



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Thursday, 9th April 2015

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Present:

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

Law Officers

H. E. Roberts Esq., Q.C. (H.M. Procureur)

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

St. Sampson

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

The Vale

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

The Castel

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

The West

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

The South-East

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

Representatives of the Island of Alderney

Alderney Representative S. D. G. McKinley, O. B. E.

The Clerk to the States of Deliberation

J. Torode, Esq. (H.M. Greffier)

Absent at the Evocation

Miss M. M. E. Pullum, Q.C. (H.M. Comptroller); Deputy P. A. Sherbourne;
Deputy M. J. Storey, (*indisposé*); Deputy P. R. Le Pelley; Deputy D. J. Duquemin;
Deputy J. P. Le Tocq, (*relevé à 9h 56*); Deputy A. H. Adam; Deputy Y. Burford, (*indisposée*);
Deputy M. P. J. Hadley; Alderney Representative L. E. Jean (*relevé à 10h 05*)

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States of Deliberation

The States met at 9.30 a.m.

[THE BAILIFF *in the Chair*]

PRAYERS

The Greffier

EVOCATION

Deputy Bebb: Excuse me. Sorry.

The Bailiff: Deputy Bebb.

5 **Deputy Bebb:** I forgot to actually call out during Deputy Burford's name and, as she is also *indisposée*, if she could have that reflected in the record?

10 **The Bailiff:** She is *indisposée*. Thank you, Deputy Bebb
Before we move into the next debate, I have given permission to Deputy Le Lièvre to make a personal statement under Rule 8(a).
Deputy Le Lièvre.

Resignation from Education and Environment Departments – Personal Statement by Deputy Le Lièvre

Deputy Le Lièvre: Thank you, sir, Members of the Assembly.

I would like to thank the Bailiff for allowing me to make this very short Statement.

15 Yesterday I submitted my resignations from the Education and Environment Departments to the Bailiff. I have done so because it has become increasingly obvious to me, over the last six months or so, that I must focus all my efforts on ensuring SWBIC reports to this Assembly before the end of this year. I gave the Assembly a commitment to do so in February and I do not intend to go back on that commitment.

20 I am making this Statement because I do not wish my resignation to be in any way connected with the current work streams of either Education or Environment.

As Deputy Perrot set me clear yesterday, progress with the work of SWBIC has been slow, due to the extremely complex nature of the task. It is both detailed and time consuming, and the need to get it best part right first time is imperative. I firmly believe my resignation from both
25 Committees will improve the chances of doing so.

I would like to take this opportunity to say that I have very much enjoyed my time at Education and Environment, and would like to thank both Ministers for their support and understanding in this matter.

Thank you, sir.

30 **The Bailiff:** Thank you.

Billet d'État VI

COMMERCE & EMPLOYMENT DEPARTMENT AND TREASURY & RESOURCES DEPARTMENT

III. Alternative Framework for the Oversight of Guernsey Electricity Limited and Guernsey Post Limited – Debate commenced

Article III.

The States are asked to decide:

Whether, after consideration of the Report dated 5th January, 2015, of the Commerce and Employment Department and the Treasury and Resources Department, they are of the opinion:

1. To direct that Guernsey Electricity Limited and Guernsey Post Limited be made exempt from the licensing and regulation provisions within the respective electricity and postal laws by no later than 1st January, 2016.

2. To direct that the existing shareholder guidance to the Treasury and Resources Department in respect of Guernsey Electricity Limited and Guernsey Post Limited be amended as described in Section 4.41 of that Report.

3. To direct the Treasury and Resources Department to continue maintaining a Supervisory Sub-Committee in accordance with the membership set out in Sections 4.27 to 4.29 of that Report and the objectives and terms of reference as set out in Sections 4.10 to 4.18 of that Report.

4. That, subject to the States approving propositions (1) and (2) above, to direct the Commerce and Employment Department, in liaison with the Law Officers of the Crown, to report on the detailed legislative changes necessary to give effect to the Departments' joint proposals.

5. That, subject to the States approving propositions (1) and (2) above, to direct the Commerce and Employment Department to report on the effectiveness of the replacement oversight arrangements by no later than three years from the date on which these arrangements come into effect.

The Bailiff: Greffier.

35 **The Greffier:** Billet d'État VI, Article III, Commerce & Employment Department and Treasury & Resources Department – Alternative Framework for the Oversight of Guernsey Electricity Limited and Guernsey Post Limited.

40 **The Bailiff:** This is a joint Report. I understand the Minister of the Commerce & Employment Department will open the debate and the Minister of the Treasury & Resources Department will reply to the debate.
Deputy Stewart.

45 **Deputy Stewart:** Mr Bailiff, fellow States' Members.
This Report is the result of two years of work by Treasury & Resources, Commerce & Employment and the Law Officers, and I think it is a good example of joined up Government in that respect.

50 What this concerns is really reducing red tape and, more importantly, costs, and ensuring we, the States, act as both shareholder and as Government in the best interests of taxpayers and their consumers. As you can see, the States' Report itself is quite detailed, with a large amount of extra and, I think, fairly useful information contained in the appendices, including Memorandums of Understanding.

This is not change for change's sake, rather that the whole business landscape has changed for both of these State-owned entities, and this Report reflects the current position and allows for the States to be more proactive as a shareholder in the future.

55 To quote the business vernacular, Guernsey Post, in my view, is an absolute no-brainer, as there is really nothing left to regulate save the universal service provision, which is adequately covered in this Report, and will be maintained. This is clearly elucidated by Guernsey Post Limited, from paragraph 5.2 onwards on page 407 of the Billet.

60 Sir, Guernsey Post Limited, particularly, point out that the functions of regulation are being duplicated at this present time. So what are those functions at the moment and how are they being duplicated?

65 Well, first of all we have now market forces in the form of competition and both substitution. Guernsey Post is in public ownership; Guernsey Post Limited has a very, in my view, fine Board of Directors; we have the political shareholder in terms of Treasury & Resources; we have oversight from the States of Guernsey; we have, of course, the ever-present media scrutiny; we have the Competition Law Authority; we have Post Watch; and then we have CICRA as a regulator as well.

All this for, in real terms, a relatively small business in a jurisdiction the size of a small town and, as I said on the television last night and I will say it again today, as my Gran would say, we are slightly overegging the custard here.

70 So let us now turn to Guernsey Electricity. In the Report – and CICRA's comments are in there – they do make a lot of comparative references to Jersey Electricity. However, the inescapable fact is that Jersey Electricity is not regulated by CICRA. So, just to make that clear, Jersey Electricity is currently not regulated by CICRA.

75 In the view of many, regulation of Guernsey Electricity has been an unqualified disaster, sir. (**A Member:** Hear, hear.) I am of the opinion, and I think many others are too, that the save to spend policies imposed, and the suppression of pricing, delayed further investment in undersea cabling, which we are now, unfortunately, paying the price for. Certainly, regulation has come with a very high price tag. Certainly, GEL now has to play catch up as we do not have anywhere near the robustness or abundance of cabled electricity from France that Jersey enjoys at this present day.

80 Again, in the case of Guernsey Electricity, CICRA is just another level of bureaucracy that is hindering its value and effectiveness to Guernsey as a whole. Sir, without CICRA how can we hold Guernsey Electricity to account? Well, again, it is another laundry list: public ownership; the Guernsey Electricity Board of Directors, the political shareholder in T&R, us as the States of Guernsey; Scrutiny Committee, media scrutiny, the Competition Law Authority and the Electricity User Council.

85 I think, very importantly, let's take a look at the shareholders Supervisory Sub-Committee membership, particularly the three non-States' members, which are by any standards pretty impressive.

90 It is appendix C on page 459 and let us have a look at the makeup of those members. Sir John Collins was Chairman of National Power and Chairman of the DTI/DEFRA Sustainable Policy Group, to name just two of his many high profile former posts; Tom Hollis, a former global Accenture partner; Steve Le Page, former PwC Managing Partner, with substantial experience in regulatory performance. On top of this they have got to work without any remuneration, aside from reimbursement for travel and out-of-pocket expenses.

95 Well, I will tell you whoever assembled that team and got them working for nothing, in my view, sir, deserves a vote of thanks from this Assembly. (**A Member:** Hear, hear.) I am not sure if it was the Treasury Minister, sir, but, if it was, well done Treasury Minister and well done the Board!

100 Because over the past decade it has been very fashionable and politically correct to lob in statutory bodies and officials left right and centre, to regulate the dickens out of just about everything that moves. Of course regulation is necessary in many instances, but it needs to be proportionate and from time to time the appropriateness and proportionality needs to be, and should be, challenged and that is the nub of the debate today.

105 Now, Commerce & Employment's economic development framework has an important work stream to look at the removal of unnecessary red tape. I cannot think of a more clear-cut example of a whole bundle of red tape, sir, that is no longer fit for purpose. We are a small Island, and these two companies have a surfeit of oversight and regulation, which is costly to the taxpayer and the consumer alike.

110 As a final comfort, what we are doing here – just to make it absolutely plain – is we are proposing to suspend the legislation as it currently is, and as a final back stop we could easily turn that regulation back on.

Sir, I ask Members to please vote in favour of Propositions 1 to 5 as laid before them in the Billet.

Thank you, sir.

115 **The Bailiff:** Deputy Dorey, and then Deputy Lester Queripel and Deputy Kuttelwascher.

Deputy Dorey: Thank you, Mr Bailiff.

Sir, I could give the Assembly my own views on this issue, and I will just touch on them at the end, but I will base my speech on the views of others.

120 In September 2005, the National Audit office did a review of commercialisation and regulation in the States of Guernsey, and I will quote from their report:

'Guernsey Electricity believes that a separate regulator is unnecessary, NAO says we do not accept this argument. In our view the shareholder and regulator have quite separate and important roles with essential features of commercialisation and regulation model adopted by the States.'

It goes on about Guernsey under the title of Regulation of Posts Essential to Protect the Consumer:

'Guernsey Post enjoys a dominant position in the Guernsey postal market. In the absence of competition it has little incentive to increase efficiency or improve quality of service. Regulation is therefore necessary to prevent Guernsey Post from abusing its dominant position and to provide incentives and improve efficiency and quality of service that will normally exist in a competitive market.'

125 In Billet X, 2006, a joint report by T&R and C&E. T&R were led, as he would say, by my good friend Deputy Trott, and included Deputy Le Tocq and myself, and C&E had Deputy O'Hara as Members. Their conclusion on regulation:

'The Department believes that commercialisation and in the case of Telecoms privatisation of utilities has brought benefits to our community. Independent regulation has made a net contribution to that benefit. Whilst utilities continue to operate a monopoly or market dominant situation, independent regulation is essential to protect the interest of consumers.'

In 2011 the Commerce & Employment did a report which was based on the report by Regulatory Policy Institute. Commerce & Employment then had included Deputies Gillson, Storey and Sillars as Members. I quote from the Commerce & Employment Report:

'More specifically and as the RPI Report makes clear, for a system of regulation to be effective it requires both a balance and clear separation of the responsibilities and objectives of both the regulator and the shareholder. So each role can be clearly identified and understood by both and an appropriate tension can be created between both sets of objectives.'

130 I go on to the current Billet, which is also jointly from T&R and C&E. They report on CICRA's views:

'Having a single shareholder/regulator with a range of potentially conflicting objectives is likely to mean that the measures of success for the regulated businesses are unclear, which makes it more difficult to hold the business and management teams accountable.'

The Report goes on to say in paragraph 12.4 on page 421:

'The Commerce and Employment Department recognises that the intended role of the Sub-Committee is not to provide independent regulation but to carry out a more 'active' shareholder role than has been undertaken in the past.'

It goes on to say in paragraph 12.5:

'The Commerce and Employment Department welcomes the assurance [given by T&R] that each company's Board of Directors will be empowered to carry out the wishes of the shareholder without undue political interference.'

135 But the Committee that is going to be created, the Supervisory Sub-Committee will have five members, three of them, as Deputy Stewart has mentioned, are non-States' members, and under the Rules they have no vote, so the only votes are the two political Members, which effectively means there will be political interference, because that is directed from those T&R Members.

The Post Watch sent a letter to Deputies dated 4th March 2015. It says:

'The role of Post Watch is to protect, promote and develop the interests of all consumers of Guernsey Post services.'

And it goes on to say:

'Post Watch believes that the current level of regulation exercised by GCRA, CICRA is appropriate.'

140 It goes on to say:

'When the public utilities were commercialised a fundamental principle was that they would be subject to independent regulation. Post Watch can see no justification to amend this fundamental principle. The proposed regulatory model is not considered to be independent, the three non-States' members of the Supervisory Sub-Committee act as an advisory only capacity. Voting rights rest with the two T&R politicians, thus the Sub-Committee could be subject to political pressures or aspirations, which may not be in the best interests of the consumer.'

It concludes:

'In summary, Post Watch considers that the States' Report is lacking in convincing argument as to why there should be further change in the regulation of Guernsey Post, and we believe that no further change is either warranted or desired. We ask you to reject the proposals before the States.'

145 I fully agree with the proposals for a more active shareholder but, as C&E say, they are not an independent regulator. The consumer needs a regulator that is separate from the shareholder and independent. I strongly urge Members to listen to the views of the NAO, T&R and C&E in 2006, the Regulatory Policies Institute, C&E in 2011, CICRA and Post Watch in 2015, and reject these proposals.

Thank you.

150 **The Bailiff:** Deputy Lester Queripel.

Deputy Lester Queripel: Thank you, sir.

155 I rise to merely ask the Minister several questions. The first one is in relation to what we are told in paragraph 5.23 on page 412. We are told by CICRA in that paragraph that if the responsibility is removed from them then they will almost certainly be required to increase the annual licence fees in the telecoms sector. So my question is: does the Minister have any concerns about that?

160 There was a letter published in the *Guernsey Press* recently, in which the author, Mr Roy Bisson, said that he thought the States were displaying a lack of responsibility by even considering dispensing with CICRA as the regulator of Guernsey Post and Guernsey Electricity. So I would like the Minister's thoughts on that issue, please, sir.

We are told in paragraph 15.4 on page 424 that GPL and GEL will still need to be deemed to be regulated by CICRA, to ensure that they continue to pay tax at the rate of 20%. I am wondering if we need to be aware of any issues surrounding that. Naturally, I am aware that the companies would pay less than 20% if they were not deemed to still be regulated by CICRA, but I am wondering if there are other issues we need to be aware of. So I would like to hear the Minister's view on that, please.

I am in need of clarification regarding the difference in what the Sub-Committee will actually be doing, should these proposals go through, as to what they actually do now; because we are told in paragraph 4.41.1 on page 405 that the Sub-Committee benchmarking arrangements shall be set as to:

'Ensure the company delivers cost effective... services which are responsive to customers need and that the company operates efficiently and responsibly in the best interests of the community.'

My question, sir, is: don't they do that already? Because we are told in paragraph 4.10 on page 398 that they do. So I am in need of clarification on that point. The issue is further compounded by what we are told in paragraph 4.13 on page 399, because we are told in that paragraph that:

'The Sub-Committee will commit significant time to reviewing, scrutinising, challenging and understanding... respective business strategies.'

Again, I ask the question, sir: don't they do that already? Because if they do not, then I am rather concerned about that. And CICRA tell us in their submission at the top of page 411 that:

'Having a single shareholder... with a range of potentially conflicting objectives is likely to mean that the 'measures of success' for the regulated businesses are unclear, which makes it more difficult to hold the businesses and their management teams [to account]'

So the question I ask the Minister in relation to that, sir, is just how will the Sub-Committee hold the companies to account? Which Member or Members of the Sub-Committee will actually have the qualifications and expertise to enable them to carry out the duties and responsibilities of a regulator? I ask that question because we are also told in paragraph 11.5 on page 420 that the:

'...transfer of extant functions from the GCRA to [C&E]... will require the Department to take on responsibilities and risks which [have been previously delegated to the Authority]'

My question in relation to that, sir, is: can the Minister tell me please what those risks actually are? What do we need to be aware of?

I ask those questions because I am really not sure which way to vote on this. Many of us often say in this Chamber we need to be as informed as possible.

Before I finish, I would like to ask three more questions. The first one relates to consultation. There does not seem to have been any public consultation on this issue, so I would like to ask the Minister if he could give me a reason for the lack of public consultation, please? It seems the public pay for electricity they use and they also pay to use the postal system, so why was there not any public consultation?

My next question seeks clarification on the costs involved, because the graph on page 419 tells us that the budget forecast for the Sub-Committee is £48,500. Then we are told in paragraph 11.4 on page 420 that the Sub-Committee costs will be spread across the four companies that the Sub-Committee are responsible for over-seeing. So I would just like some clarification. Will those costs be spread evenly – £12,125 – across all four of those companies?

The last question is: how closely do the Committee work with Post Watch? The reason I ask that is because their role is to protect, promote and develop the interests of the customers of Guernsey Post, which is not dissimilar to the role of the Committee, in my view.

Thank you, sir.

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

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

The Bailiff: Deputy Kuttelwascher, and then Deputy David Jones and Deputy De Lisle.

205 **Deputy Kuttelwascher:** Thank you, Mr Bailiff.

First thing I want to say is what is being proposed in this policy letter is not deregulation. I say that because I have had numerous communications saying that people are against deregulation. This is an alternative method of regulation and a more appropriate method of regulation.

210 I would agree that CICRA would have a role to play, if Guernsey Post and Guernsey Electricity were truly privatised companies with independent private shareholders, because their purpose would then be to maximise the return for the shareholders. That is not the case with these two companies. They are completely different; they are owned by the States on behalf of the people, and Guernsey Electricity, in particular, can be regarded – and I do regard – as an economic enabler. So it would be perfectly in order for Guernsey Electricity to operate on the basis of
215 minimising the cost of electricity as an economic enabler and not actually making a profit. That would not occur in the private sector.

The other thing about CICRA's involvement is that it is not just the fee they charge the two companies; it is the cost to the companies of providing information that they demand. Now, the
220 previous Chairman of Guernsey Post – I am going back a couple of years – gave me figures – and I cannot verify these at the moment – that required them over a number of years to spend something in the order of a million pounds on outside consultants, just to provide information to CICRA. And I believe it had absolutely no impact on the business of Guernsey Post.

225 The issue of the save to spend requirement that CICRA put on Guernsey Electricity is significant and I think it was the wrong way to go, because all it did was frontload the cost of electricity on everybody now, rather than spreading it over the next couple of generations, which I think would have been more economical for the user.

230 Guernsey Post – the only area where it does not have competition is in the universal service obligation, and all that really requires is to monitor the cost of the stamps, if you like – which I do not think is a very difficult thing to do – and indeed monitor the quality of delivery of that particular service – which again is not particularly difficult to do. And the Post Watch Group, I am sure, do that, and I have had several complaints personally about certain delivery issues, which have been addressed by the Chief Executive Officer within 24 hours, so it is not difficult to get a response.

235 One of the things that the Supervisory Sub-Committee will do is it will actually charge a fee to Guernsey Post, and Guernsey Electricity – not of the size that is being charged at the moment, but they will have a fund to, where necessary, bring in the expert advice, if needed, that Deputy Lester Queripel referred to in one of his questions.

240 I think Deputy Dorey's comments are fine, except that he does refer to things that were said in 2006. Well, that is nine years ago. We are looking to a culture change in the way the States does its business. We are looking to mitigate costs, increase efficiencies, and we need continual transformation in the way we do business.

Deputy Dorey: Sir, point of correction. I referred to 2006, 2010, 2011 and 2015.

245 **The Bailiff:** Thank you, Deputy Dorey.

Deputy Kuttelwascher: I agree.

250 The other interesting thing is that Guernsey Post, in particular, is subject to competitive pressures on most of its business. Parcels... and in fact it is the use of the parcels and people's use of internet buying online that has actually kept them afloat. There is competition in that area from

every parcel delivery company you can mention – although Guernsey Post do actually get the benefit, to some extent, because a lot of parcel deliveries deliver it to Guernsey Post and then they pay them to deliver the parcel door to door.

Guernsey Electricity – Yes, I will give way.

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The Bailiff: Give way to Deputy Fallaize.

Deputy Fallaize: I am grateful to Deputy Kuttelwascher.

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I just want to make a point, or perhaps ask a question. I am genuinely undecided about how to vote on these proposals, but I do have a lot of sympathy with the arguments being put forward that the present model is over burdensome. But I am slightly confused because there seems to be an argument being advanced that, because a lot of the Guernsey Post's business faces competition, therefore the role of the regulator is not necessary. Now, the one big utility sector that would be left in regulation if these proposals are approved, is telecoms, which has been fully

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privatised. So I am struggling – unless I have completely misunderstood, I am struggling – to reconcile how an argument can be advanced, that the existence of competition in the postal market means that Guernsey Post does not need to be regulated, unless that also applies to Telecoms, and perhaps we ought to be taking similar steps with the telecoms market as are proposed in this Report.

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Deputy Kuttelwascher: Sir, I have actually answered that already. I said, because Guernsey Electricity and Guernsey Post are not privatised, you can have a lighter touch regulation. Because the three telecoms providers are privatised, I can understand why they remain under that CICRA umbrella, because, believe it or not, the way the world works, you could have all sorts of collusion and other agreements between companies competing in the same market. But the purpose of those companies is to make money for their shareholders. Therefore, I think they, to me, as a fully privatised company in that area – as it is in the UK in relation to water and electricity – should have an independent regulator. I think that is the difference.

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I just wanted to mention the competitive pressures that Guernsey Electricity faces as well. They have competition in what I call the space heating market. They supply oil for central heating – so does Guernsey Gas, which incidentally is not regulated – and they have competition from coal, so in that area they have quite a lot of competition. In the area of supplying electricity that goes down the wire to put on your lights and feed your computers, they do not. But I still think the main issue there is one of cost. Guernsey Electricity have already issued a statement saying they are going to re-organise the way they do their business, which will lose roughly 10% of their workforce. So the whole issue of being more economic in the way they do business is being addressed as well.

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The other thing is that the two political Members on the Supervisory Sub-Committee would report back to the full Board, because two Committee Members cannot make a decision on behalf of a Board – you need a majority of at least three. We have three on the Property States' Sub-Committee so we could make decisions, but that is, if you like, the safeguard that if there was any substantial or relevant decision to be made, it would have to go back to the full Board.

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So it is all about saving costs for the two companies. It is all about an alternative system which is more appropriate to what we actually have, and it is a transformation that will save both the taxpayer – or if you like, the charge payer – money in the long term.

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I ask Members to support all the Propositions.

Thank you, sir.

The Bailiff: Alderney Representative Jean, do you wish to be relevé?

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Alderney Representative Jean: Thank you, sir.

The Bailiff: Thank you.
Deputy Dave Jones.

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Deputy David Jones: Thank you, sir.

Well, I never wanted regulation in the first place. I did not want commercialisation – did not want any truck with any of it. I spoke out against it when it was first suggested and subsequently introduced. So for me this is a day of deep joy! (*Laughter*)

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This has always been big country legislation for small town utilities and it was so over the top that it has done what I suspected it would do at the time and it has not done anything for the consumer. How has the consumer been any better off for all this regulation? Not a jot. It has cost them a lot of money, because the costs have been passed on. I wish we would take a scythe to lots of other areas of red tape that have helped strangle this Island over the years, and that will be my vote.

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Thank you.

The Bailiff: Deputy De Lisle, and then Deputy Bebb and Deputy Soulsby.

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Deputy De Lisle: Sir, this has been a long time coming in my book. Commercialisation has come at a high cost to Guernsey and, in fact, that was recognised very early in 2005 by the National Audit Review – something that Deputy Dorey perhaps did not mention... that they showed that commercialisation had come at a high cost to Guernsey due, in large measure, to the adversarial relationship between the regulator and Guernsey Post, and again likewise at Guernsey Electricity – the regulation has been costly and the poor relationship between the regulator and Guernsey Electricity has added cost to the consumer.

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This has all actually been extremely frustrating and embarrassing, to say the least. Guernsey's regulatory regime has cost the taxpayers dearly. In fact, in just two years, 2009 and 2010, Guernsey Post showed licence fees, tariff legal fees and salary costs amounting to over one million pounds in relation to regulation – particularly in terms of defending through tariff legal fees. Guernsey Electricity has paid out more than £1.9 million in regulatory costs over the last five years, and external costs made up over £1.3 million of that.

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A report prepared for the Commerce Department in 2010, by Professor Yarrow and Dr Decker, into the assessment of the effectiveness of Guernsey's regulatory regime suggested an approach based on limited regulation and adjudication. In other words – in their words:

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'...in Post the regulatory system had not performed effectively, and in Electricity the regulatory regime system had failed.'

Sir, the States has a duty to ensure that it implements scrutiny in the most cost effective way possible, and that that scrutiny is appropriate and proportionate, and not a burden to disadvantage customers by costly scrutiny.

So I call on the States to support the Propositions here, for T&R to extend and strengthen its role and capacity as shareholder, taking a more active role through its Supervisory Sub-Committee. I ask Members to support the Propositions in the policy letter.

340

Thank you, sir.

The Bailiff: Deputy Bebb.

