

STATES OF JERSEY

OFFICIAL REPORT

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The Roll was called and the Dean led the Assembly in Prayer.

PUBLIC BUSINESS (continued...)

1. Aquasplash Swimming Pool Complex, Waterfront, St. Helier: public use at weekends (P.59/2006)

The Bailiff:

We continue with the next item of public business on the Order Paper, Projet 59 - Aquasplash Swimming Pool Complex, public use at weekends and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to request the Minister for Education, Sport and Culture to take steps to ensure that both the main pool and the leisure pool in the Aquasplash Swimming Complex on the Waterfront are available for general public use on Saturday and Sunday afternoons all year round from 1st July 2006.

1.1 Connétable A.S. Crowcroft of St. Helier:

I want to begin this morning by taking Members, if they will, for a little touristic treat up into mid-Wales to the town of Rhayada - I am not sure how it is pronounced - a town of some 2,000 souls. It is the first town on the Wye River as it begins its long journey through England from the Elan Valley. I was fortunate enough to visit Rhayada with my family in the spring and having nothing else to do - it is not like Jersey, with all due accord paid to the good people of Rhayada, there is not much to do in Rhayada except admire the fells and go walking and so on - and, with small children, the obvious place to head is the municipal swimming pool. We went to that pool on a number of occasions. Pools have always been fairly purgatorial in my experience of having small children. I am sure other parents will sympathise. If you are lucky and you have a partner, one of you does the purgatorial bit in the shallows looking after the small children and trying to stop them drowning themselves and the other one does a few lengths and then you swap over and at least the adults there get their swim in. We were able to do that in Rhayada very conveniently and very cheaply and the pool, I seem to remember, was open roughly between 11.00 a.m. and about 5.00 p.m. When I got back, wanting to keep up the efforts of keeping fit, I got myself one of these passes to the Aquasplash pool which allows - as long as you conform with the program - pretty much cheap swimming. I began to discover that whenever I wanted to go for a swim, and particularly if it was at the weekends when the children were free for swimming, more often than not when we went to the pool we found that the main part of the pool was cordoned off for a private party. So, back to the purgatorial bit sitting in the shallows of the leisure pool which, as Members will know if they have been there, is on the right-hand side and has some flumes and a small area of outdoor water as well. So I would sit there looking after my children while they hopefully did not drown themselves and noticing that the main pool on the left, where I was wanting to swim and where one still can swim if one can get off in the mornings in the week, was being used by possibly only a dozen people. I had various conversations with people in the shallows as they waited with their children, sometimes 2 parents would be waiting with their children, and the general feeling was this was not a very good level of service. Most municipal pools, it is argued, provide you with more than that, particularly if you are a parent and you want, as I say, to do some real swimming once you have paid the price for having children and you have gotten cold and wet for 20 minutes in the shallow part. That is the occasion that I wrote to the operators of the pool, Serco, asking them to ensure that Saturday and Sunday afternoons, at the very least, as a minimum, should be kept available for family use. Members will have seen the correspondence which is attached to the proposition. Getting no joy there, I wrote to the Minister and Members will see his reply which I think is a little bit dismissive but that is for Members to decide. The reason for the dismissiveness is possibly that not many

