaw in the process was that there was no challenge to those assumptions at the outset.

1400 There was another assumption which was put in, which again does impact the procurement process, which was the assumption it should be a replacement with another aluminium vessel.

Now, I am not technically competent to know whether or not that makes sense, but that was clearly another assumption that figured very early on in the SCIP process.

1405 So, I will support the sursis. Again like others I would strongly urge the Minister of Commerce & Employment to withdraw this policy letter, (**A Member:** Hear, hear.) but if he does not I will support the sursis.

Thank you, sir.

The Bailiff: Deputy Le Pelley.

1410

Deputy Le Pelley: Thank you, sir.

Deputy Harwood has covered much of what I intended to say. So whilst I get my thoughts back together, I will give way to Deputy Trott.

1415 **Deputy Trott:** That is very kind of you, Deputy Le Pelley. (*Laughter*)

Because I wondered... rules are rules, sir – whether you, Deputy Le Pelley and others, were aware of what an utter laughing stock that the Treasury & Resources Department are making of themselves when they talk about issues to do with the business case. (**A Member:** Shame.)

1420 On page 2259, sir, the business case proposes *three options*. Now, the option 6, the 'do-nothing option –

The Bailiff: Is this a speech, Deputy Trott?

Several Members: Speech!

1425

Deputy Trott: He has given way, sir. It is an entirely legitimate point, sir.

Deputy Soulsby: Point of order, Deputy Le Pelley did not say anything for which Deputy Trott should have reason to stand up.

1430

Deputy Fallaize: But, sir, with respect that is not up to Deputy Soulsby. Deputy Le Pelley has given way and Deputy Trott is now advancing the debate. What he is about to say may be complete rubbish – but that is not the point. (*Laughter*).

1435 **Deputy Trott:** That is the rule. (**A Member:** That is rule.) I do not make the rules. (*Interjections*)

The Bailiff: What the Rule 12(6A) says, is that:

'A Member who wishes to make an interjection relevant to the point being made by the Member speaking...'

I do not think that Deputy Le Pelley had had a chance to make a point yet, (*Laughter*) so I am not sure how you can know that what you about to say is relevant to the point that he is making (*Laughter*).

1440

Deputy Le Pelley.

Deputy Fallaize: Sir, he said. He had made a point. He said that Deputy Harwood had said much of what he was intending to say. So Deputy Trott has asked him to give way and he is making points in relation to that first point that Deputy Le Pelley made, isn't he?

1445

Deputy Trott: And much of what Deputy Harwood had to say related to the outline business case and in particular the information quite clearly described on page 2259. And on page 2259, Option 6 the 'Do Nothing' option, has an estimated cost of £4.75 million. Option 7: Replace the Vessel Now', has an estimated cost of around £4 million.

1450

I will not give way, sir! (*Laughter*) Option 8 –

The Bailiff: I think, Deputy Perrot is making a point of order.

1455 **Deputy Trott:** You cannot give way when you have already been –

The Bailiff: Deputy Perrot is making a point of order.

Deputy Trott: Oh, I see.

1460 **Deputy Perrot:** Point of order. Although, clearly, Deputy Fallaize would like to be sitting in your chair, (*Laughter*) he is not and I thought that you had already ruled that Deputy Le Pelley should be speaking. So Deputy Trott, it seems to me, is having a *third* bite at the cherry.

The Bailiff: He is having a further bite of the cherry.

1465 **Deputy Perrot:** Two of which were illegal.

The Bailiff: I think Deputy Le Pelley needs to be given the chance to make the point that he wishes to make. (**A Member:** Hear, hear).

1470 Deputy Le Pelley.

Deputy Le Pelley: Thank you, sir.

1475 I have actually approached the Minister for Commerce & Employment and suggested that he and his board withdraw this document, because I think it is important that they control their own destiny. It is likely that they are going to have that destiny taken away from them and something else that they may not want be imposed upon them.

1480 I have also been speaking to the proposer of the sursis and my initial response is to actually support the sursis. However, my real argument is about whether we actually need the *Leopardess* replaced at this point in time and I am *not* convinced – a long way short of being convinced – that we do need to spend that kind of money on the boat at this particular point in time. I think, from what Deputy Fallaize has said, perhaps my position is that I should not be... and I would take advice from further debate – perhaps I should not be supporting the sursis, I should just be voting against the proposals. (*Interjections*)

I listen to what carries on in future.

1485 Thank you.

The Bailiff: I will allow the Chief Minister to speak and then Deputy Sherbourne.

1490 **Deputy Le Tocq:** Sir, I am concerned that this debate is getting exactly into the sort of territories that Deputy Fallaize was talking about before and we are now beginning to try and do a sort of committee work which is... hence the people standing up and sitting down and interjecting all the time.

1495 We have a process. I cannot support this sursis because I think there is a simple way of dealing with it: if you have concerns that issues have been raised very much at the last minute certainly to most us, by members of the public and by local companies, then vote against the Propositions. That is way to deal with it.

1500 I cannot support the sursis because, one, it would I think automatically draw serious questions over the SCIP process for other projects in the SCIP process... and I would like to remind Members of the Assembly, we agreed it as a States. We agreed it as an Assembly to put this project in Category A of the SCIP process only a couple of years ago, and it has been through that process and we may need to look at the process, but that is really a matter for Treasury to come back with proposals on. In fact we should be not be doing it over this particular issue.

1505 I cannot support this sursis, sir. I do think that there is perhaps good reason to vote against the Propositions, which would mean that Commerce & Employment do need to think about this again if they want to do so. However, when it came to Policy Council, when it came before us, we checked for due process and it had gone through the process in accordance with the desires of this Assembly, sir. And we looked at the options that they had, we agreed that they had gone by the book. They had abided by those sorts of proposals and therefore what is before us today is on that basis.

1510 The role of this Assembly is to either agree that it should be built in this manner or not, and I think the costs of further surveys and further questions over the process would not be good governance for us and would not be send out a good signal – and would have implications elsewhere in terms of other capital projects that we want to do.

1515 So, sir, I think there is a simple answer for those that are not happy, and are happy perhaps to have these sort of last minute questionings by members of the public. And that sort of thing, sir, whilst I think some have spoken against it, in other areas people would argue that that is the beauty of our democracy, that things can arise at the last minute and there is an element of *realpolitik* about it, I agree with that. But I cannot support this sursis and I would encourage other Members not to support it either.

1520 Thank you.

The Bailiff: Deputy Sherbourne.

Deputy Sherbourne: Thank you, sir.

1525 I am a long-term supporter of C&E and I totally accept that they have carried their responsibilities with regard to the recommendations that are before us. However, I would like to say to Deputy Stewart, welcome to Education's world! (*Laughter*) It was quite pleasing to hear our Treasury Minister – who I have a great regard for – casting some doubt upon the SCIP process or parts of it perhaps, but more so the procurement process which we know is flawed and does need a close look.

1530 Deputy Harwood expressed, extremely well, how I feel and that was followed up by Deputy Perrot's comments. For me, my main concern is the *need*: whether there is a great need to replace the *Leopardess* at the moment. In fact during Deputy Stewart's opening address, he did mention what had actually happened in Holland to her sister ship – I believe there was €1 million refit. I do not know how long that sister ship is likely to serve the Dutch Government, but it will probably be for some years. €1 million, according to today's rates, is £738,500 and I am much more inclined to accept that expenditure at the moment for the maintenance of our existing *Leopardess*.

1535 So I think that is an issue. I do not particularly want to support the sursis, although I do actually understand where it is coming from, and I would try and urge the Minister to take note of the comments people have made and withdraw for the time being.

Two Members: Hear, hear.

The Bailiff: Deputy Hadley and then Deputy Domaille.

1545 **Deputy Hadley:** Mr Bailiff, I was feeling a bit bruised after yesterday having in the absence of my Minister led the Department into two defeats, but I am quite cheered up by today – (*Laughter*) because the whole affair is like a comedy act.

1550 I would like to say that I really do compliment Deputy Soulsby on her powers of persuasion, because yesterday she managed to get this Assembly, by a huge majority, to agree to commission a *really* expensive report by an independent person in total defiance of Rule 15(2).

Now, Deputy Perrot – (*Interjections*) or whatever it is – has in the past criticised me for suspending the Rules of Procedure. Well we do not need to bother in future we will just ignore them! (*Laughter*) And now we are debating a sursis against a Department that has done

1555 everything absolutely correctly – (**Several Members:** Hear, hear) has produced an excellent paper and instead of which we are going to sursis it until March.

1560 Now, what will happen in March? This is already an overloaded agenda for March. It is the last sitting of the Assembly. We will not give this issue the proper consideration it deserves. It will not be properly debated. So if you shelve it to March all you are doing is absolutely wrecking the process and making us look stupid in eyes of most people on this Island. So I do urge this Assembly to reject the sursis.

The Bailiff: Deputy Domaille, then Deputy Gillson.

1565 **Deputy Domaille:** Thank you, sir.

I really do wish Commerce & Employment would take the advice and withdraw the report, but there we go that is their choice.

1570 I think the point is, it is here... and I have no doubt at all that Commerce & Employment and T&R have followed the process. I have no doubt about that. But how Deputy Harwood referred to it is at the start, if you get the judgment wrong – even if you follow the process – the answer will be wrong. Now, actually the process... and I have done various processes in a previous existence... but one of the first things you make sure you always do if this is going to be a robust process, then at the end of every stage you step back and you look at it and you say, 'Look, is this sensible? Is this feeling right? Is this sensible?'

1575 And it is right to do that and if you do not think it is sensible then you go back to the beginning, or whatever – and that applies even at the conclusion. And that in this case is this Assembly's role, to step back and say, 'Is this feeling right? Does it seem sensible?' And everything that has been said today, including in the press or whatever, leads me to think that no, I am not convinced.

1580 It is even more important that you take this step back if you are not going to get competitive tenders, because you are actually looking... We want to be sure we are getting value and if you are not seeking competitive tenders it is very difficult to be *sure* you are getting value. It can be done, there is no doubt about that, but you have got to be very sure about that.

1585 And like others, I am not a professional boat builder, I would not know. But what I do know is that aluminium and GRP are both proven materials for boat building. There can be no argument about that. With regard to GRP it is actually used to build war ships, so I find it difficult for it to be ruled out at an early stage, although I do take on board what Deputy Stewart said.

1590 So really, in conclusion, I am saying I think whilst the process has been followed, it is for this Assembly to step back and say, 'Is this right?' Now, I do not think it feels right to me. I think the Department should go back and I am sure it can come back and then probably convince the Assembly or whatever. If it will not withdraw it, then I am actually going to follow Deputy St Pier's advice and I am going to vote for the sursis, but I do have to say that if the sursis falls I will not be supporting the proposals.

Thank you.

1595

The Bailiff: Deputy Gillson.

Deputy Gillson: Sir, thank you.

1600 I urge Commerce & Employment, please withdraw this report. There are three possible ways a vote can go and you lose each one.

1605 If the sursis passes, you have lost. If the sursis fails, we come to the main vote and you could lose it. And if we come to the main vote and even you win it you are going to lose in the long term, because whatever boat you get will always have question marks. Whatever you call it, it will be known as the White Elephantess. So long term, you cannot win this. Please withdraw that report.

Several Members: Hear, hear.

The Bailiff: Deputy Gollop.

1610

Deputy Gollop: I would support the sursis, too.

I must admit that Deputy Fallaize is rather right that, in supporting the sursis, one does more than stop an unpopular project for further consideration. One does pose questions over the current States' procurement process – and I indeed think that maybe the system we have got is
1615 overly bureaucratic, is not politically sensitive enough and is not responsible enough to the Guernsey economy. We replaced, as Deputy Perrot and others have observed, a system that was not working and replaced it with one that perhaps is not quite fit for purpose either. But with this... [A mobile phone rings] oh, I seem to be like a doctor on message today. (**A Member:** It's mine, it's mine!) I hope it is not one of the boat builders!

1620

I am not supporting the sursis, because I believe that a local provider could and *would* be the best possible person for that. I do not think that is the purpose. The sursis is to gain more evidence, more time for reflection and there could well be solutions out there that might involve a partnership, a joint enterprise. We should be cautious about supporting a project that has had such significant opposition.

1625

I happen to believe that Commerce & Employment have been placed in an extremely difficult position, because their mandate incorporates not just Sea Fisheries' protection but the promotion for the best possible interests of Guernsey Commerce and Industry and that has added another dimension to this. But a cooling-off period whereby we had an independent survey would give us additional information we require about the condition, about the refurbishment that has already
1630 been mentioned – the option of going for a refit – and indeed as to whether the good arguments that were raised in the original report that a replacement vessel could be useful for the States in other respects such as the Home Department, despite what Deputy Gillson has just said. We actually need an evaluation of the cost benefit analysis of that.

1630

So for all those reasons, I would rather go for the sursis than a complete defeat of the project, because the project *may* have value to it but the sursis is the right way to proceed at the moment.

1635

The Bailiff: Deputy Bebb.

Deputy Bebb: Thank you, Mr le Bailli.

1640

I actually do not think that Commerce & Employment *should* withdraw this and I urge Members to vote against this sursis. I think much of what Deputy Fallaize said at the beginning holds true, that I have yet to hear someone say that what they actually want from this debate is another report. It seems that what we have is, 'I am not sure in relation to the report, so a sursis is a convenient way out.' But what a sursis means is spending more money on a report that will
1645 come back and may well give the same result.

1645

Another reason to reject this sursis, if I may, is if we read the sursis itself the first thing it says is, 'As part of the SCIP process'. But this is not part of the SCIP process – this is outside of the SCIP process.

1650

It galls me sometimes, in relation to the way that we work here, that we are so unwilling to vote things out if we do not support them – Members too frequently feel that actually a sursis is that easy way out. But this time the sursis comes with a price tag as well and this is definitely the wrong thing to do. (**A Member:** Hear, hear.)

1650

Now, I have questions about the SCIP process and I will say this clearly: if this sursis succeeds today I will be asking serious questions of Treasury & Resources, whether they wish to revisit the whole SCIP process, because if they unwilling to do so I think the only sensible and coherent thing for this Assembly to do is to have a requête *demanding* a review of the SCIP process. (**A Member:** Hear, hear.) (**A Member:** I will sign it.) We either have faith or we do not.

1655

1660 The other thing that really annoys me, and I do not want to set the media racing, and so forth,
on the past, but I cannot remember if was during Deputy Adam's or Deputy Dorey's time as
Minister of HSSD, but HSSD needed to commission certain work – Members, please forgive me for
being slightly vague – and because of the relationship that HSSD had, a supplier which was well
renowned and in good standing, was willing to do that work as a favour for a very small cost. But
because of a certain other Deputy's claim that a *local* company could do that work, HSSD were
forced into the position of tendering the work out. Of course in the tender process, that supplier
1665 was unwilling to have the very cheap price tag shown and ultimate price tag was over double – if I
remember correctly – the cost that they were initially willing to do it for.

The Bailiff: I think we are moving slightly away from the sursis, Deputy Bebb.