345

Deputy Bebb: Thank you, Monsieur Le Bailli.

I found this Report very difficult – and, unfortunately, Deputy Stewart's opening statement just confused matters for me – because, to hear that this will allow the shareholder to be more involved, I have to ask what on earth barrier do they think that there was for the shareholder to be more involved in the first place?

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355 There are no constraints on a shareholder being more involved at the moment. But there is that feeling, and I would agree that – having come from Wales which is known as the land of the quangos – there is deep seated dislike – I would not like to use a stronger word – of all this rather burdensome regulation. And I do think that there is a good case to make, that maybe CICRA is a little over burdensome on these companies. Therefore there is the temptation to support these proposals, just in order to give CICRA a kick. Though we will actually rue the day that we do that because the proposals do not actually put in place a proper framework for regulation in its place. There is no consideration of the other forms of regulation that would be possible.

360 Personally, I have always found it attractive – the model of regulation that Environmental Health have, a statutory official who is fiercely independent of the States in many respects. Nobody could possibly influence politically that statutory official. Yet, he does actually have responsibilities that go back to the political, so that we do not find ourselves washing our hands of regulations certain situations could allow us to do. There is no exploration of the other forms of regulation that would be possible.

365 I do give way to Deputy Fallaize.

Deputy Fallaize: I am grateful to Deputy Bebb.

370 Is he giving consideration, when he speaks, to the part of the mandate of the Commerce & Employment Department? I ask him this because I am thinking of laying an amendment to this Report now, which reads – not the amendment, but the part of the mandate of C&E which reads:

'...to be responsible for the strategic approach to, and the regulation of utilities.'

Is he taking into account the Commerce & Employment Department has that responsibility under the terms of its mandate?

375 **Deputy Bebb:** I thank Deputy Fallaize for that. I had not actually considered that itself, but I think it raises a very serious question as to how the Commerce & Employment Department should participate as a regulator, because this would actually remove them.

But more worrying is that we end up with one Department who would be lending money to a company, because that is what we approved in the last Budget. They are also going to be raising a fee for regulation, and they are the shareholder.

380 Now, I am unaware of any other situation whereby the shareholder is a regulator that is allowed to charge its own fee and lends money to the same company. Conflict of interest does not begin to describe this. I am very interested in the questions that Deputy Lester Queripel raised. There are some very serious questions here and they are not answered in this Report.

385 Unfortunately, before this debate started, of course, the great focus has been on the Personal Tax and Benefits – trying to consider everything else was very difficult. Now, with hindsight, I am thinking that maybe a sursis would actually have been more appropriate, to ask the Departments to come back with a range of options of regulation, because we are given a one-size-fits-all, and that is it. But it does not fit. If the Minister – whichever Minister is responding to this debate – responds to which other example can they give of a shareholder that charges a fee for regulation, and that also lends money to the same company, I would be interested in knowing that organisation and I would hope that it is not in some banana republic. But that is what we actually have here.

395 The other thing that really worries me is that we are told this regulation will be done by a Sub-Committee. Well, the last time I looked sub-committees can come and go like the wind. There is also the fact that mention was made as the fine qualities of those members on the Sub-Committee, but I am afraid that one of those members which was cited as Sir John Collins. I am sure that Sir John Collins is a fine person, but we are asking a poacher to turn gamekeeper. I question whether we think that placing our trust in that principle is a good idea.

400 Finally, these three non-States members may be removed quite easily by Departments. They can actually disappear. We are asked to place the long-term regulation of two vital utilities in the

hands of people that can come and go at the whim of the next political board. I struggle to feel that this is proper regulation.

I agree with Deputy Dave Jones: CICRA may be too much. I agree with Deputy David De Lisle, who has said that over regulation could be burdensome on economies. I do not like over
405 regulation. I would like to see some other alternatives proposed. But I am afraid that the alternative that has been proposed here does not sound like regulation and therefore I ask, if you are supporting these proposals, are you happy to have no regulation? Because that is what it feels like.

Now, at the moment, I have to say that I do not think that it is appropriate to have no
410 regulation whatsoever. We regulate so many parts of our States. We regulate in relation to health care, and yet we provide health care. We regulate in relation to a number of service provisions by the States, and we do it effectively, but nowhere do we actually regulate in this manner. Therefore, I say to you this really does look wrong. It is easy to say that we do not like one thing, but it is much more difficult to come up with the right answer – and this is not the right answer. Therefore,
415 I am afraid I will be voting against all of the proposals.

Thank you.

The Bailiff: Deputy Soulsby, Deputy Lowe, Deputy Perrot, Deputy Brouard.

Deputy Soulsby: Well, sir, I have always found it odd that States-owned entities should need
420 to be regulated in the way they are. I do appreciate it was considered appropriate a decade and a half ago, but circumstances have changed, and we have learned over that period that applying the model that may fit the commercial sector probably is not the best when dealing with the public sector. And in many ways, and in support of Deputy Dave Jones who spoke recently, what works
425 for a population of 62 million may not be appropriate for one of just over 62,000. It certainly does not make sense when some trading entities are regulated by CICRA and others, like Guernsey Water, are not.

What is important here is the States understanding its role in relation to its trading entities. There was a time when commercialisation was seen as synonymous with privatisation. When these
430 bodies were set up it did appear, at least from the outside, that the States very much took a hands-off position – ‘Let them get on with it’ – but this is not a sustainable position to have.

For that reason, I fully support the desire to strengthen the shareholder role. I have to disagree with Deputy Bebb there when he is talking about the change in membership of the Sub-Committee. Any entity can have a different make up that changes over time. The same can
435 happen with CICRA. The important thing is for that Sub-Committee to have, and understand, its mandate. Companies are answerable to their shareholders. It is important that the States of Guernsey, as the shareholder, asks the right questions and holds the management of those companies it owns, on behalf of the people of Guernsey, to account. Far from weakening control over these trading entities, these proposals should lead to greater accountability and, at the same
440 time, ensure those entities can focus on their strategic objectives in the longer-term interest of Islanders.

I welcome the introduction of key performance indicators and benchmarking. This is something we should be developing across the States, whether through trading companies or directly, in terms of the work done within each Department.

Finally, it is my belief that at least one of the non-executive directors should serve as a
445 shareholder representative. This would be standard practice in any company with a dominant shareholder and I would welcome further research into this possibility.

So I think this is a positive move that reflects changing times and better governance, and I will therefore be supporting this Report.

450

The Bailiff: Deputy Lowe.

455 **Deputy Bebb:** Excuse me. Sorry to interrupt in the middle. Could I possibly ask if we can have a five minute recess, in order to actually discuss a possible amendment with the two Ministers, and see where it goes?
Sorry, Deputy Lowe.

460 **Deputy Lowe:** I was just about to speak. My speech might help your amendment. (*Interjection and laughter*) You do not know. You have not heard it.

The Bailiff: Let me ask, first of all, would the Ministers welcome a five-minute adjournment to... (*Interjection*) Yes. I will put it to the Members of the States then. Are you in favour of a five minute adjournment? Those in favour; those against.

Members voted Pour.

The Bailiff: Okay, then we will adjourn for five minutes.

*The Assembly adjourned at 10.20 a.m.
and resumed its sitting at 10.58 a.m.*

**Alternative Framework for the Oversight of
Guernsey Electricity Limited and Guernsey Post Limited –
Debate continued**

465 **The Bailiff:** Well, Members, that took a bit longer than five minutes but there is now an amendment which has been circulated, hopefully, to most people, I do not have a copy, but... (*Laughter*) Thank you very much. Hopefully everybody else has a copy.
Right, Deputy Fallaize.

Amendment:

To delete proposition 3 and substitute therefore:

3. a. To direct the Treasury and Resources Department to develop its role as a more active shareholder in accordance with the objectives set out in that Report and to note that the Department intends to carry out that function through a supervisory sub- committee as detailed in that Report.

b. To note that the mandate of the Commerce and Employment Department includes 'to be responsible for the strategic approach to, and the regulation of, utilities' and 'to be responsible for consumer advice and protection...'; and, therefore, to direct that the interests of the consumer with regard to the incorporated companies referred to in the propositions above and any other unregulated utilities shall be promoted by the Commerce and Employment Department.

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

First of all – well, thank you to you, sir, and to Members for the adjournment – I need to apologise for an inexcusable spelling error in the... Immediately before the new Proposition 3, or proposed new Proposition 3, 'substitute therefor' should not have an 'e' on the end. My only defensive is that the seconder typed it up. Maybe in Wales it is slightly different, but in English there definitely should not be an 'e' on the end of 'substitute therefor'.

Deputy Bebb: My apologies for my second language! (*Laughter*)

The Bailiff: Would it help people listening if you read the wording of that?

480 **Deputy Fallaize:** Probably. It is:

'To delete proposition 3 and substitute therefor:

3.a. To direct the Treasury and Resources Department to develop its role as a more active shareholder in accordance with the objectives set out in that Report and to note that the Department intends to carry out that function through a supervisory sub- committee as detailed in that Report.

b. To note that the mandate of the Commerce and Employment Department includes "to be responsible for the strategic approach to, and the regulation of, utilities" and "to be responsible for consumer advice and protection....."; and, therefore, to direct that the interests of the consumer with regard to the incorporated companies referred to in the propositions above and any other unregulated utilities shall be promoted by the Commerce and Employment Department.'

The object of the amendment is to protect, of course, Propositions 1 and 2, as laid before the States by the Committees, that is to say that, with effect from 1st January 2016, Guernsey Electricity and Guernsey Post will be exempt from the licencing and regulation provisions. So in colloquial terms they will no longer be regulated by CICRA, in the way that Deputy Stewart described when he opened debate.

485 And to direct that the Treasury & Resources Department should continue to enhance its more active shareholder role, as it has been doing recently, in accordance with the objectives which they have set out in this Report. But to note rather than to direct that they intend to carry out that shareholder role through a shareholder Sub-Committee. Because I do not think that it is sensible for the States to direct States' Committees to maintain any particular sub-committee, or direct States' Committees to have sub-committees carrying out work in a certain way.

490 If we set that kind of precedent, we could have any number of States' Resolutions where the States try and direct Committees or Departments to maintain particular sub-committees. The Rules are very clear it should be left to States' Committees to decide which sub-committees to maintain and what they should do, and I do not think that should be undermined. So I support Treasury & Resources Supervisory Sub-Committee. I think that is the correct way to carry out the shareholder function, but I just do not think the States should direct them to do that. I think it should be left to their discretion.

495 Then the new 3.b. notes the responsibilities of Commerce & Employment, under their existing mandate, to be responsible for the regulation of utilities and for consumer protection, and to make it very explicit in the States' Resolutions that that function – the interests of the consumer, in particular, where these incorporated States-owned entities are concerned – should be the responsibility of the Commerce & Employment Department, which removes what was causing me, and I know some of the other Members, the problem from the Propositions as they are constructed unamended that it would be the Treasury & Resources Department, through its Supervisory Sub-Committee, which would maintain the interests of the consumer, as well as the interests of the shareholder.

I will give way to Deputy Kuttelwascher.

510 **The Bailiff:** Deputy Kuttelwascher

Deputy Kuttelwascher: *[Inaudible]*

The Bailiff: Can you put your microphone on?

515

Deputy Kuttelwascher: Oh, sorry.

I would like to ask Deputy Fallaize, if this amendment is successful: will he then be supportive of the whole list of Propositions in this Report?

520 **Deputy Fallaize:** Yes, as will Deputy Bebb, the seconder, and because this amendment has been constructed in consultation with the Members of Treasury & Resources Department and

Commerce & Employment Department, my understanding is that those Members are prepared to support this amendment.

525 If the Propositions are amended in this way, then I will vote for Propositions 1 to 5, because I think this achieves the appropriate balance. It means that the incorporated States-owned companies are no longer subject to the regulation of CICRA, which I think there is general support for, because that is an overly burdensome regime, but it ensures that different parts of the States are protecting, on the one hand, the interests of the shareholder and, on the other hand, the interests of the consumer. So I think that that is a reasonable balance to achieve and I would ask
530 Members to support the amendment and then to support the Propositions as amended,

Thank you, sir.

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

535 **Deputy Bebb:** I do.

The Bailiff: Thank you.

Deputy St Pier.

540 **Deputy St Pier:** Sir, just briefly to indicate, as Deputy Fallaize has said, the Treasury & Resources Department's support for this amendment. I will speak briefly to 3.a. and perhaps leave it to the Minister of Commerce & Employment to speak to 3.b. The irony, of course, is that the original Proposition 3 was drafted precisely to address the concerns which Deputy Bebb made when he spoke about the Sub-Committee coming and going, and so we felt it would give some
545 comfort to the Assembly, or to the States generally, if the Proposition was constructed in the way it was to, if you like, set in stone the existence of the Supervisory Sub-Committee. But we are entirely relaxed with the amendment which has come forward.

I think, in any event, it is quite likely that this will be overtaken to some extent by events with the States' Review Committee Report in July in which I would expect, if you like, a more
550 permanent solution in relation to the shareholder role will need to be found as part of the redesign of Government after April 2016. But, of course, that may or may not happen depending on the debate in July. So in the meantime we are very happy to support this amendment, sir.

The Bailiff: Deputy Gollop.

555

Deputy Gollop: Yes, sir.

I think I can support the amendment. It actually does not go as far as I think some of the speeches earlier suggested. They might have wanted to have seen a sursis or reconsideration of some of the aspects of this policy. Of course, this amendment does not address the crucial issue
560 of the future role of the regulator which is left intact, and perhaps – well within Proposition 1 which will – to my slight surprise, Deputy Fallaize, and perhaps Deputy Bebb, have indicated that they are now more supportive of the proposal to end the role of the regulator within this.

I would like to say that I endorse directing the Treasury & Resources Department to develop its role as a more active shareholder. I will come on to that in more detail in a minute. I too am
565 impressed that the mandate of the Commerce & Employment Department will continue to include:

'...to be responsible for the strategic approach to, and the regulation of, utilities and to be responsible for consumer advice and protection...'; and therefore to direct the interests of the consumer with regard to the incorporated companies referred to in the propositions above and any other unregulated utilities shall be promoted by the Commerce and Employment Department.

Well, of course, I have been lobbied by my former boss in one sense, Roy Bisson, who of course launched the Guernsey Consumer Group and has subsequently published a lot of letters on the subject. And he is concerned about the role of the consumer going forward.

570 What the problem with the amendment though is that it just mentions the interest to the consumer. Surely the strategic approach of Commerce & Employment would go beyond the specific consumer interest, because surely it would include the promotion of business objectives for the numerous businesses that Commerce & Employment seek to promote and encourage, and so I would hope that the implication within the amendment is not just that the consumer interest is maintained. If I can be critical, perhaps, of past Commerce & Employment Departments, they have not always promoted the interests of the consumers as perhaps they might have done. (A
575 **Member:** Hear, hear.) But I also believe that the implication of the amendment is that the strategic approach to utilities would be maintained as well. So I hope that is in the package.

Now, turning to the endorsement of paragraph 4.41 on page 405 – which is crucial to this – it
580 mentions the shareholder objectives and it shall be set... the shareholder in this context at the moment being the Treasury & Resources Department and it is to:

'Ensure the company delivers cost-effective and innovative services which are responsive to its customers' needs and that the company operates efficiently and responsibly in the best interests of the community.'

Well, I will add to that that, of course, Alderney is outside of the mandate relating to electricity. It is included within Post and there is an Alderney Post Watch as well – I mention for the record. We have no particular problems with the postal services in Alderney, but I would observe there is
585 often a day's delay in delivery to remoter addresses.

Item 2 is to:

Seek value and an appropriate return that provides best value to the Guernsey economy from the businesses for the community, whilst striking a balance with the enabling role it plays in supporting the Island and its social, economic and environmental objectives for the long-term benefit of the Island and its community.

Now we have an energy strategy, an energy plan. We do not have a fully-fledged communications plan, which would be useful to have, but that rather rambling second paragraph mentions social, economic and environmental objectives – issues that Deputy De Lisle and others
590 have raised. Now, that is an unusual role for a shareholder to have. The conventional idea of a shareholder we have is of a sort of tycoon figure who runs the company either to promote his vision/his ideal, or her vision/her ideal, or to maximise financial return, either in revenue or capital. Now the nature of the State, because we might be the size of a small to medium town, but we are an independent State who has done extremely well promoting our own legislature, our own laws,
595 our own financial sector. So we are on a bigger scale than a part of the UK or anywhere else like that.

By definition, the States is the body politic that sets the social, economic and environmental objective. It is wrong to see Treasury & Resources doing it from a Departmental silo point of view. The two representatives of Treasury & Resources – who used to be the Minister and Deputy
600 Minister at one point – are only our representatives, our servants, in a sense. Their role surely is to go beyond the shareholder who just wants to maximise rate of return, like a mythical hedge fund, but is there to promote economic objectives and environmental objectives and social objectives. And we know in the past that different Post Office managements have considered financial operating, not as a credit union, but something along... we know they have done initiatives with disabled people in the community. So there are issues to look at here.
605

I think we have been left though, because of the workload and because of the nature of this policy letter... reminds me of Lewis Carroll – currently the subject of a *Radio 4* series – in that it is a bit like the walrus and the carpenter in the Tweedledum and Tweedledee poem, who went out to sea with their oysters, and Alice and the brothers could not decide whether the walrus or the
610 carpenter was the more noble person because they both gulped their oysters in the final analysis.

Here we are, left between really an uncomfortable choice between the *status quo* and the new vision articulated by Deputy Stewart. I do not think, like Deputy Jones, that the *status quo* has worked at all well. I think the regulatory system we have had has been top heavy; it has by *quasi* legal, it has cost the Island millions, collectively, and it has not really been consumer friendly. I do not feel that it has really kept down electricity or postal costs, nor has it had a particular green vision. It has been technocratic and expensive.

I must admit I hanker back to the old days when elected politicians took positions on the Boards. (**A Member:** Hear, hear.) They were cheap, they were in touch with the community and they were able, up to a point, to balance all the different factors. This goes back to that era, in a way, with a new slant. I support that. I actually support it, paradoxically, because it is retrogressive.

My one word of caution though is Deputy Lester Queripel talked about qualifications; well, I do not think, in themselves, Board Members need qualifications. We have several Members today in this Assembly who have qualified director status from the Institute of Directors and many qualifications; and of course the five current Members are extremely able people. We know one of our Members is, of course, a lawyer and a former President of Guernsey Electricity, and the five people identified as sitting on the Sub-Committee are extremely distinguished, well beyond our shores.

My reservation here though is you can always look at things in two ways and from both sides: I am not sitting on the fence, but I am exploring this one! (*Laughter*) No, the five personalities on the Committee are all highly successful male individuals and my point is how representative of the less-than-affluent consumer will that group be. We have somebody there who was Chairman of National Power – now that has a strategic role, but it is not a role of somebody looking for bargain basement services. It is not necessarily an all-singing, all-hippy-dancing, green perspective either. We have to ensure that the States as a whole represents all of our people and not just a highly successful FTSE 100 kind of approach.

That is why, although I have reservations about the reforms suggested, I am willing to give them a try, especially with the amendment bringing Commerce & Employment back into the frame. But I do think we have more work to do on this and in dovetailing the shareholder interest with environmental, energy conservation and social objectives. We really need a more detailed report which will possibly come, I suspect, in the life of the next Assembly.

The Bailiff: Deputy Domaille, then Deputy Perrot and Deputies Brouard and Lowe.

Deputy Domaille: Thank you, sir.

I am struggling with this. I think I have sort of now got it a little bit clearer in my brain. It seems to me that actually the real problem here is over-burdensome regulation. It is not just for Electricity and Guernsey Post; it is actually over-burdensome across the Island's commercial sector. So my question to Commerce & Employment is: do they believe that the existing system of regulation is, as many Members have already said, over-burdensome and, if they do, what actions are they planning to take, or are they taking, to correct that situation?

I have a second question and I am not sure if it should be Commerce & Employment or Treasury & Resources, so I will ask them both and we will get an answer from one or the other. I am led to understand that the Electricity Users Council has not met in a number of years. Now, Post Watch has been extremely active and it has performed an invaluable role as far as the consumer is concerned. So my question to Commerce & Employment and/or Treasury & Resources is that: is this correct and what actions are they planning to take to make the Electricity Users Council far more proactive in prompting and challenging the electricity organisation?

Thank you, sir.

The Bailiff: Deputy Perrot.

Deputy Perrot: Thank you, sir.

665 I think it is a discourtesy for a Member of this Chamber to speak and then immediately to leg
it, but I am afraid that is exactly what I am going to do (*Laughter*) this morning. I fain would repair
to my bed of pain. I love Deputy Brouard like a brother, but I hate him for the bug which I have
caught from him. He very kindly gave me two Veganin earlier on. Can I report that I feel even
worse now (*Laughter*) than I did when I came in this morning? So I hope that Members will excuse
me if I do leave the Chamber after speaking.

670 There are a couple of things that I felt that I really had to say, but one slight distraction was
Deputy Gollop, really. I almost did not understand a word that he said, but he did say that he
wanted to see the old system restored whereby Members of this Chamber were Presidents of
Committees rather than commercial boards, and he said they were cheap. Well, I have had some
insults but I have never been called cheap before. (*Laughter*) ... of the States Electricity Board.

675 Could I say something else about what he has to say, that he says that the Supervisory Sub-
Committee – he impugns them that perhaps they are not representative of the community. Well,
what on earth is Treasury & Resources? Treasury & Resources is a Department – if you like, a
Committee – of the States of Guernsey that represents the community. Is Deputy Gollop saying
the Treasury & Resources is somehow not willing to care for and represent the community? Of
course it does. It serves the community.

680 I have to say that there has been extensive over-regulation since 2001, when Guernsey
Electricity and Guernsey Post were commercialised. I had the misfortune to be a non-executive
director of Guernsey Post when it started up and in that year our plan was not only to start up this
commercial outfit, Guernsey Post Limited, but to move the Post to the new Post Office in La
Vrangué.

685 I do not know whether other Members remember that, but it was a complete Horlicks. We
caught a substantial cold at that, and it was our fault – we put our hands up, and we did not
handle that.

690 I have to give credit to the Regulatory Authority of the time, which did a magnificent job then,
in focusing the Board of Guernsey Post into what it needed to do, but the trouble was it then built
itself up into a sort of position of power, and it stayed there subsequently, and subsequently it
interfered excessively with the work which was being done by Guernsey Post Limited and by
Guernsey Electricity Limited.

695 I know from personal experience on Guernsey Post that the constant demands of the
Regulatory Authority were a complete distraction from what we were trying to do, and an
expensive one at that because we had to buy in information, and I know that the Chairman of
Guernsey Electricity, the late Ken Gregson, was driven to distraction by the constant demands of
an over-weaned Regulatory Authority. Fortunately, things have changed, but the commercial
companies should not have to bear the very high costs, which have obtained in respect of
regulation, because actually they can be surprisingly vulnerable.

700 I would not wish to frighten the horses, but the business of Guernsey Post and Guernsey
Electricity are subject to sudden changes. For example, with Guernsey Post all it takes is some sort
of punitive action by the UK postal authority and we find that we are having to pay very much
more for the introduction into the line system for delivery in the UK, and we have seen that
happen before; and of course, we have seen what has happened when our business has been
705 greatly affected by a deeply unpleasant action by the UK Treasury in removing low value
consignment. That did not just affect Guernsey Post; it affected part of Guernsey's economy as
well.

710 Guernsey Electricity, for its part, could be vulnerable. It is dependent, of course, on the cost of
importation of fuel in order to pass on electricity around the Island. It is also facing very, very
substantial capital costs in infrastructure, in relation to the laying of cables between here and
Jersey, and we hope in the future, between here and France. The capital cost of that is eye
watering, so this particular company can do without the excessive cost of over-regulation.

But could I just say one other thing? I knew quite a lot about regulation, professionally as a
lawyer, because my firm acted for one of the regulated companies when an appeal was brought,

715 which was won by that regulated company; costs were awarded to that regulated company because the decision of the regulator had been wrong. So the costs had to be paid by the regulator, but how do you think the regulator got the fees in order to pay those costs? It got it back by actually adding to the licence fee chargeable to the regulated entity. How absurd that system was.

720 The great thing, it seems to me, about what we are proposing today is that the system, if it goes wrong, can be re-booted – there will be no real difficulty about that. I hope that Members would think that there is some integrity in the Supervisory Sub-Committee. And I really must take up one of the points made by Deputy Bebb about Sir John Collins, that he is a poacher turned gamekeeper. Said in that sort of way, it could be construed as impugning his objectivity. Anybody
725 who has worked with Sir John Collins knows what a considerable expertise he has and a talent that he is, but if you look at page 459 in the Billet – well, you don't need to; I am going to read it out – his very brief cv there, which does not reflect all that he did, was that he was a:

'...former Chairman and Chief Executive of Shell, [Shell!] UK (*Interjection*) He was a former Chairman of National Power and Dixons, and a former Non-Executive Director of NM Rothschild & Sons...'

And so on, and so on, and so on.