people have complained. Well, since logging the proposition, I have had a lot of communication with people who have had the same experience but the English do not like to complain, nor do Jersey people, I should say, like to complain. Certainly the British tourist, and I spoke to some in the pool; they do not like to complain. They are only here for a couple of weeks and the fact that Jersey has a pool that they are effectively barred from when they visit it is a source of mild irritation but they are certainly not going to write to the paper about. So, what can be done? Well, once this phenomenon appeared, I started to look into the history of the Aquasplash pool and what we had before and my first port of call was to contact the people up at Fort Regent where I used to swim and I asked them: "What level of service did we have before the new pool was created?" I was told the following. On Saturday mornings the pool opened at 10.00 a.m. and was open until 4.00 p.m. and on Sundays it was open from 11.00 a.m. until 5.00 p.m. That was unrestricted use by the public. Except on the Saturday, there were 2 pool play times: 2.00 p.m. and 2.45 p.m. and 3.00 p.m. and 3.45 p.m. I got back to the person I spoke to and said: "Could you clarify what pool play time means?" I thought it might have meant private parties but no. It was given over to children during those 2 sessions to play on large inflatables, et cetera. In other words, the pool we used to have up at Fort Regent, it did involve a bit of a hike to get there, but it was open for most of the weekend for general use. The pool we now have - and Members will see it is not an easy program to follow, there clearly are a lot of stakeholders whose interests in swimming have to be met - but the point I want to turn Members' attention to is the first section in each of those timetables marked "lane swimming pool". That is the largish swimming pool on the left where you can do a few lengths while your good partner is looking after the children and Members will see that on Saturdays and Sundays the opening periods - which are marked in light blue, on each section, both during the summer term, autumn term and particularly in the holiday pool program - the blue sections are marked with big capital P, and that means parties if you read the key. So, when you go to the pool at the weekends, unless you ring up in advance ... and that is something that I have had to do now when I take the family to the pool, you have to ring up and check: "Is the pool being used for private parties and, if so, at what time?" Some of the times I have rung up it has been so extensively used for private parties I have not bothered to go. What I am seeking to do in this proposition is to remove those black Ps from those blue squares at the weekends. I am seeking no other change to the timetable but that. I think the other point I wish to make ... and again this is information I was helpfully provided with by officers at Fort Regent I asked them what level of service do those out west experience from their municipal pool, because I have been out to Les Quennevais pool on a couple of occasions - most recently I suppose for the Swimathon - and I thought what a marvellous facility; how well laid out it is. I have been sent the opening times and those who live out west can swim at the weekends between 9.00 a.m. and 5.00 p.m. on a Saturday and between 9.00 a.m. and 7.00 p.m. on a Sunday. I ask Members, is it fair that people out west have that sort of access at weekends to a municipal pool and those living in St. Helier in particular, in the urban conurbation as someone described St. Clement yesterday - probably not very good new for St. Clement - people who live in St. Saviour, St. Clement and St. Helier; the majority of the population, have very restricted access to a public swimming pool at weekends. I think that is wrong and that is why I brought the proposition. Now, turning back to when we approved the leisure pool - and there must be few Members left in the States who remember the furore surrounding the leisure pool debate - I spent a lot of time on a rescindment motion. I lost a friend over that because I pulled the rescindment motion before it went to the States and that is something I have had to think long and hard about ever since. But one of the things that struck me when I dug out the paperwork and I read through the 21 pages of closely written report that I put through is that the States Members were told 2 things when they approved the leisure pool. They were told that it would replace Fort Regent: and I argue today, Sir, that it does not. It does not provide a replacement facility at weekends for members of the public. The second thing we were told is that it was highly likely that the pool would be run at a profit and I am going to save most of my comments about funding until later on because it may be that I do not need to get involved in the funding argument but it is very clear from what the States were told in that debate, and there was a

very bullish and optimistic presentation by the then President of the Finance and Economics Committee, that the pool was highly likely to make a profit and if it did not then some of the premium that was paid by the developer - £620,000 that has been the subject of a question recently by Deputy Le Claire - that money would be used to top up any losses but it was bound to be a success: highly unlikely to lose money. I am sorry I should have said 3 points because I am winding up now, the other point that came out of the debate was that the leisure pool was sold to the public and to the States on tourism grounds and Members who doubted that were left in no uncertain terms about where they stood: "To say no to this project would send out a clear message: a clear message to the tourism industry, a clear message to potential investors, a clear message to all interested in tourism that we do not wish to protect and nurture the future of that industry." Sir, that is a message in my view we cannot afford to send out today or indeed at any time in the future. It would be a body blow to tourism. I will not read out the rest of them but there was a lot of emphasis placed ...

Senator M.E. Vibert:

Excuse me, please. Did the Connétable say who he is quoting at the time? I did not hear.

The Connétable of St. Helier:

