



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Friday, 2nd 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

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, J. P. Le Tocq, 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, 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

D. A. Knight, Esq. (H.M. Deputy Greffier)

Absent at the Evocation

H. E. Roberts Esq., Q.C. (H.M. Procureur); Deputy R. Conder (*absent*);
Deputy E. G. Bebb (*relevé a 10h 33*); Deputy L. C. Queripel (*relevé à 9h 35*);
D. B. Jones (*indisposé*); S. A. James, M. B. E. (*absente de l'Île*); Deputy R. W. Sillars (*relevé a 12h 18*);

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States of Deliberation

The States met at 9.30 a.m.

[THE BAILIFF *in the Chair*]

PRAYERS

The Deputy Greffier

EVOCAATION

Billet d'État XVI

COMMERCE & EMPLOYMENT DEPARTMENT

XX. Dairy Industry – Optimum Arrangements for the Distribution and retailing of Milk and Milk Products – Debate continued

The Deputy Greffier: Debate continues Billet XVI, Article XX.

The Bailiff: Members, an amendment has been circulated which I assume that Deputy Le Lièvre wishes to lay. Is that right, Deputy Le Lièvre?

5

Deputy Le Lièvre: I do, sir.

The Bailiff: Would you like it to be read for you or would you like to read it?

10

Deputy Le Lièvre: No, I can read it.

The Bailiff: You can read it.
Just before you do so, Deputy Lester Queripel, would like to be *relevé*?

15

Deputy Lester Queripel: Please, sir.

The Bailiff: Right, you are *relevé*. Thank you.

20

Deputy Le Lièvre: The amendment reads as follows:

'To delete Proposition 1 and substitute therefor:

"1. To agree that the optimum distribution and retailing arrangements for the long-term sustainability and success of the Island's dairy industry are as proposed by the Commerce & Employment Department and approved by the States on the 30th October, 2008, namely:

a) that the Commerce & Employment Department (acting through Guernsey Dairy) shall grant exclusive rights to licensed milk distributors to deliver Guernsey Dairy milk to doorstep customers and commercial customers within specified rounds and Guernsey Dairy-branded milk products to doorstep customers in those rounds;

b) that the Commerce & Employment Department (acting through Guernsey Dairy) shall not grant exclusive rights to licensed milk distributors to deliver Guernsey Dairy milk products to commercial customers; and

c) that the Commerce & Employment Department (acting through Guernsey Dairy) shall grant non-exclusive rights to licensed milk distributors to deliver Guernsey Dairy milk products to commercial customers and not limited to specified rounds;

and to direct the Commerce & Employment Department to take any steps necessary to ensure the efficient operation of the distribution arrangements set out above;

and to agree that any other Resolutions made by the States on this Article shall be implemented only to the extent that they do not conflict with the distribution arrangements set out above.

Or, if Proposition 1 above is not approved:

1. To agree that the optimum distribution and retailing arrangements for the long-term sustainability and success of the Island's dairy industry are as proposed by the Commerce & Employment Department in Option C of that Policy Letter, which Option is described by the Department as "Dairy sells to any commercial customer"; and to direct the Commerce & Employment Department to report to the States at or before their meeting in March 2016, setting out financial measures to mitigate the likely adverse consequences upon existing milk distributors of moving to Option C." In regard to Rule 15(2) carrying into effect the first part of this amendment would not increase the revenue expenditure of the States.

Carrying into effect the alternative or second part of this amendment would require financial mitigation which a) would be a one-off arrangement and b) it is impossible to quantify at this stage and c) in any event requires a further policy letter from the Commerce & Employment Department before being agreed in detail.'

Mr Bailiff, the amendment is seconded by Deputy Dorey. I would like to thank him for that.

Deputy Stewart: Mr Bailiff, I was wondering whether we could have a 15 minute recess so that the Commerce & Employment Board could discuss this amendment in full and perhaps have a conversation with Deputy Le Lièvre as well around this amendment. (**A Member:** Hear, hear.)

The Bailiff: Right. You would wish to do that before you have heard from Deputy Le Lièvre as to why he is laying the amendment? Would you wish him to complete his speech?

Deputy Stewart: I think it would probably be useful, sir.

The Bailiff: What, to meet before he –? (**Deputy Stewart:** Yes.) To rise now, in other words?

Deputy Stewart: Yes, sir.

Deputy Domaille: Sir, I am sorry, I do not want to delay proceedings but maybe it is me this morning but I am confused and I would just ask in their discussion perhaps they could clarify this. In 1a) it says that they would:

'...grant exclusive rights to licensed milk distributors to deliver Guernsey Dairy milk to doorstep customers and commercial customers and commercial customers...'

In b) it says:

'...shall not grant exclusive rights to licensed milk distributors to deliver Guernsey Dairy milk products to commercial customers;'

And I am confused.

Two Members: Products.

Deputy Le Lièvre: The first part a) relates solely to liquid milk. The second part relates to dairy products – cheese, butter, cream etc.

Deputy Domaille: Right, thank you.

Deputy Trott: Sorry to be a stickler for procedural detail but the amendment has not been seconded and therefore is not in play, so we should not be having this debate.

50

The Bailiff: Well, it is not in play; that is why I questioned whether Deputy Stewart wished to rise at the moment or wait until it has formally been laid and formally seconded; and the message I was getting was that it would be your Minister's wish that we rise now and then, no doubt, whatever Deputy Le Lièvre may then say in his opening will be tailored as a result of the discussions that he may have had with the department.

55

So the proposal then is that we rise for 15 minutes. Those in favour; those against.

Members voted Pour.

The Bailiff: We will return at five to ten, or as soon as we can.

*The Assembly adjourned at 9.40 a.m.
and resumed its sitting at 10.16 a.m.*

COMMERCE & EMPLOYMENT DEPARTMENT

Dairy Industry –

Optimum Arrangements for the Distribution and retailing of Milk and Milk Products – Debate continued

The Bailiff: Members, thank you for your patience.

60

There is now a revised amendment that has been circulated, which I believe is broadly the same as the amendment that Members have already seen.

We do not need to formally withdraw the earlier amendment because it has not been formally laid. So I think what we can do is go straight into the revised amendment and, rather than re-read the whole thing, I think it would be helpful if Deputy Le Lièvre could just identify what the changes are from the amendment that he read earlier.

To delete Proposition 1 and substitute therefor:

'1. To agree that the optimum distribution and retailing arrangements for the long-term sustainability and success of the Island's dairy industry are as proposed by the Commerce & Employment Department and approved by the States on the 30th October, 2008, namely:

a) that the Commerce & Employment Department (acting through Guernsey Dairy) shall grant exclusive rights to licensed milk distributors to deliver Guernsey Dairy milk to doorstep customers and commercial customers within specified rounds and Guernsey Dairy-branded milk products to doorstep customers in those rounds and it is understood that assessing such financial measures can be undertaken only with full openness and transparency of all distributors with regard to their accounting records;

b) that the Commerce & Employment Department (acting through Guernsey Dairy) shall not grant exclusive rights to licensed milk distributors to deliver Guernsey Dairy milk products to commercial customers; and

c) that the Commerce & Employment Department (acting through Guernsey Dairy) shall grant non-exclusive rights to licensed milk distributors to deliver Guernsey Dairy milk products to commercial customers and not limited to specified rounds;

and to direct the Commerce & Employment Department to take any steps necessary to ensure the efficient operation of the distribution arrangements set out above;

and to agree that any other Resolutions made by the States on this Article shall be implemented only to the extent that they do not conflict with the distribution arrangements set out above.

Or, if Proposition 1 above is not approved:

1. To agree that the optimum distribution and retailing arrangements for the long-term sustainability and success of the Island's dairy industry are as proposed by the Commerce & Employment Department in Option C of that Policy Letter, which Option is described by the Department as 'Dairy sells to any commercial customer'; and to direct the Commerce & Employment Department to report to the States at or before their meeting in March 2016, setting out financial measures to mitigate the likely adverse consequences upon existing milk distributors of moving to Option C'

In regard to Rule 15(2) carrying into effect the first part of this amendment would not increase the revenue expenditure of the States.

Carrying into effect the alternative or second part of this amendment would require financial mitigation which a) would be a one-off arrangement and b) it is impossible to quantify at this stage and c) in any event requires a further policy letter from the Commerce & Employment Department before being agreed in detail.

65 **Deputy Le Lièvre:** Thank you, sir. Thank you for your patience, thank you for the Assembly's patience.

The only addition or change to the previously read out amendment are the words after option C on the paragraph at the top of the second page:

'... and it is understood that assessing such financial measures can be undertaken only with full openness and transparency of all distributors with regard to their accounting records.'

70 In discussion with the members of C&E it is my understanding that with those words the amendment would not be opposed in its entirety. However, during general debate, and when we come to vote for the Propositions at the end of general debate the States would be asked whether Proposition 1 would continue. If it was not approved then we would go straight to the amended Proposition 1 which is effectively option C with those additional words.

75 That is my understanding of the discussions that have taken place with C&E, sir.

The Bailiff: So the department support the alternative but not the principal Proposition that you have laid down here. (**Two Members:** Yes.) Yes. Right. Thank you.

Do you wish then to speak in favour of your amendment?

80 **Deputy Le Lièvre:** I do not think I have got a lot to add to what is actually in the amendment. Obviously during general debate I will have to make the case as to why we should stick with what exists at the moment. But other than that, sir, I have got nothing to say really. As far as I am concerned we could go to the vote straight away.

85 **The Bailiff:** Right. Deputy Dorey, you formally second the amendment?

Deputy Dorey: Yes and I just say that this gives the States the option to vote on a) or b) first or second, and that is when we should have the debate and not now.

90 **The Bailiff:** Does anybody wish to speak on the amendment or can we go straight to the vote on the amendment and then go into general debate with these Propositions substituted for the original Proposition 1?

Deputy Brehaut.

95 **Deputy Brehaut:** Sir, just very quickly.

'And it is understood that assessing such financial measures can be undertaken only with full openness and transparency of all distributors with regard to their accounting records.'

I sense within that it may not be as simplistic as the amendment supposes. It is requesting that people are full and frank and open with their accounts but I am just wondering whether that is more of an obstacle perhaps than is reflected in the amendment. That is all.

100 **The Bailiff:** Right, I see that Members do want to speak on the amendment; we cannot go straight to the vote.

You have the right to speak at this stage if you wish to, Deputy Stewart, on the amendment or do you wish to wait?

105 **Deputy Stewart:** I think I would rise just to say that in presenting the Dairy Review we do have full audited accounts of all the farmers, we have full audited accounts from the Dairy before us which then make that decision making straightforward. So that is why we asked Deputy Le Lièvre and Deputy Dorey whether they would include that because it would be very difficult to proceed without the evidence before us to make any recommendations to this Assembly, sir.

110 **The Bailiff:** Thank you.

We are going to proceed then with debate on the amendment, as I understand it. It would be helpful if people could try to keep the debate on the amendment as limited as possible, or we will end up having many debates.

115 Deputy Gillson.

Deputy Gillson: Sir, it was literally just a comment in response to Deputy Brehaut's comment. My professional career has been in private equity; I have had 25 years involved with valuing – buying and selling companies and valuing them – and I would say it is impossible to provide a valuation to do that without access to people's accounting records.

The Bailiff: Deputy Trott and then Deputy Gollop and Deputy Lowe.

Deputy Trott: Yes, sir.

125 I rise on a point of order and that is to ask whether you think it is appropriate for the Gillson amendment to be in place simultaneously? I think it is and would hope your judgement would be similar, sir.

The Bailiff: I understand that Deputy Gillson does not wish to lay the amendment at this stage, so if he does not wish to do so I cannot say that the two are in place simultaneously.

Deputy Gillson: Well, I just assumed that because mine is dependent on the approval of Deputy Le Lièvre's they would have to follow, but if it is at the same time I am perfectly happy to have it laid whenever.

135 **The Bailiff:** I do not know whether that confuses things. (*Interjections*) I think we are already in... I think let's see whether the... I thought Deputy Le Lièvre was trying to encourage people to go straight to the vote on his amendment. (**Two Members:** Yes.) People are not wanting to do that; they are wanting to have a debate on his amendment, so let's have the debate on his amendment and then see where we are.

140 So Deputy Gollop and then Deputy Lowe.

Deputy Gollop: Actually I do not want to debate the amendment. (*Interjections*) I think we should go straight to the vote. (*Interjections*) No. But I would put one word of caution here that we are voting for a complicated amendment that gives two alternative outcomes at Proposition stage

145

and I do hope that the interpretation, the Policy Council, the Commerce & Employment Department, their advisors, legal advisors to the States and the milk retailers and us all as parliamentarians, that the interpretation we have of the meaning of this is more or less the same; because what we do not want to see is us voting for this and there to be arguments at a later juncture as to what this actually means in practice.

But, that said, I think we should vote for this and see where we go on it. (**A Member:** Hear, hear.)

The Bailiff: Deputy Lowe, you wish to speak on the amendment?

Deputy Lowe: I just wanted to add a comment really regarding: Deputy Stewart said about the farmers giving their audited accounts. That is a direction by the States because they have a grant of over £1 million and they are required to do that.

The Bailiff: Deputy St Pier, then Deputies Kuttelwascher and Le Pelley.

Deputy St Pier: Sir, briefly, I would seek some clarification from Deputy Le Lièvre and/or somebody else from the department just in relation to the alternative amendment 1) which is if some further explanation could be given as to what they believe the consequences would be if there is not full openness and transparency given. That is the first question.

The second question is what they believe are the consequences of not having any kind of deadline for the adoption of option c), because it strikes me that there is a risk that this unsatisfactory situation could continue effectively in perpetuity without any agreement?

Thirdly, I think some greater clarification on exactly what the department's position is in relation to the alternative amendment 1)...

Thank you, sir.

The Bailiff: Deputy Kuttelwascher and then Deputy Le Pelley.

Deputy Kuttelwascher: Sir, my question is similar to that of Deputy St Pier but what I am really asking... the way it is written is that if all distributors do not participate in this transparency, that is the end of the issue. But is, really, the intent that any compensation might be applied only to those who are willing to divulge their accounting information? I do not know what the intention is. If one member were not to partake is that the end of the process?

Thank you, sir.

The Bailiff: Deputy Le Pelley, I was going to call next.

Deputy Le Pelley: Thank you, sir.

The last point is exactly the one that I was going to ask and I was going to ask if perhaps the Comptroller could actually advise: could this whole thing be blocked by one person, one milk distributor, refusing to partake, because it does say, 'The transparency of *all* distributors' and if one person says, 'I am not taking part in that,' that falls?

The Bailiff: I see Deputy Brouard wishes to speak. Can I suggest that he speaks while the Comptroller has the chance to consider her reply?

Deputy Brouard: Thank you, sir.

Commerce & Employment's position is on the amendment: we accept the amendment as a whole to start with.

Option 1) of the amendment on the front page, we do not like at all. Option 2) on the back is basically what we are putting forward in the States' Report, which we accept because it is what we

are saying and it takes the thrust – and I think the person who spoke most akin with some of ourselves on Commerce & Employment was Deputy Green's speech yesterday, where there is some help maybe that needs to help the retailers get over the bridge to the new world.

The wording that has been added to this by Deputy Le Lièvre and Deputy Dorey, with the help of Deputy Fallaize, gives us the chance for the retailers to open – and it is a plea to them to open – their books. Whether they do or not is up to them. It is us holding that olive branch – 'Come and talk to us.' And, taking Deputy Le Pelley's point, if one of them chooses not to, that does not preclude us from going back to the States.

Deputy St Pier said about the openness... we are asking for that openness, but the date is or the deadline is that we have to come back by March and we will do the best we can with the fist that we are given.

The more that they co-operate with us the better the report will be. It may be that the report comes back and says, 'No change and we are where we are.' It may come back and say, 'Look actually, if the States were minded to do this and this we will help them over that bridge.' So it is in that spirit that it is laid.

Thank you, sir.

The Bailiff: Deputy Fallaize and then Deputy Langlois.

Deputy Fallaize: Thank you, sir.

I would just say about these words, about the understanding of how the financial measures could be assessed, the States, by Resolution, cannot direct the GMRA or its constituent members to do anything, because they are a third party association. All the States can do is direct their committees.

So the direction in, effectively, the second part of the amendment is to Commerce & Employment,

but it is putting into a States' Resolution the understanding of the States that the Commerce & Employment Department will be able to carry out this role as effectively as we would wish, only if there is full openness and transparency of the distributors' accounting records.

But, to pick up Deputy Le Pelley's point, if there is not – as Deputy Brouard has just said – then it does not prevent C&E from carrying out the task, but clearly it means that they will not be in receipt of the sort of quality information which they would need to do the job as well as we would hope.

The Bailiff: Deputy Langlois.

Deputy Langlois: Thank you, sir.

I cannot go back in history as far as Deputy Lowe on this; it could be something to do with age and things but – (**Several Members:** Oooh!) It could be something with age because my memory is not as sharp as Deputy Lowe's! (*Laughter*)

However, I just remind Members that on a previous debate I did reveal that a company which I was a principal of was involved in writing a report in the year 2000, which went round the houses; it found out an awful lot about the industry and actually devised the first model of three different types of milk round and so on. And a fair amount of progress was made behind closed doors – and I mean that in the right sort of way, where confidential information was given by the retailers and by the Dairy which an independent company could then write a report on and so on.

I say that only because that is what led me to the phrase which has been quoted several times of saying in the last debate, 'We need an exit strategy.' And at the same time the professional work I was involved with in 2000 involved me with several franchise groups, both seeing things from the point of view of the franchisor and the franchisee. All I am trying to say is this has been a very long journey.

250 What I want to see today – preferably this morning, if I dare say that – is some progress. I believe – I might be shouted down on this one; well, hopefully not shouted down because it would be out of order, but I might be shouted down by the retailers – but I believe they want to see some progress as well, because this is just swanning around in the dark. You have got a business you are trying to run, you do not know where the end of the journey is and you cannot make honest, decent, personal and family plans in that circumstance. So I want to see progress.

255 All of that wording, that verbiage, is simply to say please reject the first part of the amendment and please accept the second one. Sorry –

The Bailiff: Yes, sorry, we have not approved the amendment yet.

260 So I think at the moment it is either: people accept the amendment and, once it has then been laid and therefore the original Propositions have been substituted by these, then we can have the debate as to whether people wish to go for one; or the alternative.

Deputy Langlois: Okay, apologies, sir, I was reading the voting slightly differently. But you have said it now. I will withdraw that.

265 Thank you very much.

The Bailiff: You could make that point later once the amendment has been approved – if it has been approved, I do not know.

270 **Deputy Langlois:** In that case, please accept the amendment. *(Laughter)*

The Bailiff: Unless anyone wishes to speak on the amendment... Deputy De Lisle.

275 **Deputy De Lisle:** Yes, sir, I just wanted to make a point, and I would not like to see any further delay in the Milk Law coming before the Assembly, with respect to the amendment here making the point that it would come back to the States' Meeting in March 2016.

I would want to see that the Milk Law is pursued as rapidly as possible. My understanding is that it could come back to the States in January of next year – in other words January 2016 – but we need that security as quickly as possible.

280 **The Bailiff:** Deputy Bebb.

Deputy Bebb: I just wish to be *relevé*, please, sir.

285 **The Bailiff:** Oh, *relevé*, ah! *(Laughter)* You may be *relevé*! Sorry, I had not spotted that. Deputy Le Lièvre, do you wish then to reply on the debate to the debate on the amendment?

Deputy Le Lièvre: Yes, sir, I have only got one or two things to say; it is not much of a reply.

290 I think Deputy Brouard gave the explanation to the questions asked by Deputies Le Clerc and Kuttelwascher. And, with regard to the Milk Law, whether there is a delay or not, I obviously cannot say, but I mean we are talking January as opposed to March – and as the Milk Law has been deficient since round about 1955 *(Laughter)* I do not suspect that another two months is going to make a great deal of difference.

Having said that, I would just like to go to the vote, sir.

295 **The Bailiff:** Her Majesty's Comptroller, do you wish to reply to the question that was asked of you?

The Comptroller: Sir, as briefly as I can be...

300 I am grateful to Deputy Brouard actually; I think he has assessed it in the way that I would
assess the point that was raised. Simply with the wording: the States must understand, if they are
going to the vote on this, that assessing the financial measures is only going to be effective if
everybody gives regard to their accounting measures. If not, I do not perceive any way in which
the department cannot come back to the States to report, but the States would need to
305 understand that they may not be able to come back with full efficacy, as to what those proposals
might be.

The only other point, sir, that I would just flag up – not to side-track the issue, but – this
wording talks about mitigating the likely adverse consequences, and of course in order to assess
that one needs to understand the basis for that compensation in the first point. That leads to a
310 whole load of other questions, but the States need to understand obviously that, in assessing
those financial measures, the department will need to be looking at those as well. So I just flag
that up, because again that may be something that is addressed or queried at a later date, and
the States need to understand that.

Thank you, sir.

315

The Bailiff: Members, to be very clear on the amendment proposed by Deputy Le Lièvre,
seconded by Deputy Dorey...

Those in favour; those against.

Members voted Pour.

The Bailiff: I declare it carried.

320

So that amendment replaces the original Proposition 1.

Deputy Gillson, do you wish to lay your amendment at this point?

Deputy Gillson: Yes, please, sir.

325

The Bailiff: Right, which has been circulated. (*Interjections*)

Would you like to have it read or are you going to read it?

Deputy Gillson: I will read it; it is a very simple amendment:

*To amend Proposition 1a) by inserting the following words after the words 'in those rounds'; and
that such exclusivity shall be reviewed annually from 31st December 2016 and shall only
continue if it can be demonstrated that a minimum of 25% of milk sales are made via doorstep
deliveries.'*

330 So I would like to thank Deputy Duquemin for seconding this and I believe I am right in saying
that the C&E board and Deputy Le Lièvre and Deputy Dorey are supportive of this. (**A Member:**
Hear, hear.)

335 It is clear from the debate yesterday that a lot of people want to protect and see doorstep
deliveries continue. This is a subtle amendment which will ensure that it does – it will help them.
The amendment says we are supportive of milk retailers, we give them certainty over their
commercial customers to cross-subsidise their doorstep delivery, but for as long as their doorstep
deliveries exist.

This will, for the first time, mean that all the parties, all the distributors will be aligned in one
direction.

340

The Bailiff: Thank you.

Deputy Duquemin, do you formally second the amendment?

Deputy Duquemin: I do, sir, and reserve my remarks.

345

The Bailiff: Deputy Stewart.

Deputy Stewart: Yes, sir, full support of the Commerce & Employment board for this amendment.

The Bailiff: Deputy Kuttelwascher?

350

Deputy Kuttelwascher: Yes, I am slightly confused by the figure of 25%, because only yesterday... I think it was Deputy Hadley, stated in his speech – and it is a figure I have not tested – that currently 80% of sales are not done by doorstep delivery. So this question has already been answered; you cannot demonstrate that 25% or more is actually available for doorstep delivery – that is a target that has long gone.

355

I am not quite sure where we are on the actual robustness of the data that some of us – or one Member – has actually presented to us.

The Bailiff: Yes, the Minister has already spoken, but...

360

Deputy Stewart: Just really for a point of information, sir, just to clarify that.

It is just best *estimate* at the moment, we have no empirical evidence to say how much percentage there is – it could be 30%, it could be as low as 20%. We actually do not have that evidence at the moment, sir.

365

The Bailiff: Deputy Dorey.

Deputy Dorey: In the Billet on page 2432 in the Working Group's report, there is a table which I referred to yesterday, and it says in 2013 estimated percentage of sales, doorstep, was 30% – so I think that is the information that we have, which is up-to-date.

370

Thank you.

The Bailiff: Deputy Fallaize.

375

Deputy Fallaize: Sir, I was just going to say I think the other thing the States need to understand if this amendment is approved, and then approved as a substantive Proposition, is that in the event that the doorstep sales drop *below* the figure in Deputy Gillson's amendment, clearly Commerce & Employment, or their successors, would have to come back to the States because... okay, the exclusivity would have fallen away, in effect, but nothing would be there to replace it.