730 What it does not say is that actually he was Chief Executive of the Vestey Group, which I seem to remember owned Sainsbury's. We are very, very lucky indeed to have somebody such as Sir John Collins over here, who is prepared to work for nothing at all on behalf of the States. We need more people like that, in my view, to work on behalf of the States. I know there would be an objection to that sort of thing from my friend, Deputy Fallaize, because he wants everybody to be pretty well an elected person. But having people like Sir John Collins –

735 **Deputy Fallaize:** Sir, on a point of order, I am sorry to interrupt Deputy Perrot – actually it is a point of correction. That is not the view I hold, actually. The report that is being presented to the States by the States Assembly & Constitution Committee later at this meeting – if we get to it – includes provision to maintain non-States members on States' Committees.

740 **Deputy Perrot:** Sorry. Could I suggest that my friend lightens up a bit? It is just a little bit of joshing (*Laughter*) on my part. I meant no serious harm, but if I have offended him I take it back, I will fall on my sword about that remark.

745 But, not only do we have Sir John Collins, we have John Hollis. John Hollis is not merely a former global Accenture partner, he is actually a non-voting member on the Treasury Board. You have already entrusted him with working on behalf of the States in the Treasury Department and, of course, Steve Le Page will be known to very many people as former Managing Partner of PwC. That is a real powerhouse of talent.

750 So when Deputy Lester Queripel, for example, says well what qualifications do people have to question the way in which these commercialised entities work, I say actually you do not need to be an electrical engineer to do it, you do not have to have been a postman to ask questions about the Post Office, but what you do need to be able to do is to exercise objectivity and to understand things like key performance indicators. You need to be able to read a balance sheet and you need to be able to talk to senior people in these commercialised entities on an equal basis.

755 Frankly, if you read those CVs, those people can do just that, and certainly we entrusted the Minister of Treasury & Resources to have general chairmanship over, what I consider – and I would say that, because I am on it, but what I consider – to be one of the important Departments – really important Departments – of the States of Guernsey. I am merely a humble foot soldier and your servant. I exclude myself from all of that, but if you exclude me, there is a huge amount of talent on that Supervisory Sub-Committee. If you think that they are not together talented
760 enough to ask the right questions of its companies, then I am afraid you are not living in the real world.

The Bailiff: Deputy Brouard and then Deputy Lowe

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Deputy Lester Queripel: Point of correction, if I may?

The Bailiff: Deputy Queripel.

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Deputy Lester Queripel: I think I am living in the real world, sir. I was not questioning whether or not there was anyone, or I was not doubting their capabilities or their qualifications. I was merely asking who was the person or the members of that Committee who did have the expertise. I was not doubting that there were not people on the Committee with those qualifications.

Thank you, sir.

775

The Bailiff: Deputy Brouard.

Deputy Brouard: Thank you, sir.

Can I just check, sir: are we doing the amendment and general debate together, sir?

780

The Bailiff: You may do so, if you wish. I think some people have spoken generally, as well as speaking on the amendment, so if you wish to do so... but obviously you will not have a chance to speak in general debate later.

785

Deputy Brouard: So we are just doing the amendment then, at the moment, separately.

The Bailiff: We are, unless you wish to speak on both, as some people clearly have done.

Deputy Brouard: I will just speak on the amendment, sir. Thank you.

790

(Interjection) No, I cannot – I will speak on general debate, sir.

Deputy Dorey started the debate off really with his issues about the shareholder and the regulator and, like Deputy Dorey, I also have an attic as well, so I was able to get out my Billet from January 2000, which was quite interesting.

795

Basically, the States were then setting up regulation, and some of the... We were looking then at the three trading Boards and, with regard to the framework for regulation, it was saying things like: provide a basic service for which consumers are in most cases dependent upon; provide services to other industries – this is talking about electricity, post, and telecoms – the price and quality of those services determines the attractiveness of Guernsey as a base for business. The finance industry is dependent on communication etc. The States will want the regulator to adopt policies in relation to the licenced operators, which in turn deliver Island economic, social and environmental strategic aims.

800

The regulator there, that the States was envisaging, was, I think, very similar to what I would call a grandfather in the family business because, especially with Electricity and Guernsey Post, we are the consumer, we are also the owner, we are the shareholder, it is our business. We own it, so the idea of putting a regulator in to look at the whole aspect on behalf of us does not really make sense.

805

Unfortunately, where the problem, I think, came is that the regulator when they set up – regulation was just starting across the western world at that time – and the regulators then were looking at it from the consumer-only point of view. And I think that is where we went wrong – the consumer was put as king, not necessarily realising that the consumer is also the long-term beneficiary of the policies that are put in place. So we ended up with a lot of short-termism rather than looking at that global position of what is really best for Guernsey; because if you do what is really best for Guernsey, you end up doing best for the shareholder and best for the consumer, and I think that is where it went wrong.

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815 I think Deputy Dorey is right: there will be conflicting interests, and there always are; even in a family business, there will be conflicting interests. Do we do it this way, do we do it that way? We will always have those dynamics.

Really I think, Deputy Domaille – thank you for coming in with your question, because your question is enabling me to, hopefully, give you the answer, because you said, 'What is Commerce & Employment going to do about this over burdensome regulation?' Well, what we are going to do about it is we have been looking at it quite long and hard, and the idea is they are going to take Electricity and Guernsey Post to a different regulatory model. So the answer is what we have today. I am concerned and, looking at telecoms, we have spent a long time at C&E talking to the regulator as to how they look after telecoms, because when I move forward to my Billet for 2002, 825 we have the States setting up the regulation for telecoms, and they are saying:

'...that in parallel with the overall process is the regulatory regime put in place by the States has developed a number of measures that were designed to set a level playing field for the introduction of competition...

The introduction of a robust and professionally delivered regulation regime however does give comfort that the interest of consumers in core telecom services and networks can be protected through an independent statutory process...'

– and so it goes on.

But what we then end up with... and this is a Chairman's report from CICRA; it was in our Billet back on 24th September this year in Billet XX, and this is the regulator reporting back. They have been in position now for 10 years – something like that; well, over 10 years, 12 years. Telecoms – 830 this is the Chairman responding in our States' Report. I will just read two little lines of this paragraph:

'Telecommunications is now by far the largest area of CICRA's work. Jersey and Guernsey consumers are poorly served in respect of Telecoms, paying more and receiving poorer service than their counterparts in other jurisdictions.'

Further down the notes paragraph the Chairman says:

'Channel Island businesses are poorly served in respect of both on Island and off Island connectivity. Prices being a multiple of those applied elsewhere.'

The Bailiff: Are you going to come back and say why that is relevant to Electricity and Post?

835 **Deputy Brouard:** So we have been on the back of CICRA to make sure that we have telecoms services that are fit for purpose. I have said to CICRA – this is not Commerce & Employment, this is me personally – 'If you do not regulate the telecoms industry to give us what we were promised when we decided to sell Guernsey Telecom back in the Billets of 2002 and 2000...' if they do not give us that then I will take that away from them as well, because that is not what we as consumers were promised. 840

We have ended up with... and it is not, necessarily the regulators fault. There was no model for the regulators to follow. They should have looked to the States more, but the States was not there to give them that guidance. They looked around as to how the big countries were doing their model and they basically copied that as a consumer regulator, and that is not what we have got. 845 We have got a family of companies that are part of the Island. Most of the staff in the telecoms industry are Island staff. They are all part of the Island, although the ownership is changed; they are still part of the Island. They are one of the ones that are paying the tax, and I think we need to look at it more as a suite of family business that are working for us overall.

I would strongly recommend to the States that we pass this motion today, that we take those items out of CICRA's mandate. It has not been working it as well and, in trying to answer Deputy Domaille's question, that is what we are going to do about it, and we will carry on, on CICRA's back, to make sure that we have the telecoms industry that the Islanders need. 850

Thank you, sir.

855 **The Bailiff:** Deputy Lowe.

Deputy Lowe: Thank you, sir.

I have got a dilemma with this one, sir, and I am not quite sure whether I am going to support the amendment or not, because earlier on, before this amendment was placed, I still had a dilemma, because I do not actually think this Report is right. I do not think that is actually what we need as such.

I did not support commercialisation at the time, like Deputy Jones, and I voted against it. CICRA is not right. CICRA is too cumbersome, too expensive, but I believe it may be better than what actually we are looking at today, and the reason I say that is that I do not like quangos – I never have.

If we look around this Assembly here... and Members in this Assembly who have business experience, they are on political Boards, we have one practicing advocate, we have two retired advocates, we have – I have just done a quick count – 15 current Board directors or shareholders, and yet we are prepared to pass this role over into a quango – a sub-group, if you want to call it, a supervisory group – of three non-elected members of the public on that.

I am not questioning their integrity whatsoever. We have some very good people that are named there, so I do not want people to think I am actually questioning their integrity. I am questioning the accountability and the transparency and, ultimately, the States being responsible for Guernsey Electric and indeed Guernsey Post. So I do not know why we do not actually use the expertise we have got in here. We have big business people in here with expertise. We have legal brains in here with expertise.

Of course it comes down to the accountability for me. So do I keep CICRA until we get it right and we look at a way that we can do something in-house that would be accountable? Because I think that is the route that I prefer. I know it is the route that I prefer. I do not like all these sub groups where you have non-States' members on them. Members will know I have always voted against non-States members to be on Departments – always have done, always will do, because I do not agree with it. I believe we are here to make those decisions. We have been elected to make those decisions. If we need expertise on a certain area we should bring them in as and when it is necessary, and then off they go again. We should not be putting people in posts for four years to be on a Department.

With this sub-group which has been 18 months roughly that we have had a shareholder sub-group T&R... roughly? They have not intervened. They have not intervened at all. I have spent time with my Vale colleagues going to the shareholders of T&R, asking them to intervene for the Guernsey Electricity neighbours who have suffered, for 52 years, noise and vibration problems and environmental problems down there; and they have not intervened because we have been told it is not their role to do so.

So that has been in place now for 18 months, although the Minister and the Deputy Minister of T&R are the shareholders that have been in place since we set up the commercialisation. It has expanded since and that has not happened, and yet we are being told today, well, yes, because this sub-group, this supervisory group, is a body that can intervene. It has not happened. We have been left with serious problems happening down at Guernsey Electric. My Vale colleagues are fully aware of that and have backed me – the six of us that have been involved with it.

So am I comfortable with sending them down this route today endorsing what should be an intervening role, when actually they have not been doing it now? They are not accountable. I mean I accept we have got the Minister and the Deputy Minister, which is great – they are accountable in here. There are actually three members on there, although one of those, as has already been said, is already a non-States member on T&R, so you have actually got two extra members that are not already in the States' system *per se*, that are on this Supervisory Sub-Committee.

So at the moment I am probably still going to stick with my original thoughts of rejecting the lot, and stick with CICRA until we have actually got something that I think is appropriate and

910 accountable – more than we have got at this moment in time. We have not got it right. We have not got it right and I do not think we have got it right with what we have got in front of us here with this amendment. I do not think the original report was right, and commercialisation has not panned out as it should have done, and the regulatory process is not right.

I am not quite sure putting it across Commerce & Employment will be right, because we are putting it then to another Department. You have then got... I can understand the separation of the two, but if you have got separation of the two why do you actually need T&R shareholders in the first place, if you have got Commerce & Employment overseeing it – if you want to separate it?

915 So I think I am going to stick with rejecting all of it because I am not comfortable and I am not prepared to put something in place just because that is all we have got in front of us. That is not good Government, in my view. If we have not got it right, do not settle for second best. Either support this wholeheartedly or reject it, and they will come back with something else.

Thank you, sir.

920

The Bailiff: Next Deputy Conder and then Deputy Stewart.

Deputy Conder: Thank you, sir.

925 I will speak on the amendment and in general debate. I entirely support the amendment and I think I understand that both Departments are supporting it. I think it has improved the Resolutions. Sir, I support both the amendment and the Propositions.

I have had some contact with both regulated bodies and with the non-exec directors of those bodies, and I have to say I have been both surprised, shocked and concerned by the cost implications of meeting regulations for the two entities.

930 Of course, we have spent much of the last few days in this Assembly talking about pensions, tax and so on, and the implications for our fellow citizens. We must never forget that the cost of regulation ultimately lands with the consumer, and ultimately is paid by those same people, and it is very little different to a tax in the end.

935 The cost of regulation is borne by the consumer, and comes out of their purse and wallets. So we have to be sure that the cost effectiveness of regulation is worthwhile. I am not convinced, on the evidence I have heard from non-exec directors and from this Report, that it is cost effective and it is good value for money.

940 I drew a lot of comfort from what the Minister of Commerce & Employment said at the beginning, which was this was a suspension of the current regulatory framework. It is mentioned in para 5.16 on page 410. I did struggle a bit with finding where in the Propositions it is defined as a 'suspension', other than in Proposition 5 when it refers to C&E reporting back within three years. Perhaps whoever is responding to this debate could actually elucidate a bit more as to how the suspension – if this is a suspension – could be reinstated? Which Proposition addresses the issue of suspension? It will not stop me voting for the Propositions, but I think it would bring clarity if, as I suspect, it will be the Minister of T&R responds. I think that would give clarity and some reassurance that if this new regime does not work, it is only a suspension and we can return to the current status.

945 Finally, sir, I think when we – many of us, and particularly Deputy Stewart – said, 'We are a small community, these are small businesses; we do not need the whole panoply of a massive regulatory framework to be imposed upon them,' we need to bear in mind, I think, that we have a whole cascade of regulation which is there, in some measure, to protect the consumer – not exclusively, but you have the role of a non-exec director.

955 Deputy Perrot mentioned his role on the Post Office in the past. I am familiar with and know a number of non-exec directors on both of the organisations. Part of their role is to make sure, clearly, that the organisation is being run effectively – that is good governance – but also that they look to ensure that the organisation is run ethically, and that the role of the consumer is protected.

960 We have the role of the shareholder, uniquely. It does concern me, on occasions, that we mix
the role of the shareholder in a commercial organisation whose main objective is to maximise
profits, but of course, here we are, the shareholder, our main objective is multi-faceted. It would
be about profit. It also has to be about the consumer. So that is a second level of protection and
now we have the role of the Supervisory Committee.

965 I have a word of caution, which is that when politicians, we, get involved in commercial
organisations directly, it is not always terribly effective. I have a little bit of experience of that in
the GTA, of having politicians involved there. Painful experience! I will say no more about that. It is
historical – not the current occupants of those posts – I would emphasise. If they become too
involved operationally, we as politicians, it is not so effective. But I do not see that here.

970 So I would urge colleagues to vote for this amendment, which I think improves the
Propositions, I would urge colleagues to give this a chance. I believe it would be a much more
cost effective and effective regime. I would ask the T&R Minister to just clarify the issue of that
this is a suspension of the current regime – what would happen, what opportunities we would
have to revert to the existing regime if it does not work? On that basis, I would urge colleagues to
vote for the amendment and all the Propositions.

975 **The Bailiff:** Now, I have picked core people in the order of Deputy Stewart, then Deputy Rob
Jones and Deputy Trott.

Deputy Stewart, if you are going to speak, you can only speak on the amendment because –

980 **Deputy Stewart:** Just on the amendment, yes. Really, just to answer some of the questions
that have been raised.

985 This concerns 3.b. My Board supports this amendment in common with Treasury & Resources,
unanimously and absolutely, to confirm to Deputy Domaille the strategic approach to the
regulation of utilities is something that is often brought to the Board, and on top of that we look
at the security of transport links, and have made recent submissions to the Davis Commission – of
course the Scrutiny Committee is underway on that as well. We look at fuel security as well –
electricity, energy. Of course, we carry out those duties diligently, make regular reports into
relevant Committees and, where necessary, to the States of Guernsey.

990 In terms of regulation – and I think it was Deputy Domaille – one or two have raised: what is
the future for CICRA? Well, I think I made the point in my opening speech that the business
landscape has changed, very much so, for post and electricity; whereas, in terms of telecoms and
telecommunications, this changed enormously since 2002 when we were mainly focused on fixed
lines. We did not have all these things; we were not looking at big off-Island connectivity – the
growth of big data on all of these things.

995 Regulation, in my view, from the States when a lot of these regulators were set up... it is a view
I hold, and I think is shared by quite a few Members of my Board, in that the States thought we
will set up a regulator whether it is the GFSC or whether it is CICRA. We will set it up and then,
unfortunately, they walked away. They thought, 'Oh, we have set that up – that will all be fine and
dandy.'

1000 What you are seeing now from Commerce & Employment is that political oversight, because it
is the role of Government to set policy, in partnership with all the stakeholders. It is for regulators
to regulate according to that policy. That has been a step change from Commerce & Employment
in this term. We are setting – or the GFSC in conjunction with the Policy Council, for example, FPG
– that policy. We are taking a much more hands on approach by setting the policy for CICRA.

1005 Regulation needs to be proportionate and appropriate. I have 30 years' experience working at
the very highest level nationally in the UK with regulators, whether that was with the Independent
Broadcasting Authority, the Radio Authority or, more recently, OFCOM. I do not like over-
burdensome regulation. I do fear, though, in the future CICRA will be a lot more busy with our
telecommunication operators here, because of the nature of the business and how economically
important it is.

1010 I always think it is more important to try and get agreements before we go down the regulatory route, but if you ask me what the future of CICRA is, I think the area that needs to be more looked at is, as perhaps Deputy Brouard has said and also as the Chairman of CICRA has said, we need to look a lot closer at telecoms regulation.

1015 I only ask you to look at your own in-boxes and your interaction on social media... I cannot remember one complaint from a parishioner, or wider, about the postal service, or the electricity service, in terms of their actual service. I have had a huge amount of concerns raised to me by businesses, by individuals, both through email and on social media, about the service cost of telecommunications. So, Deputy Domaille, what I will say is that I think there is, unfortunately, a larger role to be played in the future of CICRA in looking much more closely at the very important and economic enabling area of telecommunications and connectivity for this Island.

1020 In terms of just one particular point of the Electricity Users Council, this has already been discussed at the Commerce & Employment Board. I think it is important that we try and encourage and energise these consumer groups; and it is disappointing that the Electricity Users Council has not met. It is certainly something I will take up with my counterpart at Treasury & Resources, because I think it is hugely important that consumer groups here have a voice and are active and act independently as another check and balance.

1025 Thank you, sir.

The Bailiff: Deputy Rob Jones.

1030

Deputy Robert Jones: Thank you, sir.

I will talk in general debate and on the amendment at the same time.

1035 I was inclined to, before the amendment came along, agree with the first two Propositions, and I do actually agree with the third Proposition, which is the role that the Treasury & Resources Sub-Committee will play. I think that is an important role.

1040 What was concerning me when I was reading through some of the guidelines and the various things... that we were putting the burden on balancing the shareholders objectives and balancing that with the interests of the consumer. That gave me a little bit of concern, but what I did not really want to do was to introduce something into that regime – the alternative regime – that was going to be disproportionate, because we are trying to get away from that disproportionate element of the regulation by removing CICRA from it. So that is where I was coming from.

1045 Deputy Lowe did bring up a couple of issues about shareholders roles and that; and I suspect that some of the issues that she was talking about are not the roles of shareholders, which I suspect is frustrating for individuals in that role, but I suspect the issues that she wanted intervention were for roles of other parts of the States, Environmental Health and the directors to work that one out.

1050 In terms of this, I think we have to balance the shareholders' role with the interests of the consumers, and I think what we get here is a proportional approach. I think it is proportional because I think it is in the mandate of Commerce & Employment anyway, and I thank Deputy Stewart for highlighting the other roles that they play. So I think that this is proportionate and I am inclined to support it. It re-emphasises the role and the oversight that C&E should have anyway. They are recognising the balance of the shareholder with the interests of the consumer. They have already stated that in the Report, but I just felt that the Report... what C&E were doing was saying, 'Yes, we do have that role, but we are convinced that T&R will execute that role.' Well, 1055 what we have got here is an amendment that ensures that they do execute that role. It is an oversight role. How they do that within Commerce & Employment Department, in terms of executing that oversight, is for them, and I do not think this amendment goes as far as actually directing how they do that, so I am comfortable with that. I think the oversight is proportional in these circumstances.

1060 In that case, I think I will be inclined to support the amendment and the other Propositions, should that form part of the Propositions going forward.

Thank you, sir.

The Bailiff: Deputy Trott.

1065

Deputy Trott: Thank you, sir.

Sir, journalists have a code. They do not always adhere to it, but they have a code, nonetheless, of reporting in a manner that is accurate, balanced and with clarity. So, with that in mind, sir, I ask Members to cast their minds back to the early part of the noughties – in other words, around the time of commercialisation – and why it was felt that a regulatory environment was appropriate.

1070

Guernsey Electricity, sir, has not always been the well-run business without the controversy that we enjoy today. Back in those days it was a very controversial business indeed. There was a lot of concern, for instance, over the Channel Islands Electricity Grid, and what percentage of that grid was, in fact, owned by the Guernsey taxpayer, as opposed to the Jersey taxpayer, and where the balance of power rest.

1075

Also Guernsey Post – Deputy Perrot rather generously referred to it earlier. He was a Member of the Guernsey Post Board at the time it went through an awful period, a period of... The Commerce & Employment Minister said he has not had many calls on Post, well those who were around in the electoral term of 2000 to 2004 will remember we had more calls about Post than any other issue. The post was, in some cases, three weeks behind being delivered. It was an awful mess.

1080

Now, I raise these points because, at the time, the commercialised model needed some form of regulatory oversight and I mention those two particular examples because I do not believe that the cost of regulation has been without its benefits. However, we are not able, as part of this Report... It is not structured in that way – to be able to interrogate those benefits to see just what the real cost of regulation is. It is not completely without benefits. Even those who are regulated will say that some of the interrogation of their data that they need to undertake has some value. They will also tell you, for balance, that it goes too far, and I accept those arguments, but it is not without value, and we do not know what that is.

1085

What we do know though, sir, with absolute certainty, is that both Guernsey Post and Guernsey Electricity have repeatedly, over several years, advised of just how significant the burden of regulation is. The costs associated with that have been spoken about by others earlier.

1090

If one looks at page 458 of the Billet, under schedule 4, the headline is Matters for Referral to the Shareholder under the Memorandum of Understanding, and Item 18 is of particular interest to me. Item 18 says that:

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'The following matters are reserved to the shareholder for its decision/approval.
The determination of group capital structure, return on investment, and dividend policy...'

– are firmly a matter for the shareholder.

It seems to me, sir, that our dividend policy needs to be modified, and it needs to be modified in a way that reflects what will clearly be, if the directors of Guernsey Post and Guernsey Electricity are to be believed, very substantial savings as a result of the change in this model; and it is only right and proper that the shareholder benefit in part – if not in its entirety, but certainly in part – from those gains.

1100

So I would ask the Minister of the Treasury & Resources Department, in his summing up, to advise what the current dividend policy is, and indeed how much he would anticipate our additional dividend being, as a result of these changes.

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Finally, sir, it is only a small point and it is unusual for me to take exception with anything that I hear my good friend Deputy Conder say, but he referred to Guernsey Electricity as a small business – it is not. Guernsey Electricity has balance sheet footings in excess of £100 million and its infrastructure network pervades every part of our Island. It is not a small business. It is a business that has been well run over the last few years, but it was not always the case. There was a time, sir, when the political and commercial picture looked very different.

1110

Thank you, sir.

The Bailiff: Deputy Kuttelwascher – and just on the amendment, because you have already spoken in general debate.

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Deputy Kuttelwascher: That is fine. Thank you, sir.

I support the amendment.

I do wish to take issue with some comments made by Deputy Mary Lowe in relation to, I presume, talking on this amendment. She mentioned a lack of intervention by the shareholder in relation to a particular issue. I would suggest there is a big difference between intervention and interference.

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Sir, Deputy Conder recently mentioned his problems with political interference, regarding the management of another part of our estate, if you like. What she mentioned was subsequently judged to be a political issue, and quite rightly so, and has been escalated to the Policy Council to deal with, and I was happy to be at that Policy Council when it was first discussed – and where it has gone to since then, I do not know, but I urge Members to support the amendment.

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The Bailiff: Deputy Lowe.

Deputy Lowe: Could I just clarify... point of correction really.

1130

I accept the role of the shareholder, but of course, if you look at number 22 on the page that Deputy Trott was actually looking at, it does actually state in there that the shareholder is responsible for social, economic and environmental objectives; and of course that is an environmental and social objective.

1135

While I am on my feet, sir, I would like to thank the Chief Minister and indeed Policy Council, and indeed T&R – because I did accept they were finding it very frustrating – for their support and the way they have helped and are helping currently with the neighbours. (**A Member:** Hear, hear.)

The Bailiff: Deputy Dorey, again on the amendment, and then Deputy Brehaut.

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Deputy Dorey: Thank you, sir.

I would just like to ask Deputy Fallaize a question. In 3.b. it says:

'To note that the mandate of the Commerce and Employment Department includes "to be responsible for the strategic approach to, and the regulation of, utilities"'

So he has noted that, but he then goes on

'... to direct that the interests of the consumer with regard to the incorporated companies.'