1670 **Deputy Bebb:** No, it is to do with the tender and the sursis actually interacts with the SCIP
process – the whole process that we have in place. When we interfere in this Assembly we add
costs. On this occasion I see nothing other than costs. In relation to the debate itself, that is one
we can have later, but if we maintain just the debate on the sursis as the Rules require – and I fear
that we are straying far from it on a frequent basis –

1675

The Bailiff: We are.

Deputy Bebb: – We really have to ask is this the right thing or not? And for me it is it not the
right answer, but the one thing that it does call is that, if it is passed then obviously this Assembly
1680 no longer has the faith in the SCIP process and we do need a review.

Please reject this sursis.

Thank you.

The Bailiff: Deputy Ogier.

1685 Are you ready?

Deputy Ogier: Apologies...

Well, I have been here before and I know other Members of the Assembly have been here
before. This is not uncharted territory at all. (**A Member:** Hear, hear.) For some of us this is very
familiar old school territory and it is a shame to see it in this new Assembly. (**Two Members:** Yes.)
1690 (*Interjections*)

I feel for Members here for the first time, as it is a tough one. On the one hand you have the
Public Accounts Committee Chairperson, the guardian of value for money, urging us to go against
our procedures, reluctantly supported by Treasury & Resources for *realpolitik*, I do understand. On
1695 the other hand you have the States' own procedures, the considerable phases this project has had
to go through, scrutinised by business partners, scrutinised by external, independent advisers and
scrutinised by our own internal staff.

When we were here before, on one occasion we went out to tender once again and the last-
minute interested company put in a bid far in excess of the other bidders. On the other occasion,
1700 the interested company went into liquidation shortly afterwards – and I am not saying this will
happen here, of course. What I am saying is that in my experiences in these sorts of situations, it
has not in the past been positive.

Failed procurements have a reputational effect on the States of Guernsey. It causes companies
to think twice. (**Two Members:** Hear, hear.) It causes doubt. It causes companies to view the
States of Guernsey as a riskier bet than it should be and as we know risk is reflected in high
1705 costings or even not expressing an interest to do business with us at all.

Now, I understand that assets need replacing and I understand that there is a point of time
where it makes best longer term financial sense to do so. This is one of those debates which the
previous Assembly found itself in and which probably caused many Members in this current

1710 Chamber to lose confidence in the States and to run to Government to fix that. But here we are again led by the best intentions.

Our robust processes have been put in place so we do not end up doing this on the floor of this Assembly. I cannot support the sursis and as the Minister of a Department bringing forward significant infrastructure proposals through the SCIP process, this entire debate is causing me great concern – and it will be causing civil servants in the Department to be adding in another major risk with significant impact onto all the risk registers of our projects, which is that of political representatives failing to support proposals which have gone through the processes they put in place, so this kind of debate would be relegated to the past. **(A Member: Hear, hear).** *(Applause)*.

1720 **The Bailiff:** Alderney Representative Jean.

Alderney Representative Jean: Sir, actually you could if you wish, just a little, blame me. I was here in the house 18 years ago and voted for the purchase of the fishery patrol vessel, *Leopardess*. However, time has moved on and I am really shocked by the amount of time that has moved on.

1725 The speeches today have been amazing, particularly from Deputy St. Pier, Deputy Perrot and the one that interested me as well was Deputy Gillson's remarks – and I believe that they are very pertinent. All of those speeches rang a bell with me.

I feel that I am left with little choice but the sursis, and I am disappointed that Deputy Stewart could not accept and take this away and re-trim, tailor it and bring it back, perhaps with some of these things addressed. It is disappointing and it is concerning and also, for me, a very interesting remark from Deputy Queripel when he talked about his visit to Alderney, which I enjoyed immensely. Anyway, he talked about 'Buy local'.

1730 To some extent if mistakes were made regarding how things did not work between local contractors and there were any possibility of giving them the chance to look at it again – and I understand Deputy Stewart's explanation. I would be for that exploration time to take place, even if it did not work – I think it is very important to local industry.

I admire the speeches and I particularly admire those who have had the courage to stand up and say, 'Because of what we have heard, because of what we feel, we are prepared to change.' To me, that is not a sign of Governments making mistakes, that is a sign of Government that recognises the need to do a little more before this comes. And I think it is terrific and I am very pleased with the democratic process that allows for that. Well done.

Thank you.

The Bailiff: Deputy Kuttelwascher.

1745 **Deputy Kuttelwascher:** Sir, I know the time is where it is and my purpose in standing – is purely to filibuster, *(Laughter)* because I feel that as we are coming to the lunch break, this could be a last chance to maybe persuade Commerce & Employment to behave slightly differently and I think that is wise.

1750 So I am quite happy to sit down, if you are happy to adjourn until after lunch. Otherwise –

The Bailiff: Otherwise you are going filibuster for another minute and three seconds! *(Laughter)*

1755 **Deputy Kuttelwascher:** I know, sir, which I can do.

Deputy Trott: I will do it for him if you wish me to as well, sir. *(Laughter)*

The Bailiff: I think you can sit down now, Deputy.

1760 **Deputy Kuttelwascher:** Sir, just one thing. I have got a minute...

1765 But I had an interesting lunch where the Chief Minister was present and he introduced me to a biblical word called 'skubalon', and I thought, I have never heard of that. And translated in a polite way it can mean 'dung' or 'rubbish'. So my attitude is at the moment, Commerce & Employment are in a sort of 'skubalon or bust' mode. (*Laughter*) And I feel that they do not want to end up with a pile of skubalon on their doorstep, so I think common sense may yet prevail –

A Member: You can buy anti-fouling, though.

1770 **Deputy Kuttelwascher:** – and the optimum outcome may yet be delivered. So let's hope we all have a nice, friendly and productive lunch. Thank you, sir.

The Bailiff: Perfect filibustering. We will return at 2.30 p.m.

*The Assembly adjourned at 12.30 p.m.
and resumed its sitting at 2.30 p.m.*

**Purchase of a Replacement Fisheries Patrol Vessel –
Debate continued –
Sursis carried**

1775 **The Bailiff:** Well, Members, we continue the debate on the Commerce & Employment Department's policy letter on the purchase or replacement Fisheries patrol vessel.

Deputy Laurie Queripel and then Deputy – Oh, Deputy Stewart, are you wanting to say something or – ?

1780 **Deputy Stewart:** No, just to speak in the normal course of the debate, sir.

The Bailiff: I see. Right, so you wish to speak now. You do not want to wait until the end of the debate and exercise your right to speak... before Deputy Soulsby speaks?

1785 **Deputy Stewart:** No, I will happily wait until the end of the debate.

The Bailiff: So, I will call you at the end.
Deputy Laurie Queripel, then Deputy Collins.

1790 **Deputy Laurie Queripel:** Thank you, sir.

Sir, I know that we can only stick to the sursis during this debate, so I cannot really refer to how important the work of Sea Fisheries is or how vital their vessel is in the carrying out of their duties.

The Bailiff: No, you cannot mention any of that.

1795

Deputy Laurie Queripel: I cannot say any of that, can I?

But, sir, I just wanted to refer to a paragraph in the report, on page 2245 paragraph 6.3, and it says this:

'This outcome was considered with the States' procurement officers and it was concluded that the project would not benefit from going through a conventional tender process and thus an "Exemption To Tender" was granted by the Treasury & Resources Department.'

1800 And that to me, sir, points to a weakness in the system, because once there is a decision to bypass the tendering process I think the whole process becomes something of a box-ticking exercise. And the reason why the tendering process was bypassed, was because the specifications for the vessel were – if this makes any sense – so specific. And that clearly then rules out any other designs of vessels being put forward and I think actually that is why... sorry –

1805 **Deputy Stewart:** Sir, point of correction.

I did, in my opening speech, make it clear that we did say that we would be prepared to accept other kinds of designs and we would accept to look at a GRP hull if they wished to submit that to us.

1810 **Deputy Laurie Queripel:** It just actually seems to be at odds with the report, because I am not doubting what Deputy Stewart is saying but if I read paragraph 6.3 correctly, it was decided via advice from the States' procurement officers, that there would be 'an Exemption To Tender' and the tender process would be bypassed. And so as I say, this is why... I have heard the words of Deputy Fallaize this morning and some other Members saying, 'Look do not try and be kind. If you doubt the findings of a report, if you are not convinced we need a new vessel, just vote the whole thing out.'

1815 But, I hear that and I understand that thinking, sir, but actually I am tempted to vote for the sursis, because if we vote for the sursis I am hoping that we can look at the whole process again, because I think that is a weakness in the process. It should be a very rare thing; it should be a real and notable exception when the tender process for me is bypassed – because as I say once that happens we are looking at a process of box ticking.

1820 I agree with Deputy Domaille. He said this morning, 'At every stage during this process, you should just take a step back and have a look at where you are.' And I do not think you do that, once you bypass the tender process, it just seems to me you are going through these stages of ticking boxes, rather than looking again and making sure that what you have got before you is robust and, dare I say, watertight.

1825 So I think, sir, that actually I might vote for the sursis, because if it means that we have to look at the SCIP process, the procurement route *again* and look at what happens once a tendering process gets bypassed, I think that is a good thing. When I looked at this report and when I read through it, I did not really like the tone of it because it was almost leading one by the nose to an almost foregone conclusion – and I do not like that, sir. I do not like that at all.

1830 I like to have all the information before me. I do not like to have anything hidden from me or anything that I cannot get access to – and I just did not like the tone of the report. I felt it was leading us by the nose to only one conclusion: we either accept the Department's recommendations or we reject them – and I think there has got to be a better way of doing that.

1835 I agree, sir, with the words of Alderney Representative Jean this morning. I know there are some Members saying that what took place this morning brings the Assembly into disrepute and it was a messy business but actually we are here... and our first duty is to question, to scrutinise, to provide political oversight, to hold to account. Now, if that is not going to be the case, then why bring reports to the States at all? If we are not going to scrutinise... we should be able to scrutinise to the last minute and ask questions and if we are not convinced with regard to what we have before us or the information or the answers that are given, we should be able to look to take a different course of action or reach a different conclusion.

1840 So I really do think that we need to look at this process, because I think once you bypass the tendering process there is a *weakness* in the process. It does seem to be a bit of a box-ticking exercise. So with that in mind, sir, I may well vote for the sursis because I think we need to review this whole process.

Thank you.

1850 **The Bailiff:** Deputy Collins and then Deputy Paint.

Deputy Collins: Thank you, sir.

Where do I start with this one? At least I get to speak after this morning.

1855 Lots of Members have asked us to withdraw this policy letter, but how can we do that? To do so would admit that this is not the best option – but it is. It is clear we are sunk and SCIP is sinking with us. The sursis will carry the day, but when this returns in March next year we will see where we are and see how much this delay has cost us. (**Two Members:** Hear, hear.)

At least the Chief Minister is on side. I do not think even Roman 8.31 will help us, which is:

‘What then shall we say [in response] to these things? If God is for us, who can be against us?’

1860 And finally to Deputy St. Pier, following his comment, I say: ‘Boldly into the valley of SCIP rode C&E; T&R to the left of them; T&R to the right of them; T&R clearly not behind them. Oh the wild charge C&E made.’

Thank you, sir.

The Bailiff: Deputy Paint.

1865 **Deputy Paint:** Sir, first of all I would like to state that I am speaking as a Deputy and not as a representative on any of the two fishing organisations I chair. The reason for this is that fishermen believe that the replacement for a Sea Fisheries vessel is a political affair and really nothing to do with them.

1870 Sir, any policy proposal can be passed through any gateway or procurement process, or even tendering process, but the bottom line does not appear to have been looked at properly. That is, do we actually need a new vessel at this present time taking regard of the *Leopardess*’ condition and age?

1875 In 2012 a survey was taken and stated that the vessel was in good condition and would last at least 10 years. So what has really changed? That was only three years ago. Some say that a vessel of this type could last perhaps 40 years. Others have lasted much longer than that with proper repair and maintenance.

The next thing we have to look at is, can we afford a new vessel at this present time when we have seen taxes rising higher – to higher levels on this States’ meeting – and much higher demand for taxpayers’ money is being claimed for other parts of Government?

1880 We cannot continue to spend taxpayers’ money unnecessarily on items any Department may wish to do, without clear proof that it is indeed very necessary to spend this money. We do not have that proof on this occasion in my opinion. C&E have been given the opportunity to withdraw the proposals and I wish they had taken that opportunity.

Thank you, sir.

1885

The Bailiff: Deputy Sillars.

1890 **Deputy Sillars:** Sir, I wonder whether we really need a capital account at all. The only capital project gone through this term was a legacy project from the last States: the Long Sea Outfall. The only two projects this term that have tried to go through the SCIP process was La Mare de Carteret and the *Leopardess*. The Mare de Carteret was delayed by a sursis. I did not support that.

1895 I do not really want to support this one, but what are the choices? C&E pull the report: yes please, but they do not seem to want to. We vote to reject their report and that will make the whole process start again and all the costs that that entails and further discredit us in the eyes of tendering companies. So all I can reluctantly do is vote for the sursis as the least worst option.

Thank you.

The Bailiff: Thank you.

Deputy De Lisle.

1900

Deputy De Lisle: Sir, I feel somewhat let down by the SCIP process and I just feel that perhaps a little like the last speaker, that supporting a sursis of this speech means a lot more work and a lot more cost.

1905 I understood that the Fisheries protection vessel had been assigned as a Category A project and classified as a pipeline project for funding from the Capital Reserve, and also that Treasury & Resources considered and endorsed the outline business case submitted by the Department for the purchase of a replacement fisheries protection vessel. And of course I also noted that, in comparison with the estimates that were provided in 2013, the project would be lower in cost than anticipated at that time, at £2.6 million.

1910 The other point I noted was that the Policy Council endorsed the proposals of the policy letter and confirmed that it complied with all the principles of good governance. Generally, if certain members of the Policy Council do not support a proposal of this nature, then it indicates that either the minority or the majority support. But here it says, 'supports', which to me means that the whole of the Policy Council supports the proposal in this policy letter. (**A Member:** Hear, hear.)

1915 So the fact is I want a vessel fit for purpose because I think the responsibilities are very large and the challenge has become more and more upon this Government to provide proper surveillance, not only of the fishery legislation but also the new challenges with the issues with respect to border control. We all know what is going on in Europe at the moment and I think we need an updated fishery control vessel that can deal with policing border and immigration control and civil protection surveillance as well as our fishery.

1920 The other point is, of course, that the fishery... And I must say that I have continually lobbied previous C&E boards and Departments over the years since first elected 12 years ago, for the extension of our jurisdiction to the 12 limit from the 3 miles. Now we have the 12 mile limit we are faced with a very large responsibility to monitor and safeguard fishing stocks within a very large area of the Bailiwick, including Alderney, Sark and Guernsey. It is a huge area and I begin to feel that what we have, such as a *Leopardess*, is not quite up to the responsibilities that are being placed on it by this Government.

1925 So I feel that in order to protect £26 million annual value of the fishery alone... but then there is this other aspect now, this new challenge, of issues with respect to border control that has to be considered in a new way, I think, in terms of policing the border of our Islands and immigration control and civil protection. So for the States, I think we need a credible deterrent and also I feel that we have moved into a new reality and we have got to be concerned with that. And therefore we need to have a substantial vessel and a highly-trained staff as well to be able to deal with the type of vessels that are out there.