380

It will effectively trigger Commerce & Employment coming to the States to set out what the best distribution arrangement would be in the event that doorstep sales have fallen below the figures in Deputy Gillson's amendment. So I think that is at least something of a safety net, if Deputy Gillson's amendment is allied with 1a).

385

The Bailiff: Deputy Brouard.

Deputy Brouard: Thank you, sir.

Just speaking on Deputy Gillson's amendment, Deputy Gillson's amendment introduces some certainty into the Le Lièvre Proposition 1, so we need to have that security in there if Proposition 1 is approved.

390

However, we hope that the States will actually turn the page over and vote for the other alternative of Proposition 1 and, in fact, Deputy Gillson's amendment – although useful as an insurance policy – falls away, because we will be voting back on the Proposition 1 which would include Deputy Gillson's amendment, hopefully. (*Interjections*)

395

Thank you, sir.

The Bailiff: Deputy Brehaut and then Deputy Hadley.

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

My surname does not happen to be 'Garmin', so I may have lost my way here a bit and I may embarrass myself asking this question, but I need to be certain:

'and that such exclusivity shall be reviewed annually... and shall only continue if it can be demonstrated that a minimum of 25%... are made via doorstep deliveries.'

405 There are rounds without doorsteps though, aren't there? So could somebody explain to me and spell out exactly what happens... and I am sorry it may be as obvious as snow to other people, but it is not that obvious to me, sir.

The Bailiff: Deputy Hadley and then Deputy Gollop.

410 **Deputy Hadley:** Two questions arise out of this amendment, sir. First: is the proposer of this amendment certain that such a figure can ever be established?

And the second question is that one of the reasons why we are debating this, and why it is such a fraught issue, is that we are aware there is goodwill value to the businesses that are likely to be affected, and if this amendment is passed it puts a degree of uncertainty on those businesses, such that it is unlikely they would be easily saleable, because once this figure below 415 25% is triggered then the businesses, presumably, lose a lot of their goodwill value.

So I am a bit concerned about this amendment from those two points.

The Bailiff: Deputy Gollop and then Deputy Langlois.

420 **Deputy Gollop:** I would extend the points made by Deputy Hadley and Deputy Brehaut: because this would be an exclusive licence, it would be reviewed annually from the end of each year and would only continue if it could be demonstrated a minimum of 25% of milk sales are made by doorstep deliveries. That would be an uncertain basis, I would suggest, on which to buy or sell a business because you would not necessarily know... especially if the percentage was fairly 425 *near* the border line, how long the exclusivity would last – would it be a year, would it be 10 years, would it be 20 years?

And one would add to that point that the definition of 'doorstep delivery' would have to be clear, because we know one of the commercial customers is at the level of a big supermarket – but what about a doorstep delivery of, let's say, a children's nursery, a home office, a very small 430 shop? When is a doorstep delivery to a domestic customer more of a semi-commercial customer? I think we need to be clear on something like that because, again, interpretation from different parts of the milk stool has to be on a level playing field.

The Bailiff: Deputy Langlois and then Deputy Domaille.

435 **Deputy Langlois:** Sir, I obviously do not want to prolong the debate on this amendment, or truncate the debate where it is appropriate and necessary, but please... we have heard from Commerce & Employment that they accept and support this, we have heard that it gives more certainty and so on.

440 Since we are going to reject this Proposition 1 anyway, eventually, (*Laughter*) shall we just incorporate this and get on with it?

A Member: Hear, hear.

445 **The Bailiff:** Deputy Domaille.

Deputy Domaille: Sorry, I go with Deputy Langlois. I will be very brief.

450 It just crossed my mind that actually there is a point in this where if the doorstep deliveries are falling – and they seem to be – there is going to be a point where, most unfortunately for some of the retailers, the business is simply not going to add up and it will fall away. Whether that figure is 25%, 20%, 15% or 10%, I do not know, but to a degree I think this debate might be academic because actually I think the market forces will come in and dictate that.

Thank you, sir.

455 **The Bailiff:** Deputy Gillson, do you wish to reply to the debate on your amendment?

Deputy Gillson: Thank you.

460 What prompted me to place this amendment was a concern of – I will use a phrase I do not like – ‘unintended consequences’ of Deputy Le Lièvre’s amendment if part 1 were to go through, because if doorstep deliveries continue to decline we could end up with a position of everything being through shops. The system that we have here now does increase the cost of milk... when I was on Commerce & Employment we worked it out and it was about 6p a litre, or something.

465 The States are therefore supporting a system which increases the cost of a fundamental foodstuff for this Island. If you take the extreme, part a) is approved and you end up with all of the milk being through shops. We give protection for the retailers to those shops, but there is no doorstep delivery. The thrust of the speeches I heard yesterday, particularly Deputy Brehaut, for instance, who referred to the ‘pseudo-social worker’ part with the elderly people, is doorstep deliveries. What this does is it says, ‘Yes, you have got exclusivity, but doorstep delivery is an essential part of it. If you want your exclusivity we have got to keep doorstep delivery’.

470 I think Deputy Gollop said about the business risk of selling and buying a business. Well, if you buy and sell a business, you take a risk; that is life, you always do. Somebody bought the round in Torteval, and Torteval Shopper has closed down – so there is a reduction in theirs. One of the stores at L’Islet closed down a few years ago. So there are intrinsic business risks; you cannot take away from business risk.

475 And a similar point to Deputy Hadley about goodwill: well, goodwill is built on developing your customer base and one of the things that all the retailers can do to build up and ensure there is a high percentage, is build their customer base. One of the comments I made criticising retailers four or five years ago when I was standing where Deputy Green is sitting, was that they seem to have allowed doorstep delivery to decline. How many people do we know who have lived in houses for 10 years, say, who have never had a milk retailer contact them?

480 I know of one person who has lived in a house for over a decade, the milk retailer delivers to houses on the opposite side of the road but have never contacted him – and, to make it worse, they actually park their van blocking his driveway when they are delivering to the people across the road!

485 If I had a milk round, it is pretty obvious I would know who I am *not* delivering to that is on my round. Well, to build that round, on Saturday afternoon or Sunday I would go round and knock on the doors and say, ‘I don’t deliver to you. I would like to. How about letting me? Let’s try it for a month, let’s see if I can deliver it’. I think that most people would say, ‘Well, actually there is nothing to lose by it, there is something to gain...’ and you can build the round.

490 So I am pretty confident that it is possible to build the rounds up, and what this amendment does is it means that everybody is aligned to building and supporting doorstep delivery – which seems to be what the majority of people in the Assembly want.

495 Milk retailers who do doorstep delivery are incentivised to expand and encourage people for doorstep delivery. For instance, when was the last time we saw the GMRA advert in the paper saying, ‘Have doorstep delivery?’ No, but it might do.

Those rounds which are predominantly, or *only*, to supermarkets – it is very much in their interests not to continue cherry-picking rounds because if doorstep deliveries stop, then their exclusivity goes. So that is what I mean... for the first time all milk retailers will be incentivised and

500 aligned towards helping to ensure doorstep deliveries continue. And *that* gives the best protection to those people who, like the majority of people in the audience, have got a mixed round and are providing a valuable service to the Island in terms of doorstep delivery.

So I think this enhances the amendment and it provides additional protection for milk retailers.
Thank you, sir.

505 **The Bailiff:** We vote, then, on the amendment proposed by Deputy Gillson, seconded by Deputy Duquemin. Those in favour; those against.

Members voted Pour.

[A mobile phone rings]

510 In my view that is a majority in favour of the amendment, but if anybody wishes to challenge that, after they – *(Laughter)* Ah!

I declare the amendment carried – and Deputy Le Pelley is going to kindly contribute £10 to my fund for the Autism ... *[Inaudible] (Laughter and interjections)*

515 **Deputy Brouard:** At least, sir! I have seen some stunts to get out of voting but that really does... *(Laughter)*

The Bailiff: Right, so now we come to general debate on the Propositions, as amended. Of course, quite a number of people have already spoken in general debate; we have had 11 speeches in general debate.

520 But now the nature of the general debate will have to change, and under Rule 12(3) I do have a discretion to allow a Member to speak more than once. It seems to me in these circumstances it is only fair that those who have already spoken in general debate should have the opportunity to speak again in general debate on these revised Propositions – although I would urge and ask that they do not indulge in any tedious repetition (**Several Members:** Hear, hear.) and if points have already been made in their speeches they do not repeat those points. But it would be, it seems to me, unfair not to allow people to have a second speech in general debate, given the extent to which these Propositions have been altered.

525 But if nobody wishes to... Oh yes, Deputy Brouard.

Deputy Brouard: Sir, I think the planets have at last aligned on this particular issue for the moment and I would suggest that we perhaps go to the vote. (**A Member:** Hear, hear.)

530 I think Commerce & Employment are aligned with the reverse Proposition on the back which has now been amended, and that would give us direction to go away and come back to the States next year, sir.

Thank you.

535 **The Bailiff:** Deputy Soulsby.

Deputy Soulsby: Sir, now we have got a choice: keep things more or less as they are or pay the milkmen off.

540 The current model is nonsensical, and perpetuating it just retains an inherently inefficient model. The Dairy do not want it and this is all about the optimum distribution regime for the Dairy.

545 I said, when we debated the Fallaize amendment last year... it became abundantly clear to me when I was on the original Dairy Review Group that this was an industry suffocated by its past and never more so than in the distribution system. As a result of Members approving the amended report last year, the dairy industry has been able to start looking to the future – and a positive one

at that – *except* that it has to retain the current distribution system. So I will oppose Proposition 1 which makes no sense at all.

So can I support Proposition 2 –?

550

The Bailiff: It is not Proposition 2; it is two alternative Propositions for 1.

Deputy Soulsby: Sorry, the alternative Proposition.

555 Well, this does not say ‘pay compensation’ nor does it say from where that compensation should be paid. However, I do have concerns about what the potential impacts of paying compensation would be. The first is I will not support any compensation being paid for by the Dairy – that is something I fundamentally oppose. Should this amendment be passed, and C&E come back with that proposal, I will not support it.

560 Deputy Fallaize’s draft amendment did include the use of Dairy funds to pay compensation and I made it clear this would not be acceptable to me – and I therefore thank Deputy Fallaize for making the changes that he did, which then became incorporated into Deputy Le Lièvre’s amendment.

565 I have been in communication with the Guernsey Farms Association since before the debate and they had already voiced concerns that there would be calls for compensation, and that it would be to use Dairy funds. Dairy reserves are there to invest in the machinery and equipment to maintain the Dairy, to ensure we have a 24/7 supply of milk and the Dairy is a 24/7 operation. Equipment does not come cheap, especially for what is a micro-dairy operation in a time of mass-consolidation in the dairy industry in the UK, EU and beyond.

570 Relatively speaking, the cost of equipment is expensive and, as in any industry which has to comply with environmental health regulations, the requirements for more equipment – and more modern equipment – just increases.

575 I can say from my first-hand experience, having been on the Dairy Management Board, we have a fantastic Dairy. The management and workforce are doing a brilliant job converting a first-class raw material – thanks to the hard work of our farmers – into a first-class product that is loved by Islanders and, in the case of our butter, by those beyond our shores.

580 I am not prepared for our Dairy to have to stump up any cash for the retailers that will pump up the price of our milk and affect sales to the disadvantage of our farmers who, let us not forget – and it is so easy to do so – will have seen a massive £1 million reduction in subsidy in less than four years’ time. Why should they suffer again? After all, if it was not for our farmers the milk retailers would have nothing to sell. (**A Member:** Hear, hear.)

The GFA – thanks in no small part to their Chairman – have approached the original report in a very professional manner. We should not abuse their professionalism or do anything more that could impact on their livelihoods.

585 My second reservation is the precedent that compensation might set. If we pay off these retailers, who else is going to come out of the woodwork and claim that because they have suffered a loss because of the States of Guernsey *they* should be compensated – businesses that took out leases on the Pollet because of passing trade from cruise liners but who now do not see that because they land at the Albert Pier, and the businesses losing money as a result of roadworks?

590 Whilst this amendment does not state that we should give the retailers compensation, I will not approve any subsequent report recommending compensation until I have assurances that this will not set a dangerous precedent. There is nothing in the report that gives me an assurance in relation to that and I will not support it.

595 Finally, I would just like to say that I think this is the time for the retailers to start working with C&E. I think the engagement has not been there in the past and now it is their opportunity. I agree with C&E’s recommendations as to the optimum distribution method and I am minded to support the alternative Proposition that was not fully considered in the policy letter – and I believe it should have been. But I would ask C&E to bear in mind my concerns as, unless they are

600 addressed, I will not and cannot accept any recommendations for compensation that are subsequently tabled.

The Bailiff: Deputy Fallaize and then Deputy Harwood.

Deputy Fallaize: Thank you, sir.

605 The first option in this amendment is the distribution arrangement which has been in operation since 2008. It is up to States' Members to determine what they think the state of the dairy industry has been since 2008. I would suggest that the sky has not fallen in, the Dairy has remained... in fact the Dairy has *returned* to profitability during that time. Liquid milk sales are holding up in a reasonably difficult financial environment, and the Commerce & Employment
610 Department is proceeding with reforms to other parts of the industry which I think are generally widely supported, both in this Assembly and in the dairy industry itself.

So I do think it is perfectly reasonable to argue, as Deputy Le Lièvre will do I suppose, in respect of the first part of his amendment, the first of the two alternative Propositions... that the arrangements which were agreed in 2008 by the States and have operated since then ought to be
615 put on a more permanent footing, albeit with the safety valve of Deputy Gillson's amendment that the States have just voted for. That is all I am going to say about the first option in this amendment.

Returning to the second part, which of course encapsulates the amendment which Deputy Langlois and I were going to lay when the States rose yesterday... and Deputy Langlois has every
620 right to disown me, because I decided unilaterally last night that our amendment could be encapsulated into Deputy Le Lièvre's amendment, just to try and save the States from being faced with multiple amendments when we came back this morning.

But the reason I want to spend a bit of time on this – I know the States are generally eager not to spend too long in general debate – is because the Commerce & Employment Department has
625 again, in producing this policy letter, simply failed to accept what successive States have directed them to accept for years, which is that although exclusivity may very well not have existed in law, through custom and practice there has been a *de facto* exclusive arrangement with the retailers.

I thought that the amendment I laid successfully in September of last year – which I think was supported almost unanimously by the States – and the nature of debate on that occasion, had left
630 Commerce & Employment in absolutely no doubt at all that they could not return to the States and claim that there has never been an exclusive arrangement *in practice* with the retailers.

And yet we have a policy letter before us today which says there has never been an exclusive arrangement in law – fine – and then just does *not* go on to say, 'however, in practice there *has*
635 been an exclusive arrangement'. I hope that they are not going to maintain that position... because I am sure this policy letter was produced in all good faith and the authors of it did not mean it to read this way, but I am afraid it is, in part, grotesquely misleading. (**A Member:** Hear, hear.) For example, it says at page 2408 that milk distributors do not enjoy, and have never enjoyed, exclusive rights in relation to the distribution of milk and milk products, and that they do not enjoy and have never enjoyed exclusive delivery rights within specified delivery zones.

640 ...Well two paragraphs above that it says that in 2008 the States resolved that C&E

'...should grant exclusive rights to licensed milk distributors to deliver; [Guernsey Dairy] milk to doorstep customers and commercial customers within specified rounds;'

Well, that is self-evidently a contradiction. The Commerce & Employment Department have set out Resolutions the States made in 2008, which granted exclusive rights to retailers, and two paragraphs later have claimed that retailers have never had exclusive distribution rights.

645 What is more, those Resolutions – although it does not say this in the policy letter – from 2008 were proposed by the Commerce & Employment Department. The States could have been forgiven for believing the way this policy letter is written that they were imposed on C&E by

650 amendment. They were not imposed by amendment. The Commerce & Employment Department came to the States in 2008 proposing to grant exclusive rights to licensed milk distributors to deliver milk and milk products to doorstep customers within specified rounds. That was C&E's own proposal and it was accepted by the States.

Ironically, it was an amendment from Deputy Le Lièvre which put effectively a cut-off date on those exclusive arrangements of 2015. But it was C&E's own proposal which asked the States to establish exclusive rights and which the States voted for.

655 In another example, on the first page of this policy letter it is claimed that the Department's proposals – what they refer to as option C – represent the *status quo*. Actually, it says the:

'...arrangements effectively represent the status quo...'

660 Which I think means actually they do not represent the *status quo* at all, because a few pages later on the department is asking the States to rescind the 2008 Resolutions to allow them to introduce the option C arrangements that they want to introduce. But they just said that the option C 'arrangements effectively represent the *status quo*'.

C&E describe their option C as the:

'... Dairy sells to any Commercial Customer...'

– and –

'The Dairy plays no role at all in the control or management of the distribution of its products...'

665 That is not the *status quo*. It is obvious to anybody who spends any length of time looking at the existing arrangements that that is not the *status quo*. That is not the basis on which the Dairy, today, is distributing milk to milk distributors or retailers.

Maybe the States want to accept option C. I will probably vote in favour of – well, if the first option ends up folding I will probably end up voting in favour of both of these options, because if everything is lost then nobody is going to be any the wiser. We cannot possibly leave here today without anything having been agreed.

670 But maybe the States want to vote for option C. I do not have strong feelings for or against option C, quite honestly, and as I came into the States yesterday I was prepared to accept option C if it was allied with a degree of financial mitigation. So maybe the States want to accept option C, but it is absolute hogwash to believe that option C is the *status quo*; it is not the *status quo*, and it is not the *status quo ante* either. It is not the arrangements that existed before 2008, because 675 what Commerce & Employment's policy letter was doing in 2008 was saying, 'Okay, they have never had exclusive rights in law but we accept, by custom and practice, they have so now we will put them on a permanent footing.' That was the spirit of the 2008 policy letter from Commerce & Employment.

680 In 2000 – Deputy Langlois has already referred to the report which a company, of which he was a principal, was involved, in 2000... That report stated that licences were issued by the Dairy to roundsmen for a specific zone, the territory of each milk round was defined by the Dairy and the Dairy sat in committee with the GMRA to resolve any licensing problems or zoning problems. That was in 2000 – well before the 2008 Resolutions which established the present arrangements.

685 In 2011 another independent report, and indeed the Commerce & Employment Department itself, advised of the necessity of a compensation scheme if a delivery system was to be introduced which did not feature exclusivity or zoning.

690 So what actually happened, and has happened for decades, is that the Dairy endorse specific delivery zones, they issued one delivery licence per zone, and they attach to every licence a condition that the licensee could not deliver outside his or her zone. That was the arrangement for decades. Okay, they can tell the States, 'Well, in law there was no undertaking of the Dairy to supply on an exclusive basis'; fine, if that is the legal advice that is the legal advice, but by custom and practice what I have just described was exactly how milk left the Dairy, for decades. That is *de*

facto, zoning and exclusivity, I do not see how anybody with any sense can possibly dispute that, and indeed previous Commerce & Employment Departments have had to accept it.

695 The role played by the States in setting up this distribution scheme, sustaining it, supporting it, endorsing it, is what has contributed in large part to the capital value of the rounds.

I used to be a newspaper retailer. Now, let me tell you that newspaper rounds, generally, have changed hands for far less than milk rounds and the reason is because there is no arrangement with the States in respect to the delivery of newspapers and magazines. There is no arrangement with the States which has allowed the understanding of zoning and exclusivity to arise.

700 What you are effectively buying if you buy a newspaper round is the right, until you sell the round, to deliver in a particular zone. But it is a completely different arrangement which has meant that the capital value of newspaper rounds has not been inflated in the way that milk rounds have been. And it is the States...

705 I think that the capital value of some milk rounds – perhaps not in the last 10 years while there has been this period of uncertainty, but in years previous to that I think the capital value of milk rounds – has been absolutely absurd, in some cases. But it has been inflated by the arrangements which, through custom and practice, the States have sustained.

710 So it is abundantly clear that the States have, for decades, deliberately acted in a way which has led retailers to the conclusion that the States were intimately involved in the control and management of their distribution network. It is one thing to say that the distribution network is considered no longer appropriate, but it is delusional to pretend that it never existed.

715 So I would ask the States to vote for one or other of these Propositions and I would implore the Commerce & Employment Department this time, at about the sixth or seventh time of asking, in the event that either one of alternative Proposition 1 is accepted, not to go away from this debate and go into a little huddle and see whether they could somehow come back to the States in a few months' time and try to persuade the States that really exclusivity has never existed; because that ship has sailed.

720 If Commerce & Employment continue to come back to the States with this absurd claim, I am afraid the chances are the States are just going to continue to tell them to go back and accept the way it has been in custom and practice. And if they carry on doing it, one of these days they will be sent back, not only with that message but with a motion of no confidence, because we cannot continue to have (**A Member:** Hear, hear.) debate after debate after debate where C&E say, 'Oh exclusivity has never really existed', and the States say, often almost unanimously, 'Oh, yes it has. In custom and practice it has. Now go away and come up with a new distribution arrangement which recognises the history.' (**A Member:** Hear, hear.) They just cannot keep doing that! (**Several Members:** Hear, hear.)

730 So I understand the difficult position that Commerce & Employment are in. I do not necessarily oppose option C, which they are setting out as their optimum distribution network. I am prepared to back them on that if it comes to that, but not without us recognising the history that the States has sustained and supported. If we are going to get ourselves out of the historical distribution arrangements we are going to have to do it fairly and ethically and it is going to require a degree of financial mitigation to the existing distributors.

735 Thank you, sir. (**A Member:** Hear, hear.)

The Bailiff: Deputy Harwood and then Deputy St Pier.

Deputy Harwood: Thank you, sir.

740 Can I say at the outset I certainly will not be supporting the first of the Propositions, or the first alternative Proposition contained in the amendment. The reason for that is it is perpetuating what is the current situation. Actually, it is going even more than that because it is granting clearly what will be an exclusive right.

Now, there is argument and there is legal argument and there are legal opinions to say that the only exclusive right is the rights that were granted and proposed for 2008 and those rights

745 expire, and have always been said to expire, in 2015 – the end of this year. So I do not accept – we can argue – as a matter of law that there are exclusive rights. I will come back to the issue about custom and practice subsequently.

My other objection to the grant of exclusive right... I accept that Deputy Gillson's amendment may go some way towards alleviating this, but the exclusive right... is it for a finite period? Is it for
750 indefinite? Is it acting in perpetuity?

If it is acting in perpetuity then I think this States, this Assembly, needs to consider seriously: are we prepared to grant something that has a commercial value where there is no suggestion there should be a licence fee?

And I remind States' Members perhaps of some words that were quoted by our late lamented
755 colleague, Deputy Storey, in last year's debate, in which he said – and this resonated with me at the time and I think it should resonate with many of us now:

'On that basis, sir, I am not prepared to put myself in a position where I have to explain to my electorate why I supported the principle of buying back, with taxpayers' money, licences which have no intrinsic value –of course, they belong to the Dairy –and were initially issued free of charge.'

I ask Members to reflect on those words because I think they still apply now. So I would reject Proposition 1.

I feel uncomfortable about the alternative Proposition, again for reasons similar to those
760 already put forward by Deputy Soulsby, but also going back to the late Deputy Storey. We are dealing with taxpayers' money, sir. The basis on which this suggestion of compensation has been put forward is on moral grounds, and I think Deputy Green actually used those words last time and I believe yesterday Deputy Perrot also used the words 'moral grounds'.

Sir, this is not withstanding the clear, consistent legal opinions that have been handed down to
765 Commerce & Employment for a number of years. And I referred also to the legal opinions that were appended to the 2008 Billet – I will come back to that in a moment – which say there was no legal basis for any claim for exclusivity.

So this Assembly is taking upon itself; it is usurping the jurisdiction of the court. Which, if there is a claim, by virtue of custom of practice, that should be tested, sir, I would suggest, in the courts
770 on the grounds of claiming that it is for the retailers to show that the States of Guernsey should be stopped from amending that practice. That is the proper process that should be followed. We are putting ourselves in the position where we are acting as judge and jury.

I share Deputy Soulsby's concern that if we accept there is a moral claim here, and I am aware many Members feel there is a moral claim, we are setting ourselves a precedent.

775 Yesterday the States of Guernsey, in its infinite wisdom, decided to deregulate Sunday trading. Now there are a number of local retailers, in particular small corner shops, that say this will seriously damage their business. Are we to accept they have a moral claim?