But it is silent on the regulation. I just want to understand is... that exists in Commerce & Employments mandate, regulation of utilities, but there is no direction on this amendment. So who is going to regulate those utilities? I go back to the fact that Post Watch thought there should be a regulator and they are closer to the business in terms of the consumer than probably any of us. I go back to the RIP report where it said:

1145

'...there is widespread agreement that infrastructure regulators should be independent of the regulated entities and as far as possible from Government influence.'

Now, if we have got a political board being... well, have not even got direction of that, if they are going to regulate it. But I presume that is – I do not know why he has not put that in – because that is in their mandate. But who is going to be the regulator? They certainly will not be fulfilling that role, as is said, free from Government influence, because they are part of Government.

1150

I could quote from the OUR report where, in relation to Guernsey Electricity, they said:

'Regulation is necessary to prevent Guernsey Electricity from abusing its dominant position and providing incentive for improving efficiency and quality of service which would normally exist in the competitive market.'

1155 I think that goes beyond just consumer interest; it is trying to incentivise and to make those decisions to improve service and incentivise in relation to their business.

I am not sure whether the shareholder can fulfil that role. So who is going to fulfil that role? Who is going to be regulator?

Thank you.

1160

The Bailiff: Deputy Brehaut.

Deputy Brehaut: Thank you very much, Mr Bailiff.

1165 I think we need just to rewind the debate a little bit and reflect on the opening speech – I am speaking, sir, generally – made by Deputy Stewart and the speech immediately from Deputy Dorey, because what Deputy Stewart was saying is that regulation is burdensome; it is red tape, it comes at a cost.

1170 Now, we hear that all the time from industry. You hear it all the time from industry in the UK. Look at the experience of the banks – light touch regulation, do not over regulate the banks, let the free market work, and we all know what happened. Even if you look at the regulation of the press again there is a nervousness. We need a free press – and I am talking generally about the UK. Look at text gate and look what happened when we had light touch regulation and when the press, the regulatory body, had effectively the light touch.

1175 I do not think it is too ridiculous to suggest that a budget airline who were just – I was going to say getting off the ground, no pun intended, but a budget airline might feel at times that the Civil Aviation Authority is on its back a little too much. I do not think we should ever ignore the power of an independent regulator. More than one remove, but ideally more than one remove, but a real independent regulator.

1180 Now, Deputy Jones and Deputy Gollop earlier took us by the hand and we skipped through the blue remembered hills of yesteryear, through the long grass. We were reminiscing about Guernsey Telecoms and Guernsey Electricity – and Deputy Jones will well remember that he was a non-States' member on Guernsey Telecoms and he stood down. He stood down because I think it was a £7,000 cash payment to an advisor to the then Guernsey Telecoms. That is on the record, it is a matter of fact.

1185 We also then reflect on the experience of Guernsey Electricity, and was it the Bank of Credit & Commerce that they lost £7 million? Now, is the wisdom only to be had – (*Interjection*) I beg your pardon, sorry. (*Interjection*) I am being corrected. I am sorry, it was £5 million. I believe it was recovered but, nevertheless, to have that confidence in the wisdom of elected representatives and sub-groups is questionable, I think.

1190 Now, I think we always underestimate, whether you are a multinational or whether you are a *quasi* States-owned run business company, how impenetrable that business is to the consumer; and we have not heard a great deal about the consumer.

1195 During debates such as this we always carve people up. We have clearly the consumer, we have members of the electorate, we have the citizen and we have the shareholder. Of course, ultimately, they are all one and the same people, but we have not heard a great deal about the consumer today, and there are benefits to regulations that are invisible, because companies behave differently when they know that they are being regulated.

1200 Again we should never underestimate how difficult it is as an outsider, as a member of a community, to get into an organisation when you have a grievance, to get yourself a voice, when there is not that type of external consumer regulatory model in place.

I would ask the question, sir, should a State that has the power to remove independent regulation... really, should it not be discreet enough and sensible enough not actually to use that power?

1205 Now, as I said earlier, the success of regulation cannot actually be readily measured, and I will make that point again, because I think that companies behave in a different way because they know that the regulator is there and that companies do moderate and adjust their behaviour, and business practices, knowing that ultimately they will be called to account, and of course, companies will not tell you that but I am comforted that there is an independent regulator there doing that and that outcomes are better.

1210 I know Deputy Brouard, in his speech, referred to the – and others have referred to the – telecom model and the Guernsey consumer gets a rough deal. We are a community of 60,000; we are not a community of 60 million. I am just assuming that when you choose to live in a little Island in the Bay of St Malo that things are just generally more expensive and you do not get the economies of scale that you have when 100 million people live on a continent as opposed to
1215 63,000 on an Island.

Again, sir, I think I am where Deputy Dorey is on this one, if I have heard him correctly. I cannot approve this Report and the amendment does not give me a great deal of comfort. I came in here minded to reject the Report and I still will.

1220 Just in closing, sir, the debate opened with Deputy Lester Queripel raising a number of questions and scrutinising. He is a Member of the Scrutiny Committee. If I could just say through you, sir, over the floor of the Assembly to the Chair of Scrutiny, that with hindsight and reflection, I think something such as this would have been a good scrutiny review topic, and hopefully when Scrutiny get the resources that they deserve then we can have – I suppose following the changes
1225 in the machinery of Government – we will have that type of scrutiny, so Members of the Scrutiny Committee do not have to come into this Assembly and pose questions that they could have done in the other role that they have.

Thank you, sir.

The Bailiff: Deputy Inglis.

1230

Deputy Inglis: Mr Bailiff, thank you very much.

I have listened to a lot of the arguments this morning, and I like to think I come into this debate with a degree of knowledge.

1235 Deputy Dorey started off this morning talking about the regulation and the approach to what was then the OUR brought to our community. In fact it was the OUR that established a Post Office Users Group, it was not Post Watch in those days, but it was part of the requirement that we had an independent body that looks after postal users' concerns. Of course, the OUR has come into the scenario as being somebody who will monitor the overall transparency and actions of the two particular companies that we are talking about today.

1240 When it comes to innovative use of taxpayers' money, we have to question whether it is the right or the wrong thing, and Members have been reminded about several things that occurred through electricity and post. And, of course, I want to keep reminding everybody but we did have the cable that was put in, along with the electric cable, by Guernsey Electric. It never really came to any fruition, and a lot of people questioned why that spend took place; because, at the time,
1245 Guernsey Electric did certainly plough on in a manner which they thought was correct, but the consumer, being the taxpayer, picked up the bill.

We also have, if Members will recall, Guernsey Post going after the concept of setting up a bank, which clearly shows on their balance sheet as being an £800,000 spend. They did seek to redress the balance by losing that, or reclaiming that cost, on the cost of the stamp. Now, the
1250 regulator stopped that. They identified that that was something that they had to lose on their balance sheet, albeit a very healthy balance sheet as we would, or certainly some Members would, be well aware of.

1255 Similarly GEL's investment in renewables, which the OUR would not allow them to recover, would have undoubtedly been charged to consumers, and probably most spent on it as well without some independent means being identified. It is the word 'independent' that I really want to stress.

1260 If I was to ask Members in the Assembly what the cost of a local stamp is, or what the cost of a UK stamp is, I think you would struggle to tell me. The reason being it is not on the stamp. But we are happy to pay that price because we expect a service that is being monitored and being provided so that we do get our mail into the UK and into homes in St Peters and Torteval the next day; and that does happen, and that has come about through regulation – ensuring that Guernsey Post does provide a service that is part of a universal service obligation.

1265 Deputy Perrot reminded us of the mayhem that occurred in 2000-01 and I was on Post Watch when that was going on, and it was absolute mayhem. I have talked to States' Members who did not actually feel there was a problem delivering the mail. But there was mail sitting on the floor for four or five days before it was delivered and business was affected. In those days everyone used cheques and businesses were relying on that communication. Okay, things have changed and we can fully accept that. We do our business in a very different way, but we still need the regulation to know that what we perceive is happening is actually happening.

1270 I think the cost of the regulation is a fair cost, in relation to what the Commerce & Employment and T&R Board is suggesting they feel that they can save, but there is an administration cost and then the cost lost if we vote to proceed down this route, that money CICRA needs will be passed on to the telecoms.

1275 So the taxpayers will still be paying, and we will be losing the independent transparency, that we most definitely need to ensure for the public out there. The public are expecting us to ensure that there is proper due diligence in a service that is still very important to quite a lot of members of our community.

1280 So, Members, I do not support this Report. I have reservations about the makeup of the Supervisory Committee, in that it is very powerful, it is very knowledgeable and it is probably going to take away the independence that we desperately need to ensure that the service is what we expect. I would urge Members not to vote for it.

Thank you.

1285 **The Bailiff:** Deputy Jones.

Deputy Robert Jones: I suspect the answer to my question may be no, but I had a question directed to me in my capacity as Chair of the Scrutiny Committee.

1290 **The Bailiff:** You have already spoken, so the answer is no, you cannot speak again.

Deputy Robert Jones: Okay.

1295 **The Bailiff:** Just get another Member of your Committee to reply.
Chief Minister.

The Chief Minister (Deputy Le Tocq): Sir, it is only very brief.

1300 I am very supportive of both the amendment and certainly the main Propositions. A lot, I think, has already been stated, but I think the important thing for me is that this is certainly an improvement on where we are now. I do not disagree with Deputy Trott in that there have been some benefits of the sort of regulation that was brought in, but it was clearly a sledge hammer to crack a nut in the end.

I do think – I know Deputy Dorey mentioned this right at the beginning – that active shareholder involvement is, and can be, a good thing because these are not private companies, these are commercialised State-owned entities; and it is that dilemma that I think somehow was

1305 lost early on where the hands off involvement clearly is not right, and it is absolutely appropriate that the shareholder responsibility in terms of regulation should not just be on profits, as it would be in the private sector, but on social and environmental issues as well, and that is the thing that I think is very clear here.

1310 There are a number of, if you like, pincer movements that can be made under this new structure, which clearly was not the focus of the sorts of regulation that we currently have that is more appropriate in a bigger jurisdiction and, of course, perhaps where they might be dealing in an environment where there is a multiplicity of different competition in the market; and in the case of Guernsey Post of course they are the only ones that are regulated in that market, so it is clearly unbalanced from that point of view.

1315 This is better and I think it is certainly well worth while at this juncture for us to allow this methodology to be tried and tested, which – as has been mentioned by several, including the Minister of Commerce & Employment – if it does not work, we can turn back on the old form of regulation, that is clear, it is not completely written off.

So I am strongly supportive and I hope that all Members will be the same.

1320

The Bailiff: Deputy Langlois and then Deputy Bebb.

Deputy Langlois: Thank you, sir.

I will speak in general debate as well.

1325 I totally endorse... First of all, I will be supporting both the amendment and the resulting Propositions. I totally endorse, particularly Deputy Perrot's comments about governance, and the need to show some respect for what the expertise is there, and the motivation of the expertise that is there.

1330 I just, at this point, say that one reason I am speaking on this is because since 1982 I have known Guernsey Electricity professionally right up to the time when I became part of the States, and did a large amount of work with them in various guises. Therefore, I knew them before commercialisation, and after commercialisation. There is no doubt at all about regulation overload. Do not even go there. It has been totally disproportionate and I would endorse comments made by their management, their directors, and so on over the years about the level at which regulation has been employed.

1335 There have been references this morning to certain events that took place there with regard to an investment. That is not a relevant comment because a regulator, as such, could not have prevented the sort of event that occurred with the investment that went wrong. It was handled, it was managed, and the money came back in due course through the right routine.

1340 I think the most important thing is that I see in these proposals that they should help to extend confidence in the organisation, both at director level and at senior management level. I am afraid I get very impatient at some of the comments, some of the implied comments, about, 'Well, perhaps the directors are not really working in the interest of the Island.' No-one has said that explicitly but there is no doubt about it, that is the music underneath the words.

1345 Then you get the senior management, 'Well yes. Do they really know what they are talking about?' almost is the music underneath those words. Sorry, these people are there for a reason. They are doing the job with the right motives and with the right expertise. They have been put there because they know what they are talking about, and it is about time we as an Island recognise that, whilst at the same time having some proportionate oversight of what is going on.

1350 I am afraid, sir, that what happened when the regulation regime was put together, was part of a modern obsession, a modern dash in the western world, in particular, towards always having somebody else checking what everybody else is doing, and that is leading us into a very dangerous economic area because we are failing to compete. I know that does not apply to somewhere like Guernsey Electricity because they are not competing in that way, but we have got to make this efficient and I believe that these proposals will make it efficient, and let's go with it.

1355

The Bailiff: Deputy Bebb, you can only speak on the amendment.

Deputy Bebb: Thank you, Monsieur Le Bailli.

1360 Just on the amendment, I want to respond to a few points that have been made. I recognise
that there are some Members here who will still firmly want independent regulation and, for
those, obviously, this amendment does not allay those fears. But, for Deputy Lowe, when she asks
in relation to the benefit of this amendment, I would urge her to vote for it because, of course,
1365 what this amendment does is it clarifies the exact point that is there now, that Commerce &
Employment Department are responsible for the regulation. What it, therefore, does is that it
agrees to the removal of – what has been confirmed and I would agree with – the over-
burdensome form of regulation that we have from CICRA. Few people would disagree with that.
Therefore, it puts in place an alternative.

Now, as Deputy Le Tocq said, this is not forever. The regulation is being suspended. I am
1370 therefore comfortable that this is an appropriate half way house, that is also possible to be flexible
enough that we could either reverse to full independent regulation or we could look at an
alternative. I think that it places firmly that responsibility on Commerce & Employment.

Commerce & Employment should quite rightly be held to account for their regulation. I know
that they are doing work in relation to regulation of utilities, and other regulation, at the moment.
1375 I would personally welcome some greater detail from the Department as to exactly what they
have in their work programme pertaining to regulation at the moment, and how they would see
that evolve. I think that that could allay some fears that some people would have. It is firmly on
their agenda. It is part of their mandate. If we feel that they are not completing that we should
hold them quite firmly to account.

1380 The same would actually go to Deputy Dorey, who was very concerned in relation to who
would be the regulator. Well the regulator should be the Department that is responsible for the
regulation, being the regulator. I recognise that once again Deputy Dorey is much more in favour
of independent regulation; therefore I fully understand why he would not feel supportive.

There is also the question with regard to the talents that have been made. I think maybe my
1385 comment earlier on may have been slightly unhelpful, but I do think that it is important that we
recognise that the talents that people have may be appropriate for certain roles. I think that the
talents, now with the amendment – the talents that the Treasury & Resources have on their Sub-
Committee for the shareholder role are exemplary, because in that role of the shareholder these
are exactly the type of people that I would want. But just as Deputy Perrot... I think that Deputy
1390 Perrot would actually, quite rightly, agree that there are certain shades of skills within a particular
field, and much as I would definitely want Deputy Perrot representing me in relation to certain
matters of law, I am unsure whether I would be quite so happy in asking him to support me in
relation to mental health law or criminal law. It is a question of particular areas of practice and
skill, and those were the question. Now with the amendment I feel that they are very well suited.

1395 Therefore Members, is it perfect? No. But I do not think that anybody in the world has ever
come up with a perfect system of regulation. It is very difficult. But I think that this is one that
gives us the cost effectiveness, and it gives us the flexibility to acknowledge when we think that
things have changed. I hope that things do change, because at times we talk about
commercialisation, as people have done, not achieving what people wanted, therefore it may be
1400 the question as to what do we do with these companies next? And that would require a different form
of regulation. This amendment allows for that flexibility and therefore I would ask Members to
support it.

Thank you.

1405 **The Bailiff:** Does anyone else wish to speak on the amendment? No? Oh, Deputy Lester
Queripel.

Deputy Lester Queripel: Sir, I am quite happy to wait until after lunch if that is your wish.

1410 **The Bailiff:** Well, I was just seeing how many more. *(Interjections)* Deputy Green wants to speak, and Deputy Laurie Queripel may as well.
I think then we should rise and resume at 2.30 p.m.

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

Billet d'État VI

COMMERCE & EMPLOYMENT DEPARTMENT AND TREASURY & RESOURCES DEPARTMENT

III. Alternative Framework for the Oversight of Guernsey Electricity Limited and Guernsey Post Limited – Debate continued – Propositions carried as amended

The Greffier: Billet d'État VI, Article III, Commerce & Employment Department and Treasury & Resources Department – Alternative Framework for the Oversight of Guernsey Electricity Limited and Guernsey Post Limited.

1415

The Bailiff: Members, we continue with debate on the amendment proposed by Deputy Fallaize, seconded by Deputy Bebb, and I call Deputy Lester Queripel, if he still wishes to speak.
Deputy Queripel.

1420

Deputy Lester Queripel: Sir, I have changed my mind and decided not to speak.
Thank you. *(Applause)*

The Bailiff: Thank you.
Deputy Green had indicated he might speak.

1425

Deputy Green: Yes, very, very briefly, sir. *(Interjections)* Very, very briefly.

I support the amendment. I will be supporting the policy letter, mainly because the view has been expressed very clearly that this is, in effect, a suspension of the independent regulation system. I therefore see it as a temporary experiment and if, in the next three years, as per Proposition 5, there are no adverse consequences on the consumer then it would, and should, be made permanent then. So I will support this.

1430

The other point I just wanted to make is in relation to the role of the Scrutiny Committee, because I am a Member of the Scrutiny Committee now and Deputy Brehaut, a few moments ago or before lunch, made some comments about the role of the Scrutiny Committee in these matters, and I see he is not in the Chamber this afternoon, but as a Member of the Scrutiny Committee I just wanted to – *(Interjections)*

1435

A Member: He is behind you! *(Laughter)*

1440

Deputy Green: Where was I? Yes, just before Deputy Brehaut re-entered the Assembly, *(Laughter)* I was saying, sir, that, as a Member of the Scrutiny Committee, I listened to the comments that Deputy Brehaut had made about what Scrutiny was doing about this and, because the Chairman had already spoken, he did not have an opportunity to answer that. So, on his

1445 behalf, as a Member of Scrutiny, I can confirm that the Committee is looking at the possibility of a future work programme being on the effectiveness of the oversight and supervision of the utilities as one of its work streams in the future, subject to resources.

1450 The other issue is, as part of the Scrutiny Committee's submission to the States' Review Committee, one of the points made in that submission is that the mandate of the Scrutiny Committee should be extended to include agencies of Government and the trading companies – things like GEL, the Financial Services Commission, Aurigny, and all the rest of it. I think that needed to be said.

The Bailiff: Deputy Sillars.

1455 **Deputy Sillars:** Yes, please, sir. Thank you.

Sir, I have just found out I have become a grandfather for the first time, to a boy, two minutes ago! (*Applause and interjections*) So if it is a slightly wobbly speech... more than usual!

1460 Sir, I have got two questions really, and I think one pertains to the amendment actually. That is why I am doing it now. First is, if the Guernsey Post Office and the Guernsey Electricity are moved away from CICRA, is it expected that CICRA staffing costs will remain the same or reduce? The point is that the telcos pay, I believe, about 1% of regulated turnover, so will these costs go up if CICRA do not reduce their costs as there are fewer entities to regulate?

1465 I do believe an independent regulator does add value to the telcos, and the consumer, because they take an evidence-based transparent approach to regulations. So, if no staff reductions, then more costs to operating in Guernsey.

The second question is – put them both together – can the Treasury & Resources Minister, when he sums up, confirm that Aurigny will be treated in the same way as both Guernsey Post and Guernsey Electricity?

Just to declare an interest, CICRA is a very large user of Guernsey Post.

1470 Thank you, sir.

The Bailiff: Deputy Laurie Queripel.

Deputy Laurie Queripel: Thank you, sir.

1475 I am going to take Deputy Fallaize's sage advice, sir, and I am not going to rant on about my view in regard to commercialism and regulation. It seems to me that it just adds bureaucracy to the process. We are often told that if you commercialise something it slims down the operation, it makes it more business-like, but it just seems to me you add bureaucracy with... you have to have a Board of Directors that need to be paid, a regulator that needs to be paid. You still have to have States' Department and Committee involvement in regard to various roles they have to play. So I am not going to rant on about that, sir. (*Laughter*) I have given you the truncated, the shortened version there. I am not going to say I would renationalise the whole lot if I had the opportunity. I am not going to say that either.

1485 I just also wanted to endorse the words of Deputy Green, sir. I was going to make those comments myself, because I realise that the Chairman of Scrutiny did not have the opportunity. I think that should provide some comfort for Members who are in two minds about this amendment, because if the work – and I do not want to pre-empt the work – of the States' Review Committee... if they come back and say that, yes – (*Interjection*) Sorry.

1490 If Scrutiny should have an increased resource and a strengthened mandate and they can encompass, or have the ability to scrutinise, the functions and the work, and the operations of the various commercialised entities, such as Aurigny and Guernsey Electricity, I think that should provide Members with some comfort in regard to the oversight and the regulation of these various entities... if they know that Scrutiny can also take a look at these things and provide some scrutiny and investigate the way that they operate.

1495 So, sir, I think I like this amendment and I think I like the arrangement that is being put in
place, because I do not know whether the word 'unconflict' is actually a word... perhaps I should
say, to me, it takes away the conflict for T&R. With the original proposals, I was quite
uncomfortable with those, because it seemed to me that T&R had to do everything. They had to
1500 take care of the shareholders' interest, and they also had to provide regulation, and I was not very
comfortable with that. (**A Member:** Exactly.) But now we have T&R playing one role and we will
have Commerce & Employment playing a different role, which is a strategic role but also
regulation.

My only concern with Commerce & Employment being the regulator, or playing the part of the
regulator, is it seems that this amendment thrusts it upon them. I do not think they were aware
1505 before we started this debate that they would end up playing the role of regulation. So I do have
to ask, if they are going to, in effect, be the regulator, do they have the necessary resource and
wherewithal and the expertise? Can they draw on the expertise they need to, in regard to
regulation? Will they be able to provide competent and satisfactory and effective regulation?

I do not know if a Member of C&E can address that or if Deputy Fallaize feels that he can add a
comment there. Would C&E actually have the ability to provide proper oversight and regulatory
1510 duties? I am a bit concerned about that. So do they have the necessary abilities or would they
have to recruit, or buy in, the necessary abilities and expertise in order to fulfil that role?

I do like the amendment generally, sir, and I do like the fact that the Departments are going to
share... are going to split the roles between them, and I think that is good. I just need to know
1515 that C&E can actually carry out that role in a competent and effective way... and just to assure
Members that, as I say, if the Scrutiny Mandate is – in the next term – extended, I think we can
provide – or Scrutiny can provide – that backstop in regard to oversight and looking at what the
entities and the commercialised business are up to.

Thank you, sir.

1520 **The Bailiff:** Does anybody else wish to speak on the amendment? No.

Deputy St Pier, do you wish to... you have spoken. So you have spoken and Deputy Stewart has
also spoken, so Deputy Fallaize to reply to the debate.

1525 **Deputy Fallaize:** Thank you, sir.

Deputy Laurie Queripel may know the answer to his question more than me, because of course
he was a Member of the Commerce & Employment Department, but I think, probably, the answer
to his question is, I am not proposing that Commerce & Employment should replicate the role, or
replace entirely, the role of CICRA. There would be absolutely no point in taking the regulated
1530 entities out of regulation and then for Commerce & Employment Department to try and do
exactly what CICRA is doing. I foresee a role which is related to the protection of the interests of
the consumer and I think a problem with regulation, as it has been set up over the last 15 years, is
that the role of the regulator has gone way beyond that and, quite honestly, moved into territory
which is better dealt with, I think, through the shareholder function. (**A Member:** Right.)

1535 Deputy Sillars asked about CICRA's costs, in the event that they lose the regulation of post and
electricity. My honest answer to that is I have not got a clue. But, of course, I am not proposing
removing those two entities from regulation, that is being proposed by T&R and Commerce &
Employment; I am simply trying to amend one element of their proposals. So, hopefully, the
Treasury Minister will be able – or the Commerce & Employment Minister, no the Treasury
1540 Minister is replying to the debate, hopefully he will be able – to address that when he does.

Now, Deputy Gollop said the amendment does not address the future role of the regulator,
and he is quite right. But then the amendment does not purport to address the future role of the
regulator, and nor does the policy letter. It is not a debate about the future of regulation in
Guernsey, or the future role of CICRA; it is a debate about whether Guernsey Post and Guernsey
1545 Electricity should remain regulated entities. Yes, I agree with him that Commerce & Employment

has an interest in promoting business but, of course, businesses are consumers of postal and electricity services as well.

1550 He did highlight that the role of the shareholder and the role of promoting consumers' interests are not the same, and that really is the key point behind the amendment. I would argue that, because they are not the same, they are not necessarily best carried out by the same people.

Deputy Perrot said that there has been excessive regulation of incorporated States' utilities, and I tend to agree; and Proposition 1, which tries to move away from that, is protected by this amendment.

1555 Deputy Brouard, I thought, made a key speech because I agree with him about the flaws that were built in to the model of regulation when it was first established and the key, I think, is this: the consumers' interests are not always the same as the public interest. I think there is an assumption running through the regulatory model that they are one and the same, and they are not.