1930 I have to say that I was struck by the serious problem of English flagged Dutch factory ships fishing right on the three mile limit a few years ago on the west coast, and people were really concerned about that because it was effecting the inshore fishery as well. Right on the three mile limit, on the west coast – and British scallop dredgers and French flagged Spanish long-liners fishing south of the Island. We needed to do something at that time, but today we have got a border control problem that we have to look at as well and that is a serious issue. So we need a vessel that is fit for purpose.

1935 So I would trust that the Policy Council would continue to support the proposals in this policy letter and continue along the lines that they had shown enough support in the policy letter, and then their comments to the policy letter as we have...

1945 Thank you, sir.

The Bailiff: Deputy Dorey.

1950 **Deputy Dorey:** A point of correction, sir. I think Deputy De Lisle said £26 million was the value of the fishing industry. I contacted the Policy and Research Unit and they said that in 2014 the GDP contributions of fishing was £2.642 million, not £26 million. Slightly different. (*Interjection*)

The Bailiff: Yes, if you put your microphone on.

1955 **Deputy De Lisle:** Sorry, can I clarify that?

It is £5 million annually locally, that the 200 fishermen bring in, together with £1 million value from leisure angling. But the point that I was mentioning was that before the licensing controls in 2010 we estimated the catches valued at £16 million were being taken off by some of these very large, super British vessels.

1960 Thank you, sir.

Deputy Dorey: Sir, the numbers that Deputy De Lisle said is the gross sales, which is in the Billet. I am talking about the GDP contribution, which is profit and wages.

1965 **The Bailiff:** Deputy Rob Jones and then Deputy Adam.

Deputy Robert Jones: Thank you, sir.

1970 I thank Deputy De Lisle for reminding us that the fisheries protection vessel was assigned a Category A project and then classified as a pipeline project – and that is the point where I think we may well have got this wrong, based on the fact that we have late information and there has been doubt cast by Deputy Soulsby on the costs and the various issues.

So in that respect the sursis is attractive to me, because simply we have a section on here that says, we will use the sursis...

'in order to establish whether she needs replacing now or whether it would be economically more sensible for her to remain in commission and be the subject of appropriate maintenance.'

1975 And I think, given the doubt that has been raised... and I have a lot of sympathy for what Deputy Perrot said and will probably stand behind a lot of what he said... I do wonder whether we got it wrong at that stage. Although the sursis is attractive I am more likely to probably dismiss the sursis and just throw out the report at a later stage, but we will see how Deputy Soulsby sums up. She was convincing in her opening speech and I hope, given the way the debate has developed over the last couple of hours, that she ties up some of the loose ends that have been raised and that she puts a convincing argument forward. But otherwise I may not support the sursis and will probably throw out the report at a later stage.

1980 Thank you.

The Bailiff: Deputy Adam.

1985

Deputy Adam: Thank you, sir.

1990 As Deputy Jones has just said, it appears that we have been given rather late information concerning some of the background of this whole situation. It is very unfortunate that this comes to light so late on in the day, yet I feel that we should be mature enough to step back and think again about the whole overall situation. That is why at a T&R and C&E meeting it was suggested to the Commerce & Employment Department that maybe they should consider withdrawing this report so a breathing space could be given to assess the situation, and possibly getting a second opinion concerning a survey as is suggested, to make absolutely sure that what was originally decided was correct.

1995 As the Minister of T&R has said, it is with great reluctance – and I mean that quite sincerely – that C&E do not wish to withdraw the report and thus the only other way forward is to look at a sursis, which I am not too happy with but feel that is the only other resolution concerning the situation, as far as I am concerned.

2000 I yet again suggest to Commerce & Employment do consider withdrawing it, and do stay in the steering seat to progress things as they then may reassess in the most appropriate way.

Thank you, sir.

The Bailiff: I see no one else rising.

So, Deputy Stewart, do you wish to speak now, immediately, before Deputy Soulsby replies to the debate on this sursis?

2005

Deputy Stewart: Yes, sir.

I thank everyone for their speeches but in particular, Deputy Ogier, I think made a very, very important point. We have been here before and in fact some people told me actually we were here in 1997 when the *Leopardess* was being discussed and there were all last minute amendments being made and claims being made.

2010

I just want to look back just a couple of weeks ago because as I said in my opening speech, I had no contact as Minister from anyone... that anyone was unhappy with anything. And this is a last minute sort of tactics, I guess. We were called when I was away on holiday in the middle of August, after we had published the States' report and Aquastar and three other members of the Guernsey Marine Traders Association complained bitterly in the media, saying that they can build a vessel cheaper – though I have not seen a detailed proposal around that. It is very easy to make claims in the media.

2015

Notwithstanding that, we responded robustly and my Deputy Minister and the project team were asked to attend a T&R board meeting to explain around these external complaints. We explained to them at that meeting, which my Deputy Minister and the project team attended in mid-August, that due process has been diligently followed. Following that meeting the Minister for Treasury & Resources responded by e-mail on 22nd September stating that it was 'apparent to all present that you, Commerce & Employment, have clearly followed due process in a highly professional way.' So we have been before and here we go again, I guess.

2020

I do thank the other speakers that have acknowledged that Commerce & Employment have acted properly at all times in this process. (**A Member:** Hear, hear.) Now, this is not sailing onto the sea of brinkmanship. This is not, as Deputy Perrot says, 'committee-itis'. This is about having a bit of political backbone. This is about sticking together, as you have seen this board, because we believe in this report. We believed in the SCIP process. We followed the SCIP process. We delivered within the SCIP process and, yet alternant, and in fact now we have members of Treasury & Resources questioning their own process.

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2030

Now, what are we to do as a board?

A Member: Withdraw it.

2035

Deputy Stewart: As a board we have done what is required. We have followed due process, which so many Members and T&R have acknowledged. We have brought a report to this States to be debated.

Now, let us just turn to the Billet, page 2336. Oh! And there is Treasury & Resources' support for us and there is Policy Council's support for us. Not a majority of the Policy Council:

2040

'The Policy Council supports the proposals in this Policy Letter...'

And yet now, some members of Policy Council want to change their mind.

Do you know, if I was cynical I would say this was about Facebook politics. (*Interjections*) This is about a small group of people creating an awful lot of noise, with not an awful lot of substance behind it, (*Laughter*) derailing a policy letter.

2045

And you can laugh, Deputy Burford, but we have submitted a report within the SCIP process, as a lot of you are sitting on boards now submitting things to the SCIP process, and if you vote for this sursis then we are all going to be in the same boat. And do you know what is going to happen? (*Laughter*) Hardly anything and, as Deputy Sillars says, we will get through, it will just be delay, after delay, after delay, and the cost will rack up – as Deputy Ogier pointed out has happened in the past.

2050

Sir, you have asked us to withdraw. I say we will not withdraw because this board has got some political backbone.

I say: Deputy Soulsby, withdraw your sursis.

2055 **Two Members:** Hear, hear.

The Bailiff: Deputy Soulsby.

2060 **Deputy Soulsby:** Sir, if Deputy Stewart thinks I am going to do that now, he is living in cloud cuckoo land.

2065 Sir, as has been pointed out already, I originally drafted a letter seeking to ask Commerce & Employment to withdraw their policy letter and I managed to obtain the support of over half this Assembly to be co-signatories. In fact only three of those asked declined, for various reasons – one of which was that they preferred a sursis. They thought that would be the most appropriate, and that made me think – and I thought, perhaps that is right. I had heard that others were trying to get C&E to withdraw but they would not. I also heard from others, like Deputy Lowe, who said they thought a sursis would be more appropriate as it would give Commerce & Employment direction and surely make it clear that Members would prefer the report to be withdrawn.

2070 This sursis has certainly achieved that purpose. Sadly, it has not made the C&E board change its mind. Perhaps all the testosterone on that board now has got the better of them. *(Laughter)* And despite all the clear evidence that this report will be thrown out, they think they can fight it through.

2075 Deputy Collins is right, comparison with the Charge of the Light Brigade may be apt here: into the valley of the death ride the five Deputies. So really, I do not want to be standing here putting forward this sursis. I hoped that we would not have had to get this far – but we are where we are, as they say.

2080 Now, Deputy Trott yesterday was so supportive of a report to provide necessary evidence. Today he is not and he asks whether I have contacted C&E, T&R or went to a pre-debate meeting. Regarding C&E: yes, I have had some contact and Deputy Burford and I have worked together as a team to obtain evidence from that Department which we have both shared.

2085 Regarding the meeting: yes, I had intended to attend it and I think Members know that if any meetings are called by Departments, I am generally one of those present, as I was at the Housing Department meeting last week. But an urgent HSSD meeting came up which I had to attend instead. Now, I am sorry I could not go as, if I had, then the C&E board would have been aware that I was not challenging the SCIP process – and that is a reason why there was no contact with T&R.

2090 And of course like a bee to a honeypot or a fly to a whatever, Deputy Fallaize ends up focussing on process. If he had listened to my speech he will have heard that the core of my criticism surrounds the assumptions made surrounding both a need to replace it now and the costings.

I would like to thank Deputy Lester Queripel and I thought given his speech this morning he might like this quote from Socrates:

‘What screws us up the most in life is the picture in our head of what it’s supposed to be.’

2095 Now, the reason for laying this sursis is very much the same reason as Deputy Perrot has given for why he supports it. The information received makes me question whether this is the right decision. Does the *Leopardess* need replacing now? That is the purpose of this sursis, to find that out.

I thank Deputy Brehaut, I agree with you; and I think Deputy Harwood has eloquently summed up that this is not about the process but about assumptions made.

2100 Now, I actually had a bit of a shock when I heard Deputy Hadley praising me. Thank you, Deputy Hadley – (*Laughter*) sadly, he does seem to be immune to my Svengali powers of persuasion.

2105 In terms of the cost of a report, surely the whole point of this is to ensure we make the right decision. Deputy Bebb says that the sursis interrupts the SCIP process. No it does not. Clearly if evidence arises to question an outright business case, it should be investigated as part of the SCIP process – or do you go blindly on?

Now, Deputy Ogier, did I really hear him right? We should not question what has been done? He said he had been here before. Well, yes, let's think about it. Yes, the waste strategy – and wasn't it Deputy Ogier who was instrumental in stopping a certain incinerator being built, twice.

2110 Now, I know we are talking about *Leopardess*, but this is an example of a leopard changing its spots.

Several Members: Oh!

Deputy Ogier: Those are not the two incidences I was referring to, sir. (*Laughter*)

2115 There were two incidences in which something was dangled in front of the Assembly's face – those are the incidences I was referring to. If you wish to draw any other conclusions as to other strategies, that is up to you.

Deputy Soulsby: Thank you, Deputy Ogier.

2120 Deputy De Lisle says this will lead to more time and cost. Well, no, it depends on the survey – if the survey shows no need for replacement it will save time *and* money.

And since when did Policy Council's comment means that all Deputies on Policy Council supported a policy letter? (*Interjections*)

2125 The current vessel is perfectly capable of undertaking border control... why the new one would do it any better, I have no idea – and Deputy De Lisle does not make that clear.

Thanks to Deputy Rob Jones, I hope this has been convincing.

I would also like to thank others, especially those on T&R who say they support the sursis reluctantly, as I too laying the sursis do so reluctantly.

2130 Now, Deputy Stewart, of all people talks about Facebook politics! (*Laughter*) Pot, kettle, black.

Deputy Stewart: Point of correction, sir. I do not engage on any political Facebooking. I only use Twitter. Facebook is for my personal use. I do monitor it, but I do not post.

2135 **Deputy Soulsby:** So perhaps if Deputy Stewart did look at Facebook he might get the idea of what the public think about this.

Several Members: Oh!

2140 **Deputy Stewart:** Point of correction again. I did just say that I monitor the Facebook. I do not post on it.

Deputy Soulsby: But do not take any notice of it.

2145 Sir, as I said at the beginning of the summing up, we are where we are. I wish I had not had to lay this sursis but quite frankly someone had to – and I am glad I have because it has brought out very clearly how there is considerable opposition to this policy letter.

The advantage of this sursis is, unlike just rejecting the report, it gives the Commerce & Employment direction on what we want them to do. If this is not supported I will vote against the report, but this sursis is by far and away the better option. I therefore urge Members to support the sursis.

2150 Can I have a recorded vote please, sir?

The Bailiff: Yes.

Members, we vote then on the sursis proposed by Deputy Soulsby, seconded by Deputy Burford and it will be a recorded vote.

There was a recorded vote.

Sursis:

Carried – Pour 25, Contre 18, Ne vote pas 0, Absent 3

POUR

Deputy Harwood
Deputy Kuttelwascher
Deputy Brehaut
Deputy Domaïlle
Deputy Le Clerc
Deputy Gollop
Deputy Sherbourne
Deputy Lester Queripel
Deputy St Pier
Deputy Laurie Queripel
Deputy Lowe
Deputy Spruce
Deputy Green
Deputy Dorey
Deputy Paint
Deputy Adam
Deputy Perrot
Deputy Burford
Deputy Inglis
Deputy Soulsby
Deputy Sillars
Deputy Luxon
Deputy O'Hara
Alderney Rep. Jean
Alderney Rep. McKinley

CONTRE

Deputy Langlois
Deputy Robert Jones
Deputy Bebb
Deputy Stewart
Deputy Gillson
Deputy Le Pelley
Deputy Ogier
Deputy Trott
Deputy Fallaize
Deputy Le Lièvre
Deputy Collins
Deputy Duquemin
Deputy Le Tocq
Deputy Brouard
Deputy Wilkie
Deputy De Lisle
Deputy Quin
Deputy Hadley

NE VOTE PAS

None

ABSENT

Deputy Conder
Deputy David Jones
Deputy James

2155 **The Bailiff:** Members, the result of the vote on the Sursis proposed by Deputy Soulsby, seconded by Deputy Burford was 25 votes in favour, with 18 against. I declare the sursis carried.

HOME DEPARTMENT

**XIX. Independent Monitoring Panel –
Appointments and amendments to Panel; Annual Reports –
Propositions carried**

Article XIX.

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 13th July, 2015, of the Home Department, they are of the opinion:

- 1. To approve the appointment of Mrs. Shona Sarre as a member of the Independent Monitoring Panel for a period of four years with effect from October 2015.*
- 2. To approve the appointment of Mrs. Gillian Lindsey Darling as a member of the Independent Monitoring Panel for a period of four years with effect from October 2015.*
- 3. To approve the appointment of Ms. Glen Ford as a member of the Independent Monitoring Panel for a period of four years with effect from October 2015.*

4. To approve the appointment of Mrs. Heather Mauger as a member of the Independent Monitoring Panel for a period of four years with effect from October 2015.

5. To approve the appointment of Mr. James Edward Duncan as a member of the Independent Monitoring Panel for a period of four years with effect from October 2015.

6. To amend the Prison (Guernsey) Ordinance, 2013 to remove the restriction on States' employees serving on the Independent Monitoring Panel.

