

# STATES OF JERSEY

## OFFICIAL REPORT

**TUESDAY, 6th JUNE 2006**

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## **The Roll was called and the Greffier of the States led the Assembly in Prayer**

### **QUESTIONS**

#### **1. Written Questions**

##### **1.1. WRITTEN QUESTION TO THE MINISTER FOR EDUCATION, SPORT AND CULTURE BY DEPUTY S. PITMAN OF ST. HELIER REGARDING STAFF EMPLOYED IN THE YOUTH SERVICE**

###### **Question**

Given that States' departments aim to achieve 'best practice' and 'value for money', would the Minister explain to members how the current ratio of a four-strong management team to 12 professional workers within the Youth Service achieves this?

###### **Answer**

I believe that I have answered this question in information I have supplied to members in response to previous questions by Deputy Pitman in the past. For the sake of clarity, however, I will reiterate that with the exception of the Principal Youth Officer, all the members of the senior management team of the Youth Service have an individual rôle to play in delivering front line services to young people as well as assisting the Principal Youth Officer in the management of the service.

It is wrong of Deputy Pitman to assume that the youth service comprises only twelve professional workers. The Provision made for young people in this Island comes through partnerships between the Youth Service and a wide range of other organisations and projects, parishes, uniformed organisations, the Duke of Edinburgh Award Scheme, the Prince's Trust, and some 200 volunteers and part-time staff to name but a few. Its strength lies in the diversity of provision, the close relationship forged between these organisations, and the efforts put into our young people by a wide range of part time and voluntary staff.

Projects have to be managed, full-time, part-time staff and voluntary staff have to be trained and supported, and effort has to be co-ordinated. A small team of experienced and professional staff fulfil this role. I believe they do an excellent job, assuring 'best practice' and value for money.

##### **1.2 WRITTEN QUESTION TO THE CHIEF MINISTER BY SENATOR J.L. PERCHARD REGARDING THE FIXING OF SALARIES FOR PUBLIC EMPLOYEES EARNING IN EXCESS OF £100,000**

###### **Question**

Would the Chief Minister inform members of the arrangements that are in place for the fixing of salaries for public employees earning over £100,000 per annum and, in particular, would he state -

- (a) whether any public employees are involved directly or indirectly with the fixing of their own pay?
- (b) whether individual performance is taken into account when fixing pay?

- (c) whether, and, if so, to what extent, pay is automatically increased on the basis of inflation?
- (d) whether any employee's pay has been reduced following a benchmarking process by a remuneration consultant in the last three years and, if so, on how many occasions has this occurred?

### **Answer**

Most officers earning over £100,000 per annum have their salaries negotiated on a personal basis with the States Employment Board. The exception is Hospital Consultants whose pay is directly linked to the salaries fixed for comparable staff in the U.K. by the Doctors and Dentists Review Board.

- (a) Although the States Employment Board is advised in this respect by senior officers in the Chief Minister's Department, and senior employees are entitled to negotiate individually with the Board, it is the Board itself which has final responsibility for fixing pay;
- (b) in the main, individual performance is not taken into account, although the Board does have the ability to vary a pay award to reflect the performance of an individual officer. Hospital Consultants have increments which are awarded solely on the basis of merit, linked to specified performance criteria;
- (c) although the prevailing Retail Price Index is a factor which the Board takes into account, awards are not automatically increased on the basis of inflation. For instance, in 2004 and 2005, all awards were fixed at below the prevailing Retail Price Index.;
- (d) the circumstances suggested in the question have not arisen in the last three years.

### **1.3 WRITTEN QUESTION TO THE MINISTER FOR PLANNING AND ENVIRONMENT BY DEPUTY S. POWER OF ST. BRELADE REGARDING CAPACITY AT LA MOYE AND LES QUENNEVAIS SCHOOLS IN RELATION TO DEVELOPOMENT IN THE WEST OF THE ISLAND**

#### **Question**

At a public Parish meeting held on 22nd May 2006, the Minister for Education, Sport and Culture indicated his concerns regarding the future capacity at La Moye and Les Quennevais schools.

Would the Minister inform members -

- (a) whether he will temporarily halt any planning consultations and planning applications in the La Moye and Les Quennevais areas in view of the possible shortage of capacity in the schools in these areas? and,
- (b) whether consideration will be given to any compounding of traffic congestion arising at Beaumont and Victoria Avenue should development continue in the La Moye and Les Quennevais areas arising from school children attending school in St. Helier because of insufficient school capacity in the west of the Island?

#### **Answer**



- (a) For land use planning purposes, the Island operates a plan-led system and the 2002 Island Plan lies at the heart of this approach. It contains a framework of strategic planning policies and proposals, including the spatial strategy governing the location of new development and sites zoned for Category 'A' housing purposes;

these policies and proposals were formulated and approved following extensive consultations with interested parties and a States' debate in July 2002. The Education and Public Services Departments were among those bodies consulted and their views were factored into the site selection process;

clearly, educational forecasting is not an exact science and situations are subject to change. Indeed, I am aware that the catchment areas of schools are adjusted from time to time to cope with fluctuating numbers of school age children in each Parish. In some cases, temporary class accommodation is established to overcome short term population blips;

in the event that there are substantiated concerns about capacity at schools, I am sure that the Minister for Education, Sport and Culture will formally report those to me. At that point an appropriate course of action can be determined. In addition, there will be a review at a strategic level when the Island Plan is reviewed in 2007.

The Planning Applications Panel will continue to consider applications for new homes on their individual merits, having regard to the provisions of the 2002 Island Plan and to any other material considerations. Any large-scale applications for new homes will normally be referred to the Education Department for comment and the availability of school places will be a significant factor in determining the applications. I feel it unreasonable therefore to operate a complete embargo on new housing development at La Moye/Les Quennevais.

- (b) See answer to (a) above.

#### **1.4 WRITTEN QUESTION TO THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES BY DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR REGARDING TRANSPORT STRATEGY**

##### **Question**

Would the Minister inform members when the Transport Strategy will be presented to the States?

##### **Answer**

The Deputy will recall that on 31st January 2006, I made a statement to this Assembly withdrawing the Strategic Travel and Transport Plan (P.174/2005) which had been lodged by the former Environment and Public Services Committee in August last year. The Council of Ministers, in January 2006, approved that Plan as a high level framework document on which to develop some specific and detailed proposals for a number of key areas, namely buses, taxis and parking and I was charged to develop that Action Plan within the following 3 months. I regret that this timescale has been exceeded, but the Department has only a limited staff resource, which has been affected by staff illness.

However, work is progressing well and I hope that the Council of Ministers will consider the detailed plan by July at the latest. The plan will then be circulated for public consultation and also forwarded to Scrutiny for its review with the expectation that the final document, (as amended by the public and/or Scrutiny), will be lodged "au Greffe" in the last quarter of 2006.

**1.5 WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES  
BY SENATOR B.E. SHENTON REWGARDING PUBLIC EMPLOYEES' PENSION  
SCHEMES**

**Question**

Would the Minister inform members of the following information in relation to 2005 –

- (a) the total pension deficit or surplus, calculated under FRS17, for all public employees pension schemes including the Public Employees Contributory Retirement Scheme and the outstanding pre-1987 debt?
- (b) the amount of money transferred into pension schemes during the calendar year with a complete breakdown between schemes, regular employee contributions, and additional payments, (for example funds transferred from the former Education, Sport and Culture Committee's budget to cover pension shortfalls)?
- (c) a comparison of employer contribution rates against both the private sector average and U.K. local government pension schemes?
- (d) the current method of calculation for the pre-1987 debt, whether the liability for the debt lies solely with the taxpayer, and whether the actual debt quoted is an estimate and whether the actual amount payable by future generations will be significantly higher than the indicated figure?

**Answer**

- (a) The total pension deficits, calculated under FRS17 as at 31st December 2005, for the Jersey Teachers' Superannuation Fund (JTSF) and Jersey Post Office Pension Fund (JPOPF) can be found on Page XXVI of the States 2005 Financial Report and Accounts. The total deficit, calculated under FRS17 as at 31st December 2005, for the Public Employees' Contributory Retirement Scheme (PECRS) was £281,593,000. This sum is inclusive of the pre-1987 debt, valued at £123,152,000, as calculated by the method explained in answer (d) below.
- (b) The amount of money transferred into the pension schemes during 2005 was as follows-

	PECRS £'000s	JTSF £'000s	JPOPF £'000s
Employer Contribution	34,137	4,341	26
Pension Increases Funded by Employer	-	2,382	-
Employer Additional Voluntary Contributions	3	-	-
Voluntary Early Retirement Contributions	201	-	-

Employer Augmentation	140	-	-
<b>Total included in States Accounts</b>	<b>34,481</b>	<b>6,723</b>	<b>26</b>
Employee Contributions	10,656	2,618	1
Employee Additional Voluntary Contributions	501	17	-
<b>Total Employee Funded Contributions</b>	<b>11,157</b>	<b>2,635</b>	<b>1</b>
<b>Total transfers to Pension Schemes</b>	<b>45,638</b>	<b>9,358</b>	<b>27</b>

(c) Comparative Employer Contribution Rates are as follows:

#### **PECRS RATES**

Employer Contribution rate 13.60%\*

(Employees Contribution - New Members Rate 5.00%)

(Employees Contribution - Existing Members Rate 6.25%)

(Employees Contribution - 1967 Members Rate 6.00%)

\* An additional payment is made by the employer in respect of the Pre-1987 debt repayment (approximately 2% at present), as detailed in the 2005 Financial Report and Accounts and answer (d) below.

#### **JTSF RATES**

Employer Contribution rate 9.95%

(Employee Contribution rate 6.00%)

#### **JPOPF RATES**

Employer Contribution rate 26.60%

(Employee Contribution rate 1.50%)

#### **COMPARATIVE INFORMATION**

2005 NAPF (National Association of Pension Funds) survey showed average employer contribution for open defined benefit pension schemes as 16% of pensionable pay. This will no doubt include an element relating to past service surplus or, more likely, deficiency.

U.K. Local Government Pension Scheme; employer contribution is approximately 13.8% plus significant additional payments in respect of past service deficiency.

U.K. Principal Civil Service Scheme; the effective employer contribution calculated on like for like basis is approximately 18.3%.

**(d) THE PRE-1987 LIABILITY**

- (i) The current method of calculation for the pre-1987 liability is as follows –

To place a value on the future debt repayments due from the States over the period to 31st December 2083, the actuary has projected forward each year's repayment in line with assumed pay increases. In accordance with the Regulations the debt repayments due from the States will increase each year in line with the average pay increases of Scheme members. The annual debt repayment due from the States during 2005 was £3,004,321. To place a present value on the future repayments the actuary has discounted-back each repayment over the period from the date each repayment is due to be paid to the certification date in line with the assumed discount rate (or interest rate). The value placed on the outstanding debt is the sum of these discounted future debt repayments.

The financial assumptions used to calculate the outstanding pre-1987 debt due from the States as at 31st December 2005, were the assumptions used for the actuarial valuation of the Scheme as at 31st December 2004. The key assumptions used for this purpose are –

the average pay increases of Scheme members are assumed to be 1.25% per annum above U.K. inflation; and,

the discount rate is assumed to be 3.75% per annum above U.K. inflation.

- (ii) The States liability -

The States in agreeing P.190/2005 on 27th September 2005, have confirmed responsibility for the past service liability and agreed to repay this debt over an 82-year period commencing 1st January 2002.

- (iii) Total value of repayments to be made and 'estimation' clarification -

As explained above, the present value of the debt has been calculated as the expected present value of the future debt repayments. The debt repayments are dependent on future levels of pay, which cannot be known in advance. As such, assumptions have been used to place a value on these payments. To that extent, the quoted value of the payments can be described as an estimate.

The actual future debt payments will differ from those assumed in calculating the value of the payments to the extent that experience differs from the assumptions, for example if actual salary increases differ from those assumed in the calculations.

The debt works in a similar way to a mortgage. The debt repayments are made up of two elements, interest on the debt and capital payments to reduce the amount of debt outstanding. As with a mortgage, the balance of the repayments changes over time so that, in the later years of the repayment schedule, the capital payment becomes the major part of the repayment. However, unlike a mortgage, which tends to have level repayments, the repayments for this debt are projected to increase with pay increases over the repayment period. This means that repayments are projected to be higher in the later years of the repayment schedule. The capital repayments are, therefore, biased towards the later part of the repayment period. Each year, the value of the debt will increase with interest, and reduce by the amount of payments made.

Again, as with a mortgage, the sum of total projected payments to be made will exceed the current present value of the debt because the projected payments will include the future interest on the debt. However, if the future payments are discounted back at the rate of interest charged on the debt, the discounted value will equal the capital amount of the debt.

To explain why this is the case, imagine a separate fund set aside of equal value to the debt, from which the debt repayments are made, and on which interest is earned at the same rate of interest as is charged on the debt. Over the debt repayment period, the fund will increase with the interest earned, and this will be just sufficient to make up the difference between the debt amount, and the sum of the projected repayments.

## **1.6 WRITTEN QUESTION TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES BY DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR REGARDING THE HEALTH PROMOTION UNIT**

### **Question**

What is the cost and the number of staff employed in the Health Promotion Unit and how is the effectiveness of the service measured?

### **Answer**

The Health Promotion Unit is an integral part of the Public Health Department, which is based at Le Bas, has a budget of £370,930 (staff £330,120 and non-staff £40,810), and when fully staffed employs 6.86 full time equivalents.

The thrust of health promotion activities is directed at improving the health and wellbeing of the whole population of Jersey. However, it is recognised that health promotion activities, if they are to be successful, have to be implemented collaboratively working with other organisations drawn from the statutory, non-statutory and voluntary sectors.

The effectiveness of the Health Promotion Unit is measured in a number of ways –

- (i) targets are set for the Health Promotion Unit and these targets are expressed annually in the Business Plan for the Health and Social Services Department;
- (ii) some health promotion interventions are evaluated using questionnaires and other such forms of feedback from targeted populations and client groups. An example of such an evaluation is that relating to the “Grab 5” initiative. This initiative seeks to provide five pieces of fruit or vegetables per day to primary schools as a means of improving knowledge and understanding of the benefits of healthy eating. Judged by the feedback, this initiative has proved to be hugely effective;
- (iii) a number of longitudinal surveys and trend analysis are undertaken to plot behaviour changes over time. An example of this is the periodic health-related behaviour survey which is conducted in both primary and secondary schools; and,
- (iv) the Health Promotion Unit is a contributing agency to the Building a Safer Society Strategy (BASS). All of the BASS initiatives, and there are health promotion initiatives, are evaluated for their effectiveness as a matter of course.

Currently, the Medical Officer of Health is leading on the drafting of a new Health Improvement Strategy which it is envisaged will have a huge impact on the health and well being of Islanders. It will be the subject of consultation towards the end of the current calendar year. The Health Promotion Unit is playing its part in developing this strategy and it anticipated that as a result of this strategy, the role of the Health Promotion Unit will be significantly strengthened.

**1.7 WRITTEN QUESTION TO THE MINISTER FOR ECONOMIC DEVELOPMENT BY DEPUTY K.C. LEWIS OF ST. SAVIOUR REGARDING FERRY SERVICES TO FRANCE**

**Question**

As Condor Ferries has been actively promoting its U.K. to St. Malo route via the Channel Islands in the U.K. media with the effect of reducing capacity for local people to travel with Condor from Jersey to St. Malo, would the Minister undertake to secure adequate provision for the local travelling public on this route as part of any future service level agreement with the service provider?

**Answer**

I refer Deputy Lewis to the States debate held on 28th March 2006, on the subject matter of service level agreements. In that debate I gave an undertaking that service level agreements would deal with, schedules, type and capacity of vessels and appropriate reserve peak season capacity in the relevant markets. This undertaking clearly applies to all routes serving the Island. The Department is now in the process of negotiating service level agreements with Condor.

**1.8 WRITTEN QUESTION TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES BY DEPUTY K.C. LEWIS OF ST. SAVIOUR REGARDING THE INCIDENCE OF ILLNESS AFFECTING RESIDENTS IN THE HAVRE DES PAS AREA**

**Question**

The Minister has recently stated that there is no evidence of a connection between the La Collette composting site and the health of people living and working in the Havre des Pas area. Will the Minister undertake an investigation to ascertain whether there is any evidence of increased incidence of illness in the Havre des Pas area and, if so, the cause?

**Answer**

The Deputy is correct in that I have stated that there is no connection between the La Collette composting site and the health of the people living and working in the Havre des Pas area. My statement is based on the unequivocal advice of professional officers who include the Medical Officer of Health and the Head of the Health Protection Unit amongst others.

The Health Protection Unit has undertaken a comprehensive investigation in an attempt to seek evidence; showing an increase in illness in residents around composting sites; and an increase in illness and morbidity amongst the residents of Havre des Pas as a result of the relocation and continued operation of the composting facility at La Collette. The Health Protection Unit takes this matter very seriously and has investigated every complaint from residents that have been brought to

its attention. However, the Health Protection Unit has failed to find any such causality. I fully appreciate the fact that this is not what local residents wish to hear. I accept fully that some residents fervently believe that there is such causality. But the plain fact is that there is no science, no evidence, to support those beliefs.

If there was to be any negative health effect, (any causality between illness of local residents and the composter), then this would likely to take the form of respiratory illness or disease. The Island's chest physician, an eminent and highly respected consultant, has confirmed that there is no evidence which would suggest increased levels of such disease amongst residents.

The problem that we have is that if there were such illness and disease, and I repeat again that there is no evidence of this, it would be impossible to differentiate the source of such illness and disease because of the wide and diverse emissions from "industrial activities" which take place in the La Collette area. These include of course the Fuel Farm, the Jersey Gas site, the Power Station (which includes the chimney, the stand-by power plant and the oil stores) and incinerator ash dumping. These activities together with the associated heavy traffic movement and the significant local car traffic combine to create low "background" levels of pollutants. Air quality testing in St. Helier undertaken by the Health Protection Unit has demonstrated grounding of the Power Station plume raising pollutant levels in certain climatic conditions.

In this context, no purpose could possibly be served by "an investigation". Many investigations have taken place and to the highest standards and the results are clear. If the evidence, the science, is not believed then there is very little more to be said. I am sorry that I have to put this in such clear terms.

The problem for the local residents concerns unpleasant odours. No one has denied that there are odours emanating from the general area of La Collette. Some studies have determined that these are caused by the composting process, although the number of such incidents have reduced by the use of better composting techniques; other odours relate to the presence of decomposing seaweed at the sea shore.

I have great sympathy for the feelings and beliefs of local residents. The way to resolve their concerns once and for all is to implement the Waste Strategy of which I am a great supporter. We should all get on with this task in the interests of both Havre des Pas and Bellozanne residents.

As a footnote, I might add that, in January 2006, the Head of the Health Protection Team met with local residents and with Deputy Paul le Claire of St. Helier in order that they might discuss the latter's concerns. At that meeting, a number of polluting incidents were reported which the Team had been hitherto unaware of. The Team is still waiting for information on these polluting incidents in order that they can be investigated.

## **1.9 WRITTEN QUESTION TO THE CHIEF MINISTER BY DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR REGARDING THE INTRODUCTION OF AN INSURANCE SCHEME FOR SENIOR CITIZENS**

### **Question**

Which Minister has responsibility for developing policy in regard to the financing and possible introduction of an insurance scheme for senior citizens requiring residential/nursing care and will a report, with all costed options detailed, be presented to the States and, if so, when?

## **Answer**

The responsibility for developing policy in this area would rest with the Minister for Social Security. In developing any such policy, he would need to work closely with other Ministers and organisations, and in particular with the Minister for Health and Social Services, given the latter's responsibilities for overall health and social care strategy.

However, it needs to be borne in mind that the introduction of an insurance scheme is only one of a number of options that exist in respect of the funding of elderly healthcare. Health and social care for the Island's more elderly population will form an important part of the strategic report currently being developed by Health and Social Services, and this will identify a high-level plan for the re-design of health and social care in the Island. Funding options for the healthcare strategy will be tailored to the overall strategic direction of the Island.

This particular issue is one of many facing the Island as a result of demographic and health care pressures. These issues, together with options to address them, have already been identified and discussed in the "Policy Review of the Social Insurance System in Jersey - Interim Report", (R.C. 49/2004), presented to the States in 2004 by the former Employment and Social Security Committee.

The draft Strategic Plan 2006-2011 commits the Minister for Social Security to the future development of the Social Insurance System, as reported in R.C. 49/2004, through undertaking public consultation and developing further strategies for the States to consider by 2007 (paragraph 3.6.1 of the Strategic Plan). This review will address the range of available options, including their relative costs.

### **1.10 WRITTEN QUESTION TO THE MINISTER FOR EDUCATION, SPORT AND CULTURE BY CONNÉTABLE A.S. CROWCROFT OF ST. HELIER REGARDING THE 'MOVE ON CAFÉ'**

#### **Question**

Would the Minister provide an update on the position of the 'Move on Café' on the Island Site, and indicate what alternative facilities, if any, will be available for young people when this drop-in centre closes?

#### **Answer**

I understand that the 'Move On Café' is secure until the end of August 2006. The Youth Service is currently working with a number of other organisations, the Parish of St Helier, Waterfront Enterprise Board, and the Harbours Department to secure alternative facilities in close vicinity to the 'Move On Café' for young people living in or coming to the area.

A number of options have been considered. The most favoured, and the option being actively pursued, is the development of facilities for young people on a converted historic vessel to be moored against the wall in the harbour by the Maritime Museum.

### **1.11 WRITTEN QUESTION TO THE MINISTER FOR ECONOMIC DEVELOPMENT BY DEPUTY A. BRECKON OF ST. SAVIOUR REGARDING PROGRESS OF THE**



## **'TOWN CYCLE NETWORK' AND FUNDING UNDER THE TOURISM DEVELOPMENT FUND**

### **Question**

Would the Minister inform members on the current progress of the £200,000 grant made in 2003 from the Tourism Development Fund to the Parish of St. Helier in respect of a 'Town Cycle Network' and state how the funding is being managed, how it has been spent to date and how the remaining funds will be spent?

### **Answer**

The funds for the project were approved in September 2002 and the project is being managed by the Parish of St. Helier. However due to States arrangements for Road Orders some elements of the scheme have to be approved by the Transport and Technical Services Department.

Between September 2004 and March 2005 the Tourism Development Fund (TDF) has paid out £39,142 to the Parish of St. Helier Cycle Network Scheme for development work on Phase One of the project which included signage, bicycle stands, traffic islands and reflective bollards. With work presently being carried out on the upgrading of the signals and widening of the pedestrian crossing on Route de la Liberation to assist cyclists crossing from the waterfront and harbour area expenditure on Phase One is expected to reach £57,000.

Phase Two of the Town Cycle Network (east bound, town to Havre des Pas) was designed, drawn up, risk assessed and sent to the former Environment and Public Services Committee in February 2005. The Committee rejected the scheme in October 2005.

Earlier this year the New Minister for Transport and Technical Services was invited to attend upon the St. Helier Roads Committee to discuss concerns. The Minister expressed his concern about the methodology of marking and signing the proposed route and requested the scheme be re-visited to look at alternative methods. The project is, therefore, currently being revised and will be submitted to the St. Helier Roads Committee and the Minister for Transport and Technical Services when ready.

## **1.12 WRITTEN QUESTION TO THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES BY CONNÉTABLE A.S. CROWCROFT OF ST. HELIER REGARDING THE 'GREENING' OF MULTI-STOREY CAR PARKS**

### **Question**

Would the Minister inform members –

- (a) whether he is considering the potential for the 'greening' of the multi-storey car parks at Sand Street, Minden Place, Green Street and Fort Regent and, if so, what action, if any, he intends taking; and,
- (b) whether he would be prepared to allow the growing of appropriate species of plants on some or all of these facilities to provide a form of attractive visual screening of the car parks at the same time as contributing to biodiversity?

### **Answer**

- (a) The matter of ‘greening’ the multi-storey car parks has, at various times in the past, been considered mostly for aesthetic reasons. It has, so far, not been progressed for a variety of reasons:
- (i) the costs involved, both at the outset and for ongoing maintenance;
  - (ii) concern over whether the roots or climbers/clingers would damage the structure of the buildings;
  - (iii) some health and safety concerns over the possibility of reduced ventilation and light inside the car parks; and,
  - (iv) the issue of accessibility to the structural elements for maintenance.

However, every case should be, and will be, considered on its own merits and I certainly would not dismiss this idea, especially at a time when the St. Helier Regeneration Project, which will be examining ways of enhancing the town in all senses of the word, is just beginning.

- (b) As intimated in my answer to (a) above, I would be prepared to consider this form of screening as and where it is appropriate taking into account the issues already mentioned. I will take advice from the departmental officers both in respect of the kind of species of plants which may be appropriate and as to which structure, or part of a structure, would most lend itself to this form of screening.

### **1.13 WRITTEN QUESTION TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES BY DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT REGARDING COMMUNICATIONS AND BED NUMBERTS IN THE GENERAL HOSPITAL**

Would the Minister inform members –

- (a) whether he is investigating communications procedures across various departments within the General Hospital to determine whether any disconnection exists and, if not, would he undertake to do so; and
- (b) of available bed numbers within the General Hospital and at longer stay wards such as at Overdale Hospital and also give details of projected numbers for the next five years?

#### **Answer**

- (a) A district General Hospital is an extremely busy and highly complex organisation. Even a cursory examination of the Jersey General Hospital’s internal telephone directory would give one an appreciation of this complexity and high division of labour that exists between the various clinical and non-clinical departments, functions, and activities. Communicating effectively and meaningfully to a highly diverse workforce, which includes consultants, nurses and midwives, manual workers, technicians and administrative staff, is a challenge which is characteristic of such organisations and is a task that is never completed as it is always possible to work harder and to improve further.

In this context, a number of important exercises have just been completed –

- (i) the management structure has been subject of widespread consultation both within the Jersey General Hospital and within other departments of Health and Social Services. The way in which this exercise has been conducted has drawn

compliments from a number of staff. An important outcome from this review has been an affirmation of the Chief Officer's practice of holding three "road shows" each year, in three different locations, (nine events altogether), in order that he can be accountable to his staff and can answer their searching questions;

- (ii) Executive Directors communicate organisation wide messages using the intranet facility. This has proved increasingly affective as more and more departments, and more and more staff within those departments, have access to the latest technologies. Importantly, following a recent meeting of the Manual Workers Joint Consultative Committee, internet access will be "rolled out" to manual workers as far as it is practical;
- (iii) the Health and Social Services Department is committed to ensuring that it's staff are made aware of any changes to their working practices proactively via the intranet rather than having to read about them in the local media. As the Department seeks to become a better employer, this professional courtesy represents best practice;
- (iv) senior managers and senior clinicians meet regularly with various work groups through the Health and Social Services Departments' consultative machinery. Specific consultative machinery exists for medical staff, nursing and midwifery staff, and manual workers. A latter development has been the establishment of a joint Working Party comprising of nurse managers and nursing and midwifery staff side representatives to implement the Job Families Agreement which is a highly complex and all embracing agreement which has the effect of radically transforming the remuneration and career paths for the nursing and midwifery professions.

Health and Social Services encourages all staff to communicate widely and responsibly. Communication should never be simply "top down" from the Chief Officer. Communication should flow "up and down and across" the Department if the organisation is to be healthy, continue to be relevant, and able to operate in a timely and professionally manner.

Given this level of communication, albeit not perfect, it suggests to me that there is no "disconnection" within the Jersey General Hospital. If the Deputy is aware of any specific matter that might suggest such a 'disconnection' then perhaps he would contact me.

- (b) The number of available beds within the Jersey General Hospital is 294 (this number includes the Critical Care Unit, Special Care Baby Unit and Maternity beds). The number of beds in the longer stay wards at the Overdale hospital is 141 (this number does not include respite beds). Further long stay facilities exist at St. Saviours' Hospital for older people with mental health problems. The number of these beds is 95 (this number does not include respite beds).

Beds represent a very high cost in the provision of health and social care thus it is important that numbers are always kept under review. Some of the factors which influence the number of beds in any health care system include –

- (i) where patients prefer to be treated elsewhere, for example, receiving appropriate treatment in care in their own homes as opposed to being in an institution of some kind;
- (ii) where care is more effectively given elsewhere. The best and most effective form of surgery for many patients takes place on a "day surgery" basis. To add to its current

day surgery facilities, a £6.9 million development is taking place at the Jersey General Hospital which will allow patients to arrive, receive surgery, and return to their own homes without the need for them to be accommodated in a bed on a ward;

- (iii) when technology has changed the type of treatment a patient needs. The States of Jersey is to invest significantly in the ICT infrastructure of the Health & Social Services Department. The affect of this new technology, amongst other things, will be to expedite care as a result, medical records, and x-rays (and other relevant items of information) can be transmitted electronically and save the need for some surgical patients to languish in beds;
- (iv) when chronic disease management improves. I will be bringing forward proposals for restructuring of health and social care in the latter months of this year. One of these proposals will include the development of more effective and efficient ways of providing care and treatment to those patients with longer term conditions. Currently, these patients are often re-admitted to the Jersey General Hospital when they experience an acute episode simply because GP-led primary and community services are insufficient for these patients to be treated in their own homes;
- (v) when waiting times reduce further. While this is a complex matter, it can be said that when a general hospital has long waiting lists, then healthcare professionals often spend an inordinate amount of time prioritising and re-prioritising patients who are on that long waiting list but whose conditions deteriorate as a consequence. Short waiting times means that healthcare professionals can manage their patients before their conditions worsen. In this way, healthcare professionals can 'manage their patients' rather than 'manage the waiting lists'.

An exercise currently underway is to measure the impact of these variables, an indeed others, on bed numbers. The number of beds which the Health and Social Services Department thinks it will need in the future, provided that other non-hospital options are available, will be presented to the States later this year.

#### **1.14 WRITTEN QUESTION TO THE MINISTER FOR SOCIAL SECURITY BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING LONG TERM INCAPACITY ALLOWANCE (LTIA) CLAIMANTS**

##### **Question**

Will the Minister inform members –

- (a) of the total number of LTIA claimants in receipt of benefit along with percentages of incapacity awarded and the total sum paid out for the year 2005?
- b) of the number of claimants, and the total paid for Disablement and Invalidity Benefits separately for the year 2003, the last full year of operation under the old system;?
- (c) how many LTIA claimants have been successful in finding work, and the reasons for any who have been unsuccessful?
- (d) how much additional cost, if any, has been transferred from the Social Security system to Parish Welfare departments and to general tax revenues for native and non-native welfare

payments as a result of the change to a system of percentage awards of LTIA, and if none the reasons why?

**Answer**

As the Deputy is aware, having contributed to it, a review of the Incapacity Benefit system is underway with a report due later this year which will cover the wider issues within these questions and therefore I have not attempted to anticipate the outcome of that review.

- (a) The total expenditure on Long-Term Incapacity Allowance (LTIA) in 2005 was: £1,421,000. In addition expenditure on legacy claims for Disablement Benefit (DB) and Invalidity Benefit (INV) were £3,703,000 and £18,131,000 respectively;

the total number of people in receipt of LTIA as at 31st December 2005, was 516. In addition, there were 854 people still receiving DB and 1,962 receiving INV. The initial percentage awards for the LTIA recipients are illustrated below –

% Incapacity	5	10	15	20	25	30	35	40	45	50	55	60	65	70	75	80	85	90	95	100
No. of recipients	14	14	29	47	24	35	17	23	9	63	14	47	10	41	27	36	5	12	1	48

The percentages illustrate the long-term award; however, additional payments may be made over the short-term where, for example, someone is having an operation. The total expenditure of £23,255,000 for all three benefits was in 2005 and there were 3,332 long term benefit recipients at the 31st December 2005;

- (b) as at 31st December 2003, the number of people in receipt of Disablement Benefit was 828 and total expenditure for the year was £3,432,000. The number of people in receipt of Invalidity Benefit was 1,954 and the total expenditure for the year was £16,260,000, giving a total expenditure of £19,692,000 in 2003 and 2,782 long term benefit recipients at the end of the year;
- (c) 157 people (30%) of the 516 LTIA recipients as at December 2005 are showing as having paid Class I Social Security contributions while receiving LTIA. Some recipients of Invalidity Benefit have moved voluntarily to LTIA and into open employment after a period of Therapeutic Work. However, it is not possible to list the many reasons why an LTIA recipient is not working: some may be undertaking training to find new roles while others may decide not to work. This aspect will be covered by the review;
- (d) it is impossible to estimate whether there has been a transfer of cost as a direct result of an LTIA award. As has been explained in answers to previous questions, the eligibility criteria for the present benefits differs from the previous benefits such that some people now receive benefit who would not have under the old system. Furthermore, the new system allows recipients to work where possible and thereby achieve a degree of financial independence. Therefore, in some cases, the financial cost to the Welfare system may be reduced. To give any estimate would require an individual review of each case and the Department is not privy to that information.