1560 Where States-owned utilities are concerned, I take the view that the public interest can be overseen by the shareholder. I know that not all Members of the States take that view, but I think that democratically-elected governments who own utilities are able to take account of the public interest when they are formulating strategic policy. So I am trying, in effect, as part of this amendment, to isolate the consumers' interest, which does need to be protected by someone other than the shareholder, I think.

1565 But the consumers' interest and the public interest is not one and the same, and I think that is why we have ended up with heavy handed regulation. I think, to some extent, CICRA has tried to run regulated utilities which are in the ownership of the States, and they should not be doing that. That is not their role. The consumers' interest is almost always short term, the consumer wants the greatest choice of services for the lowest possible costs, but that is not necessarily in the public interest and, clearly, T&R as the shareholder has to try to balance those competing interests, and I think they are well placed to do that.

1570 Deputy Lowe said that she cast doubt on the Supervisory Sub-Committee because she said that she did not like quangos, but I do not think that a sub-committee of a States' Committee is a *quasi*-autonomous non-governmental organisation. What we are dealing with here... and I must say I know I am a bit pedantic about this stuff, but I get fed up, I get fed up even when Deputy Luxon does it, when sub-committees of States' Committees are referred to as if they are permanent fixtures of the States, when they are not.

1580 We get this with the External Relations Group. It is sometimes described as the most important Department or Committee of the States. It is not even a Committee. It could be collapsed by the Policy Council tomorrow without the involvement of the States. The Supervisory Sub-Committee is not a quango. It is not a States' Department, it just happens to be the way that the Treasury & Resources Department, for now, have decided to discharge their supervisory shareholder function – and it is not a quango.

1585 The responsibility for discharging the role of shareholder lies with the Treasury & Resources Department or with, I think, the Minister and the Deputy Minister, as the nominated shareholder, but through their membership of the Treasury & Resources Department. They have that role and, quite frankly, how they choose to discharge it is a matter of more or less zero interest to me. I am interested in the outcome. If I do not think they are discharging their function properly then they need to be held to account, but what sub-committees they have set up or have not set up, I think, should be a matter for them.

1590 I urge Deputy Lowe not to reject the amendment because I think the amendment gets her, and others who feel similarly, closer to what she wants than the original Proposition 3 does. I will come back to that in just a moment.

1595 Deputy Stewart and Deputy Brouard discussed the origin of the regulation of utilities. Now, I have a view of what happened. I think what happened is that there was the dot.com boom. It was the days of Guernsey Telecom... could be sold for a billion pounds, and it was pursued by people who were in the States pre-2000, who were ideologically committed to privatisation. If they could

1600 have got away with it they would have privatised Guernsey Post and Guernsey Electricity. They wanted to privatise the utilities and to establish the kind of regulatory regime which exists in the UK. That, I think, is how we ended up in this mess.

1605 This was not a Guernsey solution and it was particularly ill-suited to incorporated utilities owned by the States. It might have fitted better with the telecoms sector, which was privatised – a matter on which I have views which are very similar to Deputy Jones, but I need not labour them now. But I do not think that this model was at all suited to incorporated trading bodies which are owned by the States.

Now, Deputy Dorey is concerned. He said that the amendment contains a direction to the Commerce & Employment Department to promote the interest of the consumer with regard to the incorporated companies, but does not direct them to carry out their role of regulation.

1610 Now, I think probably I have a disagreement with Deputy Dorey on this point, because I think that, with incorporated States-owned utilities, the regulatory role is the protection of the consumers' interest. I do not think that it goes beyond that, because I do not think they should be trying to run the companies.

1615 I can accept that in the telecoms sector the regulator can have a broader role, because there is nobody there to protect the public interest. But where they are States-owned utilities, I think the regulatory role is the protection of consumers' interest, and so it is wrapped up in the direction that is in the amendment to protect the interest of the consumer. Now, I know that Deputy Dorey does not agree with that.

1620 I have to say my own personal view – and it has nothing to do with this amendment really, and I have not discussed it with the seconder, and I do not suppose it will happen any time soon, but my personal view – is that where we will end up is with a regulatory committee of the States which will undertake the role of regulating all the activities of the States which need to be regulated. That is where I think we will probably end up.

1625 Now, that is not where this amendment takes us, but I think that is where we will end up. I could see that that kind of body could develop its regulatory function. It would not be the same Department or Committee that deals with promoting the interests of the economy; it would not be T&R, it would not be any existing body. It would be a regulatory committee. I think that is where we may end up, but I think as an interim measure it is very reasonable for the Commerce & Employment Department to carry out that role, given that their mandate already includes the regulation of utilities and the protection of the interest of the consumer.

1630 Deputy Dorey also said that Commerce & Employment are not independent of Government, and he is right, obviously, but these phrases are thrown around in a way which I do not think quite recognises our rather unique system of Government. Yes, the Commerce & Employment Department is a part of Government, but they are not a part of the Treasury & Resources Department. This is not a ministerial system in which the two Ministers are bound together.

1635 We can realistically expect that the Commerce & Employment Department can do things which may be, at times, in conflict with the Treasury & Resources Department, (*Interjections*) because they are both independently responsible to the States. This is the Government. We are effectively a Committee of 47. The Ministers sat on the top bench are representing Committees which are, in effect, sub-committees of the States, and it is not unreasonable for us to expect one arm of Government to carry out one function and another arm of Government to carry out another function.

1645 I accept that we could not do this kind of thing in an executive system, because the two Departments, clearly, could not be, to any extent, in conflict. But we can sometimes... our system provides us with more flexibility to be able to do this sort of thing, and I think the Commerce & Employment Department can reasonably look after the interests of the consumer, even though they are not independent of Government because they are independent of the shareholder, who is the Treasury & Resources Department.

Deputy Brehaut mentioned BCCI and Guernsey Telecoms. Now, that is true. There is no safeguard necessarily against that happening, in the event that elected Members are sitting on

1650 either the incorporated entities owned by the States or the regulator. But there is a bit of a
difference actually, and this is why I have some sympathy with the Deputy Jones position. The
President and Members of the Electricity Board resigned. Now, if you do the sort of thing that
happened with Guernsey Electricity and BCCI in the private sector you end up in the House of
Lords! (*Laughter*) If you do it in the public sector you lose your job, because the public pressure is
1655 so great that there is resignation, and there is public accountability.

Now, I do not want to overdo that, but I do think that that provides some safeguard. The
public interest here is managed by the Treasury & Resources Department. If they get it wrong we
can hold them to account and we can remove them from office, and I think that does make a
difference.

1660 I would also say to Deputy Brehaut and Deputy Dorey, Propositions 1 and 2 are going to go
through the States today, I believe. I do not think there is going to be any appetite to kick them
out. I know Deputy Inglis has made a speech against them. I think they will succeed. I ask
Members to think of the amendment in that context. If they are going to succeed then please
vote for the amendment, because I think my Proposition 3 in the amendment is better than the
1665 Proposition 3 in the original policy letter.

Now, what happens on Propositions 1 and 2 once the amendment has been, hopefully,
approved is a matter for Deputy Stewart and Deputy St Pier. They will be trying to persuade the
States to vote for Proposition 1 and 2. I will vote for them if the amendment is carried. But I think
the choice is going to come down either to the Propositions as they are in the policy letter or the
1670 Propositions as amended.

So I would ask Members to vote for the amendment on that basis, even if they are sceptical
about the whole package that is being put forward here by the two Departments.

The final point I would make is in response to Deputy Inglis, who made the case that there
needs to be independent regulation of States-owned utilities. Now, I am not sure, actually, that
1675 that is true. I am not sure that that has a logical basis in argument, because we could take the
same view of the Dairy, or States' Works, or JamesCo, or Beau Séjour. They are all commercial
operations, but we do not take that view. There is absolutely no regulation. They are, effectively,
overseen, including to any extent that they are regulated by the same Department which runs
them.

1680 Therefore, I am not sure that there is logic in arguing that a States owned utility needs to be
regulated by an independent regulator just because it has a commercial personality, because the
other parts of the States with a commercial personality are not regulated.

So I just leave the States with that thought. That really relates to arguments in relation to
Propositions 1 and 2, which the amendment does not concern. But the key issue with the
1685 amendment is I am in favour of what the two Departments are proposing, but I think the interests
of the consumer need to be protected in a different States' Committee that oversees the
shareholder supervisory function. That is the basis of the amendment.

Also the point that Deputy Stewart has made is that the legislation is only being suspended,
and so if this model does not work as well as we think it might, then it can always be reviewed. I
1690 do not think that what is being proposed is such a massive radical step that we need to be overly
anxious about it – but I will give way to Deputy Dorey.

The Bailiff: Deputy Dorey.

1695 **Deputy Dorey:** Thank you for giving way.

The difference between some of the other businesses which are States-owned, that Deputy
Fallaize referred to, is whether they are States-controlled, legally controlled monopolies or not.
That is the fundamental difference.

1700 **The Bailiff:** Deputy Fallaize.

Deputy Fallaize: Well, Guernsey Post is not a monopoly. The Universal Service Obligation is, but actually the Universal Service Obligation now relates to only a portion of the market. The rest of it is not a monopoly.

1705 Now, electricity is such a unique example. Electricity is a natural monopoly. We are never going to have another – well, we may one day be able to have some kind of arrangement whereby other companies can set up and provide retail services in electricity, but we are never going to have another wholesaler of electricity because the Island is too small. So I do not think it follows that, because they are a monopoly.

1710 I mean the Dairy is a monopoly in practice. It may not be theoretically a monopoly; it may be possible for someone to set up another dairy. I am not sure they would be terribly well advised after the experiences of recent years, but they could do it. It is, in practice, a monopoly. In fact, we make it a monopoly because we impose legislation which requires milk producers to distribute their milk to the Dairy. So the Dairy is a monopoly, and it is not regulated by CICRA, and if anybody came to the States and proposed that it should be regulated by CICRA I think they would be – well hopefully – ridiculed. I just do not think that the argument stands that because it is a commercial facing organisation that it automatically needs to be regulated by CICRA.

1715 But, for the purposes of the amendment, I think my Proposition 3 is preferable to the Proposition 3 that is laid before the States by the Department, because I think there was slightly too much risk of a conflict of interest. So I would ask Members to support the amendment.

1720 Thank you, sir.

The Bailiff: Members, we vote then on the amendment proposed by Deputy Fallaize, seconded by Deputy Bebb. Those in favour; those against.

Members voted Pour.

1725 **The Bailiff:** I declare it carried.

Does anyone who has not spoken in general debate, wish to speak in general debate? No.

Deputy St Pier, do you wish to reply then?

Deputy St Pier: I do, sir.

1730 I think, I hope, I agree with Deputy Fallaize that I think the mood of the Assembly appears to support the States' Report and the Propositions. However, there have been quite a number of points raised in debate. So I will seek to address... I think it would be worth addressing those for the record.

1735 Deputy Dorey obviously began in the debate with his normal careful analysis of the history, but of course the National Audit Office in 2005 and the Regulatory Policy Institute – the RPI – Report in 2011 were both commissioned precisely because there was a feeling that regulation was not working.

1740 The dominant position of Guernsey Post Limited in 2005 was, of course, in a very different market place, when the letters business dominated that business at that point. Whilst, of course, the position has substantially changed, the letters business is considerably less important to it now – recognising it is important to many businesses, of course. It is now substantially a parcels business, in which there is considerable competition.

1745 Deputy Fallaize asked, if there was competition, why did that mean that there did not need to be regulation, and cited the telecoms industry, which I think is a valid point, but of course the difference is that the telecoms industry, although there is competition in that market, again the telecoms operators do have dominant market positions, and there are significant barriers to entry which do not exist in the same way for the parcels business, for example.

1750 The Regulatory Policy Institute Report called for a more active shareholder which, of course, is precisely what this Treasury & Resources Board have been seeking to do since 2012, but, of course it should not be a surprise to any of us here, sir, that they did defend the case for

regulation. Let's face it, the clue is in the name – they are the Regulatory Policy Institute and, of course, the Memorandum of Understandings that are now being executed between the Department and the two businesses, do provide far more transparency than before. I will return to that a little bit later, in responding to other comments.

1755 I think the regulatory model which began in 2000 – Deputy Brouard referred to the report that kicked that off – is profoundly unsuited to States-owned businesses. It was intended for, and is used elsewhere in the world, for privately-owned businesses and also for those where parts of the market are in separate ownership. So in the case of Guernsey Electricity, where you have a vertically integrated business which owns the power production as well as the entire network and
1760 the right to supply to consumer... is a very different beast to those which exist elsewhere, where the grid is separated from production and supply. Therefore, it is necessary to regulate those markets to ensure fair access and so on, which of course is exactly the reason why you also have regulation in the telecoms industry.

So, for me, the regulation model that was imposed was a classic solution imposed by
1765 consultants and was not, as Deputy Fallaize said, a Guernsey solution which reflected the needs for Guernsey at that time. So I think for those, sir, that are seeking to oppose this Report, the question has to be... and nobody who actually sought to defend regulation has actually been able to articulate what the benefits of regulation have actually been and whether the consumer has, in any way, been better off.

1770 The reference to there being invisible benefits from regulation – I mean it sounds good, but could that be articulated a little more clearly? I know that Treasury does have a reputation for being obsessive about the identification of benefits and benefits realisation, and all of those things which appear so regularly for all of those who are coping with capital projects and so on, but, yes, I think it is not unreasonable that we should be saying, can we identify some clear
1775 benefits that come from having these businesses regulated. I do not think anybody has succeeded in being able to clearly articulate what the benefits have been. For me, invisible benefits are not a good enough reason to retain regulation. It is all about having something that is proportionate to our size, which I think was Deputy David Jones's point.

Deputy Lester Queripel raised a number of very good questions. I noticed, sir, that his
1780 speeches now do tend to consist of many questions to those that are proposing policy, and he has come up with some very good questions, which I will seek to address.

The first one was the impact on CICRA and what it would mean for them. Sir, that was an issue which both Departments did consider, but ultimately it is our view – both Departments – that it is not actually Government's job to defend or underwrite CICRA's business model. They need to be
1785 an appropriate size to do the work that they need to do – and I will come back to Deputy Sillars' question later. So it is also clear that they should only be charging the telcos for the work that they do on the telcos. So they should not be seeking to pass on all their costs.

In relation to paragraph 15.4, which was the question of them being deemed to be regulated for tax purposes in order to ensure that they remain taxable at 20%... that, of course, the term
1790 deemed, is very much a tax technical term – one which is simply used to ensure that a state of affairs exists that enables a certain tax treatment to result. So it means nothing more than that, and I hope that addresses Deputy Lester Queripel's question on that point.

He also questioned whether the objectives identified in 4.13... and also whether the Sub-Committee was involved in the scrutiny of strategies, and how that would differ from the situation which exists now. I would say to him he is absolutely right to ask that question and the answer is that that is exactly the role that the Sub-Committee is performing at the moment. It was set up, as
1795 I say, about 18 months or so ago in anticipation of this Report coming forward and, therefore, if you like, to start discharging the active role of the shareholder. So I would not expect it to differ before and after this Report. The significant point, of course, is that those things were not being undertaken in any structured or disciplined way before the creation of the Sub-Committee.
1800

In terms of holding the companies to account, of course, that is precisely the purpose of the Memorandum of Understanding. He did question the expertise of those on the Sub-Committee,

1805 but I think clearly his question was whether there was sufficient expertise on the Sub-Committee to perform the role of regulator. That was quite clearly his question. I think a number of other people picked up his question and interpreted it as questioning the expertise of the Sub-Committee to be performing their other roles.

1810 Again, it is a very valid question and it has been recognised that it may well be necessary for the Sub-Committee to commission specific pieces of work – for example, benchmarking – that would assist their supervisory role of the companies. And that actually is not terribly different to the role that CICRA would perform. CICRA do not have all the expertise in-house currently, and indeed that is precisely what they would do – they would commission additional help in particular areas where they do not have the expertise. I do not think there is a significant difference there actually, in that particular case.

1815 He also asked about the extant functions of the regulator and where they would sit, and I think, sir, that that is adequately addressed in the Report, in section 7; and one example that is given in paragraph 7.4 is the ability to exempt, from the requirement to be licenced, certain activities within the electricity and postal sectors. Perhaps the best example is if there were some kind of solar production on the Island that was of more than a micro scale, that was there for supplying into the grid, that was not part of Guernsey Electricity, there would be a need to licence that operation to sell into the grid. And what we have identified in the Report is that activity, that licensing activity would need to be undertaken somewhere, and what we have said is it would need to be undertaken from within Commerce & Employment, which actually sits quite well with the Fallaize amendment, which we have just passed, and recognising the existing mandate of Commerce & Employment.

1820 In terms of consultation – again, a very valid question – again there is a section in the Report which deals with the extent of consultation. The question, of course, is whether the public were consulted. I think the view of the Joint Boards was that they were seeking to consult with the representatives of the consumer – namely the Electricity User Council and Post Watch – and again, of course, that is referred to in the Report.

1830 In terms of where the costs will be spread and whether it will be even... again, a very valid point to pick up. That has not been addressed in the Report. It is not my expectation that the costs will simply be split four ways. I think we will have to find some way to split it to represent fairly the workload between the different companies, which I would expect to be different.

1835 In terms of the role of the Post Watch and the Electricity User Council, it is our expectation that those bodies should be more active. That they have become largely moribund, notwithstanding that they were set up with the assistance of the regulator. They have not been active recently and that, of course, has been during the period of regulation. But, again, the Report, in section 4.24, does refer to the obligation of the companies to continue supporting and maintaining their respective independent user bodies to supplement existing methods of communication with their customers. And that is also specifically referred to in the Memorandum of Understanding in the shareholder objectives:

'The company will establish and maintain an independent user council to assist with its communication with customers...'

– and so on. So that has very much been a feature of our role as shareholder – to ensure that happens.

1845 Deputy Kuttelwascher referred to the business process review which is being undertaken by Guernsey Electricity and, again, I would observe that that process has been driven by management's recognition of shareholder objectives, and to deliver the objectives which we have now clearly set for them. It has not been driven by the regulator.

1850 Deputy Bebb asked what the barriers were to the shareholder becoming more active. Again, a very valid question. There are not any barriers. The point was that they were largely self-imposed, in that, certainly for the first period of commercialisation, I would suggest and I think Deputy Stewart referred to it earlier – there was almost a conscious decision to be hands-off and to leave

1855 matters to the companies being overseen by the regulator. So there was not a recognition that there was a separate and active role for shareholders. I think that what has changed is the recognition that – again identified by RPI in their report – the shareholder should, quite rightly, take a more active role.

1860 In terms of other forms of regulation, I think the point, again, was very well made by Deputy Fallaize in his closing speech on his amendment – is whether there is a requirement for an independent regulator of a States-owned utility. And really what is the significant difference between this situation and others is, ultimately, we have to remember that these are States-owned run assets.

1865 He also questioned where anywhere else in the world you had a situation where the regulator was also the shareholder and the lender and charged fees. I cannot think of one. However, of course, in the private equity world it is not unusual for a shareholder to also be lending and also charging fees, so I think there is a triangulation of some of those roles in certain commercial situations. But I think the key question here is: do we need to have an independent regulator for States-owned assets? Deputy Soulsby referred to greater accountability and I entirely agree.

1870 Deputy Gollop identified the uncomfortable choice, which I think again was reflected by other speakers, about the balance of interests between the commercial interests of the States as shareholder, and acting in the best interest of consumers as well. Again, I think Deputy Fallaize addressed that, in saying that of course the States are in the best position to seek to juggle those difficult balancing interests, given their overarching representation of the community.

1875 Deputy Domaille also questioned the role of the User Councils, and I think I have probably addressed that by the references that exist in the MOUs. I think the point also about who can represent the consumers has now been clarified by the Fallaize/Bebb amendment, but I think we should be quite clear, as Deputy Perrot said, that we are all here representing the community, and not simply a narrow interest. I think that that is reflected, quite clearly, also in the Memorandum of Understanding by the very clear key performance indicators which have been set, many of which are for the consumers' benefit. So I would draw Members' attention to the key performance metrics for electricity on page 438, and those for post on page 453. Certainly, in fact, the largest section on page 453 is around customer metrics.

1880 Deputy Lowe said she had a dilemma between, if you like, supporting CICRA and these Propositions. I am not sure I am going to be able to convince her, but nonetheless she said she did not like quangos. Well, if CICRA is not a quango then I do not know what it is. I think it very neatly fits into the definition of a quango.

1885 In terms of accountability, of course, accountability through the Sub-Committee remains with the Treasury & Resources Board. I think that is quite clear. I mean, clearly, her constant – as she admits herself – objection to having non-States' members involved in this sort of oversight is clearly central to her objection here. But I would suggest, sir, that there is more accountability through this methodology than there is through CICRA at the moment. For which, there is no direct accountability in this place.

1890 Certainly in terms of the question of representation, whilst we may be the elected representatives, of course, we may not have, in this Assembly, any relevant experience that is particularly of much use. She did identify some general commercial experience which exists in this Assembly, but I think, I strongly believe, that we can benefit from drawing in wider experience for outside this Assembly in certain cases, and this is one of them.

1900 She identified the Vale power station and the various noise issues which have existed. Of course, the regulator is not in a position to do anything about that issue, so it has added nothing particularly to solving those challenges which exist. She did identify one of the issues in which matters remain reserved to the shareholder, and in particular those which fulfil social, economic or other environmental objectives and, of course, our action in light of the problems was to agree an amendment to the Memorandum of Understanding to reflect the requirement to adhere to environmental standards and so on. So we have responded by changing the shareholder objectives that we expect the Guernsey Electricity to adhere to.

1905 I think Deputy Bebb and others have also quite clearly, and rightly, identified the fact that this is merely a suspension of the legislation and that Commerce & Employment must report back within three years, which will provide an opportunity to re-activate it, should it have been deemed to fail.

1910 Deputy Conder asked how that was being achieved, because that is not clearly identified in the Propositions. What I would refer him to is Proposition 1, which says that the States direct that the two companies should be made exempt from the licensing and regulation provisions. In other words, the licensing and regulation provisions will continue, but there will simply be... the companies will be exempted from those applying to them, which then ties in to the Proposition 4, which is the need for the States to direct Commerce & Employment, in liaison with the Law Officers, to achieve that. So those Propositions have been drafted on the back of the advice of the Law Officers on how we can suspend the legislation.

1915 Clearly, one of the options we did consider was repealing the legislation entirely. That had all sorts of other consequential issues that would need to be managed, but also has meant that re-imposing the regulation would have been a much harder feat to achieve. So, I do not know whether the Procureur wishes to add anything further to that, but I am delighted –

1920 **The Bailiff:** Deputy Conder.

Deputy Conder: I thank the Treasury Minister for giving way.

1925 Could I ask: does Proposition 5 perhaps also reflect, in as much as the fact that the Department will come back to the States, and would that be the opportunity to consider whether or not the suspension would be permanent, continued, extended, for a longer period?

1930 **Deputy St Pier:** I think that is exactly right. Yes, that will provide the opportunity, at that stage, for Commerce & Employment to recommend the re-introduction of the regulation if it saw fit, or indeed, it may take the view that at that point the legislation should be repealed entirely. That is a decision quite clearly for another day.

1935 In relation to the shareholder objectives – and I think Deputy Gollop referred to this, in section 4, paragraph 4.41 – clearly, if this were just a commercial company the shareholder objectives would probably read something like, ‘To ensure that the company delivers cost effective services, and that the company operates efficiently,’ or something along those lines. The shareholders’ objectives, as summarised in this section and more fully in the Memorandum of Understanding, clearly have recognised the wider responsibility for the States. In identifying the need to respond to customers’ needs, but also, importantly, the second section which was to seek value and appropriate return, which is the commercial bit, that provides best value for the Guernsey economy, and also striking a balance with the enabling role it plays in supporting the Island and also its social, economic and environmental objectives. So that is quite clearly a recognition of the much broader set of objectives than would exist for a purely commercial company.

1940 In relation to the dividend policy, Deputy Trott raised that question – and a very good question too. I think there should be some management of expectations, in the sense that clearly since this process began two years ago, the regulators, CICRA’s, role has diminished in relation to both post and electricity, and therefore the costs which they have charged for the licence fee for both of those entities have reduced.

1950 I think that has been, I would suggest, sir, a direct result of this process in terms of perhaps they were sensing the direction of travel. But, of course, I think we should also give recognition to the special dividends which have been paid from Guernsey Post in the last couple of years. In terms of the dividend policy going forward, that will be informed by the review of the capital structures of all our trading entities which, I am sure Deputy Trott will remember, we kicked off through the Budget process last year, and that work is now being undertaken. That will inform us and provide a better policy base from which we can determine future dividend policy.

1955 It is also perhaps worth remembering that in relation to Guernsey Electricity, the costs which
were incurred by the cable fray in 2012, of course, have had a significant impact on the trading
performance of that business in the last couple of years, and that needs to wash through, I would
suggest, before we, again, can determine what is an appropriate dividend policy for that business
in the future. Sir, very much a matter that needs to be kept under review, which I think was, in
1960 essence, Deputy Trott's point.