We have a situation where Condor – dare I use that word – is possibly going to be granted a ramp licence. Are we to accept that they should perhaps have a moral claim if we decide to revoke
780 that licence? No, we are in danger of creating a precedent and I just urge a note a caution: if we go down this route we are potentially opening ourselves up to unintended consequences.

Sir, I also have difficulty – because there is no suggestion at the moment, as I can see – on what basis there should be compensation. Are we saying effectively to Commerce & Employment you should negotiate on the basis you buy back all the existing agreements and therefore they
785 then grant new agreements? Well, if you are buying back those agreements are you therefore able to make a charge then for the new agreement because they are still a business which is viable.

What is the basis for competition? We are just giving an instruction to Commerce & Employment they may not be able to fulfil, because they are querying whether or not the milk
790 retailers will accept anything less than the full value that they attribute to their business and their licence.

We are creating a huge amount of problems and, as I say, there is no certainty that Commerce & Employment can deliver an agreed basis for compensation.

795 Sir, reference has been made to custom and practice. Again, I would refer Members to the appendix which was to the 2007-08 debate or Billet, but actually custom and practice was considered in the legal advice. And the statement was:

'Has there been exclusivity by custom and practice? The answer is clearly no.'

So the issue about custom and practice has been reviewed on a legal basis. I believe the correct process for testing custom and practice is through the courts, not by this Assembly acting as judge and jury.

800 Thank you, sir.

The Bailiff: Deputy St Pier.

805 **Deputy St Pier:** Sir, I have to say I share many of Deputy Harwood's concerns as he has expressed them, but I will return to that.

Before I begin though, I would like to perhaps ask Madam Comptroller a question which she could consider while I am speaking and I would be interested to have a response perhaps before I sit down because I think it will help me make a decision. My question, sir, is if Proposition 1 as amended, if either of the alternative Propositions as 1 as amended is rejected entirely, given the time limited nature of the 2008 Resolutions what would happen from 1st January 2016? Would the *status quo ante* before 30th October 2008 resume or would there effectively be a free-for-all with no exclusive rights from 1st January? So I would be grateful for some thought to be given to that.

815 Sir, I share also Deputy Perrot's comments yesterday that, with respect, I think the milk retailers have not helped themselves at all through this process. I know there has been considerable history, but it is quite apparent that some of the engagement has been quite hostile, perhaps on both sides, but nonetheless I think that is apparent from the correspondence which appears in the Billet. And I think the very little information about their businesses which has been made available for us to work with, such as the percentage of doorstep versus shop sales and margins, has made this hard.

820 I think the second area where I do not think they have helped themselves is the one that Deputy Gillson touched on, which is the development of those businesses, and I think the example he gave very much resonated with me because certainly in 18 years I have never been approached to become a customer of a milk retailer.

825 Sir, in 2014 there were 6.3 million litres of milk sold. The gate price is 87.79p so that is £5.5 million of gross sales for the Dairy. The normal retail price now is 112p which produces gross sales of £7.1 million. The margin between those two therefore is 24.21 pence a litre or 28% and that is a massive margin for this kind of consumable product, that £1.5million.

830 So in the absence of information from the milk retailers on the proportion of doorstep sales and margins, I am having to make some assumptions. I am working with the table that Deputy Dorey referred to – I think it was on 2432 – assuming that 70% of sales are now through the shops, and I will assume that the margin of 24.21 is split 50:50 between the milk distributor and the shop retailer and the 30% of doorstep deliveries; obviously the milk retailers take 100% of that margin. That produces gross sales for the retailers of £1 million. So of the total sales of milk of £7 million, one seventh, or an average of 16 pence per litre, or 14% is enjoyed by the milk retailers – the 23 milk retailers.

835 Another way of looking at this is to look at the retail margin internationally; there are some figures on this. The retail margin for milk is 16% so that would effectively mean the difference between the 16%, that would be normal, and the 28% that we currently have, as the overall difference between the two means that there would be a 12% margin for the distributors, which is 13 pence a litre.

If you look at it either way somewhere between 13 pence and 16 pence per litre is added to the price of milk as a result of the milk distribution system that we have. I am not remotely comfortable that this is in the best interests of our consumers.

845 Now, Deputy Lowe asked who would want to buy a milk round now, which of course is a very good question and I think, in essence, the answer to the question then was probably no-one. Deputy Green also referred to questioning what the value would be and I think there is, in essence, no real capital value because there is not a sustainable business model without a government-enabled and guaranteed distribution cartel.

850 The change in purchasing patterns has, in essence, broken the business model... it has broken the business model for some retailers, I should say – of course not all. Those that have exclusive distribution to some of the big commercial outlets of liquid milk, of course it is a very good business model. But for those for whom the business model has been broken by the change in purchasing patterns, I do have considerable sympathy; as I do for others who see their business models challenged and changed and broken over time and I think Deputy Harwood gave some other examples of that. But I do not think it is Government's job to provide protection at the expense of the consumer.

I think there undoubtedly will be a role, and perhaps a more limited role and a need for milk retailers, as of course there is for paper distributors which are also, of course, experiencing external pressures and changes as well, albeit providing perhaps a different service for those who do want their doorstep delivery.

860 Sir, as Deputy Harwood referred to in his speech, there was reference made to a moral obligation, but I do think that actually our greater obligation is to the 63,000 consumers rather than the 23 milk retailers.

865 And I share Deputy Soulsby's concerns around the alternative Proposition 1, because I think there are very real and practical valuation issues. Whether you seek to value these businesses based on a multiple of turnover or of profit, what is the sustainable turnover under option C? Well, of course, it will depend, in essence, how hard retailers work. Those who seek to build up a round that is sustainable in the new world of option C will have a business which is capable of being sold on to others with a good and loyal customer base, if they maintain their service levels. Whilst those who give up will, of course, have created the maximum loss and will require the maximum compensation.

870 So we risk, I think, with the alternative Proposition 1, creating a perverse incentive and perverse unintended consequences because of the moral obligation to compensate. I think that, in essence, is my endorsement of Deputy Harwood's concerns.

875 So I have very real concerns with either Proposition 1 as amended and therefore I would be grateful for the Comptroller's advice as to whether to support either.

Thank you, sir.

880 **The Bailiff:** Madam Comptroller.

The Comptroller: Thank you, sir.

885 I think Deputy St Pier raises a valid point insofar as the Resolutions from the Billet d'État XXX of 2008 were time limited and, in fact – I will just read very quickly from them for the benefit of the Assembly:

'Those Resolutions which are effectively now the same as those which had been agreed to be substituted for current Proposition 1 contain the separate caveat that such Resolutions and all rights granted pursuant to them, shall have effect until the end of 2015.

Now, those words are obviously missing from the Proposition as they are now substituted and obviously there is no equivalent time limit put on. So, in my view, if the States were to vote to lose Proposition 1 then effectively the rights which might have come into effect from the 2008 Resolutions, which might have been time limited until the end of 2015, will simply come to an end

890 at the end of 2015, which means practically that the exclusive rights which were granted in the manner which we have just voted through will have no further effect.

Clearly, therefore there will need to be a further review of the distribution model because the rights granted specifically under the 2008 Resolution will fall away, so it could effectively be a free-for-all. That is perhaps a slight generality, but it is certainly going to create uncertainty, in my view, as to what is going to take effect.

Obviously, what was considered in 2008 was that these rights would be time limited in sufficient time to give a review of a distribution report, a distribution model, and again from the States' decisions at the end of September last year, 2014, it was again considered that there needed to be a further review to come back which is the purpose of the policy letter now being debated before the States today, and the Resolutions being voted today.

So my view would be that Commerce & Employment would *have* to come back with yet a further model for distribution. Failing that, there is uncertainty created, in my view. I am not sure that necessarily assists in terms of certainty but the problem we have is that... It is always the way, sir, with amendments that come late and then as people think them through in debate other issues arise. This is always what happens.

But what would happen if Proposition 1 is lost, then clearly the original Proposition 1 under these Resolutions which refer to option C... that is also lost, so that optimum distribution model no longer arises. My view is Commerce & Employment would have to come back with a further model and there is a period of uncertainty as to whether the rights from 2008 carry on to the end of 2015. When exactly would they finish? What does that mean? That would have to be reviewed. I cannot be more specific at this stage. It has only really come up today, but we would have to review that, sir.

Deputy Trott: Sir, may I ask Her Majesty's Comptroller whether a simple amendment extending the Resolution to be coterminous with the March debate would suffice?

The Comptroller: Sir, I think, for simplicity, I would have to think that through. We would just have to think that through again. I would be wary of stating a simple yes or no and then find as we progress that other issues have arisen, but we can certainly consider that further.

The Bailiff: Deputy Fallaize.

Deputy Fallaize: May I ask Her Majesty's Comptroller whether in the event that Proposition 1 is lost in both of its forms, that in the meantime, before Commerce & Employment come back with a report, they would have to look at the States' Resolution on the distribution network which immediately preceded the 2008 Resolution, which was the result of an amendment from Deputy Lowe in 2007, which also included the granting of exclusive rights in zones.

The Comptroller: Sir, that raises yet another interesting question because the 2007 Resolution, from the amendment as approved for Deputy Lowe, was not expressly rescinded in the 2008 policy report which led to the 2008 Resolutions.

In my view, having looked at it, because that 2008 policy letter referred expressly to that Resolution, was that that was expressly considered in the policy letter and when the 2008 Resolutions were drafted and when they were then voted upon. So my view is they would have superseded it. But technically there is a point there, in that the 2007 Resolution was not expressly rescinded.

The Bailiff: Deputy Gollop and then Deputy Dorey and Deputy Brehaut.

Deputy Gollop: Further to what has just been said, Deputy Trott of course makes another, always helpful, suggestion to move forward. (*Interjections*) But I just have a random thought that

comes to me, that if the model that we are assured – and I believe the advice is correct – ends on December 31st, it would be extended to the March debate or even the end of March. A problem would then arise that this new model, option C, is about perhaps more of a free market approach to the commercial, but does it specifically include the doorstep deliveries?

945

As I understand it, the 2008 amendment that this replicates today effectively included all of it. So I cannot quite see how extending that to March would necessarily end the concern about individual poaching on different doorstep rounds. That would be something that we would either have to accept as a reality or Commerce & Employment, as H.M. Comptroller suggested, would have to come back with a clearer way forward for the doorstep delivery model.

950

I would go back to what the Policy Council has said on this report, as we have on our iPads and Billets:

'The Policy Council notes that the Commerce and Employment Department has given due consideration... to what might be regarded as being the optimum distribution and retailing arrangements... The Department favours an approach (Option C)... The Policy Council is supportive of [*the option C*] approach and commends the States to support these proposals... The Policy Council also notes that the Commerce and Employment Department has examined the need to introduce mitigation measures to offset any adverse consequences for milk retailers and has concluded that no such mitigation is required. In this respect, the Policy Council agrees with the Commerce and Employment Department that, while a decision to enable the dairy to sell to any commercial customer may impact upon the perceived value of a milk sales business, distributors have never had exclusive rights to distribute milk and therefore Option C maintains the status quo...'

Now, Deputy Fallaize has said we have many times in this Assembly voted against that view – and I think he is right. And Deputy Lowe, amongst others – Deputy Le Lièvre in a past speech – has made the point that in fact matters are far less clear.

955

Deputy Harwood and Deputy Soulsby, in quite hardball speeches in a way, have said that we do not want to go to the position of the taxpayer, or the Dairy, compensating milk retailers. And I think the amount could go into six figures, or even seven figures – that is my suspicion.

But we clearly have an impasse here because some Members of the States, including the Policy Council... and the legal advice that Commerce & Employment have informed us that they received, said that no such right exists – and yet, politically, we have had at least two Resolutions that they *do*, and a general view from informed Members of the States that they do.

960

Neither side has produced conclusive evidence on this matter, it has to be said, one way or the other. I agree entirely with the sentiments Deputy Perrot expressed about us having a *moral* obligation to these people – and you cannot compare them with a shop on the Pollet, because it is a totally different kind of relationship – (**Two Members:** Hear, hear.) and a complicated history. (**A Member:** Absolutely!) There are one or two other parallels in the States as Deputy Harwood has reminded us, but we are perhaps best to put them to one side as not relevant today.

965

In principle, I do support a viable milk industry and a healthy expanding Dairy. I also support, if possible, the continuation and retention of milk distribution throughout the Island in both rural and urban areas. I note Deputy Le Clerc did some work yesterday in looking at what the position in Jersey is, and there are five rounds-retailers but they are exclusively in the more urban and suburban parts of the larger Island, with three or four rural parishes having no doorstep deliveries at all. (**A Member:** That's right.) We will go down that route if we are not careful.

970

So my preference is to keep the *status quo*, as outlined by Deputy Fallaize. My second preference, if that failed, would be to look at mitigation measures. And I am sorry we are at this impasse because there has been a sense in which Commerce & Employment have flouted the Rules of the States in bringing back policy letters. And yes I have a certain sympathy for the wise words of Deputy Soulsby and Deputy Harwood, but are they really saying that we would prefer litigation in court – because that is what it might come down to – rather than a more moderate political consensus solution? (**A Member:** Hear, hear.)

975

980

We have seen before when the threat of court action has occurred, compromises are sometimes reached in different situations – and that is commendable. But I would hate the remaining milk retailers, who we all believe have a less viable business than maybe was the case

985 15 or 20 years ago, to have to go to the time and trouble of perhaps mounting litigation for a
judicial process – and if that process occurred there would have to be evidence from witnesses.
And I believe that Commerce & Employment and its predecessors would have to find
documentation that existed, or explain why the documentation has maybe disappeared and not
990 been filed correctly. One is concerned about the very jumbled view that one has heard about, of
the history of the last 20 years.

We can avoid all that by reason. (**A Member:** Hear, hear.) Reason, first of all, perhaps to
maintain the *status quo* today. If Members are minded to support the Dairy rather than the
distribution system and go for some change, we must look at realistic, sensible and appropriate
mitigation – and maybe compensation.

995

Two Members: Hear, hear.

The Bailiff: Deputy Dorey.

1000 **Deputy Dorey:** Thank you, Mr Bailiff.

I agree with what Deputy Gollop has said, and I will try to build and add to it and try not to
repeat it. If we are changing the system and we currently effect option A, which is the Proposition
1, we need a reason to change and we need to see something better than what we have now.

1005 Option C, which is what was proposed by Commerce & Employment – which is in the
alternative proposal, with the compensation – is in fact the alternative. I will just try and show you
that I think we will finish up in a worse position than we are with the current system.

I have absolutely no doubt we will effectively end doorstep sales. There might be, as Deputy
Gollop said, in very high density areas, but I am not even sure that they will survive. But doorstep
sales will be a *lot* less than they are now.

1010 The data which is in the report which I referred to yesterday on page 2432, very clearly shows
that if we end doorstep sales there will be a reduction in milk sales. And we do not waste the extra
milk, as Deputy Hadley said; I vocally said we use the extra milk that we sometimes get by
doorstep deliveries.

1015 So what benefit will that be to the Dairy if we reduce the quantity of milk sold? What benefit
will that be to farmers? There will be no benefit – they will both be worse off. So again with option
C, both the farmers and the Dairy will be worse off.

1020 If we go with the alternative Proposition, we will have to pay compensation – and I totally
agree with Deputy Gollop that the right place is for this Assembly to decide, and not to drag it
through court. And there is a clear history of the 2011 panel which looked at it, as I mentioned
yesterday. They looked at taking shops away from the milk distributors and they clearly said that
we should pay compensation – and they actually had a formula in there. So there is the clear basis
on the fact that three independent people have looked at it; they said that if we take that away we
should morally pay compensation, and there is a formula for it.

1025 So what are we going to end up with if we go for the alternative option, option C? It will cost
money. This is totally unnecessary because if we carry on with the existing system we will not have
to pay that compensation.

1030 The final point I would like to make is of the effect on the price of milk. Deputy St Pier started
quoting some numbers – again, I would urge him to go back to the 2011 report where they did
extensive work on the effect on the price of milk. They looked at Guernsey, Jersey, Isle of Man, UK
supermarkets and who picked up the various elements of the price that the consumer pays.

1035 Their table, which is very clearly in their report, shows that the distributor cost and the retailer
cost at that time was 21.2p in Guernsey. The UK supermarkets were taking 27.6p. Jersey was
taking more than local shops, and the Isle of Man was taking more than local shops. The evidence
there is that the price to the consumer will not change. So to say that if we go to the alternative
option, option C, I do not think there will be any effect on the retail price – that is the clear

evidence that was put forward by that panel which looked at it. Basically, the supermarkets will take what is available.

1040 So I conclude by asking you to vote for Proposition 1, not the alternative, which is effectively option A which continues with the system, because all we would do is reduce milk sales which would be of no benefit and will add cost to farmers, and add cost to the Dairy. We would have to pay compensation and the consumer would finish up paying the price. So there is absolutely no advantage, but there are loads of disadvantages.

So my analysis of the situation is please reject the alternative, i.e. do not vote for that, vote for the first Proposition and continue the existing system – that is the best system.

1045 Thank you.

The Bailiff: Deputy Brehaut, then Deputy Le Lièvre and Deputy Langlois.

Deputy Brehaut: Thank you, sir.

1050 Just briefly, because it has been touched on by other Members, it crosses my mind sometimes that politicians in this Assembly make the case for the retention of milk retailers far more powerfully than the milk retailers themselves.

1055 Unfortunately, the GMTA are viewed as the Guernsey Milk Retailers Association. Generally in the correspondence we get, they are seen as almost the union representing the rights of their employees, in relation to Commerce & Employment – rather than an organisation that has the potential to reach a lot more people.

1060 Yesterday, after the vote, I know we all had e-mails and a number of people contacted us – whether it was Twitter or whatever other social media there is – saying things such as, 'A milkman has never put a note through my door, yet they deliver to my neighbour' and 'they only deliver to one house in our road or street'.

1065 And I really do think that the milk retailers – and I understand there has been a bit of a cloud over them; there has been uncertainty for some period of time since before 2008 and after, that they have felt unsettled and uneasy, because there was not that degree of certainty for the future, perhaps, but they – really must take this opportunity, if the States support it, and embrace the opportunity and go out there and sell the commodity that sees them gainfully employed and sees milk sales underpinned – and of course supports the farmers too.

1070 I take on board the points raised by Deputy Soulsby. If we think of the actual farmers, the milk producers... how long do we spend in this Assembly talking about that element? Incidentally, we will have the Biodiversity Report from the Environment Department, and it is important to make that connection between the production of milk and biodiversity on the Island. It is crucial.

1075 But I really do implore the milk retailers to go out and make their case, because it crossed my mind before – and it must be, I am sure, playing to a number of Members in this room – I am passionate about the way forward for the milk retailers, but I am also concerned that some milk retailers will see this as a way out, which is not what I want to happen. (*Interjection*) I am not looking for that, I am looking for a clear way forward to keep them gainfully employed.

1080 But I think Deputy Harwood and Deputy Soulsby and Deputy Gavin St Pier were also right to point out – and Environment is perhaps a good case, if you think what Environment is involved in, licensing and other things – that once you concede that an activity is axed because the States oversee, license and regulate that, in whatever shape or form, and the history is clear through the Dairy – then you raise the potential for compensation.

So when I think of compensation to, say, milk retailers, for example, I think I have a formula – but other Members may not share that. So, even when we talk about or raise the issue of compensation, there is a huge scope and range within that too.

1085 Thank you, sir.

The Bailiff: Deputy Le Lièvre and then Deputy Langlois.

Deputy Le Lièvre: Thank you, sir.

1090 My involvement in the amendment will have come as a shock to some of you – it came as a bit
of a shock to me. (*Laughter*) Up until mid- to late-yesterday afternoon I had no overwhelming
desire to become embroiled in the complex and very long-standing issues that pervade the
distribution of milk, and milk by-products. They have been there before – more times than I care
to remember – and sometimes I think matters are best left to others.

1095 I started the debate yesterday from the standpoint that option C, effectively, represented the
status quo, as stated in paragraph 1.5. And as distributors had never had exclusive rights, as stated
by the Policy Council on page 2451, mitigation was out of the question. And the Policy Council
also repeated the mantra that option C maintained the *status quo*.

1100 That was my starting point and I freely admit it. However, discussion with my fellow Vale
Deputies led me down a different path and I find myself, once again, seeking fair and reasonable
treatment for a group of businessmen and women who – and make no mistake about it – will lose
their livelihoods *in the entirety*. (**A Member:** Hear, hear.)

1105 Option C is a very real and present threat to their livelihoods and I would predict that within a
short time – possibly as short as a few weeks – most of them would be seeking an alternative form
of employment should option C be approved. Let me make this very clear: option C is *not* the
status quo, despite what it says in the policy letter. Neither does it resemble the *status quo* in any
way, manner or form – it is, in fact, the antithesis of the *status quo*.

1110 Why do I say that? Well, option C requires the Dairy to do business with any commercial
customer that turns up seeking to buy products from the Dairy's cold store – anyone! The Dairy
will meet the needs of these commercial customers, private individuals, or whatever, but will not
involve itself in the distribution of these products once collected, preferring to leave matters to
the Environmental Health Department. And the policy letter states:

'Whether or not a new customer would wish to collect products from the Dairy themselves or use a distribution service
would be a commercial matter for them taking into consideration... The Dairy will not have any material involvement in
the distribution of its products...'

How on *earth* can these arrangements be classed as the *status quo*?

1115 I am going to repeat what happened in 2008... and I think it is important for Members to
understand that when the States was talking about 'exclusivity' in 2008, the argument was about
exclusivity in relation to milk by-products. And there was an amendment from Deputy Lowe which
failed, which I think was proposing that exclusivity was extended to by-products. But the end
result was as stated here.

This is what Commerce & Employment recommended, and which was ultimately turned into a
States' Resolution:

'1. That the Commerce and Employment Department (acting through Guernsey Dairy) should grant exclusive rights to
licensed milk distributors to deliver:

- a) Guernsey Dairy Milk to doorstep customers, and commercial customers within specified rounds; and
- b) Guernsey Dairy branded Milk Products to doorstep customers in those rounds.

2. That the Commerce and Employment Department (acting through Guernsey Dairy) should **not** grant exclusive rights
to licensed milk distributors to deliver Guernsey Dairy Milk Products...'

1120 – *products!* That is by-products, milk, cheese, etc.

'... to commercial customers.

3. That the Commerce and Employment Department (acting through Guernsey Dairy) should grant non-exclusive
rights to licensed milk distributors to deliver Guernsey Dairy Milk Products to commercial customers and not limited to
specified rounds.'

1125 Now, there is no way that you can reconcile those two different approaches to the distribution
of milk; they are totally opposite. One is a totally free market and the other is one that is
constrained by exclusivity in relation to certain products. That is the fact. Which one is best, I am
not making any judgement, but please do not believe that the current proposal is the *status quo* –
it could not be anything more different.

And that is really what led to me becoming involved with the amendment. I felt that I had been misled. (**A Member:** Hear, hear.) It was probably my fault because I had not read the policy letter properly, but that is another matter.

1130 This was not a temporary period of limited exclusivity over the distribution of milk; the clear intention was to grant a five-year period and then review the situation to see how successful it had been, and then grant a further period of five years and so on and so forth.

1135 I am no businessman – as my experience at the Dairy proved – (*Laughter*) but a five-year deal is not a temporary arrangement. There are businessmen in the Assembly today and if they did a five-year deal with somebody they would not call it a ‘temporary’ arrangement. Six months is a temporary arrangement but not five years – and not five years with the possibility of a further five years afterwards.

Paragraph 29 of the 2008 report makes matters quite clear, and it says:

‘However, there are implications that arise from making this offer. Currently the offer to GMRA has not been made subject to any limitation on the time that the exclusivity of these rights would continue, as would usually be the case when exclusive obligations are granted. It is believed that there is merit in considering a limitation to the grant of exclusive rights to a period of, say, five years, perhaps with a commitment to renew them for further periods of five years if the system is working well. This will give:

- the Department an opportunity of assessing purchasing trends and the effectiveness of its distribution methods;
- an effective means of enforcing service standards; and
- certainty for distributors in assessing the value of their businesses, since they will have a commitment for a specific period of the exclusivity rights.’