No, I did not say. I believe that was the rapporteur Senator Walker but I can find out. It will involve listening to that long tape again though. Tourism matters to Jersey now as it mattered to Jersey then I believe, Sir, and it certainly was one of the conversations I had with a British tourist in the shallows of the leisure pool that prompted me to write this proposition. I believe that if we create a municipal pool in our capital to which tourists are effectively debarred on weekend afternoons then we have failed the tourists and we have failed those to whom we justified spending nearly £11 million from the Tourism Investment Fund on this facility because it is not open to tourists at weekends in the way that Rhayada municipal pool was open to me in the spring and that is why I think this must be addressed. I want, finally, to turn to some remarks that were made about this proposition when I first tabled it and I think an excellent example of Orwellian double-speak. It has not been referred to recently in the Assembly; I need to put that right. The Minister of Education, Sport and Culture called me a party pooper for wanting to put an end to the private parties that were being held in the pool. I have to ask whether that is really fair. This is a public pool built at public expense for the enjoyment of the public and the tourist comes into that as well. By holding private parties to get the pool operator out of a financial jam, they are preventing the public from using it. The tourists are not invited to those parties. The 28,000 residents of St. Helier who, as we know from the recent survey into average household spending, spend a lot less money than their country cousins. These people, for the most part, are not hiring the pool for parties. Why are they being debarred from it? People like me have bought an Aquasplash pass on the basis that they can get swimming in often find, more often than not, at the weekend they cannot use their swimming card because a private party has been booked. So, I refute the allegation that I am a party pooper. I am trying to get that public asset back into public hands and, particularly given the talk at the moment about privatising more facilities, I think it is really important we send out the message that public assets, if they are transferred, as this one was, into private ownership, then we are going to make jolly sure that the level of service offered to the public does not go down. Because that is what you so often hear about privatisation, the service will go down. It certainly has gone down in this case and if I am to support the privatisation of other things in the future then I want to hear the Council of Ministers saying, "Well, the Connétable has a point". This pool, in private ownership, is not providing the level of service that Fort Regent pool used to. It is not providing the level of service that Les Quennevais does at the moment. Q.E.D. (quod erat demonstrandum) we have to sort it out otherwise our privatisation plans in future are going to have a big problem. So in conclusion, Sir, the purpose of this proposition is to achieve what I believe is an acceptable level of service from a municipal pool to the public of Jersey and I urge Members to support it.

The Bailiff:

Is the proposition seconded? [**Seconded**]

1.2 Deputy C.J. Scott Warren of St. Saviour:

It is obvious that the States Assembly was totally misled during that debate. I am fairly certain that the term “private parties” was not mentioned at all during that debate. It is several years ago but I certainly do not remember voting to have private parties during the weekends at the Aquasplash. A replacement for the Fort Regent pool should have been just that, a replacement, no more and no less. I cannot add any more to the Connétable’s speech. I just totally support the proposition. Thank you.

1.3 Senator M.E. Vibert:

I was wondering if more people were going to speak or not. What can I say about the Connétable’s speech? I will try and correct all the inconsistencies and inaccuracies in it. The Connétable said it was with some trepidation he brought this proposition. It may be considered a trivial matter. I think he had every right to have some trepidation. I tried to dissuade the Connétable from taking this issue to the States. Though he might not have liked my email, he did not mention that we put aside considerable time to speak with him, along with the pool operators, to try to explain the situation to him so that he could understand it but he decided to go ahead anyway. If Members have read the report I have produced, I believe it shows the folly of the proposal and backs it up with evidence as to why it is folly. The folly is - and I am sorry it appears Deputy Scott Warren is of the same mind - a complete misunderstanding of the role of a public swimming pool. A public swimming pool is not just for general public use, of people walking in all the time. It is to provide a public facility to many different user groups including the general public walking in. What the Connétable wants to do is stop the pool being hired out for local children’s parties because they are put on at times when he wants to swim in that part of the pool. Great reference is made to private parties. Well, excuse me, who are these private people? They are families, local children - as they are with many other facilities in the Island, facilities run by different committees and particularly myself with the facilities at Fort Regent and Les Quennevais sports field - they are local people who are hiring that facility. They are members of the public who are hiring that facility to use at that particular time in that particular way. Do not be misled that the Aquasplash pool is closed at this time. It is not. The majority of the pool is open. The flumes are open. The swimming area in the leisure pool is open, still available for general public use, when the children’s parties are being held in the 25-metre pool. It is the 25-metre pool that, at that time, is not available for the general public swimming because it has been booked by local people to use for their children’s parties. I have to ask the Connétable, if he is so intent on the whole of the pool being available for general public use so he can have a swim, why he is picking on children’s parties. The 25-metre pool that he is concerned about is closed on numerous occasions because of other activities, not open to the general public. Swimming lessons, does he want to ban them so he can swim at any time? The pool is booked for private swimming lessons. They are swimming lessons run by a club and children go and learn to swim in the 25-metre pool and you cannot have general public swimming at the same time. It is also used for other aquatic activities, diving and training et cetera when it is not available for the general public use and that is exactly the same as happened at Fort Regent. I am afraid the Connétable is so selective with his quoting of what happened at Fort Regent. He mentioned the times when it was closed for Pluto’s Playtime, which some of us might remember, taking our children to up there. That was on Saturdays and Sundays and he said otherwise it was open to the general public on Saturdays and Sundays. That is wrong, Connétable. On many occasions it was closed for swimming galas, for swimming club meets, because we did not have another pool then. In fact, Les Quennevais pool, which you said is always open on a Saturday and Sunday afternoon, is not because it is closed: it is the main pool now, for the swimming gala meets to be held which