Deputy Trott: Yes, it was, sir – thank you for giving way – and very well answered! (*Laughter*)
The Treasury Minister, in his summing up, has made great play of the fact that there are no
tangibles with regards the benefits of regulation. What he is now telling me in his answer is that
1965 we may not see any tangible benefits of the absence of regulation as a consequence of other
factors, and that is clearly not a particularly good answer.

Deputy St Pier: It is perhaps a point of difference over the magnitude of the benefits that will
be achieved by deregulation and simply wishing to manage expectations; because I think in his
1970 speech, sir, he referred to significant benefits that would feed through, and there is clearly... I think
there will be some benefits, cost savings – both directly in terms of the licence fee, but also in
terms of the internal management costs for those businesses. But I think we should manage
expectations, in that the cost burden of regulation on those businesses in 2015 is considerably
less than it was in perhaps the late 2000's when it was clearly running at six or, in some cases,
1975 seven figures a year; and I think that situation has changed, and that will obviously feed through
to the dividend policy.

In relation to... I think Deputy Le Tocq certainly referred to it as an improvement and the
current regulator being a sledgehammer, and I would agree with that. Deputy Green also made
the point that this is merely a suspension.

1980 In Deputy Sillars' questions, again hopefully, I have answered that earlier in relation to CICRA's
costs – that those costs should only be those that relate to their discharge of their role in terms of
regulating the telecoms companies, so they should be resizing. CICRA should be resizing their
business model to reflect the changes which may be as a result of today's Resolutions, if passed,
and then passing on those costs accordingly. Also in relation to Aurigny, Aurigny is overseen in
1985 the same way by the Supervisory Sub-Committee with the same set of disciplines and as, too, is
JamesCo, the owner of the two tanker ships.

Then, finally, Deputy Laurie Queripel referred to the resources to regulate existing within
Commerce & Employment. Again, a valid question, but one that I think that has been recognised
in the Report in the need to ensure that there is sufficient resource to discharge the extant
1990 functions, which are referred to earlier in section 7, and also to the extent that there are any other
additional regulatory functions.

There will be need – and I think I have acknowledged that earlier, sir – to ensure that those
resources are acquired for the Department with the appropriate skills, but that again, sir – and I
would say to Deputy Laurie Queripel, as I said earlier – is no different to CICRA's position at the
1995 moment; in that they do not have all of those resources and expertise immediately at their
fingertips, on any given day for any given issue, and they do need to import them as required. So I
do not actually see Commerce & Employment's position being significantly different from that
which exists with CICRA at the moment.

Sir, I do hope that I have responded at least to all the key points which have been raised by
2000 Members, and I do hope that the Assembly will support the Propositions.

The Bailiff: Members, there are five Propositions on page 464, although Proposition 3 has
been replaced by the new Proposition 3 proposed in the Deputy Fallaize/Deputy Bebb
amendment. Does anyone wish to vote separately on any of the Propositions or can we take them
2005 altogether?

We will take them altogether. Propositions 1 to 5 as amended.

Deputy Dorey: *Appel nominal*, please.

2010 **The Bailiff:** You would like an *appel nominal*. An *appel nominal* then on Propositions 1 to 5 as amended.

There was a recorded vote.

The Bailiff: Well, Members, we will get the formal result of that shortly. I think it was carried. But we will move on to the next debate. Greffier if you could call Article VI, please.

COMMERCE & EMPLOYMENT DEPARTMENT

VI. Spectrum Charge – Annual charge to telecommunications operators – Article withdrawn

Article VI

The States are asked to decide:

Whether, after consideration of the Report dated 18th December, 2014, of the Commerce and Employment Department, they are of the opinion:

- 1. To approve the introduction of an annual spectrum charge on the relevant turnover of telecommunications operators holding a Licence issued by the Guernsey Competition and Regulatory Authority (GCRA) for the provision of Licensed Mobile Telecommunications Services within the Bailiwick of Guernsey, at the rate of 2% of said turnover, payable from 2016 onwards.*
- 2. To approve that the proceeds from the spectrum charge be allocated to States of Guernsey General Revenue income.*
- 3. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.*

The Greffier: Article VI, Commerce & Employment Department – Spectrum Charge

2015

The Bailiff: Deputy Stewart will open the debate.

Deputy Stewart: Mr Bailiff, fellow States' Members.

2020 I think some debate around this, particularly in the media, has perhaps over complicated it. So I am going to break it down very simply and talk through some of the issues. But the questions we have to answer today in this debate are very simple indeed. Do we, as the States of Guernsey own something, and if you agree with that, the next question is should we be charging for it? Quite simple in my mind. Do we as a States of Guernsey own something, and should we be charging for it? (**Deputy Brehaut:** Car park.) (*Laughter*) Well, exactly. (*Laughter*)

2025 We will draw a parallel to that, Deputy Brehaut, through the Chair. Here is the other thing. I do not want to get into: is it a tax, is it a charge? Is it a tax, is it a charge? I have kind of watched this happen and laughed a bit on the side lines. It does not matter. Call it what you will. Is it a tax, is it a charge? I do not know. I asked the Procureur. Even the Procureur could not make up his mind. Whichever way you want to look at it. I do not think that is an issue. We come back to: do we own something, should we charge for it? You can argue tax, charge, whichever way you want. The main question is, is it justified and is it fair?

2030 Now, we have three telcos here and I will mention all of them by name, but one in particular has done lobbying, so out of the three telephone companies involved in mobile phones in this

2035 Island – Airtel-Vodafone, JT and Sure – Sure has lobbied very intensely, and that is up to them and that is, indeed, their right. But to date I can say that not one parishioner has contacted me about this spectrum charge – not one. A lot have contacted me about the state of their broadband. A lot have contacted me about being charged still, because it still rankles with the Guernsey public, being charged for their paper bill. But I can say honestly, no one has phoned me up to quiz me about this charge.

2040 Now, Sure have tried to call this GST. In fact, the Chief Executive of Sure said we are going to put a line in our bill and we are going to call it the Guernsey Spectrum Tax. Well, fine. Guernsey Spectrum Tax and this sort of thing, in my view, is a vain attempt to motivate the public into, I do not know what, maybe another North Beach demo – who knows. But this has not happened.

2045 Sure is the company – and I mentioned this – that overnight started charging customers £1 a pop – that is £1 every single month for their bills on paper. Now, to me, with a lot of companies I deal with, good corporate behaviour, that I would have expected, would have been to offer those a discount who went paperless not charge overnight to those who maybe did not have the opportunity to go online and avoid that charge.

2050 So what is this spectrum charge for? Well, quite simply, it is a property right. It is a property right. A property right owned by the States of Guernsey. It is actually an infrastructure property right. The airwaves, or spectrum, is just as real as copper, fibre, or any other mechanism that is sub-let or sold on to make money.

2055 Many Deputies have spoken to me about the sale of Guernsey Telecom back in 2002, and shared with me that (a) they thought we made a huge mistake, and (b) we effectively, in their view, gave it away; and there are a lot of Members that have said that to me since I have been here. So here is a chance not to give away another piece of telecom infrastructure for free. In the UK the spectrum was sold for £2.3 billion – £2.3 billion – and there are very, very few jurisdictions around the world that have given away their spectrum for free.

2060 Now, in the arguments that have been circulated to you in the lobbying from Sure, they have said why not charge taxes to broadcasters? Well, I could give you a huge amount of reasons, but I am going to keep this speech reasonably brief. The fact of the matter is what a telephone company does is charge the consumer for using the spectrum – our spectrum – through their equipment. Pure and simple: they re-sell our spectrum.

2065 Taxis, Police and others use spectrum as an ancillary to their business. There are fees that they do incur because they have to pay them to Ofcom, who we do the licensing with through Home. But they do not re-sell the spectrum. Broadcasters have tight contracts that, in return for not very scarce broadcast spectrum, it is not particularly scarce on broadcast, but it includes in their contracts, promises of performance, to deliver public service such things as how much news they have to deliver, charity events – all these sort of things are part of their contract at a cost to those companies which they, through their contract with Ofcom and through the States of Guernsey, have to deliver.

2070 However, there is one commonality with broadcasters, in that, to fill their programmes and entertain and to make their money out of advertising, they use copyrighted works. Music mainly – so the owners of that right – that copyright – charge the radio stations for the use of that music, just as we want to charge for our property right when the telephone companies re-sell our spectrum.

2075 Actually, at 2%, it is cheap. As a commercial radio station – and irrespective of if you are a commercial radio station making a profit or not – you are top sliced on 85% of your turnover at between 5% and 10.25% of your revenue. That is what the owners of the music rights charge for.

2080 Just as an aside, I think one or two Members maybe said that I have a conflict. I am not – and I make it quite clear here – I am not involved with any broadcaster of any sort, at the moment, even as a shareholder or as a consultant, or in any way, shape or form. This year I will be judging the National Commercial Radio Awards – that is *pro bono* and something that I was invited to do. I have no commercial connection with any broadcaster or telephone company.

2085 So the brouhaha that Sure have created, you would think we had chopped their legs off. This is a 2% charge, reduced from 5% after we listened to the comments in the consultation – and, by the way, we have not just done a consultation, we have been in constant dialogue with the telcos. Sure say they will charge it on – this 2%. Well, fine, fine, that is their prerogative. I am not going to tell them how to run their business.

2090 So they are going to charge it on and maybe the other operators charge on this 2%, so what difference would that make to an average mobile phone user on an average contract? Well, the cheapest contract is £16 from Sure, on their website, so let's take a middle deal, which probably most people would be on – £21 a month. If the whole charge is passed on, that is a difference of 42p a month – *42p a month!* – to most mobile phone users.

2095 Now, let's put that whole 42p into context. Sure's roaming charge per minute in the UK is 35p – *yes 35p!* – for one call from the UK. And for the rest of the world – say France or Germany – 70p a minute – just for a minute. Just one text from the UK on your Guernsey mobile phone is 20p and data is a whopping £1.50 a megabyte.

2100 I will tell you where this whole 42p then sits with all this, if they want to charge it all on. One of the staff members in my wife's company left her data roaming on in the UK for one evening by accident. She is on iPhone, so in the background it is downloading and updating apps. The bill over and above her normal usage was £70 – *£70!* – and that is an area that I can assure Members, Commerce & Employment is looking at roaming charges and these areas, and being able to use your phone when you are abroad.

2105 In comparison to this 35p a minute from the UK, £1.50 per megabyte – which is nothing in data terms nowadays – texts at 20p, this 42p a month – if they want to charge it all on – pales into insignificance. In fact, I took Deputy De Lisle over to the Prince of Wales at the last meeting for two pints of Coca Cola – that was £5.20. Over a whole year this will only be £5.04.

2110 Let's have a look at these poor hard done by telcos. These poor hard done by... Let me quote from a press statement made to *The Guernsey Press* back in this February from Sure. And I quote:

'The parent company [Batelco] revealed in its financial results that revenues at Sure across Guernsey, Jersey and the Isle of Man were 3% ahead of forecasts.'

And I am very pleased for them, because I want Guernsey companies to be successful. In the final quarter of 2013 they were 3% up – oh dear – then they go on to say:

'Increased roaming charges and improved handset sales were responsible.'

Well, I am not surprised, at the rates they charge.

Revenues on a like-for-like basis saw 3% overall growth in mobile services, 11% growth on broadband and TV services and 57% growth on wholesale revenues.

Batelco, who are the parent company based in Bahrain, said:

'The purchase of Sure and other cable and wireless communication companies in April for US\$570 million has been a great success.'

2115 **The Bailiff:** Deputy Stewart, I am reluctant to interrupt your opening and to rein you in a bit, but we do need to be a bit careful about what we say about commercial enterprises who do not have any opportunity (**Several Members:** Hear, hear.) to reply to this debate.

I am looking at the Propositions and I do think you are going beyond what is in the Proposition.

2120 **Deputy Stewart:** I am trying to put the 42p into context, sir.

The Bailiff: Well, I think you have done that.

2125 **Deputy Stewart:** I have probably done that.

The truth is mobile data is growing. There is more and more data being transmitted, and in fact Ofcom suggest that mobile data will grow 80-fold by 2030. More mobile video, and they may even have to move digital television in the UK to actually make room for all of the demand for mobile data.

2130 So, in many ways, there are more and more opportunities for telephone companies to make money from spectrum and, in many ways, it is more important than the fixed infrastructure under the ground, and with the spectrum the States of Guernsey currently owns it.

I want all of our Guernsey companies to be successful, and the telephone companies are, but giving the spectrum away is like giving North Beach Car Park to National Car Parks and saying there you are, you have North Beach Car Park, charge what you like, and we as the States of Guernsey will not take a cut. That is what it is like. There is no difference in my mind in these scenarios. One is a property and one is property right. We certainly would not be giving North Beach Car Park to National Car Parks, to charge what they like and not take a percentage of the revenue or a cut of the profits.

2140 I just want to cover the other fees that are charged to telephone companies. They are in the Billet, but the other fees charges from Ofcom... £8,000 for five MHz block. Typically, companies have about 20 meg on various frequencies. Sure and JT, in the consultation they pay about £50,000 a year. These fees are used by Ofcom to manage, for example, the spectrum internationally, and it is a very complex piece of work, because it is ever changing to account for this massive growth of data and usage.

2145 The only other costs are those paid by the telcos to apply for the licence and these cover CICRA's cost to carry out the due diligence around the licensing process; and I was pleased that CICRA reduced the charges down on 4G – as you can see from the Billet – to £50,000 in this round.

2150 None of those above charges are for the spectrum. Radio stations, taxi operators and others pay Ofcom and application fees. And, of this money that we will raise in this 2% charge, if passed... we estimate that to be about £350,000. That was the figure that was supplied to us by CICRA. It is not coming back to C&E. This is not some sort of hypothecation, this is not being ring fenced for some C&E pet project. This will be coming back directly to general revenue to fund the essential services of the States.

2155 So, in a nutshell, do we own something, should we charge for it? Do you agree we have a property right? Do you agree this is fair and a reasonable charge for this right? Even if companies charge it on, we believe it will have little or no market impact, as the actual increased cost to consumers would be *de minimis* compared to the other charges from the telephone companies.

2160 Sir, I ask Members, please, support Propositions 1 to 3.

Article III:

Carried – Pour 32, Contre 5, Ne vote pas 0, Absent 10

POUR

Deputy St Pier
Deputy Stewart
Deputy Gillson
Deputy Ogier
Deputy Trott
Deputy Fallaize
Deputy David Jones
Deputy Laurie Queripel
Deputy Le Lièvre
Deputy Spruce
Deputy Collins
Deputy Green
Deputy Paint
Deputy Le Tocq
Deputy James

CONTRE

Deputy Lowe
Deputy Dorey
Deputy Inglis
Deputy Brehaut
Deputy Lester Queripel

NE VOTE PAS

None

ABSENT

Deputy Le Pelley
Deputy Duquemin
Deputy Adam
Deputy Perrot
Deputy Wilkie
Deputy Burford
Deputy Luxon
Deputy Hadley
Deputy Sherbourne
Deputy Storey

Deputy Brouard
Deputy De Lisle
Deputy Soulsby
Deputy Sillars
Deputy O'Hara
Deputy Quin
Alderney Rep. Jean
Alderney Rep. McKinley
Deputy Harwood
Deputy Kuttelwascher
Deputy Domaille
Deputy Langlois
Deputy Robert Jones
Deputy Le Clerc
Deputy Gollop
Deputy Conder
Deputy Bebb

2165 **The Bailiff:** Before I call the first speaker, I can call the result of the voting on Article II – the five Propositions as amended in Article III in the Billet: 32 votes in favour, 5 against. I declare them carried.

Deputy Lester Queripel is first on his feet, then Deputy Kuttelwascher and Deputy Bebb.

Deputy Lester Queripel: Thank you, sir.

2170 Sir, I cannot possibly support these proposals. The companies will not be able to absorb this new charge, so they will have to pass it on to their customers. That will be yet another new charge for our fellow Islanders to add to an accumulation of charges, and I think to coin a well-known phrase, sir, 'enough is enough'.

2175 There is an element of hypocrisy attached to these proposals, in my view, and the reason I say that is because Deputy Stewart has claimed to be a supporter of the 'Enough is Enough' campaign in previous debates. In fact, he even sank so low as to tear the Billet at the North Beach Rally in a rather petulant display of pseudo-solidarity with all the other supporters of the campaign.

Deputy Stewart: Sir,

2180 **The Bailiff:** Deputy Stewart, are you asking him to give way, because he has not agreed to give way yet.

2185 **Deputy Lester Queripel:** No, I refuse to give way, sir. I have had enough of Deputy Stewart in the last three years! *(Laughter)* It is my turn to speak now, sir. He will have plenty of time to speak later.

2190 The purpose of that campaign, sir, as we all know, is that the people who support it wholeheartedly object to the States bringing in new charges and taxes. And, hey ho, what have we got here? One of their own supporters proposing a new charge! Surely, sir, one cannot find a better example of hypocrisy than that.

Deputy Stewart: Sir, point of correction. It was in 2012 in June when I made it public that I thought it was right that we charge for spectrum. It is not hypocrisy at all, sir.

2195 **Deputy Conder:** Point of order, sir. Is 'hypocrisy' a parliamentary term? I believe it is not in other parliamentary... I would ask that term be withdrawn.

The Bailiff: Deputy Stewart. *(Interjection)* Sorry, Deputy Lester Queripel.

2200 **Deputy Lester Queripel:** On that basis, sir, I will gladly withdraw it.

The Bailiff: Please continue.

Deputy Lester Queripel: Thank you, sir.

2205 Sir, I think it is absolutely vital for us all to bear in mind, these companies do not make excessive profits, they already pay 20% corporation tax, they pay a quarter of a million pounds for a 3G licence, they pay £50,000 for a 4G licence, they pay up to £100,000 for Ofcom licence fees, they pay TRP on their properties, and here we are asking them to pay even more.

2210 Not only that, but C&E are asking the companies to get into the spirit of the charge. In other words, 'We are asking you to pay the charge that will reduce your profit margins considerably, but we ask you to accept the charge in good grace, get into the spirit of it, put on a happy face, be good little boys and girls and smile as you pay the bill.'

2215 How unrealistic is it to ask a company to get into the spirit of a new charge, even though they know it is having a considerable impact on their profit margins? So not only is it unrealistic, but it also shows a complete lack of understanding of the sort of impact new charges like this have on companies and the people of Guernsey.

If these companies did make excessive profits, then surely CICRA would be down on them like a ton of bricks. In fact, sir, in my opinion, this Report and these proposals undermine the work and the duties of CICRA.

2220 One more point I want to make on that is we have all seen the accounts of Sure, and those accounts tell us the company make approximately £400,000 a year profit on their mobile services, and if this charge is brought in that profit will be reduced to £143,000. Sure tell us that kind of profit margin is unsustainable.

2225 We have to bear in mind, sir, these companies need to make a decent profit to enable them to invest in future infrastructure. Future infrastructure that not only the businesses of our Island needs, but we as a Government desperately need – our Health Department, our Education Department, to name but two – and the people of Guernsey desperately need.

2230 If that is not enough, on top of that, we are told in paragraph 4.5 on page 545, C&E can increase the 2% charge if they consider the increase to be appropriate. So in the future they could quite easily say we need to make more money from this so we will increase it to 3%, 4%, 5% Of course, the companies will have no choice but to also pass that increase on to their customers.

Sir, when Deputy Stewart stood as a candidate in the election for Commerce & Employment Minister, he said in his election speech, and I am quoting from paragraph 1,485 on page 77 of *Hansard*:

'The key to growth will be developing new sectors.'

In paragraph 1,535 on page 78, he said

'It is the time to develop new and exciting industries for the 21st century. This is Guernsey's time and it is my time to serve the Island as Commerce & Employment Minister.'

2235 He said that, sir, when we were already in a financial crisis. He knew full well what he was taking on. In effect, he was promising us that he was going to pull us out of that financial crisis by developing new and exciting industries. He was promising to identify and deliver much needed new avenues of major income, that would benefit the community; and here he is proposing a new charge that will cost the community and cost businesses.

2240 During the last debate he said, and I quote:

'There is no-one who is going to deliver you economic growth on a dwindling working population.'

Sir, the dwindling working population is not the issue. The issue is he promised to develop new and exciting industries when we were already on that downward slope that we were on at the time, and he has not really done so, as far as I can see – I am sorry to say – and he has had three

2245 years to do so. In a sense, he is rather scraping the barrel here, I feel, in an attempt to redeem himself.

So his Department's mandate is:

'(a) To advise the States on matters relating to the creation of a dynamic and diversified economy through the promotion and development of commerce and industry... [and to be] responsible for:

i. Promoting the interests of all sectors of the economy including:

...non-financial services and e-business.'

But, surely, sir, an essential part of our economy, and the golden thread to all of that, is telecommunications.

2250 Sir, I do not doubt that Deputy Stewart and his Department work hard at their jobs, but they seem to have taken their eyes off the ball somewhat. I am sorry to say I have been losing faith in Deputy Stewart for some considerable time now.

2255 **The Bailiff:** Deputy Queripel, can I just remind you of the requirements of Rule 9 of the Code of Conduct? You must treat other Members with respect and courtesy at all times. He is merely the Minister. If you wish to say you are losing confidence in the Department of Commerce & Employment that would be one thing, but to personalise it to the Minister is in danger of breaching the requirements of Rule 9.

Deputy Lester Queripel: Sir, I apologise for that.

2260 Sir, I think I will draw to a conclusion. I will sum up, sir, then if I may, by saying that I think these proposals deserve to fail. I think the message the Assembly needs to relay loud and clear to the Department today, and the Minister, is rather like the message the teacher often writes in a school report, 'You really must do better!' and I think that is the message we need to put across to the Assembly today, sir, 'Come on, Deputy Stewart, and your Department. You really must do a lot better than this!'

2265 Thank you, sir.

The Bailiff: Deputy Kuttelwascher.

2270 **Deputy Kuttelwascher:** Thank you, sir.

2275 Sir, the first thing I challenge is the assertion that somehow Guernsey owns this spectrum, and it has some property right to this spectrum. I am not quite sure where that comes from. The spectrum is nothing more than a spectrum of radio waves. What does happen is that the use of those radio waves is controlled internationally, for rather obvious reasons. Ofcom controls the allocation of the spectrum and we are allocated part of this spectrum, not only in the amount of spectrum – that is the range of frequencies – but also in the power that you can put into your transmitters, because you can interfere with other usage in France and England and everywhere else.

2280 So I do not, for one minute, believe we own this spectrum, and we do not have any right to the spectrum. All we have been given is, if you like, a licence or permission to utilise radio waves at a certain frequency. It is nothing to do with North Beach Car Park or anything else that we own.

When I first read this Report I thought, dearie me, shame about the technical accuracy of it. In section 1.1 it describes the spectrum as:

'... a finite natural resource.'

It says it again in 2.1:

'...a finite natural resource.'

2285 And in section 3.5 it calls it:

'..a limited natural resource'

2290 So it has contradicted itself. Alright, it is not a finite resource. Think of coal or oil as a finite resource. You burn it, it is gone. Electromagnetic spectrum, or electromagnetic waves, radio waves, light waves, gamma waves, are a form of energy and, those who still remember their physics lessons, energy cannot be created or destroyed. You can transfer one form of energy to another.

So it is certainly not a finite resource. So I think that is an unfortunate technical inaccuracy, which I find irritating, because when people read this they think, 'Who wrote this? Why didn't they ask somebody who knows anything about radio waves?'

Then it says in section 2.3:

'The term 'radio spectrum' refers to that part of the electromagnetic spectrum which carries radio waves.'

2295 That is nonsense. The spectrum is the radio waves; they do not carry radio waves. There is no magic facilitator out there in the ether called the spectrum which carries radio waves. It does not exist. The radio waves are nothing more than what they are, and the spectrum just refers to these certain frequencies. So a very disappointing issue.

2300 I made contact with board members on all three companies. I spoke for an hour with the CEO of Sure, I had a very detailed e-mail response from the CEO of Airtel Vodafone and I had a one-hour conversation with the Chairman of Jersey Telecoms; and it was interesting. Most of them, I have to say, referred to what appeared to be a hostile approach by Commerce & Employment, which actually was demonstrated today in the opening speech, and the intervention of the Bailiff. I find that unfortunate. I think it is regrettable.

2305 The responses were varied, but there was a sort of common thread and one of them was, 'Well, why not just be honest – call it a GST and just stick it on like they do in Jersey? What are you playing at?' There are other suggestions that maybe you could charge a licence fee for a radio transmitter, which happens to be anything with a sim card in it or whatever.

2310 But the thing that got me then, was this argument of whether it is a charge or a tax. We have in place rules for all charges and have to reflect the cost of providing the service – like in planning, whatever – so I do not think it is a charge; it does not reflect the cost of anything. It is more of a tax because it is going, as it suggests, direct to general revenue, and, to me, that then becomes more of a budgetary issue. So I would suspect that the way to deal with, if you are going to charge anything, is to do it at Budget time, and bring it in then, because it will accrue to general revenue according to this. Now, I will make reference to the Treasury & Resources comment on this, because people say, 'Yeah, look, it is very short.' It says:

'The Treasury & Resources Department supports this States' Report and welcomes the additional income of approximately £350,000 which will accrue to General Revenue.'