### **1.15 WRITTEN QUESTION TO THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES BY DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT REGARDING THE TIMETABLING OF COMMUNICATIONS**

#### **Question**

Will the Minister inform members of the current timescale in which he deals with and replies to incoming communications and also give an indication of how this may change in the future?

#### **Answer**

It is the normal practice of the Transport and Technical Services Department to acknowledge incoming communications within two working days and to provide a response within two weeks. In the generality, communications addressed to the Minister would fall into this procedural pattern. However, the Minister does not consider himself bound by the existing departmental protocol and the Minister does not simply use the measurement of time to deal with incoming communications. In practice, the Minister applies a further series of protocols that are kept under regular review.

Incoming communications will be dealt with differently, for example, according to whether they are addressed to the Minister of Transport and Technical Services or to Deputy Guy de Faye, which may imply constituency matters as opposed to Transport and Technical Services business. Similarly, hand written, typed or printed letters are usually accorded a higher level of priority than e-mails and, in the case of e-mails, whether as Minister or Deputy, there may be no response made at all, if the e-mail is merely copying information sent to a different primary recipient. On rare occasions, it is possible that an incoming communication might be deemed to be malicious or vexatious and consequently not warrant a reply.

It should be stressed that the preceding examples should be regarded as indicators of how responses to communications may be handled. There are numerous factors that can impact upon any given exchange of correspondence, such as complexity of research or absence of particular key personnel, which will then affect the priority and timing attached to an individual communication and its subsequent response.

The Minister does not anticipate any substantial change to this overall approach in the immediate future.

### **1.16 WRITTEN QUESTION TO THE CHAIRMAN, COMITÉ DES CONNÉTABLES BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING THE COST OF WELFARE IN RELATION TO THE IMPACT OF THE LONG TERM INCAPACITY ALLOWANCE (LTIA) SYSTEM**

#### **Question**

Would the Chairman inform members what total additional sums, if any, have been paid by the Parishes to welfare claimants to 'top -up' percentage awards made by the LTIA system over the financial year 2005/06?

#### **Answer**

The information requested can only be extracted manually by reference to individual files for welfare claimants. It is not possible in the limited time available to give the figure for the full

financial year 2005/06. I am advised that in April 2006 a total of £29,954.04 was paid to persons receiving LTIA across all Parishes.

I will endeavour to provide the information for the full financial year in due course, if it is still required, but at present all resources are concentrated on finalising the annual accounts so that the Island-wide rate for 2006 may be set.

**1.17 WRITTEN QUESTION TO THE MINISTER FOR PLANNING AND ENVIRONMENT BY DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT REGARDING THE POLICY ON HISTORIC BUILDINGS AS RELATED TO THE PROPERTY 'LA FALAISE', ST. MARTIN**

**Question**

Would the Minister inform members how his policy on historic buildings reconciles with the recent decision taken regarding the property 'La Falaise' as not being a building with any historic relevance?

**Answer**

As I have made clear on a number of occasions my intention is to raise the status of our important historic buildings. To help achieve greater protection for our historic built environment I have recently formed the Ministerial Registration and Listing Advisory Group. This group comprises the members of the old Historic Advisory Panel and brings in many new members with specialist heritage knowledge. These are respected people who have spent a lifetime involved with various aspects of our history and it is entirely appropriate that they should be formally involved in my endeavours to provide the best possible pool of heritage knowledge from which I can draw to take decisions relating to the listing and registration of S.S.I.s and B.L.I.s.

However much we may wish to we cannot preserve all our old buildings but we must retain buildings of significant historic, cultural or architectural merit. Over the years we have seen the destruction of buildings that would have been preserved in many other jurisdictions; the most notable being Colomberie House.

Owning a BLI or SSI carries certain additional costs over an ordinary building. Repair works can be more costly and can be scrutinised by the Department. Presently only a small sum is available as heritage grants. I will be carrying out a review of the cost implications of owning S.S.I.'s and B.L.I.'s and will report back to the States once the work is concluded. This report will include a review of the current grant system.

La Falaise presented a very interesting situation. Initially it had been assumed that the building was constructed at the time of the breakwater (1847-1856) and that it may have had a 'military association'. When further research was carried out it transpired that plans existed in the Archive for this house. The plans were dated 1911 and clearly the house must postdate these plans. The plans include a foundation section indicating that whilst this may have been a reconstruction using some materials recovered from an earlier building it was effectively a new build. As there was no particular architectural merit in the building and as it had no know cultural or historical significance I felt that listing or registration was not warranted. However, I have stated that I would only consider allowing as a replacement a traditionally designed Jersey house of granite. It would need to be very carefully detailed included well proportioned windows and other traditional details.

**1.18 WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING MATTERS CONTAINED IN THE DOCUMENT ‘ZERO/TEN DESIGN PROPOSAL.’**

**Question**

Would the Minister inform members, in relation to the document entitled ‘Zero/Ten Design Proposal’ –

- (a) whether the decision to introduce ‘look through’ only for investment holding companies but not for trading companies owned by Island residents will reduce estimated tax yield and, if so, by how much? If not, can the Minister explain why the mechanism was originally chosen?
- (b) whether the removal of the requirement to disclose beneficial ownership for Jersey companies contained in Section 6 has any effect on the Island being well regulated over money-laundering?
- (c) why the decision was taken not to introduce limited or ‘schedular’ look-through contained in paragraph 10.3.2?
- (d) why the decision was taken not to apply anti-avoidance measures in section 12 and whether this will result in any impact on fiscal revenue and, if so, to what extent?
- (e) of the impact, if any, of the proposals made in paragraphs 17.2.2 to 17.3.1 and what estimates have been made, if any, of the tax revenues contained in paragraph 17.6?
- (f) of the *de minimis* rental level under consideration in paragraph 17.6.3, and what impact, if any, this has on tax revenues?
- (g) what estimates, if any, have been made of the impact of the exemption on shareholdings below 1% contained in 19.3.2 on revenues? and,
- (h) what additional resources will be required, if any, in order to make the changes to Article 134A of the Income Tax (Jersey) Law 1961 effective in tackling avoidance?

**Answer**

- (a) There will be no loss of the estimated tax yield arising at the personal or dividend level as all distributions and deemed distributions will eventually be collected by assessment on the individual shareholder. However, there will be a loss of interest that may have accrued on these tax revenues as there is a timing difference between the receipt of tax revenues under the original ‘look through’ proposals, (when tax revenues would have been received on total profits more or less as currently), compared to the revised ‘partial distribution’ proposals which will only tax all undistributed profits for the first year in the fourth year with tax collection in the fifth year and so on. However, part of the proposals includes a deferred distribution charge which equates to an annual interest charge of 4% so that will compensate to some degree for the loss of interest which may have accrued on these tax revenues. If the Limited Trading Partnership route is chosen, however, there will be no loss of tax or loss of interest on persona/dividend tax revenues in such instances as such assessments will be made on ‘a partnership basis’ of all profits arising. The original ‘look



through' proposals were chosen with part of the rationale being to maximise tax yield on a current year basis;

- (b) whereas there is a proposal to remove the requirement for upfront disclosure of beneficial ownership for Jersey companies to the Financial Services Commission, (where a company is administered by a licensed Jersey trust and company service provider), there is no weakening of the legal requirement for the licensed Jersey service provider to know and to keep that information and for it to be subject to investigation by the Commission either through the on-site inspection process or through it being specifically requested by the Commission as circumstances dictate. Indeed, the requirements in this respect are due to be further enhanced shortly through the introduction of a revised Money Laundering Order and related regulatory guidance, which reflect the latest international standards on anti-money laundering. An inability either to demonstrate compliance during an on-site visit or to respond to a specific request for beneficial ownership information would amount to a significant breach of the anti-money laundering requirements and could thus have an impact on the service provider's continuing 'fit and properness' to hold an ongoing licence under relevant legislation, or lead to the use of a regulatory sanction by the Commission, as well as leaving the firm concerned and its directors open to possible criminal prosecution (as happened in a recent case) The change now being proposed on up-front disclosure is not, therefore, seen to represent a risk to the Island's well founded reputation for being well regulated in terms of anti-money-laundering.

This also fits in with the wider international picture. The OECD in its report on the misuse of corporate vehicles and the FATF in its methodology for assessing compliance with the 40 recommendations on money laundering refer to three options for ensuring that information on beneficial ownership is available - up-front disclosure; regulation of trust and company service providers; and investigatory powers. Up-front disclosure may be attractive when focusing on the formation stage but nowadays the emphasis is much more on the importance of on-going monitoring and in this respect, with Jersey now having a well established track record in the regulation of trust and company service providers, the Island has a very positive story to tell which the proposed change in no way impairs;

- (c) this would cause an unnecessary administrative and operational burden at both professional offices and the Income Tax Office through the preparation and examination of such 'schedular' look through computations for non-trading income and would not be a wise use of scarce resources;
- (d) such anti-avoidance measures would be complex and resource intensive to administer. In any case, the most simple avoidance measure of all for specified financial services companies would be to transfer the assets in question to another competitive jurisdiction and that is not something that I would like to see, as it is much more preferable to keep the capital here in Jersey. So it is not simply a matter of tax but as importantly maintaining the capital base here in Jersey rather than losing it;
- (e) there are no statistics available to make an estimate of the tax yield that would arise from such an extension of the tax base and that, as well as the complex legislation that would be needed to administer the legislation in question, is why this proposal has not been pursued. The very broad and tentative estimate of the tax revenues that may arise from the proposal at paragraph 17.6 is some £5 million, although it is by no means certain that the proposal

in question will come to fruition as I am still awaiting feedback on that proposal as I am with all the others;

- (f) once again, this is a matter that is out for consultation as I do not want to impose an unnecessary administrative 'red tape' burden on tenants or letting agents. It is for this very reason that the United Kingdom has its own *de minimis* rental level of £100 per week;
- (g) to subject shareholders with a less than 1% shareholding in public companies to the deemed distribution charge and the deferred distribution charge would be both administratively onerous as well as being practically and legally indefensible. These shareholders will still be liable, as now, at the standard rate of 20% on the dividends they receive from these companies. It is not thought that there will be any impact, as compared to the present situation, on revenues;
- (h) there will be no additional resources to police the revised Article 134A as all assessing and accounts inspection staff at the Income Tax Office already undertake a crucial role in investigating all cases of tax avoidance. There is also a specialist Division which tackles tax evasion and fraud and those officers will also be involved in policing the new Article 134A provisions. The new 'tick the box' regime will also make checking of individual taxpayer Income Tax Returns must easier and transparent than at present and will assist the Comptroller and his staff in ensuring complete and correct Income Tax Returns are being made.

**1.19 WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES  
BY DEPUTY A. BRECKON OF ST. SAVIOUR REGARDING DIVIDENDS  
RECEIVED FROM THE JERSEY ELECTRICITY COMPANY LIMITED FROM  
2001 TO THE PRESENT TIME**

**Question**

Would the Minister inform members how much the States have received from the Jersey Electricity Company Limited in dividends, including special dividends, in each of the years 2001 to 2005, and in the first four months of 2006?

**Answer**

Since the beginning of 2001 the States of Jersey has received over £9.9 million in dividends, this includes a special dividend paid in March of this year. The one off payment of the special dividend in 2006 reflects the distribution of £6.8m proceeds from the sale of an investment property in Broad Street during the last quarter of 2005.

The details of all dividends are shown below -

**SOJ JEC Dividends Received 2001 to April 2006**

**Stock: JEC Ordinary Shares of £1.00 each**

<b><u>Holding</u></b>	<b>Year</b>	<b>Period</b>	<b>Payable</b>	<b>Net</b>	<b>Tax</b>	<b>Gross</b>
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950,000.00	2001	Interim	20/09/2001	266,000.00	66,500.00	332,500.00
		Final	13/03/2002	304,000.00	76,000.00	380,000.00
						<b>712,500.00</b>
950,000.00	2002	Interim	06/09/2002	281,200.00	70,300.00	351,500.00
		Final	04/04/2003	345,800.00	86,450.00	432,250.00
						<b>783,750.00</b>
950,000.00	2003	Interim	04/09/2003	311,600.00	77,900.00	389,500.00
		Final	02/04/2004	380,000.00	95,000.00	475,000.00
						<b>864,500.00</b>
950,000.00	2004	Interim	30/09/2004	342,000.00	85,500.00	427,500.00
		Final	02/04/2005	532,000.00	133,000.00	665,000.00
						<b>1,092,500.00</b>
950,000.00	2005	Interim	01/09/2005	380,000.00	95,000.00	475,000.00
		Final	28/03/2006	589,000.00	147,250.00	736,250.00
						<b>1,211,250.00</b>
950,000.00	2006	Special Dividend	28/03/2006	4,218,000.00	1,054,500.00	5,272,500.00
						<b>5,272,500.00</b>
<b>total</b>						<b>9,937,000.00</b>

## 2. Oral Questions

### 2.1 Deputy G.C.L. Baudains of St. Clement of the Minister for Health and Social Services regarding the inspection of food recently carried out on the visiting traders from France:

Would the Minister inform Members whether he is investigating or intends to investigate the circumstances regarding the inspection of food recently carried out on the visiting traders from France?

#### Senator S. Syvret (The Minister for Health and Social Services):

The inspection of food labelling and hygiene standards relating to traders who sold their produce at the Foire de Jersey was undertaken by the Health Protection Unit. The Food Safety Labelling (Jersey) Order 2005 enables Jersey to have the very same labelling laws as those which exist in the European Union. Under this Order it is an offence for vendors to display information in a language

not readily understood by the intended consumer. Clearly, in the Jersey context, the majority of intended consumers would expect labelling to be in the English language. Regulation and inspection are important means by which **[Interruption]** Islanders can be protected from a wide range of risks, threats and contingencies. Jersey is subject to regulation and inspection in many areas of life. For regulation and inspection to be effective it cannot be subject to the whims of political or managerial control, otherwise it falls into an ineffective and disreputable state. Thus, I am always very mindful not to involve myself in the day-to-day substance of inspection and regulatory activities undertaken by Health and Social Services. The reports concerning the inspection at the Foire de Jersey, which appeared in the media last week, did not portray the level of dialogue which took place prior to the fair between the Maison de Normandy and the fair organisers to ensure that prospective vendors were made aware of the need for the latter to abide by local Jersey-based legislation. Notwithstanding this, I have asked the Medical Officer of Health and the Chief Officer of Health and Social Services Department to meet with the Health Protection Team to review the rules of engagement by which the Health Protection Team engage with any individual premises or businesses should an inspection be in the offing. I would be perfectly happy to share the results of this review with the States Assembly in due course.

### **2.1.1 Deputy G.C.L. Baudains:**

Unfortunately I did not comprehend all of that because I believe the Minister was trying to read very quickly through the printed answer that he had. It does seem to me from the correspondence we have seen and media statements that there seems to be - what concerns me - some discrimination here because it has been alleged that local traders do not all comply with this matter either but do not seem to be so vigorously pursued. Would the Minister confirm that that is the case and would he also comment on the fact that this is, in fact, a bilingual Island where English and French are both our language. I was going to ask the question in French but unfortunately, although I speak a little French, I have forgotten most of my French over the last 20 years, an unhappy situation. What I am seeking to find out is why is it not satisfactory that the labelling, as this is a bilingual Island, apparently was in French but was required to be English? Surely the fact of French labelling would be entirely satisfactory?

### **Senator S. Syvret:**

The Regulations in Jersey, which mirror those across the European Union, require that the labelling on food products be in the language that the majority of people speak rather than the official languages of a country. Clearly, the great majority of people in Jersey do use English as their first language so that is the reason for that requirement. As I say, these are Regulations that mirror those to be found across the European Union. As far as the enforcement of these requirements on local traders is concerned, the same standards are applied. It has to be remembered that none of the traders at the Foire de Jersey were stopped from trading, although there were some discussions with them and the inspectors. The same applies with a number of supermarkets and other smaller outlets in Jersey which have not been compliant with the Regulations and have been not selling goods that are properly labelled. The Health Protection Unit has been engaged in a process I suppose I could describe as negotiation and co-operation with these various outlets in an effort to try and get them into a position whereby they are complying with the Regulations. That is, I think, a more constructive approach than simply marching in and slapping some form of enforcement notice on them.

### **2.1.2 Deputy R.G. Le Hérissier of St. Saviour:**

Would the Minister inform the House whether or not it is his intention to also label or to seek the labelling of food served in restaurants? Secondly, would he answer the allegation made on Radio

Jersey that a person delivered a homemade cake to the hospital and was told that the patient in question could not eat it as it was not correctly labelled?

**Senator S. Syvret:**

As I have already indicated in answering the initial question, I have asked the Medical Officer of Health and the Chief Executive of Health and Social Services in co-operation with the department to review the whole procedures adopted by the Health Protection Unit and, indeed, to see whether any of the Regulations perhaps need amending. As far as the issue about the cake is concerned, I heard something about this but I think it applied to a nursing home somewhere in the United Kingdom as opposed to any event that occurred in Jersey.

**2.1.3 Deputy A.D. Lewis of St. John:**

I just wanted to bring the Senator's attention to an enraged parishioner who telephoned me on my mobile whilst I was holiday about the incident at the States Farm. She was very concerned as to the manner in which the inspector dealt with the situation. Could the Senator assure us that in the future training will be given to such officials so that they handle these situations in a slightly more sensitive manner?

**Senator S. Syvret:**

Yes, that will be part of the review of the terms of engagement as to how health inspectors engage with the various people who are being regulated. Yes, there will be a review of these procedures. It has to be said there was one incident where a confrontation took place between one inspector and, I think, the head of Maison de Jersey, which he has written to her and apologised. I have made it absolutely plain that that kind of behaviour will not be acceptable, raising voices to people is not acceptable behaviour from any Health and Social Services employee, and it will not occur again.

**2.1.4 Deputy P.V.F. Le Claire of St. Helier:**

Because I am confused on the issue and obviously he is going to review it anyway, I would like to ask the Minister what sort of criteria exists for the provision of inspecting or providing English language on foods in specialty shops where, for example, one can purchase foods, for example, baby food from a Portuguese shop which was in Portuguese. There was no English on it. Is there an inspection factor there and is that going to be part of the review?

**Senator S. Syvret:**

Yes, I think I have alluded to that. The fact is there are some shops - speciality shops - that are selling goods that are not correctly labelled and are, therefore, not compliant with the existing Regulations. As I have already explained, the Health Protection Unit has been attempting to address that issue through a process of persuasion and negotiation rather than blunt enforcement, which is something that they could do under their existing legal powers.

**2.1.5 Connétable D.J. Murphy of Grouville:**

Could the Minister assure us that during his review of these Regulations that he will look at the labelling of French wines coming into Jersey because mostly they are labelled completely in French without an English translation. **[Laughter]**

**Senator S. Syvret:**

I am certainly happy to check the Regulations' applicability to alcohol products.

### **2.1.6 Deputy G.C.L. Baudains:**

I wonder if, in this new spirit of co-operation across government, perhaps the Minister would consider teamwork with the Minister for Education, Sport and Culture where perhaps at these fairs a dictionary could be issued and this would assist greatly in people understanding a variety of languages.

### **Senator S. Syvret:**

I am sure the Minister for Education, Sport and Culture is very, very interested in ensuring that the Island has a very good standard of inter-language learning.

### **The Bailiff:**

That concludes the questioning of the Minister of Health and Social Services and we return to the beginning of the list of oral questions. The next question is by Deputy Power of the Minister for Transport and Technical Services.

### **2.2 Deputy S. Power of St. Brelade of the Minister for Transport and Technical Services regarding the anticipated remaining lifespan of La Collette 2 and plans for la Collette 3 or any other future reclamation project:**

Would the Minister inform Members what the latest estimate is for the anticipated remaining lifespan of La Collette 2 and how far advanced plans are for La Collette 3 or any other suggested reclamation project?

### **Deputy G.W.J. de Faye of St. Helier (The Minister for Transport and Technical Services):**

The anticipated lifespan of the La Collette 2 site is estimated to be between 9 and 11 years. This estimate is based on the current and historic infill rate and if the infill rate reduces the lifespan would increase and *vice versa*. The waste strategy identifies the need for a future inert waste disposal site when La Collette 2 is full. The options consist of a further marine reclamation site or a land-based site, probably in one of the existing quarries when they have been fully worked in terms of mineral extraction. The department is already working with the planning department to assess the timeframe for a land-based solution. However, as yet there are no fixed dates for a site to become available. The option of a further marine-based site will have to be fully evaluated as to extend to the southeast of the existing La Collette site will require careful consideration of the current RAMSAR designation for that area. I am aware of proposals for smaller marine-based sites in other locations, but these will require full environmental and economic evaluation. The department will be commencing work on identifying options for future inert waste disposal sites early next year. A request for capital funding to enable a full technical evaluation has been included in the 2011 capital programme.

### **2.2.1 Deputy J.B. Fox of St. Helier:**

I wonder if the Minister could indicate whether one of the previous plans by a previous Harbourmaster was to look seriously at providing our long-term future shipping requirements by way of an arm leading out beyond the Dog's Nest, the Demie de Pas, et cetera, to a new island out there, which would allow us to have regular-size shipping able to stop - cruise liners, et cetera? I wanted to ask if this is in their proposed thinking.

### **Deputy G.W.J. de Faye:**

I have heard of such a plan being drawn up and I assume currently stored somewhere. I have to inform the Deputy I have not looked at it personally and as far as I know that particular plan is not currently at the forefront of the department's thinking. But as the Deputy has alerted me to it, I am sure we can have another look at it.

### **2.2.2 Senator L. Norman:**

On at least 2 occasions the States have approved in principle a land reclamation scheme at St. Aubin. Could the Minister tell us what progress has been made on that project, please?

### **Deputy G.W.J. de Faye:**

I understand that plans for a reclamation site at St. Aubin have been in the course of discussion for something like 40 years or maybe even longer. I can inform the Senator that, in effect, discussions are continuing and I recently attended a meeting with the Connétable of St. Brelade in company with the Treasury Minister and a number of other key personnel to discuss a St. Aubin reclamation site. But it is a potentially expensive project and, as I said, it is also a quite sensitive area. My understanding is that there are split views on how things should go forward within the Parish and I would certainly advise the Senator to talk to the local Deputies on that particular issue. But we are looking at it.

### **2.2.3 Senator F.H. Walker:**

Would the Minister confirm that, in fact, the Council of Ministers has now agreed to add an additional proposal in the Strategic Plan to undertake an environmental impact assessment on the infill at St. Aubin?

### **Deputy G.W.J. de Faye:**

Yes, I can confirm that both St. Aubin and, indeed, Gorey have been included in the Strategic Plan with a view to making assessments as to their viability for possible reclamation sites.

### **2.2.4 Connétable A.S. Crowcroft of St. Helier:**

Returning to La Collette 2 and 3, would the Minister update us on the progress of the transport studies that are currently being carried out into the traffic impacts of activities at La Collette and would he give a guarantee that the Parish of St. Helier will be fully consulted as he develops his plans for that area of the Parish?

### **Deputy G.W.J. de Faye:**

I am sure that in the Constable's role as Chairman of the St. Helier Regeneration Group he is going to be fully consulted and is probably in a better state of information than possibly the Minister. Yes, as I understand it, as discussions progress thoughts are being turned to the potential road solutions, but they are many and varied and at very much an early stage.

### **2.2.5 Deputy G.P. Southern of St. Helier:**

Will the Minister accept my congratulations in adopting JDA (Jersey Democratic Alliance) policy in re-looking at a reclamation site at St. Aubin?

### **Deputy G.W.J. de Faye:**

I am flattered. [Laughter]

### **2.3 Deputy F.J. Hill of St. Martin of the Minister for Home Affairs regarding the draft Sexual Offences (Jersey) Law 200- (P.63/2006):**

In paragraph 55 on page 16 of the draft Sexual Offences (Jersey) Law 200-, (P.63/2006), it is claimed that the Health and Social Services Department's view is that there are no health implications in that issues of safe sex apply equally to homosexual and heterosexual activity. From what sources and when was this view received by the Minister and was it part of a report?

#### **Senator W. Kinnard (The Minister for Home Affairs):**

The statement in the report emanated from correspondence on the draft Law between the Chief Officers of Home Affairs and Health and Social Services on 10th April. This legislation is now in its 6-week consultation period and if the Health and Social Services Department or any other body has anything further to say on the Law, no doubt they will do so during this period. In fact, I have been informed this morning by the Minister for Health and Social Services that a report will be forthcoming on this matter from his department.

#### **2.3.1 Deputy R.G. Le Hérissier:**

Could the Minister therefore confirm that when that report was compiled and a statement was made as to the nature of Health and Social Services' input, she was not speaking on the basis of an independently submitted and free-standing report?

#### **Senator W. Kinnard:**

As I explained, there was an exchange of emails. The Health and Social Services Committee and then Department were given many opportunities to engage with this issue. In fact, I have a list of Acts going back to the time when the Legislation Committee was dealing with this issue. As I said to the Chairman of the Social Scrutiny Panel last Friday, one can take a horse to water but one cannot make it drink.

#### **2.3.2 The Deputy of St. Martin:**

Can I compliment the Minister on being able to persuade the Minister of Health to produce a report, and I might say maybe the fine tooth-comb approach sometimes does work as far as I am concerned as Chairman of the Social Affairs Committee or Scrutiny Panel. Is the Minister aware that there are also unsafe sexual implications with regard to this issue and will she ensure that that area is covered in the report that will be submitted to the States?

#### **Senator W. Kinnard:**

I am aware that there are unsafe sexual practices going on between heterosexuals as well as homosexuals. I do not think that the issue of lowering the age of consent is specifically related to the issue of unsafe sex. I am not the Minister for Health and Social Services but, no doubt, the Minister for Health and Social Services will decide what is appropriate for his department to put in the report.

#### **2.3.3 Deputy R.G. Le Hérissier:**

Pressing my previous theme, would the Minister not acknowledge that in such a supremely sensitive area it is absolutely imperative that we have from another Ministry a clear statement of



their position and to try and derive this position from an exchange of emails is not, quite frankly, in keeping with the protocols or the conventions by which we study independent evidence.

**Senator W. Kinnard:**

None of that is correct, I am afraid. As I say, I have a list of Acts. There has been consultation with the Minister about this issue, Council of Ministers. There has been a lot of discussion. Also, I think it is very important to recognise that some of the health scares that some Members are seeking to raise in this House have been dealt with very adequately by reports from the British Medical Association previously that make it absolutely clear that, in fact, the decision to lower the age of consent to 16 for equalising the age of consent is likely to improve the sexual health of young homosexual men in our community.

**2.3.4 Deputy J.G. Reed of St. Ouen:**

Regarding consultation, in the report it indicates that there are obviously new areas that have been included now regarding the abuse of positions of trust and equally that these will be reported on and consulted upon in detail within the consultation period. Would the Minister confirm that those reports and those comments will be circulated to all States Members prior to the debate?

**Senator W. Kinnard:**

It rather depends on if some of those comments are submitted in confidence. If it is an open report from departments and there is no problem, of course, with circulating those. But we have to remember that the area of sensitivity in this issue is that there are many people in our community who feel that they are discriminated against because of their sexual orientation. Many of them may not be out in the sense of the public, friends or family knowing about their particular sexual orientation. I think that it is very important that one is very clear that we ought not to put people off from talking to us about the issues that they face for fear of the fact that they will be outed without their permission. I would also like to say that I have made efforts to contact individuals in this scenario and, in fact, those individuals have contacted me. Some have given written comment but many more have spoken to me on a private basis. I would say that if Scrutiny is so concerned about being evidence-based, I would question why up until last Thursday the Social Affairs Scrutiny Panel has failed whatsoever to take up offers from individuals who suffer this form of discrimination to talk to them about the issues that they face.

**2.3.5 The Deputy of St. Ouen:**

Just to clarify my question, perhaps, because it was more focused on abuse of positions of trust. In the report it states that there are issues such as the position of volunteers as opposed to those performing a statutory function and also that of young adults supervising children under 16 which need to be explored further during the consultation period. Obviously this is an area for education as much as any other and it is that area that I would like...

**Senator W. Kinnard:**

May I make it quite clear, as indeed it makes it clear in the report, that initial consultation has been undertaken with those departments likely to be affected by the abuse of trust provisions and, indeed, it also makes it clear in the report that we both welcome and encourage reports and input from the departments likely to be affected. I have done everything I can to meet the requests of this House. I have moved heaven and earth virtually and so have all those involved in drawing up the abuse of trust provisions to go along with what the House has asked me to do. Now I fear that we are coming back to a scenario where those who frankly are not in favour of any of this sort of

legislation are trying to cause problems to delay it further. I would say why do they not just have the confidence, why do they not just be absolutely honest with themselves and with everybody else in this Chamber and in the Island and just vote against it? It is quite simple. If you do not like it, do not vote for it.

**The Deputy of St. Ouen:**

Does that mean that the Minister will circulate the report? **[Laughter]**

**The Bailiff:**

I think the Minister has dealt with that, Deputy. Connétable of St. Helier, final supplementary.

**2.3.6 The Connétable of St. Helier:**

Can I begin by complimenting the Minister on the speed with which she has brought forward the additional legislation requested by the States. I do not think it is a matter of pedantry; could she confirm that the origins of the word “homosexual” are from the stem meaning “the same” and not from the Latin meaning “man” or “homo” and that it is offensive to some homosexuals to be described as homosexuals and that we should prefer the correct pronunciation of the word in our future debates?

**Senator W. Kinnard:**

Yes, I would agree with that but I think maybe I would have to say it might be lost on some Members of this House.

**2.4 Deputy G.C.L. Baudains of the Minister for Economic Development regarding pricing on the northbound and southbound ferry routes:**

Will the Minister undertake to carry out a full review of pricing on both the northbound and southbound ferry routes with a view to ensuring that equity between inboard and outboard fares is achieved?

**Senator P.F.C. Ozouf (The Minister for Economic Development):**

Firstly, I want to say that I fully appreciate the concerns expressed about ferry pricing for Islanders and particularly the issue of equity between non-Islanders and Islanders. I previously explained to Members that I am prepared to request that the Jersey Competition Regulatory Authority (J.C.R.A.) assist us in this matter. We have commenced discussions with the J.C.R.A. and they are to revert to me with some draft terms of reference for an up-to-date review on this market. I can advise Members that I intend to issue a formal request under powers of the J.C.R.A. law. This will enable the J.C.R.A. to use their powers to carry out a proper assessment of this market. I would, however, want to sound a note of caution. It could be argued, for example, that ferry services provided to Jersey residents are different to those compared to services provided for incoming tourists. For example, service requirements on the northern route include a weather back-up in the form of a conventional vessel, a requirement for 2 fast-ferry backup services. These are additional costs which are, it could be argued, imposed on the domestic market as opposed to the tourism sector. Members also will no doubt want to fully appreciate that this ferry market is competitive and we would not want to restrict any operator’s ability to offer reduced fares in markets which are seeking to improve particularly volumes in the tourism sector. However, this is complicated and this is a matter for an expert body such as the J.C.R.A. to review. The J.C.R.A.’s understanding of the

Jersey economy is growing and I have no doubt that they are the right body to examine this important issue.

#### **2.4.1 Deputy G.C.L. Baudains:**

Yes, as the Minister will no doubt be aware, there is a problem with the reciprocity of pricing. It would seem to me that the problem lies in the Service Level Agreement requiring that pricing equity, but unfortunately that applies to printed, declared prices and does not apply to special offers. Would the Minister agree, firstly, that special offers appear to outnumber bookings made at the quoted price, therefore making a nonsense of the terms of the Service Level Agreement, and, referring to the second part of his previous answer, how does he justify the situation where a fare from the U.K. to St. Malo is cheaper than a fare from Jersey to St. Malo on the same boat?