7. To amend the Prison (Guernsey) Ordinance, 2013 to enable the Home Department to make appointments to the Independent Monitoring Panel in the first instance with the requirement that such appointments would require reappointment by the States of Deliberation as soon as possible at the end of the calendar year.

8. To note the 2014 Annual Report of the Independent Monitoring Panel.

9. To note the 2014 Annual Report of the Prison Governor

The Senior Deputy Greffier: Article XIX, Home Department – Independent Monitoring Panel.

The Bailiff: The debate will be opened by the Minister, Deputy Gillson.

2160 **Deputy Gillson:** Thank you, sir.

The Independent Monitoring Panel is constituted under the Prison (Guernsey) Ordinance as an independent body made up of members of the public to make unannounced visits to Guernsey Prison. Members provide independent oversight of the day-to-day operations of the prison, prison conditions, monitor the administration of the prison, the treatment of prisoners and whether the statutory objectives of the prison system are being met. As such, they serve a very important and very valuable function for the Island of Guernsey.

I am therefore pleased to recommend the appointment of Mrs Sarre, Mrs Darling, Miss Ford, Mrs Mauger and Mr Duncan and I thank them for volunteering to assist the Island in this service.

So I commend the report to the Assembly.

2170

The Bailiff: Is there any debate on the report? No?

Well, there are a total of nine... Oh, sorry, Deputy Brehaut.

Deputy Brehaut: Sorry, sir, I was caught out by timing. I did not mean to stand up so late.

2175 I just made a couple of notes and if Members bear with me I will try and find them – I do beg your pardon.

In receiving the report and being asked to note the report, there were a couple of things that I wanted to address. It says on Billet page 2358, report page 4,

'although specific policies for women were being developed, their needs were not always adequately considered and they were disadvantaged compared with men;'

2180 Would the Minister perhaps give us some indication of why women in prison are disadvantaged as opposed to men and what he feels the Home Department would need to do to get some equity or equal facilities for both males and females?

Also, page 8 refers to the Elephant Week, and the Elephant Week being the mental health awareness week and, within the report in a number of places it refers to the well-being of the prisoners and their overall experience, and it does list within here for example, issues like health and safety. But what I found was lacking in the report, if we are going to have a report, was actual statistics on prisoners who self-harm.

2185 Within the population of the prison how many prisoners, male or female, self-harm? What are the consequences of self-harm? Do those who are involved in self-harm, or people within the prison... I certainly know as a Member of HSSD, there have been suicide attempts and there has actually been a fatality some months after following such an episode. Why is there no reference in this report to anything like that?

2190

Also, within the report with regard to prisoner complaints... and I know that if you are literally under lock and key you have a very edgy relationship I suppose, with the person who holds the key, but of 141 complaints – and I am not too sure of the criteria of the complaints – it was decided not to pursue 88 complaints. And 88 complaints out of 141 seems to me to be a relatively high number.

So when Scrutiny some years ago looked at school exclusions, there was a linkage between school exclusions and then unsurprisingly – or perhaps surprisingly – the school exclusions and then people who went on to become prisoners within Les Nicolles Prison, and their literacy and numeracy rates which were about I think the average age... if a prisoner was at the age of 25 they would have a reading age of possibly an 11- or 12-year-old.

So bearing in mind the whole profile of the prison and the younger prisoners in there – *and* that we still put children, as detailed, in prison – I would like to get a more complete picture for the next report of all the issues relating to the well-being of individuals within there. Because while the reports notes, if I can find it – again I will apologise – for example, Summary of the Panel's Observations/Comments:

'Dissatisfaction with the cleanliness of wings on a number of occasions. Such matters are generally addressed at the time, with the escorting officer requesting that the wing cleaner address the matter.'

Well I do not particularly mind if the prison is a little bit dirty as long as the people within it, their mental health and well-being, are looked after. I would like to see a more complete picture with regard to the *absolute* welfare of prisoners.

And just to remind the Minister, would he know, now, how many prisoners get referred to the A&E Department, for example? How many prisoners become patients within the PE? And over the past five years have there been any fatalities on this Island following any prisoner harming themselves in the States' prison?

Thank you.

The Bailiff: Deputy Bebb and then Deputy Adam.

Deputy Bebb: Thank you, Mr Le Bailli.

I just have one question for the Minister and that is in relation to our status as signatories on the U.N. Convention of the Child. Guernsey, as some Members will know, has signed the intention to fully adopt the Convention of the Child, but part of that is that we do not imprison children. And yet what I note from recent facilities in the prison – it is noted in the report if I remember correctly – is that there is an intention... not only do we *currently* imprison children but that this is actually going to be developed. This seems at variance with the current outstanding States' Resolutions that we will become full signatories of that Convention. Therefore, what is the Minister's view in relation to that Convention? And what is the Policy Council's intentions in order to resolve that issue, that currently seems to be at variance with the expenditure in the prison?

Thank you.

The Bailiff: Deputy Adam.

Deputy Adam: Thank you, sir.

I suppose I might say I have had the privilege of watching how the prison has developed since 1984. First, six years as a prison doctor and that was in the old prison, just up the road there – and let me assure you the facilities provided now are chalk and cheese. That old prison was dire. Beautiful stonework, lovely chapel, beautiful tree in the forecourt, but the cells were pretty primitive. When they moved up to the new one it was, at that time, a marked improvement. And then it had to be extended because of the number of prisoners.

Now, Deputy Brehaut has mentioned one thing. The problem with Guernsey is that we are a small Island – well, maybe it is not a problem. The prison has to accommodate all ages and

nowadays a higher category of prison, in that there might be lifers or at least people detained for seven-years. It has to cope with women, men, adults, adolescents and children – and that is part of the problem situation. To build another prison would be highly expensive, but basically if you want to be ideal, you want to have a prison for 18-year-olds and less.

2245 But if you look at this report and read it, you will fully understand what efforts have been put in by the Governor and the team down there to improve facilities. Some of us went on a visit to the prison and we were shown all the type of work the prisoners now do. The advantage of that work is two things: one, they get some pay, and secondly, they get out of their cells. As you see, if you keep someone banged up friction increases. Get them out of their cells doing things, whether it is
2250 out working with Jerseys or doing some waste recovery on televisions, etc... it is beneficial. It gives them a skill, it gives them regular hours and improves their overall behaviour. Likewise, believe it or not, I believe that stopping smoking the prison actually also – I am not too sure why – has improved the behaviour of the prisoners in the place.

2255 As far as women are concerned, things have improved markedly in the last four or five years, with their care. And young persons, I gather, are being dealt with. If I remember correctly three of the prison officers are going to be trained to look after and manage young people, and I gather they are going to be kept in a separate area in the prison and kept overnight in the new facility that has been built up at what we call 36B, up at HSSD. So they will not be sleeping in the prison but they will be looked after in the prison.

2260 So things are improving within the facilities and costs that I believe that Guernsey can afford. It may not be absolutely ideal, but in lots of areas because we have got small the numbers... we cannot have the perfection that often is expected from inspectors coming across – but obviously this inspection is improved compared with the last one and I thought it was very instructive. If you have read it, it is quite constructive and it tells you how much that improvement is.

2265 Thank you, sir.

The Bailiff: Deputy Gollop.

2270 **Deputy Gollop:** Sir, I had the pleasure if I can call it that, of going round the prison gardens in the summer where we all enjoyed a large cream tea. I was impressed at the prisoners who worked there, who were not only completely detoxed, healthy, motivated and well organised, but in a way they seemed to be living better, eating better and being tidier than me – despite what Deputy Brehaut says about the cleanliness of the cells.

2275 I think that we have to commend the current Home Department and the Governor and his staff for moving the agenda forward and modernising... being progressive, and ideas about sentencing powers and so on. But I suspect down the line the Assembly will have some more strategic issues to consider. Those issues include considering, maybe, whether the one prison fits all categories of resident or inmates is suitable for the longer term.

2280 Even in American states, let alone Scandinavian countries, there is a move towards more open prisons, more rehabilitation in the community. I think the logistical fact that the Channel Islands are obliged to have mixed prisons – that are not truly mixed but are mixed because of the small quantity, happily, of women prisoners – is itself a problem, and we need to look at every possible kind of solution as to whether we have got the best mix.

2285 I do appreciate that alternatives could be expensive, they could be resource-hungry and they would not necessarily find favour with every part of the community. But I think eventually, there will be external pressure and various other regulators who will suggest that maybe we will have to move forward ourselves, rather than getting advice to do so.

2290 So I commend what is happening, but do think that we do need perhaps a slightly different approach to both punishment and law and order down the line.

The Bailiff: Deputy Wilkie.

Deputy Wilkie: Thank you, sir.

2295 I notice that Deputy Brehaut pulled out some of the negative aspects of the report and I just thought that needed a bit of balance, because the prisons are inspected independently and the Chief Inspector of Prisons reported:

[In many respects] 'what we saw provided an exemplar of what can be achieved by well-coordinated services and is a powerful reminder of how good a small prison can be.'

And that really is, sir, a very, very powerful statement on how good our prison is. And some of the positive aspects that the inspectors came up with was that there are:

' • very good relationships between staff and prisoners meant that prisoners' individual circumstances could usually be addressed;
• reception processes were effective and first night arrangements were good;
• most prisoners felt safe and there were few problematic incidents;
• security was well managed, as was the use of force, and segregation was used only as a last resort;
• living conditions were generally decent and health provision was generally good;
• time out of cell was better than inspectors usually see;
• there was some outstanding teaching and volunteers from the community played a very useful role; and
• resettlement work benefited from excellent joint working between the prison and external probation services.'

2300 Sir, I think that was an excellent report and I do understand some of what Deputy Brehaut was saying with the teenagers being in prison, but that is going to have to be joint working between the Home Department and HSSD in the future.

Thank you, sir.

The Bailiff: I see no-one else rising.

2305 Deputy Gillson will reply to the debate.

Deputy Gillson: Thank you, sir.

Thank you, Deputy Wilkie, for your support, and Deputy Gollop for your contribution, likewise Deputy Adam for your supportive comments.

2310 I will correct one thing, that the children – in inverted commas – will be held within the prison overnight, but I will come back and explain that a little bit more.

2315 Deputy Brehaut, the question about women being disadvantaged. The reason is we just do not have many of them. For instance last week we had 77 males in the prison and five females. So the ability to create work for them and in a segregated environment is just very difficult with such a small number. The alternative would be – we cannot afford a women-only prison – to send them off-Island and I think sending them off Island would be hugely more disadvantageous for them. So this is the best option for them and I think the Prison Governor does a very good job in the work and the support he does give them.

2320 Statistics for self-harm: no, I do not have them. I can speak to the Prison Governor as to whether he thinks that such statistics would be meaningful. I would put a caveat on that, because people in prison may self-harm but not for any reason because they are in prison – that may not be the cause. I will give you a for instance... when I was Parish Constable I had occasion a couple of times to visit the prison in my role as Parish Constable under the Mental Health Law, to actually certify a person because of self-harm, but he was in prison as a place of safety because he was self-harming outside prison. So to give numbers of self-harm could quite easily be very misleading, but we will look at that.

2325 I am not sure about your comment on complaints, because they are looked at independently by the panel and they looked at them and thought that these 88 were not valid and so did not progress them.

2330 Now, the issue you raised, and Deputy Bebb raised – so I will deal with them together – about
children in prison. The first thing to remember is that we are not talking about what the public
may think of children, i.e. six, seven, eight year olds. We are talking about anybody under 18. So
we are talking about people who under UK law could be front-line combat troops in Afghanistan.
That is the age group of some of them... It is not-use sighing because that is what we are talking
2335 about when you talk about children, under this category. I am not going to give way.

Deputy Bebb: I am sorry but point of correction. Deputy Gillson points to one opinion but of
course is that it could equally be an eight-year-old. He makes an invalid point here.

2340 **Deputy Gillson:** You did not let me finish. I am midway through a speech. (*Interjection*)

The Bailiff: Both of you, through the Chair.

Deputy Gillson: Did I switch off?

2345 No, you did not let me finish. That is at one end of the spectrum. Now, the last occasion when
we had anybody under 16 was at the time of the inspection. It is incredibly rare to have people...
and I do not know of any occasion in the last, more than a decade, when there was anybody
under 14 in the prison. So, I am just making the point that, when you say and report 'children',
people immediately think of children as seven, nine, 10-year-olds. We are not talking about that.
2350 We can be talking about people who are 17 or 17½.

In terms of the facilities, this was identified as part of the report – the report that Deputy Wilkie
mentioned – which was a good report and as he said and I think it is worth repeating because the
Prison Governor and his team have done an excellent job, it is cast as an exemplar of what a small
prison could be. They did note, because they happened to be there at the time, that these 15-
2355 year-olds were in prison. And what is happening is that the wing that is slightly separate from the
main body of the prison is being converted to be a block for the under-18s to be in prison, where
they will be segregated from the main block. It is in effect a 'prison within a prison'. This is not
uncommon. It happens in the UK and there are a number of UK prisons that operate on the same
basis.

2360 Now again on the basis that we do not have many people in this category... In fact last week
we had no under-18s in at all, looking at my latest figures. It is not cost-effective, it would be
hugely expensive to have a separate prison. The alternative to having them in this prison within a
prison which keeps them separate and safe so they do not mix with the main population, would
be to send them off Island, and again that would be hugely disadvantageous to send people off
2365 Island at that age. It is better to have them in a facility with which works well for them, we have
got properly trained staff, who will know how to deal with them properly. They have 24-hour
supervision and monitoring. It is as good as we can get it. We have to remember, we are an Island
and we can only do certain things – and this is a good and acceptable compromise.

2370 One thing you say about actually sending people to prison... it is of course not the Prison
Service that sends people to prison, it is the courts that determine that they need to go to Prison.
Without exception, the Home Board and the Prison Governor all think that prison is the last resort
for people and that the more often the courts can do to not send people to prison is best,
particularly young children, but we acknowledge, there are occasions when things will happen,
crimes are committed which will warrant that sentence and we will do the best we can to treat
2375 them in a secure and respectful manner.

Thank you, sir. I commend the report.

The Bailiff: Deputy Brehaut.

2380 **Deputy Brehaut:** I was going to get up and ask the Deputy to give way, but he has sat.

I just wanted a clarification on what I said, because I raised the issue of women in prison and the Minister said it is because there is a low volume of women through prison. But, with respect to Deputy Wilkie, this is what the report said not what I am saying.

It says,

'although specific policies for women were being developed, their needs were not always adequately considered...'

2385 So the report is saying that if there was one woman in prison today, that woman's needs would not be adequately considered. Can he just give an assurance to the Assembly that he will take that observation back to the board and to the Prison Governor?

Thank you.

2390 **Deputy Gillson:** The Prison Governor is already taking steps, he is well aware that this is a weakness in the prison and has already taken steps.

Deputy Brehaut: Thank you.

2395 **The Bailiff:** Deputy Bebb.