2320 When we saw this, we went, 'Oh, it's Christmas! Somebody is going to give some money that we can give elsewhere.' But you have got to remember, Treasury & Resources are only required to comment on any resource implications, there were none in this. The Report we were given was accompanied by a letter from the Treasury Department saying, 'There are no resource implications, but if it passes you might get £350,000, so we are not going to object to that.' But the problem is this happened some months ago, way before it even came to Policy Council and the more you read into this particular Report, the more you think, well, hang on a minute, it does not sound right.

2325 The other issue in there is it does say in section 4.6 that they would hope that the companies would absorb the cost of the spectrum. Well, they will not. That is pie in the sky. So this is an additional charge.

2330 Now, where do people in this Assembly stand – those who wanted or voted against GST? This would fit fairly and squarely into our extant Resolution on GST as to what defines a General Sales Tax. There are two sub-divisions for general. 'General' can mean tax everything with no exception,

but it does not mean that in the legislation. 'General' means you can tax what you like – goods and services – at whatever rates you like.

2335 So here we have a 2% tax – specific tax – on a specific part of a company's operation. So it falls into the definition of GST in our extant Resolution, extant legislation. So I wonder, we have another bit of extant – or should I say an extant Proposition, which says bring in taxes, environmental taxes, which is basically taxes on fuel. You are talking about taxes on heating oil, which have yet to be formulated and brought back. So, in part, this Assembly is voting for selective General Sales Taxes, and this is a selective General Sales Tax, whichever way you look at it.

2340 So I am afraid I will not support these Propositions, purely because it is a General Sales Tax. It is because the idea is to accrue the income to the revenue budget of the States. I think this is a budgetary issue which could be discussed and I would be happy, as an individual, to consider this when we come to formulate the Budget for 2016, and whether or not it happens will be up to this Assembly, and whether or not we present such a Proposition... But there may be more than one
2345 Proposition on General Sales Taxes, and I include the environmental taxes in that, because that is exactly what they are.

So I will not be supporting this Report.
Thank you, sir.

2350 **The Bailiff:** Next, I call Deputy Bebb, who will be followed by Deputy Dave Jones and Deputy Sillars.

Deputy Bebb: Thank you, Monsieur Le Bailli.

2355 In preparing for this, I was actually thinking I used to have a job that I used to describe as being a translator, because I would talk to an awful lot of technical people – (*Interjection*) No, Deputy Lowe, not between languages. Although it did feel an awful lot like two languages at times.

2360 I would talk to an awful lot of technical people, and then try and translate that to an awful lot of people who did not understand the technical details. I thought to myself that this is pretty much the challenge that I have today, and I thought that if I can actually persuade or explain the whole of this system of 2G, 3G, 4G and all the complicated bits between it, to Deputy Fallaize then I would actually have proved that I maybe was quite good at that job. But I see that Deputy Fallaize has run for the hills the moment that he saw the technology appearing.

2365 I would like to take Members back to the question of what is 4G, and why is 4G... that question as to how we charge for it particularly.

First of all, we still use 2G. Most of our telephone conversations are made over 2G. 3G came along and we all thought that that was great for transferring data, so this actually enabled us... more than anything that it is evident for us today is, of course, our iPads. It enabled us to transfer data on a much more efficient basis.

2370 What 4G does is that it actually transmits the data in a much more efficient manner, and that is why lots of people, Deputy Stewart included, recently tweeted a photograph of his download speeds at 25 megabytes. This is quite spectacular speed. I remember when I used to get excited about kilobytes. Those days are long gone, thank God, and we now are talking about megabytes.

2375 So this is a much larger amount of data that we transfer, much more efficiently. But 4G is not the end of the story. The next part will be what is called 4½G. I know everyone gets excited about 5G but let's deal with 4½G first. 4½G does not require the investment from the telcos. It will require investment from us as purchasers of devices. Because 4½G, to put it in layman's terms, will have two antennas – one which receives all the data, one which sends all the data – and so it is asking your device to be as intelligent as the 4G network is in the first place. So that means that
2380 we will be getting into speeds of 75, and upwards, megabytes per second – more than double. It is phenomenal speeds.

2385 Then I get to the point of, well, why are we getting so excited about these exceptionally high speeds? Now, for this of course I remember Deputy Laurie Queripel's point, in relation to another debate – that he believed the car parks were great economic enablers. Well, if the car park is an economic enabler, we really have not quite begun to grasp what a wonderful economic enabler 4G and telecommunications is. It is phenomenal and it is exceptionally important.

2390 That is where I get to the next point, that basically the biggest problem in relation to 4G is in making it happen – is the huge upfront capital investment that is required. Because although it does not require any new masts, it requires an awful lot more aerials, which come at a cost. Therefore, we need to think of how do we actually enable that? The telcos will need to make a substantial upfront capital investment and the pay-off will not be for some time.

2395 Now, this comes to the point that Deputy Stewart was saying about: it is a property right. My argument would be that that ship has sailed, in relation to 4G, in the same way that it has in relation to Guernsey Telecoms. That ship sailed when we passed over the building of telephone masts to telcos.

If, as a Government, we would have made the decision to build the masts and told the telcos that they can share the antennas on it, but that we own the mast, then that would be our property right, because we would own the mast. But we do not. We passed on that opportunity and we asked them to invest them.

2400 What we have, as a result, is three different telephone companies, with three different masts, paying three different lots of rent to the same farmer, in three different fields. Yes, we facilitated this because we did not make the Government investment that I would have expected at that point in time.

2405 Therefore, in my opinion, at that point in time we passed over the property right because we did not make the investment in that way, that when we built those car parks we made the investment. In relation to 4G, we did not. Therefore, I would contend that it is not our property right.

2410 But, having spoken about that, we need to talk about what is the next step, and 4½G is the first one. In 2020, and so forth, we would expect that 5G becomes available. 5G actually looks at the various means of communication. It does not just look at your mobile connection, it also looks at Wi-Fi, and that is where we come to the next big problem that is a specifically larger problem for Sure as the owner of the fixed network. They will need to make a very substantial upfront capital investment in order to try and bring our fixed network up to a decent speed and, if we think about it, we are talking about how great it is to have 25 megabytes available of speed on our telephone. So why on earth would we bother having a landline where I am sure we can only dream of 25 megabytes worth of speed?

2420 Now, this is where we are actually looking at realistically what is Government's role in this. Now, our largest industry is the finance industry and, therefore, I make no apologies in comparing what we should be doing with what is happening in the City of London, because they are looking at the same form of industry. 4G was available in the City of London in October 2012, so we are already three years behind, and each day we are behind we are losing business, because we do not enable our finance industry and our economy in the way that we should.

2425 When it comes to a fixed network, we are very seriously behind. Jersey has embarked on a fibre optic approach, which is very expensive and might not be the best approach, but whatever approach is decided upon here on fixed network will be substantial. However, currently we are operating on fixed network and technology that I would have expected back in 2004. So the fixed network in Guernsey is currently probably working on technology that you would expect 11 years ago.

2430 Now, Members, what does that mean in relation to our economic enabling? We are not. Today in Jersey you can get download speeds of 1,000 megabytes. It is possible in Guernsey if you are a big bank, but if you want to try and encourage small businesses, medium size businesses, it is prohibitive. It is not possible, and it is not easy. Therefore, what is the role of the Government in trying to enable this?

2435 Now, it is interesting that Deputy Stewart made reference to the large 4G spectrum charges made in the UK, but what Deputy Stewart has not mentioned is, of course, the effect of that enormous cost. Telcos in the UK have now gone down to three. They have as much competition in the UK as we have here in Guernsey, because the costs are prohibitive. We have O2 and 3, which have now merged; we have Vodafone, which stands alone, and then there is EE and Orange which found the costs so expensive they have just been bought by BT.

2440 We also look at the fact that when they came to a certain point in relation to fixed landlines of trying to question, 'Well, what do we do in order to try and improve things?' the regulators were placing such costs that they stopped improving. So when the regulators and the Government thought, 'Well, how do we try and encourage you to improve things?' the answer was that the regulator said, 'You can have the freedom to fix your own price.' That means no regulation of pricing, whatsoever, that was the effect of those huge costs that the UK Government has actually placed.

2445 Therefore, they are passing on those costs to the consumers in a very large way. The UK can afford to absorb those costs much more than we can, because of the simple economies of scale. But what we are doing at the moment is not enabling technology.

2450 Members, I believe that we are currently running exceptionally behind in this technology in an era where communication is essential for growing your business, where it is essential for the Island's infrastructure – where Deputy Stewart has, quite rightly, referred to communications and the network and broadband as yet another utility as important to many people as water and electricity. That is true when it comes to business. But it is increasingly true when it comes to people.

2455 People expect today to be able to download their television programmes, to download their films. They no longer hire them over the internet or even... Blockbusters disappeared a long time ago. Therefore... people are beginning to think much more of communications as yet another utility. What we are seeing more and more is that because of the hampering of this technology, because of the situation that we are creating, we are causing a very real problem in relation to making this Island attractive.

2460 Now, as for the charge that is being placed, yes, it will be passed on to the consumer. The telcos have quite rightly made that evident, and I fully agree with them. I do not think that it is surprising. But I ask in relation to the overall costs, and the very substantial barriers that we have in Guernsey towards economic enabling, is this yet another charge that we are comfortable to be charging on an industry that is already paying 20% corporation tax?

2465 When it comes to licence decisions here, I understand that licence decisions are now possible in Jersey... for the decision to be made within 48 hours. We cannot dream of our Housing Department turning around an application in 48 hours. (**Deputy Jones:** Rubbish.) I look forward to Deputy Jones's response on that. But, generally 48 days is the norm. (*Interjections and laughter*) Generally 48 days is the norm – and if Deputy Jones believes that 48 hours is the norm, then I look forward to him showing the results of that. (*Interjection*)

2470 But when it comes to other costs then, of course, because of the connectivity issues and because of other problems in relation to employment, Jersey is a far more attractive option. We see that companies are already placing their data centres in Jersey, because they believe that it comes with greater advantages. Guernsey is becoming the poor relation. A 2% tax that will be seen by every single consumer as an additional 2% tax is sending the wrong message.

2475 What this Report does not do is explain what should Government be doing in relation to connectivity? What should Government be doing in relation to regulation of the telcos? What should Government be doing in order to enable a prosperous vibrant economy with a good telecommunication?

2480 In 2020 we expect 5G to appear. I do not even hear the beginnings of talking of 4½G from Commerce & Employment Department and 4G has, in my opinion, been delayed as a result of certain decisions made by the same Department. What is better is that we enable companies to go ahead. When we are talking about these large upfront costs, we need to look at how we can

enable the businesses to do it. I do not think that placing an additional 2% tax does that and, realistically, we will damage our economy further if we do it.

Members, please reject this proposal.

2490 **The Bailiff:** Deputy Dave Jones.

Deputy David Jones: Thank you, Mr Bailiff.

Well, we do own one mast. It is on the roundabout.

2495 3G, 4G – I do not understand any of it. It is all witchcraft to me. 3G is what I was trying to pull in my old Ford Anglia trying to go down (*Laughter*) the Val de Terres on occasion! That is about as far as my understanding goes. Listen, I am no fan of the telcos. I think I did not vote for the sale of GT I think I was one of three Deputies in here who voted against it. But that is now clearly all water under the bridge. I am not happy with the way that some of them treat their customers. I think the billing charge is quite scandalous, in my view, and I have taken it up with them in the past on behalf of parishioners.

2500 However, I do think that Deputy Bebb hit on one area, and it is about scale. It is true that charges in the larger jurisdictions are much cheaper – broadband, you name it, they are much cheaper, but they have millions and millions of customers. The telco companies here have a captive audience of about 60,000 people, and so clearly they are trying to provide the same infrastructure of a large country with a customer base that is tiny compared to elsewhere.

2505 But the thing that really worries me about this is passing the charges – yet more charges – on to the people of Guernsey. (**A Member:** Hear, hear.) It may be a very small charge, but it may go up in the future. Who knows? But on top of everything else and, given the four days we had at the beginning of this month and another couple of days yesterday, in trying to find more creative ways of raising revenue which we know the people are going to have to bear some of that cost, I am not sure that we should be doing this at this time.

2510 I am going to reserve my judgement on this because I think Deputy Stewart has got some more time to try and convince me of the validity of their argument, but at the moment I am certainly in the 'no' camp, and I will leave it there, I think.

2515 **The Bailiff:** Deputy Sillars.

Deputy Sillars: Thank you, sir.

2520 I will argue that 'Is it a tax or is it a charge?' is actually very important – and, yes, it is. I would like to start with a question. Is this a tax? Before answering this question – a second question, why is 'is it a tax' important? The answer is important because investors in Guernsey come here due to a stable, predictable and benign tax regime. Our Island's reputation for fair and predictable taxes is respected worldwide. Respect in this area takes decades to earn. It can be lost in seconds, and we must guard our Island's good reputation.

2525 My personal concern is that it is not important if this Assembly believes the proposed spectrum charge is a tax or not. What really matters is how investors in our Island, both current and future, would answer that question. If they conclude this is a tax, then they will be wary of investing, with worries about the question of what and where will the next tax be.

2530 However, we should not be opportunist in our tax raising – picking on one industry or another for a special levy – instead we must have a structured debate, and decide on plans that preserve that which has ensured this Island's prosperity for so long – a fair, reliable and predictable tax system.

2535 If we lose that trust, of those who trust in Guernsey with their investments, we will truly have betrayed our children and grandchildren. Whilst many of us in this Assembly can see the arguments that this is a spectrum charge, not a Guernsey spectrum tax, that is not important. This will always been seen by investors as a tax introduced opportunistically, and targeting one

industry sector. It could undermine future inward investment into Guernsey, so do not let us risk this.

I, therefore, have no choice but to urge you all to join me in voting against this motion.

2540 Thank you, sir.

The Bailiff: Deputy Conder, then Deputy De Lisle and Deputy Brouard.

2545 **Deputy Conder:** Sir, I claim no expertise in this area at all, and I will not even attempt to cover or repeat any of the points made by the excellent speech by Deputy Bebb and Deputy Sillars' excellent speech just now.

2550 I have one or two specific questions for the Minister, if I may, which will reflect the concerns I have. Last week, of course – or the week before – and yesterday, we rejected the idea of a Goods and Services Tax, and the specific question I have got is, in terms of the tax which will be charged, which will be on overall gross revenue, but in the case of those companies to which this charge would be applied. It does apply to sale of mobile handsets and accessories. Now, they would be captured because it would be based upon the gross revenue, but that is unfair. First of all, of course, it is a hidden GST –

2555 **The Bailiff:** Sorry, I am reluctant to interrupt you Deputy Conder, but I think we have ceased to be quorate. I think we only have 23 people left in the Chamber. 1,2,3,4,7,12,16,20,23. If there are any Members outside listening in the Members' room if they could come in, or at least one person could come in and we could resume, but otherwise we need to rise and resume when there are enough people present to do so. *(Interjection)*

2560 He has gone to get some more in. Well, we will wait a minute, but if we are not quorate within a minute we will rise.

We are now quorate, thank you. Please continue. We are only just quorate so... *(Interjection)*
We are quorate, so you may continue Deputy Conder.

You may continue Deputy Conder.

2565

Deputy Conder: Thank you, sir.

2570 I think I stopped at the point where I was making the case that last week we rejected a Goods and Services Tax, and specifically in respect of these mobile handsets and accessories, which specifically for these companies – but not other companies selling mobile handsets and accessories – will be captured by the spectrum charge, or spectrum tax – however you want to define it. That concerns me because it is a goods specific and company specific Goods and Sales Tax, I would suggest.

2575 Equally, I am concerned that it is an unfair Goods and Services Tax, or whatever we want to call it, because it does not appear to impact upon other competitors, and surely that must be unfair competition. So I am not equipped to argue and make the case in the way Deputy Bebb did a few minutes ago.

2580 I still have to make my mind up in terms of how I will vote on this, but this fundamental, apparently unfair competitive advantage of companies which would not suffer this in respect of mobile handsets and accessories, really concerns me; because I think it will probably be one of the few – if only – examples of such unfair competitive advantage, and in this case specifically in terms of mobile handsets and accessories for these companies, it would seem to be a form of GST which you will not be surprised to know I would oppose.

2585 I still have an open mind. I look forward to the Minister's winding up speech, where I would ask him if he could either just give me some clarification or reassurance, and I will continue to listen to the rest of the speeches with interest.

Thank you, sir.

The Bailiff: Deputy De Lisle.

2590 **Deputy De Lisle:** Sir, I believe that it is perfectly reasonable to expect the telecom operators, not subject to the substantial upfront costs associated with spectrum auctions elsewhere for a licence, to pay a modest license fee to the Guernsey Treasury. With the 4G auctions in Ireland, for example, yielding €850 million in 2012, and in the UK £2.3 billion, just recently, this small charge or fee seems to be quite reasonable.

2595 In fact, if given an estimated yield from it of £350,000, which is quoted in the Report, that means something in the region of £6 per capita here, compared with £40 per capita in the UK through the 4G auctions. Ofcom expects that the economic benefits of 4G will greatly exceed any auction proceeds also and, given the importance of 4G spectrum to telecoms operating strategies, some of those benefits surely will be filtered down to the operators.

2600 **Deputy Kuttelwascher:** Point of correction, sir.

Deputy De Lisle: I am sorry I did not see you –

2605 **Deputy Kuttelwascher:** No, I have only just stood up. Point of correction. *(Laughter)*

The Bailiff: Deputy Kuttelwascher.

2610 **Deputy Kuttelwascher:** I think Deputy De Lisle has made a misleading statement. He has just said that in England they pay an average of £40 per head, and compared that with £6 per head which is the proposal here, but it is £6 per head per annum. So in seven years here you would have paid £42, which is more than they would have ever paid in the UK and I think that point needs to be made.

2615 **The Bailiff:** Deputy De Lisle.

2620 **Deputy De Lisle:** I will continue, sir. I think the point needs to be made too that, if the point that Deputy Kuttelwascher was making, in terms of the ownership of spectrum, well, I mean, the UK is yielding from the auctions on presumably the same basis as the basis here. Other than, of course, going to auctions. I think we have to say that the 3G and 2G were not charged for, although they will be included, of course, within this particular charge.

2625 The other point is that in the UK it is estimated that the bandwidth could be more valuable in future as the mobile data boom gathers pace, and I think this is what we understand – the demand for spectrum has grown quickly amid surging use of smart phones and tablet computers, and according to Ofcom, mobile data usage more than doubled just in one year, 2012, and by 2030 demand for mobile data could be 80 times higher.

So this technology is something that is going to make money for the operators and, therefore, I think it is only reasonable that access to the Island for the technology is charged at this very reasonable level.

2630 Thank you, sir.

The Bailiff: Deputy Brouard.

Deputy Stewart: Sir, could I just correct a correction, please?

2635 **The Bailiff:** A corrected correction. Yes.

Deputy Stewart: It was from Deputy Kuttelwascher.

2640 In fact, in the UK – and I am reading from an Ofcom document here – that there are also annual licence fees, which are quite substantial, that are paid by the operators. I am not quite sure what they are ending up at, but back in... the proposals were £83 million for Vodafone alone,

Telefonica £83 million, EE £107 million – for the use of 4G on top of what they paid in the auction a year.

2645 They have, indeed, revised them down. I do not know what the exact figure is now but, just to give an indication that on top of what they paid in the auction there are quite substantial licence fees still paid to Ofcom annually.

Deputy Kuttelwascher: Can I make a correction to the corrected correction – whatever it is? *(Laughter)* Sir, I think that is a red herring. We are not talking about that sort of licence fee, because our telcos pay licence fees now, and I think it is on an annual basis, so that is not a fair comparison at all.

2650 We are talking about comparing what was the original auction price spread out as a cost per head, as opposed to a recurring annual charge, which is being suggested here.

The Bailiff: Deputy Brouard, and then Deputy Luxon.

2655 **Deputy Brouard:** Thank you, sir,

It is one of the dangers, and we always say we are going to do it – we are going to compare our notes together before we come in to battle in the States and, of course, Deputy Stewart and I did not compare our notes at all; we just left it to the day and, of course, he has taken great big chunks out of my speech, which is quite good.

2660 Can I just say we have been talking over the last few days about broadening the tax base – broadening the tax base – and here we are with an opportunity for a new tax, whether it is a tax or a charge, but it is broadening what we bring in as a Government, possibly £350,000.

2665 Deputy Kuttelwascher is quite right, it will not just last for the seven years, as it probably would be the equivalent of what happened in the UK, but we do not know what is going to happen in the future, going on anyway.

But just think of your own Departments. I do not know how much doctors and the Hospital are going to cost us, I do not know how much more we are going to put into Police, I do not know how much more Housing may need so that the licences are done quicker for Deputy Bebb, but that is £350,000 every single year, and I think that is –

2670 I will not give way at the moment; perhaps later on, thank you.

So, please, we are very concerned for funds for the Island to run the Island, and this is an opportunity to have a fee, a charge, a tax, which gives us another string to our bow for funds that we desperately need in general revenue, and we could have done, as Commerce & Employment say, ‘Well, we will put it into some fund or something or other that looks after digital business.’ No, we put it back into general revenue and we will fight for our share of it like anybody else will. But, please, this is money that we really do need, so when you all say, ‘Actually, we do not really need this, or we should not be charging this,’ just, please, think what the funds would do on the other side.

2680 Now, nearly every cost that goes into a business, the consumer will pay at some stage. I think that is virtually inevitable. Whatever cost it is, the consumer will always pay. That is going to come through. Whether it can be absorbed temporarily or for a time – we will touch on that a little bit later.

2685 Now, this debate, please, do not make it personal for the telecoms. I am not the greatest of fan of Sure at times. Sometimes I am. They very kindly sorted out my broadband the other day and I have not had a bill. I will be getting one tomorrow now! But it is not their fault that they were sold. They have changed ownership now. That debate is gone. They are a great local company. I have just had a cheque from them today for £200, I think, for Floral St Peters. I thank them very much. They are part of the community. Their staff live here in the Island, so it is not against Sure or anything like that. The other side of it is, please, do not make it personal for my Minister. I know he is a bit like Marmite, love him or hate him, but I love him and *(Laughter)* he really is trying hard. So, please, this is for the greater good of the Island.

2690

2695 Now, I know, Mr Bailiff, we have to be a bit careful and sensitive on finances and prices and
Deputies, have been bombarded with some quite heavy lobbying from the telcoms, telling us
about this and what they have to pay and how much this is going to cost them and all the rest of
it, but luckily enough I managed to pick up off the internet the Bartel Group profits. Bartee!
Bartelco! Hope it is the right one! (*Interjection*) The gross revenues were US\$1 billion –

2700 **The Bailiff:** Not in Guernsey, I presume.

2705 **Deputy Brouard:** Not in Guernsey, no. This is the company – all different bits of it. It will not
be just from St Peter's either, it will be a combination. But the ebitda or for those who want to
know what that is, basically it is the tax before all the other bits and pieces – was \$383 million. So
if they wanted to absorb this particular charge of... and their share of that would only be a small
proportion of the £350,000 we hope to bring, they could lose that and it would not even change
the decimal points on their accounts. So, please, let's get this into proportion.

2710 I do not know, I am not an accountant, but you hear of things on Google and this, that and the
other, where they have different charges and different charging centres. I do not know how the
charge is made up... what bits they are apportioning to their charge. I do not think I am looking at
the figures that we have been given. I think that the mobile charge profit of some accounts that I
saw was about £1 million a year. So I do not think there will be an issue in absorbing £100,000 or
£150,000 into that. This company is doing, I think – certainly the company says it is doing –
extremely well. I think the telecom companies are doing extremely well, which is great because
2715 they are paying tax at 20% which is great. That is what we want. We want good profitable
businesses, but please do not think that a 2% charge on their mobile bit is going to bring them to
their knees.

2720 Of course, when the company was purchased (*Interjection*) Sorry? No, thank you... (*Laughter*)
When the company was purchased, I think it was sold from Guernsey Telecoms and it was sold on.
Part of what Sure was writing to us, telling us, as Deputies, was that they paid tax at 20% but they
knew that when they purchased the company, that was part of it. Of course, there are other fees
that they do pay. I do think that is true.

2725 If someone was to propose an amendment today, it probably would not get through, but if
they said there is an amendment here that we make it 5%, I would probably second – it no
questions asked. We did very seriously listen to the consultation that came back and, from what
was going to be a 5% charge, that was reduced down to 2%.