#### **Senator P.F.C. Ozouf:**

I would not accept much of what the Deputy says. The Service Level Agreement, which was no doubt discussed by this Assembly and took a great deal of time by the previous Harbours and Airport Committee, and the J.T.A. (Jersey Transport Authority) at the time dealt with maximum fares. It does not deal with the whole pricing structure. If that is what the States wanted, if they wanted to put in place a whole root and branch price regulation - a huge step from where we are - then no doubt that is what would have been done at the time. I can advise the Deputy that in 2001 when the former operator, Emeraude, had an exclusive operating situation on the route, at the maximum fare that peak fare was £340 for a car and 2 adults. Now that maximum fare plus fuel surcharges is only £275 on the route at the moment. So, one must be very careful to put these figures of pricing into context. I do completely understand this issue of U.K.-originating fares being different from Jersey-originating fares. That, I am afraid, is a function of the market where Condor is having to compete with other ferry operators, whether that be U.K. to Cherbourg or U.K. to St. Malo. This is a competitive market and prices will be set in order to maximise the amount of travelling public. However, I do not believe that it is the States and my department that should look into this matter in any great detail. This should be outside of direct political control and it should be a matter if the States wishes at some point in the future to put into the hands of the properly independent expert authority of the J.C.R.A. It is much more complicated than I think some Members believe.

#### **2.4.2 Deputy R.G. Le Hérissier:**

A few weeks ago the Minister gave us a lengthy soliloquy on the partnership he was building with Condor. Would he tell us what the concrete and tangible results are of this ongoing partnership?

#### **Senator P.F.C. Ozouf:**

The Minister explained that a partnership is required to understand what we can do for any operators, whether that be Manche Iles Express or whether that be Condor. I say to this Assembly today I regret Emeraude's departure. We did try very hard in order to secure the fact that they would return on the route and, indeed, only in the last few days we have released budgetary amounts in order to help them in the event of them starting with their service. A partnership means understanding, for example, route traffic and I can tell Members that there have been, as a result of our discussions with Condor, 40 additional southbound sailings put at peak times through the summer to ensure that there is - so far as it is possible - the maximum amount of seats available on the southern-bound route. I am also advised that the amount of rotations that are going to be happening over the next few months are greater than the amount that was in place when Emeraude was the sole operator on the route, too. So, that is what partnership means: it means dialogue and

discussion, and I think that discussion has yielded quite a significant increase in the amount of volume available.

#### **2.4.3 Deputy K.C. Lewis of St. Saviour:**

Whilst I applaud the Minister for Economic Development in his desire to forge greater links between Jersey and Guernsey, what guarantee can the Minister give the House that when in 2 years' time the present agreement expires Guernsey will not yet again sign another long-term contract with the present ferry operator without consulting their Jersey counterparts?

#### **Senator P.F.C. Ozouf:**

Other Members of this Assembly are better placed to comment on the situation that has happened on sea licensing last time. I have spent some time trying to understand exactly the situation that occurred last time and I would repeat something that I have said previously, that I think on this occasion there is a case for both the States of Jersey and Guernsey appointing one commission of individuals in order to make that decision so that there is not a playoff between 2 operators and we do not have a situation where one island may be favouring something else. But that will have to be a matter of trust that is placed in a Channel Islands commission that is authorised by this Assembly and the Assembly to the north of us, in Guernsey. That is what we will try to do. I understand completely the importance of recognising that ferry travel as far as the northern-bound is a single market and a single market approach in terms of licensing should flow from that.

#### **2.4.4 Deputy J.B. Fox:**

I am seeking assurance from the Minister. He promised at a previous occasion in question time, I believe, that hard copies would be available of the pricing on the southern route that would be available to the Channel Islands population. Every time I have been on Condor 10 - which is the vessel that travels between the Island and France - I look at the display console where these timetables are available. The only one that I ever get is the one that says: "France Timetables and Fares" which inside refers to the U.K. market and not the Channel Islands market. This last one on Saturday night's boat you see is very entertaining for young people but has no relevance whatsoever and there was no other information. The question to the Minister is when can this House and the Island be assured that there will be relevant published information available to local residents regarding the timetables and fare structures in relation to the southern route by the sole company that operates at this time?

#### **Senator P.F.C. Ozouf:**

Deputy Fox is one of these Members in this Assembly that has real expert views because, of course, he has a house in France and he travels to St. Malo very regularly. He constantly questions me on the issue of timetables. In his question just a moment ago, he extended the information to pricing routes. My understanding is that timetables are available; however, because of the work that is being carried out in increasing the amount of circulations - those 40 additional south-bound sailings that I spoke about - the timetable has moved on because of pressure and that is understandable. In relation to fares, the Deputy knows probably better than I do about the new situation that arrived with pricing structures last year. Emeraude put in place a fluid pricing model. Condor then followed, and that is a much more complicated pricing route - the same as exists on airlines around the world - than existed in the past where we do not simply have a simple system of fares. Companies are entitled to do that. We regulate. The answer to Deputy Baudains' question: we regulated and we approved the maximum fare. We do not at this time regulate any of the other fares, and it is a huge leap to move to that. So, the pricing structure, it is simply not possible to have a piece of paper which simply outlines exactly what the pricing structure on the route is. That

is the inevitable consequence of moving to the kind of fluid pricing structure that we are seeing Condor use and, indeed, the pricing structure that is now used and Members will be aware that FlyBE, B.A. and every other airline around the piece uses that. It is much more complicated and I am afraid the Deputy cannot get the answer that it can be written down on a simple piece of paper.

#### **2.4.5 Deputy S. Power:**

The Minister will be aware of a family living in Grouville who paid £1,060 to get 2 conventional cars to St. Malo recently. One vehicle was £580 and one vehicle was £480, I think. Is he comfortable with that fare structure?

#### **Senator P.F.C. Ozouf:**

Deputy Power has on various occasions in the last few months made a number of quite outlandish suggestions about exactly what was going on with the previous operator. He clearly has a view about one operator versus the other. I am not aware of a fee and, of course, it is conveniently put into £1,000 and there is no doubt it must be a pretty big car because that is well over the maximum regulated price, which is £275 I think plus the petrol duties. I would need to examine that to see that. Every time that Deputy Power gives me a piece of information, I have it examined and it needs some interpretation in terms of being taken away from the simple headline. I am still waiting for Deputy Power's promises of the so-called "6 thick inches of complaints" that he had against Condor. Four months on, I have asked him for a summary of that situation of what the complaints are so that I can go to Condor and work through individually and I am still waiting. Perhaps he would like to tell me when he is coming forward with the complaints so that I can properly look into them.

#### **The Bailiff:**

I think I must draw this questioning to a close now. One final supplementary; I have seen Deputy Baudains and I ask the Deputy to ask the final supplementary.

#### **2.4.6 Deputy G.C.L. Baudains:**

We seem to be going on a completely different route than the one to St. Malo. **[Laughter]** I think we need some G.P.S. assistance here. Is it not the case that if the cost of a fare from Jersey to St. Malo is greater than the fare from the U.K. to St. Malo via Jersey on the same boat, then surely Islanders are subsidising U.K. travellers. That and the unhelpful time which ships sail from Jersey surely requires a full review politically of the current service, notwithstanding the pricing issue. Will the Minister agree to do this and would he perhaps consider that a more detailed, completely revised Service Level Agreement may go some way towards achieving that?

#### **Senator P.F.C. Ozouf:**

I am certainly not interested in having sound byte politics about our sea routes and I am certainly wanting to make decisions and I am certainly wanting to put in place policies which are sustainable, well thought through and which are evidence-based. That is why I am going to be asking the J.C.R.A., which is the expert independent body, to assess whether or not there is a case for putting in place some sort of greater level of price regulation which would not be in the Service Level Agreement. The kind of price regulation, if we were to go there, would be the kind of price regulation that exists, for example, in Jersey Telecom. This is not something informal. It needs to be properly constructed, properly put through, and this Assembly would need to approve that. That would inevitably be a situation that would arise in the situation of the new licence that would be awarded across the Channel Islands from the beginning of 2009. The J.C.R.A. is the right body to

deal with that. The Service Level Agreement currently is not but that does not mean to say that we will not continue to work with Condor to try and understand what the issues are. Concerning this issue of U.K. originating passengers, I do understand the concerns that are issued there. I do understand that on a case by case basis you could be seeing that there are higher charges originating from the U.K. versus Jersey, but I am afraid that this is a function of a competitive market. Condor's figures for U.K.-originating traffic has been falling and they are trying and they are doing their best and we are trying to support them to maximise the amount of travelling public that is coming from the U.K. This is a market dynamic. We need expert proper evidence base before we jump to any conclusions.

**2.4.7 Deputy J.B. Fox:**

Sir, can I appeal to your good office? Normally we are allowed a question time of 90 minutes. We are very short on oral questions today. I would just like to have one point of clarification on the question that I asked.

**The Bailiff:**

The difficulty, Deputy, is that the chair is obliged to allow what is a reasonable time for the questioning of a Minister in relation to any particular matter without allowing a debate to arise in relation to that particular matter. We have now had 15 minutes on this particular question and it seems to me that we have reached the end of the road and that it is time to move on to another questioner.

**Deputy J.B. Fox:**

Can I seek your support to just see if I could have this as a point of clarification? Because what the Minister has said is because of the various pricing structures, et cetera, that a document in effect cannot be produced. Yet I have one that is available from the U.K. Why can we not have a similar one here?

**The Bailiff:**

Perhaps you could raise that with him over a cup of coffee.

**Deputy J.B. Fox:**

Well, I think I will bring it as a States projet where it might be a way of ironing all of this out.

**The Bailiff:**

I think that would be a sensible proposal.

**Deputy J.B. Fox:**

I intend to do that and I will promise the public to do so. Thank you.

**Senator P.F.C. Ozouf:**

I am always available for Deputy Fox, for him to come and talk to me and my department about issues rather than basically dealing with this every other Tuesday in the States. He has not called me once, I do not think, on this matter since we last spoke.

## **2.5 Deputy R.G. Le Hérissier of the Minister for Economic Development regarding the total cost of remuneration at Jersey Post:**

There is a bit of a slip between cup and lip on this question. It was more about management. Would the Minister identify the total cost of remuneration at Jersey Post, separating out salary and performance pay, in the last full year and specify what percentage the latter forms of the relevant staff budget?

**Senator P.F.C. Ozouf (The Minister for Economic Development):**

Can I ask the Connétable of St. Lawrence, who is rapporteur for postal matters?

**Connétable G.W. Fisher of St. Lawrence (Assistant Minister for Economic Development - rapporteur):**

I am sorry about the slip between cup and lip. I have an answer to the question that was tabled and the answer is: the total cost of remuneration at Jersey Post in 2005 was £17.7 million, of which £0.6 million related to performance-related pay. Performance-related pay equates to 3 per cent of Jersey Post's total 2005 remuneration costs, which include employer's pension cost, social security costs and allowances.

### **2.5.1 Deputy R.G. Le Hérissier:**

Would the rapporteur be able to separate out what proportion of that performance-related pay applies to the management group? Secondly, would he be able to confirm that the 3 per cent applies across the board to management and non-management staff?

**The Connétable of St. Lawrence:**

The Deputy might have to help me on how he has rephrased that question. No, I cannot separate out management cost. For a start, I think one would have to define what you mean by management cost because who is management? How far down do you want to go? Obviously you have executive directors, then you have other directors, managers, et cetera, and probably you might even want supervisors. So, that needs to be very specific and I have not got that information, I am afraid. The 3 per cent performance and productivity payments does relate to the total remuneration cost. I can give you a breakdown if you like of the £17.7 million, which is basic pay of £12,872,000; allowances £1,792,000, although the majority of allowances were removed during 2005; performance and productivity payments £575,000, to be more precise than the £0.6 million; employer's pension cost £1,550,000; social security costs £863,000; making a total of £17,652,000.

### **2.5.2 Deputy G.P. Southern:**

Can the Assistant Minister confirm that the top 6 management posts in the Post Office were paid a total of between £750,000 and £900,000 in total emoluments?

**The Connétable of St. Lawrence:**

I am afraid not, Sir, I do not have those figures in front of me, but I am sure that Deputy Southern is within a ballpark, I do not know. **[Laughter]**

### **2.5.3 Deputy R.G. Le Hérissier:**

Given the considerable public concern about the increases in both local United Kingdom and overseas personal rates, I have spoken with the Connétable several times. Given that public

concern, would he define to the House whether or not the performance-related pay does relate to the increased revenue as a result of those particular increases, or whether it relates solely or largely to the fulfilment operation?

**The Connétable of St. Lawrence:**

Well, the performance-related pay is related to the profitability of the total operation so I cannot separate out between fulfilment and any other part of the operation. What happens is that the budget is set each year and it has always been approved by the Postal Committee. Then the actual results are compared at the end of the year with the budget that has been set and the performance pay is calculated in relation to any uplift on the original budget.

**2.5.4 Deputy G.P. Southern:**

Since we have strayed on to the business of fulfilment a bit early, can the Assistant Minister confirm that the profits made by Jersey Post are almost entirely due only to the fulfilment industry?

**The Connétable of St. Lawrence:**

The large amount of the profits made by Jersey Post does in fact relate to postage services to the fulfilment industry.

**2.6 The Deputy of St. Martin of the Minister for Home Affairs regarding the draft Sexual Offences (Jersey) Law 200- (P.63/2006):**

In paragraph 56 of page 17 of the Draft Sexual Offences (Jersey) Law 200- (P63/2006) it is claimed that the current inequality in the Law forces young gay men into heterosexual relationships. Would the Minister advise Members what personal documentary evidence she has to substantiate this claim and what information she has received to indicate the extent to which this occurs?

**Senator W. Kinnard (The Minister for Home Affairs):**

I fear that the Deputy of St. Martin may have misunderstood that part of paragraph 56 of which he refers. The second part of that paragraph summarises the views of those members of the public who gave their written views on the proposed legislation. As well as the statement extracted for the question, there were 4 other points recorded in the same sentence which reflect the main comments made by respondents. None of these are claims made by the Home Affairs Department. They are unsolicited opinions of the general public, which are openly included in the report. In compiling the report in particular, I sought to record all the views fairly. To that end, paragraph 57 of the report, which follows the paragraph referred to in this question, summarises the main points made by those respondents who were against lowering the age of consent.

**3. Questions to Ministers without Notice - The Minister for Housing**

**3.1 The Deputy of St. Martin:**

There is a smile from the Senator. I return him back to his roots of St. Martin, although he is a Trinity man I am told. Will the Minister give an update on the sale of La Falaise, Fliquet, St. Martin, and now that permission has been given for the premises to be demolished, will that be likely to lead to a rise in the site now?



**Senator T.J. Le Main (The Minister for Housing):**

Since receiving confirmation from the Planning Minister that La Falaise was not considered a site to be designated as a special place, the property has been put back on the market and re-advertised for sale at the original asking price. The question we wanted to know was that there had been suggestions that several developers were interested and I wanted to make sure that the public benefit was protected. If developers could come along after and make a huge killing out of it, I thought the public would be better placed to have some indication whether the property could be altered or demolished in any way possible.

**3.2 Deputy S. Power:**

Can I ask the Minister to assure the Assembly that he will continue to use all his experience and authority to find a solution to the current crisis we have out at Fields 190-192, St. Brelade so that we can find a solution that is acceptable to all concerned and existing residents in that area?

**Senator T.J. Le Main:**

I am not quite sure what the Deputy was asking but I know that I am involved in negotiations and attended a public meeting on behalf of the Connétable and parishioners a couple of weeks ago. My view is that the current situation with La Moye is that the amount of homes being put on the site is causing concern and detrimental to the parishioners. My view as Housing Minister... when I joined the Planning Committee, who were part then of producing a 2002 Island Plan, my vision was and always has been yes, we need homes as housing, but not at any cost or to the detriment of residents or otherwise. So, in this case, I believe, Sir, there ought to be some changes. There ought to be some changes to the makeup of this development so that residents are not affected by the build.

**3.3 Deputy D.W. Mezbourian of St. Lawrence:**

Will the Minister advise the House of approximately how many units of social and first-time buyer homes require to be built in order to meet foreseeable demands?

**Senator T. J. Le Main:**

I can only respond to the need. Yes, there is still a great demand for first-time buyer homes and for social rented homes, 45 per cent off re-zoned sites. What I have to say, Sir, is that the 45 per cent social rented homes is going to be needed to replace homes that the Housing Ministry may come forward to Assembly for permission to sell to give more home ownership to families in Jersey. I do now believe that there is enough land earmarked in the current H2 sites and the proposed H3 and H4 sites in the next 3 years to meet the current demand. Although they will always need to have an ongoing need of some 200 a year to meet the demand as it goes along. Of course there will need to be some land exchanges and further rezoning to meet the very urgent needs of housing our elderly rising population and tomorrow morning I am meeting with the... We are working on this with the Planning Minister and tomorrow I shall be working to try to resolve some of these issues. It is quite clear, Sir, that my view is that - H3 and H4 sites - I would not like to see more land re-zoned. I believe, Sir, that we ought to perhaps reject and not consider some of the H3 and H4 sites but we would hope to work with the Connétables in every Parish to see if we can identify within the village schemes, homes for the elderly. It is a huge problem, Sir. Currently at the moment we have got 16 per cent of our retired population in retirement and by 2030 it is anticipated 30 per cent of our population in Jersey will be in retirement. There is a huge, huge problem. I have to say, again that my policy, when I joined Nigel Queree's Planning Committee was - although I wanted homes and we were desperate for homes for Jersey people - it would not be at any cost. I believe that the

Planning Minister and the Housing Minister must work with the Parish Connétables, with the Deputies and the parishioners to provide a reasonable outcome. I do not believe for one minute, Sir, that the parishioners are opposed. What they are opposed to is the amounts and the size of some of the developments.

### **3.4 Deputy D.W. Mezbourian:**

Would the Minister be satisfied with the building of no more than 97 units of accommodation on the Bel Royal Marsh site?

### **Senator T.J. Le Main:**

Yes, Sir, I would be very satisfied with 97 on Bel Royal Marsh and in fact, if I had any decision - that is a planning decision - I would work to achieve homes on that H2 site but I would make sure that I had the residents and the parishioners on board with me.

### **3.5 Deputy G.P. Southern:**

Is the Minister concerned to note the increase in house prices by 10 per cent recently reported and in particular, to note the increase in one and 2-bedroom flats? Does this not contradict his repeated assertion that rents and prices are coming down? Is it not the case that, short of covering the entire Island in concrete, he will never, never be able to match demand on this Island?

### **Senator T.J. Le Main:**

No, Sir, the increase I believe is caused by many more young people working in the finance industry and it is quite clear that the prices have gone up in cases because there are now many options. Every night in the *Post* you see developers advertising no deposit, 100 per cent mortgages and longer mortgages. Of course these kinds of new initiatives - and particularly with employees in the banking industry managing to get mortgages at 2 or 3 per cent - is causing a current demand and the same issue is happening in places like Ireland. Currently they are doing 35, 40 and 50-year mortgages, currently creating a huge demand in homes.

### **The Bailiff:**

Minister, there are a number of Members wanting to question you so I wonder if I could ask you to be a little bit more concise, please, in your responses.

### **3.6 Deputy A. Breckon of St. Saviour:**

Could you manage to give some indication of the time-scale for proposals to establish a management body to manage public sector housing?

### **Senator T.J. Le Main:**

We are at the present time collating and looking and we will be coming back to this Assembly in September or October, with a full workout on the business we deal with; social rented housing, housing trusts and how they fit in. Currently, Sir, it is anticipated that now that we have guaranteed funding from the Council of Ministers - for which I am very grateful - of £6 million next year for the 5 years, that currently it is not high in my thoughts of having a management company at the present time.

### **3.7 Deputy R.G. Le Hérissier:**

Would the Minister say whether or not he agrees with the recent statement by a member of Social Affairs Panel, namely Deputy Martin, that there should be some kind of sell-off of public housing and that if this were to occur, it could reduce the Rent Rebate Bill? Does he agree with that statement?

**Senator T.J. Le Main:**

Of course he agrees with it. He is doing it now, Sir. We are doing it in Le Squez, we are doing Le Marais. I am pleased to announce that the La Mare Phase 1 is now finished - 3 clients have moved in, have bought the properties. We will be coming back - as I was saying - in September and October, with a plan that will help home ownership, either with shared equity; home ownership schemes and with the sell-off of property, which will put more home ownership. I am totally in support of it and I would be very grateful for any help or advice from any Member of this Assembly.

**3.8 Senator J.L. Perchard:**

Deputy Le Hérissier rather stole my thunder there. Just to expand and develop on that theme, does the Minister have any idea how many States' tenants would welcome the opportunity to buy the property in which they live and would he undertake to do a survey to establish the facts?

**Senator T.J. Le Main:**

Currently we have got about 25 per cent of our tenants that pay full fair rents, so they are on fairly good incomes, but many of those are now people in their 50s and 60s and have worked all their lives and now have improved themselves. But at the current time we have got Phase 1B of Le Squez coming on-line and we have got all names for the purchase of those we are selling on that site. So I am confident, Sir, that for the unforeseeable future that we will have enough names over a period of 4 or 5 years, to certainly put quite a lot of home ownership.

**3.9 The Deputy of St. John:**

The Senator alluded to this earlier on, but could the Minister advise us as to exactly what long-term plans he has to identify sites for homes for the elderly, and can he advise whether or not he is in discussions with the Planning Minister with regard to creating a specific land zone category for sheltered housing?

**Senator T.J. Le Main:**

Yes, Sir, and in fact the Planning Minister and I have been in deep discussions for some time now and we both realise it is a very urgent part of the plans. As I say, tomorrow morning my Assistant Minister, myself and the Planning Minister and officers will be having a morning session again, so that we intend to come forward with some plans to either further re-zone land or seek the co-operation of Connétables to have a Land Bank in the Parishes. Certainly my view is that I would not like to extend the H3 and H4 sites. Some of those perhaps ought to be deleted and an exchange of land within the Parishes, with the support of the Connétables and the parishioners should take place. This is urgent. It is really a very high priority at the present time.

**3.10 Deputy G.C.L. Baudains:**

We have a lot of new evidence this morning - not at any price - which I must admit comes as somewhat of a surprise to those of us at St. Clement: the need for social housing, possibly creating an imbalance between the 45/55 split. It also seems to be possibly self-created by the housing sale

of property. Would the Minister agree, Sir, to bring forward a policy statement covering these new initiatives so that we are all aware of the Department of Housing's new position on these matters?

**Senator T.J. Le Main:**

No, Sir, I am not prepared to do that at the moment. As I say, I will be coming forward with a proper report and document for this House to debate in September or October and it will take place at that time. There will be plenty time for the document to go to Members so that we can fully consult with Members and if there are any views or amendments that need to be added, we will do it exactly like the Chief Minister is doing in his Strategic Plan. We will take everyone on board and if they are reasonable, we will accept them.

**3.11 Deputy I.J. Gorst of St. Clement:**

While I am fully in favour of encouraging and enabling States' tenants to purchase their own homes, I am alarmed to hear this morning that the Minister believes that this will drive a requirement to build more and more. I would ask for his clarification on why he believes that this will be the case?

**Senator T.J. Le Main:**

I did not say that. I do not know where the Deputy has got that from. What I said is that we need to put more home ownership into the community. One of those things is that we have an opportunity with housing, and with 45 per cent of social renter to replace, we have an opportunity to create home ownership by the sell-off of perhaps some flats on a shared equity basis, some homes on a discounted basis, and we need to look at all that. That will come before the Assembly in the report and proposition that I am proposing to bring in September/October. What I have got to say is that the question is always being asked that if we are selling-off family homes to people, they are vacating, but we also have an opportunity of replacing - like we have done at Hodge 2 - to purchase brand new 3-bedroom homes and 4-bedroom homes that are around £160,000 to replace the rental need.

**3.12 Senator L. Norman:**

Would the Minister agree that the Parish of St. Clement has contributed more than its fair share of category A housing over the years and that any further major planned development should be resisted?

**Senator T.J. Le Main:**

I cannot give that assurance. I know there are one or 2 politicians in St. Clements that are bitterly complaining but I have many people that live in St. Clement who desperately also need a home, particularly the elderly. So I cannot give that assurance at all.

**3.13 Deputy C.J. Scott Warren of St. Saviour:**

Can the Minister clarify, regarding a suggestion made by Deputy Martin. Is he saying that he supports - the Minister supports - advancing loans to States' tenants rather than tenants paying rent, giving tenants back rent rebate over many, many years?

**Senator T.J. Le Main:**

No, Sir, I do not support giving loans or giving grants to States' tenants. I have, under my remit, very, very many lowish-earners in the community. Particularly, as I have said often, single earners

where the husband may be working and the wife has 2 or 3 children; there may be a disabled child. There are also many young people who have gone to university - highly educated - wanting to come back and their number-one gripe is they will not come back because of the cost of housing. We need to meet the needs of all the community and I believe it would be a very retrograde step in picking out tenants to sell them properties with loans, when we have other people who are equally demanding in the community. It would be a retrograde step to be granting loans or grants.

**Senator J.L. Perchard:**

Can I just make a point of order on the period that has just taken place? I am not sure whose responsibility it is to ensure that the Minister answers the question he has been asked. I notice certainly in 2 or 3 questions, the Minister did not answer the question he was asked and I would ask in future that Ministers listen to the question and answer the question that has been asked.

**Senator T.J. Le Main:**

On purpose. [Laughter]

**The Bailiff:**

It is open to the chair and I am willing to discuss this with the Privileges and Procedures Committee to allow a supplementary question from a questioner who feels that his or her question has not been properly answered by the Minister. We will try that as a practice on the Chief Minister as his second question period now opens. [Laughter] I invite questions. The Deputy of St. Ouen.

**4. Questions to Ministers without Notice - The Chief Minister**

**4.1 The Deputy of St. Ouen:**

First of all I would like to thank the Chief Minister for responding to a question that I raised regarding the amount of (j) category employees employed by the States as a whole. I would ask him whether now that we have these figures and we are aware of these figures, could they be included in the 6-monthly Public Sector Manpower Report with any changes for the future?

**Senator F.H. Walker (The Chief Minister):**

Yes, they can.

**4.2 Deputy R.G. Le Hérisier:**

Would the Chief Minister state, given all the talk of the Civil Service and cutbacks and more efficiency, Sir, whether there are any studies underway or, more to the point, whether there exists a real understanding of what productivity means in the various areas of the Civil Service?

**Senator F.H. Walker:**

Yes, Sir, and it is already measured and the Deputy, as every other Member of this House, I am sure will be aware of the Benchmarking Report. There have now been 2 and a third will be published in the not too distant future. There will also be a performance report, which has been notified to Members, previously published in the autumn, which I think will provide the Deputy with all the information he presumably wishes to have.

#### **4.3 Deputy G.P. Southern:**

Following my written question of 16th of May, can the Minister confirm that nothing in Jersey's tax proposals, so far, has been approved by the E.U. (European Union), but merely by the Paymaster General in the United Kingdom? Further, can he confirm that Malta's proposals have recently been turned down?

#### **Senator F.H. Walker:**

Firstly, there is a considerable difference between Malta and Jersey; Malta is now a member of the European Union, Jersey is not; and secondly, the Deputy is well aware because both the Treasury Resources Minister and I and others, on frequent occasions, have confirmed verbally and in writing that ECOFIN (European Council of Finance Ministers) has approved the basic structure of Jersey's fiscal proposals. He is well aware of that. I cannot change that position. That is the position; that is what has happened. As the Deputy is well aware, we are now engaged in active discussions with the Treasury and through the Treasury, with the E.U. on the detail of those proposals. That is the position that has been persistently and consistently confirmed in answer to a myriad of questions by the Deputy and others, by the Treasury and Resources Minister and myself.

#### **4.4 Deputy D.W. Mezbourian:**

In response to questions earlier this year, the Chief Minister provided the House with details of suspensions within the public sector. Will he please now advise the House whether he is satisfied that these have all now been resolved?

#### **Senator F.H. Walker:**

I am not satisfied that they have all been resolved, no. I only wish they were. All I can say is that work is actively in hand to resolve them. The Deputy will have received, along with all other Members of the House, something like a week or 10 days ago, the report from the Human Resources Director on how he proposes to deal with suspension issues in the future. I have to say a number of Members have come back to me to express their satisfaction with the way it has now been approached and, if you like, attacked.

#### **4.5 Senator J.L. Perchard:**

The Chief Minister mentioned recently of his plans for a new Jersey anthem. Will he advise the Assembly as to his plans on how we can proceed with this excellent idea and particularly whether all Islanders will be given the opportunity to participate in its production or in its choice?

#### **Senator F.H. Walker:**

I think the answer to the last part of the question would depend on their musical ability. **[Laughter]** The Council of Ministers has not yet had time to give any attention to this item. It has fallen off the bottom on a couple of agendas recently, but my thinking is that we should embark on a competition open to Jersey people to submit their ideas for the anthem and then of course that would have to be the subject of wide consultation, not only with States Members but with the public generally.

#### **4.6 Deputy G.P. Southern:**

Can the Minister inform Members when was the last time that either he or any representative of Jersey had contact with ECOFIN?

**Senator F.H. Walker:**

We do not have contact with ECOFIN directly. The contact again, as the Deputy has been told on numerous occasions, is through the Code of Conduct Group which is chaired by the Paymaster General, Dawn Primarolo. He is well aware of that and I do not know how many times both the Treasury and Resources Minister and I have to answer the same question.

**4.7 Deputy G.P. Southern:**

Could the Minister say when he last had contact with the Chair of the Code of Conduct Group?

**Senator F.H. Walker:**

Yes, Sir, about 4 or 5 weeks ago.

**4.8 Deputy A. Breckon:**

I wonder if the Chief Minister would care to comment if he has confidence in the process that the Council of Ministers has had to follow, including the time-scale for the production of the Strategic Plan?

**Senator F.H. Walker:**

The program for the Strategic Plan was agreed by the House when it agreed the States of Jersey Law last year and the Council of Ministers has followed the requirements of that to the letter. In retrospect, I think that the time-scale allowed to produce a document of the scope and importance of the Strategic Plan was too tight, but it was set with the best of intentions. The intentions were that the Council of Ministers would have to put its ideas on their vision - its program - before the House by an agreed date. I think that intention was right. I think we need to give some consideration to the time-scale in the future. I think also that some consideration that needs to be given to the time-scale in which other Members of this House and Scrutiny Panels have operated because I am quite sad that very nearly all the amendments that have come in to the Strategic Plan have come in in the last 10 days. Not all of them, but very nearly all of them have come in within the last 10 days. That is despite the fact that the original date for debating the plan was the 6th of June - today - and the Council of Ministers has voluntarily put that back 2 weeks to allow Scrutiny Panels and other Members to put their amendments in so I think there are some things about the process that we need to look at. But it was the first off. There are bound to be teething problems. We need to look at it to see how we can improve it and I think we can.

**4.9 The Deputy of St. John:**

Could the Chief Minister advise as to whether he has yet had the opportunity to review, with the Attorney General, the concerns that have been raised by the finance industry with regard to the current extradition laws?

**Senator F.H. Walker:**

I have referred the Deputy's letter - which he wrote to me, I think about 2 weeks ago - to the Attorney General. I have had a holding response. I am awaiting a further and more detailed response which I am sure I will get in due course.

**4.10 Deputy J.A. Hilton of St. Helier:**

Can the Chief Minister confirm that, following discussions at the Council of Ministers, law drafting time has been identified to address some of the concerns raised in recent months about the detention of people with outstanding arrest orders in the United Kingdom and the question of their lawful detention here in Jersey?

**Senator F.H. Walker:**

Yes, Sir, I am delighted to be able to confirm that that is indeed the case

**4.11 Deputy R.G. Le Hérissier:**

Some months ago it was announced that a group would be set up at a senior level, as I understand it, Sir, to look into the whole issue of rent rebates, because of its enormous impact upon the budget and yet we hear of random suggestions and they have been discussed this morning. Would the Chief Minister tell me, Sir, whether this group is still working and at what stage its work is?

**Senator F.H. Walker:**

I think the Housing Minister has dealt with such questions this morning. The Housing Minister and his Department are working on a comprehensive policy document on social housing in Jersey generally. As he said himself, in answer to questions earlier, the plan is that will be up for debate in September or October. It is, I know, a comprehensive document covering - I believe - every aspect of social housing, including of course, rent rebates.

**4.12 Deputy G.P. Southern:**

Will the Chief Minister inform Members whether a satisfactory resolution has occurred over the issue of legal advice to Scrutiny Panels, and in particular the sharing of legal advice, and can he say when he will come to the Scrutiny Panels and reveal this agreement?

**Senator F.H. Walker:**

Can I say, Sir, I am in fairly regular contact with the President of the Chairman's Committee and he is aware that this issue is for debate by the Council of Ministers together with the Attorney General, on Thursday.