1140 Now, yes there was an amendment – possibly I regret it now. The Le Lièvre/Domaille amendment was in response to the storm that had arisen as a result of not granting exclusive rights to licensed milk distributors to deliver Guernsey Dairy milk by-products to commercial customers. Its sole intention was to extend the period of exclusivity to give all concerned the time to sort themselves out for the good of the whole industry. And I was not just talking about milk retailers; I was talking about the Dairy and the farmers – and indeed the consumer as well. (**A Member:** Hear, hear.)

1145 Were it not for the amendment, it is more than possible the exclusivity rights would have been in being until 2018. This was no temporary affair, as is suggested in paragraph 5.1 in the current policy letter. Neither could option C ever represent the *status quo*. To suggest such a situation is simply misleading and *very* misleading, at that. (**A Member:** Hear, hear.)

1150 In light of the fact that option C will decimate the livelihoods of our milk retailers, because it is *not* the *status quo*, and in light of the fact that they *do* have exclusive rights which were never intended to be of a temporary nature, I believe – and I hope the Assembly does also – that we are committed to supporting milk distributors by acknowledging the Commerce & Employment’s original intention to grant exclusivity was a permanent arrangement. In business terms an agreement for five years with an option of going to 10 is about as permanent as you are going to get. As I have already said, *six months* is temporary.

1155 Now, I want to talk for a moment on doorstep deliveries. Originally, going back to the dim and distant past – I think Deputy Hadley referred to it yesterday – all milk was delivered in a churn with a ladle and it was put into a jug, and then either into a cold store or into the food cupboard, because not many people had fridges. As a result, the dairy industry could not have survived without milk retailers.

1160 The big change came in 1957 – I think it was 1957, or 1956 to 1957 – when the Dairy introduced Tetra Paks. From that day onwards the flow from doorstep deliveries to shop purchases commenced – and that has continued to this day. And they have, as everybody has made reference to... doorstep deliveries have declined steadily over a long period.

1165 There is a question mark as to how important they are – and I have got no answer to that, but there is a definite question mark. But they are of *some* importance.

If we leave aside the social argument – which I do not have much truck with – they are of importance because they actually help to maintain the overall volume of milk sold. And the

1170 same... as shop-bought milk has increased, the sale of liquid milk in all its forms has dropped off
as a result of health issues, and people's concerns that full cream milk really was not very good for
you. We now see just a very small proportion of full fat milk, and a very much larger proportion of
1.5% milk fat... I do not drink the stuff myself, I drink green milk (**A Member:** Hear, hear.) and that
is growing. There has been a health shift in milk sales and that continues.

1175 Children do not take milk to school; we tried that, but they do not like milk in their lunchbox
because it gets warm in the cloakroom and they do not drink it. They would far rather drink soft
drinks of one form or another. So these are all of the health issues and the sales issues involved
with the sale of milk.

Doorsteps are part of that overall picture. If we lose them – and we *will* lose them – there is not
a great deal of money to be made by a round solely comprising doorstep deliveries. We will lose
1180 them. And with it we will lose a proportion of our ever-reducing sales of milk. They were seven
point something plus when I was at the Dairy, and they are now just over 6 million.

The Dairy is as efficient as it can be but it is, by its very nature, a Dairy limited by consumption
of milk, and in such terms it is grossly inefficient. The milk packaging machine could pack all of a
week's milk in a morning and be cleaned once – or something like that. At the moment, I suspect
1185 the cleaning time for the milk packaging machine and all the other in-place milk production
machinery takes longer than actually packing the milk in the first place. It is inefficient. Reducing
sales further will make it even more inefficient.

It is a risk; there is a risk involved. And there is a risk in getting rid of our retailers because they
do a service far greater than just plopping things on a doorstep. They put milk on the shelves;
1190 they present it properly in the shops. There is no guarantee that will continue. A man who delivers
milk in bulk... will he put it properly on a supermarket shelf? We do not know.

It is an inefficient process, I acknowledge that. It is an expensive process. But I wonder whether
it is the right process to ditch it overnight... and this option C will result in milk deliveries drying
up *very* quickly.

1195 It is just something I wanted to say to the Assembly: there *is* a risk and that is why I put this
amendment forward... that, and the reason that I think the States has not had the full and clear
picture.

On that note, sir, I will finish, other than saying I am not hard and fast over which option the
States votes for. I would very much prefer if it voted for the first option, but if it does not do that I
1200 would be quite happy for option C to be voted for, *with* a mitigation package attached to it.

Thank you, sir.

A Member: Hear, hear.

1205 **The Bailiff:** Next Deputy Langlois, then Deputy Perrot and Deputy Domaille.

Deputy Langlois: Thank you very much, sir.

1210 I think, unfortunately, as a result of various manoeuvrings in the last nearly 24 hours, we are in
danger of spending the rest of today trying to thrash out the details here, rather than having the
plan thrashed out in a much more effective environment of the Commerce & Employment
Department, and negotiation with all interested parties, and so on – and then us deciding on
policy, which I always thought was the object of the exercise. However, we are where we are.

1215 In terms of the process over the last 24 hours, there was going to be a very simple,
straightforward amendment which gave the correct answer – which I will be returning to later –
just before we left yesterday afternoon. And now it has been complicated.

I forgive Deputy Fallaize for his seemingly-Machiavellian exchanges of emails. I have a personal
rule that emails stop at 9 o'clock at night, (**A Member:** Hear, hear.) and therefore the little flurry
that occurred, ending at 23.07 by my reckoning... (*Interjections and laughter*) It was an early finish
for some... 23.07 went over my head, or went somewhere; it did not come to me. But I forgive him
1220 for that, so let's get on with it.

Let's get back to some fundamentals here, that change is long overdue. And without a doubt I think even in Deputy Le Lièvre's explanation now, we detected recognition that change is overdue. I believe that the whole direction of travel which he described indicates that option C will happen in due course.

1225 The free market event which Commerce & Employment are trying to provoke very quickly and overnight will happen in due course, and therefore I am rather concerned about coming to any conclusion which, in that sense, wraps it up in a much slower ending.

1230 However, I stand by my suggestion of some time ago, that a decent exit strategy... it is a rather horrible phrase, actually, and the words become associated with something much more dramatic in life and death events... But, nevertheless, it is a very common phrase in business for saying that at some time you need the ability to get out. Many people who have run their own businesses will tell you starting up the business is the easy bit, but the exit strategy is the difficult bit and there are always winners and losers in that process.

1235 Deputy Soulsby, I hear her... and I very much appreciate and praise her for raising the debate to the level of saying, 'Well hang on, let's look at the whole industry again' – because that was her task. And it has continued to be the task of her and the other people she has worked with... because the farmers are involved, the operation of the Dairy is involved, and so on. It cannot be seen in isolation.

1240 But I was concerned about her apparent intransigent attitude by saying, 'You do this and I won't support it! You do that and I won't support it!' I am not quite sure what she *will* support when it comes back, but there is an absolutely intransigent stance there which is unfortunate, because going back to the question of the exit strategy, that demands compromise – it demands an open-mindedness which has to be for everybody to consider, as that unfolds.

1245 So I would say to Deputy Soulsby, please wait and see – when option C is approved, together with the mitigation package – what people come back with. And *then* decide whether to support it or not.

1250 It has also been suggested that there is a legal sort of outlet here, because if it is all tested in the courts we would know much better where we are starting. Well, sir, are we here to prevaricate? (**A Member:** Hear, hear.) Are we here to go around and about to occupy a large amount of our Law Officer's time to make other people incur fairly large legal fees just to find out where we are starting? (**A Member:** Hear, hear.) I believe we have talked about it enough in here as to where we are starting, and I really think that prevarication versus precedent is a no-brainer here. Let's get on and make some decisions. (**Several Members:** Hear, hear.)

1255 Deputy Perrot, supported by Deputy St Pier, also talked about the milk retailers 'not helping themselves' – that is the phrase that was used. I find that slightly harsh but, nevertheless, I sympathise 100%. I think it is very unfortunate that for the last set of exchanges a group of people appeared to jointly take a stance of saying, 'We do not like what you are proposing, but we are not prepared to come up with any alternatives.'

1260 I am saying that if you want to see the moral duty through, of *course* there is a balance between the taxpayer and the milk retailers. Nobody is going to say, 'Well, you can do what you like for these 23 businesses, but forget what it costs because it is only taxpayers' money after all.' Nobody is suggesting that – and that is where it comes down to the valuation question.

1265 I would refer you to the alternative amendment here, because the wording is quite clear: 'financial measures to mitigate the likely...' And those words are not just chosen at random. It does not speak compensation, it does not speak compensation with a capital 'C', it does not speak compensation with six figures, seven figures, eight figures – that would be *total* speculation. It simply says that there should be some financial measure to mitigate the period of change that we have to go through.

1270 Sorry, I have lost my numbering system, sir – excuse me, this vastly organised set of notes that I am working from is confusing me! (*Laughter*)

There is a question of valuation – that has been mentioned a couple of times.... Sorry, can I finish that previous point with one further comment?

1275 If you are taking the moral stance as well, what the next stage of negotiations will have to take account of... and there will need to be a level of transparency and honesty, not only about the accounts... I mean, the accounts in that sense are easy to be transparent about, and there can be confidentiality, non-disclosure agreements, all sorts of things around them – but still transparent because somebody is prepared to stand up and say, 'I have seen them and I have certified this, that and the other.' But there has got to be some transparency about what people's personal plans are.

1280 I would be exceedingly surprised if there are not some people in the retailer's group who will actually welcome the opportunity for life to move on, and there will be others who actually want to hang onto the provision of a service which Deputy Dorey and others have argued is vital to our community.

1285 I think during that period of negotiation I would make a plea to the retailers to be reasonably honest about which camp they are in. It may involve individual conversations of a very business-like nature, and it certainly should not need to be public – it should not be of media interest or anything like that – but in order to move that on let's at least find out how many are looking to move on and how many are looking to get out, because the exit strategy has got to be clear for some.

1290 The valuation – nobody said it would be easy. The simple reality is... I think it was Deputy Gillson who mentioned long experience in valuation and the complications of it and I know where he is coming from, absolutely. Anybody who has had a business and either sold it – or in some cases tried to sell it before they closed it down – knows full well that it is, 'Think of a number and then go up or down from there as to what you can get for it' and so on. There is a whole load of smoke and mirrors and dark arts about business valuations. But, nevertheless, it has to be done.

1295 If you look at the franchise model, which I return to, it actually has a central body which always has the task of moving people on – moving people in and out of the group, and so on. And there *are* ways in which you can find a fair compromise valuation, but it does not come easily.

1300 So, sir, I suggest that we simply cannot put this in the 'too difficult' tray again. (**A Member:** Hear, hear.) And I am sorry to say that is the reason why I really cannot go for the first option here, because there is too much of it... and too much of the verbiage in the first Proposition that sounds like, smells like, and looks like the *status quo* – or the extension of the *status quo* beyond its sell-by-date. Without a doubt, everybody is recognising that there is a movement towards a small emphasis on doorstep deliveries, and if that is somehow going to be preserved it needs to be preserved *selectively*, and not generally.

1305 So we cannot put it in the 'too difficult' tray. But let's not bottle it – (*Interjection*) sorry... (*Laughter*) let's not bottle it again. (*Interjection*)

1310 That is what, successively, departments and the States have done in terms of tackling this issue. So please, Commerce & Employment, let's all of us back you to go with option C, with the caveat of sorting it out – but with fair compensation. (*Interjections*)

Two Members: Hear, hear.

1315 **The Bailiff:** Deputy Perrot, and then Deputy Domaille.
Do you still wish to speak? Yes. (*Laughter*)

1320 **Deputy Perrot:** Well, yes, the time-honoured phrase... I had not intended to speak and I do not want to speak. I mean, you are fed up of listening to me, my colleagues are fed up with listening, (**A Member:** Absolutely!) (*Laughter*) our listener at home on the wireless is fed up with listening to me, and *I* am fed up with listening to me!

After all, as far as I am concerned the alternative Proposition 1 articulates the concern which I expressed yesterday – and therefore I ought to be satisfied with that and shut up. Well, I am not going to shut up because it has been suggested that the retailers – if they think that they have got

1325 some sort of claim in compensation – should bring a litigation claim. I think that is *outrageous* –
(*Interjections*) and that is why I am on my feet!

The reason for this has been expressed as being ‘worried about creating a precedent’. Well, you would have to have pretty odd circumstances to replicate the extraordinary mess which the retail milk arrangements are in, to be worried about a precedent. I would hope, as far as precedents are concerned, that if the States have got something wrong they admit it and do something about it. And if it involves some sort of compensation, that is what it does! (**Two Members:** Hear, hear.)

So if that is a precedent, in a way, I am for it, but I do not think that... Oh dear, here we go... (*Laughter*) I am giving way.

1335 **Deputy Lowe:** Thank you, Deputy.

I am trying to help you here, Deputy Perrot, because if I remember rightly a precedent has already taken place. Back in the 1950’s the States actually did make payments and compensation to the Guernsey tomato agents when they went down that route – the States gave them money in compensation when they formed the Guernsey Tomato Marketing Board. (*Interjections*)

1340 **Deputy Perrot:** Well, I thank Deputy Mrs Lowe for that intervention. That is twice in two days she has been really rather more than helpful to me. So, thank you. (*Laughter and interjections*)

1345 It is as plain as a pikestaff that the States went along with any misapprehension which might have been the problem of the milk retailers. If they had got it wrong, they were not disabused of that by the States of Guernsey. And certainly if one listened to Deputy Laurie Queripel yesterday, he really pinned that down mercilessly – and no-one has actually challenged him on that. Indeed, no-one has really challenged Deputy Lowe’s account of the facts. So as far as I am concerned what they have to say applies.

1350 I take the view that it is utterly dishonourable of the States – if the States have made a mistake of some sort – to say to a body of people such as the Guernsey retailers, ‘Sorry, we have made a mistake but off you go, we are not going to pay you anything. If you think you are entitled to something, see us in court.’ That is not the way to conduct this Government. (**Several Members:** Hear, hear.)

1355 If the retailers are left having to go to court, God knows what sort of proceedings those would be – I do not think it could be by way of judicial review. I think it falls into the mysterious black art of ‘estoppel by conduct’, which is something which law students like to forget as soon as they have learned about it. (*Laughter*) But, anyway, I do not think it is right for us to be sending them to court.

1360 My Minister, Deputy St Pier, rightly, is concerned about public funds. Of course I am. I am on the Treasury board and I do not want us to throw money away. (*Interjections*) And he says that he is concerned – thank you for that helpful intervention earlier that you came up with. (*Laughter*) He says that it is all very well for some of those bleeding hearts – well, he did not say that, but I am exaggerating, as usual! – (*Laughter*) for us to be caring about the retailers, whereas he cares for the 63,000 other people in Guernsey. I do too. (**Two Members:** Hear, hear.)

1365 But I bet you a dollar to a doughnut that, of those 63,000 others, at least the majority of them would not wish the States of Guernsey to be acting in a dishonourable way. (**A Member:** Absolutely!) (**Several Members:** Hear, hear.) And if that means that money comes, maybe, out of the C&E budget, I do not know – Oh dear, yes, it might do! (*Laughter*) Or out of General Revenue – so be it.

1370 But we, the 47 of us – actually 45, plus two from Alderney – represent the people of Guernsey and we ought to represent them as a matter of honour as much as anything else. (**Two Members:** Hear, hear.)

1375 I think that Deputy Le Lièvre exaggerates somewhat to say that the doorstep delivery will simply pass away like the early morning mist. I am not at all sure that that will happen, as I said yesterday. I think it is possible that diligent retailers can build up their milk rounds... And of course

1380 it is interesting that although the two types of retail are not entirely analogous, there is some sort of a similarity with newspaper rounds – and the interesting thing about newspapers is that they are sold in practically any shop you go in, and there are also doorstep deliveries of newspapers. So it just could be that doorstep deliveries would sit side-by-side under the new Jerusalem, if we accept the alternative Proposition 1.

There we are; that is all I have got to say. I am sorry that I have taken up the time of the Assembly again, but I had to get off that chest... Deputy Harwood is plain wrong.

1385 **Two Members:** Hear, hear.

The Bailiff: Deputy Sillars, do you wish to be *relevé*?

Deputy Domaille, then Deputy Rob Jones and Deputy Kuttelwascher.

1390 **Deputy Domaille:** Thank you, sir. I am not going to talk at length about the moral issues, the legal issues and all that, I think we have done that to death.

My problem with the option C, as of yesterday, was exactly the same as Deputy Perrot's. It lacked any form of mitigation in it and that was my problem. So when I read the amendment this morning I thought, 'Well, that is fine.'

1395 I have to say that some of the comments that have been made in debate have made me think, 'Oh, hang on a minute.' And really I am just surprised and will just draw Members' attention to the fact that whatever we decide today I really do not think that we have actually put the topic to bed. I think that if we adopt the first option, the exclusivity arrangement, with the 25% cut-off hanging over retailers, there must be *significant* doubt over the milk supply chain moving into the future. I really do think that will happen.

1400 If we adopt the option C with mitigation, I think there must be significant doubt as to when it actually comes to it, that the States will agree that compensation or mitigation – especially when it is just before an election, and especially when the States' finances are perhaps not all they should be. If we, perversely, rejected the two options, then heaven knows where we are... because I have not got a clue.

1405 I really do not want Members thinking that whatever decision we make today, that is it – because I really do not think that is going to be the case.

Thank you, sir.

1410 **The Bailiff:** Deputy Rob Jones.

Deputy Robert Jones: Thank you, sir.

1415 Of course everyone will have the benefit of seeing my voting later on, but I think it is just important to state on the record that a lot of what I agree with has been articulated by Deputy Le Lièvre and Deputy Fallaize, and they have basically set out my interpretation of what I consider to be the *status quo*.

Should the first Proposition fail, I may consider supporting C&E's recommendation that option C is the optimum distribution and retailing arrangement, but I could do that with the comfort of knowing that we will be putting in place financial measures to mitigate the likely consequences.

1420 I think Deputy Langlois set out the importance of the word... the *likely* consequences. And those words put to bed the fear that maybe this is used as an exit strategy for those who just want to get out of the retail business. What I would like to see is as many of the 23 – or whatever figure people have put on that – can still flourish under whatever arrangement is put in place. However, that seems unlikely.

1425 I think Deputy Perrot has also set out the fear – well, I did not have a *fear*, but the question mark – over a precedent. I think he has articulated that quite well and I think we should take note of that. I certainly would not like to see this played out in the courts, for the very reasons that Deputy Perrot has articulated in the last couple of minutes.

That is all I have to say.
Thank you, sir.

1430

The Bailiff: Deputy Kuttelwascher.

Deputy Kuttelwascher: Thank you, sir.

1435 So, once again, we find ourselves where we would *rather* not be – and I have said in the past where we *do not* want to be – but I think none of us really wants to be here.

So why did I say that? How many times do we get criticised for going round in circles on certain topics of debate? Paid parking, if you like...

I think we are not going round in circles, we are struggling to get out of a maze – and yesterday we actually exited a maze on another issue. Amazing! (*Interjections*)

1440 Sir, the problem we have is accepting that change is a fact of reality – not a fact of life. I say that because in the physical world we have this concept called time. We all know what it is; it is very difficult to define. The first definition of time I had is ‘the measurement of change’ – totally unsatisfactory because to measure that change you need some sort of clock, which assumes you know what time is – but I do not think anybody really does.

1445 So to stop change you have got to stop time, and that is not going to happen –

A Member: Not in this Chamber! (*Laughter*)

1450 **Deputy Kuttelwascher:** I heard a lovely recent comment which says that, ‘Those who live in the past, or indeed the present, will guarantee only one outcome – which is they are going to miss the future’. There is a lot of sense in that.

1455 So what I would like to see today, in spite of what Deputy Domaille has just said, is something which was referred to by Deputy Langlois, which was an exit strategy. But not just for the retailers – for us! And I am serious about that and there is a part of this amendment which could just provide us with that if it is properly discharged by the Commerce & Employment Department.

1460 I know where I am going to vote, and that is purely in the hope that next time round we put this whole issue to bed and get out of another maze... I do not keep records but I know Deputy Gollop does: how much time in this Assembly do we spend on issues which, although important, represent a minute part of our economy? And yet those that are extremely important for our macro-economic performance get short shrift. (*Interjections*)

1465 And as regards something that Deputy St Pier has said about this rather large cost of milk to the customer... well, it is something we have accepted. One might be able to reduce it, but the fact that Guernsey milk would most probably cost double what milk might cost if you bought in... People accept that. I accept that; I know my daughter accepts it. We like Guernsey milk; it costs a lot of money; so be it, it does not matter.

So the precedent for, shall we say, paying a large sum for our milk is fine. Now, if you can mitigate the costs of distribution or whatever in the future, fine – but it has to be done sympathetically. I am in the same boat as Deputy Perrot, I think, on this particular issue.

1470 I think it is clear which part of the amendment I prefer, but I am hopeful of an exit strategy for Members of this Assembly. I would like to see it once more, but no more after that.

Thank you, sir.

The Bailiff: Deputy Hadley.

1475 **Deputy Hadley:** Possibly not for the first time, and certainly not for the last, I have upset the Mother of the House by accepting what she said on the milk strategy and then appearing to contradict myself... Well, I *did* contradict myself on the Sunday phone-in. The reason for this is that I *am* all over the place on this, because I am in the same position as the Assembly, really. We accept that retailing conditions have changed, the distribution of milk has changed and perhaps

1480 we need to change the way we change. But we have to change it in a way that is fair because the States has had a big hand in arranging the system.

I think the most important thing to me is to come back to 7.1, which indicates how far this policy letter is from what should be an acceptable policy letter, because it contradicts itself. I think the speeches by Deputy Queripel, Deputy Lowe and Deputy Green, for me, set out all the arguments.

1485 I do not accept what Deputy St Pier was saying about profit margins. We have got to remember that certainly in the United Kingdom milk is a loss leader in many places, so however you start talking about profit margins, I do not necessarily think it is of relevance to this Island. If the States wants to change, it has to change in a fair way – and this document does not do it.

1490 So I shall be voting the same way as Deputies Lowe and Green.

The Bailiff: Deputy Trott.

1495 **Deputy Trott:** Sir, I like lawyers. I know that some regard them as an expensive inconvenience – and others less favourably – but I like lawyers and I respect legal opinion. We have heard much Commerce & Employment-bashing today, as we did yesterday, but I think Members' attention should be drawn to page 2408 and in particular paragraph 6.1, because there the unequivocal and consistent advice is captured:

'The Department has received consistent and firm legal advice...'

– *consistent* and *firm* legal advice...

'... that distributors do not have exclusive rights in relation to:

a) the distribution of milk and other products produced by the Dairy; or

b) a territory (delivery zone) within which only a single distributor can sell milk and other Dairy products.'

1500 Now, there is an enormous difference between policy, policy decisions and policy direction – and the *law*. So, in terms of how we will be determining... because I am confident, sir, as one ever can be in politics, that it will be the 'or' option that prevails today. I shall discharge my duties as a member of Commerce & Employment in a completely objective fashion, but I do not consider the word 'likely' to be definite. It is quite possible that some form of deal can be struck – it is also possible that no such compensation is in fact reasonable.

1505 What I am trying to get across here is that, simply because we are accepting this amendment today, it does not mean – and that is not the message we are giving the milk retailers or our community – that we will be getting out the cheque book. We will only be doing that if the evidence supports that conclusion.

1510 Therefore, with that in mind, I am confident and comfortable in supporting the alternative – the 'or' – and, as the Deputy Minister of Commerce & Employment has reminded us on a number of occasions, that is the 'overleaf option'.

Thank you, sir.

1515 **The Bailiff:** Well, Members, it is very close to 12.30 p.m. I suggest that we rise, and return at 2.30 p.m.

*The Assembly adjourned at 12.30 p.m.
and resumed its sitting at 2.33 p.m.*

**Procedural –
Other business**

1520 **The Bailiff:** Members, just before we resume the debate on Commerce & Employment Department's policy letter on the Dairy Industry, there are three other Articles for debate at this meeting.