2400 **Deputy Bebb:** I am sorry, but I did ask the Minister to clarify where does this leave Guernsey in relation to the Convention and that it is intending to be a signatory, but there is a States' resolution for it to be so and it does not matter whether they are 16- or 17-year-olds, the convention is such. Therefore what does the Minister feel is the appropriate position of Guernsey in relation to that convention and its aspiration to become a signatory?

The Bailiff: Are you in a position to answer that?

2405 **Deputy Gillson:** No, I am not in a position to answer that, because I do not know the full details of the Convention. What I can say is that if you ended up sticking by the letter of a convention which meant that the children could not stay in the prison, the result would be that they would have to be separated from their families in Guernsey, for visiting. They would have to go to England or Jersey, and visitation would be very difficult and would be hugely disadvantageous. You have to bear in mind that we are an island. We have to do things which are practical and in the best interests of people. This meeting may not be able to stick to the letter of a convention because in doing so it may well not be to the advantage or the benefit of the children.

2415 **The Bailiff:** Members, we vote, then, on the Propositions. There is a total of nine Propositions on page 2399 of the Billet. The first five are to approve the appointment of members to the Independent Monitoring Panel, so I think I will put those to you first.
Propositions 1 to 5. Those in favour; those against.

Members voted Pour.

2420 **The Bailiff:** I declare them carried and those persons named therein are duly appointed.
And then Propositions 6 to 9. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare those carried.

COMMERCE & EMPLOYMENT DEPARTMENT

XX. Dairy Industry Optimum Arrangements for the Distribution and Retailing of Milk and Milk Products – Debate commenced

Article XX.

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 2nd July, 2015, of the Commerce and Employment Department, they are of the opinion:

- 1. To endorse the opinion of the Department that Option C, as set out in paragraph 4.7 of that report, is the optimum distribution and retailing arrangement for the long-term sustainability and success of the Island's dairy industry.*
- 2. To rescind their Resolutions of 30th October 2008 in relation to paragraphs 1(j) and 3 of Article IV of Billet d'État No. XIII (concerning exclusive rights to the distribution of Guernsey Dairy milk and milk products).*
- 3. To rescind their Resolutions of 25th September 2014 in relation to Article IX of Billet d'État No. XX (Review of the Dairy Industry) to the extent to which they provide for the statutory licensing of milk distributors.*
- 4. To agree that a new milk Ordinance should reflect the matters set out in paragraphs 8.7 (registered milk distributors) and 9.1 (collection of milk, producer prices, supply of milk and appeals, procedural matters and penalties) of that report.*
- 5. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.*

2425 **The Senior Deputy Greffier:** Article XX, Commerce & Employment Department – Dairy Industry Optimum Arrangements for the Distribution and Retailing of Milk and Milk Products.

The Bailiff: The debate will be opened by the Minister, Deputy Stewart.

2430 **Deputy Stewart:** Mr Bailiff, fellow States' Members, if you will allow me to really just bring you up to date from where we were from the main matters arising from the 2014 Resolutions, in terms of where we have got with the whole project.

2435 So, revised farm and dairy contracts: that is now complete. The removal of the farm quota system: that is now complete. The reduction, which is a staged reduction, as Members will remember in Annual Support Payment: that is complete. We also had a meeting with the farmers on this year's stage just a week ago, which was where we both saw eye to eye, so that was quite good. The new system for support payments, the headage, that is complete. A simpler system for milk pricing that is just gate and producer: that is now complete. And the removal of the retail price control, just to remind Members, that is complete and in fact the price control around milk was removed on 1st January of this year.

2440 So the review of the breed development – that is a joint piece of work – that is in progress at the moment. The review of dairy governance: that has been overtaken by a States' Review Committee proposals. The drafting of the new milk ordinance is done but obviously on hold until we get certainty around this.

So that is really just to bring all the Members up to date.

2445 Sir, the report in front of you is about distribution. The recommendation from the Board of Commerce & Employment is on page 2405 of the report, option C, in some detail. Why we support this and why we felt it was the best option to put to the States was first of all, the Dairy would be able to respond to the needs of its market and supply customers efficiently with no unnecessary controls on it, getting the product to the consumers at the best price possible.

2450 We do not feel that milk sales will be affected. It is quite interesting actually, there are two
pieces of evidence. One is as you know, when the dairy had a breakdown about 18 months ago
and English milk appeared on the shelves, as soon as the Guernsey milk reappeared, the English
milk the actual amount of milk consumed over the last 15 years has been really consistent at
2455 6½million litres. It has barely moved at all in fifteen years, despite some actually big price changes
which would show real inelasticity in the price of milk. So in 2000 the retail price of a litre of milk
was 92p. It dropped in 2001 to 66p but the actual usage of milk did not go up – it stayed pretty
much at 6½million litres.

Then if we look at it the other way, between 2006 and 2007 the price of milk changed from
70p to 88p and there was no change in the demand for milk; and between 2007 and 2008 it
2460 moved from 88p to 98p. So it is actually very inelastic, and when we have seen English milk
turning up people still prefer to buy their Guernsey milk. (**A Member:** Hear, hear.)

So doorsteps sales should, in my view and the board's view, attract a proper price for the
service and not be subsidised in some way – and of course option C will mean that there will be
less administrative bureaucracy. Do we really need a government micromanaging and interfering
2465 in how our milk is delivered?

So let's just talk about licensing zones and exclusivity. The proposal enables all current
distributors to continue in business, organising their delivery areas and customers as they do now.
They will all automatically be provided with a Distribution Agreement focussed on the commercial
trading relationship with the Dairy. Milk distributors are deemed to be licensed but they did
2470 request in 2010 that the new licence agreed with the GMRA would not be issued. In 2000 – if we
think back that far and although there are some of you that can remember this – the Agricultural
Milk Marketing Board withdrew the old style retail licence and issued a Distribution Contract that
encompassed the licencing requirement. At the request of the GMRA the contract was not issued
after 2003.

2475 So removing licences now which existed largely for public health reasons, simplifies the
administration and the bureaucracy, making this a more straightforward, commercial operation.
And the Department does not say that zones, territories or rounds do not exist: of course, they
self-evidently do – if nothing else, they are lists of customers. The Dairy has asked and has not
been provided with current details of territories.

2480 It is important to remember too that the Dairy has never granted exclusive rights to deliver to
territories or zones. It is clear that in the past, milk retailers competed with each other for
customers and even back in 1967 in a policy letter on the distribution of milk, St Peter Port was
described as a 'free zone' and it was a good thing, it was felt at the time, because it gave the
customer's choice.

2485 It is true the Dairy did assist the GMRA with a voluntary process of sorting out the uneconomic
tangle of rounds that developed in the late 1990's and did give a lot of support to that initiative to
help sort it out. And milk distributors had *limited* exclusivity, granted by the States for seven years
back in 2008 – this was the Le Lièvre amendment – but this only said that for seven years only
they could purchase milk from the Dairy. That limited exclusivity lapses at the end of this year and
2490 was well known by all parties.

So for at least a decade rounds have evolved and changed hands entirely on the basis of
private commercial agreements, with the Dairy accepting a new account as long as the customer
passed a commercial fit and proper person test. I do recall, I think, from what I have been told
there was a round that was given up earlier this year and that was not actually sold, as far as I
2495 understand, that was broken up and shared amongst existing retailers.

So a GMRA claim is that does this report actually address retailing? Well it does. We have
covered the key elements which are doorsteps – and we know that is declining. Doorstep
deliveries are declining as more and more people buy their milk in their weekly shop from the
supermarket, and particularly as the production of milk has changed, because years ago you
2500 would buy your milk and you ~~have~~ would have to buy it every day because it would go off. But
now if the milk is kept in the cool there is a good chance that it will last at least a week. So

doorstep deliveries have changed for that reason and we estimate – although we cannot get hold of the absolute figures – that is probably around 20% or maybe slightly less even now, of deliveries to the doorstep.

2505 And it covers retailing because shops... that is increasing, and the proposal seeks to ensure that can function in a straightforward commercial manner. But despite meetings it has been unclear what aspects the GMRA consider are missing – and despite this currently being a key issue, the meeting with the GMRA even as recently on Friday 25th September, did not consider this and no further clarification was offered.

2510 We have consulted and tried to work with the distributors, the first meeting with the GMRA representative was on 29th September 2014 pretty much right after the debate, and the process and possible timetable for a review were discussed. As the first priority was the farm contracts and the quota system, the review started properly in January 2015. The GMRA were asked to input to the preparation of the consultation document and their views were acted on. They chose not to contribute to any further discussions after March until, as you know, the last minute.

2515 One of the things that I know will be raised in debate is mitigation. Any proposal for mitigation that is not this simple commercial system, moves you away from the optimum, as we see it, and I think that is accepted by the GMRA. The GMRA view is that we are moving from a closed system to an open system of supply, so the basis on which they access products from the supplier has altered fundamentally. It follows, in their view, that they should be compensated for this in some way financially. We would say that the system is moving from a bureaucratic open system to a more commercial system. We are saying have your arrangements with the Dairy, have your arrangements with your customers, build on the long-standing relationships you have with those. And we are now as a matter of policy going to allow any commercial firm to approach the Dairy to buy milk in commercial quantities.

2525 So if you are going to consider mitigation – and I know some are – first of all we say where would the money come from? The Dairy? Well, why should it come from Dairy? And our advice has been pretty unequivocal, that the licences have always been the property of the States. If businesses have changed hands they have been on a straightforward commercial business just as much as I might sell my stationery business to Deputy Duquemin or any other business that is traded.

2530 So I think in summary, we have researched the optimum system, we think we present you with option C which in our view is an optimum system. It ensures commercial freedom for the Dairy to trade. The proposal clarifies the options for those distributing or retailing Guernsey Dairy milk – they have a commercial arrangement with the Dairy and that will be put in place. The Dairy has no plans to instigate any change in the way it trades. And the optimum distribution and retailing system is seen as being based on a diverse mix of independent distributors – some big, some small – and retailers for its products, pretty much as it is at present. The Department and the Dairy want that to continue.

2540 There will be no opportunity for large traders. So some of these traders that deal in very large contracts will not get a different price to a small retailer maybe doing a couple of hundred doorstep deliveries. So the wholesale price on milk will be the same for everyone. The gate price for the Department is set – that is a set price and the farmers understand what they are getting. The wholesale price for the distributors will be the same whether you do doorstep deliveries or whether you have contracts for large catering establishments or whatever. That wholesale price will be the same for everyone. So there will be no favourable price from the Dairy.

2545 The proposal makes no change to the legal basis of the operation and distribution although there is a policy shift to open up the Dairy to a wider range of commercial customers – just as we all, if we have a business, have to compete in this world.

2550 But of course, as I have mentioned, pre-existing commercial relationships of long standing can be built on and developed. The Department sees no case for taxpayers' or consumers' money to be spent on mitigation.

2555 We hope that we can get a decision today, because the Milk Ordinance is pretty much ready to go. We would like that to get in front of the Legislative Select Committee. We are aware... you only have to look down Smith Street and see some English milk in this Island, and we know that the current Milk Ordinance does not have teeth. Once we have a decision on this... most of the Milk Ordinance has been written, we can then refine it and I will bring it to the States at the earliest opportunity.

2560 Members, I hope you vote for the proposals in front of you.

The Bailiff: Deputy Lowe, then Deputy Lester Queripel.

2565 **Deputy Lowe:** I listened to Deputy Stewart with interest, because again although he said, quite rightly so, if he wished to sell his business to somebody else in this Assembly he could do so – but of course he is not governed by the States. He is an independent business operator who can sell to any other business operator, unlike a milk retailer. And I will come back to that shortly.

2570 Commerce & Employment proposals *will* cause financial and viability problems for the milk retailers in future. That is a fact. And how do I know that? Because Commerce & Employment proposals are unravelling a system the States helped put in place, for milkmen to operate under States' direction to ensure viability and sustainability on their rounds. The States cannot and should not ignore where we are and just walk away.

2575 So why do I believe Commerce & Employment proposals will cause financial problems for the retailers and the Dairy? An important reminder in the background is: my husband and I owned a milk round for 15 years, from 1980 to 1995. It is from this first-hand experience that I believe Commerce & Employment are going down a retrograde step with their proposals. Before we could buy a round, we had to go and see the Dairy and get their advice. That was how it operated. They would guide you as to how much they thought a round was worth. Take note of this please: the Dairy would guide a future milk retailer of how much they believed that milk retailer should pay for their round, which in those days was 2½% gross.

2580 The Dairy would then interview you, and in those days you had to go and have an x-ray, because of TB – that has now stopped. The Dairy would approve whether you could sell your private business to me as a new milk retailer. And the Dairy at the time that we had rounds, refused a private business being sold to another operator who wished to run a private, self-employed business to be able to supply milk. The Dairy had the final say on every round that was bought and sold, both in price and indeed who bought those rounds.

2585 Years ago milk rounds were inefficient, expensive to operate and bad for the environment, spending unnecessary time with milkmen following each other along the road delivering next to one another. Our own round covered Rue Sauvage in St. Sampson's, where six milkmen delivered milk. Each delivery day we followed one another up the road. That was a crazy, inefficient way to operate and this reflected similar delivery patterns around the Island. Milk rounds expanded all over the parish or parishes which the licence area stated.

2595 What frequently happened in the past was that retailers followed their customers as they moved house within the parish, on their licence. As an example, our licence stated we could deliver in the Vale and St. Sampson's. This added to multiple retailers in any one road. If one of our customers moved from St. Sampson's into the Vale we continued delivering milk to them. There was much ill-feeling owing to the competition as all were competing for the same customers.

2600 Following consultation and the full support of the Dairy management, the GMRA spent many months working together with the milk retailers and the Dairy management to implement exclusivity zoning within the licenced parishes and producing road maps attached to the licences. Exchange to the customers through totals of litrageage used was to ensure the value of the rounds either remained, or financial payments were necessary. The outcome was not to disadvantage their business value.

2605 These changes were welcomed by most of those involved including the Dairy management, and I know the manager of the Dairy at the time was extremely helpful and keen for full zoning and exclusivity to take place. Our own milk round went from 44 miles each delivery day down to 16 miles a day. The added bonus of less time using vehicles was surely better for the environment and kept running costs and the milk prices down. Commerce & Employment now not only want to sanction undoing all the good work carried out by those involved on these proposals, they actually want to go further.

2610 Do we really want to go backwards and have milk retailers following one another around? Do we really want this bad practice to be reinvented and expanded upon? Had the Dairy not stepped in during the late 80's – and not 90's as Deputy Stewart has told you – exclusivity zoning would not have happened. The Dairy management encouraged this zoning by making available extended credit to the milk retailers, if necessary or appropriate. They gave extended credit to the milk retailers, they were that keen for it to happen. They saw benefits for all concerned.

2615 The Dairy were owed a considerable amount of money as some milk retailers struggled with late payments from the larger establishments. Sometimes, several weeks or months after the milk was delivered milk retailers were chasing payment, yet the Dairy had to be paid weekly. Cash flow was a major problem for many milk retailers. By working together the GMRA and the Dairy came up with the exclusivity in the licence zone solution, making rounds more efficient.