**4.13 Deputy R.G. Le Hérissier:**

Notwithstanding the Chief Minister's understandable, but not necessarily acceptable, concerns about the speed of Scrutiny's involvement in the Strategic Plan, would he acknowledge that one of the founding principles of developing the Plan was that it should be jointly developed between Scrutiny and the Executive and that no invitation arrived, despite various informal entreaties to that effect?

**Senator F.H. Walker:**

Absolutely, Sir, 100 per cent agreed. The Council of Ministers passed on the first draft of the Strategic Plan to all Scrutiny Panels on 3rd March this year. Until about 2 weeks ago, with the exception of one Panel, we had had no response whatsoever. We were all expecting to be called in to be scrutinised. We were all expecting to meet to discuss any aspect of the Strategic Plan. We were all expecting written inquiries from Scrutiny Panels on the Strategic Plan until 2 weeks ago - or just over 2 weeks ago, maybe 3 weeks ago - and apart from one Scrutiny Panel that really skirted on the periphery, we received nothing. I express my deep disappointment at that because it means that Scrutiny has not done a full and proper job on the Strategic Plan. It has had 3 months in which



to do it - 3 months in which me and all my Ministers were available for meetings, were available to answer written requests and we were astonished at the lack of such interest in the Strategic Plan by the Scrutiny Panels. I will just single out here the Social Affairs Scrutiny Panel who, even though it got into it late in the day, has scrutinised now a number of Ministers and done so I think fairly effectively.

#### **4.14 Deputy A. Breckon:**

Can I ask the Chief Minister if he recognises that work plans had been formed for Scrutiny Panels which did not include exclusive consideration of the Strategic Plan as the Panels did not know what it contained?

#### **Senator F.H. Walker:**

I find that an amazing question. Every Member of the States has known that the Strategic Plan was going to be published early in March. Every Member of the States knew it had to be lodged early in April. If Scrutiny could not foresee that and make its own plans to fit it in and to scrutinise what is the most important document before this House this year - so far, anyway - if it could not fit it in somehow or other, then I am astonished at what it has been doing. Rather than looking frankly for oil under St. Ouen's Bay, **[Laughter]** it would have been much, much better employed as it was charged to be, scrutinising the Strategic Plan, of which, as I have said, it had more than enough notice. I think it is a sad reflection on the process of Scrutiny that no allowance was made in its timetable for such an important document as the Strategic Plan.

#### **4.15 Deputy R.C. Duhamel of St. Saviour:**

Would the Chief Minister not agree that despite his previous statements to the effect that the Strategic Plan is not binding on Members of the House, that he has in fact placing too much importance on the forthcoming strategic debate?

#### **Senator F.H. Walker:**

No, Sir, I would not. I made a formal statement to this House saying it is not binding on the States and I am not going to change from that. It is not. That was a formal statement. But that still does not detract from the importance of it as a vision for the next 5 years for Jersey. An importance, I think, which is now reflected by the fact that we have received no fewer than 19 amendments. They may nearly all have been in the last 10 days, but nevertheless quite clearly, Members are now taking the Strategic Plan seriously and have posed quite a number of amendments. I welcome that. No one can suggest it is not an important document and the debate we are going to have is not one of the most important debates we are going to have this year.

#### **4.16 Deputy G.P. Southern:**

Is the Minister not aware, or has he simply forgotten that Scrutiny is supposed to be based on evidence and there is very little evidence in the current wish list that is described as a Strategic Plan coming forward from his office?

#### **Senator F.H. Walker:**

That is a lopsided, one-sided political view which I do not think is worthy of a sensible answer **[Laughter]**.

## **PERSONAL STATEMENTS**

### **The Bailiff:**

We come now to J - Personal Statements - and I have notice that Deputy Pitman wishes to make a personal statement.

### **5. Deputy S. Pitman of St. Helier:**

[Aside] While advising the Assembly that I will be making a more in-depth statement to the media, with your permission, Sir, I nevertheless feel it is also necessary to make a brief response to the allegations of the conflict of interest brought against me in relation to the Jersey Youth Service during the last States sitting. I am pleased to be able to confirm to Members that you have confirmed to me, Sir, that I am not prevented from asking questions on this matter in the context of the Standing Orders that are currently in force. Firstly, from any direct or otherwise pecuniary implications on which any complaint to the Privileges and Procedures Committee regarding a conflict of interest would hinge, I would reiterate the fact that I have in fact raised genuine concerns relating to the following: the assurance of best value for Jersey tax payers in the delivery and efficiency of a States service by enabling professional youth workers, as our employees, to provide informal education. Perhaps of even more importance is the protection of the interests and general health and safety of our Island's young people making use of this excellent but much undervalued service. The Jersey Youth Service, which I would like to point out I worked for, for 4 years, so I am very much aware of the issues it faces. It is a community service providing much needed opportunities for thousands of young people with its main responsibility lying with this Government. I am, Sir, a part of this Government. Finally, Sir, I would add only that I was elected by people who put their trust in me to represent them. With that responsibility comes a fundamental commitment to seek the truth. I may be a young woman and I may be a newcomer to this House, Sir, but in terms of this obligation, this blonde is not for turning. Thank you, Sir.

### **5.1 Senator M.E. Vibert:**

Can I ask whether that was a personal statement?

### **The Bailiff:**

It was a personal statement.

### **Senator M.E. Vibert:**

And can I ask, I did not have any indication that it was going to be made at all from any of the papers in front of me at my desk and I would have liked to have been in for it. I was just trying to do a little bit of work that needed to be dealt with and I would have liked to have heard the start of the statement. I apologise that I was not in the House for the start.

### **The Bailiff:**

No apology from you is called for, Minister, at all. It was a personal statement which came in late and was not, therefore, able to get on to the supplementary Order Paper.

## **PUBLIC BUSINESS**

## **6. Jersey Post Incorporation: cost/benefit analysis, investigation and responsibilities of J.C.R.A. (P.61/2006)**

### **The Bailiff:**

Now we come to public business and the first item of public business is Projet 61 - Jersey Post Incorporation: cost/benefit analysis, investigation and responsibilities of J.C.R.A. - in the name of the Economic Affairs Scrutiny Panel, and I ask the Greffier to read the proposition. [Aside] The Greffier reminds me that the proposition is very long. Are Members content to take the proposition as read? Very well, then I call upon the Chairman of the Economic Affairs Scrutiny Panel.

### **6.1 Deputy G.P. Southern:**

If Members have their Economic Affairs Scrutiny Panel Report S.R.2 of 2006, it might be useful to them. If not, there are copies in the corner of the Chamber and I believe the usher will distribute them shortly, should they be required. Having been caught out the last time I brought a Scrutiny Report to the Chamber, I would like first to beg the House's permission to permit the suspension under Standing Order 80 of Standing Order 84, which is the guillotine. I believe we have got a serious debate on important issues here and I want to ensure that, for whatever reason, nobody cuts the debate short and so I ask permission to do so, through you, Sir.

### **The Bailiff:**

You do not need permission from the Chair any longer, Deputy. Any Member may propose without notice that one or more Standing Orders be suspended for a specified purpose and you are seeking to suspend Standing Order 84, headed "Proposal to Close Debate", for the purpose of debating this proposition. Is that right?

### **Deputy G.P. Southern:**

Yes, sir.

### **The Bailiff:**

Is that proposition seconded? Does any Member wish to speak on it or do I put the proposition?

### **6.1.2 Senator P.F.C. Ozouf:**

The only question, Sir, is that the Standing Order has been agreed by this Assembly. It is a matter for Members to vote on majority whether or not they think a debate has come to an end. I think that Standing Orders should be maintained on principle. I would welcome the comments of the Chairman of Privileges and Procedures (P.P.C.). We have introduced Standing Orders in order to decide by majority whether a debate has run its course, and it seems to me curious that we should at every opportunity where maybe there may be one individual who may wish to hang back, that we do not do that. I think Standing Orders should be maintained Sir, but Chairman of P.P.C.'s views probably matter more than mine do.

### **6.1.3 Connétable D.F. Gray of St. Clement:**

I do not think that the House is taking this too lightly. There have not been many occasions when the request for Standing Orders has come forward to this House. So I think on this occasion it probably is appropriate to suspend the Standing Order.

### **The Bailiff:**

I call upon any Member who wishes to vote on the proposition of Deputy Southern to suspend Standing Order 84 for the purposes of this debate to return to the Chamber and I ask the Greffier to open the voting. The voting is for or against the suspension of Standing Order 84.

<b>POUR: 29</b>		<b>CONTRE: 6</b>		<b>ABSTAIN: 0</b>
Senator W. Kinnard		Senator T.A. Le Sueur		
Senator T.J. Le Main		Senator P.F.C. Ozouf		
Senator B.E. Shenton		Connétable of St. Saviour		
Senator J.L. Perchard		Connétable of St. Lawrence		
Connétable of St. Peter		Deputy J.J. Huet (H)		
Connétable of St. Clement		Deputy of Grouville		
Connétable of St. John				
Connétable of St. Brelade				
Deputy R.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy of St. Martin				
Deputy G.C.L. Baudains (C)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérissier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy S.S.P.A. Power (B)				

Deputy S. Pitman (H)				
Deputy A.J.H. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

**The Bailiff:**

The proposition has been carried; 29 votes were cast in favour, 6 votes against, and the debate therefore goes on without limit.

**6.2 Deputy G.P. Southern:**

Before I start my speech, I wish to pay due tribute to the members of my Panel: Deputies Breckon, Martin and Lewis and the Constable of St. Brelade, but most importantly to my Scrutiny Officers, without whose determination and persistence, we could not have completed the task within the tight deadlines set by the current Standing Orders. I hope you will agree with me that their efforts in producing a concise and readable report were worthwhile and that serious issues have been raised by our inquiry. I hope too that we have succeeded in meeting the first aim of Scrutiny in having a fully informed debate today. Between my report and the briefing paper produced in response by the Economic Development Minister, there can surely be no one able to claim any lack of information. It also, I think, has the feel of what Scrutiny is about. This is about being a critical friend. One who says: “Before you go ahead, beware, there are dangers which we have come across and there are risks. Make sure you are making a decision fully informed and be careful about the decision.” My report contained 5 separate recommendations and those have been transformed into the 5 parts (a) to (e) of the proposition before Members today. I intend to show that each is backed with sound and substantial evidence and that each deserves your support. Let me start by saying that this proposition and report have not been motivated by, nor should they be seen by, anyone as some sort of anti-incorporation mindset. My Panel, when it chose to examine this question, was aware simply that the new fulfilment policy was going to have a then unknown impact upon the revenues of Jersey Post and we were concerned that the impact might be such as to place the viability of the incorporated postal service in jeopardy. The answer to this original question turns out to be that Jersey Post is a viable operation whose profits derive almost entirely from postage revenues on fulfilment postings. Despite a predicted 14 per cent loss of fulfilment volumes, meaning a 5 per cent drop in overall postage volumes due to the restrictions imposed by the fulfilment policy, the company remains viable. But instead of substantial growth in profit over the coming few years, services are predicted to remain around the current mark and the Economic Development Minister’s paper suggests this mark is £4.8 million, although we have seen figures that suggest £5.8 million on a BPIT (before profit, interest and tax) basis or £3.8 million on a GAAP (generally accepted accounting principles) basis. But I will accept their £4.8 million - the arguments that I am going to produce work with those sums so I accept, at the moment, their figures. So those profits are expected to stay around the current mark, or to grow gently, depending largely about what happens in growth in other aspects not affected by the new policy of the fulfilment market. So Jersey Post is viable. First answer. No argument about that. It seems to me that a lot of the briefing paper addresses that, but we do not have an argument about that. Having found that out, you might ask why did we not just pack up and go home: Jersey Post is still viable, job done and dusted. But then other questions were starting to be asked; if the company is making

such healthy surpluses, and they are, why are we, the States, lending it money? If it is manifestly profitable, why are we ploughing ahead with incorporation? And this brings us to part (a) of the proposition; the need for a new cost/benefit analysis. The first cost/benefit analysis was carried out by Mr. Richard Syvret of Andium Limited in June 2003. He was tasked to confirm that the benefits arising from regulation and any introduction of competition would far outweigh the costs. Note that: far outweigh the costs. In his report he lists a whole raft of possible benefits and costs, largely unquantified at that time. I shall just briefly go through some of the benefits of liberalisation of the market in the first column: (a) lower prices may arise through competition; (b) more consumer choice may arise through competition. New services may arise through competition. The above may well lead to a better allocation of scarce employees in Jersey and to a better capital allocation in Jersey through competition. And in the next column one of the costs is clearly identified. The States will lose the significant benefit arising from monopoly business. Note the emphasis on competition. The benefits come through competition. It is important. The only real figures come in section (d) of this report where costs of regulation amounting to some £210,000 - currently possibly £250,000 per annum in fees to the J.C.R.A. - and the benefits of opening the markets in Sweden and New Zealand are noted. But further on the author notes that whilst Sweden and New Zealand Postal Services have benefited, he makes the following reservations: the quoted examples of New Zealand, Sweden and Germany are likely to be at the high success end of liberalisation results. Few countries would publicise their failures and an average is unobtainable. The extrapolation into Jersey of benefits derived elsewhere in the past are therefore bound to be unreliable. Therefore, benefits of incorporation, liberalisation not necessarily transferable to Jersey. For example, a 6 per cent improvement in letter post productivity in each of the 3 years, as in Sweden, would give rise to additional profit of possibly £1.5 million per annum at year 4 and beyond. But then he says but even £1.5 million seems unrealistic because Jersey Post may well have squeezed-out inefficiencies and developed markets, and certainly, in talking to the Directors at Jersey Post, they are certainly of the impression they have already squeezed out many inefficiencies. Then he goes on to say: "In both cases also, the papers submitted by the J.C.R.A. recognise that the gains occurred in New Zealand and Sweden at a time when volumes were growing, a much easier scenario in which to increase productivity and profits than one where volumes are static or declining. Traditional mail volumes in Jersey are currently falling" - this was in 2003 - "and still are." So any comparison with other regimes is highly dubious because a rising market is one thing, a falling market is quite another. And we have seen evidence of that market despite the assertion in the briefing paper that recently we have seen a quarters upturn, but how many times are we told never to take short term results? Over the 3-year period we have looked at, volumes of ordinary mail are decreasing, and decreasing substantially. So is this confirmation that benefits would far outweigh the costs? Let me quote from what he calls his outcome: "In general terms, therefore, on balance, and for Jersey and its people, it appears that it could reasonably be expected that the implementation of draft Postal Services Law over time should give rise to continuing benefits that are likely to exceed continuing costs, but whether this expectation will become a reality at some stage must very much depend on the enterprise, expertise, integrity, dedication, frugality and a co-operative spirit of all parties, and of the individuals behind those parties." Is that confirmation that benefits will far outweigh the costs? I could leave you to read between the lines. However, I can quote from Mr. Syvret in his evidence to use on 5th April.

#### **The Bailiff:**

Deputy, I wonder if it is possible to refer to this individual as the Managing Director? You are conscious, I am sure, of Standing Order 104.

#### **Deputy G.P. Southern:**

I shall call him the Director of Andium, if I may, Sir. The Director of Andium, the only independent analyst who has looked at the figures and the cost/benefit. He says, for example: "I may say that such was the interest in this report, shall we say, and to a degree some controversy surrounding it, that it took a while for the relevant Committee to minute its decision to go ahead. This was not overwhelming an obvious support for incorporation. It was hedged around with reservations." And then just to clarify things absolutely because I like things simple, I asked him: "When you look at your report do you think, on a scale from 0 to 10, if 10 is cut your arm off to do this - to incorporate - where did it come out? How strong is it?" And the Director says, "I think it comes out between 0 and 3." 0 and 3. Does that sound like overwhelming evidence to go ahead with incorporation? Do the benefits far outweigh the costs? I would suggest it does not. Then in 2005, following a report on possible growth in the fulfilment sector and consequent growth in postal revenues that appear to quantify the potential opportunity cost of incorporation, the Director wrote again to the Economic Development Committee expressing his concerns. The argument in terms of costs is a simple one and benefits. It is not that Jersey Post is not sufficiently profitable but if anything it is too profitable. The ratio of profits to assets is incredibly high, some £4.8 million profit on assets of £6.8 million. And despite the statements in the briefing paper produced by the Economic Development Minister, I am assured that that is the correct way to look at returns. What return do I get on my capital - on my asset - not the 6 per cent spurious reference to profit to turnover ratio? If you want to compare what the business is doing, you look at the asset and the return that is on it. For example, if I put my capital assets in the bank I may get 4 or 5 per cent. If I invest it in a business, if I got 10 or 15 per cent return I would be a happy man. Jersey Post is making £4.8 million on a £6.8 million asset. That is around 70 per cent. That is enormous returns and it is thanks almost entirely for fulfilment revenues. The argument is that on incorporation with such high levels of returns, the J.C.R.A. is almost duty bound to introduce some form of competition, either simulated or real. Now, simulated means a cap or reduction on charges and hence reduced profits and reduced returns to the shareholder and that is the States. Real competition can only realistically occur in the profitable area of bulk mailing of fulfilment business. That is where the profits are. Competition here would also mean reduced profits for Jersey Post and hence reduce returns to the Treasury. And for those who consider such action is unlikely they should be aware that a bid to enter into a separate arrangement with Royal Mail was made by a fulfilment company in 2003, and was only stopped at the time by the Postal Law monopoly. That monopoly is about to be removed. Competition could and may well happen in this particular profitable area. To sum up, the only independent analyst of the potential incorporation had this to say in response to my question at a hearing on 5th April: "Finally, putting it in simple terms, from your position in 2003 where you said incorporation was in the range of 0 to 3 out of 10, your revision in 2005, where did that put the cost/benefit analysis on a 0 to 10 scale with 10 at the top?" He says: "I think it has put it below that." This is not far outweighed. This is not overwhelming support. In response, some people have tried to suggest that Mr. Syvret is somehow against incorporation, and I refer those to the quote of Deputy Ryan who said: "Yes", so he was marginally in favour. There was always a range of opinion. The Director is not a great believer in the benefits of incorporation. However, he was the advisor on the incorporation of Telecoms, and he was perfectly content to recommend that and perfectly content with the results. He said in our meeting: "Telecommunications; this world is changing so rapidly that competition as it were in telecommunications is the order of the day, but those utilities on the range from the one that will never have competition" - by which he means a harbour or an airport - "to the one which really in a sense must have competition at the other end of the spectrum - telecoms - there is a grey scale that goes from black to white." And physically, as he talked about it, he talked about incorporation of postal being down here at the black end. There was no doubt in the mind then in 2003. He asked them for a greater in depth study to be done, and in 2005, that a fresh cost analysis be done but not by him. There was no doubt in the mind of the independent advisor on postal incorporation that a fresh examination should be undertaken. It never was, not in 2003, not in 2005. Equally, there is no doubt in my mind nor in the mind of my Panel that proper cost/benefit analysis in the light of

currently changing circumstances should be done. And that leads us on to part (a)(ii) of the proposition and thence on to part (b). The Panel has expressed great concern about the lack of financial detail that has been released to this Assembly, in particular over the position of each of the various arms of Jersey Post to support itself. In particular, Offshore Solutions Limited, which is the pick and pack or third party service provider for the fulfilment side of Jersey Post, is currently operating at a loss, and allowed to do so because it produces a profit for the group because it filters fulfilment post and it makes a profit on the terms of the postage for the group. But OSL (Offshore Solutions Limited) itself is running at a loss. And the level of these subsidies is significant. They have been released to the Panel in confidence and it may well be as the debate proceeds that my Vice-Chairman may ask if the States feel it necessary to go into camera to discuss the level of these cross-subsidies. Whilst no one objects to a level of cross-subsidy to prop up the loss-making but essential core activities of postal services - the sub-post offices, the delivery to your door, the Saturday collection - nobody objects to cross-subsidy from the profitable area to make sure that is maintained. A cross-subsidy in the other direction is to be frowned on. And if I may, I will quote the Chief Executive of Jersey Post. Here it is. He says: "Fulfilment profits account for almost all of our profit." Fulfilment profits are used at the moment to fund the loss-making areas of Jersey Post, which includes the retail network and the sub-post office network. We can and we do take exception to cross-subsidy that appears to be directed at OSL because OSL is in direct competition with other pick and pack operators. In the words of the Executive Director of the Jersey Competition Regulatory Authority, and again, I quote: "Well, I think, again, under normal Competition Law principles, cross-subsidy is usually only considered to be a problem or a potential problem where it is having the effect of distorting competition. So, for example, if a dominant company was using profits from an area in which it was dominant, or had a monopoly, to cross-subsidise areas in which it was subject to competition, and the effect of that was to make life difficult for its competitors - so it was effectively leveraging its dominant position to achieve a competitive advantage in other markets - then that would usually be considered, or could be considered, a problem under Competition Law." And here is the rub. Profits in an area where they are a monopoly provider are being used to cross subsidise, to funnel into an operation where they are in direct competition with the private market. And this, I believe from day one of incorporation, is open to challenge and should not be allowed to happen. Of course, it is open to the J.C.R.A. to have a good look at what is happening under Competition Law after incorporation, but the concern of the Panel is that if such a cross-subsidy is taking place and is anti-competitive - and certainly that sort of definition would say it is - then it will occur, as I say, on day one of incorporation and opens Jersey Post to immediate challenge from its competitors. And certainly, if I was aware that this was happening, come day one and I was in a pick and pack operation that was in direct competition with OSL, I would be off to my lawyer saying: "What can I do about this?" We should try our best to ensure that this does not happen before we incorporate, and that is the thrust of part (b) of the proposition. Part (c) concerns the loan to Jersey Post from the Treasury. The fundamental question here is one that was posed, I believe, by the Assistant Minister of Home Affairs - but he is not here - the Deputy of St. John, when he asked the question of the Treasury and Resources Minister: "Why should the States be acting as a banker?" The Treasury and Resources Minister said of the proposed loan on 5th April this year: "They - Jersey Post - could go into the commercial market and borrow at a higher rate than we would lend to them." Now, for a potential organisation or any company in its early years has to struggle, I am sure, until it is established as any businessman will understand. It is far better if they can borrow more cheaply from a lender such as the States that they should do so. Think about this. A struggling company! It is Jersey Post! How many decades has it been around? Equally, from the States' point of view, it makes sense to me to invest and get a return for my money which is in excess of what I could get if I put it directly into the bank. So I think it is a win-win situation. It is better for the States and the Treasury, and it is better for the company because they can borrow at a more effective rate of interest. Certainly back then he was of the impression that he was lending at a beneficial rate to Jersey Post. He was doing them a favour and they were doing him a favour. He was going to (a)



lend Jersey Post £4 million and (b) do so at a preferential rate. He now tells us that he has reviewed the position - I think that is the word he uses - and will lend the money at commercial rates. He perhaps sees that a preferential loan could be interpreted as a step too far. But having reverted to commercial rates, the question must now arise as to why we should make the loan at all. Why should this big strapping company making substantial profits and already supported in its pension liabilities by foregoing payments to the States for the past several years, why should it not take out a commercial loan with a commercial bank? And that is the question we have to put to ourselves today. The answer, I believe, is that there is absolutely no reason to prevent Jersey Post from going to the commercial market and seeking a loan to cover its pension liabilities - the remaining pension liabilities - no reason whatsoever. If it is truly to be a more commercially-oriented business, then let it act as one and not be feather-bedded by the States. This, of course, might help to solve the problem presented by part (d) of this proposition, a separate issue but linked to the loan. In the Postal Services (Jersey) Law 2004 the J.C.R.A. is charged as one of its 2 prime duties to ensure that the company can pay off its loan obligations to the States of Jersey. Under 8.1(b) it says: "The Economic Development Committee - now the Minister - and the authority, the J.C.R.A., shall each have a primary duty to perform its functions as in 8.1(b) that the company, to the extent that it is or is to be licensed under this Law, has sufficient financial resources to discharge during the period when this sub-paragraph is in force, its liabilities under securities issued by the company to the States." In other words, the Jersey Competition Regulatory Authority has been given as its prime duty to make sure that Jersey Post can pay back its loan. As a secondary duty, the secondary duty in 8.2(a): "The Authority shall have a duty to perform its functions under this Law in such a manner as it considers is best calculated to protect and further the short-term and long-term interests of users within Jersey of postal services, and to perform them wherever it considers it appropriate by promoting competition amongst persons engaged in commercial activities connected with the postal services in Jersey." Prime duty: make sure the post office can pay back its loan. Secondary duty - and how can anybody devise this - secondary duty to protect the consumers in Jersey? Now, I do not know what your layman's interpretation of what the J.C.R.A. is supposed to be doing, but my interpretation is that its prime duty was to look after the consumers in this particular market and not to ensure that this Jersey Post can pay back its loan. That Jersey Post can pay back its loan is a duty of the Treasury and Resources Minister who is lending him the money, and, perhaps, the duty of the Economic Development Minister to ensure that money gets paid back. But it is not and should not be a remit that belongs to the J.C.R.A.. In fact, they already have a financial duty under 8.2(e) and I will just read to you this 8.2(e) so you can assure yourself that it is not going to let Jersey Post sink: "In performing its functions under this Law to have regard to the need to ensure that persons engaged in commercial activities connected with postal services in Jersey have sufficient financial and other resources to conduct those activities." So it is already tasked to make sure that Jersey Post is viable whilst protecting the consumer, and then its prime duty to repay the loan is placed on top of it. In the words of the Chief Executive of the J.C.R.A.: "It is clear from the Law that the 2 primary duties under 8.1, in the event of conflict, would take priority over the duty to perform our functions in a manner we consider best calculated to further the interests of the users, in particular, by promoting competition where appropriate." To take an extreme example - and I hope it is an extreme example, purely hypothetical - if Jersey Post was able to persuade us that the only way it could pay back its liabilities estates, its loan, was to increase its postal charges, therefore prejudicing the interests of its users, then 8.1(b) - the loan repayment - would have to take precedent over that under the law. Let us hope the situation will never arise. Well, cross your fingers and hope it does not arise, but we have loaded the J.C.R.A. with a duty that interferes with it doing its business. And that is finally revealed - this bind - with the following exchange. We now have got a £4 million loan that is covered in your duties by 8.1(b). After 4 years, assuming all goes well, that loan is paid off and 8.1(b) falls, what is your position then? Your position then surely is to ensure the postal services are delivered and that level of service is such that it meets consumer needs. The Director of J.C.R.A. says: "Once Article 8.1(b) disappears the Postal Services (Jersey) Law will be very similar to the Telecoms (Jersey) Law, and there is no equivalent of 8.1(b) in the

Telecoms (Jersey) Law, so we will be able to, as a regulator, perform functions in the same way as we are doing in Telecoms. Obviously, the 2 industries are very different and the scope for competition is probably considerably different but legally we would be on a par with our role as regulators of Telecoms.” I then say: “There is almost a smile on your face and you would be much happier with that position it seems to me. In fact, in these 4 years this double bind that you are in is restricting your scope as a regulator,” to which he replies: “To the extent that it is an additional primary duty that we are subject to and clearly it is, does leave us with less discretion.” Clear statement! They are trying to operate in this 4 years with one arm tied behind their back. Absolutely ridiculous situation! 8.1(b) is clearly a hindrance to the capacity of the regulator to look after the interests of the consumer. In 9.2 of his briefing, the Economic Development Minister clearly agrees with our analysis and is prepared to consider rescinding this clause within 2 years. I say: “It is currently 4 years, do not look at 2 years. That is 2 years of asking J.C.R.A. to operate as a regulator with one arm tied behind its back. Let us take away that clause now, and it would be better, in fact, if we did not lend them the money in the first place, and then we would have no need for that particular clause which is why (c) comes before (d).” So I say: “Let us get rid of this ridiculous bind now.” And finally I move on to part (e) and I will be very brief here. Finally, the Panel’s attention has been drawn to the ability of the Economic Development Minister to issue guidance or directions to Jersey Post over social or environmental issues as he sees fit. In particular, where a matter of social impact is at issue - that perhaps the impact arises in postal tariffs - or some equivalent of the rise in telecoms charges for the elderly - the last which happened last year - or, say, a possible reduction in the number of sub post offices, which again would affect the elderly, then I believe the Minister is conflicted by his overriding need to maintain economic growth and to maintain the financial base of Jersey Post. Imagine having your constituents come to you when it is suggested that Gorey Sub-Post Office or St. Ouen’s Sub-Post Office is due for closure, for the axe because of financial problems, and you having to say to your constituents: “Well, I cannot do anything about that. It is all in the remit of the Economic Development Minister. He will inform us what his decision is. You cannot influence it.” I do not believe that is a position we should put ourselves in with such a vital service. It is abrogating the responsibility, I believe, of this Chamber and us as representatives of our constituents. Part (e) of the proposition therefore seeks to place this power where it more properly belongs, not solely in the hands of the Economic Development Minister but in the hands of the States along lines adopted by Guernsey. It is perfectly feasible to do that and perfectly, I believe, sensible to do that. At which point I will stop and urge Members to support each and every part of this proposition.

### **The Bailiff:**

Is the proposition seconded? [**Seconded**] Does any Member wish to speak?