As listed in the Billet, the next is the Environment Department's Report on the States' Capital Investment Portfolio – Bus Fleet Replacement, and I understand it is very much the wish of the Department that that should be dealt with at this meeting.

1525 There is also the final matter – the States' Assembly and Constitution Committee's policy letter on the Distribution of Deputies' Seats Amongst the Electoral Districts. It would be highly desirable if that is dealt with at this meeting because the amendments to the Reform Law were approved by us on Tuesday and that Law, therefore, is ready to go in the next day or two off to London. It would be rather unfortunate if the States, when they came to debate the allocation of seats were unable to agree how to allocate 38 seats and, therefore, we had to request that the Reform Law amendments not be brought into force or be further amended, or whatever.

1530 So we have got two Articles, both of which, for different reasons, the department and committee concerned would like to have both concluded today if at all possible, and really they are very good reasons why they should be concluded.

1535 So I am just putting you on notice that it may be that I will be requesting that we sit later, if necessary, but obviously if we can get through the business speedily then it will not be necessary. So, as always, we are in the hands of the Assembly.

**Dairy Industry –
Optimum Arrangements for the Distribution and retailing of Milk and Milk Products –
Debate continued –
Propositions carried as amended**

The Bailiff: Just before we resume debate, an amendment has been circulated, proposed by Her Majesty's Comptroller and seconded by the Minister.

1540 It is a technical amendment. What has happened in the Billet, as the eagle eyed amongst you will have noticed, the recommendations that appear in the department's policy letter at page 2413 are different from the Propositions that appear on page 2451. For some reason, the cut and paste went wrong.

1545 So the effect of the amendment is to delete Propositions 2 and 3 as printed, and substitute for those, recommendations 2 and 3 as they appear on page 2413. Her Majesty's Comptroller it is your amendment, I should not really be the one introducing it, is there anything that you wish to say in support of it?

Amendment:

To delete Propositions 2 and 3 and to substitute:

'2. To rescind their Resolutions of 30th October 2008 in relation to Article IV of Billet d'Etat No XIII (concerning exclusive rights to the distribution of Guernsey Dairy milk and milk products),

3. To rescind their Resolutions in relation to paragraphs 1(j) and 3 of 25th September 2014 in relation to Article IX of Billet d'Etat No. XX (Review of the Dairy Industry) to the extent to which they provide the statutory licensing of milk distributors.'

1550 **The Comptroller:** Sir, you have absolutely summarised it correctly. It is just a cut and paste error and it just was thought easier for States' Members to see exactly what they are voting on at the relevant time to correct it now in an amendment, and that is it in short.

The Bailiff: Deputy Stewart, you formally second the amendment?

Deputy Stewart: I do, sir.

1555

The Bailiff: Any debate? We will go straight to the vote then. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare that carried.

And that means that we can resume debate. Who wishes to speak next? I remind you we are in general debate on the Dairy Industry policy letter.

1560

Deputy Gillson.

Deputy Gillson: Sir, I think really we are again in one of these positions where we are looking at the least bad option.

1565

But I think that we must ensure that we are all clear about really what we want to achieve, because we have got two options in front of us and they are significantly different in the results.

If it is to try and ensure the continuation of doorstep deliveries then that is option 1, but the downside is, arguably... as Deputy St Pier said, it is arguable that milk is at a slightly higher price than it should be, which again asks questions whether that is appropriate given anti-poverty strategies of the States. But if you want to ensure continuation of doorstep delivery, option 1 is the option.

1570

If you want a more efficient milk distribution service that may well – and, I think, would – end doorstep deliveries and possibly, or quite likely, reduce milk sales, then it is option 2.

1575

The difficulties we have with option 2 are establishing value... It is going to be very difficult. My gut feeling is value will be lower than some retailers expect. There will be lots of discussion, it could have a long time and actually it could create more uncertainty because of the time it takes to get to a settlement.

1580

The unintended consequence could be that the biggest winners will be those retailers who just have rounds dealing with big supermarkets and that the people who we are trying to protect, who have got a mixed round of a small shop and a lot of doorstep, may actually be the people who have less out of it.

Because I would disagree with something that Deputy Queripel said yesterday, that the value of the round is in the licence; now the value of the round is in the sales and if you look at licences, there are two parts – there is the licence for the shop part and a licence for the doorstep delivery.

1585

The licence for the doorstep delivery has very little, I would argue, value because exclusivity gives a monopoly situation and monopoly only has value if the customer is limited in their geographical ability to move outside the region.

So having a licence to deliver to somewhere down the road is not that valuable if the people who live down the road can go to a shop just round the corner and buy from it. So it is going to be difficult, but I think that the mixed rounds will not be as valuable as people expect them to be.

1590

But there is also a more fundamental question which I do not know the answer to – but let us say, for instance... Deputy Langlois said that some retailers may want to exit. Okay, so someone exits, the States give them some money, so that is fine; what happens to their round? That round gets picked up by somebody else – for free or do they have to buy it? If we pay somebody to exit, then someone else gets a round for free, their round is going up in value at the expense of the States paying someone else. Then what happens in a few years' time when they want to go?

1595

I see option 2 as being *really* complicated. I think the valuation is going to be hugely difficult, it is going to be contested, it is going to take time, it is going to create uncertainty. I do not like it.

1600

I will go for option 1 and I think that is – sir, I have used the phrase before this week – the least bad option, but that is the one which, if you are sitting there thinking you want doorstep deliveries to have a fighting chance of continuing, and a lot of people say, 'That is really what we

want; we want to support the milk retailer who is providing the doorstep delivery,' the option to support there, for me, is option 1.

Thank you.

1605 **The Bailiff:** Anyone else? Deputy Lowe.

Deputy Lowe: Thank you, sir.

I totally agree with Deputy Gillson's speech that he has just made. I really believe that if Members in this Assembly want to keep the doorstep delivery the only option is option 1.

1610 The question I raised yesterday still remains with me. What is it we are trying to achieve? Where is the call because of the price of milk? That has not actually happened. Where is the call about the competition? That has not happened. How many emails have we had or phone calls have we had from people saying about, 'Why are you doing this? I want to get a licence and I have been denied', because anybody can get a licence.

1615 I was talking to some of my colleagues last night from Commerce & Employment and they said they are not allowed to give a licence. You can give a licence whenever you like. What you cannot do is give a licence on an area where you have already agreed as Commerce & Employment that those milk retailers have exclusivity in those roads or to those shops or commercial premises that you have agreed, as part of their licence.

1620 So there are still lots of questions for me that I just do not know what agenda is behind this. There is no doubt I do believe that milk sales will go down. If you lose your doorstep deliveries milk sales will go down. That, I would say, is a given because people used to say to us when we used go back to their door, 'Oh we have milk coming out the fridge', and we used to say, 'Well why didn't you cancel it?' and they would say, 'Oh you come at sort of 4 o'clock in the morning'...

1625 **The Bailiff:** It is on.

Deputy Lowe: He turned me off! *(Laughter and Interjections)*

1630 **The Bailiff:** It is on, I think – *(Laughter and Interjections)*

Deputy Lowe: Mr Bailiff, how much did you pay the court usher here to turn my microphone off?

1635 **The Bailiff:** I think some Members are having difficulty hearing, perhaps you turn the other microphone on as well and have both on.

Deputy Lowe: Of course, sorry! *(Laughter)*

Right, I apologise for that.

1640 Basically I said in a nutshell just before, 'What is the agenda?' because I actually do not know what the agenda is all about, because I really do believe milk sales will go down if you do not support option 1. Option 1, to me, is the only one to go for.

1645 And, as I explained to you all yesterday, I know that some of you have stood up today and said, 'Oh there was no exclusivity' – whoever wrote that actually in that report, as 7.2, I really do question how that was allowed to be printed because that was just so inaccurate and so wrong, as I explained to you all yesterday. We were not allowed.

1650 Now, you were talking about compensation to the milk retailers, and quite rightly so if you go down that route, but hey-ho, we sold our round in 1995 for over 12 or 13 of those years; we were prohibited by the Dairy to expand our round because of the Dairy saying we could not go. Our round, as I explained to you yesterday, when we bought it was 44 miles per delivery. Because of the Dairy stepping in and saying rounds are not really viable and we wish to try and make them

more efficient and more viable, because they were owed debt by some of the milk retailers because of the problems that they had because they were just not viable, that zoning took place. The Dairy encouraged and wished that zoning to take place. So 'There is the map, but only go on those roads'.

1655

So, sorry, to turn round and say that actually it did not take place – you know it took place because we were involved with it.

The Bailiff: Through the Chair, please, not directly to Deputies.

1660

Deputy Lowe: I did not mean... I am not looking at anybody –

The Bailiff: You were addressing Deputy Stewart directly in saying, 'You know that it was –'.

1665

Deputy Lowe: I did not mean to. I was just – He is the one opposite.

The Bailiff: Oh well that is fair enough.

Deputy Lowe: I do not know where to look really. If I turn this way they say they cannot hear me, if I turn that way I have got my back on you, sir, and that is disrespectful to the Chair. (**Several Members:** Ooh!)

1670

A Member: In that case sit down.

Deputy Lowe: That was a good one. No, truly, I am not necessarily looking at Deputy Stewart. But the point being that we cannot run away from that; that the milk retailers were called in by the Dairy to make rounds efficient and to make sure you did not go out of those roads. So to say that milk retailers did not do enough, well you could only do what you were asked to do in the roads that you did and that exclusivity was definitely there and is still there to this day.

1675

What they have done with a lot of documentation that used to be in the office at the Dairy, I question. I question where it is and why it has disappeared.

1680

So we will unravel all of that. So they had great debt at the Dairy and so we want to unravel all of that and we want to go back, if you support option 2, to anybody can go anywhere. In fact, it will be worse this time because they can go further and we think that is good practice; we think that is good practice to go back to having six delivering in Rue Sauvage. That is okay because if you support option 2 that is what you will be left with today, anybody can go anywhere; and that is just *crazy*, absolutely crazy! Thank goodness the Dairy and the Agriculture & Milk Marketing Board at the time had the sense to make sure that rounds were viable and the environment was looked after as well.

1685

Now we want more people than ever going up to the Dairy, whether they are in cars or vans, or wherever they want to do it, and again, for what reason? I have not heard anything from Commerce & Employment or anybody else as to the reason why this is actually coming forward.

1690

And, of course, it has been said before, and rightly so, about the newspaper agents. There is a great difference in price, but of course the newspaper agents are a business against business. They were not being operated with their hands tied behind their back from the Dairy, because you could only operate with your licence and you could only operate on the roads that you were told to do. You could only operate to the commercial businesses that were on your licence. A *huge* difference!

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But what was interesting, because again it was said this morning, 'How often have you seen the Guernsey Milk Retailers Association put an advert in the paper?' Well actually, wake up and smell the coffee. The *Guernsey Press* put an advert in the paper to say, 'Would you like the *Press* delivered? We have agents for you. Let us know where you live and we will ensure that somebody comes to you.' I have *never* seen an advert from the Dairy saying, 'We wish to sell more milk, we

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1705 wish to promote our products. Would you like a milk retailer to deliver to you? Pick up the phone. We will tell you where to go...which milk retailer to contact.' (*Laughter*) Well 'go'! It could be 'go' to wherever.

1710 They do not get it. They do not get it! So do not try turning it on the milk retailers. Commerce & Employment have failed big time to promote the products that they sell at the Dairy. There used to be regular adverts in the paper. When did you last see it? When did you last see adverts in the paper?

1715 **Deputy Soulsby:** Point of correction. Actually, I think it was a year or two ago a brochure was developed by the Guernsey Dairy in co-operation with the Guernsey retailers in which they gave contact details and everything, so –

Deputy Lowe: Well, they did it once. That is not bad.

1720 I mean it is good, that is good but come on do not keep trying to blame everybody else because (*Laughter*) the Dairy – No, seriously, Commerce & Employment, if they really wanted to promote milk they are not necessarily favouring the milk retailers. There are the shops, there are the hotel accommodations and all the other places that you supply or should be supplying, even though you can still go to some of these hotels and, indeed, some of these cafés and you have got this artificial rubbish. I do not actually see Commerce & Employment or the Dairy –

1725 **Deputy Stewart:** Point of correction. It is the Dairy's job to promote the Dairy, not Commerce & Employment. There is an independent Dairy board with some members of Commerce & Employment and indeed, as a point of correction, we do promote it in restaurants with those little things they produced to put on top of the Guernsey butter and things like that. There are lots of activities and exhibitions that they do as well – Taste of Guernsey Sea Front etc. So I cannot accept that they do not do anything.

1730 **Deputy Lowe:** I accept that they do something, but Commerce & Employment, through you, sir, were actually saying that the milk retailers do not go around promoting it and doing more and I do believe actually, the Dairy – it is under your remit – could do more.

1735 **Deputy Stewart:** It is not my remit. (*Laughter*)

Deputy Lowe: Sir, my point being... You can. It is like a school report, 'Could do better', if that helps.

1740 My point being, and I bring it back to here, is that on 7.2 on page 2410 is absolutely, totally incorrect because the exclusive rights were there, are there and should continue. And if you really do wish doorstep deliveries to continue I urge you to support option 1 on this amended Proposition that we have got before us, because I have got no doubt that if you are going to have milk retailers going all over the Island, wherever, following one another, that will be the end of it because it will just not be viable as it was in the 1980's.

1745 **The Bailiff:** I see no-one else rising, so Deputy Stewart, do you wish to reply to the debate?

Deputy Stewart: Yes, sir.

1750 It has been an interesting day, I think, if nothing else. And I will reply to a huge amount of points made. I think some of them in general, so hopefully I will cover it all.

I start by saying that I think Deputy Harwood was *absolutely on point*. Absolutely on point! (**A Member:** Hear, hear.) I think we need to be very careful indeed and I am in full agreement with Deputy Harwood, notwithstanding that if this department is tasked with doing a job we will do it diligently and we will use best endeavours to present a fair and balanced report to this Assembly.

1755 But I do urge Members to recount the words of Deputy Harwood because I believe he is absolutely on point on this.

If we look at Proposition 1, what we are doing in 2015 is perpetuating a cartel and an anti-competitive environment; and it is anti-competitive and, unfortunately, in the Competition Law milk is exclusively ruled out so they cannot be judged under that.

1760 This is 2015; this is about good governance. It is about good governance and that is why we came up with Proposition C. What we are doing is perpetuating a cartel. However, what I will say is the advice of the Law Officers on page 2408 – and this is really important because it has been the most robust legal advice I have ever had in this three and a half years of the States... Often the Law Officers' advice is, 'Well, you know we could be...' The advice has been really robust from the Law Officers and that is in paragraph 6.1:

'The Department has received consistent and firm legal advice that distributors do not have exclusive rights in relation to:

- a) the distribution of milk and other products produced by the Dairy; or
- b) a territory...'

1770 So we are talking about, as Deputy Perrot said, perhaps a moral obligation. But what I will say is that if we look at the amount of milk consumed – and this is where I would take issue with Deputy Le Lièvre – we go to page 2431, from 2002 to 2014 you can see that is pretty consistent; there has been very little changed in the amount of milk consumed, yet from 1996 through to 2013, on the opposite page, 2432, we can see that doorstep deliveries have dropped from 80% to 30%, so that doorstep deliveries have dropped, yet the consumption of milk has barely changed.

1775 Deputy St Pier, again, made some useful comments and gave us figures around how the current system actually works against the consumers, so in the wider public interest this whole system of some form of protectionism, which I think Deputy Lowe wants to have, is not working in the best interests of the wider Guernsey public.

1780 Now, we can all wave maps around from 1987 and how things were then, and corporate governance was very different back in 1987 and Guernsey was very different. The only supermarket I think we had in... because everything has changed on that map. The main supermarket was Bessant's (*Interjections*) (**Several Members:** Hear, hear.) We had Le Riches's in Le Fevre Street, we had the Richmond Shopper, we had the Ville Au Roi Shopper – all these places we used, like Jeffrey's Service Station, did not exist; Marks & Spencer at L'Islet was St David's. You know, it has all changed!

1785 And the Dairy today – and it has been for a long time – has no part in the zoning, no part at all! They do not really know who delivers to where; they do not do any part of the zoning. The only reason they did that back in 1987 was to be helpful to the retailers who were making a real muddle of it and fighting each other and losing money, and the Dairy sat down with them and said, 'Try to sort it out.'

1790 **Deputy Lowe:** I am sorry, sir, I cannot allow Deputy Stewart to mislead the States like that; that is just so wrong.

Deputy Stewart: Well, it was Bessants! (*Laughter*)

1795 **Deputy Lowe:** The milk retailers were called in by the Dairy to make rounds more efficient and the Dairy instigated the zoning to take place, not the milk retailers!

Deputy Stewart: Well, this is the problem; we are going back and forward through history. What we have to do is what is appropriate in 2015 and to start setting up a cartel, which is anti-competitive or perpetuating that is clearly *wrong* and I do not believe we should be doing it!

1800 Now, if we start looking at the figures and we look at that page, 2432, there is probably another reason why doorstep sales were dropped, because when there was the big selling of

rounds they were sold to what are now quite large companies and of course they did not want the doorstep deliveries because they are expensive, but they kept the supermarkets.

1805 So that is another reason why doorstep deliveries dropped off and if you actually look at how much that has dropped off – from 80% down to 30%, maybe it is at 20% or, I do not know, 25% now... But it is not the fault of Government. It is not the fault of Government that doorstep sales have fallen from 80%, as shown on that page, down to 30%. It is because people have changed the way they buy milk. It is not our fault and I would refer you back to the words of Deputy Harwood again and think carefully about what he said. It is not our fault! It is just the way the market has changed.

1810 If we look at some of the figures here – I think these were supplied by Ian Woods, I could be wrong, but they came through for our debate back in 2014 – we had some examples of the sort of money a milk round made.

1815 So if we look at round 1 here, with 150 doorstep customers – a newsagent, a nursing home, coffee shop, a couple of convenience stores – annual gross profit back in 2014 – it would not have changed because the price of milk has not changed yet – £25,168, you worked 31 hours a week and after you take off the cost of your van, telephone, postage, all these things, £5,700; round 1 ends up with money to distribute as wages of around £19,400.

1820 So if you pay that out as wages you actually end up with a net profit of zero, so your EBITDAR is zero and when you start valuing businesses there are two ways that I always looked at it and I bought, I do not know how many, companies and sold companies; but one is a multiplier of EBITDAR and that EBITDAR is zero, and the other one is looking at the balance sheet.

1825 Now, I would suggest if you do have basically a fairly old-ish van and a three-year-old computer you are not going to have a particularly strong balance sheet. I say this because actually when you are starting to look at mitigation, we are going to have to use certain accounting standards, and I think Deputy Gillson has raised some really salient points around that, because perhaps the only people who can show real damage to their business would be the big guys that supply only supermarkets, who have the most to lose. I have to agree with Deputy Gillson on that.

1830 What we have at the moment is a system where we say 'exclusivity'. But the Law Officers say *not* – on page 2408. I question this, because at the moment I rather suspect if I go up to the Dairy and say I am a person of good standing and I have a good credit record – (*Interjections and laughter*) Steady on, Deputy Fallaize!

1835 And if they, in principle, accepted me as a milk retailer... At the moment the zoning is not done by the Dairy, it is worked out in a friendly manner, I guess, between members of the GMRA. But me, being a bit of an entrepreneur and a shady character, Deputy Fallaize, I think I see an entrepreneurial opportunity here. I will get my milk retailer's licence, I do not want to join the GMRA, it is not compulsory, and guess what? I am going to rock up at Waitrose and I am going to say to them, 'I tell you what, I know you're getting your milk delivered by Mr X. I'm going to undercut him; I am prepared to deliver your milk for 4p a litre.'

1840 I do not think, under the current Law, there is anything to stop me. And I tell you why it is not happening now – and this is why we need to move on with the Milk Ordinance – because no-one wanted to rock the boat, because they were scared of UK imports. And that is the reason why I believe that things have not happened like that.

1845 And do you know what? I may just test it. But I do not see any reason, on the advice from Law Officers, for me not to go up to that Dairy and apply for a milk licence. I do not think they can turn me down in principle and I could nip round to the Co-op, Waitrose and everyone and undercut other people. It is only because they all agree between themselves.

I will give way.

1850 **Deputy Le Lièvre:** I think the reality is that the Dairy would not supply them. (**A Member:** Hear, hear.) That is the answer. So they would not have any milk to deliver. They might rock up and they might get a licence, but they would get no milk.

1855 **Deputy Stewart:** Well, I only mention that as an 'in principle' but what I am saying is as far as I can see if I wanted to start up in this business, on firm legal advice from the biggest law firm in Guernsey, I do not think there is an awful lot to stop me.

The Bailiff: Deputy Jones.

1860 **Deputy Robert Jones:** Would the Minister agree with me that what the Law Officers rule the biggest law firm in the Island have actually done is they have articulated a strong argument in favour of what C&E believe the position to be?

1865 Would he also agree with me that more often than not, the optimism and confidence in that legal advice will dwindle the closer you get to those cases coming to court, and more often than not you will find that there will be an out-of-court settlement? *(Laughter and interjections)*

Deputy Stewart: Well, I am not a lawyer, but all I will say is again, one can act on advice and that is why we took the advice, and that is why we did not put mitigation into this original Report.

1870 So if I just turn to one or two of the specifics. The problem is that there is so much anecdotal evidence that is being presented to us: 'Retailers paid tens and thousands'. These were private transactions, and I do not know for sure what has been paid for these milk rounds, it is only hearsay. And it is only hearsay, there is no evidence.

1875 What I *do* know is that if I am in any business I accept normal business risks. And when we talk about governance, our people in the finance industry are on shifting sands all the time with international regulations which affect their business every day. When you are in business you accept normal business risk. And there is no evidence as to who paid what for what – we can only say, 'Oh, it was tens of thousands'. It was just hearsay, I have no evidence.

1880 What I would say is we cannot keep going back to the past, where there has been so much change in the retail – so many more cafes have popped up, that are now supplied. There has been so much change in the market you really cannot go back to 1987 or 1997 – we have to look at where we are now. And where we are now is that actually... and it is a fact that if we look at Ian Wood's figures here, most of these companies are not, on paper, worth anything if you look at them from an accountancy point of view – they are bumping along the bottom. There are one or two larger milk retailers who do have quite a good business.

1885 That is not being unfair to them, it is just a fact based on their figures. They are hard-working and all of these things, but the fact of the matter is the market has changed and consumer habits have changed, and it is nothing to do with the Government – and that is why their businesses are suffering. It is not our fault.

1890 If I just turn to a couple of specific questions, because I do not think there is much more I can say on that, other than the evidence about doorstep sales and the correlation between how much milk is sold: as doorstep sales have gone down, so the total consumption of milk has not changed.

1895 But let's just think of the bigger picture and why we brought a Dairy review. It was because we really needed to update our Milk Ordinance. We need to get on with that, because you only have to walk down Smith Street today to see one and a half litres of milk for sale for £1. We need to firm up our Milk Law and we need to sort that out.

1900 In specific reply to Deputy Lester Queripel, where this all sits and to remind him of what was said in the previous debate back in September: within Protocol 3 – and Deputy Brehaut raised the point around biodiversity – is that under the way that Europe has changed as well... because everything has changed, Europe has changed. Because we can demonstrate we had an endangered breed, and because it is part of the Guernsey Heritage, and because we need that breed to give us the biodiversity... These are all arguments we can use which we think, or the Law Officers felt, was a valid argument now in terms of European law and European thinking.

1905 So we are quite sure, under Protocol 3, that we can defend milk imports – and that is exactly what I said back in September 2014. The farmers are not going out of business. I had a meeting with them last week, they are currently negotiating their gate price with the Dairy and there will be an increase coming through shortly. They were very happy with that. What I will say is that the

farmers were very nervous around a further delay of the Milk Ordinance, they were very concerned about that – and that was our meeting just last week.

1910 I think a lot of these questions were around compensation – and I think I will echo what Deputy Trott has said – that we will need some real evidence in terms of compensation. But I do say to you, be careful what you wish for because it may be that only the big guys can really evidence a real loss, whereas for smaller people their loss would be quite small or fairly insignificant. And I do say be careful what you wish for.