2620 The Dairy's support was so much so that if a retailer purchased a depot – that is the terminology used by the Dairy for a shop or garage or hotel under the zoning mechanism – if there were not enough swaps of litreage to cover the exchange costs, the Dairy would pay the milk retailer selling his depot and recoup by an extended credit to the purchaser. And that is how keen they were to make sure all of this efficiency and viability went forward. The Dairy produced licences showing the parish and naming the depots on the back of the licences. Attached to each licence were road maps, highlighting which roads had exclusive use by the retailer. That was from the Dairy.

2630 Sorry, Deputy Stewart, in what you have said there today you have totally misled the States. They had highlighted roads on maps that were part of the licence. These maps were also held at the Dairy so if a customer phoned up wanting a milk delivery the staff at the Dairy could give the milk retailer's phone number, as they knew exactly who delivered in that road. The majority of this zoning happened during the late 80's and was paid back within a specified time.

2635 So when Deputy Stewart stated – and a member of his staff, at the States' Members' presentation, that we attended at the Dairy – that the Dairy had never been involved with zoning or exclusivity, I wholeheartedly dispute that.

2640 My husband and John Cleal, both milk retailers and John Cleal... many of you will know John Cleal, because John Cleal was not only the GMRA President at the time, he was also at one time a States' Member, he was also a non-States' Member in agriculture and horticulture representing the milk retailers on that committee and had a whole wealth of experience and knowledge of the background. At one time when this came up into the States he produced a letter and he sent to all States' Members and I will read a couple of pieces from that letter to you. And it was all about the zoning at the time and he said: 'The GMRA had no powers to enforce any member to take part in the zoning process. Many retailers waited for months before starting on a limited amount of zoning. Obviously, everyone was suspicious of losing their newly-acquired customers and needed guarantees that the new boundaries would be vigorously policed by the Dairy management.'

2650 I pause there, because if a milk retailer tried to poach a customer or deliver to a customer, they were called in to the Dairy management and they were told if they would continue, the Dairy would stop supplying them milk because the Dairy had given an undertaking that they wanted the rounds to be viable – and they would police that and that did happen.

John Cleal also went on to say, 'Guernsey had, by co-operation between those who understood what was needed and what could be provided, a delivery system which covered the

2655 entire Island, rewarded by those who had invested in it and were still under the control of the government.' How unique is that?

Commerce & Employment are taking away the protection put in place that was encouraged and endorsed by the States' Dairy, to the milk retailers to ensure their rounds were viable and sustainable. This free-for-all will see 20-plus retailers competing for business around the Island, poaching shops and hotels. This will happen. It happened under the strict zoning and exclusivity system, but I can assure you the Dairy and the GMRA dealt with any individual who tried it on.

2660 Let's now look at the new licencing issue. Deputy Stewart mentioned a licencing issue that had been produced, following one of the States' debates – and there have been many. I think we have had four terms now and each time it comes back because they have not had what they wanted and it is certainly coming, I believe, from internally not necessarily politically. The milk retailers have been a pain as far as some at the Dairy management are concerned, not necessarily the Dairy management, but Commerce & Employment staff. They just want to supply to the big boys – they are not really interested in dealing with the milk retailers.

2670 When it was decided that the licences had to be reinstated... and I looked to the Minister of Commerce & Employment, following the successful amendment back in 2007 that I produced, was to reinstate the licences... and I will come back why they were taken away, shortly – were given back. They did not fulfil that States' Resolution. They came back with a 16-page new licence that actually had far more detail in it and control than was necessary, but I will come back to that.

2675 Sir, the system worked well until the year 2000 when the Dairy management were directed not to issue licences any more to the milkmen, even though the milk retailers were not consulted or informed this was taking place. It only came to light when licences were handed back for the new purchaser to have his name on the licence – or when new shops or hotels decided to sell milk these had to be added to a licence. That was part of the law.

2680 If, however, a shop closed or a hotel closed, again the licences had to go back to be amended and it was then given back to the milk retailer. If a business was sold or transferred or the owner died, the licence had to be returned to the committee and a cancellation and a new owner had to have a fresh licence. Yes, not the dead one.

2685 At one stage the previous Minister of Commerce & Employment said that the States did not understand what they were voting for when the licences had not been given back. I can assure Members here today that the previous States were not happy that they had needed to give assurances they fully understood what they voted for, and would Commerce & Employment get on with giving the licences back. To date, they still have not had them.

2690 The 16-page new licence that they tried to get the retailers to accept – which were refused quite rightly by the Minister who has explained to you today – actually stated in their 16-page licence that the milk retailers had to have their accounts audited and sent to the Dairy, they had to have a £2 million indemnity insurance, they had to hand over notes left out by their customers... please tell me what that has got to do with the Dairy? And the list went on.

2695 So before I move on from licences, I ask you about this. Would you buy a car without a log book? Would you buy a house without the deeds? Yet Commerce & Employment, for the last 15 years, have expected the milk retailers to try and sell their rounds without any documentation or evidence that they own a round or that the zoning restrictions are in place. All the trust and good will amongst milk retailers will be lost if this report goes through today. The zoning system put in place to make the distribution network efficient was, and is, and does, work.

2700 At the Vale Douzaine meeting on Monday night when this was discussed, they were unanimous and asked States' Members to reject Commerce & Employment's report.

2705 So, who is calling for this change? As I said before, we have had previous Commerce & Employment reports during the last few States' terms. One was about importing milk and how the EU regulations could affect Guernsey milk – that was put to one side. Another new States and Members' terms of office, Commerce & Employment produced a report proposing the removal of licences and having all milkmen sign up to a milk registry. This was heavily rejected by the States. The milk registry was to remove zone licences so the milkmen could go anywhere around the

Island and compete against one another, unravelling the efficient distribution put in place between the GMRA and the States' Dairy. Sound familiar? If at first you don't succeed, try each new States.

2710 Sir, just now this is at least the fourth States where they have tried to make the rounds unviable so Commerce & Employment can get what they have always wanted.

Commerce & Employment have put this report together so the shops can get their milk from the Dairy, resulting in rounds that are not viable and a possibility of 20-plus small businesses folding. Commerce & Employment do not recognise the fact that each retailer has paid tens of
2715 thousands for the right to sell milk to a certain geographical area indicated on their original licences. And quite frankly how this sits with Commerce & Employment, Building Confidence document to support businesses, fails in my view.

When the retailers bought their rounds, they were buying the licensing and zoning system that was created and encouraged by the States. The States cannot expect to railroad these retailers.
2720 This Commerce & Employment report encourages more vehicle use, either by the milk retailer or by people popping out to fetch milk from the shop, or from shops to go direct, as doorsteps will become unviable if shops go direct to the Dairy. Who wants to buy a milk round now? The bank will only lend money to purchase a milk round if they can see it is sustainable.

The GMRA are keen for the States to recognise its obligations to the system of the licencing and zoning of the Dairy, created and actively administered. Deputy Stewart told us just now, how
2725 a milk round changed hands at the beginning of this year and was distributed amongst the milk retailers. He did not actually give you the full story inasmuch as the person concerned gave five days' notice and left the Island, leaving a considerable sum of money owed to the Dairy – who, through the goodwill of the milk retailers got a list of the customers and delivered to those
2730 customers. Indeed some have actually forwarded money, I believe, to the individual who is out of the Island now.

So I ask you, is this the way to actually see a good, efficient system that is in place, to be unravelled? And for what reason? And I know at the presentation we had up at Commerce & Employment it was said, 'Well we do not expect the shops to actually be coming up the Dairy.'
2735 Well if that is the case, why are you doing it? Why are you trying to break a system that works and is efficient and has been operated and implemented by the Dairy?

And I ask States' Members to please reject this report and do not break something that is already working well.

Thank you, sir.

2740

The Bailiff: Deputy Lester Queripel, then Deputy Laurie Queripel.

Deputy Lester Queripel: Thank you, sir.

Sir, I cannot possibly support these proposals – and I say that because I cannot support any
2745 proposal that severely disadvantages any of our fellow Islanders. And if these proposals succeed today, then many of our fellow Islanders will be severely disadvantaged, because we will be severely disadvantaging the milk retailers themselves and we will be severely disadvantaging our fellow Islanders who rely on doorstep delivery of their dairy products. And just to state the obvious for a moment, sir, we are not just talking about milk here, we are talking about butter,
2750 cheese, cream and ice-cream – fairly hefty items for someone to carry, who may be elderly or infirm and relies on their doorstep delivery.

I am aware there is *one* major store in Guernsey that provides a delivery service, and I am also aware that HSSD provide a shopping service for Islanders who have no one to call on to assist them with their shopping, but the delivery service provided by the store is a limited service and
2755 the HSSD shopping service is already under pressure. And I suspect that if these proposals are passed today, then that shopping service will be *inundated* with calls from Islanders asking for help with their shopping.

2760 Sir, I am in need of clarification from the Minister, please, regarding the importation of milk because my understanding is that is it not illegal to import milk at the present time, yet the Minister has told us in the past that his Department prosecutes anyone caught importing milk. But his Deputy Minister has told us that they do not, because they cannot.

So just what is the current situation and why does the Minister tell us one thing, while his Deputy Minister tells us another?

2765 **Deputy Stewart:** Point of clarity, I think I made it quite clear in the debate around the milk review, that the current law is fairly old and the definition of milk and milk products is not sufficiently scoped out well enough to give us the robustness in preventing imports. If there were perhaps large quantities of milk coming in we would have to look at it, but we are quite convinced that once we have the new Milk Ordinance in place, with proper definitions of milk, we will
2770 absolutely be able to prevent legally the importation of milk. That is the advice of the Law Officers.

Deputy Lester Queripel: I am still slightly confused on that then, sir, because picking up on what the Minister just said it sounds like the new ordinance will actually result in a total ban on the importation of milk.
2775

Deputy Stewart: He is correct on that.

Deputy Lester Queripel: So what happened to our having to comply with Protocol 3?

2780 **The Bailiff:** You can reply to the debate at the end of the debate, Deputy Stewart, otherwise it will become a question and answer session.

A Member: Hear, hear.

2785 **Deputy Lester Queripel:** Yes, sir, I would like some clarification on that Protocol 3 compliance issue, please.

There is no guarantee whatsoever that our supporting these proposals will actually benefit the Dairy or our farmers. In fact I see exactly the opposite happening: I see some of our farmers going out of business, as well as the milk retailers – and I want no part in putting any of my fellow
2790 Islanders out of business, sir.

So bearing in mind that supporting these proposals will severely disadvantage many of our fellow Islanders, I urge my colleagues to reject these proposals.

In closing, sir, it should not always be about money. Sometimes it needs to be about providing a service to the community. And the irony is of course that C&E are mandated to support small
2795 businesses, and in a sense here they are pulling the rug from under them, to apparently reduce costs to the community and attain sustainability. Yet if the milk retailers go out of business and the farmers go out of business and they cannot find alternative employment they will be forced to claim Supplementary Benefit, which will cost the community anyway. Like a lot of things in politics, sir, it does not make sense.

2800 Thank you, sir.

The Bailiff: Deputy Dorey and then Deputy Green.

2805 **Deputy Dorey:** Thank you, Mr Bailiff.
On the first page of the report, 2400, it says,

'The Department considers that it is clear from legal advice that those arrangements effectively represent the status quo...'

I do not really understand how they can conclude they represent the status quo and I will try and develop that through my speech.

On page 2432, in the report from the working group, at the bottom of that page, it says,

'It is important to stress that, as can be seen from the analysis on the following pages of this document, the DRRWG considers that a future distribution system that eliminates doorstep sales or makes the current network of distribution businesses unviable would not be a welcome development. The Dairy does not seek to end doorstep sales and the DRRWG sees no value in such an outcome, which, at the very least, increases risk to the industry.'

2810 I cannot understand how they can reach a conclusion that this will not affect doorstep sales. From my time in the States and from presentations that I have seen, it is very clear that there is a cross-subsidy between supplying the commercial businesses and shops which subsidises the doorsteps sales. If you give the ability to the shops to buy directly or use other commercial businesses through them to buy from the Dairy, you will end doorstep sales.

2815 It is very clear from the information that we were given by the Guernsey Milk Retailers, that there is a cross-subsidy. So in proposing the option that they propose, to say that the analysis does not end doorstep sales does not make any sense. And saying it 'would not be a welcome development'... because that is exactly what is going to happen by their proposals.

2820 Also, on that same page it shows a table of the effect of the milk consumption per capita and it shows that when there is 80% sales, there was 117.8 litres; 50% sales, it went down to 107.8 litres – this is litres per year per head – and when it is 30% doorstep sales, it went down to 101.1 litres. So that table, to me, very clearly shows a relationship between the percentage of doorstep sales and the consumption of milk. So then for them in their table on page 2437, when they look at the various options and they recommend either option C or D, they say that in terms of total sales maintained they said, 'Likely to achieve this criteria'. I do not see how they can conclude that because what they are proposing is going to end doorstep sales. I have absolutely no doubt about that, apart from perhaps some very built up areas, but because of the cross-subsidy and their ability have that income from the shops, will go. And the diagram clearly shows as you reduce doorstep sales you reduce consumption.

2830 I am sure as a family we have discussed it and that is what will happen, because we have a standing order and normally it is enough, sometimes you have to substitute it and if it is too much we use that milk up, but if we were buying it as and when we needed it we would never have that excess which we had used up to make something where you use that excess milk. So I have no doubt that ending doorstep sales will reduce consumption. The table tells us that.

2835 So the proposals in this is not the status quo. They are basically going to result in the ending of doorstep sales and reduction in consumption of milk.

I would now like to go back to the Billet d'État from November 2011, when there was another independent review done of the Dairy industry. It was done by three people and it was called the Dairy Industry Review Amended Report 2011. In that report it concluded that,

'From 2015 (or sooner...) the Dairy should take responsibility for the sales, marketing and delivery of all fresh milk and dairy products to all outlets controlled by [the following organisations]'

2840 And it lists Waitrose, Sandpiper, Co-op, Marks & Spencer, Alliance and Forest Stores. And it goes on to say:

'The Panel takes the view, however, that to further industry restructure a level of compensation should be available to those who have lost business with the changes.'

So that independent review very clearly said the Dairy should be supplying the shops directly, but the right thing to do was to offer compensation to those businesses which were affected.

2845 I have no doubt that that conclusion was right. I think we have a moral responsibility to compensate those whose business will be affected by these proposals. (**A Member:** Hear, hear.) Whether you agree with them or not... if you agree with them I think you have to compensate them.

2850 So based on the report as it is, I cannot support it. I will vote against it because I believe it will end doorstep deliveries, which means the status quo will not happen. It will be a very different situation and by ending doorstep delivery we will lower milk sales, and because there is no system of compensation... I believe we have a moral responsibility for. So I urge States' Member to reject this report and just before I sit down I should just declare that I have a son who is at university doing a foundation degree in dairy farming and he intends to return to Guernsey.

Thank you.

2855 **The Bailiff:** Deputy Green.

Deputy Green: Sir, I take the same view largely, as Deputy Dorey does – not entirely. I do not think the option that C&E are recommending here is one that represents the status quo.