### **6.2.1 The Connétable of St. Lawrence:**

First of all I would like to acknowledge the hard work and effort put in by the Economic Affairs Scrutiny Panel. Secondly, I would like to remind the House that the debate is whether or not to accept the recommendations of the Scrutiny Panel made in the report or go ahead with a States decision which has already been made on 3 different occasions. There have been 3 different debates, and in the States Members briefing which you may or may not have in front of you; if you do not I will read that out to you. Those 3 occasions when States Members formally endorsed the incorporation of Jersey Post were P.146, Jersey Post Office incorporation debated and adopted on 22nd October 1996; P.90, incorporation of Jersey Post and Jersey Telecom revised approach debated and adopted 4th July 2000; P.24 - much more recently - the draft Post Services (Jersey) Law 200- was debated and adopted on 30th March 2004 at which time the States voted “pour” 39 and “contre” 2. Also, it is worth reminding Members of the benefits of incorporation. Again it is set out in the States Members briefing. I will not be reading from the briefing all the time but just

this is worth going through again. And these benefits at 731 on page 14 of the briefing are further improvements to customer focus and customer satisfaction. A more efficient proactive and modern postal infrastructure to support the social and economic activities of the Island, regulatory drive for efficiency and quality of service improvements, ensuring that Jersey Post competes on a level playing field with other businesses in Jersey - and this bit will warm the cockles, at least it would do for the Connétable of St. Helier and certainly the Connétable of St. Saviour. It will pay rates, taxes, et cetera, although in some early stages there is some distortion et cetera; greater flexibility in developing partnerships, alliances and joint ventures which benefit the consumer; removal of administrative costs associated with being a government body; greater opportunities for aligning employees work practices and remuneration packages to the business; over time greater shareholder value for the States of Jersey, greater commercial freedoms, removal of political constraints on business opportunities. In addition, these changes will clarify and separate the roles of owner, regulator and operator. At the moment they are all rolled-up into one. The owner is the States, the regulator and the operator is the Economic Development Department, or the Minister, should I say, as I see him looking at me. And ensure that the consumer is protected by the independent regulator from any unreasonable pricing and any inefficiencies in the operation of Jersey Post. Under the present rules as I say, the Economic Development is both operator and regulator. May I suggest that that is not the best scenario for protection of the consumer? It is also of interest that the National Audit Office, no less, have recently reported in relation to Guernsey Post, which is much more comparable to Jersey than other jurisdictions mentioned this morning by Deputy Southern. And of Guernsey Post, which has already gone down the road of incorporation and regulation, the National Audit Office state, and I quote: "The main conclusion is that the principle of commercialisation and regulation is sound for Post. Regulation has brought benefits." And in addition to this, in Jersey this is coupled this year with an upturn in mail volumes. Let us look at the decisions requested in the projet. (1) Agree updated cost/benefit analysis be prepared in the form approved by the Controller and Auditor General in order to provide information relating to the overall financial viability of Jersey Post International Limited post incorporation. (2) The capability of each element of Jersey Post International Limited to support itself independently. In order to justify this request of an updated cost/benefit analysis the report in the projet states: "This was the recommendation of the only independent expert who has been involved with the process." That is the Director of Andium Limited that Deputy Southern referred to. The key findings in section 3 of the Scrutiny Report, which seem to be the only other justification for this recommendation, dwell mainly on the effects of fulfilment, which is hardly surprising, as the whole report is entitled "The Impact of the Fulfilment Policy on the Incorporation of Jersey Post". Neither the report in the projet nor the key findings says that the very same independent expert, the Director of Andium, stated and I quote, he stated at the hearing, and it is in the transcript of the hearing: "What I am saying to you is that if fulfilment disappeared from the scene in Jersey it does not concern me at all. I believe the Post Office will manage very well without fulfilment." Now, this was within the last few weeks at one of the Scrutiny Panel hearings. I know because I was there, in the famous words of Max Boyce, well known Welsh comedian - maybe my accent was not quite good but anyway - "Yes, I was not carrying a leek," says the Connétable. This statement is borne out in the States Members briefing at 6.11 on page 10. Any action by Jersey, the U.K. or the E.U. on the fulfilment sector and all low-value consignment relief is independent of incorporation, and its impact will be the same on Jersey Post regardless of whether it is incorporated. In any event, the impact of the February 2006 Fulfilment Policy affects just 5 per cent of items handled by Jersey Post. And Jersey Post's latest forecast indicates that the loss of this business will be more than made up by growth in whole-chain companies and high value hybrid fulfilment customers exporting to the U.K. as well as expansion into European fulfilment markets. Also, it is not clear to me what the term used "cost/benefit analysis" means. It seems to be limited to and aimed solely towards (a)(i) and (ii). At (i), the projet talks about: "In order to provide information relating to the overall financial viability of Jersey Post International Limited after incorporation." I am not aware of anyone suggesting that Jersey Post will not be viable after incorporation, even in the worst case

fulfilment scenario; not the present executives of Jersey Post; not the future Jersey Post directors; not the States Treasurer; not the J.C.R.A. - the independent regulator; nor Deputy Southern this morning. All of these have expressed their satisfaction that Jersey Post will be viable after incorporation. And again, referring to the States Members' briefing at 6.1.9, 6.1.10, 6.1.11 on page 11 it says: "The Treasurer of the States who is bound by his responsibilities and accountabilities under the Finance (Jersey) Law has independently reviewed and the future revenue projections detailed in the scenario analysis and concluded that Jersey Post is a going concern post-incorporation." 6.1.10, the financial projections have been approved by the proposed Jersey Post non-executives and executives who will assume legal responsibility as the board for the company upon incorporation. Thirdly, independently the J.C.R.A. have given notice that they will issue a license to Jersey Post and that they can only do this if they are convinced the company will be a going concern. So, how many more people, independent or otherwise, need to look at this? How many more? "Yeah, it is everybody," as somebody says. **[Laughter]** We could carry on looking at it next year, the year after, the year after that and keep going. The projet then turns to (ii): "To each element of Jersey Post International being able to support itself independently." It has been clarified somewhat this morning by Deputy Southern but at the time when I prepared my speech it was unclear to me, but I presumed that this refers to item (b) in the projet where it refers to cross-subsidy and the concern about the fact that Offshore Solutions Limited is still currently operating at a loss, even though there are plans to address this. A cost/benefit analysis relating to this item before incorporation seems to be totally unnecessary, as it only becomes relevant once regulation comes into force, and it will then be up to the J.C.R.A. to deal with this issue as it sees fit once incorporation and regulation are in place. In fact, in reply to the Minister's letter, which was enclosed with the States briefing, I have here in front of me a letter which was dated yesterday from the J.C.R.A.. The 2 questions that were posed to the J.C.R.A., the first was: "The J.C.R.A. could give an assurance that as soon as the J.C.R.A. has the powers to conduct a review it would examine areas of cross-subsidies within Jersey Post's business and take any necessary action," and the response from the J.C.R.A. was this: "As you are aware, it is the J.C.R.A.'s intention upon incorporation to conduct an efficiency review and price control review of Jersey Post. We would expect that during the course of such work the existence and extent of any cross-subsidisation within Jersey Post will be revealed. We would then be in a position to assess whether any cross-subsidisation is unfair, and, if so, to take appropriate action." The second question put to the J.C.R.A. was whether such a review would be more efficiently and effectively be performed after incorporation. The response from the J.C.R.A. is: "Due to the fact that the Postal Services (Jersey) Law confers upon the J.C.R.A. powers to require Jersey Post to provide relevant information, (b) the license includes a specific condition which requires Jersey Post not to unfairly cross-subsidise; (c) we would have power under the Postal Services (Jersey) Law to take any necessary enforcement action in the event of a breach in this condition, and the J.C.R.A. is intending after incorporation in any event to conduct a programme of work which should reveal cross-subsidies." They go on to say: "We believe it would be more efficient and more effective to conduct the review after incorporation rather than before." In other words, there is no justification for incurring additional unnecessary costs now as this issue will be dealt with by the J.C.R.A. after incorporation in any event. Incidentally, on the comment that Deputy Southern made about the profit of £4.8 million being related to the assets in the business, I am afraid that the advice he has received from whoever gave it is incorrect, because in a service business you do not look at the capital base of the business. It is no good shaking your head, Deputy Southern, because I am afraid that I know about figures and I know darn well that in a service business you do not need to have vast volumes of assets. So, a £4.8 million profit on a turnover of something like £40 to 50 million is not unreasonable. In summary, no case has been made to warrant an updated cost/benefit analysis, which, in any event, could only be based on various assumptions and best guesses. Many of the benefits of incorporation, you remember, we went through them at 7.3.1 on page 14. They cannot be quantified in monetary terms at this point in time. It is only in the future looking backwards you will be able to do so. Let us just look at them again. Further improvements to customer focus and

customer satisfaction. How do you put monetary figures against that? You cannot. The next one is a more efficient proactive and modern postal infrastructure to support the social and economic activities of the Island. Again, cannot be quantified in monetary terms. Regulatory drive for efficiency and quality of service improvements. Again, how can we quantify anything with that in advance? We cannot. We can identify perhaps how much rates will be paid. Again, looking at my fellow Connétable - who is not there - and the one on my right here, we can identify, I am sure, what the rates will be, but going on beyond that is very difficult. Greater flexibility in developing partnership alliances and joint ventures which benefit the consumer. Again, how can we possibly quantify that? Just impossible! So, we have been wasting our time. So, in other words there is no justification for incurring that additional unnecessary cost. So, in summary, I would say no case has been made to warrant an updated cost/benefit analysis, which in any event could only be based on various assumptions as I said and best guesses, and cannot be quantified in monetary terms in any event, and will only be quantifiable some time after incorporation and not - I do not mean within months but - within years. Item (c) in the projet is up to the Minister for Treasury and Resources to address, but suffice it to say that the loan is not in respect of liabilities under the Jersey Post Office Pension Fund - I am being pedantic here - but under the States Public Employees Contributory Retirement Scheme, and is to be made on commercial terms; the J.C.R.A. is aware of those terms and will require to approve the rate of interest. The next item (d) refers to Article 8.1(b) which has already been brought into effect by an Appointed Day Act on 11th October 2004. This article is a protection for the States to ensure that the above loan is repaid as a priority. In any event the £4 million figure referred to is very much a maximum. Deputy Southern was quite right in saying that profits are being held back over a number of years in order to discharge this pension liability, which, I have forgotten what it is currently but it is something like £15 million in total. If this Article 8.1(b) is in any way a problem for the J.C.R.A., then it will not be for about the first year, because, if you remember, the J.C.R.A. is carrying out an efficiency and price-effectiveness audit which was going to take 6 months. After that, no doubt they will wish to look at the results of that audit and then decide on the action to be taken. If they were to go out to invite competition - if they were to do that - it would probably be a good year before anything happens. So, I do not think that is going to be a problem for the regulator in the first year, and by that time the size of the loan should already have been significantly reduced out of ongoing earnings. Because as we speak the post office is earning money, so throughout that whole year it will be earning more money. It may be, in fact, by the end of that year that the loan will not exist because it might have discharged it, because whether it has to borrow £4 million up front to start with, that is a top figure. It may be a lot less, and therefore that is something we do not need to worry too much about, because if there is a time-lag it is going to be a fairly short one between the time that the J.C.R.A. are ready to take action and the time that the loan will no longer exist. The last item (e) - this is about guidance to the J.C.R.A. - would be moving away from the situation in all other similar competition scenarios in Jersey. In addition, the justification in the report is incorrect, in that after incorporation - and it is only then that this would apply - the Minister for Economic Development will not be responsible for repayment of the loan to the States, nor for the profitable operation of Jersey Post. That will be in the hands of the board of Jersey Post International Limited. It is obviously of interest to the Minister for Treasury and Resources, who will want to get his money back, but from the point of view of the obligation to pay it, that will not be down to Economic Development. The only possible conflict therefore is that the Minister for Economic Development is responsible for the economy, if you like, in Jersey, which is a very, very general conflict and applies in every situation where the J.C.R.A. is involved under the Competition Law. So, why change it for this particular situation? It does not make sense and the thing is... I suggest that should be just rejected out of hand. What about the human factor? What sort of effect is this continuous delay and prevarication having on the staff at Jersey Post? What about the business? How can a business thrive when it is saddled with delays and indecision? How can it do any meaningful forward planning when it does not even know what it can or cannot do, and where it is going? We have a very competent and experienced board in waiting. Do you realise it is the third

board in waiting we have had in the last 3 years? These are very senior, competent people, who are already trying to do a job, but they cannot make any decisions; they are making suggestions. That is all they can do at the moment. We want to let them get going so that they can get on with the job and achieve what can be achieved with Jersey Post. The previous 2 boards just got totally disillusioned with the situation and retired. We have already taken far too long implementing the States' decision; rather like that other States decision just 2 weeks ago - the new Planning Law. That, at least, we got going. Here is another one we should get going. I commend the Scrutiny Panel. They have worked very hard and they have tested out the current position on the incorporation of Jersey Post and ensured that a number of points have been revisited, which is as it should be. However, nothing significant has emerged to justify a further delay to incorporation. I believe we should thank the Panel for the work they have put in, reject P.61 and then proceed today, to approve the final steps in incorporation and thus independent regulation of Jersey Post. Thank you, Sir.

### **6.2.2 Deputy J.A. Martin of St. Helier:**

Constable Fisher has said that we have not made the case to have another cost/benefit analysis. The last and only independent analysis has recommended that we do carry out one and that was a strong recommendation. I would agree with Deputy Southern: we do not want to hold-up incorporation of Jersey Post just for the sake of it, and we do not think another, proper, in-depth, independent look into Jersey Post will take too long. We do think it should be carried out. Jersey Post has already stated to us that they have lost at least one customer through the new fulfilment policy to the tune of around £120,000 profit. Since that date we know that at least 12 companies have now had licences that will only last for 12 months, and some of these act through - obviously - Jersey Post, but also use Jersey Post for the postage of their items. The only report- and this is where I think Constable Fisher has quoted from - that has been done since the new fulfilment policy was this May. It gave many different case scenarios and the report was supplied from the Finance Director of Jersey Post and the Head of Corporate Financial Strategy. The background for this report was: "This memorandum addresses the Treasury and Resources Minister's request for more information on Jersey Post International Limited ability to meet loan repayments under the worst-case scenario. The analyst in this memorandum takes into account his comments in respect of his expectations of the future operation of Jersey Post International Limited and the latest trading forecast for Jersey Post. The following assumptions have been made and in the final analysis of this memorandum." I asked the Minister if he were satisfied that the only report since the new E.D.D. fulfilment had been the document I mentioned above. And the recommendation from that document states: "Having reviewed the forecast's opening balance sheet, forecasted profitability, underlying assumptions and risks, the Chairman Designate, the Managing Director Designate, and the Finance Director Designate of Jersey Post International Limited recommend that the opening balance sheet and forecast profitability is sufficiently robust for the States of Jersey to meet the strategic aims of incorporating Jersey Post on 1st April 2006, irrespective of the Economic Development Minister's decision on the future of fulfilment." I also asked the Minister for Treasury, Senator Le Sueur, when interviewing him on 5th April, if he were happy with these scenarios and the people who were recommending. I have no problem with the figures. I am just talking about independence. His reply was, Sir, and I quote: "They are scenarios. They are produced by the officers of the Department of the Treasury and reviewed by myself, but they have also been reviewed by the potential incoming directors of Jersey Post Limited, who are very commercially focussed gentlemen, who, I am sure, would not want to continue their commercial life being directors of an insolvent company. Directors of insolvent companies carry some significant downsides, so those people can be reasonably satisfied themselves, independently of anyone else's concern, including mine, that the assumptions from the figures are realistic. They have done so and they believe also that the figures are realistic. So, to the extent that those appointed are not yet directors of the company, they are directors designate, you could say that it was an independent analyst, but I

accept that it may be independent with a small 'i' rather than a capital 'I.'" My point and the Panel's point, Sir, is that it is a very small "i". We want an independent look because there are many, many changes. I totally agree with Constable Fisher: this has now been debated 3 times in this House, but it needed another look because of the impact fulfilment will have. The Constable also mentions the summary talking about, not costs, but further improvement and customer focus satisfaction. I have no problem that this cannot be achieved where we are now. As I have just said, the board of directors designate are the people running the operation and most of this could be carried out. And, as I say, we are not asking, really, for a long hold-up. I would just like to carry on, Sir. I think, hopefully, I have made the case that there should be another independent analysis. In (b) we are talking about the cross-subsidy, and, in the comments from the Minister of Economic Development, he says that if they look into it, a cross-subsidy was carried out before incorporation: that the J.C.R.A. could only recommend, but not compel, change. They would be a very foolish management at Jersey Post who would ignore recommendations from the J.C.R.A. and the States, and I am sure the Minister of Economic Development was not suggesting this would happen and I am quite sure it would not. It is also stated upon incorporation that J.C.R.A. will carry out an efficiency audit. I am not sure if this will be done by the J.C.R.A. or a team of consultants, but I suspect it will be the latter, and there is nothing stopping the States to do this now. And you know how fond we are of consultants. I go on to the loan, Sir. I have read the comments from E.D.D. and the Treasury and they have reviewed their decision to grant a loan, but they are still of the opinion it should be from the States. I am still not convinced by the argument that Jersey Post need a loan from the States because they are an organisation or a company in its early years that has to struggle until established. A lot of this case has already been made by Deputy Southern. The Finance Minister did go on to say, and as any businessman will understand, it is far better if they can borrow more cheaply from a lender such as the States, then they should do so. On page 16, from the long comments from E.D.D. at 9.1.1: "The purpose of the loan and Article 8 is to provide some certainty to the States around Jersey Post's ability to repay the loan from the States of Jersey to meet pension liabilities being transferred to it." Then, 9.1.2, Sir: "Jersey Post's competitors will not have these liabilities, therefore this article and the proposed loan go some way to addressing this imbalance." Where will the competition come from? Jersey Post has had millions of pounds invested in equipment and premises. In 2004 they replaced their fleet of vehicles for £2 million and Deputy Ryan reported this to the Panel on 5th May. This is why their capital expenditure went up in 2004. So, I would say, Jersey Post is not a struggling company and they are in a very good position to borrow on the open market. Also, to give Jersey Post a loan, as already stated, limits the payout of J.C.R.A. until the loan is repaid. I fully understand the need to protect the loan that is given from public money, but if Jersey Post are as profitable as their figures predict, they should go into the commercial market for that loan and this would, as already said, enable the Economic Development Minister to rescind this part of the Law now and not wait for 2 years, as his comment on 9.2. This has been an issue ongoing from September 2003. The then independent analyst and the then J.C.R.A. could not marry these 2 together and they were supposed to go away and bring a report back to the next Committee meeting. But, as far as the Panel can find out, this report was never either done, Sir, or the findings were never reported. But the only issue which remained unresolved was in respect of Article 8(1)(b), which was the principal responsibility, and 8(2)(c) a secondary. So, Sir, this is not something new. It was worrying the J.C.R.A. 3 years ago and the independent adviser. In our last part we have looked at Guernsey and we had a comment from the Constable that Guernsey may not be doing that well, and in one of the comments from Economic Development, they say in the last bullet point: "E.D.D. Minister states that the Guernsey Office of Utility Regulation notes that since 2002 Guernsey Post has taken on the equivalent of 48 full-time staff in postal operations." Probably, Sir, I would say, "Rubbing their hands waiting to pick up all of our fulfilment business that is now going their way." Thank you, Sir.

### **6.2.3 Senator T.A. Le Sueur:**

I can certainly agree with Deputy Southern that the report his Committee produced is clear and concise and it is titled: "The impact of the Fulfilment Policy on the Incorporation of Jersey Post," and yet his speech seemed to ramble over all sorts of areas except fulfilment policy, and I am a bit concerned that the tone of that did not quite reflect the report. Nonetheless, Sir, I just remind Members that it is 10 years since we agreed the principle of incorporation and in that time period there have been numerous changes. Fulfilment policy is just one of them. But the point is that fulfilment policy or any other thing like that is not relevant to the principles of incorporation. I think that, somehow, despite Deputy Southern's words, the Panel is somehow opposed to the principle of incorporation and is trying to find some way of finding a reason for that. The excuse they are using to justify that opposition is that a further report is needed into the potential viability or otherwise of Jersey Post after incorporation, even though we have already done that in some detail. I have no doubt, and, indeed, Deputy Southern has no doubt, that that report would conclude that Jersey Post will indeed be viable. Given that basis, one has to question why one needs a further report. There is some question that maybe the report is only independent with a small "i" as Deputy Martin suggests. It may well be that part of the analysis was done by an independent with a small "i", but I would point out to Members that there are a whole range of people who have trawled all over these figures. Even the Director of Andium Limited, who was quoted at length by Deputy Southern, came to the conclusion that even under the worst case it was marginally better - if not hugely better - for incorporation to take place. Given all that, Sir, I suggest that the Scrutiny Panel is really clutching at straws, and I think maybe it is trying to play on the fact that some States Members would like any excuse to put off making a decision. In any case, the hard decisions have already been made. They have been made by the management of Jersey Post; they have been made by the potential directors of the new company; they have been made indeed, by the Treasurer of the States; and they have been made by the board of the Jersey Competition Regulatory Authority, all of whom have concluded that Jersey Post has a strong and viable future. Indeed, the J.C.R.A. are bound by their terms of reference that they can only issue a licence if they are satisfied that Jersey Post is a viable operation, and they have confirmed that they are prepared to issue that licence because they confirm that in their view, Jersey Post is a viable operation. So, we can have more reports and more reports. We can delay and delay still further. I speak as one who was invited on to the Postal Committee as it was in those days, some 10 years ago, and being told that it would not last very long because we would soon be incorporated. I was told that when I was reappointed 3 years later, and indeed, I even spent a further 3 months on it just to see it through, and that was 3 years ago. Yes, and there is maybe a suggestion, "Well, another review: we could do it in a couple of weeks, and it would not take long, would not cost much." I think that is unrealistic. If we are going to get an independent review to the satisfaction of the Comptroller Auditor General, to the satisfaction of E.D.C., with terms of reference which have not yet been agreed, I suggest that the costs are going to be more than £10,000 and it is going to take months, not weeks. Months and months more delay for what purpose? A delay, Sir, which would, in my view, be highly undesirable. Not only does it give the message that the States cannot make up their mind, but also it gives out the message that the management of Jersey Post cannot plan for the future. Above all, a delay would be undesirable for the customers: the public of Jersey. I would like to remind Members the primary purpose of incorporation. It is to separate out the different responsibilities of the owner, the regulator and the operator. Those functions are all at the present time carried out by the Minister of Economic Development - splendid chap - I have every confidence in him, but he should not have to have those 3 different and sometimes conflicting functions. The reasons for incorporation of Jersey Post are just the same as the reasons for incorporating Jersey Telecom. It was to ensure that the consumer got the best possible deal and this could be achieved by driving out inefficiencies in current operations. If we delay making a decision it will not be the States that will suffer, it will be the public, it will be the consumer. And I urge Members not to let those consumers down. I feel I should also say a few words on part (c) of the proposition relating to the loan, although I think having read my comments in the addendum I lodged last Friday, it should be fairly self-explanatory. The Panel seems to have some sort of paranoia that maybe Jersey Post is



getting some sort of commercial advantage, and perhaps I was naïve in not providing them with the evidence, which I thought should have been self-evident... the scrutiny is evidence-based and I would be happy to put that right now by reminding them that the rate of interest which is proposed in the Projet 9 is a rate of interest to be fixed at 1 per cent over the Bank of England base rate. So, I searched for some evidence and I obtained from leading bankers an indication of what they would charge if they were to lend money to Jersey Post. The indication was one per cent over base. It was the same rate as we are charging them. On that basis, I just point out to Members, what bankers do for a living. They borrow money from people like the States and then lend it on to people like the States and they take a turn in the middle. So, what the Scrutiny Panel is suggesting is that we should encourage the banks to take an extra turn because we would deposit £4 million with them and let them make the profit rather than the States. Well, if that is common sense I am a Dutchman. **[Laughter]** Furthermore, we have heard that, in fact, the profitability of Jersey Post may be even better than we were expecting and I am confident that that loan could be repaid in less than 4 years. We have the ability here, as the lender, to be flexible. If they want to repay early, there is no problem. With a bank financial institution, when you borrow from a fixed-term you repay from a fixed-term schedule. Finally, I remind Members that that loan, in any case, is dependant upon the consent of the J.C.R.A. to the terms of the loan, and the J.C.R.A. are indeed happy with the terms of that loan. On the basis of the arrangements, it has confirmed that it will issue a licence to Jersey Post to start trading on 1st July, if we agree it. I sincerely hope that that date of incorporation will be 1st July. There is only one impediment now to achieving that date of 1st July and that is this proposition before us this morning, which I urge Members to reject in its entirety.

#### **6.2.4 Deputy C.J. Scott Warren:**

The Members are aware that I believe in implementing States decisions. However, I do have concerns about cross-subsidisation and regarding competition for Jersey's present and future operations. I am concerned about this proposed States loan. In my opinion, a government should not encourage cross-subsidisation when it involves propping-up a loss-making company and adversely affecting other similar businesses. The Minister of Economic Affairs was, in my opinion, and I believe probably in the opinion of most Members of the House, right to make changes regarding our fulfilment policy to ensure our reputation in the wider world. I therefore believe, Sir, that an updated, cost/benefit analysis is worth waiting for in this particular instance. We should then be able to proceed in full confidence in the near future. Thank you.

#### **6.2.5 Deputy P.J.D. Ryan of St. Helier:**

I will try and be as brief as possible, although I think people would expect me, with the history that I have with Jersey Post, to say a few things, at any rate. We have come to a point where I think the description of "pivotal" might be a correct description. So, I must say a few words. When I was called before the Scrutiny Panel by Deputy Southern to give evidence, I made the point that most of my information would be at least 6 months out of date, and I think that is true and I think they understood that. However, since that Scrutiny Panel session I am glad to say I have been asked for my opinions; I have been called back by both E.D.D. and Jersey Post to reappraise all of the numbers, all of the latest things to do, particularly with the change of fulfilment policy from about 6 months ago, or should I say since August of last year? There have been a number of things that I have found. First of all, the U.K. audit report, which the Constable of St. Laurence has mentioned, comes out very favourably on Jersey Post. It talks about Jersey Post's back to compliance above *de minimus*. Members may be interested to know that Jersey Post sends roughly £8 million per annum in V.A.T. collections above the *de minimus* at no cost to the U.K. It sends it back to the U.K. Treasury and I think that speaks for itself. Of course, V.A.T. fraud above *de minimus* is a far greater monetary problem for the U.K. than leakage (a different thing) below *de minimus*. So, I

have a better understanding now of the political background with the U.K. Government and there has been some contacts made - I will not go into them - but there have been some contacts made directly with U.K. Government over this particular problem. So, I am pleased to note, though separately, that the perception of a somewhat inflexible policy being applied by E.D.D. - and I have been a critic of E.D.D.'s new fulfilment policy in the past - the public perception is that there is a somewhat inflexible policy being applied. I think I have had evidence and I am glad that I have seen evidence that E.D.D. is working with the companies that it believes do not fit the new policy, and I have seen evidence that maybe we will see some changes to those companies and they would not necessarily leave the Island at the end of the 12-year period. I have seen some evidence of that. We shall have to wait and see. So, the cost/benefit re-evaluation from Jersey Post, again, I have been asked to give my opinion on the latest figures and how the new policy might affect Jersey Post's balance sheet. What it has reconfirmed for me is that the fulfilment industry itself, its future is such, that if you reduce volumes in one area of trading, say, through government policy, then the extra capacity made available in Jersey Post, largely in this case within Jersey Post's own pick and pack operation O.S.L., that extra capacity is going to be very quickly taken up by new business of another kind. Already I have seen evidence that O.S.L. is switching to new international clients, for example, and with different products. So I do not see a particular problem any more with that policy. So, what is the effect on the bottom line of J.E.P. as a result of E.D.D. fulfilment policy? I think in the very short term the effect is small. In the medium term I think it is nil, and in the long term probably beneficial, because it may well have precipitated other market and product diversification. And, to be fair to Economic Development, this may well have been an underlying point, or an underlying requirement or benefit that their policy would have had in the first place. So Jersey Post has to compete for this extra growth, though, in the private sector to achieve a success. Now I am going over old, old ground that we have all talked about for many years, and I still have no doubt that levelling the playing field is the only appropriate way forward for the company: levelling the playing field through incorporation and regulated competition. Jersey Post is fully capable of completely and fully accepting the need for competition in its markets. The argument that we should not incorporate, particularly with Article 8(1)(b) in the Law that limits the J.C.R.A.'s ability to introduce competition too quickly, I believe that argument is spurious. Everything is a balance, and I believe that the balance in the Law is right. Competition will come in due course but 8(1)(b) protects the new company and the interests of the public in the short-term. Without the impact of the P.E.C.R.S. (Public Employees Contributory Retirement Scheme) liability, things might be different, but that is there. It cannot be ignored; it exists and it does dominate the balance sheet of the potentially new incorporated company. So, we have a problem if we do not have that, but any directors of Jersey Post would find it difficult to take on the responsibilities if there were not those kinds of reassurances that both 8(1)(b) provide in the Law and also the financial backing of the States through appropriate loans in the short-term. Sir, there is nothing new in the report produced by the Economic Affairs Scrutiny Panel. I did support it in its right to carry out a further short review, but all of the issues highlighted have been agonised over in minute detail by at least 2 sets of Postal Committees, 2 sets of Economic Development Committees, 4 sets of F and E Committees, and now, finally, an Economic Development Minister and his equivalent Scrutiny Panel. I supported their right to have one last look, as I already said, bearing in mind the recent change to the fulfilment policy and its ramifications. It - the Scrutiny Panel - has therefore as a result been made aware of the background, which may have changed from last year, but much of which is confidential for commercial reasons, that led to the E.D.D. fulfilment policy change. Recently, as I have said already, I have been invited back to have another look, and I am now even more convinced, Sir, that we should get on and incorporate Jersey Post as quickly as possible, and watch this business grow increasingly into an ever greater and more valuable public asset. Of course there are arguments for and against. There have been since 1998, or before, when the States first made the decision. Sir, enough is enough. Eight years of debate - or even more - even enough for this Assembly, I might say. Please, please, for the sake of everyone's sanity, not least the sanity of every man and woman employed by Jersey Post and their

representatives, who are all totally as one and in favour of incorporation; please, please, let us get on and incorporate this business today. Thank you.

**6.2.6 Deputy A. Breckon:**

I wonder if I could ask you on a housekeeping issue. Deputy Southern mentioned at the start that I might seek part of the debate in camera because I would wish to share some perhaps sensitive information with Members under Standing Orders 81 and 82, Sir. I wonder, Sir, whether you would consider it appropriate if I suggest that to Members now and do that and then propose the adjournment after I had done that, and then continued with my speech after the lunch adjournment? I would ask if you would consider that, Sir.

**The Bailiff:**

Deputy, do you wish to give the whole of your speech in camera, or only a part of it?

**Deputy A. Breckon:**

Some of it, Sir, is in open session but there is some information that could be considered sensitive, confidential information.

**Senator P.F.C. Ozouf:**

Might it be possible for Deputy Breckon to deal with that? I appreciate the fact that he wants to do that and that is welcome. Would he want to address the Assembly on the confidential issues now - it is only 12.40 p.m. - and then he can continue his remarks after lunch?

**Deputy A. Breckon:**

The reason I suggested that, Sir, was because if we have to clear the thing then perhaps we could do that and then adjourn and then reconvene? I do it as a housekeeping exercise and for no tactical reason.

**The Bailiff:**

You are proposing the Assembly goes into camera for the purpose of hearing you outline confidential matters which you do not wish to outline in public, Deputy, is that right?

**Deputy A. Breckon:**

Yes Sir. It is because of the way the information was given to the Panel, and then I would suggest, Sir, that I would propose the amendment and then we reconvene at whatever time.

**The Bailiff:**

Is that proposition seconded? **[Seconded]** I put the proposition. Those Members in favour of resolving to conduct business in camera for the purpose of hearing part of Deputy Breckon's speech in private kindly show? Those against? The proposition is adopted and the Assembly will now go into private session.

**Deputy P.J.D. Ryan:**

Sorry to interrupt you, but there is a point of correction. This is not a new speech; this is a correction point that the Deputy of St. Martin made about some evidence that I gave to the Scrutiny

Panel which I would like to correct, and I forgot to do that during my speech. It is a correction point, not another speech.

**The Bailiff:**

While members of the public withdraw from the Chamber, perhaps I could call Deputy Ryan to make that clarification.

**Deputy P.J.D. Ryan:**

The clarification: Deputy Martin said that Jersey Post had spent £2 million on new vehicles in 2003. What I said to the Scrutiny Panel was that £2 million of capital expenditure during 2003, included, not was solely to do with vehicles. In fact, there was £900,000 spent on 78 new vehicles during that time.

**Senator S. Syvret:**

I wondered if now might be an appropriate time to propose the adjournment in that we might still be some time on the speeches.

**The Bailiff:**

The proposal is that Deputy Breckon should be allowed to say what he wants to say in private while the Assembly is in camera and we will then, I think, adjourn. Perhaps I could ask the media to ensure that public transmission of the proceedings now ceases and I call Deputy Breckon?

**[Debate proceeded in camera]**

**The Bailiff:**

The adjournment is proposed, so if Members agree we will reconvene at 2.15 p.m.