are held at weekends and, of course, it is not open when for the general public use when the Connétable is taking part in the Swimathon. Quite right, it is used for something else, some other part of community use. So this notion that a pool ... and I am glad the Connétable went to a pool in mid-Wales. I do not know whether it had flumes and all the other things and if they had more than one pool, and I would like to bring him back from mid-Wales - back to reality - that a public pool, a municipal pool, has a number of uses for the general public. That includes swimming lessons, private where it is hired out; when it is school time schools are using it, we have clubs using it and one of the uses is for local people to be able to book part of the pool to have a party. So it is not just that the pool is closed for parties. It is closed for many other reasons and there has to be a balance as to when things are available and when they are not available for general public use. So public pools - do not think it any way - are not open for general public use at all times and never have been. Fort Regent never was, Les Quennevais is not. It is all made up of a selection of activities. What we have asked the operator of the pool to do and what we do with our own pool at Les Quennevais is to get the optimum use of the pools, balancing general public access against restricted access for other public activities, clubs, hiring out to the public et cetera. Of course, when referring to Fort Regent and what was available there, what should be remembered by most Members is that, for the majority of the time that Fort Regent was available, it was the only public swimming pool on the Island because Les Quennevais pool was not around for much of the time that Fort Regent was in use. So we have much better access at present than when we just had the Fort Regent pool. This gets some of the things right about usage. It was very interesting for the Connétable to say people do not like complaining. That is why there have not been many complaints. I think the Connétable was trying to build up his case. Let us have a look at the evidence, the facts. Since the Waterfront pool opened in July 2003, Sir, some 3 years ago, more than 7,500 local children - young children - have enjoyed attending children's parties there. That is a minimum. It has been worked out at the minimum number from the parties held there. So that is 7,500 local children having fun in the pool, getting used to water, enjoying themselves, parents being able to book it for a party.

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

On a point of information, could I ask the Senator exactly what is the minimum number that has been worked out, how that is in figures, please.

Senator M.E. Vibert:

It is worked out because the minimum number for hiring the pool is 10. The pool can take far more and most parties have more than 10. It has been worked out by the number of parties times the minimum number of children that are allowed when there is a party. So 7,500 local children have enjoyed attending children's parties in the pool in the past 3 years. In the same past 3 years there have been 6 complaints to the pool operator over the 25-metre pool being closed for those parties, Sir. Six complaints in 3 years and, Sir, 2 of those complaints have been from the Connétable himself. We are not talking today, Sir, about the Connétable presenting a petition with thousands, even hundreds, or even tens of signatures on it, campaigning for the children's parties to be banned at weekends. There have been 6 complaints, Sir, against over 7,500 children enjoying the pool but, of course, the Connétable tells us that is because English people - and hopefully local people - do not like to complain. Well, we are Members of the States, Sir, and we have seen when people do want to complain they certainly let us know about it. How many calls, emails, letters have I had in support of the Connétable's proposition since he has lodged it and since it has had publicity, Sir? None. I would be interested from any other Members, Sir, how many supportive emails, letters, calls they have had from members of the public in support of the Connétable's bid to stop children enjoying themselves on Saturday and Sunday afternoons in the pool. I think, Sir, that might put in context the Connétable talking to people while he is paddling and unhappy at not being able to swim lengths in the main pool. The Connétable mentioned that I called the Connétable a party pooper over this and I am afraid I cannot think of a more apt description. The pool operators, Sir,