2860 I happen to, actually, rather agree with option C in terms of the best future direction. I think the Dairy really ought to have full commercial freedom to deal directly with its major customers when 70-odd per cent of milk is now sold through shops and around only 20% is distributed door to door. I think the general direction that C&E want to go in is the right direction. I think the fostering of a more conventional, commercial, free market model is the right approach in reality and I believe that that flexibility will be best in terms of the maximisation of efficiency in the future.

2865 But like Deputy Dorey, I think if you are going to be moving from the current system to that system in all fairness you need to be offering some form of compensation. Currently – and Deputy Lowe described this in great detail, and it was certainly described at length in the previous debate we had on this in September of last year – we have a heavily regulated States' system with zoning and *de facto* exclusivity for the roundspeople, that has undoubtedly helped to create and to add to the value of those milkrounds. And to move away from that to a much more straightforward commercial system – which is what this option C is all about – I think that in all fairness does require some limited compensation to be awarded. That is a question of fairness, it is a matter of fairness – and is in the interest of being able to move on, to draw a line under the current system and to represent an exit strategy, if you like.

2870 Commerce & Employment might well be right legally, in terms of the position that they are adopting. They may well be right politically, in the sense of the economic times that we are living in – and they may be well be right commercially. As I say I have sympathy with their commercial direction of travel, but the moral dimension is what is missing from all of this and that, I think is the chief weakness in this policy letter... the lack of *bona fide* consideration of mitigation.

2880 Now, the reality is that I think the States as a Government, has to comply with higher standards of moral conduct when fundamentally changing models of operation, and I think that is what this is all about. As I say I do believe that the direction of travel here is probably the right way forward, because we know what is happening to the market. We know that doorstep deliveries and sales are not what they were. We know that most people now will purchase their milk from shops. It is a changing world; it is a changing market – times have changed. The reality is, I think, that the milk distribution arrangements realistically have to change too. But the States has to do that in a way which inspires public confidence I think, and does not trample lightly on the businesses of the people concerned.

2890 So I think on balance, I would probably not vote for any of the Propositions today, because I think in all honesty we do need a proper exit strategy – I think that is the term that Deputy Langlois used last time – and I think a part of that, to move on, is a modest system of compensation.

2895 The individual milk retailers in question have bought into their milkrounds under the current States' system, with the zoning arrangements and the exclusivity, and they have done that in good faith and they have relied on the current regulatory apparatus when buying into their rounds for consideration. In my judgement there must be at the very least an element of merit in a case for some mitigation.

2900 But on the policy letter that we have before us I do not think that that has been considered adequately. I think these proposals do represent a move away from the status quo. As I say in all things being equal I would probably support – and support strongly – the direction of travel and I am afraid that I cannot, for the reasons that I have just described... and I will probably vote against all the Propositions.

2905 **The Bailiff:** Deputy De Lisle.

2910 **Deputy De Lisle:** Sir, first I have to profess my remarks with family interests in retail and agricultural property. While not running a dairy farm I have interests there. I would also make the point, very clearly, that the Dairy has no plans to deliver milk. In fact exactly the opposite, but to rely on the retailers to continue, and it has provided assurance to all existing distributors that they will be automatically approved as distributors as soon as any new arrangements are confirmed.

2915 Sir, I also have to make the point that the milk retailers are already being given a lot of protection. First of all, they have a written commercial distribution agreement which is being given by the Dairy. And secondly – and this is very important – they are being given protection through the new, more robust, Milk Law which will prevent any likelihood of milk imports in future, which they said in a recent meeting... the distributors made the point that that could have an effect on 30% of their business, if milk was allowed to be imported. So they are getting that.

2920 And then, in addition to all that, they are getting mitigated operational risk by the Dairy ensuring that the larger customers cannot seek to negotiate quantity discount arrangements. Now, think about that one in terms of what we just passed a few hours ago in the retail business. Compare that with a small retail business outside the dairy industry, with no robust law at all to protect their businesses from internet sites – and that is a biggie – and no retail distribution written agreement with a supplier, and now even more competition through the liberalisation of Sunday trading legislation which will impact on the small retail business, particularly on its market share.

2925 The point is, if you are in business you are in business. You have got risks, you take risks. But this applies to all in retail, not just one part of it. And that is what we did earlier. We have gone from a closed retail situation to some degree on a Sunday, to an open – and it is the same here. There is no difference.

2930 So we have Deputy Lowe and we have Deputy Green asking for compensation. Well, I ask for compensation then for other retailers that find that they are losing market share. Why shouldn't they have compensation? It is the same thing. (*Interjections*) There is no difference, absolutely no difference!

2935 **A Member:** It is chalk and cheese.

2940 **Deputy De Lisle:** And to move from that very frustrating element, consider also what has been given up by other stakeholders in the dairy business. The farmers reduced their dairy farm management contracts and the subsidy that they were being given – reduced by £1 million over five years, £200,000 a year... to be reduced by greater efficiency in their particular working model. And the Dairy, also, has contributed the first £200,000 savings this year, essentially through increased efficiency working again. So, if you like, they are three legs to the stool in the Dairy business. There is the dairy, the farmers and the retailers and two of the legs have given up some material gains in order to facilitate, really, sustainability in the industry for the future.

2945 So I turn to those people that are saying... you know compensation this way, that way and compensation for the *whole* of the retailers, not just a part of it. And consider also the protection that is being given, as I said, in three ways in terms of the distributors today. First, in terms of the Distribution Agreement which will be essentially what they have got now. Secondly, a real big protection in terms of the more robust Milk Law and thirdly, the protection which will be provided

2950 through reduced operational risk, which other retailers do not have, whereby quantity discounts by the larger traders is not allowed.

I also would like to just finish on the fact that we are dealing with the dairy industry as a whole here and that is very important to realise and what we want to do is to create a stable environment for investment in dairy farming and also protecting the future of the dairy industry and farming in this Island as a whole. And I think we have to be fair to all in retail and not just provide subsidies to one sector when we today have changed the rules themselves in retail. And we have left, actually, a problem for a lot of small retailers in town today with respect to Sunday closing and reversing that to Sunday opening. It is going to cost the small person and we are going to lose some of those retailers.

2960 Thank you, sir.

The Bailiff: Deputy Laurie Queripel, then Deputy Hadley.

Deputy Laurie Queripel: Thank you, sir.

2965 Unfortunately, I am adding to my notes as other Members are speaking and Deputy De Lisle has made me add to my notes, sir. He spoke about the price that the distributors will have to pay on the new system and there will be no disadvantage because they would all be paying the same price. But I would have a question, perhaps for the Minister of Commerce & Employment, what about extending credit to the bigger players? Will the bigger businesses be given extended credit, giving them an advantage or will it be a level playing field for everybody with credit terms, whether they are the biggest distributor, or the smallest distributor – because that would clearly give a larger business an advantage if they are going to be given extended credit. So I would ask that question to be answered when Deputy Stewart sums up at the end of debate.

2970 And so I was actually glad that Deputy Stewart acknowledged that zones and conditions, etc. were attached to licences for rounds, but I am not sure he understands the implications of that in regard to wanting to change from the current system to a new system. Sir, to my mind it is proved beyond doubt that down these many years the Dairy, the States and the various States' committees that have had responsibility for the Dairy – it is C&E now, and in the past the States' Dairy Committee, for example – are neck deep in setting up the organising of the current system, which includes of course licensing, zoning, the application of regulations, conditions, etc.

2980 I thought that during the last debate that we had in September 2014 that I and other Deputies – amongst them Deputy Fallaize and Deputy Lowe, of course, who has a great and deep knowledge of this issue, and also Deputy Lee Lièvre, who gave an incredible account of how the dairy industry had evolved and how the history of licencing had evolved as well, sir. And other Members, too, chipped in with some very interesting and useful information.

2985 I thought that we had provided enough evidence to confirm that the retailers do not operate in a straightforward, free market, commercial environment precisely because of the system that had been created, sir – licensing, zoning, regulations, conditions, etc. And yes, that system provided certainty for the retailer, which is why they have made heavy investment in their rounds... sometimes actually re-mortgaging their homes to invest in their rounds. That certainty created a real, tangible value in regard to their rounds.

2990 Now, sir, I have heard it said that the value of the rounds is an intangible asset. I suppose there is something to that in regard to the goodwill element, but the tangible value is provided by the system – licences, zones, conditions, regulations, etc. all agreed and approved by the States and the committees representing the States in the past. But that certainty has been undermined over the last few years by proposed changes to the system: the system that the retailers felt they were very much part of, along with the farmers and the Dairy, sir. Something that other parties within the industry have been very, very pleased and prepared to acknowledge.

3000 I have a cutting in my hand from the Guernsey press, dated Saturday 6th July 2013 and this was a farmer speaking at a presentation afternoon organised by the 14th World Guernsey Cattle Conference. He said, 'The industry benefited from a good dairy and strong political backing.'

'Farming here could be viewed as a chain and we are lucky that it is a strong chain.' He went on to say, 'We have committed farmers, strong political backing, a good milk delivery network and a strong loyal customer base.'

3005 And that same farmer, in 2005 at a Scrutiny hearing said this, 'We came to the same conclusions, that the way of maintaining the market was by doorstep delivery. We do not want to lose a litre to imports. We do not want lose a litre of sales either. So we give the retailers our backing.'

3010 And the former Deputy, Ron Le Moignan, said at the time, 'Could I ask one more question? I am sorry to pursue this, did you reach any agreement with the retailers that they would retail only Guernsey milk?' And the farmer answered, 'No. We reached an agreement that we would give them *our* backing, but their distribution system was extremely effective.'

3015 But now, sir, the distributors and the retailers operate under great uncertainty. Their lives and their businesses have been in limbo during the last few years and that naturally brings with it great anxiety, stress and distress. But now, for the Department and the Dairy to come here and say they have no responsibility, no obligation towards the retailers, when their fingerprints are all over the system – the system that helped to shape these businesses and the environment they operate within – is ludicrous.

3020 Clearly they ignored what was said during the debate in September 2014. They probably did not check the *Hansard* and probably did not look up the documents that were referenced during that debate. I cannot conclude otherwise.

3025 Further to that claim, sir... there is a claim in paragraph 1.4 of their report, that the new system represents the status quo, that the proposals, the new arrangements, effectively represent the status quo, that no adverse consequences or effects are envisaged. That, sir, at best is a shot in the dark – speculative, to say the least. On what basis that claim is made escapes me.

Sir, particularly when you look at the Department's report from 2007, page 887, paragraph 3.5.17, and I will quote from that paragraph and that report:

'Responding to their concerns the Department has instructed the Guernsey Dairy to adopt the following Commercial Trading Policies designed to protect the value and viability of milk rounds and to effectively maintain the status quo:

(a) The Guernsey Dairy will not deliver milk to shops.

(b) The Guernsey Dairy will not permit the direct collection of milk by shops from its premises.'

That seems quite categorical to me.

3030 So clearly the Department is presenting a version of events, sir, truth, but not the whole truth, to engineer an outcome. The situation I just described, as quoted from that 2007 report... that was the status quo, not what the Department wish to put in place now. So I can only concur with the contents of that paragraph from Commerce & Employment's 2007 report.

3035 I cannot believe it will simply be a case of business as usual for the current retailers if the Department's preferred system is adopted. It will surely affect the value and perhaps even the viability of some or most rounds, if they lose their commercial customers. In fact I know it will, sir, via some figures shown to us at GMRA presentation last week. The proposals are very likely to be a game changer – hardly the status quo.

3040 Sir, the current system is more accurately represented by a piece of paper I have before me, and I will just take it out. This document is entitled 'Guernsey Dairy Retailers Road Report' and this is page number 8... and it is not easy to see but I will just show it to Members. In the first column you have the name of the retailer, in the second column you have the roads that they can deliver to, and in the third column you have the name of the Parishes – all with the involvement, agreement and approval of the Dairy and the States' Department. And on the other side I have a copy of... not all of Guernsey, but a section of Guernsey. This is a map that Deputy Lowe was referring to. It is a very nice coloured map, with all the zones broken up by yellow, blue, red, orange, etc. Very clear that the Dairy and the States have been all over, sorting out a system which
3045 was put into zones and included regulations and conditions.

3050 While I am looking at documents, I would just complement that document I have just shown to Members, with another. This is a copy dated February 1991 and it is entitled 'Regulations and Guidelines Governing the Retail Sale of Milk' and it is the States' Dairy and the GMRA. In this document in section A Delivery Standards, it says, number 1, 'All rounds have been frozen from midnight 27.7.87, i.e. each round will stay as it is with regard to properties. The only changes to be made will be made to assist zoning.'

3055 And in number 2 of that section, 'The Regulations and Guidelines agreed between the GMRA and the Dairy will be deemed to apply to all milk retailers.'

3060 And then this document... I will not go into reading it all, there are three pages. In the other sections it talks about the kind of vehicles that should be used, the hygiene standards, the containers that should be used, sir. On the other side it talks about doorstep deliveries and commercial deliveries and in section C it says, 'Transfer of a Milk Round: no round or part of a round may be bought or sold without the permission of the Dairy. Before a round is offered for sale it will be examined by the Consultative Committee as to its suitability for zoning.'

3065 And in section D, entitled 'Shop Depots... a retailer must obtain the permission of the Dairy to serve any shop depot.' And it goes on to stake out terms of credit and all sorts of other things. Showing the hand, sir, proving the regulatory role played by the Dairy and played by the States.

3070 I just want to refer to one more document – it is a copy of an actual retail licence from 1987 issues by the States' Dairy Committee: 'To sell by retail in the following zone' – and the zone is the Forest – 'the foregoing commodities may be sold from the following milk depots, rented by the holder of this licence, provided that the said holder shall comply with any conditions laid down from time to time by the States' Dairy Committee and the Board of Health.' And on the other side of this licence, it says, 'To sell milk and milk products only in the zone allocated to him by the States' Dairy Committee and at the appropriate prices fixed by the committee.' Now we know that has changed. And in number 4, 'Comply with delivery standards as laid down by the States' Dairy Committee from time to time.'

3075 Once again, sir, the fingerprints of the States and the Dairy all over the shape and the making up of the retailers' businesses.

3080 And I just wanted to make some references to some political comments from the past. This is the first one from former Deputy Peter Roffey in 2007, 'My concern is not just that of the morale duty that we have for 29 small businesses, not to suddenly pull the rug from under them, particularly when the initial value of their rounds' – and this is the key point – 'was largely down to States' policies and procedures which evolved over many decades.'

3085 And then... I do not wish to embarrass Deputy Brouard and Deputy De Lisle, sir. (**A Member:** Go on!) (*Laughter*) Clearly they have a right to revisit their views on any given issue, as we all do, but this is what they said just a few years ago and I must believe they were sincere in expressing these views. Firstly, from Deputy Brouard, 'The retailers have bought into a scheme and if we want to rewrite it, it should be done by negotiation not trying to rewrite the past using smoke and mirrors. These doorstep deliveries are part of our unique Island culture. Once they are lost we will not get them back.'