**ADJOURNMENT**

**The Greffier of the States (in the Chair):**

Very well, the debate resumes on the proposition of the Economic Affairs Scrutiny Panel and, Deputy Breckon, you were in mid flow. **[Laughter]**

**6.2.7 Deputy A. Breckon of St. Saviour:**

Not quite, Sir, not quite, thank you. Can I just say, as a sort of preamble to what I want to say, the bundles on information we have received in Scrutiny - I have been in the States - this is my fifth term - and I have never seen anything like this before regarding information. Some was given willingly and some, I must say, less so and in some cases even reluctantly. We had to go to threatening sanctions to get some of the information, so it has not been an easy process. Some of it was repetitive and I think some of it was designed to confuse. I am not an accountant, but some of

this stuff was 3-monthly, 5-monthly, 6-monthly, 8-monthly and whatever, and to an accountant, I would suggest, it would have been difficult. But I think there are lessons to be learnt all round, because what we are doing is evidence-based, so we need to make some sense out of the information that we are given. When I was looking through this something that came back to me - I must confess I am a bit of a hoarder; I have got an attic that one day will fall in on me with stuff that I have kept - and what I was looking for was a report from the Postal Administration Committee, the last one. I could not find one, and I wondered really why that was, and I checked, and other people did not have a recall of that and we could not remember when the last one was and what it said. I had some concern about that when I was looking for information. I thought it is still partly a States Committee - or a States-supported Committee - so I should be able to get this but it was not easy to find, and then I thought "Why is this? Why can I not get the information?" And then in the papers we had had, amongst it was a report that went to the then Department for Postal Administration, which produced this report for a Committee meeting on 26th January 2004, and this is what it said: "Jersey Post has agreed, subject to Audit Committee approval with the States of Jersey Treasury, to protect Jersey Post's commercial position by minimising the amount of commercial information disclosed in the States accounts. It is proposed that the Committee's results in the annual accounts only show total income, total expenditure and total profit. This follows the precedent set by Jersey Telecom." That was decided in 2004. So when I was looking for information it transferred from a booklet we used to get with lots of information about 2 lines in the States' full accounts. So it has not been easy for a non-accountant to follow this and make sense of what it used to be, what is it now and how did we get there. And I think, perhaps, there has been a deliberate attempt to confuse, which in my case was fairly easy for them because I did not understand some of it to start with, so there we are. But because I was confused I then started probably asking the wrong questions, or maybe the right questions. But it also, to me, begged the question of how much the States Members know about this business of Postal and their operations. Should we be aware? Should we be concerned? After all, it is our collective responsibility. The question I would ask is how can we approve and support change if we do not know what the thing is in the first place? That is a question I would ask Members to keep in mind. Do we really know this business? I must confess I know more about it now and probably more than I ever want to know again, but we had to get into that depth to find out really what was going on. Change must happen, I do not think that is in doubt. The question would be when and how this happens and where is the detail when it does happen. I think we need to touch on some of that now because I think it is important. The question I ask, and I think it is apparent to everybody: is Jersey Post profitable? And the answer to that undoubtedly is "Yes". If you then go on and say "Are all areas of Jersey Post profitable?" the answer to that is "No". That leads on "Well, what?" Now, we have touched on some of those areas and we have unearthed things that need further investigation and those statements are evidence-based: they are not my opinion, they are evidence-based. Jersey Post is profitable, but not all parts of it are. There are things that I have touched on earlier that I will not touch on again about various sections of the business where perhaps somebody might have a closer look, and I do not think you need a Degree from Harvard to know that either. If we look at the proposition, what the Panel are asking is to agree that an updated cost/benefit analysis in a form to be approved by the Controller and Auditor General be prepared prior to consideration of a draft Postal Services Transfer (Jersey) Regulations 200-, which is P.9 of 2006: "... in order to provide information relating to (i) The overall financial viability of Jersey Post International Ltd post-incorporation"; and (ii) - this is very important - "The capability of each element of Jersey Post International Limited to support itself independently." I would contend at the moment that they cannot. There are parts of that business that cannot support themselves independently and that, I would contend, is not the role of the J.C.R.A. alone. I believe we have some responsibility to look at that independently and that is what the Panel is proposing. Also, at paragraph (b) the request is for the Minister for Economic Development to request the J.C.R.A. in accordance with the provisions of Competition Regulatory Authority Law, to carry out an investigation prior to incorporation of Jersey Post into the cross-subsidy of Jersey Post Offshore Solutions Limited. I

think that would be fairly easy for them to do, but it does not touch on other areas of the business that I believe would need independent - with a big "i", a capital "I" - investigation. I want to skip to paragraph (e). Paragraph (e) at (i) says: "... to agree in principle to amend Article 9(1) of the Postal Services (Jersey) Law 2004 to provide that the States and not the Minister for Economic Development have the responsibility in the public interest to direct or guide the Jersey Competition Regulatory Authority in relation to the implementation of any social and environmental policies in respect of postal services." The question that flows from that is why I believe it should be the States or why the Panel believes it should be the States and not the Minister. I think it is too important for one person. If we think back to Telecoms, we had the hoo-ha over the pensioners' phone line rental where we were, in fact, unable to act. We had to go through a process to the then Finance and Economics Committee and make a protest to the company. If there are going to be issues about, perhaps, sub-Post Offices closing, reduction in deliveries, reduction in collections so that, perhaps, something is put in a post box at 6.00 p.m. on a Friday night and it is still there at 8.00 a.m. on a Monday morning; perhaps that is something that we should have a say about. Because they do say - and I will come to that in a minute, Senator Walker is pulling a face, but I have got something in writing that will square that up in a minute - I think we should have some influence. Again, from a paper from June 2003 - I will just explain. The Universal Service Obligation (U.S.O.) for postal is the general service and their ability or not to provide it - and this comes from a paper from June in 2003. Again, it was the benefits to Jersey Post, the Postal Services Regulation: "States of Jersey may set universal service obligations which set the minimum standards for core postal services including quality of service targets. In addition, the J.C.R.A. is expected to set out conditions in the licence of each licensee and specify the services that must be provided as well as quality measures. These conditions may incur greater costs or lead to reduced costs depending on any significant changes to current services. Improvements to quality of service targets, for example, are something which Jersey Post is constantly striving to do, together with partners such as Royal Mail and Guernsey Post but often at an increased cost. More demanding access, collection and delivery criteria may also add to costs. Alternatively, the J.C.R.A. may introduce less demanding conditions than those that are currently felt by the Postal Committee to be appropriate. For example, a reduction in the current criteria for access to sub-Post Offices, collection of mail and the number of collection points and the frequency and location of deliveries could all lead to significant cost savings." Now, these are things that have been considered and could, in fact, actually happen. Contained in the same paper it also adds on to that: "Until such time as the J.C.R.A. likely policy on universal service obligations and likely licence conditions is known, it is impossible to say whether they will be a cost or benefit to the customer and/or the owners." Those conditions are in the public domain at the moment. That is really why I believe that this House should have some influence over some future policy, not at a minuscule level but where there are community effects, I would suggest. I believe that we, as a House, should retain that and have some influence. The Constable of St. Lawrence mentioned this morning about Guernsey, and I was pleased he touched on that because he has given me a nice little lead-in there because he used... - I cannot remember exactly - but he talked about how wonderful they were to be independent and regulated and how wonderful it was. I would just remind him at the start they made an absolute pigs' breakfast of the mail delivery at Christmas a few years ago and as a result of that the regulator said the following December their standard local charge would be 10p, so there is some downside as well as far as the company is concerned and there is a benefit to the consumer. But, unfortunately, we are not in that situation here. But under the Office of Utility Regulation in Guernsey they are given directions - that is what they call O.U.R. - and that is the paper that they produce, and the States give directions to the Director General of Utility Regulation. They have done so on a number of occasions, not just in postal; they have done it in telecommunications; they did do it in postal, and they have also done it in electricity. In electricity they have given, originally, a one-year licence and then they have given somebody, which is of course Guernsey Electricity, a 10-year licence, but these things are conditional. It is interesting, because the States' directions are prepared by the Board of Industry and debated by the States of Guernsey before

being issued to the Director General, and I think perhaps that we should have the same opportunity. If you go through that paper it repeats regularly that the States resolve, the States direct, and they are directions which should be complied with. Our effort at the same thing, really, was something where the former Economic Development Committee... - this is R.C5 of 2005, and it was Postal Services (Jersey) Law 2004, Directions and Guidance to the J.C.R.A. under Article 9. There are 2 important points here, because directions and guidance are very distinctly different and this is transferred now to the Minister from the former Committee. But there are some conditions attached but written directions - in part it says here: "...if it considers it is desirable in the public interest to do so, give the Authority written directions in respect of the principles, procedures or policies to be followed by the Authority." Now, in the main, they would be very foolish not to follow those directions. The other element is guidance, and it says: "... if it considers it is desirable in the public interest to do so, give the Authority..." - that is the Jersey Competition Authority - "written guidance in respect of the principles." These are in reference to the Postal Law. But under the Postal Law it is the duty of the Authority in carrying out any of its functions "to comply with any directions regarding guidance and to consider without necessarily complying with any guidance". In other words, they can ignore it completely if they so wish. So there are some significant differences about where they are in Guernsey and where we are here with postal regulation, and within the remit of the regulator they have set down some standards and benchmarks in Guernsey that have not happened here at all. That has not happened. But what has happened is that Jersey Post have, in effect, set their own service level agreement in that they have set their own targets; for example, Jersey to the U.K. the target is 78 per cent. So, in other words, 22 letters out of 100 are not meeting the target and that is acceptable. The same - U.K. to Jersey - the target is 74 per cent, and again that is 25 per cent not meeting the target, and these have been deemed as acceptable. What it does say again in some of these reports: "Postal Services are on track to meet their quality of service targets in 2005 except for Jersey to Jersey and Jersey to Guernsey." So those are 2 serious omissions, and again that is why somebody, I believe, needs to have a look independently at this business. I think that is the importance of the service level agreement that is independent and independently monitored and transparent and in the public domain rather than a company too. We have not seen that, and we have not seen that because nobody has given them that focus. I believe that should happen from an independent review. If necessary, whoever could be accountable here for that, whether it is a Minister or Assistant Minister, and I believe that is the way it should be. Regarding the loans, I just want to touch on that slightly. It is not really such a big issue for me whether it is States or commercial. We have, in the past, given letters of comfort - I seem to remember a loan we gave to the Waterworks Company years ago where there was some sort of comfort, and we have done the same with housing trusts and loans to Parishes. There are other things where we can do, but then should we do that for a commercial concern? Perhaps not. I think the Minister for Treasury and Resources was relaxed about this in the way that it would happen one way and it would happen the other, but the fact is if we are investing public money then perhaps it was a better return than we were getting, so again it was a question of one way we win; and then the other question was should we really be getting involved. But perhaps if we are going to have some arm's length then it should be at arm's length and that perhaps comes into the argument. In general terms, I think the proposals contained in P.61 are worthy of support. I can say this Panel has spent a great deal of time and effort. Senator Walker was talking this morning about the Strategic Plan, but this was time-bound in that we had to get something back to the States fairly quickly and, as I say, we were given the run around to some extent and through considerable officer support and the members, we were able to get this together. But having said that, it was not easy. But having said that, I would ask Members to consider seriously whether this is worth further independent investigation, and for me really that is what it is about. I know Treasury have approved, somebody has looked at it; but to me it is all people from within the system. Now, sometimes there is nothing wrong with that; we do not want to be paying money to people foolishly or unnecessarily, but at the same time, I think with this somebody with a knowledge and an expert experience of that... - and I think the Minister for Treasury and Resources

might be right, it may cost more than £10,000, I do not know, I am not qualified to comment a great deal on that. But having said that, I believe there is significant cost/benefit and savings to be had, which is what this exercise is supposed to be about. For that I would ask Members to perhaps pause and reflect on that and perhaps that should influence the way they vote in the final outcome because people have said we have waited 10 years, so if we wait another 10 weeks, so what? I would suggest that we get this right, and if that is the cost of this it will not be the end of the earth and the Post Office will continue to make money as a monopoly in the interim, so they will not lose anything either. So I would ask Members to bear that in mind when they vote at the end of this. Thank you, Sir.

**6.2.8 Deputy J.G. Reed of St. Ouen:** I would just like to pick up on a couple of points that the last speaker made regarding regulation and the differences between Jersey and Guernsey, and what perhaps we can expect whereas they cannot in Guernsey. We do have a Competition Law. We do have a regulatory authority. I was very interested to note that Guernsey is now considering introducing something similar. So we have the ability to properly regulate - and I do not use the word lightly - 'properly' regulate the postal industry. It was definitely not suitable for the Postal Committee to be the regulator of the postal industry at the same time being responsible for the Jersey Post Office. Speak about cross-subsidy; let me just highlight with an example, a personal example of my experience with cross-subsidy within business. I ran a business; there was a farm. Part of that business included an agricultural contracting business, a potato packing business as well as the growing of potatoes, and I think my ex-bank manager was very similar to Deputy Breckon where he used to say, "Yes, overall the profitability is good, but actually the growing of potatoes itself is not profitable." And I would spend many hours explaining that the business and part of the profitability of the whole business included the separate parts. Without growing the potatoes I would not be packing the potatoes, neither would I have the equipment to run the agricultural contracting business. I am afraid the same applies to Jersey Post. As much as you want - and I certainly did as a member of the Postal Committee - desperately want to identify the individual parts, it is nigh-on impossible, for the main reason that there is no getting away from the fact that the main cost to Jersey Post is delivering the mail. If I wanted to make Jersey Post profitable I would stop doing that. I would simply handle the packages, take the stamps and allow someone else to do it. However, that is part and parcel of the requirement, not only of the States themselves but the general public. Equally, sub-Post Offices, equally the other services that all go with it. So it is not a simple equation. Talk about predatory pricing and the reason for the States needing and being required to lend Jersey Post money; let us not forget we still have, whether we like it or not, a pension deficit problem throughout the States. We have an obligation, a responsibility to all employees of the States, which include Jersey Post. We also know that there are deficits incurred by various different groups and pay groups within our States workforce, and the Jersey postmen fall into that category. That deficit... - I mean, I do not know what it is now, it was around about £12 million. Unlike Jersey Telecom, Jersey Post do not have major assets. Jersey Telecom was great; it was the best thing you could possibly do because you had a £60 million - I think it was roughly - asset so you could offset £20 million-odd of pension deficit and the like and still have a very profitable-looking company. Also, equally it was very profitable, as is Jersey Post, generating profit to the States. However, Jersey Post does not have that big asset base, so you need to give some assurance and you need to give some support, not only to the new board of directors that is going to become responsible for Jersey Post, but equally to those employees that we are transferring, if you like, into Jersey Post Limited. I would hasten to add that I have certainly spoken to a number of employees from top to bottom within Jersey Post and I have no doubt, no doubt whatsoever, that they are ready, willing and prepared - and have been for some time I hasten to add - to be part of this new incorporated company. They desire the requirement to become more commercial. They want to be part of the future. They want to help to create the profits. And sadly - and I do not know why - but if it remains within States control as is now, it seems that we are unable to benefit from that commercialism. Finally, I would just like to touch on the 2 duties of



the J.C.R.A.. I have forgotten what article it is - I think it is Article 8 that is quoted, Article 8 (1), maybe. You have spoken of the 2 primary duties of J.C.R.A. and the Treasury, and rightly one of those duties is to pay back the loan. The other is to protect the consumer services. Think of this. If we did not protect that loan and if Jersey Post did have financial problems, what service would be provided to the consumer? That is why that particular duty is incorporated in that Law. It is simply to ensure that whilst Jersey Post repays the pension debt and develops its business along the profitable lines it has been doing in the past, that the States will give some comfort, not only to the consumers but to the employees that are currently employed by Jersey Post. It is nothing more sinister than that, and I would ask Members to consider what I have said when they choose to vote. Thank you.

#### **6.2.9 Connétable M.K. Jackson of St. Brelade:**

Just one or 2 points as a member of the Scrutiny Panel. I would first of all say that in fact I have to admit to suffering from information overload on this. One has learned more about Post Offices in the past few months than I ever knew before. Out of it, it clearly has indicated - and many of the previous speakers have alluded to the fact - that we have got a cost/benefit analysis which has been cast into doubt: the cost/benefit analysis of June 2003. This flags up questions in my mind. I appreciate the difficulties of the Minister, the Assistant Minister in effectively having to run a multi-million pound company as part of their brief and therefore solely support incorporation. The fulfilment is a high velocity business, not only in its function but also, it seems, in moving regulatory goal posts. It has an enormous impact on the business of the Post Office. The Minister has an obligation to react to British Government directives. They are keen to reduce the purported leakage presently being attributed to lost revenues as a result of mailings from Jersey, and the continuing revenue therefore from this source could be construed as being questionable. I am concerned that the present public services are at risk by threats of a Post Office efficiency audit, if not by present management but by the J.C.R.A.. The public in general are not concerned with the ramifications of the fulfilment industry, but rather the presence of their local Post Offices, the price of sending a letter or parcel or the time that their deliveries arrive. This is the area that could be questioned as being at risk. The Minister, the J.C.R.A. and Treasury have quite rightly taken advice from the Post Office, from the senior management team, but surely this team - who are all on salaries as we have heard earlier on today of £100,000-plus with performance bonuses - could be seen to have a conflict of interest. Surely, Sir, a new cost/benefit analysis, with the approval of the Controller and Auditor General, will enable us to proceed with a process of incorporation clearly and with a transparency that befits this House. I would therefore, Sir, ask that all Members support this proposition in the interests of the general public. Thank you, Sir.

#### **6.2.10 Senator P.F.C. Ozouf:**

I am very pleased to have the opportunity to follow the Constable of St. Brelade because I have to say that I very much agree and find myself at one with a lot of the spirit of what members of the Scrutiny Panel, and particularly the concerns of the Constable of St. Brelade. I understand the concern of cross-subsidy; I understand the costs of regulation; I understand the concerns of Article 8(1)(b); I understand the issues of the loss of exclusive privilege. In fact, we have always understood these concerns. I have been involved in this whole issue concerning incorporation of Jersey Post since 2000. I will come on to deal with some of those issues in a minute. But what I want to tell Members is that while respecting the views of the Scrutiny Panel and understanding its concerns, with respect, none of these issues are new and none of these issues were not factored-in in the very carefully constructed Law which this Assembly has agreed in principle and this Assembly hopefully is going to go on to bring into force. There is a very careful balance of different interests which is behind the very thinking, behind the very genesis of the incorporation of Jersey Post. I am going to just refer to a couple of Members' remarks, and I will start with Deputy Breckon because in his remarks in camera before the luncheon adjournment, I felt actually he gave

probably one of the most persuasive speeches in favour of incorporation. If Jersey Post was to be this organisation run by a bunch of crackpot politicians and running loss-making activities and cross-subsidising and abusing - he used the word "abusing" - the dominant position by the way that the existing post Law allows by law the Post Office to do, what Deputy Breckon said in theory is nothing illegal; Jersey Post under the current Law can abuse its dominant position, it has exclusive privilege, just as Jersey Telecom did. So if he were actually right, then sweeping away these old arrangements, putting in place a proper independent board with non-executive directors with another independent regulator watching over them, would actually be the solution to Deputy Breckon's concerns. But actually, understanding those concerns he is actually wrong in his analysis of the operating loss - and I have got no difficulty with explaining this in public - he explained that there was a loss at ProMail and at O.S.L. What he did not point out - which the Deputy of St. Ouen quite rightly pointed out - was taking the business as a whole. Because, of course, it is the job of Jersey Post to sell stamps and deliver mail, and it is the benefit of that additional volume coming from ProMail and that additional volume that is coming from fulfilment that is actually helping Jersey Post be the profitable entity that it is. So I would caution Deputy Breckon, who has been a Member of this Assembly for a long time, of reaching conclusions with simply a blinkered view. The overall assessment of Jersey Post's ProMail and fulfilment businesses is an overwhelming profitable success. Should they be doing better? Should have they actually tried to cut that segregated loss, not having regard to the profitable sale of stamps and deliveries for ProMail? Yes, they probably should, and I fully expect an independent board not with politicians running businesses, but non-exec directors holding directors to account to improve the profitability for the shareholder in the form of the Treasury and Resources Minister in future. He made some comparisons with Guernsey, and I have to say that there I part company with Deputy Breckon. I believe that the system of regulation that we have put in Jersey... - the Deputy of St. Ouen raised the issue, I think, of the late emerging view of the requirement of having a competition law in Guernsey; I welcome that arrival. But still they are saying that politicians should be interfering into the competition arrangements. Not like we have done, which is setting-up a separate competition authority, a separate Competition Law outside of the meddling hands of politicians. I do not agree with the Guernsey position. I believe that the Jersey position is robust and it is actually standing-up to the test of Scrutiny, I think, in terms of what we are seeing in the Competition Law et cetera. So I am afraid to say I do not agree at all that the model of Guernsey is one to be followed. Now, unlike some other Members of this Assembly, and even though today as a number of Members have pointed out, I legally hold the responsibilities of the former Postal Committee, being regulator, being operator, being poacher, gamekeeper, park operator and as well as Regulations of Undertakings, I do not actually have, until recently, any particular experience of the Jersey Post Postal Committee. It is Members such as Senator Le Sueur, Senator Walker, Constable Fisher, the Constable of St. Saviour, Deputy Ryan, Deputy Huet, Deputy Reed, Deputy Le Hérisssier; they will have all had the operational experience, and I am sure that they will all be wanting to support the incorporation because it is a better model. I, in fact, until very recently, was involved in the thorny other side of it. Together with Deputy Voisin, I chaired the Competition Policy Sub-Committee, which was set-up back in 2000 to revise the approach of setting up Jersey Post as an independent organisation with independent regulation. In fact, I do not mind saying that I was a thorn in the side of Jersey Post in a number of respects. I have debated for hours the issue of incorporation and all of those concerns that the Constable of St. Brelade and others have. Deputy Voisin and I had some arguments - long argument and long debates - with officials and advisors over many hours concerning the whole issue of setting up the J.C.R.A., the loss of exclusive privilege and all the rest of it. I believe that the conclusions that we had 3 or 4 years ago are as strong today as they were then. I would say to Members who may be wanting to have sympathy with the issue of the States losing exclusive privilege - and if I am trying to find a reason, and I say this quite genuinely - I think that the Scrutiny Panel may well have concluded that, in fact, the States should not lose the exclusive privilege of being the postal undertaker. I find it difficult to find any other real reasons why they would go ahead and block the debate later on today. They are

entitled to have that view. Indeed, the advisor to the former Competition Policy Sub-Committee and indeed the individual that gave evidence to the Scrutiny Panel - I know that individual very well; I have debated these issues with him over a long period of time - and individuals are entitled to different views about the way you incorporate. I stand by the principle that there should be independent regulation, that the States should lose their exclusive privilege and that the issue of regulating, whether or not there should be a competitor, should be in the hands of an independent regulator. I have to say that I have debated these issues over a long period of time. If the Scrutiny Panel really thinks that, then I look forward to Deputy Southern explaining why and to give evidence to the States of why we should, at this late stage, effectively rescind the decisions that we have made on the States giving up the exclusive privilege of being the postal undertaker. What evidence has the Scrutiny Panel got to actually say that, and will it come out and say that, in fact, it wants to rescind the decisions and why would it be going ahead, going away from the best practice that exists everywhere else where you have put in place independent regulation? The one thing that I will concede on the advice perhaps by the advisor that the Scrutiny Panel heard is that he may not be aware of the issues concerning fulfilment. Indeed, I was very interested to hear that Deputy Southern said that he knew and he understood and accepted the fact that Jersey Post was profitable even in the unlikely - and now impossible - worst case scenario, and I see him nodding his head there. I did not understand that when I originally read his report, but if he understands that situation, then how on earth can he be justifying an additional review on cost/benefit? The very worst case scenario concerning the fulfilment review... - and there has been much said in this debate about independence. It has been suggested that I am conflicted in some way in making decisions about economic growth versus Jersey Post, and we will come on to that bit of the proposition in a few minutes. I submit to the Assembly evidence. I made some difficult decisions which were not in the interests of Jersey Post concerning the fulfilment industry. I made some decisions in the best interests of the integrity of the Island, and I had to separate out my responsibilities at Jersey Post with those overall issues of the Island. Deputy Southern knows, because his Panel has seen all of those scenarios; in the very worst situation Jersey Post is still profitable. But in any event, Jersey Post would be profitable or not profitable if it were incorporated or a States department. So no more new information. Even though the information has been done, it has been independently verified by the Treasury and Resources Department, it has been independently verified by the Treasurer of the States, it has been independently verified by the incoming board of directors of Jersey Post. We do not need any more independent analysis about the profitability or otherwise of Jersey Post. The proposition starts with, of course, that proposition, that we need another cost/benefit analysis. I think it is quite clear - and Deputy Ryan's comments earlier this morning, which I very much welcome - he did not know of the robustness of all of those scenarios having been carried out. He has now seen that, and I think that he has now accepted that there is not a need to do that. I think that his words - which I am grateful for obviously - are supporting the position of the current Economic Development Minister, but I do not think that he would be saying that unless he was absolutely convinced with that. So, effectively, the case for (a)(i) has absolutely not been made. The case for (a)(ii) is this issue of being able to support independently the individual business units and there, I have to say, I agree with the Scrutiny Panel's underlying concern about the need for individual units to be operating independently and for there to be, most of the time, an avoidance of cross-subsidy. The only difference between the Scrutiny Panel and ourselves is the fact that we want it incorporated so that J.C.R.A. can get on and deal with that issue as soon as possible. Members will have seen a letter, which hopefully is now in their hands with the... I am sorry, I did not ask permission of the Chair to circulate a letter of the J.C.R.A. - Members will, I hope, take great note of a letter which has been sent by the Executive Director of the J.C.R.A. on this very important issue and whether or not he believes and the J.C.R.A. believes that whether or not this independent assessment should be carried out before or after incorporation. The penultimate paragraph on page 2 says: "We believe it would be more efficient and effective to conduct the review after incorporation than before." I think that absolutely nails the issue of the support for part (a)(ii). We are with the Scrutiny Panel in

principle, but it should be done after incorporation. Moreover, it will be done after incorporation with all of the powers that the Law actually has. Effectively, that really summarises the arguments against part (b) of the proposition and wanting to get on with the issue of this cross subsidisation straight away. Part (c) of the proposition the Treasury Minister has reviewed. He has reviewed his loan. It is on commercial footings. The only beneficiary of accepting that part of the proposition is going to be the bank that is going to make a turn on the money. But I would say in part (c) of the proposition, why are we actually loaning money to Jersey Post in the first place? And Deputy Le Claire and Deputy Troy I cannot actually see in this Assembly at the moment; they would be able to speak with some authority on this whole issue and the importance of guaranteeing money to Jersey Post for pensions. And that is why that article and that is why the loan was put in in the first place. It was to secure the position of the pensions of the current and past work force of Jersey Post, and it was really important, it was a very innovative solution for a company that was not as profitable as Jersey Telecom, and it must be pushed through. The good news is that that loan is probably going to be able to be repaid earlier. I was quite critical of Jersey Post's activities in fulfilment prior to having assumed the responsibility of Economic Development, and I have to say that I have been jolly impressed with the amount of money that Jersey Post has made on behalf of consumers in the Island in the whole fulfilment area. We have clipped their wings somewhat, and there is a good and strong future for fulfilment, but the good news is that that Article 8(1)(a) is probably going to be able to be rescinded earlier than expected, and I would say - having discussed it with the Treasury Minister - that that probably is going to be able to be done at the earliest possible opportunity within the next couple of years. That is 2 years early. I did not want to clip the wings of the J.C.R.A., but the important issue is that the pensions were paid for, and this was the way round of actually delivering that. I think Members can take comfort from the fact that not only have the pensions been guaranteed, not only has the loan effectively been paid, but it is actually going to be paid earlier as a result of the excellent work that has been carried out by Jersey Post over the last couple of years and, may I say, the foresight of the previous Committee in doing some of the work that they did on fulfilment. Part (e) of the proposition actually strikes, I think, at the heart of Ministerial government. Comparisons have been made with Guernsey about the powers of the States, et cetera. We know, and I say this respectfully to Deputy Breckon, that Guernsey does not have a Ministerial system of government; they have a Committee system of government, and so to make the comparison between the 2 jurisdictions and the individual powers of Committees or Boards or Ministers is different. These powers are powers that are exercised by the Minister extremely carefully. They are done in a public way; the Minister does not just turn up for work on a Monday morning and say: "We are going to give a certain protection to this or certain protection of that." There is a statutory requirement to consult on exactly what the kind of directions you are going to be carrying out and what you are going to be asking the J.C.R.A. to achieve. Effectively, in its summary, a vote in favour of (e) is effectively a vote against Ministerial government. We might as well go back to the situation of the Committee government of before. It is an identical provision that is in force for Telecoms. The Economic Development Minister is not a slave simply to economic growth. He has to balance lots of different factors. He has to balance the Island's interests in international matters; he has to balance all sorts of other policies and procedures and policies which have been set by this Assembly, and I cite my decisions in relation to fulfilment as an example of just how one balances those decisions. A vote in favour of this is not simply saying that you have to be a slave to economic growth - that is not the case; they are carefully balanced powers- and effectively strikes at the heart of Ministerial government. Now, in summary, I have to say to the Assembly that this matter of postal incorporation has been going on for a great deal of time. This Assembly has agreed on 3 occasions to incorporate Jersey Post. This Assembly has agreed to incorporate Jersey Post on international best practice of independent regulation setting-up a separate board with all of the bells and whistles that a properly independent regulatory authority has. It is an embarrassment to this Assembly that the decision to go forward with incorporation of Jersey Post was made 10 years ago and we are still - even when I worked with Deputy Voisin from 2000 - not actually having incorporated it. Are Members really having an

absence of information about whether or not Jersey Post is capable of operating as a separately incorporated entity? I think the case has been made for that. I also think the case has been made for an independent regulator, an ending of the situation where the Economic Development Minister is effectively poacher, gamekeeper and park-keeper. That is the current situation, and that is the situation which incorporation sets away. Who does the States trust to run Jersey Post? Is it a Minister or a very much cleverer Assistant Minister perhaps? Or is it - with respect to politicians' roles and their respective abilities in relation to running businesses - a politician or is it a board of directors; a properly appointed board of directors with non-executive responsibilities, with all of the responsibilities of a corporate governance director responsibility? Well, of course, a business should not be run by politicians; it should be run on proper business footings. Who does this Assembly trust to regulate Jersey Post? Is it the same person that is supposed to be running the business or is it the properly established-under-statute-with-carefully-constructed-powers independent regulator? Of course it is the independent regulator which we set up to deal with this. That really is at the heart of the reasons why Members must vote in favour of our propositions later on to incorporate and, whilst understanding the concerns of the Scrutiny Panel, vote against its proposition in all of its parts. I say that I agree with a lot of what some of the Members of the Scrutiny Panel said, and I do. I believe - and the transcripts will show later - that Deputy Southern said: "Let Jersey Post operate as a proper company, not feather-bedded by the States." I say: "Absolutely, Deputy Southern, that is exactly what incorporation is designed to achieve." Jersey Post has a great future. Let us give it a great future with independent regulation, with an independent board of directors and a separated shareholding function. For those reasons, whilst respecting the Scrutiny Panel's views, we must vote against its proposition.

**The Bailiff:**

Deputy Scott Warren, you have spoken already.

**Deputy C.J. Scott Warren:**

Yes, Sir, I just wanted to ask a point of clarification from the Minister's speech, whether or not the loan has already been given by the States? The Minister spoke as though it has already been given to Jersey Post. Is that the case?

**Senator P.F.C. Ozouf:**

The loan, of course, would only be given on incorporation. Effectively the loan is actually paying money across into a pension scheme and that would be triggered by incorporation. But it does not matter who is lending the money; the money is required in order to be able to make it and so it is implicit in the later debates that it would happen on the event of incorporation.

**6.2.11 Deputy J.B. Fox:**

I am at a crossroads on this one and I will be honest with you because I, too, think that government should not be running a company, an incorporation or body like that. Yes, this has been discussed in this House 3 times, but the principles in the main have been discussed 3 times, not the details. Mention has been made of the change of government from Committee to Ministerial, and that is where I think one of the problems is with this; it is the fact that we have not put everything into place that I would feel happy of having the safeguards. I can see why this particular Scrutiny Panel has brought forward this proposition because it is wanting it to be brought out into discussion that although the principles of running a post office should be incorporatised, there is still not the added safeguards within our government system at this moment in relation to assurances because a lot of the things that the new incorporated postal services will have will still have an element of, if you like, community responsibility as opposed to straight economic corporate performance. That

responsibility is very important and I am sure that the Council of Ministers would instantly recognise that and give us assurances through other elements, but it does not alter the fact that we think back to the recent incorporation of Jersey Telecom and to the support for our less fortunate or less well off citizens in using the telephone services. Yes, we are going to have our low income support that will cover aspects of that, but it is not here at the moment and it is the same thing in relation to postal services. I personally would love to be assured that all the elements that are contained in here will come into practical working functions with the safeguards. But I have been very much involved in other aspects of the Island's vulnerability, if you like, in relation to the sea transport policies and, recognising that there is a different situation completely with that, there are similarities in it. The public feel vulnerable. They want assurances and I think specifically, if we come back to this proposition which is the point of discussion, we are talking about things like sub-post offices and reductions in service or collections. These are important to people, and especially to people that do not have or are not familiar with the electronic explosion of computers, et cetera, although increasingly there are even senior citizens that are learning extremely quickly and finding a new way of life. Nevertheless, at the moment I have this concern that we received the promises but they are promises to the future and my concern is that promises to the future have no validity whatsoever. If you have a promise that gives you a date and if something is not committed by that date, then I feel assured that it can come back to this House. I will be quite honest with you, I do not think that we are going to have an opportunity of receiving much assurance so I am going to have to make up my mind. But to be quite honest with you my inclination is to support this proposition because of the insecurities that I feel that there are at this time. I, too, think that we should just have that extra mile, although agreed this could probably have been dealt with before but the world has been changing that fast and especially in this area that I think that if someone is able to stand up and give some reassurance I would certainly be pleased to hear it.

#### **6.2.12 The Deputy of St. John:**

I just wondered, as no new information appears to be coming forward from Members, when it would be appropriate to ask for a guillotine on this? **[Members: Oh!]**

#### **The Bailiff:**

Deputy, you were probably not present when the Assembly lifted the relevant Standing Order at the beginning of the debate so you have been spiked on the guillotine, I am afraid.