are in no doubt whatsoever - and I support them - that they would have more than 6 complaints in a week, let alone 3 years, if they were having to stop the parties. They have parties booked up, it is so popular: months and months, in fact years, ahead because people, the public of the Island with young children - really appreciate having the ability to hire the pool so they can put on a lovely party for their children and that is what the Connétable wants stopped. So, Sir, not only does the Connétable want to deprive these local youngsters the opportunity of enjoying weekend parties in the pool, afternoon parties.... and the reason they are held on weekend afternoons, is that is the time when young children's parties are held. Now, the Connétable, Sir, might say hold them some other time but I am afraid that is when children's parties are held and what I would say to the Connétable is can he not arrange his swimming at some other time instead, rather than stopping these youngsters, these young children - enjoying themselves. Sir, it is not the biggest issue to me but not only does he want to stop young local children being able to have access to the pool in this way for children's parties, he wants the taxpayers of the Island to pay for it because - totally wrongly - he said this is to get the operator out of a financial jam. This has nothing at all to do with getting the operator out from a financial jam. We, as nearly all municipal pools are, wherever they are cited, are subsidised by the public, by the taxpayer. Les Quennevais pool is subsidised by the taxpayer. Fort Regent pool is subsidised by the taxpayer. The Waterfront pool is subsidised by the taxpayer. So the only person who gets in a financial jam by reducing the income is the taxpayer. Not the operator, they are completely protected from it. So what will happen, it will cost the taxpayer, the public as I have said in my report, a minimum of £20,000 a year in extra subsidy to the pool operator to make up the lost income on letting local children have parties there and families have parties there. That is what will happen. So, not only will you stop the children having access to parties but we will have to pay, all of us, £20,000 a year to make up for it, Sir. I did have a suggestion, Sir, for the Connétable if he is so desperate to swim in this particular part of the Waterfront pool on a weekend afternoon and that suggestion is he hires out the pool for a children's party of his own and invites his friends, or at least the 4 other people who have previously complained, to join him and then he can swim in the pool, Sir. Sir, the contract with the pool operator was freely entered into by the States. The Connétable said he was going to bring an amendment and he did not. That contract was freely entered into and the contract stipulated that the operator try to get the maximum return on the pool so as to reduce the subsidy or minimise the subsidy the States has to pay and the operator is trying and succeeding to get the maximum use and return on the pool while making it available to as many groups as possible. That means more people use it and it costs less to the States. The Connétable's proposal, Sir, would mean less people - particularly children - using the pool and the public having to pay more to subsidise it. Sir, I think it is so misguided, this proposition, and so wrong in its thought that we should stop. We are trying to encourage young children getting used to water and this would limit their numbers. Sir, I am afraid that in his speech the Connétable misled the House. He gave the impression Les Quennevais pool was open every weekend all day, Saturday and Sunday for general public use. I am afraid that is not true. Les Quennevais pool is now the main pool where galas and big meets and things like the swim marathon are held and when those are on obviously the pool is closed to general public use. Fort Regent used to have Pluto's Playtime and also used to be closed to general public use at the weekends because it used to be the main pool for galas and the Swimathon and so on. So, we have never had a public pool that has been available, open all the time, at weekends et cetera, I am afraid.

The Connétable of St. Helier:

I am sorry, Sir, can I raise a point of order. I think the Minister has accused me of misleading the House, which I think is a serious charge. Can I simply point out the information I quoted I obtained from his officers at the Fort Regent pool.

Senator M.E. Vibert:

Sir, it depends on the question as to which answer you get. The pool was generally open on weekends but, if you had asked, it was always used for the main galas and the Swimathon. The Connétable himself who took part in the swim marathon must have realised they happened over a weekend and there was not public use at that time. Sir, I think it is a shame that this had to come to the House. I hope, Sir, the Connétable gets less Members supporting him than the number of complaints there have been over the past 3 years over this and that we continue to support and allow the over 7,000 children - local children - who have enjoyed parties held in the pool over the last 3 years, to have even more enjoyment and using the pool in the coming 3 years, Sir. I hope Members really oppose this proposition, Sir. Thank you.

1.4 Senator S. Syvret:

I informed Senator Vibert yesterday that I was probably minded to support the proposal of the Connétable of St. Helier and he suggested to me that before doing so I wait to listen to what Senator Vibert had to say on the subject before I made my mind up. I have to say that I am now going to support the Connétable of St. Helier. I think that the speech of Senator Vibert consisted too much of irrelevant personal attacks on the Connétable of St. Helier and did not, frankly, address the key issues and the key points which the Connétable of St. Helier makes in his speech. Those key points are that this Assembly, and I was here in the debates, agreed to the closure of Fort Regent pool, the permanent closure of Fort Regent pool, because this leisure pool was going to be replacement and it has not worked out that way because an important part of the pool is shut to the general public each weekend. This is not what the States agreed to. As Senator Vibert said, the contract was freely entered into. Well, maybe it was but the fact is that the States debate, the States Assembly and States Members of the day, were given a range of assurances about the fact that this would be a continuing public facility and it simply is not accurate to compare, as Senator Vibert has done, the occasional closure of parts of the Fort Regent pool with what is taking place here. The 25-metre pool is effectively shut to the public each and every Saturday and each and every Sunday. This is not what took place at Fort Regent. So it is quite an accurate assertion. He also referred to the fact that Les Quennevais pool is occasionally shut for galas and large swimming events. Yes. Is that not in fact an argument for the proposition of the Connétable of St. Helier? If Les Quennevais pool is not available to the general public to go and swim in at weekends because it is shut for swimming galas or whatever, all the more reason for this family facility, because that is how it was sold to the community, to be open to the general public. The general public, not just those who can afford to pay for private parties but ordinary members of the public. It should be open to them at the weekends. Senator Vibert did not address at all the fact that a significant amount of taxpayers' money from the Tourism Investment Fund was spent on this project, a very substantial amount of taxpayers' money, because this was going to be, in large measure, a facility for tourists.