3090 And then from Deputy De Lisle in 2006, 'Free for all competition does not fit in with a very heavily regulated and subsidised milk industry. Competition can undermine an industry and security is not considered very carefully in terms of social and environmental consequences. Good government should assess the future consequences of tampering with the status quo before bringing in proposals.' That is from 2006.

3095 There are so many other documents that I could refer to, and quotes and points, but I would just like to finish with a few thoughts of my own. Actually, I just want to make one more reference, to something that somebody else said... and that was speaking of the value of the rounds and the licences. Now, it does not matter whether the licences are in the possession of the retailers or not at the moment. These are very unusual, perhaps, unique licences in that they are issued for an indeterminate period. There is no expiry date on them..., and one of the retailers has been told, because of that, by a legal administrator – in fact a former Royal Court Judge – that these licences

3100 put the milk retailers in a very strong position, a position that cannot be changed or should not be changed until C&E and the Dairy have come to a fair and just settlement with the retailers. That is an important thing to bear in mind. There is no expiry date on these licences.

Another point... bearing in mind the demographic situation that the Island faces, Deputy Dorey was talking about if we change this system, that there might be a decline in doorstep deliveries. 3105 Now, I think the Jersey situation is probably one to note. As far as I understand it there are only now three distributors that are prepared to deliver to doorsteps. Now I cannot believe... there must be people who are being denied doorstep delivery because they simply cannot access a distributor who wants to deliver to doorsteps. And bearing in mind the demographic situation that we face, there actually might be a *greater* demand for doorstep deliveries in future years – 3110 older people staying in their homes, less mobile and in greater numbers. So I think we have to give that some thought as well, sir.

Now, in regard to the Department's attitude, the Department's posture, it is no secret... if we remember a couple of weeks before the debate in September 2014 there was an article in the press and it was quite clear that the Department were taking quite a bullish attitude towards the 3115 retailers. There was a feeling that they needed to be put in their place, that there was a scrap, that there was a war to be had. And at that time, I tried to play the peacemaker but really to no avail. But, sir, in my view that is no way to treat the proprietors of small local businesses who provide a valuable service to the community; Islanders who live and work within our community. That is not the way to do politics. It is not the way to conduct government business, if you want to make 3120 changes.

Now, it is such a shame, actually, because as Deputy Green says... and Deputy Green is probably more enthusiastic about option C than I am. I have got some misgivings about what might unfold if it is put in place but generally speaking I have no real problem with it, sir. And it is such a shame, because Commerce & Employment are providing what I call a *version* of the truth. 3125 It is such a shame, and they are flagrantly disregarding the history of licensing and zones and all that goes with it. It is such a shame that I cannot vote for option C because if Commerce & Employment were prepared to acknowledge the history of licencing, prepared to accept their responsibility toward retailers, accept their obligations, I could well vote for option C.

But where there should be a bridge built... if C&E did the right thing, there would now be a bridge that could be used to cross over from the current system to the new system but because of 3130 C&E's attitude and because of their lack of proposals in regard to coming to a fair and just settlement with the retailers... instead of their being a bridge there is a gulf, there is a chasm. If that bridge had been built by the Department, I could vote for option C even with the reservations that I have.

3135 So, sir, in conclusion as I say, I cannot vote for the Propositions as they stand. If C&E had given due consideration to the retailers, if they had accepted they were not putting forward the status quo, but potentially a game-changer, I could. And until they do I will be voting against these proposals.

Thank you.

3140

The Bailiff: Deputy Hadley.

Deputy Hadley: Mr Bailiff, I think here we are looking at a situation where the world has changed and it is how we deal with the change. And if we go back all milk virtually, was delivered 3145 at the doorstep and some of us can go back to the days when a milk churn came round. And today 80% I believe, or so, of the milk is bought in shops, yet we have still got a system designed for when the milk was delivered by milk roundsmen.

Some of the things that have come out in debate I think are a little odd. I mean, Deputy Dorey's suggestion that it is better to have milk delivered on a doorstep because some of it is 3150 wasted when people have more than they need.

Although I thought it was a good speech from Deputy Queripel when he says that we have to preserve the culture of the Island. These things do not sit well with me.

However, having listened to Deputy Lowe many times about past history, and I look at section 7.2 when it says:

'As discussed above, distributors do not have, nor ever have had, exclusive rights...'

3155 I just think that paragraph is totally dishonest.

A Member: It is. Totally dishonest.

A Member: Hear, hear.

3160

Deputy Hadley: And I very much like the way Deputy Green summed up the issue, saying that, as a Government we have a moral responsibility to treat people fairly. And although the existing system of selling milk seems to me to be wrong, it would seem that we have evolved into a system where according to Deputy Queripel only three people do doorstep deliveries. So what is wrong with the current system and the reason why I have wanted to see change was it seems as though some people get 12p a litre, just for moving the milk from the Dairy to a shop, which means that the customer pays more. But nevertheless, I have got to come back to 7.2 and say that is not, to my mind, honest.

3165

So I think that the States does have some responsibility for some level of compensation for a system that they set up. And what I was hoping to see in the debate was some amendment from Deputy Lowe, who knows so much about this, dealing with this issue.

3170

I fully expect this debate to carry on a little longer and hope that overnight she will consider laying an amendment to deal with the injustices in this policy.

3175 **The Bailiff:** I am not sure the debate *is* going to continue. Nobody else wants to speak.
Deputy Brehaut.

Deputy Brehaut: It is a very short speech, sir.

3180

This morning there was a view that if we allowed Sunday trading then the Earth would move on its axis and the damnation would follow. But actually it was a question of who does *not* work on Sunday when you think about it – if you are visiting somebody in a care home the carers have to be there, and in a café the staff have to be there.

3185

I think losing milk roundsmen and milk deliveries is a far more fundamental change actually, than Sunday trading. My brother-in-law used to own one of the largest dairies in north-east Scotland – they owned Allarburn Dairies – and Gilbert had all Guernsey cows, incidentally, and they had the farm shop, the dairy and milk distribution. If you venture round his farm you will find parked up in barns, abandoned electric milk floats when they used to deliver the milk. And of course that all changed when the huge supermarkets arrived, when farms got bigger – and the two are obviously connected – and when supermarkets started selling milk as a loss leader to get in.

3190

It is interesting to note in the UK that Morrison's now, and other supermarkets, are saying if you want to pay the price of milk you can, and they have put the price of their milk up accordingly to ensure the welfare of the farmers.

3195

I will not name the person, because Sheila Maunder would not be happy if I did. It is okay, I can say that – somebody I know very well who now lives alone and they have their milk delivered. And I know we can gloss over this and we all know that milk retailers are not social workers. They do not drop off your milk and cut your lawn and do all the rest of it. They do not clean your windows on the way out, they are not saints. But milk retailers have a role and they are one of the very few people that still visit people of a certain age.

3200 There was a time when someone living alone perhaps some years ago, would have had the
electricity read, the gas meter read, the milk delivered, the newsagent and even, I can remember,
at one time there was even a shop that went round. Now we know as I was saying yesterday, we
cannot live in someone else's past all the time, but we underestimate when people live alone, how
important social contacts are and it will be a milkman that finds somebody fallen over in a back
3205 yard. It will be the milkman that finds somebody on the other side of the door when they drop off
milk. I do not want to exaggerate that but I think that we underestimate 20 little vans spinning
around the Island, going door-to-door daily, having that contact with people. I think if we lost
that, that is more of an erosion in my view, that what we agreed with Sunday trading – because
we virtually have Sunday trading now, it happens. But I think if we were to lose that aspect of
3210 door-to-door we lose something that is quirky and quintessentially Guernsey.

Now, I sense that and I do not want to up upset the Minister of Commerce & Employment but
if he will allow, he has fallen into a pattern that I think every Commerce & Employment Minister
has done before him. There are the bright lights of FinTech, there are things that take you off-
Island, there are the ambassadorial roles – and I can understand why that sometimes can be all-
3215 consuming and be a big part of your political career. But the reality is that they say all political
careers end in failure, but politicians would love to think they travel in a burning Spitfire towards a
red horizon and slowly fall away. Well you do not, you trip over on the hearth rug and bang your
head on the mantelpiece.

What I am trying to say is, if you do not look at what is immediately under your feet then you
could sometimes ... if you are looking at the bigger picture you can lose sight of the important
3220 detail – and I am afraid that has been the story with the Dairy, that other parts of the mandate
perhaps politically, have been sexier than dealing with the business of the quaint aspects of milk
delivery.

So like others Deputy Green has put it very well, he will not be alone. I sense there is an
3225 amendment in the air somewhere in here today and I think perhaps the *Leopardess* might get
bailed out later today by yet another amendment.

Thank you.

The Bailiff: Deputy Perrot.

3230 **Deputy Perrot:** Thank you, sir.

I have had two Pauline conversions in two days and it is worrying me rather.

As far as this debate is concerned, I came to the States with the fairly firm view that I was going
to support all of the Commerce & Employment's proposals – in particular option C. And I did that,
3235 that was my idea, notwithstanding the background which was this time last year. This time last
year as a result of a presentation by the Guernsey Milk Retailers Association, I thought that the
retailers were being treated somewhat unfairly. So with Deputy Mrs Lowe – and a few others, I
think, perhaps Deputy Fallaize – we engineered a meeting with Commerce & Employment. Then
there followed an amendment during the debate last year and I hoped that would give everybody
3240 breathing space, so that there could be constructive debate between the retailers and Commerce
& Employment which would lead to something which was, maybe not entirely satisfactory, but
sort of satisfactory to all.

But when I read the Billet I was not really terribly impressed by the way which the retailers had
comported themselves. It seemed to me that they had not made as much effort as I had hoped
3245 that they were going to, and in paragraph 3.6, for example, of the policy letter, we read that:

'The Department is disappointed that there was only limited engagement from interested parties and although the
GMRA contributed to the review, as a general position, it appeared to prefer to await the conclusions of the
Department rather than express its own views on what the optimum distribution and retailing arrangements might be.'

Then, in the appendix to the policy letter we saw correspondence with the Guernsey Milk
Retailers Association and I thought that correspondence, really, was not over-constructive. It was

3250 sort of 'clever dick-type' correspondence on the part of the retailers and it just was not designed, it seemed to me, to get together so that there would be agreement. So I was very unimpressed by the correspondence from the retailers.

3255 But is it right, I suppose I am asking myself, to add to the detriment of the deserving merely because, as far as I am concerned, their leadership has proved to be something of a disappointment? And I have to say I have been hugely impressed and my mind has been changed through the course of this debate. First, by Deputy Mrs Lowe and I thought she spoke well and it was right I think for her to repeat almost verbatim what she had said last year, which I had sort of forgotten.

3260 I also listened carefully and agreed with what Deputy Dorey had to say, and I think my position most closely aligns with that of Deputy Green who said that he actually would probably go for option C, which is what I would go for, but that he did feel that there had to be proposals associated with that which were in some way to recompense people – and I heartily echo what he says.

Finally, no not finally, Deputy Hadley also – I am going to be damned for this I think – I endorse what Deputy Hadley had to say in as far as I endorse anything that he had to say.

3265 But the one who really convinced me I think was Deputy Laurie Queripel. Deputy Laurie Queripel does have a habit of speaking, quite often for too long, but on this occasion I am jolly pleased that he did speak, because again he crystallised for me, my thinking about this – and what this boils down to is morality.

3270 I think actually that the retailers did mislead themselves. Whether they did so because they wanted to, I have not got a clue, but the great thing about this is that the States of Guernsey were aware of what they thought and did not disabuse them of what they thought, and as a consequence people will have acted to their own detriment in buying rounds, which they could have difficulty now in selling. I am not sure that if the proposals as they are were accepted in their entirety, we would be seeing the sort of 'milk Armageddon' which some people speak about, because it could just be that what we will have is perhaps fewer retailers who have a greater
3275 number of customers, and customers would want to have those retailers because they would have the personal attention of those retailers.

3280 So it just could be that it would all... it would not all pan out, but that it might not be as bad as people think. But anyway I think that is, for the moment, irrelevant. I do think that they have been misled. I do think that the States have to answer in some considerable measure, for that misleading, as a number of people have said the fingerprints of the States are all over the present arrangements.

3285 So I have to admit it people, perhaps, are going to criticise me yet again, for changing my mind, but it has been changed as a consequence of the debate and I thank those of you who have changed it for me. *(Applause)*

The Bailiff: Deputy Sherbourne.

Deputy Sherbourne: Well, follow that. As a member of the same generation, I welcome the Renaissance man. *(Laughter)*

3290 I was not going to speak on this particular topic but I have been troubled by it, really troubled, because I try and lead my life and the decisions I take in life on a basis of whether things seem to be just, and right. Now, I make mistakes like we all make mistakes, but that is a fundamental tenet to my thinking. Is it right that we should do this? And although I would like to support option C, I for the same reason as Deputy Green have a real problem with it, because justice suggests to me
3295 that we should be honouring through compensation, decisions that were made by a previous States that establish a certain practice, that have provided us actually with an incredible service over the years.

I do not know, many of you will have had individual emails from various members of the public supporting the milk retailers, especially from the elderly. I had a letter and a conversation with an

3300 elderly lady the other day who was very forgiving in many ways, but was bemoaning the fact that in recent years she had lost all the contact with the delivery people that had helped her over the last few years. And in fact I suspect that the shop that Deputy Brehaut was referring to was Lipton's, because Lipton's at one time actually provided a food delivery service. And we have been used to ... certainly those that have lived near the coast have had fish in the past, delivered.

3305 But the milk roundsmen have been constant, very very supportive. Thankfully very quiet, because the time that they deliver nowadays is too early for me! But again getting back to my reason for standing, we do owe them a debt of gratitude and I think it is treating them shoddily, to expect to change the rules at this stage without some due consideration to reimburse them for the investments they have made that in fact, no longer will be returned.

3310 So I ask you to actually reject these proposals and hope that C&E can come back with a more equitable proposal that meets my concerns and the concerns of many who have spoken this afternoon. (**A Member:** Hear, hear.)

Thank you.

3315 **The Bailiff:** Deputy Fallaize.

Deputy Fallaize: Sir, I just really want to advise you that I am going to be laying an amendment to this report which the Comptroller is preparing at the moment. So I do not know perhaps whether, if I can ensure that it is circulated this evening, we might take it in the morning or whether it would be your wish to take it this evening. But could I have permission to circulate it as soon as it is ready, please, sir? (*Interjections*)

3320

The Bailiff: It does not look as if the Comptroller has brought 47 copies – or 48, allowing one for the Greffier as well – with her.

3325

The Comptroller: Sir, we are just about to press print, but I was just going to make sure that this is exactly what is required by the Deputy.

Deputy Fallaize: Sir, could I request a 10 minute adjournment, please.

3330

The Bailiff: Yes, let's have a ten minute adjournment...

Well I think if we are going to have a ten minute adjournment and then see the amendment at the end of that, which the Department are then going to want to consider, we are not realistically going to reconvene this evening. So I think we might as well rise now and then that would give a chance for the amendment to be circulated, the Department to consider it and then we will resume at 9.30 a.m. tomorrow morning with the amendment.

3335

The Assembly adjourned at 5.10 p.m.