1915 Newspapers versus milk, and I know Deputy Perrot raised this as well: one thing in my conversations with the GMRA that I fail to understand is, I pay £5.40 or something like that to have my newspapers delivered each month, and I am quite happy with that – it is a service, and I pay for it. I am quite happy to pay for that service. What confuses me within the Guernsey Milk Retailers is the price of milk has been floating now since 1st January and there has been no change. There *will* be a change I expect in the next few coming months.

1920 However, milk retailers vary. Some put a small admin charge on, but they could charge more for their milk... actually they would put their businesses in a better position and they could perhaps supply other goods as well. They have got a list of customers, and I think that comes down to some of the other points that have been made about the milk retailers helping themselves, promoting themselves, acting more as a trade association rather than just surfacing at times when Government wants to change something around the Dairy. A good strong trade association can help, can do marketing... and I think the Dairy does help as much as it can. But they have to be seen to help themselves.

1925 The newspaper guys just have a straightforward commercial arrangement with the *Press*, people, like me, pay for it... and guess what? Their business model is under threat because we can now download it – but who is going to compensate them? At some point newspaper deliveries are going to get to a point where they are not viable as well, I suggest.

1930 Some of the other points that were made: Deputy Laurie Queripel talked about extending credit to big buyers. Actually, that was true as you know when you sat on the Commerce & Employment board, that was one thing that Commerce & Employment has been quite resolute about. And the extended credit for the larger firms has been redressed and the Hub have brought them back in line – everyone gets the same credit terms. And actually what we were suggesting here in our option 1, that I thought was very fair, was that there would be no volume discounts. So whether you are a small, medium or large retailer, in our original Proposition 1 you would get the same price.

1940 I do not know what the future is. As Deputy Brehaut did mention he did not like the Ludo but he did like the idea of doorstep deliveries. I do not really know what the future is of doorstep deliveries – I do not think Government needs to be prescriptive about doorstep deliveries. Clearly it does not affect the overall sale of milk, I think that is up to consumers whether they want it or not.

1945 And frankly, in the current trend, it looks like they could peter out pretty much within the next three years, with the rate of drop of doorstep milk deliveries. So I do not think there is much that we can really do as a Government – we cannot force people to have their milk delivered to their doorstep. People will buy how they want to buy. And this is the same with internet purchases – we cannot stop it.

1950 Around custom and practice over the years: I think the difficulty is that actually the custom and practice has not really been particularly consistent. It has been reactive to certain situations: so something has cropped up whereby there may be muddles around their round and the Dairy has tried to work with them. Everything has changed so much that actually there has been no single custom and practice over the years as far as I can see. What it looks to me like is that this keeps coming back to the States, does not get resolved properly, there is another fudge – and it would be nice, as Deputy Kuttelwascher says, to get out of this maze. That is what our original Proposition was suggesting before everyone came up with, 'I really think there should be some mitigation.'

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1960 I am absolutely at one with Deputy Soulsby and Deputy St Pier around this compensation – it
would be wrong to take it from the Dairy, in my view. I do not know where the money will come
from – and I do not think in the Report we are required to suggest where the money comes from.
I think that will have to be a matter for the States because this amendment is not prescriptive.
Also looking at the amendment there will be extra cost, because I think to present some sort of
1965 report to this Assembly around valuations and litigations for these businesses, it will need the
involvement of a qualified accountancy practitioner to be able to give it some credibility. So yet
again we spend more on more reports – perhaps.

In terms of Deputy Sherbourne, he alluded to what I said, 'Oh I remember Liptons...' and all the
rest of it. *Everything* has changed – there are more coffee shops, there are different hotels –
everything has changed, so please can we stop going back to the past? We have to only focus on
1970 today and going forward. I cannot change the past but we can change the future.

These are really poor practices. I knew I said my board, if we have to, would support option 2 –
I suppose it is the least worst – but be careful what you wish for if we bring a report back for
mitigation, because I suspect it is not going to give you some of the answers that you expect. I
think you may get some answers that will be very difficult to handle and to justify to the taxpayer.

1975 And I suspect whatever Commerce & Employment do, we will be damned. I think we will be
damned if we say everyone should get x thousand pounds. I think we will be damned if we come
back and say, 'Actually, we have looked at it again, we have looked at all the advice, we have
spoken to professional advisers, we do not think that anyone should get any compensation, we do
not see a case for it' – or we will be damned because it will be too little.

1980 It is a poisoned chalice to Commerce & Employment and I am happy to pick it up. But what I
will say, for *Hansard*, is I think it is a poisoned chalice and I think when this comes back to the
Assembly it will be kicked around again and further down the road into a new Department and a
new board that looks after the Dairy.

I will give way.

1985 **Deputy Fallaize:** I thank Deputy Stewart for giving way.

Would he agree with me that the alternative Proposition 1 does not give the Commerce &
Employment Department the option he is talking about, because it requires them to come back to
the States, setting out financial measures to mitigate the likely adverse consequences upon
1990 existing milk distributors?

The way that he is talking is as if Commerce & Employment is going to go away and look to
see whether they think that mitigating measures are necessary. Well, we know they think they are
not because they have proposed that this time.

1995 If the States vote for that Proposition, does he not agree with me that the States are *telling*
them that they have to put in place mitigating measures? Because if he is not, I think perhaps he is
going to be persuading the States to vote for what might be regarded as option A.

Deputy Stewart: Yes, I am quite happy for us to go away and, as instructed, look at mitigating
measures – that is clear. What I am saying to you is I think, whether they are large or small,
2000 whatever Commerce & Employment brings to this Assembly will be a matter of huge debate. And
it will be about, 'Is *this* the right number?' 'Is *that* the right number?' and 'I don't believe this' and
'I don't believe that'.

I think it will just perpetuate this... and that is the unfortunate part of this debate. We are
actually no further forward, we have not got our Milk Ordinance that the farmers in the Dairy
2005 desperately want, which really needs to be updated. I think part of whatever happens today we
will have to go away as a board and discuss with the Law Officers if there are parts of the Milk
Ordinance that we can put in place pretty much immediately, because I am concerned that
whatever comes to this Assembly in March may not be decided upon.

I give way.

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The Bailiff: Deputy Sillars.

Deputy Sillars: Can I just ask a question?

2015 Why can't the Milk Ordinance go ahead? Why is it dependent upon what happens regarding the GMRA?

Deputy Stewart: The reason for that is that the Milk Ordinance is largely written. There is a big section in it about licensing and if our report had been accepted then that big section on licensing would go away.

2020 So I do not know whether we can bring in part of it, and how that will meld with existing Laws and what bits it might have... I mean, I do not know today. But what I do know is, we do need a new Milk Ordinance and the farmers are pressing for that quite hard. But we will have to go away and maybe even bring an interim report back to the States in some way – even by way of a Minister's Statement – to give you an idea of the direction of travel.

2025 I do not think I have got much more to say than that. I think the least damaging is the alternative option – and we will do that with due diligence and with best endeavours.

Thank you, sir.

The Bailiff: Deputy Lowe.

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Deputy Lowe: Sir, before we vote – hopefully for Proposition 1, to support it – but if we do not support Proposition 1, could Her Majesty's Comptroller help me out please?

2035 A report is due to come back in March, about the compensation, but the free-for-all... would that take place in January? Equally, if the Report comes back in March and if the free-for-all does not take place until the compensation is sorted out, the compensation will not happen on the day it is voted for so there will be a time lapse after that.

2040 What is the timeline of all of this happening, please? I do not totally understand if this free-for-all is going to be allowed to go ahead before we have decided if there is going to be compensation, and how much that compensation will be – which is quite detrimental to how the milk retailers will be operating. And that is why Proposition 1 is best.

The Bailiff: Is that a question or a speech? (*Laughter and interjections*) It should only be a question.

2045 **The Comptroller:** If I have understood the question directly, and just for the benefit of Members, hopefully what we have is the original Proposition 1 in the Resolutions has been objective So what we are looking at is the first part of Proposition 1 which effectively restores the 2008 Resolutions.

2050 If that is not approved then and only then do you have the substituted issue about the optimum distribution agreements and the mitigation.

But States' Members also need to be aware that there is a Proposition 2 which they would then get onto, and that Proposition would seek to rescind the Resolutions of 2008 in their entirety.

2055 The reason I raise that is that if the first part of this Proposition to restore the 2008 Resolutions without the time limit to 2015 is rejected, then we have to know whether the other part of that Proposition will be approved.

2060 If *that* is rejected – and it is a little bit hypothetical – then you are faced with nothing... Well, you are potentially faced with the 2008 Resolutions remaining extant. But if the States then reject Proposition 2, then there would be nothing and there would be a free-for-all effectively *now*, because the time period from 2015, the protected time period from the 2008 Resolutions, would fall away if you approved Proposition 2.

So, to an extent, it is a little bit hypothetical at the moment because it very much depends which way the States are going to vote, but you do need to be aware, Members, of the possibility

that, depending how you vote, there could be a free-for-all now. But there will also be other combinations depending on how you vote for the first part of the Proposition.

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The Bailiff: But the first part of Proposition 1 – that is the first page of the amendment – if you look at that, does not have the caveat that the original 2008 Proposition had. It is putting a new Proposition in place –

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The Comptroller: Exactly, sir.

The Bailiff: – that does not then terminate on 31st December. So that continues through.

The Comptroller: Yes, the issue is if that is rejected.

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The Bailiff: If that it is rejected?

The Comptroller: Yes, sir.

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Deputy Fallaize: I think the point that Deputy Lowe was making was: can option C be introduced by the Commerce & Employment Department in advance of any compensation being agreed? Or are the two linked?

Now, I do think that is a relevant question that needs to be asked about the Proposition – I am not going to answer it... I drafted the amendment but I am not going to answer the question.
(Laughter)

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The Comptroller: Sir, I think if we get to the stage where the States vote for that part, which is essentially as worded in the amendment to agree that the optimum distribution and selling arrangements are for option C, then that is the option which Commerce & Employment will be pursuing. There is no time limit on that, it does not say from when it will take effect.

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In the meantime the only time limits relate to exploring the mitigation proposals in 2016. But it will be a matter for Commerce & Employment, as they set out in their Report, as to when they introduce that arrangement.

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The Bailiff: Thank you, that is clear.
Deputy Brouard.

Deputy Brouard: Just for clarification from my point of view, sir, on Commerce & Employment, the way I am reading it is that we carry on as though the arrangements that expire at the end of this year, in my view, carry on... or I am hoping to operate as though that is carrying on, until we come back to the States with any new arrangement.

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The Bailiff: Ah, that is not what the alternative says.

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Deputy Brouard: I appreciate that, but that is rather than it all falling apart...

The Bailiff: Deputy Trott.

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Deputy Trott: This morning, sir, I suggested what I perceived to be a simple amendment, extending the duration of that period until such time as the States meets to discuss this matter – whenever that may be, because of course it could be February. That would not only remove that uncertainty but would also, I am sure, enable Members to vote with much greater confidence on the better option, the second option.

2115 **A Member:** Hear, hear.

Deputy Fallaize: Sir, as the Propositions are at the moment, we are being asking to *rescind* the Resolutions from 2008. So there would have to be an amendment to Proposition 2 which *extended* them to the end of March, wouldn't there?

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The Bailiff: Or to the alternative Proposition.

This would only arise, as I understand it, if the first option, Proposition 1, is rejected; if the States accept the first Proposition 1.

2125 **Deputy Fallaize:** Well, can I give an undertaking that I will move an amendment in accordance with the language I have used, when option 1 is rejected?

The Bailiff: No, I do not think you can at that point. *(Laughter)* And before people need to vote they will need to know what the alternative will be –

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Deputy Fallaize: Well, then let me move it now. We will have to have a recess for it to be drafted, but that seems to be the only way that the circle can be squared. *(Interjections)*

A Member: Au voix.

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The Bailiff: I think if you wish to lay an amendment then you will have to do it before we start the voting. If you are going to do that we will have to have a recess and I will put to Members as to whether they wish to have an adjournment to enable that to happen.

2140 **Deputy Fallaize:** Sir, there is another way.

The Bailiff: Is there?

2145 **Deputy Fallaize:** If the alternative Proposition 1 is accepted, the Commerce & Employment Department could suggest to the States that Proposition 2 is defeated, and they could give a verbal undertaking to keep in place the arrangements that Deputy Brouard has just referred to, until they come back with the subsequent report. That would mean there would not have to be an adjournment. *(Interjections)*

2150 **The Comptroller:** My instant feeling, sir, is that does get very confusing and uncertain. The verbal undertaking is one thing, but Members need to be absolutely sure what they are voting on and what the effects are.

I think either we consider an amendment, which may or may not achieve the aims that we wish it to, or the Members take the vote, as indicated, with the options before them.

2155

The Bailiff: Yes, I have to say I find the whole thing rather confusing, looking at it from here. *(Laughter and interjections)* And I think to add to the confusion is not helping.

I think Members do need to know exactly what they are voting on. So what I will put to you – unless Deputy Bebb wishes to...

2160

Deputy Bebb: No, I was going to say that, given there is general confusion over exactly what the timescales are, would it be prudent to actually adjourn so that Commerce & Employment can *consider* the Proposition?

2165 **The Bailiff:** That is what I was going to put to Members, that we rise now to enable Commerce & Employment Department to amend the Propositions if they wish to do so. Those in favour; those against

Members voted Pour.

*The Assembly adjourned at 3.26 p.m.
and resumed its sitting at 3.40 p.m.*

The Bailiff: Deputy Stewart.

2170

Deputy Stewart: Thank you, Mr Bailiff.

I think we will have to focus a little bit on this. I will try to explain as simply as I can.

2175 If we look at the amended Proposition 1, if Proposition 1 is defeated and we go to the 'or', which is mitigation, then what we propose to do in reference to Proposition 2 is that Commerce & Employment gives an undertaking to this Assembly that we will continue even though those exclusive rights will drop away on 31st December.

2180 We give an undertaking to this Assembly that we will continue the current delivery arrangements in place until the end of March 2016, to debate. So, in fact, nothing will change with the delivery arrangements and we felt the best way to do this was, not by amendment because it starts to get complex, but we will just... if the Assembly is happy and will accept that we will give an undertaking that we will not change the current delivery arrangements. So that is what we propose.

2185 **The Bailiff:** Is it until the end of March or until the end of the States' debate in March? Are you saying until the end of the month of March? (**Deputy Stewart:** Yes.) Just so that we are absolutely clear, you are saying until the end of the month of March.

Deputy Stewart: Yes I think, sir, if it needs to be at the end of the States' debate then we can discuss that at that current States' meeting, as it is an undertaking.

2190

The Bailiff: But the undertaking you are giving is until the end of March –

Deputy Stewart: Until the end of March for now and then we may vary that if the States' debate is earlier and concluded, then just by arrangement we can then do away with that, sir.

2195

The Bailiff: Well, I think that is clear. If everyone is clear we will go to the vote. We started with five Propositions and we still have five Propositions, (*Laughter*) but they are not the ones we started with!

2200 For the voting, you need to have in front of you the amendment proposed by Deputy Le Lièvre, seconded by Deputy Dorey, and the first page of that amendment.

Her Majesty's Comptroller.

The Comptroller: Sir, also to bear in mind the amendment from Deputy Gillson which was carried –

2205

The Bailiff: Yes, and that has been amended by the successful amendment from Deputy Gillson, which I remind you, in Proposition 1a inserted the words 'after the words "in those rounds"', inserted:

'And that such exclusivity shall be reviewed annually from 31st December 2016 and shall only continue if it can be demonstrated that a minimum of 25% of milk sales are made via doorstep deliveries.'

2210 So what you are voting on first is that version of Proposition 1, as amended by Deputy Gillson's amendment. Is everyone clear on that? And I think there will be a request for a recorded vote. There is. So if everyone is clear what you are voting on, we will go to a recorded vote on Proposition 1 as set forth on the first page of the amendment and, as I say, as amended by Deputy Gillson's amendment.

There was a recorded vote.

Not carried – Pour 15, Contre 26, Ne vote pas 0, Absent 5

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

2215 **The Bailiff:** The result of the voting on the first version of Proposition 1 was 15 votes in favour, 26 against. I declare it lost and we therefore vote on the alternative Proposition which is overleaf on the amendment. That, of course, has not been amended, although it has been qualified by the undertaking that has been given by the Minister on behalf of the Commerce & Employment Department.

2220 So we are voting on the alternative. Is there a request for a recorded vote? (**A Member:** Yes, please.) Yes, there is a request for a recorded vote. Is everyone clear on what you are voting on? (**A Member:** No!) Did someone just say no? (*Laughter*) It is printed on the amendment that you have that was proposed by Deputy Le Lièvre and Deputy Dorey and the alternative on the reverse side of that page...

2225 For the benefit of anybody listening at home, it is:

'1. To agree that the optimum distribution and retailing arrangements for the long-term sustainability and success of the Island's dairy industry are as proposed by the Commerce & Employment Department in Option C of that policy letter, which option is described by the Department as "Dairy sales to any commercial customer"; and to direct the Commerce & Employment Department to report to the States at or before their meeting in March 2016 setting out financial measures to mitigate the likely adverse consequences upon existing milk distributors of moving to option C and it is understood that assessing such financial measure can be undertaken only with full openness and transparency of all distributors with regard to their accounting records.

Deputy Laurie Queripel.

2230 **Deputy Laurie Queripel:** Could I ask your advice, sir? If this Proposition loses, what situation do we find ourselves in, in regard to... what happens after that? What stays in place if this Proposition loses?

The Bailiff: I think the Comptroller tried to answer this earlier. Perhaps you would like to repeat the advice you gave earlier?

2235 **The Comptroller:** If this Proposition is not carried then the extant Resolution of 2008, which was effectively the old Proposition 1 but with the caveat that that will extend to the end of 2015, will be in place, unless in Proposition 2 you rescind those Resolutions.

So if this one is not carried and if you *do not* rescind the Resolutions – if you do not carry Proposition 2 – the 2008 Resolutions would stay in place up to the end of 2015.

2240 It is quite a confusing situation – but if this does not carry, then effectively it does depend on what you decide in Proposition 2. (*Interjections*)

The Bailiff: So, Members, are you all clear on what you are voting on? It is the alternative Proposition 1, as printed on the reverse of the Amendment.

There was a recorded vote.

2245 *Not carried – Pour 33, Contre 7, Ne vote pas 1, Absent 5*

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Harwood	Deputy St Pier	Deputy Hadley	Deputy Conder
Deputy Kuttelwascher	Deputy Gillson		Deputy David Jones
Deputy Brehaut	Deputy Lowe		Deputy Spruce
Deputy Domaille	Deputy Dorey		Deputy Le Tocq
Deputy Langlois	Deputy Burford		Deputy James
Deputy Robert Jones	Deputy Sillars		
Deputy Le Clerc	Deputy Luxon		
Deputy Gollop			
Deputy Sherbourne			
Deputy Bebb			
Deputy Lester Queripel			
Deputy Stewart			
Deputy Le Pelley			
Deputy Ogier			
Deputy Trott			
Deputy Fallaize			
Deputy Laurie Queripel			
Deputy Le Lièvre			
Deputy Collins			
Deputy Duquemin			
Deputy Green			
Deputy Paint			
Deputy Adam			
Deputy Perrot			
Deputy Brouard			
Deputy Wilkie			
Deputy De Lisle			
Deputy Inglis			
Deputy Soulsby			
Deputy O'Hara			
Deputy Quin			
Alderney Rep. Jean			
Alderney Rep. McKinley			

The Bailiff: Members, while those votes are being counted, can I just remind you that in respect of Propositions 2 and 3, the Propositions that you will be voting on are those substituted

by the amendment circulated earlier this afternoon and approved earlier this afternoon, proposed by Her Majesty's Comptroller and seconded by Deputy Stewart.

2250 So there are the revised Propositions 2 and 3, and then Propositions 4 and 5 are as printed in the Billet on page 2451.

I will not go to the voting until we have got the result of the last vote, but does anyone require a separate vote on any of those or can we take 2, 3, 4 and 5 altogether? (**A Member:** Altogether.)

Altogether? Right. In a moment we will take 2, 3, 4 and 5 altogether.

2255 The result of the voting on the alternative Proposition 1 was 33 in favour, with 7 against, and one abstention. I declare that Proposition carried.

As I say, we now move on to Propositions 2, 3, 4 and 5; 2 and 3 are substituted by the successful amendment, and 4 and 5 are as printed in the Billet. I will put all four Propositions to you together. Those in favour; those against.

Members voted Pour.

2260 **The Bailiff:** I declare them carried.

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

XXIII. Distribution of Deputies' Seats among the Electoral Districts – Proposition carried as amended

Article XXIII.

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 5th August, 2015, of the States' Assembly & Constitution Committee, they are of the opinion to approve that the present electoral districts continue with the same boundaries and that the number of seats in each district for the purpose of elections to the office of Deputy shall, with effect from the 2016 General Election, be as follows:

1. St. Peter Port South (and Herm and Jethou) 5

2. St. Peter Port North 6

3. St. Sampson 6

4. The Vale 6

2265 *5. The Castel 5*

6. West (comprising the parishes of St. Saviour, St. Pierre du Bois, Torteval and The Forest) 5

7. South-East comprising the parishes of St. Martin and St. Andrew) 5

The Bailiff: We can move on with further business and, as we said earlier, there are three remaining Articles, two of which are said to be urgent for decision this afternoon.

2270 I would like to suggest we take next the States' Assembly and Constitution Committee policy letter on the Distribution of Deputies' Seats amongst the Electoral Districts, to ensure that is debated today and therefore the progress of the Reform Law Amendment Projet does not get delayed as a result.

2275 All this is, of course, needed in terms of preparing material that needs to be sent out in advance of the General Election next year, and to assist those people who may be thinking of standing in the General Election to know what seats there are going to be and where they are going to be.

What I am putting to you is that we take Article 23 next. Those in favour; those against.

Members voted Pour.

The Bailiff: We will do that.

2280 So the debate on the States' Assembly & Constitution Committee policy letter on Distribution of Deputies' Seats among the Electoral Districts will be opened by the Chairman of that Committee, Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

2285 I think the case for the proposals is set out in the policy letter and obviously I would be happy to answer any questions that Members raise in debate, but I have nothing to say other than to ask Members to support this single Proposition.

The Bailiff: There is an amendment that has been circulated, to be proposed by Deputy Langlois and seconded by Deputy Bebb. I hope everybody has a copy of the Langlois/Bebb amendment; it was circulated about half an hour ago.

Deputy Langlois.

Amendment:

'To add a further Proposition as follows: To direct the States' Assembly and Constitution Committee to report back to the States on measures that would be effective in encouraging a more diverse range of candidates to stand for election. The report will include consideration of obstacles to standing as a candidate by under-represented sections of society and the possible means of overcoming them and will give details of the establishment of a fund to facilitate this objective.'

Deputy Langlois read out the amendment:

Deputy Langlois: Thank you, sir.

2295 This is a very simple and, hopefully, easily-acceptable amendment, sir. I am proposing it partly on behalf of the Chief Minister... I know that is not a relevant point in the procedural fact – but the Chief Minister, in his role as Chairman of the Social Policy Group, of which I am Vice-Chairman.

2300 Sir, if we are serious about diversity and inclusivity then we must apply it, not only to the world out there but to the world in here also – and we all know we are in a slight no man's land to do with the legislation which is coming forward, and therefore the timing of this perhaps required some mention here of making the whole process more inclusive and more diverse.

The setting up of the fund... I have been questioned, needless to say, on the quiet by the Treasury Minister who, as soon as he sees this big word beginning with 'f', gets all excited and concerned – but I think he can rest assured that this would be a small fund.

2305 It very much refers to a concept which will appear in the forthcoming legislation of 'reasonable adjustment' which employers and various other companies will have to make in order to serve the needs of diversity and inclusivity – in other words, where a particular group have difficulty accessing a process there should be some funding available to make that easier.

2310 We are very pleased to see that there is a greater interest from a wider diversity in our community, and public engagement in the political debate – that has been evident during the disability debates and continues to be so. It is good to see how the Bailiff has allowed the Royal Court to be used more flexibly to allow access to those with mobility issues, and it is very likely that several, therefore, from a more diverse background than currently exists in the Assembly now will be keen to seek election next April.