2730 Now, in the UK, I think the five winning bidders for spectrum paid about £2.3 billion –
£2.3 billion. Now, the equivalent, if you take Guernsey as one-thousandth of the size, would have
been that the telecoms company on this Island would have, if they bid the same, £2.3 million up
front cost. That is not spread over time, that is a £2.3 million up front cost on day one – and I will
come back to that with something that Deputy Bebb said – because what we are proposing is to
do it after they had earned the income from trading, and then we take our 2%. So they have got
an opportunity to do the trading, to do the business and then pay the fee. So I think that is far
more acceptable for the telecoms industry to pay £350,000 as part of a... after they have had the
2735 enjoyment of the revenue, rather than paying £2.3 million up front.

2740 I will touch on something. It is a big part – well, not a big part of my speech. Deputy Stewart
mentioned the £1 bill which we have. I have got my phone bill here. I have got two pieces of
paper and I am not getting at them – it is not their fault that they did not answer my letter back
when I wrote it to them on 22nd September 2013, but I did get a response when I reminded them
a year and a half ago, so here is their response back.

So the point I was making to them – and I made it to the OUR as well – was if they were really
concerned about paper, which they said they were, then why do I have two sheets of paper on my
bill, because half of it is blank pieces that does not do anything. The other half it – the bottom of

it – there is nothing on it. The rest of it tells me stuff that I do not really need to know and is of no use to me. How many numbers of calls that I have made to standard fixed lines.

2745

So if they were really serious about saving costs – and I think it is the item that Deputy Jones mentioned... is that if they were serious about paper, they would condense that on to one sheet of A5. They could have teamed up with another utility and sent the bill out. I never asked them to charge me monthly. Where did that come from? I was quite happy paying quarterly. (**A Member:** Hear, hear.) Suddenly it moved from a quarterly bill and suddenly I have got it monthly and then I have got to pay £1 to have it monthly. Well, change it back to quarterly.

2750

I mentioned all this to them, and they came back and said, no, they would rather have the £250,000 roughly that we are paying for it... because I was always lucky enough that I had CICRA on my side, which was good. So CICRA regulator gives Sure until the end of November to sort out billing, says *Guernsey Press*, 18th October 2013, and, of course, what happened? Nothing, because I read on my thing here I am still paying a £1 charge on my account. So please have the arguments in proportion. We are talking, I suppose, about £120,000, £150,000 for Sure. They put, overnight, a bill on the Island of about £250,000. So please let's just keep the thing roughly in proportion.

2755

Companies cannot absorb this charge, and I think that was Deputy Lester Queripel's thing, but I think the companies can absorb this charge, and wouldn't it be great if one of the telcos said, 'Actually, we are going to absorb it. Come to us.' What a lovely marketing tool. (*Interjections*)

2760

Deputy Kuttelwascher mentioned a challenge to who owns the spectrum. The UK obviously managed to sell something, so it is obviously available. I think the way to think of spectrum is it is more like a sort of motorway or train track – you cannot have other companies' carriers in the lane that you are in.

2765

Part of the review – and this is what Commerce & Employment and Deputy Stewart have done a lot of work to try and get the whole ethos of what we want the telecoms to do moved along... When we got there, spectrum was all over the place; we had little bits had over the years. You know how things develop. 'Oh, well, that is free. We will put something there.' So different companies had different bits of spectrum, which of course they could not get a decent chunk in one place.

2770

So we said to – it was not CICRA... come to us and say, 'Oh, Commerce & Employment, I think you should change the way spectrum are.' We have gone to them and said, 'Why don't you reorganise it so we make the best use of spectrum that we can?' Part of this whole experience is to sort out spectrum so that we have got it used efficiently in chunks, so some... JT will be giving up some spectrum in certain areas and Sure will be picking up some in different areas, so they have got chunks of spectrum which they can do far more with, and that is all part of this campaign.

2775

If you look at appendix 1 on 550 it gives you a sort of picture of the spectrum there, and you can see it it is not so much a finite resource, because it is there tomorrow and it was there yesterday. It is more the number of lanes that you can have on it. If you had 10 telephone companies there would not be enough room for them all to have lanes where they want to have lanes. So think of it more as buying a lane.

2780

Deputy Kuttelwascher says it is more like a GST. Well, obviously, I will second the amendment then if he says it is going to be 5%. That is not a problem.

2785

Deputy Bebb mentioned it was huge upfront investment. But it is not – nothing like the £2.3 million. If we were equivalent to the UK, it would have been. I do not think the UK government owns the masts in the UK.

2790

I think Deputy De Lisle, in his time when he was Environment Minister, spent a lot of time working with the telco companies not to put up individual masts. You can all remember that time that they had to share masts – and what a fuss they had to share masts. 'You are not coming on my turf. That is my mast I own it.' Dear, oh dear, but well done to Deputy De Lisle for trying to push that through. So I do not think the UK government owns the masts over there.

2795 What is Government's role? This is where I get a bit confused, because I take a lot from Deputy
Bebb because he has been in that sort of telecoms industry and that sort of technology side, but
he is saying to me – and I do not know – that we have got old technology. But that is just why we
sold the old Guernsey Telecom because we wanted to have the brand new, best technology and
the competition and the vibrancy. So I am disappointed to hear that we have got old technology.
2800 We do not want old technology, we want the new stuff, and the telecoms company... if you are
saying, could have brought in 4G two or three years ago. There was no impediment from
Government to stop them doing so.

I will give way now.

2805 **Deputy Bebb:** I am so grateful to Deputy Brouard actually giving way for once.

To my understanding, the Commerce & Employment Department ran a review with regard to
4G in order to actually review the whole matter before allowing it. If that is not the case, I am
happy to be corrected. But I have been advised, repeatedly, that as a result of the review that
Commerce & Employment Department decided to undertake into 4G, there was therefore a delay.
2810 And, by the way, his other point in relation to the charge... that because of the size of the other
company, would Deputy Brouard be happy to see a charge on Credit Suisse based on the fact that
their global profits was £1.1 billion last year, or are we actually still just on telcos rather than
actually diversifying our tax base to those that do not pay 20% corporation tax?

2815 **The Bailiff:** Deputy Brouard.

Deputy Brouard: Thank you, Deputy Bebb.

To be honest, I think you are right that we did partly delay part of 4G because we wanted to do
the review and make sure the spectrum was in the right place. But whether that should have
happened two years earlier I do not know I was not there. But the idea of having CICRA and the
2820 telcos in competition was to make sure that we had the latest technology and were vibrant in that
industry.

I think Deputy Sillars mentioned something about whether it is a tax or not, and whether we
would worry investors. I do not think it is of a scale that is going to worry investors or not. I am
2825 not really summing up but it is just an easy way of doing my speech.

Deputy Conder made a very interesting point – and I am glad he asked it – about the sale of
mobile handsets. Now, part of the reason why Commerce & Employment suggested that the idea
is that all parts of the mobile world were caught was because what happens sometimes is that...
which bits are not taxed ends up being the bit where you move the profit to. So you could have a
2830 situation where there is no charge made for the spectrum, but you have an expensive handset. So
this was a way to make sure that it captured... the telecoms companies would have to act on a
level playing field on all aspects of trading. But I do take his point that there are other retailers
who will be able to sell a handset.

Now, if you buy a bog standard handset – the real basic one that you would buy at a
2835 convenience store... I may be wrong but, from my experience, the handsets that you buy at a
convenience store are the sort of £20 one. So are we saying then that you will buy your iPhone 6
at the local supermarket? I do not think so. The more expensive the handset, the more chance
that you will go to the professional seller of a handset, and that would be the telecom companies,
and that is where they have got the expertise. Because I cannot go back to Le Riche and say there
2840 at the checkout, 'Excuse me, how do I get my contacts across from here?' They are just going to
tell me to go away. When I go into JT or into Sure they say, 'Hello, Mr Brouard. How can I help
you? Yes, you move your contacts this way.' So that is where the telecoms company has got their
expertise – and how much difference would a 2% charge make on a £20 handset? Very, very little.
Very, very little.

2845 So, although I do take his point, I do not think it is worth changing the mode for this
particular... I think this particular charge is a very fair and reasonable charge for the use of the

lanes of the highway that we are... The world is not making any more lanes in this highway. Those lanes are what we have, and I think the £350,000, instead of some sort of auction. I mean if the States want us to go away and have some sort of auction for them, well, that will be an expensive way of doing it. I think we have taken a very reasonable and pragmatic way of bringing in a spectrum charge, and I hope the telecoms companies do extremely well and make lots of profits, because that comes back to the Government as well through the 20%.

So please, please, do not get too hung up on trying to punish the telecom companies or taking it out on C&E, because it is our day in the sunshine. Please look at this long-term for the Government. This is a very modest charge for the use of our spectrum, which basically most of the western world have had very similar sort of charges and, in fact, we are even doing it... that after the charge is in place, the telecoms pay afterwards – after they have had the business, and after they have enjoyed it.

So, please, I strongly urge you, please, vote in favour of this spectrum charge.

Thank you.

The Bailiff: Deputy Luxon.

Deputy Luxon: Thank you, Mr. Bailiff.

I will be brief – not wanting to duplicate comments that have been made earlier – but, certainly, when I read the policy letter I thought it looked relatively benign and a good idea, and I did not accept the logic that the increased charge would need to be passed on to consumers necessarily. It was helpful to receive from Airtel-Vodafone and Sure information and challenge to some of the information within the policy letter and, indeed, Commerce & Employment's response.

But, sir, I would just like to ask the Minister, if I could, a few questions which I have sent to him in advance, to help clarify whether or not I can support this.

So, Sure have said to me, very clearly, that if they had been properly engaged with through the consultation process, they may well have had some alternative ideas for income generation over half a million pounds a year. So the question I would ask is do you agree that the consultation could have been more engaging and it would have been worth exploring those alternatives?

Sure also say that they estimate that there will be a total revenue collection of about £500,000 a year rather than £350,000 – the £350,000 projection – and I would just like to understand why the estimates are so different between the operators and Commerce & Employment.

The point about handsets and accessories – I would just ask again why it is reasonable or fair that they should be included?

Sure clearly have said that Ofcom already charge them for spectrum use, and that Ofcom *own* the spectrum rather than Guernsey, and indeed that Guernsey receives some repatriation of those monies received. I just wanted the Minister to square this one off for me, because it does not seem to... both positions cannot be right.

Sure also have said that their entire net profit on the mobile business would be wiped out if this charge goes through, and I wonder if the Minister accepted that and, if he did, does he feel that that is fair and reasonable?

Airtel, as Members will know, have said that they continue to be loss-making as part of their 10-year investment plan, eight years in, and that this charge would just add a further burden and put them behind, in terms of the investment proposals.

So I did think it was a benign new charge, but I have had concerns as to why there can be so much disparity between the two positions. It seems to me that I would have hoped that those issues would have been clarified within the policy letter prior to coming before the States. I would appreciate the Minister's responses.

Thank you.

The Bailiff: Deputy Green.

Deputy Green: Mr Bailiff.

2900 Very similar to the previous speaker, Deputy Luxon... my views on this are very similar to what he has just articulated.

I think, reading the policy letter, it is superficially a very plausible case. So, on the basis of the Billet, you are kind of left thinking, actually, yes, it is relatively convincing, relatively benign, but when you scratch the surface you begin to uncover some other things and, at this stage, I am not
2905 100% clear on how I will vote, but there are two things, in particular, which are making me consider voting against the Propositions, and there are two main points.

Firstly, the question of ownership, which Deputy Kuttelwascher dealt with, I think we need clarity on that, because if the spectrum is not owned by the States of Guernsey and owned by the UK Government and spectrum is issued by Ofcom to Guernsey telco providers and a fee is paid
2910 and that fee is repatriated to the States of Guernsey, there are issues there and we need to be clear on that, we need to have 100% clarity on that before we can approve the Propositions. So there is that.

The second point is, in terms of what this really says – and this is a much wider point – and what perception this is creating, in terms of business friendliness or unfriendliness, I do take the point that the Minister and others from C&E have said about the quantum of it, because we are
2915 not talking about an enormous quantum of money in reality and if it is passed on to the end customer, we are not talking about a vast sum of money, we are talking about 40p a month, or something like that. We are not talking about a massive amount of money.

But the perception that this is actually going to have on the telco providers and have on these
2920 businesses, when we want them to be investing in the most modern technology, when we want them to be investing in things which will enable our economy, as Deputy Bebb said... Anything which creates a perception that the Government of this Island is not doing all it can to support, and to enhance, business and investment in these key important information communication markets, could be damaging.

2925 So I am thinking about those two points about the question of ownership and about the perception on how friendly we are to business in this key market.

As I say, I think it is a superficially plausible policy letter, but the more you look into it, the more you start to have concerns. So I look forward to having those questions dealt with later on in the debate.

2930

The Bailiff: Deputy Gollop.

Deputy Gollop: Yes, I very much concur with what my learned friend, Deputy Green, has just said, because I actually broadly share the vision of Deputy Stewart and Commerce & Employment
2935 Department in really trying to up our game in terms of developing a more competitive communications, telecommunication market, and really building the hub side of our society.

I think their immediate concerns... I mean one thing we States' Members have to put up with every time we sit here are problems of accessing our Wi-Fi and communications, so there are really micro issues that are important to us. But, as we know, there is an ongoing need for all three
2940 – maybe other – telecommunications companies to engage with us to sustain their performance, to up their performance, to compete with Jersey and elsewhere – all of those. We almost need to get on the right side of them, and it does seem to me that this policy letter risks alienating people we need as our allies and our partners, in building the bandwidth society and the e-commerce philosophy.

2945 In a way, Commerce & Employment are technically right, we do have a right to charge to licence the operation and, unfortunately, coming back to what Deputy Bebb said, we have already done it in a way. They paid, what was it, a quarter of a million each to go for 3G, and just £50,000 each for 4G. Why was it so low... and whether the regulator made a mistake in setting that? I do not know, but it has been done. It was a decision that was made under our current and former
2950 system of managing telecommunications, and I think for the moment we should leave it at that.

2955 Maybe we could go back and look at licensing when we come to the glorious era of 5G, or whatever, down the line. But I think the pragmatic way forward is to sustain and enhance our relationships with the telecommunications industry, and actually for Deputy Stewart and his able Board Members to get around the table with the three providers, and work out a practical way of improvements; and maybe to pick up some of the points Deputy Brouard made, and a little bit of cost reduction here and there to the consumer. But I think there are better ways of building the relationship and better ways of making cost savings for the future, than risking a diversion of energy from the sector in partnership with us to a battle.

2960 **The Bailiff:** Deputy Harwood, then Deputy Trott.

Deputy Harwood: Thank you, sir.

2965 Sir, Members, having heard the debate and having read the spectrum charge – and it seems very innocuous and, yes, okay, it can contribute £350,000 – but the more you look into this, I have to say the whole thing is an absolute shambles. (**A Member:** Hear, hear.) It has not been properly thought through. The question of ownership of the spectrum – and there is no comment in this Report as to whether or not the Law Officers of the Crown actually support that view... (*Interjection*) Well, we now know that the Law Officer of the Crown present does not support the view. We do not control it because we do not license it. The licensing is done by CICRA, so we cannot even claim a licence fee through this method.

2970 This is purely a Goods and Services Tax. It is a tax on turnover and if that is not a Goods and Services Tax, I do not know what is. So this is a pure naked service tax masquerading as some sort of spectrum charge.

2975 So, sir, I would strongly urge the Commerce & Employment Department to withdraw this entire Report, (**Several Members:** Hear, hear.) go away, come back with something that actually makes sense and possibly may even have the support of the telecoms.

Thank you, sir.

The Bailiff: Deputy Trott – Sorry, Procureur.

2980 **The Procureur:** I ought to comment because the Law Officers have been mentioned.

There are a couple of things. There are some philosophical views here, some economic views. So as far as the Law is concerned, I just want to clarify a couple of things.

2985 You do not need to identify something that you can say that you own – and I say this with great respect to the Minister – in order for a Government to levy a charge. Governments around the world have levied charges to commercial operators for the use of this thing called spectrum.

2990 Secondly, whether you classify it as a tax or a charge is a moot question, and the Departments have been advised that, whereas on some definitions of 'tax' you could say, no, it is not because the classic for a tax is... I wrote it down here – it is a compulsory payment to the Government for which the payer gets nothing directly in return; and on that it would not be a tax because what you are paying is a sum of money for the right to use a bit of the spectrum.

2995 On the other hand, some people might argue that it does have more of the characteristics of a tax than a charge. The fact is this is not going to happen without primary legislation, so it is going to be a Project de Loi; it is going to go for Royal Sanction. So, in those strict legal terms, actually the charge/tax distinction is not relevant.

I note what Deputy Sillars says. I mean that is a political matter.

Sir, I just thought I would clarify those.

3000 **Deputy Brehaut:** May I ask whether the Minister of Commerce & Employment would be inclined for an adjournment to speak to his Members as to whether he does withdraw the Report or not, because it does not seem to have garnered a great deal of support today?

The Bailiff: Minister –

3005 **Deputy Trott:** Can I raise a point of order please, sir?

It is to do with something that Deputy Kuttelwascher said earlier. I fear he may have misled the States. I do not profess to be of any great technical knowledge, sir, but my friends at Cable & Wireless were kind enough to write to us and discuss the issue of spectrum, and in their communication to us they said 4G spectrum in the UK is scarce. Well, it is either scarce or it is not. Clearly, the operator believes that it is and it believes that there is a finite resource here, but Deputy Kuttelwascher sought to advise the States that was not the case.

I just wondered if there was anyone with the technical ability to advise us one way or the other, sir?

3015 **Deputy Bebb:** Can I respond?

Deputy Trott: From previous experience, I do not think Deputy Bebb would be the right candidate. He completely lost me with all his 4½G nonsense earlier.

3020 **The Bailiff:** We do not want to get into a sort of ping-pong around the... I think that is a matter the Minister will have respond to when he replies to the debate, unless anybody who has not yet spoken wishes to deal with that matter when they speak.

3025 **Deputy Kuttelwascher:** I just want to try a point of correction, because Deputy Trott just said I have misled the States, and I think I should be able to answer that.

The Bailiff: Well, if you are saying you want to correct what Deputy Trott has just said.

3030 **Deputy Trott:** I did level that accusation, sir, that is true.

The Bailiff: Yes. Deputy Kuttelwascher.

3035 **Deputy Kuttelwascher:** I said it has got nothing to do with a resource, it has got nothing to do with finiteness, if you like, or infinity. The issue is the use of a congested band of the electromagnetic spectrum – that is the problem, and certain bands have a greater demand. But that has got nothing to do with finite. Not everybody can use it – that is why it is controlled – because if everybody tried to use it, you would just get a total mess of interference. It has got nothing to do with being either a resource or being finite.

3040 **The Bailiff:** There was a question earlier as to whether the Minister wishes to request an adjournment.

Deputy Stewart: Yes, sir, we will take a five-minute adjournment, if we may.

3045 **The Bailiff:** A five-minute adjournment. Thank you.

*The Assembly adjourned at 5.10 p.m.
and resumed its sitting at 5.20 p.m.*

The Bailiff: Deputy Stewart, are you going to propose a motion to withdraw?

Deputy Stewart: Yes, we are, sir. The Board is unanimous in that, sir. Clearly, there are some areas that the States need a lot more clarity on, so we withdraw the motion for now, sir.

3050 But I would like to thank –

The Bailiff: Just before you go any further, the procedure now is governed by Rule 13(11). Rule 13(11)(i) states that:

'Where a Department or Committee... has resolved to request that an Article or Proposition be withdrawn, a motion to withdraw the said Article or Proposition shall be in writing, and must state the names of its proposer and seconder.'

You have a written Proposition.

3055 **Deputy Stewart:** I have that for you, sir.

The Bailiff: So it is proposed by the Minister and seconded by the Deputy Minister, Deputy Brouard, and the Proposition is simply that the Article be withdrawn.

Then Rule 13(11)(ii) states:

'Debate on such a motion shall be limited strictly thereto and no other issues relating to the Article or Proposition shall be debated until the motion to withdraw has been voted upon.'

3060 So we now have a debate, therefore, on the motion to withdraw the Article. Is there anything further you wish to say?

Deputy Stewart: I would like to thank Deputy Brehaut for raising this earlier.

3065 The Board is unanimous in their decision. Clearly, there is more clarity that the Members need, and so we will come back to the States at another time with a further report, sir.

The Bailiff: Deputy Fallaize.

3070 **Deputy Fallaize:** Sir, I just wanted to seek clarification. Is it the intention of the Department to bring the proposals back to the States, but with a more rounded case or whatever it is? Or is it the intention of the Department having withdrawn not to come back to the States.

The Bailiff: The Proposition is just to withdraw, so...

3075 **Deputy Fallaize:** Yes, but whether one votes Pour or Contre on it may depend on whether it is likely to come back to the States.

The Bailiff: Okay. You would normally reply at the end of the debate but, Deputy Brouard, you are formally seconding the Proposition?

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Deputy Brouard: If I may, sir, thank you, and reserve my right...

The Bailiff: And reserve your right to speak. *(Laughter)*
Deputy Bebb.

3085

Deputy Bebb: Thank you, Monsieur Le Bailli.

3090 I will not be supporting the motion to withdrawn, because if the intention of the Department is to bring this back to this Assembly, I would rather put this issue to bed, because I have stated that I believe it to be the wrong approach for enabling the business and employment and commerce on this Island. Therefore, it is very important that we have that clarity, because if the intention of the Department is to bring back a different form of spectrum tax, I would urge Members to reject the withdrawal, and then to reject the Report, so that we put this matter to bed and the Commerce & Employment Department do not invest time in a matter that will not be supported by the States in the long-term.

3095

The Bailiff: Does anybody wish to add to the debate? No.

Deputy Sillars: Yes, sir.

The Bailiff: Deputy Sillars.

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Deputy Sillars: I would like to have certainty. I am sure, I also spoke to all three of the telcos and to various... rather like Deputy Kuttelwascher. They had different sort of spins on it, as it were – wrong word, 'spin', but they were all very against it – so I would like this put to bed that, yes, we are going to do it or, no, we are not. And if it is a, no – sounds like it will be – then I am quite happy for C&E to come back with something totally different, but I would like to have certainty out of this.

3105

The Bailiff: Nobody else is rising to speak.

Deputy Stewart will reply to the debate on the motion to withdraw.

3110

Deputy Stewart: I would like... or my Board, when we, in the recess, discussed that we would like to explore with the telecom companies their suggestion – which came, I believe, from Sure – of a different way of looking at this, which they could then be involved with.

3115

So we will reserve our right to engage with the telephone companies, discuss this with them and then see the appropriateness or not of bringing a different form of report perhaps to the States. But, at this time, I think it is too early to make any real promises to this Assembly.

The Bailiff: Members, we then go to the vote on...

Deputy Trott.

3120

Deputy Trott: Unusually for me, sir, I would like to call for a recorded vote on this occasion. Thank you.

The Bailiff: Right, it is a recorded vote. The motion is that Article VI – States' Commerce & Employments Department on Spectrum Charge – be withdrawn.

3125

There was a recorded vote.

Carried – Pour 32 Contre 2, Ne vote pas 1, Absent 12

POUR

Deputy St Pier
Deputy Stewart
Deputy Gillson
Deputy Ogier
Deputy Trott
Deputy Fallaize
Deputy David Jones
Deputy Laurie Queripel
Deputy Le Lièvre
Deputy Spruce
Deputy Collins
Deputy Green
Deputy Dorey
Deputy Paint
Deputy Le Tocq
Deputy Brouard
Deputy De Lisle
Deputy Inglis
Deputy Soulsby
Deputy Luxon
Deputy O'Hara
Deputy Quin

CONTRE

Deputy Sillars
Deputy Bebb

NE VOTE PAS

Deputy Lowe

ABSENT

Deputy Le Pelley
Deputy Duquemin
Deputy James
Deputy Adam
Deputy Perrot
Deputy Wilkie
Deputy Burford
Deputy Hadley
Alderney Rep. Jean
Alderney Rep. McKinley
Deputy Sherbourne
Deputy Storey

Deputy Harwood
Deputy Kuttelwascher
Deputy Brehaut
Deputy Domaïlle
Deputy Langlois
Deputy Robert Jones
Deputy Le Clerc
Deputy Gollop
Deputy Conder
Deputy Lester Queripel

3130 **The Bailiff:** Well, Members, the result of the vote on the motion to withdraw Article VI was 32 votes in favour, with 2 against and one abstention. I declare the motion carried. So that Article is therefore withdrawn.

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

VII. The Rules of Procedure of the States of Deliberation – The Rules Relating to the Constitution and Operation of States' Departments and Committees and Related Matters – Deferred to April sitting

3135 **The Bailiff:** The only other item of business is the Report from the States' Assembly & Constitution Committee. It is now 5.30 p.m. I would suggest we do not start that today.
Deputy Fallaize.

3140 **Deputy Fallaize:** Well, sir, the Report clearly is not time critical, and since it is the only business left, to save the Members and you, sir, and others having to sit tomorrow, I would propose that we adjourn that Report until the ordinary April sitting of the States, please.

The Bailiff: Members, I put to you the Proposition that we adjourn that Report to the April sitting. Those in favour; those against. *(Laughter)*

Members voted Pour.

3145 **The Bailiff:** I declare that carried.
That, therefore, concludes the business for this extended March meeting.

The Assembly adjourned at 5.30 p.m.