Senator M.E. Vibert:

Sir, a point of information, the Tourism Fund money went on the leisure pool which is open, not the 25-metre pool.

Senator S. Syvret:

A very substantial amount of taxpayers' money, via the Tourism Investment Fund, was spent towards this facility and that is a fact. St. Helier residents, Sir, who have had to put up with the construction of the land reclamation sites, the loss of their beaches, the noise and dust and filth from the construction projects and all the rest of it over the last 2 or 3 decades look like they are going to be the losers yet again in this because even if the Les Quennevais pool was open - and we have heard from the Minister Education, Sport and Culture that it quite often is not - many people in St. Helier want to go somewhere close at hand to use the pool at the weekends, maybe not out to Les Quennevais, but I do not think it is fair that St. Helier residents get treated in this way. Senator Vibert said to the point made by the Connétable of St. Helier about the information he was given:

“Well, it depends what question you ask.” Well, I am sorry but that is just not good enough. If States Members, seeking information from departments, have got to plan some kind of cryptic clever game where you are not going to get the information you are seeking and that you clearly need and you are clearly asking for, unless you ask precisely the correct question then that is a recipe for chaos. That is not co-operative joined up government. That is simple troublesome adversarial conduct just for the sake of it and, frankly, that kind of attitude is one of the reasons why this poor decision was made in the first place. The fact is that the States were misled. The Connétable of St. Helier is quite correct when he says that the basis of this decision was that this would be a replacement of a public facility for the general public and what is taking place now, on Saturday and Sunday afternoons, is *de facto* privatisation of that facility and it simply is not good enough. Now, there is a cost associated with the Connétable of St. Helier’s proposition and I think if that cost has to be met then this Assembly should say to the Council of Ministers: “You guys have got to find the money from your existing budgets.” A lot the present Ministers were the Members that were very enthusiastic supporters of this scheme and drove it through on the basis of certain promises and undertakings and assertions that were made to the Assembly and now we find, a few years down the road, well, no, it was not quite like that and the general public are not going to have access to an important part of this facility at the weekends. Well, it just will not wash, I am afraid. One of the key factors that we have to take into account here is whether important States debates and important States decisions are meaningful, are based on the facts and are based on clear understandings of what it is we are agreeing to. Now, we made that decision in the past on the basis of a clear understanding of what was going on here. If we are going to say: “Well, we have decided to change our minds - it is not viable any more,” that just is not going to wash. As the Connétable of St. Helier said, this attitude could have implications for other potential sell offs, privatisations, semi-privatisations, whatever they may be. I believe that the Connétable of St. Helier is right in this. I was in the States during the debate that established the leisure pool and some of us had these fears and these concerns at the time and we were dismissed and repeatedly assured not to worry about it. This would be a good replacement for the Fort Regent pool and we now find, well, no, that is not how it is working out. I think this Assembly has got to stick by the basis of the original decision and support the Connétable of St. Helier.

1.5 Deputy A.D. Lewis of St. John:

The Connétable of St. Helier made the comment, which is quite right, that British people do not complain but what the Connétable of St. Helier failed to mention is that British people vote with their feet. If I turned up at the Aquasplash with my cozzie and towel all rolled up under my arm and was refused admission I would just simply go elsewhere. It does say in the comments of the proposition that should the States agree to the proposition I believe there will be a significant impact as follows: the increased cost to the public of Jersey would be £11,000 for the remainder of 2006 and at least £20,000 per annum in future years. So, it was my understanding that on the leisure complex, the cinemas, the discothèque, the fast food outlets, et cetera would all be paying for the leisure pool but I remain to be corrected on that. I would like clarification from the Minister of Education, Sport and Culture regarding the status of the Fort Regent pool. I am aware of the legal status but I am curious as to the physical status. Has it been emptied? Is it full of water or is it full of rubble and cement?