2315 The obstacles to many of these could be far greater and more exclusive if we do not take this action now, and if we are going to claim to be a fairer and more representative body then I think now is the time to add this clause and instruct SACC accordingly.

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

2320 **Deputy Bebb:** Yes, I do, sir, and reserve my right to speak further in the debate.

The Bailiff: Deputy Fallaize, do you wish to speak on it at this stage?

2325 **Deputy Fallaize:** If I can just say, sir, that the Committee met briefly to discuss the amendment and does not oppose it.

The Bailiff: Is there any debate on the amendment?
Yes, Deputy St Pier.

2330 **Deputy St Pier:** Sir, the Deputy Chief Minister is quite correct, I always do get nervous when people mention the 'f' word. Obviously at this stage there is no indication of what the financial implications could be, and that would obviously form part of the next report.

I think the amendment itself does not address 15(2) and it would therefore be useful for the Chairman of SACC to confirm that he can undertake this within existing resources to produce the report as requested of his Committee.

2335

The Bailiff: Yes, Deputy De Lisle.

2340 **Deputy St Pier:** ... I think the amendment itself does not address 15(2) and it would therefore be useful for the Chairman of SACC to confirm that he can undertake this within existing resources and produce the report as requested of his Committee.

The Bailiff: Yes, Deputy De Lisle.

2345 **Deputy De Lisle:** I would like to ask the question, sir, as to whether high earners are going to be compensated for lost earnings?

The Bailiff: Whether what, sorry? (*Interjection*) High earners.
Deputy Kuttelwascher and then Deputy Burford.

2350 **Deputy Kuttelwascher:** Sir, I just have a couple of questions.

This statement of under-represented sections of society – there was mention made of people with disabilities, but could he list any other sections that they have in mind that they consider to be under-represented?

2355 As regards the fund, is the fund to be used for facilitating access, which has been suggested – mainly for somebody in a wheelchair – or is the fund intended to add or increase payments to anybody coming to the Assembly who may find that the emoluments are insufficient for their personal circumstances? I really am interested in how it is proposed to use this fund.

Thank you, sir.

2360 **The Bailiff:** Deputy Burford.

Deputy Burford: Thank you, sir.

2365 Some months ago during the debate on reducing the number of States' Members, Members will perhaps recall that in response to a speech I made, Deputy Fallaize suggested – and clearly he is not in a position to give an undertaking of it, but he made a suggestion – that some of the money saved may well be directed towards measures to increase representation of women in the States, and also I think we discussed the matter of young people as well – both parts of our demographic which are significantly under-represented in this Assembly. So I just wanted to check from Deputy Langlois whether this was, indeed, in mind.

2370

2375 I also wanted to follow on from something Deputy Kuttelwascher said, because my view of this kind of fund would be, as Deputy Kuttelwascher says, perhaps if some adjustments were needed to be made for somebody in a wheelchair, but also possibly for the States to advertise and encourage women and younger people to stand for election. I did not see it actually as being a subsidy to those people directly.
Thank you.

The Bailiff: Deputy Dorey.

2380 **Deputy Dorey:** I would just ask if Deputy Langlois could clarify whether he envisages that this would be reported back and set up before the next election, or whether it would be before the 2020 election.

The Bailiff: Any further...?
2385 Deputy Bebb.

Deputy Bebb: Thank you. I think I might actually reply to a few points that have been raised. The proposed use of the fund and the questions that have been asked in relation to that – realistically, we would be pre-judging the work of the Committee. The Committee would welcome – as it always welcomes – representations from anybody as to what they feel.
2390

But the realistic point is that if we look at this Chamber we know that we have a problem; especially in relation to the number of candidates, we have certain sections that we know are under-represented. One evident one has been the number of women candidates and that has translated in equal numbers of candidates through to those that have been successful.
2395

Obviously, this fund would only be for the facilitating of the election process. It is not intended in relation to any reasonable adjustment once someone is elected, but it is fair to say that... Deputy Le Tocq and I were talking previously and Deputy Le Tocq made reference to one person with a sight impairment who would need some form of assistance. That would be a very evident case of someone who would need some assistance in order to do some electioneering and that would be the type of criteria there. But there would be, of course, consideration given to trying to encourage a greater diversity of people to stand and do our best to utilise that fund.
2400

I think it is fair to say that Deputy Le Tocq was also envisaging that this might be eventually dealt with under the Equalities Commission but that something in the interim might need to be considered by the Committee.
2405

The question from Deputy Dorey in relation to whether this might be here in time – that is something that the Committee will need to take back and consider; and, as a member of the Committee, we will look to actually give Deputy Dorey a response – a *full* response – once we have actually considered the other outstanding work that is necessary by the time of the end of this term.
2410

Obviously, it would be nice to have this in place prior to the next election, but if it is not we have to remember that this work is not going to be wasted and that it would still be of benefit for the 2020 election and therefore, even if the work is not completed by 2016, it is no reason to vote against it, the work would still be of benefit –
2415

I give way to Deputy St Pier.

Deputy St Pier: I am grateful, sir, for Deputy Bebb giving way.

I am just wondering if perhaps, whilst he is responding to some of the comments, he could perhaps provide an explanation as to why he feels the amendment is necessary at all, as opposed to SACC just doing this work under their own mandate – why he feels it needs to be done in this particular way.
2420

Deputy Bebb: I thank Deputy St Pier for the intervention.

2425 Part of the intention with the amendment was also to test the will of the States to see such a scheme put in place. If there is no desire amongst this Assembly to do it, it would be foolish for the States' Assembly and Constitution Committee, with the short amount of time left before the next election, to embark upon such a project. And that is why the intention of the amendment was also, to be quite honest, with the word 'funds'. I think that we should be honest at the outset to say that there may be some financial implications.

2430 But, obviously, if we are to reduce the number of Deputies by seven, as discussed in that debate and made reference to, it is only right and proper that we think of maybe utilising some of that for the purpose of trying to increase the diversity in the Assembly –

I give way to Deputy Le Clerc.

2435 **Deputy Le Clerc:** I am sorry, I will let you finish. (*Interjection*)

Deputy Bebb: I give way to Deputy Trott.

Deputy Trott: Thank you, sir.

2440 It is the final sentence of the amendment that causes me a minor amount of concern. It is unusually definite. It says:

'...and will give details of the establishment of a fund to facilitate this objective.'

2445 Under normal circumstances, one would expect the word 'give' to be substituted by 'propose' and, 'Will propose details of the establishment of a fund'; 'give' has an uncomfortable certainty about it which I do not think is either the intention of the proposers or, for that matter, the will of the States.

Deputy Bebb: I thank Deputy Le Tocq for that intervention. (**A Member:** Trott) Sorry, Deputy Trott for that intervention. (*Laughter*)

2450 Of course, 'give' can only be as definite as the will of the Assembly when the report comes back and therefore, although Deputy Trott feels that it is strong, it can be no stronger than the will of the Assembly once the report is completed and that a full consideration has been given, in committee, for the various obstacles that he mentions and also to see whether this Assembly is comfortable with not only some funding set up but also the amount and the entry criteria.

2455 But it is only right to say that – I have heard it said often – if we do nothing, nothing will happen. However, if we are to do something – and we frequently hear the complaint that actually we are not reflective of the society in which we live in – then we must do something, and here is something. I would actually ask that Members support this amendment.

Thank you.

2460 **The Bailiff:** Deputy Le Clerc.

Deputy Le Clerc: Sorry about that, sir, thank you.

2465 I just want to ask Members to support this amendment and I will just give an example where I think some funds might be necessary. For example, if you had a very young person that wanted to stand for election and they needed to have some capital upfront to prepare their campaign, get together their manifesto. Most people of our age that are in the Assembly at the moment have some capital behind them; a young person may not have that capital and would be potentially put off standing for election.

2470 So I feel that to have some element of funding available and perhaps it would be repaid in the form of a loan over time... but I just think that is why it is really important to support this amendment.

The Bailiff: Deputy Brehaut.

2475

Deputy Brehaut: I appreciate there is more than one interpretation of the aims of this amendment, perhaps.

2480

When I was first elected onto the Environment Department, at one of the first meetings we tried to quickly agree that we were meeting at the right time and if it was not the right time what time should we meet; and because I have children and need to do the school run and, as ever, you get home and you realise that their lunch and PE kit is not on the table in front of you, and you are late, I proposed that perhaps the Environment Department sat at 9.30 a.m. and I was told that I should get my private life in order before I suggested something like that. But, of course, the people suggesting that were retired people – people who were not at work, they had no work to go to, they had no children to get to school, but at one time in their lives they would have done. And we need to ensure that this Assembly is truly representative, that we really are representative of those that we represent.

2485

2490

Another more recent example is a budget presentation when an email was exchanged between Members, of what would be the appropriate time for a Budget presentation. Deputy Lowe sent an email saying, 'Can't we do this at 7.30 in the morning?' because nobody could possibly have children to get ready at 7.30 a.m. nobody could possibly have the school run to do or have somebody at home that they needed to care for before they got out of the house.

2495

At 51 years of age, balding, grey, managing my weight – incidentally, just, *(Laughter)* but that aside – I am one of the youngest people in this Assembly and that, to me, seems ridiculous – that I am one of the youngest people in this Assembly. Deputy Trott, Deputy Collins, Deputy Fallaize and others, Deputy Gollop and Deputy Bebb. There are not many people here *(Interjection)* who – Sorry? No, well...

2500

A Member: Deputy Le Clerc as well, please! *(Laughter and Interjections)*

2505

Deputy Brehaut: Isn't it great – we are talking about diversity and inclusion and I forget the women! No, but there are proportionately... *(Interjection)* Well, that is a good point, because what, are there five women in this Assembly? Five women in this Assembly. When I was speaking to St Martin's school some weeks ago and I was asked by the children, 'How many women do your job?' and I said five, quite reasonably, they said, 'Oh!' they were trying to think of what man worked in their school. I think there was a PE teacher who was the only male within that whole environment. Then they spoke about what their parents did and there were environments where there were not actually many men.

2510

You come into this environment and it is dominated by men of a certain age and we need to do something to encourage people to stand and truly reflect the society that is out there.

Thank you.

The Bailiff: Deputy Sillars.

2515

Deputy Sillars: Sir, thank you.

2520

Obviously, I do support encouraging a more diverse range of candidates to stand for election and I have never been accused really of copying our T&R Minister, because we are always at loggerheads, it seems to me, but establishing a fund... it was not quite clear to me – if Deputy Langlois could clear that up – how big is this fund? Because, as I say, for me, how many people... is it get them elected and then will they need to have further support? Also I would like to know how do they get chosen to go into that? I do not want to go into detail. *(Interjection)* You will be deciding it. Good, okay.

2525

Coming from Deputy Langlois, it seems very short on facts and quite rushed and hurried. Of course, I will support it but I have huge reservations as to quite where we are going to end up with it.

Thank you.

The Bailiff: Anyone else? No, Deputy Langlois then will... or Deputy Le Pelley.

2530 **Deputy Le Pelly:** Yes, very quickly, sir.

I am a member of the Disability Champions team and I do look to have as wide a choice of people from as many different backgrounds as possible, from different genders, from different age groups, from everything. But I am not really comfortable with the actual wording of this at all.

2535 There will be various groups that will be able to propel their own members to stand and represent their views. There will be various ways in which advice can be given and support given. I am wondering whether a sort of fighting fund for a particular group... what happens if you were to have, say, a youth parliament that decided that they would like to put 30 candidates forward, and they need £3,000 each for a deposit? You could end up with £90,000 being paid out. I think it needs a little bit more thought than that.

2540 Thank you.

The Bailiff: Deputy Wilkie.

Deputy Wilkie: Thank you, sir.

2545 I am the Disability Champion and I support this amendment. I have heard some of the comments made by Members, but you are getting too much into the detail. This is going away to look at whether we *need* a fund. How that fund works no-one can tell you at the moment until the work has been done and it comes back to the Assembly. So what you are going to do is to agree to have that investigated. (**A Member:** Hear, hear.) (*Interjections*) And then you can come back
2550 and vote on it, so I urge everybody to support this amendment.

The Bailiff: Deputy Langlois.

Deputy Langlois: Thank you, sir.

2555 It is very difficult to sum up on the seconder's summing up and on the last comment, which I think should have answered all the questions about the fund.

I am sorry that Deputy Trott does not know his 'give' from his 'propose', but I do think the two words are in that sense, interchangeable. Because, read the amendment, it is asking the Committee to go away, look at the obstacles and look at the establishment of the fund. If we then
2560 get into, 'And what happens *if* 400 refugees turn up and all demand to stand for election before April and they all demand money for it' and all the rest of it? We can all invent the scenarios that will make it *very* difficult and that is something that the Committee will have to look at closely in the establishment of the fund.

2565 But, in the meantime, it is what is says on the tin. I think it is essential that we recognise the reality that if we are going to change this balance it may involve some funding. That is all the amendment is asking for.

I ask you to support, thank you.

The Bailiff: We will vote on the amendment proposed by Deputy Langlois, seconded by
2570 Deputy Bebb. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare it carried. We move into general debate.

Deputy Gollop.

2575 **Deputy Gollop:** I do, in principle, support the passed amendment, I have to say, but perhaps having certain eccentricities or disabilities or whatever does not necessarily stop a candidate electioneering, some might say.

2580 But moving on to the main issue, the SACC Report was very useful in that it outlined three options that the Committee clearly looked at and there were two minorities and a majority. I wish we had the time, which we do not have due to our workload and as the Bailiff... sir, you aptly reminded us of the legislative deadline, to consider this in a more formal way. I know we voted for, in a way, the kick the can down the road amendment that Deputy Green put forward to look at the overall electoral districts and so on for the future.

2585 But as we made the decision of the 38 Members, we could have divided the pie up very differently and had, say, 28 Members across seven districts and 10 Island-wide representatives, or we could have merged St Peter Port and maybe had one larger district, or we could have followed the point Deputy Bebb has pointed out about two larger St Peter Port divisions which would be fairer, under our terms.

2590 More to the point, the argument is made in the SACC Report that we do not know from the electoral census about the population size of the streets concerned on the border of the two divisions of North and South St Peter Port. I am very disappointed to see that because we have been told by senior figures in this Assembly, for five years, we did not need a traditional paper census in 2011 and that the electronic census would give us much better information at the touch of a button. And here we are being told in an expert report that we do not have the information as to how many people live in each street in St Peter Port, which of course the paper census would have provided, and did for many generations after the Second World War and before that.

2595 I do feel the Castel have lost out a bit unfairly here. And I will explain to you the reason why I feel that. When we were given the initial presentations by the States' Reform Review Committee, having voted in principle for those, there was very much a collegiate understanding that although some people in the Assembly would have wished to have stayed with the existing numbers of States' Members, and others would like to go further – perhaps down to 25 or 30 Members – 38 was a workable mid-course. Conveniently – because 38 in itself is not a prime number – it is not a number that carries any specific merit. In fact, it has the disadvantage of encouraging, as Deputy Kuttelwascher has noted in the past, more split Assemblies 19-19 if everybody is present, or 20-20 with the two from Alderney. The 38 was conveniently one for each district, but as it has turned out the Castel will lose two and you might say it is completely fair that St Peter Port North, St Sampson's and the Vale retain the edge because, after all, they do have more population, not necessarily people on the electoral roll, and I know Peter Roffey has written an interesting article on that. But I note the conservative government in the UK are looking at changing the rules to make the electorates reflect more those on the roll and in population areas (*Interjections*) which they believe could help them.

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2610 But moving on from that, what is the difference between the Castel and St Sampson's in reality? (*Laughter and Interjections*) No, the difference is, on the figures we have, 180 people. So St Sampson's will gain an extra Deputy – admittedly, the Deputies from St Sampson's are of especially high quality. (*Laughter and Interjections*) And so are the Members from the Castel! No, perhaps I should take that back but St Sampson's currently elects more Ministers than any other parish.

2615 But moving on from that, what is the difference between the Castel and St Sampson's in reality? (*Laughter and Interjections*) No, the difference is, on the figures we have, 180 people. So St Sampson's will gain an extra Deputy – admittedly, the Deputies from St Sampson's are of especially high quality. (*Laughter and Interjections*) And so are the Members from the Castel! No, perhaps I should take that back but St Sampson's currently elects more Ministers than any other parish.

Moving on from that, my point is an extra States' Member with all their rights, powers, income and everything else will come from three districts where the difference between them – and both the Castel and, indeed, the south-east of the Island is just a few hundred, with St Peter Port South not far behind, due to an arbitrary non-parochial boundary. One wonders when the figures are so close, with really several dozen in it, whether we could come up with a more intelligent solution. I regret that we have not seen more work done, on maybe amended electoral districts that would be larger, fairer and perhaps offer the electorate a wider spectrum of choice.

2620

2625 **The Bailiff:** Deputy Bebb.

Deputy Bebb: Thank you, Mr Bailiff.

2630 I feel that some comments made by Deputy Gollop need responding to. To actually cast
dispersions about the reasons for changing electoral districts in the UK – a neighbouring
democratic jurisdiction – is foolhardy, in my opinion, within the Assembly. The electoral districts
are being reshaped in order to reduce the number of MPs in the UK, another assertion I feel that
the Deputy is incorrect in making.

2635 The other question in relation to why didn't we propose different districts and different
numbers and maybe a bit of null and void voting and all the rest of it... Well, I think that the
reason for it is quite evident in the Report and if Deputy Gollop wanted to actually bring some
form of amendment then he should have. Not bringing an amendment and then complaining
about not having any form of debate is folly. Also to be asking for a more formal setting to be
talking about all the different arrangements is basically to be asking for a formal discussion here
of committee work, which is unbelievable.

2640 Anyway, the one point that I did want to make in relation to the Report is that it is obvious that
I actually proposed a different set-up to that being proposed as the main Proposition. I believe
that if Members look on page 2578 at that table, they will note that the proposal that I had also
brings the range down to 290, which would have been the fairer point. However, having discussed
the matter with a number of different Deputies, I felt that there was insufficient support to warrant
bringing an amendment. Therefore, given that case, I think that the only natural course is to
2645 support the Propositions as they stand.

Thank you.

The Bailiff: I see no-one else rising. Does anybody else wish to speak? No. Deputy Fallaize
then will reply to the debate.

2650

Deputy Fallaize: Thank you, sir.

2655 I will make only one point which is in relation to something Deputy Gollop said. He wants more
work to be done on the size and character, if you like, of the electoral districts. I would remind him
that the States have voted to establish a review to be carried out by the Successor Committee
which has to report back to the States, I think, sometime in 2018. It came from an amendment
proposed by Deputy Green. And of course, that will be the right time for a comprehensive analysis
to be carried out of the Island's electoral system and no doubt there will be debates about that in
the next term of the States.

2660 One of the reasons why SACC is proposing now what is perhaps the most simple way of
allocating the 38 seats amongst the present electoral districts is because of that review that is
coming up in the next States and it would perhaps not be very sensible to make wholesale
changes now, given the possibility of such changes off the back of a comprehensive review in the
next term of the States.

I think that is the only point I have to make and I hope Members will support the Proposition.

2665 Thank you, sir.

The Bailiff: Propositions are on page 2581 plus the additional Proposition 8 added by the
Deputy Langlois/Deputy Bebb amendment. I put all Propositions to you together. Those in favour;
those against.

Members voted Pour.

2670 **The Bailiff:** I declare them carried.

ENVIRONMENT DEPARTMENT

XXI. States' Capital Investment Portfolio – Bus Fleet Replacement – Propositions carried

Article XXI.

The States are asked to decide:

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

1. To resolve that tenders be sought for Phase One of the Bus Fleet Replacement Project and direct the subsequent preparation of the Full Business Case.

2. To delegate authority to the Treasury and Resources Department to approve the Full Business Case at a cost not exceeding £1.84 million to be funded by a capital vote charged to the Capital Reserve.

The Bailiff: We will now come back to Article XXI, Greffier.

2675 **The Deputy Greffier:** Sir, this is Billet XVI, Article XXI, Environment Department – States' Capital Investment Portfolio – Bus Fleet Replacement.

The Bailiff: Deputy Burford will open the debate.

2680 **Deputy Burford:** Thank you, sir.

2685 A fleet of Dennis Dart narrow-bodied buses have been providing scheduled and integrated school bus services in Guernsey since 2003. The fleet of 41 vehicles operates some 380 services every weekday in school term and during their lifetime they have amassed in excess of 10 million road miles and have accounted for 20 million passenger carryings. These vehicles are now between 10 and 12 years old and, unsurprisingly, are showing their age. Public omnibuses have an expected lifespan of between 12 and 15 years. High maintenance costs and the onset of physical deterioration in the structure of the vehicles highlight the need to begin replacing the existing fleet.

2690 This States' Report proposes a three-phase replacement programme with an anticipated completion date of 2020, when the oldest vehicles will be 17 years old.

As part of this process, 27 of the existing fleet will be refurbished to ensure that they remain fit for purpose throughout this transitional period and beyond, in the case of half a dozen or so vehicles which may be retained for schools and other peak period services.

2695 The fleet specification within the invitation to tender has been deliberately made as open-ended as possible so as not to preclude manufacturers from anywhere in the world from submitting proposals for any make, model, size or variant in vehicle using any form of power plant.

2700 However, tenderers will be expected to propose a vehicle package that best meets the operational requirements of the bus contract in Guernsey, including environmental and logistical constraints imposed by the Island's location, topography and roads infrastructure.

There has been much debate over the size of the current Dennis Dart buses which, at between 8.8 and 9.67m long and 2.36m wide, can carry up to 34 passengers seated plus a further 18 standing, giving an overall capacity of 52 passengers per vehicle.

2705 These vehicles were built with adapted versions of the existing bodies in order to reduce their overall width, and similar versions were also previously operated in both Jersey and Gibraltar. The predecessors to the current Guernsey fleet were the Optare MetroRider. These midi buses were capable of carrying between 25 and 29 seated passengers with 11 standing and were 2.25m wide and around 8.4m long. Any replacement vehicles, at least in the phase 1 procurement, will need to be capable of accommodating higher occupancy levels on busy peak commuter services that

operate on the 'key' corridors between the Bridge, L'Aumone, St. Martin's and town and on all of the 14 morning and 25 afternoon daily integrated school services operated by CT Plus which average over 30 passengers per journey.

This is not to say that a number of smaller capacity vehicles cannot be added to the fleet in subsequent phases of the replacement process. This will ensure a mix of vehicles providing different community and town centric based services. However, it is important that the overall make-up of the fleet can accommodate all of our peak service requirements.

Of course we will do all that we can to source the smallest possible buses that can meet this required carrying capacity and, in this vein, a member of staff is currently attending an industry event to look at the latest developments in the market.

Other more recent comments have concentrated on alternative fuel options, such as hybrid fuels, fully electric, compressed natural gas and liquid petroleum gas. It is certainly acknowledged that the latest Euro 6 standards for diesel vehicles can present difficulties in environments where there is limited potential for vehicles to achieve high operational temperatures required for regeneration and it is likely that difficulties would arise with diesel particulate filters and other components. Fully electric or hybrid vehicles have been on the market for quite some time. However, the stop-start, short journey nature of our services mean the opportunities for long charging runs or charging lay-up periods are limited and hence electric vehicles may present their own limitations.

In relation to alternative fuels, gas is a potentially viable alternative and has the added benefit of further reducing emissions. However, this too may present certain operational challenges that would need to be overcome if such fuels were to be used in Guernsey.

Therefore, as part of our tendering exercise, it will be necessary for respondents to demonstrate best value and explain how they might address these issues and detail how such difficulties might be overcome or negated.

The important point to note is that we have not closed the door to any of these options. We want to see what solutions and what justifications in support of those solutions are forthcoming from the manufacturers. We will obtain a vehicle that fits Guernsey best, physically, environmentally and operationally.