#### **6.2.13 Deputy K.C. Lewis:**

The Minister for Economic Development made reference to an independent consultant who was brought in to advise also on the incorporation of Jersey Telecom. He was consultant to Economic Development and Treasury and Resources. After incorporation of Jersey Telecom, this gentleman was warmly praised for his work. This same consultant advised on the incorporation of Jersey Post and his findings are now being ignored. I have interviewed this gentleman, along with my Scrutiny colleagues, and value his no-nonsense, commonsense approach and hold him in high regard. What he did say was he was marginally in favour of incorporation - marginally. That is one to 3 out of 10. Not: "We must do this urgently," not: "We must incorporate at all costs," but "marginally." As many Members have pointed out, this has been hanging around for a long time. As Senator Le Sueur has pointed out, many things have changed in the last few years. All we are saying is not yet, not in this forum. Before abandoning ship, make sure you have a lifebelt in place. We like to see belts and braces in place before we go ahead with incorporation. If I may quote from the report: "The Panel recommends that incorporation should be deferred to enable a new cost/benefit analysis to be undertaken by the Economic Development Minister in the light of the changed circumstances. The terms of reference should be to determine not only the overall viability of the company post incorporation, but should detail the capability of each element of the company to support itself

independently. This process should meet with the approval of the Controller and Auditor General.”  
I will be supporting P.61.

#### **6.2.14 The Connétable of St. Helier:**

I want to first of all apologise for being out of the House this morning during some of the debate because of the D-Day commemoration, which I felt I should attend at the Cenotaph. I did, however, have my radio on for quite a lot of the debate - not in the wreath laying, I hasten to add - so I was able to hear the Assistant Minister promising lots of lovely rates for St. Helier on the part of the Post Office. I just wanted to clear that point up; nothing like a few sweeteners to get the vote. I have been asking for the Post Office pay rates for 4 years on their shop and to be told today that we are at last going to get them - it will not be this year, it will be next year because it begins on the 1st January of the year - it is gratifying but it does seem to me rather late. I was assured years ago by both Deputy Ryan and Senator Ozouf that they would see what they could do but no money was forthcoming. Senator Ozouf has a fine economic brain and I would not want to take him on on an economic matter such as this. But **[Laughter]** he did say a vote for part of this - I think it is section (e) - strikes at the heart of Ministerial government. Possibly a case of over-egging the pudding, I think, because it occurs to me that Ministerial government is also about a robust role for Scrutiny. That is part and parcel of what we have adopted. My concern about where we are at the moment with this complex matter is that the message we are sending out to the public today - and it has been referred to by Deputy Fox I think that the public are very concerned about postal services and all that is wrapped up in them - is that we are not willing to wait for Scrutiny to be able to say to the Executive: “Well, we have looked at it and we think the proposal is absolutely fine.” I think the message that sounds out is that we are in too much of a hurry to complete this and, therefore, we cannot let Scrutiny finish its work. Now, Scrutiny may be annoying to the Executive and Deputy Southern may be annoying to the Executive, but the fact is we have given them a job to do and if they are saying they believe another piece of work needs to be done then in my view to talk about the staff morale of postal workers seems to me - as another arm twisted behind the back - not on. Because those workers know that when this incorporation finally happens - and I am sure it will - they will be able to enjoy the benefits of working for this new company. At the moment they enjoy the benefits of working for Jersey Post, which I am sure are adequate to the work they put in. The other point I think to make, and which is made at the beginning of Scrutiny’s proposition, is that it has come at this very much on the back of fast-moving changes in the fulfilment industry. There is no doubt in the last 10 years since that decision was first taken postal services have changed out of all recognition. Most of us now get most of our post 24 hours a day through our computers. The fulfilment industry has become a major item on the agenda and it certainly was not, I think, when we first took the decision about incorporation. I think if the Scrutiny Panel is recommending further work be done, particularly on the financial side of this, then I am inclined to let it have that extra time. My final point, Sir, relates to the previous utility which was also incorporated, and that is, of course, Jersey Telecom. I do not know whether Senator Routier has spoken yet and I do not want to say anything that will get him jumping to his feet, but I have had concerns for many years that what happens with incorporation is that the States loses their ability to bear down on expenditure. I am sometimes concerned that expenditure of incorporated companies can get out of control and the States do not have the ability to monitor it. I may be wrong; it may well be that there is no wastage in any of our incorporated utilities at the moment, but I do believe that the cost/benefit side of things needs to be fully understood and Scrutiny needs to be satisfied before we sign this off. I will be supporting the proposition.

#### **6.2.15 Deputy J.A.N. Le Fondré of St. Lawrence:**

On 28th March 2006 the States approved the preamble to P.9/2006 and it was then referred, as we all know, to Scrutiny in accordance with Standing Orders. I do commend Scrutiny for the speed of

its report. However, I will not be supporting any of its proposals, I am afraid. I would like to restrict myself to 2 parts of the proposition, namely part (a) and part (e). Essentially, in the first part of the proposition, in part (a), Scrutiny is requesting a further delay to the consideration of the remainder of P.9/2006, the preamble of which we have already agreed on a standing vote. I am a new Member and I am obviously not necessarily up to speed on matters which have happened in this Assembly in the past. I note, however, it was in 2004 that the States decided to proceed with the incorporation of the Postal Department and, in fact and as we have heard many times today, again on reading the briefing from Economic Development it would appear that incorporation was considered and approved by the States as long ago as 1996. This legislation has, therefore, been a long time coming and I firmly believe we need to get on and make that decision once and for all. I fully agree with the view that a further delay on this matter would not be constructive particularly to the morale of the staff, which I do consider to be an important point. It has been argued this will only be a delay of another couple of months or it will not take too long. We have already had a delay of over 2 months this time round and whilst I do fully and genuinely support Scrutiny I do find it a bit odd that this particular report requests yet another review to be performed. As a slight aside, in respect of the comments in relation to the advice of the Director of Andium Limited, I believe it is, and also from everything else that has been said so far, "marginally in favour" to my reading of the matter is still in favour of incorporation. I would like to draw Members' attention to pages 31 and 32 of the Scrutiny report - I will read it to you to save you referring to it - which seems to imply that the basis of the request for a further cost/benefit analysis also appears to be partially based on the view that incorporation will take the new company out of the tax network because of Zero/10 and will, therefore, impact upon profitability returns to the States. Now, it is one thing I am starting to be in a position to be able to comment on because this is categorically not the case. The Zero/10 proposals, which I can wave at you now and hopefully you have seen coming through to you in the last few weeks, as currently drafted specifically state that utility companies will be taxed at 20 per cent. In fact, 18.3.1 of the Zero/10 document specifically includes postal as one of those utility services. So, incorporation will, therefore, make no difference to the returns to the States. However, it will allow external expertise in the shape of private sector directors to come in and work for Jersey Post and use their experience to improve the profitability and, I would also argue, to take and get a control over the inefficiencies that Deputy Breckon has previously related to. It cannot do that at present. The Panel also states that a further cost/benefit analysis should be performed as a result of changes in policy over fulfilment and uncertainty over the impact of that change on the profitability of the company. To reiterate points already made quite a number of times earlier today and as noted on page 2 of the briefing to Members from Economic Development, we can see that the analysis of various scenarios has already been undertaken and this was undertaken at the end of 2005, which is less than 6 months ago and was at the point or the height of uncertainty over fulfilment. The 2 extremes of the scenarios (i.e. the worst case and best case) are illustrated in the document and even the worst case scenario shows - and it has been agreed by pretty well everyone - that the company will remain solvent for the foreseeable future. It is the considered opinion of individuals far more closely connected to this than me that the worst case scenario is less likely to happen now than even 6 months ago (i.e. that matters have improved from the original worst case position). I would also again remind Members, and in fact we have had the letter that has come round recently from the J.C.R.A., of what the Connétable of St. Lawrence I think said earlier today and, as I said, it is backed up in the letter that has just been circulated to Members, which is that the J.C.R.A. has confirmed that any review will be far more effective after incorporation and not before. I would like to briefly move on to part (e) of the proposition, which seeks to pass responsibility to the States from the Minister of Economic Development for issuing either directions or guidance to the J.C.R.A. in respect of social and environment policies. Now, fundamentally I do support the ability of the States to make decisions and those decisions to be upheld. However, I am not comfortable with this particular part of the proposition. One of the other issues - and it has been marginally referred to today - that regularly comes up is the States interfering in matters and prevaricating or



not being able to make a decision. I am concerned that the way the proposition is phrased could lead to a temptation for the States to interfere at too great a level of detail. Indeed, to its extreme we could all insist that the Post Office reintroduce red postal vans. But of greater concern is this could end up delaying matters. If the matter is so urgent that it requires a Ministerial decision and guidance or a direction to be issued, I think we want the Minister to get on and do the job as quickly as possible and not to have to wait 2 weeks or probably longer for the States to make a decision. I also believe I am right in saying that Deputy Breckon has called for greater accountability and by resting the power with the Minister or the Assistant Minister then this will be achieved. I am slightly ambivalent on this matter but on balance I think this is likely to be a step too far and I do not support this part of the proposition either. Hence, in summary, I firmly agree with the view that the worst case scenarios have been properly tested; any future cost/benefit analysis will only identify variations on those results and are not going to produce figures that are worse than the scenarios already available. The ones that have been performed have not identified any threats to the solvency of the proposed company. Thus the incorporation of Jersey Post has already been the subject of a quite robust examination and a number of scenarios have been considered, including the impact of fulfilment under different conditions. From the information I have been presented with, I am satisfied the incorporation of the Postal Department will enable a more efficient postal service to be created and that the business will be a viable concern. I believe we have had sufficient delays in this process and stress it is not the privatisation of an existing company; it is the corporatisation of a trading department. I say let us get on with the job and bring Jersey Post into the 21st century and I do not support this proposition.

#### **6.2.16 Deputy P.V.F. Le Claire:**

I would just like to touch upon the area of pensions, if I might, as Senator Ozouf did bring into the equation this considerable factor. Deputy Troy and I have been appointed by the States Assembly to serve on the Committee of Management for the pensions in regards to making sure from the States' perspective that the Scheme is run well and that everything is assured in debates before we go ahead. I was not in the Chamber at the point that Senator Ozouf was speaking. I was listening on the radio at home rifling through my papers from the Committee's meetings and I can confirm, if it has not been done already, that a letter of comfort was received, signed both by Senator Terry Le Sueur and also the Chief Minister, Senator Frank Walker, to the Committee of Management's Chairman, Mr. Ron Amy, on 24th March confirming that as the case with the Jersey Telecom incorporation the position on the admission document and the final sum will be guaranteed by the States in respect of the incorporation for Jersey Post. The issue with Jersey Telecom was that there was a £14 million past service liability and with the postal position at this time the actual financial position, having spoken to the Committee of Management's lawyer just a few minutes ago, was that the position is £11,931,199 plus interest as of 31st December 2005. With the assurance which we have been given, as I said before in writing, and with the condition that the admission document is a properly binding agreement, the Committee of Management is completely satisfied that this incorporatisation goes ahead today. I am not normally one to step out of the ranks of Scrutiny but I feel there comes a time when enough is enough. This has been going on far too long. Many people have said what I do not need to repeat, but having read the letter as well when I came back after having gone to get that information for States Members, I do note, as was just recently mentioned by the previous speaker, that the review in the view of the Executive Director of the J.C.R.A. is going to be far more efficient and effective after the incorporatisation. So, if we need a review and if we need to look at cost subsidies then incorporatising the company and getting on with the job today will speed things along. Just from a personal perspective, having discharged my duties from the States' perspective in relation to giving Members comfort from the Committee of Management, I would just like Members to understand, if they do not already - I am sure they do - that the fulfilment industry is a newly emerged beast and Johnny-come-lately/Johnny-go-quickly is perhaps something you might bear in mind. Musical downloads in 2001 contributed zero per cent to the

overall purchasing of music in the world. They now account for 45 per cent of purchases. So, the C.D. sales of today may not necessarily be here tomorrow. Any board of directors will look at those things in due course and they will shift and change much more dynamically than the States have been able to do.

**6.2.17 Senator P.F. Routier:**

It was not my intention to speak but the Constable of St. Helier did manage to tempt me. Certainly in my time as President of Jersey Telecom we moved to incorporation with the help of the Economic Development Committee of the time, and I know for sure that that was the right decision to make. That certainly has put that company in a position whereby the States can benefit from about £7 million a year in returns and also £2 million in income tax each year. It is a really profitable company. The Constable did give the impression that he did not feel that there were any efficiencies being driven out with the new company. Well, that is just absolutely not right, to choose my words carefully. **[Laughter]** You will have seen that in recent times some people have taken voluntary redundancy. The company made a decision they can work with a lot less people and that is a commercial decision and they have been able to do that. They are becoming more profitable using less people and voluntary redundancies have taken place. They are making a good return for us as 100 per cent owners of an investment. In the future there was a thought of a sale being made. The company is worth hundreds of millions of pounds. It is a real value. It has really moved forward since being incorporated. With regard to the general perception of businesses about a further review being made now, it will only be a snapshot. Any time you come along, take a review, it will be a snapshot: this part of the business is doing well; this part of the business is failing; this part of the business could be doing much, much better. There will always be a cross-section of any operating business; there will be profitable bits and bits that are making losses, and that is the nature of being in business. What we have to look at is the whole picture of Jersey Post. Jersey Post as an overall business is operating very well and they can operate even better being incorporated. I am amazed we are taking so much trouble over this debate. I urge Members to reject this proposition and let us move forward to incorporate.

**6.2.18 Senator F.H. Walker:**

I will not take too long. Lovely to have the support of one's Minister, is it not? **[Laughter]** I do acknowledge the work which Scrutiny has done on this proposal and the time in which it has done it. I certainly disagree with the Constable of St. Helier's assertion that we - the Council of Ministers, that is - merely see Scrutiny as a problem. We do not. We do accept that Scrutiny has an absolutely essential and viable role. However, that does not mean that we automatically have to agree with a report that Scrutiny puts forward any more than this House has to agree with a proposition put forward by the Council of Ministers. We decide, as we should, whether we agree with a report from Scrutiny in exactly the same way as we do from the Council of Ministers or a Private Member. But its work has been valuable. It has made us, it has particularly made the Economic Development Minister and the Minister for Treasury and Resources stop and think, appraise the situation and come up with full and complete answers to all the points that the Scrutiny Panel has raised, and that is what Scrutiny is about. That is the whole name of the game. But it does not mean that we automatically, as I said, have to agree with the Scrutiny Panel any more than we do with anyone else. I have to say I was absolutely astonished when I heard the Constable of St. Helier say we are rushing this. After 10 years we are rushing it? I remember when I was President of the Postal Committee other members of the Committee and the Executive were saying: "Oh, the way it is going we will never incorporate this business by 2002" and I said: "Do not be ridiculous, of course we will. It cannot possibly take that long." Here we are in 2006 still - despite successive States decisions - not able to take that final necessary plunge. As Senator Ozouf said in his speech earlier, it is an embarrassment that it has taken us this long to grasp the nettle. Absolute

embarrassment. It is more than an embarrassment because it is costing the Island and the public money. The delay is costing the public of this Island a considerable sum of money. The longer we delay the more the cost to the public will accumulate. Basically, the case that Scrutiny has made - and I am sure every Member has read this document - has been answered comprehensively in the States Members' briefing sent out by the 2 Ministers concerned. Every point: the impact of Economic Development Minister's policies on fulfilment, the future viability of the company, the situation regarding the loan, cross-subsidies and, not least, Ministerial responsibility. I do absolutely agree with Senator Ozouf that that part of the proposition does indeed strike at the heart of Ministerial government and if the States adopted that, where does it finish? We would end up with the States being the only decision takers on every single position and it is worse than Committee government in that context and certainly not the Ministerial government that the House voted for. So, every single point has been comprehensively answered in this document and in the excellent speeches made by Senators Le Sueur and Ozouf. There is no evidence whatsoever of benefits to the public of Jersey - and that is what matters - in this further delay that the Scrutiny Panel is proposing, none whatsoever. What is more, it goes also against the advice of the J.C.R.A., and Members have a copy of the letter circulated and it very clearly says, as Senator Ozouf has said, that a review would be more efficient and effective after incorporation rather than before. There is the independent regulator saying very strongly, very clearly: "Get on with it," along with most other people as well. Deputy Fox sought assurances and I can understand exactly where he is coming from: community responsibility, concern about sub-post offices, collection, et cetera. But again, that is exactly what the J.C.R.A. is here for, exactly what it is here for. The J.C.R.A. is not about protecting postal profits. Yes, the J.C.R.A. needs to see a viable business there but the J.C.R.A. is all about driving down so far as is possible the cost to the consumer and ensuring that the consumer - the public in this context - is protected in terms of their deliveries, in terms of sub-post offices and so on. That is exactly what the J.C.R.A. is there to do and they can do it much more effectively with an incorporated body than we can today. I do not think there can be any serious doubt about that. Telecoms was mentioned, but I think Members should also recall that under the new regime of Telecoms, with Cable and Wireless being licensed and also licences being given to other operators, we are going to see the cost of telephoning, of telecoms in this Island come down very significantly. That is what the new structure does. That is what the J.C.R.A. will play a leading role in, and they will do the same if we give them a chance with postal communications as well. I thought that Deputy Breckon made a very good case for incorporation. He spoke about the losses attached to ProMail and he is probably right. I have not checked the figures but I am sure he is right. What he did not tell the House is of the enormous contribution that the mailings that ProMail are responsible for producing makes to the postal side of Post and it is huge. If the Post Office did not have ProMail, the ProMail business and the mailing business would be lost to Jersey because those clients, mainly large banks and other similar customers, would simply take their ProMail-type business to the Isle of Man or wherever and the mailings would be made from wherever the material is produced. Again, the public of Jersey loses because Postal's viability would be affected and profits would come down. Also, he made a very good case for an independent board being accountable to an independent regulator because if the state of ProMail and other divisions of Postal is as bad as he suggested they would shut them down and they would basically be forced to shut them down. You would then end up in a situation where the business would be even more profitable than it is today. So, again, I think he makes a very good case for an independent board accountable to an independent regulator, in this case the J.C.R.A.. The Constable of St. Helier said we should be bearing down on pounds, on expenditure. Absolutely. Again, what an independent business-like board would do and would have to do because the regulator would force them to address cost issues when establishing their tariffs and so on. Again, he too makes a very good case for pressing ahead with incorporation. In summary, Sir, if we do not go ahead we will lose business. Postal will lose business. The Island will lose business. The staff have been looking to this now for over 10 years, and again I disagree with what the Constable of St. Helier said. They want to be and they deserve to be. Goodness knows they are

only reacting to a States decision taken now many years ago. They deserve to be a part of a thrusting viable new organisation and we should be conscious of their needs. We generally take our staff needs very seriously indeed and we should not do any less here. Finally, it is in the best interests of the public to proceed. Scrutiny has made no case whatsoever which says anything to the contrary. In fact, I think some of them have made a strong case to go right ahead. Any delay will have an adverse effect on the public and that is what we should be conscious of when we take our decision. I very much hope, Sir, the House will reject the proposition.

**6.2.19 Deputy P.N. Troy of St. Brelade:**

I just wanted to briefly refer to the position of P.E.C.R.S. as I am on the Committee of Management as has been stated previously. It does need to be said that the Jersey Post staff currently have the security of the States of Jersey as the funder of its pensions. In moving to incorporation, it is Jersey Post that will become responsible for the full pension provision of its staff. The arrangement brokered with Jersey Post by the Committee of Management of P.E.C.R.S. is a negotiated deal, a deal which has been fully agreed by the parties and one which protects the interests of the postal employees. The fund actuary has calculated a capital sum that has to be paid to P.E.C.R.S. on incorporation to ensure that postal staff have similar status with other members of P.E.C.R.S. Because of this negotiated deal, there is a commitment from Jersey Post to fund pension requirements of its staff, and the loan to the company is the most practical manner in which to achieve the objective of getting the business off on to a sound footing with adequate working capital. The funds will be loaned to the company and out of future profitability the government will be repaid. The loan issue is a red herring which should not prevent Members from supporting incorporation.

**6.2.20 Deputy G.C.L. Baudains:**

I was interested by Senator Walker's comments, as I always am, **[Laughter]** but, of course, there is a difference between interest and accuracy. We seem to be in an age where there is competition fever, but I am concerned that at times we do not address properly the downside, which I was hoping that this proposition would achieve. Because presumably we are heading towards competition as opposed to simply incorporation and, of course, there are expenses with competition: advertising, bad debt, higher salaries to reduce poaching being just a few. Sometimes certain services are better State-run than operated by private enterprise, as competition is, and, of course, the main reason is one of duty. A State-run organisation, even if it is an incorporated body that has a State majority control, owes a duty to the people, where the company owes its duty to the shareholders. What one generally finds in circumstances like that is that the money that would normally be spent on research and development and infrastructure tends to decline, service quality declines in order to ensure that the shareholders and investors are satisfied. We have seen the results of this across the United Kingdom recently. Therefore, following on from my opening statement, I do find it difficult to understand Senator Walker's assertion that we will lose money if we do not press ahead with this as soon as possible. In fact, in the long-term we will probably be quite a bit worse off. I am not opposed to incorporation but I do believe we need to get this right. To do that we require, in my view, a proper cost/benefit analysis. Any business would require that. I do not see why we do not.

**The Bailiff:**

I call upon Deputy Southern to reply.

**6.2.21 Deputy G.P. Southern:**

My team almost mocked me this morning when I said I am going to ask for the guillotine to be lifted just in case. Proves I was right. They said: "Do not be silly. Nobody will do that. They will take it seriously." The Deputy of St. John thinks otherwise. I thank all the people who have contributed to the debate. I do not intend to address everybody's issues because we could be here quite a while. Nonetheless, I think we have had at last a decent informed debate about the consequences of incorporation. In particular, I would like to just refer to the Assistant Minister, the Minister, Senator Walker, Senator Le Sueur and Deputy Le Fondré who made great play of the briefing paper produced by the Department, by the Minister, and shared the mistake that that document made, which was to concentrate on the viability of the company. I do not know when those Members missed me saying we do not have a problem with the viability of the company. Of course it is viable even with the reduced fulfilment market available. That is not the question, except they spent a long time addressing that. It was also suggested by Senator Le Sueur that this morning I rambled. Kettle, kettle, Sir. **[Laughter]** The fact is that the impact of the fulfilment industry on Postal and postal incorporation is essentially a vital one. Fulfilment profits represent the profits of Jersey Post almost in their entirety. Very little else makes a profit. The key word that was missing from the argument and the key element that came from the analysis that has been done is that if we incorporate or when we incorporate with the level of profits from fulfilment that are currently being produced and which look likely to be maintained over the next period, 3, 4, 5 years, then it is almost inevitable that the competition regulatory authority must introduce some form of competition. With profits like that it will be duty bound to. It cannot sit back. **[Interruption]** Yes, competition, almost inevitable either in an artificial form - we will cap your prices, hence bringing down profits and returns to the States - or, and this is real competition, the only place for real competition because the only place you can introduce it because that is where the profits are is bulk mailing of fulfilment goods from here to the U.K. If that would happen, then profit to Jersey Post *per se* may be reduced significantly. That is the argument. That is the argument that is not being produced, not being plucked out of the air by my Panel today, that is the argument that is being brought up by the only independent adviser, adviser to the Treasury, adviser to EDC (Economic Development Committee), adviser to Postal, who has had a proper look at it. 2003, he scored it nought to 3, lukewarm. It got colder when he found out some figures in 2005 because of this essential opportunity cost in giving up monopoly profits. Now that monopoly profit is more or less quantifiable. We were asked how can you measure, how can you quantify the benefit or the cost. Certainly the opportunity cost is likely to be around the order of £4.8 million profit a year, over 5 years remaining steady, growing perhaps slightly but not enormously; it is likely to be around £24 million to £25 million over 5 years. If you are introducing competition - and remember, as I started I said look at the benefits all down to competition, competition, competition - that which is currently due to the States now may well be at risk and be lost. That is the difference. That is the difference today. In 2003 the adviser said: "I have done a cost/benefit analysis but it needs more depth." In 2005 he said: "Having seen some initial figures, you should do a proper cost/benefit analysis now to examine the new case." We are only repeating that in the light of what has happened to date, saying exactly what the adviser said repeatedly and he has been ignored. We are told we have spent 10 years doing this and we are reminded that it started in 1996. In 1996 did Members have the level of information about what was happening with Jersey Post and what the profit and loss concerns were with various branches? I do not believe they did. I certainly know that in 2004 when perhaps we voted last on going ahead again - the momentum was still running - I know we could not have known that because it was kept from us. The only people who knew what the breakdown was over the years 2003, 2004 and 2005 has been the Treasury Minister or the President as was then. This time for the first time we have had a full debate and we know that there is an issue with this cost subsidy. Nobody minds - J.C.R.A., Post Office - cross-subsidy going to the core services, going to your sub-post office, going to your Saturday delivery, going to the number of post boxes that get emptied every day. Nobody minds that. That is acceptable. What J.C.R.A. objects to and have pointed out clearly that they do is this issue where a monopoly provider is allowing a company which is in competition with private companies out there, pick and

pack company, to run at a significant loss. We heard in camera the size of those losses. Those losses are not going to be turned around overnight. Those losses will be maintained, I believe, during the next few years. Why do I believe that? Because I have had a look at the figures. I have had a look of some of the scenarios. For example, there was a report done, and I will not quote from it but I will give you the flavour of it in the light of the figures that you heard earlier in the day. The best case scenario for Offshore Solutions Limited where growth was unlimited. Imagine no labour problems, no warehousing problems, growth. Growth between 2005 and 2009 of 8-fold in terms of number of units throughput. Worst case, and I put it to you that this is what we have got, very limited growth. In this case they are saying this is because of limits on labour resource. The sums grow gently over 2005 by around 20 per cent and that is the situation we are in now. In the light of the new fulfilment policy, we have clamped down on this expected, rampant, runaway growth. We have calmed it down. Steady or slight growth; that is what we have got. Under the growth scenario, O.S.L. (Offshore Solutions Limited) went from a deficit in 2005 - which we know about - to a clear profit in 2006, and onwards that profit multiplies by 4 over the period to 2009. That is the best case with growth. We do not have growth; we have close to the worst case. In the worst case that loss remains, increases, increases, ends up at 70 per cent more. That loss is there all the way through. I know that J.C.R.A. have said that we would prefer to do it after incorporation, but they also say - and this is, I think, the germane point in their response - the licence that they are issuing includes a specific condition, condition 24, which requires Jersey Post not to unfairly cross-subsidise. The argument is there is already an unfair cross-subsidy in there. On day one that says "includes." It does not say "will include." "Which requires", "which will require"? No. "Which we can sort out later"? No. Condition 24 of the licence we are granting says: "You must not unfairly cross-subsidise." I believe that unfair cross-subsidy is there. It is substantial. As I pointed out earlier, if I were in competition with this particular company, I would be fuming mad and I would be talking to my lawyer about what I could do about this unfair competition. That is as of day one. Yes, it would be more convenient. It would be stronger. After incorporation we can only recommend, but any institution that goes against the recommendation - which could happen soon from J.C.R.A. - would be a very foolish institution indeed. On a minor point, I just want to pick up the Assistant Minister's comment that he made towards the end of his speech where he said the Economic Development Minister is not responsible. He is responsible; 8(1) says: "The Economic Development Minister and the Authority shall each have a primary duty to perform." Primary duty to perform, one of which is to make sure the loan gets paid back. It is not true to say that it is not his responsibility. He is somewhat conflicted, as are the Jersey Competition Regulatory Authority. I remind you again the function of the Jersey Competition Regulatory Authority is to encourage competition and is to ensure good value for the consumer. That is its prime job but it is handicapped. It is clipped, in the words of the Minister himself: "Either 2 years or 4 years by the inclusion of 8(1)(b) in its remit." We are in complete agreement. The difference is I say: "Do not do that for 4 years, let us stop it now" and the Minister says: "Oh, it is all right for 2 years." Why? "Because we have had another look at the figures and we think we can pay the loan back over 2 years, so we can get rid of it then." But that condition is not necessary and when the Minister very smoothly talks about balance - I love it when he does - it is actually inaccurate. That balance is not there. It is heavily weighted so the J.C.R.A. cannot do its job properly. I would argue that we cannot proceed on that basis. We have heard also from several speakers about the concern of the loss in morale of the workforce. Well, perhaps I will let you into a secret. I have fairly good contacts with postal workers and, if there is a loss of morale, I will tell you why it is. It is because they are being told that, come incorporation, they will get bigger wage rises. So, if there is a loss of morale, I know why it is happening. Penultimately, 2 final points, I hope. Senator Routier said: "Look at the Telecoms incorporation, absolutely the right thing to do." I absolutely agree with him, as does the adviser who advised on the incorporation of Telecoms; absolutely clear-cut; the right thing to do. That same adviser is saying: "I am not sure about Postal, the benefits... but, oh, it is a bit close. You really need a good proper look at it again." Finally, I am always disappointed when Senator Walker speaks and exaggerates. He said: "We are not here to automatically agree with

Scrutiny” and I could not agree more and I am not asking for that. I love it when people say: “The Opposition say this” and of course you have not said that. I am not asking for automatic agreement, all I am asking is for you to listen to the reservations that have been discovered - not invented - evidence based, by my Panel. Please listen before you proceed. Despite the years of blind faith, the decision made in 1996: “Out of principle we will incorporate and hang the evidence”, the evidence is now here. But then he completely spoiled it by saying that we would be losing money day by day and that this Island, our people, will be losing money day by day. That is simply not true. Whether we incorporate today or whether we incorporate later, Jersey Post will continue making similar amounts of money and doing exactly what it does. It will be managed by the same team that are going to take it over post-incorporation. They have been trying to turn O.S.L. round, to turn ProMail round for years, and failing. The difference between then, in the future, and now with the same team, with the same shadow board: not a great deal of difference. The end result of going with part (a) and asking for a pause will be that Jersey Post continue to make the same level of profit that they are making and, as last time when it was delayed, deferred, putting something by to add towards the pension deficit and reducing the loan they need to borrow, a loan which they can equally get in the private sector than they can from the States. For the sake of a few thousand pounds’ difference in the marginal rates that we are talking about, is that what we would really want to do? The proposition as I worded it - and I hope I have not missed anybody’s vital question - I believe can be taken in parts. Each one stands alone and just because you reject the first one does not mean to say that the second, third or fourth is equally valid. They are different aspects of the same incorporation. They are different reservations that we are expressing and I hope the Bailiff will allow me to take each part separately and vote separately.

**The Bailiff:**

You wish to have a separate vote on each of the paragraphs (a), (b), (c) and (d)?

**Deputy G.P. Southern:**

(a), (b), (c), (d), (e), Sir. We have heard all 5 of them.

**The Bailiff:**

Very well. If the Assembly agrees, Deputy...

**Deputy G.P. Southern:**

I maintain the proposition and I wish to take it in parts.

**The Bailiff:**

Are Members content to take each paragraph of the proposition separately?

**Senator P.F.C. Ozouf:**

Appel.

**The Bailiff:**

Appel. I ask any Member in the precincts who wishes to vote to return to his or her seat and the Greffier will open the voting on paragraph (a) of the proposition.

<b>POUR: 16</b>		<b>CONTRE: 30</b>		<b>ABSTAIN: 0</b>
Connétable of St. Peter		Senator S. Syvret		
Connétable of St. Clement		Senator L. Norman		
Connétable of St. Helier		Senator F.H. Walker		
Connétable of St. Brelade		Senator W. Kinnard		
Deputy R.C. Duhamel (S)		Senator T.A. Le Sueur		
Deputy A. Breckon (S)		Senator P.F. Routier		
Deputy of St. Martin		Senator M.E. Vibert		
Deputy G.C.L. Baudains (C)		Senator P.F.C. Ozouf		
Deputy C.J. Scott Warren (S)		Senator T.J. Le Main		
Deputy J.A. Martin (H)		Senator B.E. Shenton		
Deputy G.P. Southern (H)		Senator F.E. Cohen		
Deputy G.W.J. de Faye (H)		Senator J.L. Perchard		
Deputy S.S.P.A. Power (B)		Connétable of St. Martin		
Deputy S. Pitman (H)		Connétable of St. Saviour		
Deputy K.C. Lewis (S)		Connétable of St. Mary		
Deputy of St. Mary		Connétable of St. Lawrence		
		Connétable of St. John		
		Deputy J.J. Huet (H)		
		Deputy P.N. Troy (B)		
		Deputy J.B. Fox (H)		
		Deputy of St. Ouen		
		Deputy P.J.D. Ryan (H)		
		Deputy of Grouville		
		Deputy J.A. Hilton (H)		
		Deputy P.V.F. Le Claire (H)		
		Deputy J.A.N. Le Fondré		



		(L)		
		Deputy D.W. Mezbourian (L)		
		Deputy A.J.H. Maclean H)		
		Deputy of St. John		
		Deputy I.J. Gorst (C)		

**The Bailiff:**

I can announce that paragraph (a) has been lost; 16 votes were cast in favour, 30 votes against. We now proceed to vote on paragraph (b) and I ask the Greffier to open the voting.