1.6 Deputy G.P. Southern of St. Helier:

Normally when I go through forthcoming States business I usually have 2 piles. Those items that I have an interest in and wish to contribute to and those that I do not, that I cannot be bothered with. Perhaps it is a fault of mine. I looked at this project from the Connétable of St. Helier and instinctively I put it in the “I cannot be bothered” pile; I really cannot be bothered. However, here I am on my feet speaking. The Connétable presented a clear and specific case of what is going wrong

here. I am glad that he mentioned Orwell because that made my ears prick up and listen very carefully to the Minister's speech and I think I detected Orwellian use of language in it too. He talked about balance: a lovely word balance. Then he went on about it is normal to close pools for swimming lessons, for galas, the swimming clubs, and that is normal. Indeed, you come along or you phone up and they say, no, there is a gala on then. Fine. That is what you expect. That is the balance point. That is normal. To have a public facility closed regularly and continuously during a period of time because they are holding private parties, that I believe upsets the balance. He also mentioned the words optimum use. Nice phrase: it can mean what you like. Optimum use for what? What we are talking about here is optimum use to generate revenues. Not to provide a public facility, public service, but to generate revenues. So, what we are talking about here is not the need of the 7,500 or whatever little children because it is always good, rhetorically, to put the emotional bit in: 7,500 children. It is about optimum use to generate revenues, to try and ensure that either the profit being made from the swimming pool is maximised or the subsidy, in this case, going into it is minimised. It is about the bottom line and solely about the bottom line. The Connétable made much use of the words public or private and indeed this is an example of what happens when you do go down the line of privatisation: what you get is a reduced service - reduced level of service. Time and time again we have seen it. Privatisation does not mean better. It means worse. When you talk about public you usually mean public service. When you talk about private you usually mean private revenues. That is the way the balance works. Of course, having done the emotive bit the Minister then went on to a classic Walker phrase, there has been no mass demonstration. Where is the public will for this? Are they demonstrating in the street? Are there riots? Are there barricades up? No, there are not and indeed there are not but that does not mean to say that the Minister's position is the correct any more than to say a contract freely entered into does not mean any more than a contract freely entered into not necessarily a good contract. The Connétable has put his case very clearly, very succinctly, very correctly and he is absolutely right. He deserves support.

1.7 Senator P.F.C. Ozouf:

I was not in the States when some Members have spoken about the decisions on the development at the Waterfront. I do not know what information politicians, Presidents and the Assembly had when they were making the decisions about the Waterfront but I hope that I would have asked different questions and certainly I hope that my decision would be different from what we have at the moment. I am not particularly proud of past decision about the Waterfront. I am not particularly proud of the fact that the swimming pool that we are talking about today - the previous one - is still sitting on the top of the hill overlooking St. Helier in the disgraceful state that it is. **[Approbation]** Its replacement is not much of an architectural gem either. The fact that we have an important fitness facility that used to be at Fort Regent, that the payment of one membership meant that you could swim and go to the gym and do other fitness activities, you cannot do that on the Waterfront in Jersey. I have just taken my trade back up to Fort Regent because unfortunately you have to pay one level of fee to get into Fitness First and one level to get into the swimming pool and frankly I cannot believe some of the decisions that have been made in the past. Bad decisions have been made and they were clearly made on erroneous information. **[Approbation]** Some of those decisions we have to live with, others we can change; and I am quite sure that the Member to my immediate right is going to be solving some of the architectural issues. Tourism has been raised and I have been reminded that there were 2 sources of funding for the Aquasplash; £2 million or thereabouts was used for the public facility at the replacement of the fitness or the Islander facility, and I think it was £7.5 million used from the Tourism Development Fund. Frankly, I have to say when I look back at all the projects used for the Tourism Development Fund, I have described it in some places as a self-service buffet for a variety different projects. **[Laughter]** Frankly, looking back, I really wonder whether or not £7.5 million was a good use of Tourism Development Fund. I am not sure that I can go out in the public and to the tourism sector and say what a great fantastic tourism facility we have here. But it has to be said - it does have to be said - that if the Connétable