Returning to the States' Report itself, it should be noted that a number of options were considered as part of the original strategic outline plan approved by the States in 2014. These included deferred replacement of the fleet, immediate replacement of the fleet, phased replacement – the preferred solution, purchase of a second-hand fleet, total refurbishment of the current fleet and consideration of alternative transport solutions such as taxi-buses or minibuses. In respect of that last potential solution i.e. taxi-buses or minibuses instead of public buses, I suspect that comments may be made about the attractiveness of numerous minibuses instead of the larger buses. Such comments might be linked to statements on numerous owner-driver contracts rather than services being delivered by a single company. I wish to stress that the opportunity for such a service has now passed.

When we tendered the bus services contract it was open to any tenderer to propose the way they would deliver bus services, including the use of minibuses that could have been delivered through a link controlling numerous owner and driver vehicles. No such proposals were forthcoming; the industry and the suppliers were not interested in that model.

We cannot now impose on the current contract holder a much larger fleet of minibuses and expect them to significantly increase their driver numbers in order to provide the same carrying capacity through minibuses instead of public buses. And so the service solution we are delivering, and the one that determines our bus specification, is one based on the more traditional network of public buses. Opportunities may exist to supplement that core service and that core fleet with some smaller buses and taxi-buses generating a mixed fleet, but the opportunity for a wholesale swap does not exist.

The options which were explored further in the strategic outline plan and taken forward into the outline business plan that is presented before you today were considered to be the most

viable and practical in terms of meeting the following critical success factors: continuity of service, providing a modern fleet of fit-for-purpose vehicles, spreading the age profile of the fleet, improving reliability, accessibility and quality of the service offered, providing the ability to consider emerging technologies, reduced maintenance, fuel and breakdown costs and lower emissions.

2765

As regards the potential marketplace for providing replacement vehicles, the Department is aware of a number of potentially suitable vehicles within the UK and European market. However, as already stated, the tender documents will not preclude any manufacturer from submitting proposals that may be suitable to our requirements.

2770

Factors that will inevitably influence our final decision will include cost, including purchase and life-cycle, maintenance and resale, size and carrying capacity, manoeuvrability and turning circle, accessibility, especially for disabled people, quality of major components, access to spare parts and supply chain, product support and warranties.

2775

The project board and project management teams tasked with taking this phased approach forward includes the procurement expertise and specialist industry and fleet knowledge to ensure the most economically viable and practical solution is secured for the Island's future bus service provision.

2780

Accordingly, the Department is proposing a phased replacement programme starting with the replacement of 12 of the Dennis Dart vehicles, the purchase of two smaller minibuses, one of which has already been acquired and refurbishment of 27 of the existing fleet. Phase 1 is anticipated to cost £1.88 million, with the total cost of the three-phase project estimated at £6.75 million. The procurement of phase 1 needs to proceed at pace to ensure the bus service continues to play a key role in delivering social connectivity and to further develop its role as a major and essential element of the Island's transport infrastructure.

2785

If approved, the first phase of new vehicles would likely be seen on Island roads during the latter part of next summer. Requirements related to phases 2 and 3 of the project will be submitted to the same application processes applied to stage 1 and will therefore be submitted to the States for further consideration in the next few years.

2790

The States is therefore recommended to approve that phase 1 of the bus fleet replacement project proceeds under the SCIP process to the tender and full business case stage.

Thank you.

The Bailiff: Any debate, or will we go straight to the vote?

Deputy Gollop.

2795

Deputy Gollop: I want to say that it is very easy for someone like myself to perceive what States' Members and the wider public seem to want from the bus service. They basically want fares as low as possible, if not free; they want everybody else to use them, but not necessarily themselves, but especially schoolchildren for the school run, senior citizens, tourists and so on; and they want services that are extremely frequent, run using the smallest possible vehicles that also have accessibility for wheelchairs and parents with buggies. That cannot happen! You cannot have the penny and the bun, you have to be realistic.

2800

There have been some wonderful ideas of dial-a-rides and taxi-buses and all kinds of things, but even assuming there is a market for them, they would be either costly to the consumer, the service user or to the taxpayer or maybe even both. So everything is a compromise in the field of public transport and, yes, we will be looking at two or maybe more smaller vehicles, but the focus will be on a better replacement for the current fleet that will be of similar size, maybe narrower.

2805

I would just like to point out to States' Members two interesting points; on page 2521, with the new vehicles, mention is made in what is a very complicated mixture of technical and environmental information to, I think, a proposal that was put before the States in a more narrow procurement, pre-contractual tendering stage, about the possibility of StreetVibe Wrightbus single deck vehicles.

2810

2815 And I notice on page 2522 there is a yellow bus there with a striking stripy livery, not dissimilar to a Jersey vehicle, but we will lease 56 Wrightbus, StreetVibe single deck vehicles with six spares. I think there was a preliminary suggestion that because we did not get a full transport strategy it had to be pared down to a more realistic – I say ‘realistic’ number, actually 56 is more realistic to see the kind of growth that we need as well as to sustain, let’s say, thousands of cruise passengers some days. But we actually only have 42 vehicles, including the mini bus, which is about 70 less than in the 1970’s, just to give a contrast.

2820 I would also point out that Treasury & Resources have made a point that estimates of the vehicles have increased. Well, because we had delays with the transport strategy the price of these vehicles has gone up, which is another cautionary tale.

2825 There are many manufacturers out there, one or two of them are further afield and they may well be prototypes rather than made-to-measure vehicles that we can know or trust. But I trust that the Environment Board, with the tendering procurement process, will deliver and that the States must support this reasonable Proposition and compromise that we have come up with today – not a whole new fleet but the beginning of a significant change for our Island’s roads and passengers in both environmental and attracting use respects.

2830 **The Bailiff:** Deputy Brouard and then Deputy Lester Queripel.

Deputy Brouard: Thank you, sir.

2835 I am standing up quickly, sir, in case a guillotine motion is placed. *(Laughter)* I am actually going to be writing to SACC with some proposals that the guillotine motion is used with more dexterity next time, perhaps with a lead-in period before it can cut in or a two-thirds majority for only those who have spoken, sir, but that is for another day.

2840 Just on the buses, sir, the buses is a very contentious issue on the Island and I just would hope the Environment Department – I am sure they will – appreciate that the size of the existing fleet has been an issue in that squareness of shape and the amount of space it takes up. I do appreciate you are trading a number of seats possibly on the size, but if there are ways of having a narrower or smaller bus that can accommodate nearly the same sort of numbers it would be very appropriate.

2845 Could the Minister just clarify, I am still looking for the idea – especially in some of the outlying areas in the Vale and the western parishes – of having something like a taxi-bus service...? Is the Minister saying now that that particular bus has departed the station *(Laughter)* and we are not going to have the opportunity to ever have a taxi-bus service?

Because if we are cancelling things like the P1 service, perhaps a trial of some taxi-bus service might be a way around it. I would hate to think that we are now locked in, that we are never going to have the opportunity to trial a smaller bus in some of the rural areas.

2850 Thank you, sir.

The Bailiff: Deputy Lester Queripel and then Deputy De Lisle.

Deputy Lester Queripel: Thank you, sir.

2855 Having originally been opposed to the transport strategy on the grounds that I thought that it was all rather unnecessary, I am now, if you will pardon the pun, sir, very much on board and supporting the general direction of travel... *(Laughter and Interjections)* Delayed reaction there, sir.

2860 But I do have a couple of concerns regarding the proposals and I apologise to Deputy Burford because I was out of the Chamber for part of her opening speech and I think she did address some of these issues. I have also asked these questions outside the Chamber, before today anyway, so I apologise for asking them again but I do believe it is important for the public to hear the answers to the questions.

One of my primary concerns is – I think Deputy Brehaut just touched on it – in anticipation of the States being ridiculed for buying buses that are almost as big as the buses we currently have...

2865 but the question, of course, could arise: why did we not buy smaller buses? Can I ask the Minister please just to clarify? I think she did say in her speech that there are either no buses currently available of the medium sized bus or perhaps that no tenders came through the process.

I am thinking along the lines of something between a 16-seater and 34-seater, so 22- or 24-seaters. I can see that the Department have got a bit of a dilemma here because on page 2529 of the Billet my colleagues will see that the Optare Slimline Solo has 23 seats, which sounds ideal for the Island, but it is even wider than the buses we have now, which is quite extraordinary.

2870 Also... clarification on the name of the bus, because we are told on page 2530 that the name is the Wrightbus StreetLite, which sounds like a Randy Crawford song. (*Interjections*) But on page 2522 we see a picture of the StreetVibe, so is that the same bus – is the StreetLite the same bus as the StreetVibe?

2875 I am hesitating to ask this question, sir, because I feel as though I should know the answer and I apologise for not knowing it, but years ago you could buy bendy buses like a caterpillar bus, it used to bend back on itself literally, and I am wondering if the Department... I presume the answer is going to be, yes, they have explored that option, sir.

2880 Again, apologies for not knowing, sir, I have not been in the best of health lately so I have not really been up to date with things but how much influence will the Department have on the purchase of new buses? (*Laughter*) Do they have any influence at all or is it down to CT Plus which buses they purchase?

I am getting answers from my left here, sir, but I am asking the Minister for the answers – I would rather not have mumblings in my ear while I am trying to focus, thank you. (**Several Members:** Ooh!)

2885 Along the issue of refurbishing the buses, if my colleagues look at page 2520, sir, at the top of the page they will see a list of all the work that needs to be carried out on our current buses and the intention is to send them all off Island at a cost of £6,841, plus on top of that the shipping for each vehicle. I have several concerns about that, sir, and I am hoping the Minister can allay my concerns. I have been told by someone who works in the industry that everything on that list could be done on Island by local tradesmen –

A Member: Yes it can.

2895 **Deputy Lester Queripel:** – for possibly less than the cost that is in the Billet and, of course, we do not know the cost of the shipping, so that will be an extra cost on top of that. Again, my question, 'How much of an influence will the Department have on the issue of where the buses will be refurbished?' – is that a CT Plus decision or a Department decision? If the Department do have an influence can the Minister give me an assurance that as much of that work as possible, if not all, will be done here on Island, please?

2900 One other concern I have, sir, is in relation to the emissions from the Euro 6 engine of the StreetVibe, because I was told by the same person who told me that all of the refurbishment work could be done on Island that due to the Euro 6 only having to travel for short distances here in Guernsey, the bus company will have to undertake regular 45-minute sessions to burn off the carbon deposits that will accumulate on the engines. Which I am told will result in the engines running for 45 minutes whilst the buses are stationary and emitting carbon into the atmosphere. So I am hoping the Minister can allay my concerns on that point, please, sir.

2905 To end on a lighter note, to enable me to think clearly when I come to vote – and that was meant to be rhyming, sir, because I do have one more question for the Minister, I was talking to Deputies Quinn, Green and Duquemin earlier on this morning and we were talking about poems on the buses... For several years now, sir, due to the sterling work undertaken by the Guernsey Arts Commission, we have had the pleasure of reading poems written by local poets on many of our buses and seeing as I am a poet I was wondering if the Minister has any influence at all in deciding which poems are actually displayed on the buses? (*Laughter*) Because, to finish on an old cliché, I would rather be on the bus than off the bus.

The Bailiff: Deputy De Lisle and then Deputy Soulsby and Deputy Adam.

2920 **Deputy De Lisle:** Thank you, sir.

My concern is with operating losses on the buses at the current time, particularly at a time when we are trying to save money, if you like.

2925 **Deputy Bebb:** Point of Order. I am afraid that the cost of the running of the buses is actually nothing to do with this debate.

The Bailiff: Is it relevant to the debate, Deputy De Lisle?

2930 **Deputy De Lisle:** I think it is, sir. *(Laughter)* I think it is an issue because I am going to be asking the Minister, in fact, whether we can have a further review of the bus service in the Island because I just feel that, as a result of the figures that were given to me in this session earlier during question period, it was related to me that one service was costing £144,000 and was only bringing in £1,700 and that was a subsidy just on one of £128,700. I was also told at that time that that was quite typical of all the services; they were all losing money to a large degree and I would just like to ask –

Deputy Bebb: Point of Order. I am afraid that this has nothing to do with the purchase of replacement buses but rather to do with the bus contract which is a separate subject.

2940 Could I ask if Deputy De Lisle is interested in participating in *this* debate or whether he is actually wanting to lay questions to the Department which would be answered separately?

Deputy De Lisle: It has everything to do with whether we should be running a bus service that is losing so much money or not, because we are being asked to actually approve spending more money on more buses, so I think it has got everything to do with the issue.

2945 A lot of people are very concerned that we might be putting our money in the wrong area, instead of perhaps providing more parking in town for vehicles. *(Interjections)* **(A Member:** Hear, hear.) Yes.

2950 So I would like to ask the Minister also, my third question, as to when the new timetables are coming out, because that P1 bus is running every day at a big loss and it is going to continue until the new schedules come out for the winter service.

The Bailiff: I do not think –

2955 **Deputy De Lisle:** When is that service going to be implemented?
Thank you.

The Bailiff: I do not think the winter schedule... well, anyway, you have said it. *(Laughter and applause)*

2960 Deputy Soulsby, I do not want your speech to prolong the debate. Deputy Soulsby.

Deputy Soulsby: Sir, I will be brief but I thought I should stand and commend the Environment Department for this policy letter. **(A Member:** Hear, hear.)

I think the main Report is clear and I think the outline business case shows an excellent, impartial analysis of various options.

2965 What is clear from the Report and, from what Deputy Burford has just said, there are a lot of variables in place here to decide the optimal mix and I might just hazard a guess, the hardest part of this project is yet to come.

2970 The final thing, just one note – and I do not know whether Deputy Burford or possibly the
Treasury Minister would be able to answer this – I have noticed both with the Report on the
replacement fisheries vessel and the business case in front of us here today, the use of net present
value to determine life costs and project costs for these two projects. I commend that; it makes an
awful lot of sense to be able to compare one project with another, but I would just like to know
whether that is something that has been determined by the SCIP central management, as it were,
2975 or is this something that each individual department determines for itself, and I would just like
that clarification.

The Bailiff: Deputy Adam.

Deputy Adam: Thank you, sir.

2980 Two Deputies, Deputy Brouard and Deputy Lester Queripel, have mentioned the size of the
buses and just to make sure it is recorded, this was highlighted at the meetings when the
Environment Board brought this business case to the T&R Board, especially by Deputy Spruce.
Because on page 2518 it gave maximum dimensions of 9.75m long and 2.35m wide. Now, as
Deputy Brouard said, the one thing people complain about the buses is the size and we felt the
2985 maximum measurements should have been less than that, not as that.

Unfortunately, it has not been changed, despite our officers going back and suggesting it
might be more sensible to suggest a maximum size of less. As you will see, the three buses
mentioned – the three normal sized buses – are 1.99m, 2.30m and 2.28m so width wise that is the
type we are looking at the present time.

2990 The other thing which Deputy Burford has already mentioned, quite clearly, is type of engine
and Deputy Queripel brought it up again about the Euro 6 engine and how it is not a very sensible
engine for Guernsey because of the fact that it gets clogged. In fact, I add that diesel cars in
Guernsey generally do not get warmed up sufficiently because they do not travel and warm up
the engine for the catalyst to work, etc. and often you are better with petrol, from an
2995 environmental point of view.

The other thing Deputy Burford mentioned was they have looked at UK and Europe markets.
Now, it has been suggested that there might be a Japanese bus that is a bit smaller, with a
reasonable capacity that should be looked at – I think it is a Mitsubishi. Obviously, that is an
international manufacturer, it is not the case of a local shebang. I asked Deputy Burford if they
3000 had looked at a Japanese one and she can reply to that herself.

But again, as mentioned by Deputy Spruce, because there is concern about the size, I accept
that we must have a certain capacity because otherwise it is not cost effective to run them for the
purposes that have been purchased at the present time, but just to ensure this Assembly realises
we have scrutinised this business case, have brought up these issues and we wait and see what
3005 type of bus they come out with. I am sure you will be all looking at the size, width and length.

Thank you, sir.

The Bailiff: Deputy Brehaut and then Deputy Lowe.

3010 **Deputy Brehaut:** Thank you, sir.

Just very quickly in answer to Deputy Lester Queripel, do we have bendy buses? We do but
they never started life that way. *(Laughter)* We can thank some of the drivers for that.

In relation really, although it was not relevant in the strictest sense – it was the context or the
content of Deputy De Lisle's speech and one other I think – this is a significant investment for the
3015 taxpayer of Guernsey into a service that will be used and *needs* to be used. And it is just an appeal
to perhaps Deputy Brouard and Deputy De Lisle in the future, rather than to discuss buses
travelling around the Island conveying fresh air from one parish to another, simply get behind the
bus service, promote it, talk about it, **(A Member:** Hear, hear.) promote the P1 services, get
behind your own significant financial investment in this needed service.

3020 **A Member:** Hear, hear.

The Bailiff: Deputy Lowe.

Deputy Lowe: Thank you, sir.

3025 I would like to commend Environment Department for this Report. With regarding the size of
the buses, I think as well we need to remember that the current size of buses are big, but of
course they appear bigger yet because of the wheel base. The wheel base is so far in that the bus
has to swing right out to get round a corner and the reason that design was actually used at the
time was because the States wanted to ensure that wheelchairs were able to get on to the bus
3030 and indeed people with buggies so that they did not have to fold down pushchairs like they used
to do years ago – they could actually get on the bus with the buggy without folding it down – and
to enable somebody in a wheelchair or a buggy to be close to the driver to pay. The overhang was
big at the front so they would be by the driver, whereas some of the buses in the UK have
conductors and so therefore they could get in on the side because the door used to be on the
3035 side and therefore somebody would go down to collect their fare.

So I just wanted to explain why the buses have got such a large overhang, because that was
the reason why at that time. Although I believe there are better designs that you can still get up
near the front and the wheels are actually in front of that now, which hopefully will address that.

I just hope that we go down the route of a hybrid, because hybrids are used so much now in
3040 the UK, better than electric and of course you do not have to plug them in, and they are a good
reason to spend to save because there is a huge saving in fuel by going down the hybrid route. So
I am hoping there will be a favourable look at hybrids in the future.

The Bailiff: I see no-one else rising. Deputy Burford will reply to the debate.

3045

Deputy Burford: Thank you, sir.

I had rather hoped I had covered off all the likely questions in my opening speech and I think,
apart from a tour around the western parishes, I more or less perhaps did. Nevertheless, I have
got notes on each person who has spoken but I think the point that I want to make more than
3050 anything else is if the bus that people have in their minds is not produced by anybody then we
cannot have it.

I could design, in my mind, the perfect bus that would be accessible, possibly all electric –
except that they are twice the price of ones which are diesel, so that would be another
conversation with the Treasury Minister – and that was small but maybe grew to accommodate
3055 the school run, but we have to be realistic. We have to have something which is produced, we are
not in a position to get something made purely for our requirements as a one-off because that
brings all of its own limitations together with the fact that, again, it probably would be about
twice the price.

So I can give my clear undertaking to this Assembly and to people in Guernsey that
3060 Environment will do everything in its power to search for the optimum bus for Guernsey and I do
not think we can do any more than that. But if anybody knows of any holy grails of buses, please
come and tell us and add it to us. But we will be searching worldwide, not just restricted to
Europe.

To Deputy Brouard on the taxi-bus service, yes, as I mentioned in my speech it does not
3065 preclude having two or three buses that operate in that kind of style. That is something we can
still do in the future and one of the Resolutions of the Transport Strategy, which Environment is
hoping to embark on fairly soon, is a review of the taxi industry. And when we do that that may
well be a suitable time as well to see if those two work streams could be tied together to look if
there is anything suitable there.

3070 Deputy Queripel – again I think I answered most of the points to begin with but what I would
say, and I think it has possibly confused a few people, is that within our appendices in the policy

letter here we have the report from CT Plus which was submitted as part of their tender because that tender, again, was open and we looked at the possibility of the tenderers providing the buses.

3075 So a lot of that information there, to a large extent, has been superseded, but it was just put in for information and so none of those buses which are pictured there are ones that we have made our minds up on or anything. No decision has been made on which bus... That is something which will come out of the continuing tender process.

3080 Sixteen-seater vehicles would not work across the whole network because we have school runs, in particular, and many services – as Deputy Queripel will know from his journey this morning – which far exceed that number of people on the services.

3085 The refurbishment, Deputy Queripel, is part of the contract with CP Plus, so from that point of view, Environment does not necessarily have an influence over that. The only influence that we would necessarily have was if we were to insist that the buses were refurbished on Island and that cost more than CT Plus could do them for in England; then, no doubt, they would look to us for the difference. However, I am assured that CT Plus are looking very closely to endeavour to get them refurbished on Island if that is at all financially viable.

3090 The P1 service terminates by the end of October, Deputy De Lisle. Thank you, Deputy Soulsby, for your comments. The MPV is actually done by the Department but it is part of the SCIP process requirements – does that answer your question? If it does not, the Treasury Minister may like me to give way.

Deputy Soulsby: My question was whether it was a States-wide MPV or set individually by each department?

3095 **Deputy Burford:** I think it is done by the department, yes.

Deputy Lowe, thank you for your information on the buses and for your kind comments – that is true. I think a lot of people looking at the buses we have now... they appear larger than they are, if that is not a strange thing, because they have this overhang, but also because they are almost totally rectangular and they do not have the corners rounded off.

3100 As I mentioned to somebody else previously, I have actually had emails from people saying, 'You should get this kind of bus that they have got here or that kind of bus they have got there', and when I look, they are invariably bigger than what we actually have but because of their styling and design and even the colours that they are painted, they can look smaller.

3105 So I hope I have answered everybody's question and I ask for your support for this policy letter.

Thank you.

The Bailiff: There are two Propositions on page –

3110 **Deputy Lester Queripel:** Sir.

The Bailiff: Deputy Queripel.

3115 **Deputy Lester Queripel:** I did not hear – maybe the Minister did answer – the answer of the emissions. My concern about the emissions and the Euro 6 engine... is that the case that we are going to have to run the engine to clear the carbon for 45 minutes which will emit carbon into the atmosphere?

Deputy Burford: It has not even been decided at this stage that we are buying Euro 6 diesel buses. We will be looking at all different car options.

3120 Thank you.

Deputy Lester Queripel: And the clarification of the name, sir? Is that the same bus – StreetLite, StreetVibe?

3125 **Deputy Burford:** I believe they are different vehicles.
Thank you.

Deputy Lester Queripel: Oh, that confuses me even more.

3130 **The Bailiff:** There are two Propositions on page 2571. I put both of them together. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare them carried.

STATES' ASSEMBLY AND CONSTITUTION COMMITTEE

XXII. Facilitating Electronic Distribution of Candidate's Election Material – Proposition carried

Article XXII.

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 4th August, 2015, of the States' Assembly & Constitution Committee, they are of the opinion to approve that responsibility for fulfilling the terms of Resolution 4A on Article X of Billet d'État XI of 2015 should be transferred from the States' Assembly & Constitution Committee to the Home Department.

The Bailiff: We come to the last Article for debate, and hopefully there will be time to conclude this debate.

3135

The Deputy Greffier: Sir, the next matter is the Billet XVI, Article XXII, States' Assembly and Constitution Committee – Facilitating electronic distribution of candidate's election material.

The Bailiff: Their Chairman, Deputy Fallaize, will open the debate.

3140

Deputy Fallaize: Thank you, sir.
I have nothing to add to what is in the policy letter.

The Bailiff: Is there any debate? Deputy Wilkie.

3145

Deputy Wilkie: Just to say, as the mover of that very sensible amendment, sir, I have no problems with this policy letter at all.

The Bailiff: Deputy Le Clerc.

3150

Deputy Le Clerc: Sir, I would just like to express my disappointment at the length of time it will take us to go to electronic manifestos, 2020. And when you consider that we are trying to implement Service Guernsey and the improvements in IT, for me, it was just pushing it too far down the road, so I just want to express my feelings on that.

3155

The Bailiff: Anyone else? Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

3160

Of course what Deputy Le Clerc has to remember is that there is not an election between 2016 and 2020. If there was one in 2017 or 2018 or 2019 then I am sure that the work could be done before then. It is just that it is not possible to do it in advance of the 2016 General Election.

The Bailiff: Members, there is a single Proposition on page 2574. Those in favour; those against.

Members voted Pour.

3165

The Bailiff: I declare it carried and that concludes the business for this meeting of the States. Thank you everyone.

The Assembly adjourned at 5.06 p.m.