<b>POUR: 15</b>		<b>CONTRE: 34</b>		<b>ABSTAIN: 0</b>
Connétable of St. Peter		Senator S. Syvret		
Connétable of St. Clement		Senator L. Norman		
Connétable of St. Helier		Senator F.H. Walker		
Connétable of St. Brelade		Senator W. Kinnard		
Deputy R.C. Duhamel (S)		Senator T.A. Le Sueur		
Deputy A. Breckon (S)		Senator P.F. Routier		
Deputy of St. Martin		Senator M.E. Vibert		
Deputy G.C.L. Baudains (C)		Senator P.F.C. Ozouf		
Deputy C.J. Scott Warren (S)		Senator T.J. Le Main		
Deputy J.A. Martin (H)		Senator B.E. Shenton		
Deputy G.P. Southern (H)		Senator F.E. Cohen		
Deputy S. Power (B)		Senator J.L. Perchard		
Deputy S. Pitman (H)		Connétable of St. Martin		
Deputy K.C. Lewis (S)		Connétable of St. Saviour		
Deputy of St. Mary		Connétable of St. Mary		
		Connétable of St. Lawrence		
		Connétable of Grouville		

		Connétable of St. John		
		Deputy J.J. Huet (H)		
		Deputy P.N. Troy (B)		
		Deputy R.G. Le Hérisier (S)		
		Deputy J.B. Fox (H)		
		Deputy of St. Ouen		
		Deputy P.J.D. Ryan (H)		
		Deputy of Grouville		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy G.W.J. de Faye H)		
		Deputy P.V.F. Le Claire (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy D.W. Mezbourian (L)		
		Deputy A.J.H. Maclean (H)		
		Deputy of St. John		
		Deputy I.J. Gorst (C)		

**The Bailiff:**

I can announce that paragraph (b) has been lost; 15 votes were cast in favour, 34 votes were cast against. We open the voting on paragraph (c) of the proposition.

<b>POUR: 15</b>		<b>CONTRE: 34</b>		<b>ABSTAIN: 0</b>
Senator B.E. Shenton		Senator S. Syvret		
Senator J.L. Perchard		Senator L. Norman		
Connétable of St. Peter		Senator F.H. Walker		
Connétable of St. Helier		Senator W. Kinnard		

Deputy R.C. Duhamel (S)		Senator T.A. Le Sueur		
Deputy A. Breckon (S)		Senator P.F. Routier		
Deputy of St. Martin		Senator M.E. Vibert		
Deputy G.C.L. Baudains (C)		Senator P.F.C. Ozouf		
Deputy C.J. Scott Warren (S)		Senator T.J. Le Main		
Deputy J.A. Martin (H)		Senator F.E. Cohen		
Deputy G.P. Southern (H)		Connétable of St. Martin		
Deputy of Grouville		Connétable of St. Saviour		
Deputy S.S.P.A. Power (B)		Connétable of St. Mary		
Deputy S. Pitman (H)		Connétable of St. Clement		
Deputy K.C. Lewis (S)		Connétable of St. Lawrence		
		Connétable of Grouville		
		Connétable of St. John		
		Connétable of St. Brelade		
		Deputy J.J. Huet(H)		
		Deputy P.N. Troy (B)		
		Deputy R.G. Le Hérisier (S)		
		Deputy J.B. Fox (H)		
		Deputy of St. Ouen		
		Deputy P.J.D. Ryan (H)		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy G.W.J. de Faye (H)		
		Deputy P.V.F. Le Claire (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy D.W. Mezbourian (L)		
		Deputy A.J.H. Maclean (H)		

		Deputy of St. John		
		Deputy I.J. Gorst (C)		
		Deputy of St. Mary		

**The Bailiff:**

I can announce that paragraph (c) has been lost; 15 votes were cast in favour, 34 votes against. We open the voting on paragraph (d) of the proposition.

<b>POUR: 14</b>		<b>CONTRE: 35</b>		<b>ABSTAIN: 0</b>
Connétable of St. Peter		Senator S. Syvret		
Connétable of St. Helier		Senator L. Norman		
Connétable of St. Brelade		Senator F.H. Walker		
Deputy R.C. Duhamel (S)		Senator W. Kinnard		
Deputy A. Breckon (S)		Senator T.A. Le Sueur		
Deputy of St. Martin		Senator P.F. Routier		
Deputy G.C.L. Baudains (C)		Senator M.E. Vibert		
Deputy C.J. Scott Warren (S)		Senator P.F.C. Ozouf		
Deputy J.B. Fox (H)		Senator T.J. Le Main		
Deputy J.A. Martin (H)		Senator B.E. Shenton		
Deputy G.P. Southern (H)		Senator F.E. Cohen		
Deputy S.S.P.A. Power (B)		Senator J.L. Perchard		
Deputy S. Pitman (H)		Connétable of St. Martin		
Deputy K.C. Lewis (S)		Connétable of St. Saviour		
		Connétable of St. Mary		
		Connétable of St. Clement		
		Connétable of St. Lawrence		
		Connétable of Grouville		
		Connétable of St. John		

		Deputy J.J. Huet(H)		
		Deputy P.N. Troy (B)		
		Deputy R.G. Le Hérisier (S)		
		Deputy of St. Ouen		
		Deputy P.J.D. Ryan (H)		
		Deputy of Grouville		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy G.W.J. de Faye (H)		
		Deputy P.V.F. Le Claire (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy D.W. Mezbourian (L)		
		Deputy A.J.H. Maclean (H)		
		Deputy of St. John		
		Deputy I.J. Gorst (C)		
		Deputy of St. Mary		

**The Bailiff:**

14 votes were cast in favour, 35 votes against. Finally, on paragraph (e) of the proposition I invite the Greffier to open the voting.

<b>POUR: 13</b>		<b>CONTRE: 36</b>		<b>ABSTAIN: 0</b>
Connétable of St. Peter		Senator S. Syvret		
Deputy R.C. Duhamel (S)		Senator L. Norman		
Deputy A. Breckon (S)		Senator F.H. Walker		
Deputy of St. Martin		Senator W. Kinnard		
Deputy G.C.L. Baudains (C)		Senator T.A. Le Sueur		
Deputy C.J. Scott Warren (S)		Senator P.F. Routier		

Deputy R.G. Le Hérissier (S)	Senator M.E. Vibert		
Deputy J.B. Fox (H)	Senator P.F.C. Ozouf		
Deputy J.A. Martin (H)	Senator T.J. Le Main		
Deputy G.P. Southern (H)	Senator B.E. Shenton		
Deputy S.S.P.A. Power (B)	Senator F.E. Cohen		
Deputy S. Pitman (H)	Senator J.L. Perchard		
Deputy K.C. Lewis (S)	Connétable of St. Martin		
	Connétable of St. Saviour		
	Connétable of St. Mary		
	Connétable of St. Clement		
	Connétable of St. Helier		
	Connétable of St. Lawrence		
	Connétable of Grouville		
	Connétable of St. John		
	Connétable of St. Brelade		
	Deputy J.J. Huet (H)		
	Deputy P.N. Troy (B)		
	Deputy of St. Ouen		
	Deputy P.J.D. Ryan (H)		
	Deputy of Grouville		
	Deputy of St. Peter		
	Deputy J.A. Hilton (H)		
	Deputy G.W.J. de Faye (H)		
	Deputy P.V.F. Le Claire (H)		
	Deputy J.A.N. Le Fondré (L)		
	Deputy D.W. Mezbourian (L)		
	Deputy A.J.H. Maclean (H)		

		Deputy of St. John		
		Deputy I.J. Gorst (C)		
		Deputy of St. Mary		

**The Bailiff:**

Paragraph (e) has been lost; 13 votes were cast in favour, **[Laughter]** 36 votes against.

**Senator M.E. Vibert:**

Can I ask a question? I did not see anybody enter or leave the Chamber during the voting. Was the first vote 16/30, which adds up to 46, and all the other votes 49? If so, is it possible to tell us the 3 people who were in the Chamber who did not vote?

**The Bailiff:**

I am afraid, Senator, that Standing Orders do not permit the Greffier to identify Members who have chosen not to vote. Members are entitled to ask who has voted for or against or who has abstained.

**Senator P.F.C. Ozouf:**

Could the Members who voted for and against for (a) be read out? **[Members: Oh!]**

**Deputy G.W.J. de Faye:**

Point of information, Sir. There was a slight element of confusion in this part of the Chamber over the very first vote because I did hear a discussion about were we going to take it in parts or not, and then I heard the word “Appel” and I believed that actually I was voting on an Appel on whether we were going to take it in parts or not. **[Laughter]** Consequently, I would like to put the record straight and say that I voted contre on (a) rather than pour, although I realise I am now recorded as saying pour.

**The Bailiff:**

Do you wish to press the point?

**Senator P.F.C. Ozouf:**

I think the Members voting in favour of (a) should be read out, please, Sir.

**The Bailiff:**

Very well. The Greffier will read out those voting in favour of paragraph (a).

**Senator M.E. Vibert:**

I am sorry to push the point. I am sorry that it seems Standing Orders are lacking in this. I wonder if, to save us all looking through the lists and comparing the lists, the 3 Members who did not vote on the first part of the proposition would like to make themselves known?

**The Bailiff:**

Presumably those members who did not vote had their reasons for doing so and it will become a matter of public knowledge in due course. [Aside]

## **NOTIFICATION OF LODGED PROPOSITIONS**

### **7.1 Fur products: petition (P.72/2006)**

#### **7.1.1 Senator S. Syvret:**

It may now be an opportunity for me to formally lodge the petition which I have been asked to present to the Assembly in respect of the fur petition.

**The Bailiff:**

Yes, Senator. We announce that Senator Syvret has lodged a proposition in relation to fur.

**Senator S. Syvret:**

The petition contains over 2,500 signatures and it is seeking that the importation and sale of fur products into the Island be banned. I would ask for it to be referred to the Minister for Economic Development and the Minister for Home Affairs, being the 2 Ministers who have got most of a role to play in this field. Just briefly, I would urge Members to read the 2 brief appendices I have attached to the document. This was not a subject I knew anything about until I was asked to present the petition. I did some research of my own and some reading on the subject, and what I discovered I found truly horrifying and shocking and disgusting. I would urge Members who might have doubts about this to do a little research of their own. Thank you, Sir.

**The Bailiff:**

Very well. Does the Assembly agree to refer Senator Syvret's proposition to the Ministers of Economic Development and Home Affairs?

#### **7.1.2 Deputy P.V.F. Le Claire:**

May I just from a point of clarification say that in the Senator's proposition he asks for us to consider a total ban on the importation of fur and on the sale of the importation of fur-lined products. Is his proposition intending to restrict the sale of products that may be in charity shops at the moment or are on sale at this time which have not yet been purchased?

**Senator S. Syvret:**

I think it probably would, Sir. It says to seek to ban the importation and the sale of fur products.

#### **7.1.3 Senator P.F.C. Ozouf:**



I think it should be referred to the Minister for Planning and Environment as well on environmental issues of animals, et cetera, so perhaps it could be referred to him, too.

**Senator S. Syvret:**

I am happy for that to take place.

**The Bailiff:**

Very well, referred to those 3 ministries and I hope, Senator, that the advice of the Attorney General will also be sought on any legal implications under protocol 3.

**Senator S. Syvret:**

Yes, Sir. My understanding is that such a ban would be compatible with WTO (World Trade Organisation) conventions because, indeed, similar bans are in place in some countries already.

**The Bailiff:**

I was not thinking about WTO; I was thinking of our European Community obligations.

**Deputy P.V.F. Le Claire:**

From a human rights perspective, the rights for property, et cetera, I was wondering...

**The Bailiff:**

All these matters will come out in the wash I am sure, Deputy, in due course when the reports of the various Ministers are available.

## **7.2 Draft Sea Fisheries (Licensing of Fishing Boats) (Amendment) (Jersey) Regulations 200- (P.71/2006).**

**The Bailiff:**

May I also announce that the Minister for Planning and Environment has lodged the Draft Sea Fisheries (Licensing of Fishing Boats) (Amendment) (Jersey) Regulations, Projet 71.

### **PUBLIC BUSINESS (continued...)**

## **8. Draft Postal Services Transfer (Jersey) Regulations 200- (P.9/2006) - debate resumed**

**The Bailiff:**

We come to the next item on the Order Paper, which is the resumed debate on the Draft Postal Services Transfer (Jersey) Regulations, Projet 9. Members will recall that the principles were adopted on 28th March before the proposition was referred to a Scrutiny Panel. So, the debate now resumes on the articles of the Regulations and I invite the Minister to indicate whether he wishes to take them article by article or *en bloc*?

### **8.1 Senator T.A. Le Sueur (The Minister for Treasury and Resources):**

The answer would be *en bloc*, Sir, but I think firstly I should draw Members' attention to the amendment number 3 to these Regulations. Consequential on the deferment of the debate, we have had to replace all the dates of 31st March and 1st April with 30th June and 1st July respectively. For the sake of formalities I think it might be appropriate to take those as read rather than have to read each one, and take the Regulations in their amended form, having taken note on the content of that amendment.

**The Bailiff:**

I was going to ask you, Minister, there are in fact 3 sets of amendments.

**Senator T.A. Le Sueur:**

I think the first 2 may have been taken into account but if not then there will be 3. I would then suggest, Sir, that we take the Regulations as amended by amendments 1, 2 and 3. We have had discussions on this subject at some length, both today and some 10 weeks ago, and I think Members have been over this ground in some detail. The objects of the Regulations clearly are to put into effect the transfer of assets, rights and liabilities as set out in the Law, and these Regulations set that out in detail primarily, I think, in terms of the transfer of assets, both moveable and immovable, and the accounting for liabilities at the date of transfer. I think it is simpler if I simply propose the Regulations *en bloc* and undertake to answer any questions that may arise.

**8.2 The Bailiff:**

Very well. The Regulations 1 to 17 and the Schedules to the Regulations are proposed and seconded? **[Seconded]** Any Member wish to speak on any of the Regulations or Schedules as amended? Very well, I put the Regulations. Those Members in favour of adopting them kindly show? Those against? The Regulations are adopted in Second Reading. Do you move the Regulations in Third Reading?

**Senator T.A. Le Sueur:**

With pleasure, Sir.

**The Bailiff:**

Seconded? **[Seconded]** Any Member wish to speak on the Regulations in Third Reading?

**8.3 Deputy R.G. Le Hérisier:**

I kept away from the first debate. I would just like to make a few points of a general nature. In a sense there has been confusion sown in our minds, but I think there is this issue of what the Post Office's role is. While we all look forward immensely to its new freedoms, given the kind of information we have received from the likes of Deputy Breckon, I do find it quite extraordinary that what we thought was a profitable area in fact appears to be quite the opposite. I am really wondering where the profits are emanating from, if anywhere. What I would like to say to the mover of the Regulations is could it be made absolutely clear that, despite all the very good work that has gone on so far, there is a need for very tight liaison with customers? There is dissatisfaction out there around certain areas. For example, the withdrawal of certain kinds of international services, which I have discussed at length with the Connétable of St. Lawrence. I really would like to see it start its life as an organisation which is customer-friendly, which realises its roots are in the Island, and which realises that ultimately the service is for the local people, despite all the vast amounts of money which are flowing somewhere. We are all getting a bit

confused as to where they are flowing and who they are flowing to, and whether they are flowing at a surplus or a deficit, but nevertheless these vast amounts are flowing. The kind of major cost-cutting that appears to have occurred, all justified in detailed, technical terms, has, I think, done a very grave disservice to the Post Office and I would like to see it much more sensitive, given the inquiries I have been involved with, to customer demand and customer needs and I hope it can be launched on that kind of basis.

#### **8.4 Deputy P.V.F. Le Claire:**

Could I request the Minister if he would once again re-affirm the commitment to the Pensions Committee of Management, and also, in re-affirming that commitment which has been given in writing, in relation to the lump sum in the admission document, may I inquire at this stage what might be the likely timescale for us to see the conclusion of those 2 issues, as for Telecoms it did stretch on for a few weeks?

#### **8.5 Deputy J.B. Fox:**

A note that I made here was in relation to the properties Broad Street and obviously Rue des Pres. If these premises were to be sold-off, can the Minister remind us whether this reverts to the States or whether that goes into the new incorporated company?

#### **8.6 Senator P.F.C. Ozouf:**

In respect of his overall assessment of the profitability of Jersey Post, Deputy Le Hérissier will know better than other Members of this Assembly, having served on the Postal Committee, just how focussed Jersey Post is on customer service. I do not know what he was doing on the Postal Committee for all of those years [Laughter] but surely he will know, as Senator Walker explained, in relation to the overall benefit of Jersey Post of those activities of ProMail and that the lop-sided position that we had from Deputy Breckon was only part of the picture. Even though some of us have been critical of some of the more ambitious plans that Jersey Post has had in the past, as a result of their activities we are better off as consumers and we have a Post Office that is fundamentally much stronger as a result of that. Surely he should know that better than anybody as being a member of Postal who no doubt took part in those decisions to set up these businesses at the time.

#### **8.7 Deputy P.J.D. Ryan:**

On the principle, this will probably be the very last opportunity that I will have and I was trying to get in just before the Minister for Treasury and Resources closed the debate on this one. I know there are another couple of Regulations, but I thought it was appropriate that I just say one or 2 words because I have probably had more to do with Jersey Post over the last 3 or 4 years than any other Member of the Assembly. Jersey Post is a super business. I hear what Deputy Le Hérissier says and I would like to end on the most positive note. I believe that this Assembly and the people of Jersey owe a lot to the hard work and dedication of Jersey Post. I mean that sincerely and I would hope that people are listening. They have done a tremendous job. I would like to thank everybody for the support in the previous Committee and for this Assembly over the past 3 years. I wish the whole business of Jersey Post, from the most lowly cleaner through to the Chief Executive, the very best of luck in the future. Thank you, Sir.

#### **The Bailiff:**

I call upon the Minister to reply.

## **8.8 Senator T.A. Le Sueur:**

As someone whose connections with Jersey Post go back even further than Deputy Ryan's, I am happy to echo all the kind and justified words he says about the management and staff of Jersey Post. I think that the passing of these Regulations today and the coming into life of the company on 1st July hopefully will stimulate that organisation to even greater things and that this will be a milestone in their future. I have 2 other points to pick up. Deputy Le Claire, I am happy to reconfirm my commitment to sorting out the liability in terms of the public employees' retirement scheme. I would like to say that it would be a matter of weeks, but as I recall we said incorporation of Jersey Post would be a matter of months and that was 10 years ago, so I am loath to make promises and estimate times. Deputy Fox, if part of the assets are sold normally that would be to replace them with another asset somewhere else. If they became surplus to requirements then, rather like has recently happened with the Jersey Electricity Company, that might well be returned to the shareholder - that is the States - in the form of a special dividend. I think, Sir, that that brings everything to a conclusion and I would simply like to express my thanks to the Law Draftsman and the people who have had the patience to see this through, as we have, over the past 10 years. I move the bill in Third Reading.

### **The Bailiff:**

I put the Bill in Third Reading. Those Members in favour of adopting it kindly show? Those against? The Bill is adopted and the Regulations are adopted in Third Reading.

## **9. Exclusivity of postal services within Jersey: termination of Agreement (P.42/2006)**

### **The Bailiff:**

We come now to Projet 42 - Exclusivity of postal services within Jersey: termination of Agreement. I ask the Greffier to read the proposition.

### **The Greffier of the States:**

The States are asked to decide whether they are of the opinion, having regard to the proposed commencement of the provisions of the Postal Services (Jersey) Law of 2004 on 1st July 2006, to approve the signature by the Minister for Economic Development of the draft Agreement annexed hereto to terminate the Agreement made between the Postmaster General and the Greffier of the States on 15th August 1969.

### **9.1 Senator P.F.C. Ozouf:**

With an eye on a home straight and 24 days to go, could I ask the Assistant Minister with responsibility for Postal to be rapporteur for this item?

### **The Bailiff:**

Yes, rapporteur.

### **9.2 The Connétable of St. Lawrence (Assistant Minister for Economic Development - rapporteur):**

There are 3 Orders in Council that need to be repealed and they all date back to 1969, at which time the right to run postal services in Jersey was transferred from the Post Office in the U.K. to the

States of Jersey. At that time the U.K. introduced its new Post Office Act, and altered the status of the Royal Mail from being a government department under the Paymaster General to being a statutory body corporate that derived its powers from that Act. It was considered inappropriate for such a body corporate to operate outside the U.K. in Jersey, and the monopoly that the Postmaster General had over posts in Jersey was, therefore, relinquished by him in favour of the States of Jersey. This transfer of monopoly was, in fact, effected under powers in the new Act and the new Act also set out new arrangements under which Jersey would co-operate with the U.K. government over international postal matters. The effecting of these things was done by Orders in Council and it is these that now need to be repealed, primarily because it is Jersey that will now be effecting changes that do not fit those Orders. In particular, the States themselves will now be relinquishing a monopoly that was transferred to them for it itself to exploit, but also secondarily because virtually everything that the Orders put in place has now been superseded in the United Kingdom. The Agreement of Transfer of the Jersey postal monopoly from the Postmaster General to the States was effected through 2 inter-twined measures; first, a written Agreement; second, an Order in Council that contained that Agreement. The Agreement itself needs to be laid to rest. This will be achieved by a new Agreement and the States needs to agree that this new Agreement will be signed on its behalf, hence the proposition that has been lodged by Economic Development, and that authority will be given to the Minister. That is the nub of P.42. I should just mention that there is a slight time delay in putting this in place because we have already decided to transfer assets, and we will be looking at the Appointed Day Act shortly, with a date of 1st July. However, because the Privy Council does not meet until 20th July, the U.K. end of it will not be completed until 20th July. I am assured by the Attorney General that that should not be a problem. I do not know if he wants to say anything; he probably does not. Anyway, that is the position and I would now move the proposition, Sir.

**The Bailiff:**

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? I put the proposition. Those Members in favour of adopting it kindly show? Those against? The proposition is adopted.

**10. Draft Postal Services (Jersey) Law 2004 (Appointed Day) (No. 2) Act 200- (P.43/2006)**

**The Bailiff:**

We come now to the Appointed Day Act - Projet 43 - the Draft Postal Services (Jersey) Law 2004 (Appointed Day) (No. 2) Act 200-and I invite the Greffier to read the title.

**The Greffier of the States:**

Draft Postal Services (Jersey) Law 2004 (Appointed Day) (No. 2) Act 200-. The States, in pursuance of Article 96 of the Postal Services (Jersey) Law 2004, have made the following Act.

**10.1 The Connétable of St. Lawrence (Assistant Minister for Economic Development - rapporteur):**

We have probably spoken enough about the Appointed Day Act in a way today, because we have been discussing postal incorporation most of the day, but this new Appointed Day Act will bring into effect the remaining parts of the Postal Services (Jersey) Law which have not already been brought into effect. The Postal Services (Jersey) Law was adopted by the States on 30th March 2004 (P.24 of 2004), which we have heard already, and registered in the Royal Court on 10th

September 2004. Many of its provisions, the formal provisions and those dealing with licensing and the framework for the transfer from the Committee to the company, came into force on 11th October 2004, which was the Postal Services (Jersey) 2004 Law (Appointed Day) Act 2004. The States have, therefore, already agreed the principle of incorporation, together with the Regulations needed to bring it into effect. This proposition, if approved, will bring into force the new arrangements for postal services in Jersey set out in the Law, apart from Article 33 that is no longer needed after the move to Ministerial government. The incorporation date of 1st July 2006 has been agreed with the Treasury and Resources Minister because it is vital that the staff, assets and liabilities of the Economic Development Minister are also transferred on that date, and that we agreed a little while ago. The Treasury and Resources Minister has already spoken in favour of the Draft Postal Services Transfer (Jersey) Regulations 200- which the Economic Development Ministry also supports. Provisions now coming into force: the provisions that will now come into force deal with the requirement to hold a licence under the Law - Part 2, Powers relating to land; Part 8, Immunity of mail; Part 9, Liability of postal operators; Part 10, Offences relating to postal services; Articles 60 to 70 of Part 12, The entry and search of premises; Article 76 of Part 13, Proof of being a postal packet; Articles 78 and 79, Non-delivery not being a defence against proceedings; Article 80, The repeal of the Post Office (Jersey) Law 1969 and the amendment and repeal of certain other legislation. They include most of the savings and transitional consequential provisions: Articles 84 and Schedule 1, Savings and transitional provisions; Article 85 and Schedule 2 to the extent that it has not already come into force. That is paragraphs 1 to 7 and 9 of Schedule 2. Sir, I make the proposition.

**The Bailiff:**

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? I put the proposition. Those Members in favour of adopting it kindly show? Those against? The proposition is adopted.

**10.3 Senator P.F.C. Ozouf:**

May I just offer a personal thanks to the Assistant Minister who has responsibility for postal work in exercising the last 24 days' worth of power that he has inherited with the Postal Committee and thank him very warmly for the work that he has done single-handedly in the past and in the next few days. **[Approbation]** Thank you, Sir.

**11. Island Plan 2002 Policy H2: Fields 848, 851, 853 and 854 (P.48/2006)**

**The Bailiff:**

Thank you, Minister. In accordance with Standing Order 32, the Connétable of St. Lawrence has informed the Greffier that the following matter, listed for debate at the present meeting, is to be listed for debate at a later date: the Island Plan 2002 Policy H2, et cetera - Projet 48.

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**The Bailiff:**

We come now to the arrangement of public business for future meetings. Mr. Chairman?

**12. Connétable D.F. Gray of St. Clement (Chairman of the Privileges and Procedures Committee):**

I would like to propose the arrangement as outlined on the pink sheets under M, with the addition of P.71 which is down for 18th July - that is the Sea Fisheries Project - and the Fur Petition (P.72) on 12th September. That is the first item on 12th September.

**The Bailiff:**

Thank you very much.

**12.1 Deputy I.J. Gorst:**

Could I ask that P.70 be moved also to 18th July, please?

**The Bailiff:**

P.70 is what?

**Deputy I.J. Gorst:**

Island Plan 2002, Policy H2: Field 91, St. Clement (P.70/2006), Sir, lodged today.

**The Bailiff:**

Yes, thank you, Deputy. Project 70, down at the moment on 4th July, is to be moved to 18th July.

**12.2 Deputy J.A.N. Le Fondré:**

May I ask the Connétable of St. Lawrence in respect of P.48 - we are slightly ambivalent at the moment but I understand we have now got something like 19 amendments to the Strategic Plan and then we have the Solid Waste Strategy - whether he has had any more thoughts on whether we want to move it to another day or not?

**12.2.1 The Connétable of St. Lawrence:**

I think we are waiting for some report back via the Council of Ministers and I think it is probably premature to decide on that. It is probably appropriate to leave it where it is for the moment, but it might be necessary to defer it to a later sitting.

**12.3 Senator M.E. Vibert:**

On that, I wonder if we could be reminded of what the situation will be when a States sitting, as the next one is likely to, will run and run and run. What are the days that have been set aside?

**The Bailiff:**

I think Members are expected to sit on 21st June and 22nd June if necessary.

**Senator M.E. Vibert:**

And then, Sir, when we have not finished? [Laughter]

**The Bailiff:**

That will be a matter for Members, but in principle it will be carried forward to 4th July.

#### **12.4 The Connétable of St. Helier:**

On a similar topic, I have 2 propositions listed for the next session: P.59 - Aquasplash Swimming Pool Complex, Waterfront, St. Helier: public use at weekends; and P.60 - Provision of pedestrian crossings, and I am quite willing for those to be deferred until the July meeting because we have the Strategic Plan and other matters down for the next session.

#### **The Bailiff:**

So, to 4th July?

#### **The Connétable of St. Helier:**

Yes, please, Sir.

#### **The Bailiff:**

Projets 59 and 60 will go to 4th July.

#### **12.5 Senator L. Norman:**

Could I just refer back to Deputy Gorst's proposition, P.70, on Field 91 in St. Clement? I understand that this field is already the subject of a planning application which has been received by the Planning Department. Could I have an assurance from the Planning Minister that no further action will be taken on that application until the States have had the opportunity of debating Deputy Gorst's proposition?

##### **12.5.1 Senator F.E. Cohen:**

I have already given instructions to my department to that effect.

#### **12.6 Deputy R.C. Duhamel:**

There have been some whispers from the Minister for Transport and Technical Services that indeed P.45 might need to be put off for a further 2 weeks. Could we have some certainty as to that, please, Sir?

#### **The Bailiff:**

Minister, do you wish to make any observations on that? **[Laughter]**

##### **12.6.1 Deputy G.W.J. de Faye:**

I find myself in some difficulty here because of the recent establishment of an *ad hoc* working party apparently designed to devote its attention to part (b) of that particular proposition, P.45. I had hoped to have had full and further particulars from Deputy Le Claire, who is the erstwhile Chairman of the *ad hoc* working party, as to quite what his deadlines were. I have heard nothing of significance to date; therefore, I am, as it were, standing where I am. **[Laughter]** I have to say that whilst this sort of deadline management may be thought to be conducive to the workings of government by some Members, I think that I will find myself in a position where it would be unfair to try and press ahead with the part (b) debate on composting with this report floating around in the background and Members not having had an opportunity to study what its contents may be. As



things stand, until I am in receipt of some fairly clear deadlines, I think that I am going to stay where we are until I clear the matter up with Deputy Le Claire. I hope to have a meeting with him this week, in which case I will email Members to tell them quite what the position is.

#### **12.6.2 Deputy P.V.F. Le Claire:**

I would just like to inform Members that I did email the Minister on this issue but he has not read his email as yet. We did speak today, and we will be hopefully meeting on Friday to work in the best interests of the Island as whole and not worry about who is going to submit the report and proposition but get the job done quickly and get it done right. Perhaps we could ask the Minister now to reconsider at least being a little bit more flexible on P.45 on this day because of the importance of the Strategic Plan and given the assurance that he has in private that we would like to work towards a mutual understanding.

#### **The Bailiff:**

Deputy, having listened to what you have to say, I do think that it is a matter for private discussion between you and the Minister rather than discussion across the floor of the Chamber.

#### **12.7 The Connétable of St. Lawrence:**

Referring again to P.48, if the Minister for Planning and Environment can give an undertaking that no determination of that particular planning application will be made, I would be quite prepared to move P.48 on to 4th July.

#### **The Bailiff:**

I suspect you may be moved there anyway.

#### **The Connétable of St. Lawrence:**

I might be, yes. [Laughter] I feel quite vulnerable, I must say.

#### **12.7.1 Senator F.E. Cohen (The Minister for Planning and Environment):**

There will be no determination made before 4th July, so I do not think that will be a problem.

#### **The Connétable of St. Lawrence:**

In which case I suggest we move P.48.

#### **The Bailiff:**

P.48 is moved to 4th July.

#### **12.8 Senator S. Syvret:**

Could I please seek assurances both from the Minister of Transport and Technical Services and the Environment Scrutiny Panel that the debate on the location of the incinerator replacement will go ahead as scheduled? This is an absolutely crucial decision. The existing incinerator is pumping out toxic filth across large parts of the Island and it is quite intolerable for it to carry on any longer than necessary. I just want an assurance from the relevant parties that this debate will go ahead and Members can have their say and vote either for it or against it as they see fit. One way or another we have got to make a decision.

**The Bailiff:**

As I understand it, Senator, the position is that the Minister is standing firm at the moment and it is down for debate on 20th June.

**12.9 Senator P.F.C. Ozouf:**

You mentioned that if we did not manage to get through all the business on the 20th and 21st June then we would be pushing on to 4th July. Could I respectfully suggest to the President of PPC that we should set out a plan to deal with the Strategic Plan - it looks like 3 days minimum - on the week of 20th and then agree that we will meet as a continuation on the 27th and start afresh with the Solid Waste Strategy and the other matters that are on the Order Paper then?

**12.9.1 The Connétable of St. Clement:**

Can I say, Sir, that the advice I have is that the Strategic Plan will probably take 3 days and I was going to propose that the other matters should, if not taken between the 20th, 21st and 22nd, be deferred until the 27th because, looking at the schedule for 4th July, it is already full and is now being over-filled. I would propose that the House should be prepared to come back on 27th June.

**The Bailiff:**

Are Members prepared to inscribe in their diaries the 27th June? Very well, that will be done. Members are content then with the arrangement of public business as amended during the course of this discussion.

**ADJOURNMENT**

**The Bailiff:**

The States now stand adjourned until Thursday, 15th June at 9.30 a.m. when we will welcome the new Lieutenant Governor.