is going to use the tourism argument for this then the tourist facility, the TDF (Tourism Development Fund) money that was the flumes and the leisure pool, is actually open. It is unaffected by, as I understand it, by the closure. It is in fact the public facility that is part of it. Indeed, from a tourism perspective, the Connétable does not need to admonish me if I am going to support or not support his proposition. He does not need to tell me off at not supporting tourism. We are supporting tourism. We are doing some very exciting things with tourism. I went to the Aquadome last Friday. There are some exciting developments happening there. That probably is a better example of an integrated tourist facility which tourists are enjoying. So, it is not quite true to say that there are not some opportunities for tourists to swim at that period of time in the afternoon. The Connétable is a good speaker but he sometimes confuses me. Deputy Southern I disagree with; talks about privatisation. I do not think this has anything at all to do with privatisation. I think it does not matter whether or not it is the States or private operator and, by the way, I have to say to Deputy Southern that he is completely wrong when he says that privatisation means bad service. It means efficient markets, it means lower prices, it means more competition. It does not. I am not a slave at the altar of privatisation or anything else and I think the private sector thing here has got absolutely nothing to do with it. Supporting this proposition is effectively a one-way street, it is basically saying that the public facility must be used without the ability for people to have private parties. This is a clear trade-off. I am afraid the tourism element of it is clear, that is open, that has been paid for. Whether or not it was a good idea or not is another matter but it is open and it is there. This is a trade-off between Islanders having the opportunity to go and swim, versus children's parties and I am afraid to say that I am not going to be very popular here, but I think Senator Vibert and his Education Department have got some work to do. I think they have some work to do in relation to the use of their assets. I warn him I have moved my business from Fitness First up to Fort Regent so that I can go and have a look at what is going on up there. I am seeing, on the ground, that there are some opportunities for improvement. There are some opportunities for better asset utilisation. There are some opportunities for better asset utilisation with some of the other projects that he has been funding in the last few years because of course, there has only been mention of the Aquasplash and Les Quennevais so far. This Assembly has allocated money for other swimming pools across the Island. I seem to recall that we have put money into a splendid swimming pool at Hautlieu. I believe that we have put money in a splendid new facility at Mont Millais I am not sure if there is a swimming pool there but I think there may be. There is, jolly good, there is one there. **[Aside]** There is certainly one at Haute Vallée. So, there are swimming pools in the Island which have been funded by this Assembly which should be used in a far more open inclusive way than in the past and that is where the solution must be. I am sorry if Senator Vibert is going to blow a gasket but **[Laughter]** frankly, this Assembly has been told in the past that we must support these school facilities, not only for good educational reasons, but because they are going to be available for public use. Now, there has to be, I say to the Minister of Education, a solution here. There has to be a solution in respect of children's parties and public access. I am afraid that the solution is not ... and I have great sympathy with what the Connétable is saying here, and in not supporting the proposition because I am afraid it does inflict a financial consequence which I do not have a solution for and I do not think the Education Minister has a solution for and I do not think the Connétable of St. Helier has given a solution for. He is effectively saying the Aquasplash must not be available for parties and it must be available for open access. I want, and in fact I would prefer, the Connétable to withdraw his proposition, but the Education Minister to go away and talk to his sports people and his education people, and find a solution here. Is it not possible to have children's parties at some of these splendid swimming pools at Haute Vallée and I am sorry that I do not know whether it is at Hautlieu or Mont Millais, I am not allowed to go there, I am not a member of the public. It is only the school people that are there. I do not know they are there but I know that we have spent millions of pounds investing in them. There has to be a sensible solution here which is about the appropriate allocation of resources. So, I am afraid, to the Connétable of St Helier, I am not going to support his proposition because I do not think it is quite right. I do not think we have got all of the full information in order to inflict this particular problem

on the Aquasplash as it is at the moment but there has to be a more hard work effort in respect of Education, Sport and Culture in the way that they have used their assets and I warn the Education Minister, I am going to be going back to Fort Regent.

1.8 Deputy P.V.F. Le Claire:

I enjoyed Senator Ozouf's speech very much there, I thought that was a very clear speech. It may not have gone down well with the Minister but I did agree with a lot of what he was saying, and it does show that he knows what he is talking about and he does his research because of the information he supplied in relation to the investment from the Tourism Development Fund and how that money was allocated. I do personally feel that if you are going to go to a swimming pool and you are faced with an obstacle and obstruction, as other people have said, you can be put off from returning if, at the time that you choose to return or on the occasion that you choose to go, you are debarred from doing what you wish to do. I think the tourist element would want to, in many circumstances, swim the 25 metres after they have sat underneath the flumes for a couple of minutes. I do not see how those 2 are not linked in some way. I do agree with him that the all-encompassing sports facility, which was present at Fort Regent, is sadly lacking in the Waterfront and I was one of the detractors or wreckers of the Waterfront when I, with Senator Syvret, objected strongly to the design of the Waterfront that was proposed, and to the swimming pool that was proposed to replace the Fort Regent swimming pool and all of the rest of it. I was rubbished basically as to what I was saying and it has all borne fruit; not very tasteful fruit. But we are talking here about a financial consequence to the States of Jersey and we are being told that that is why we should not support the Connétable. But if we look at the financial consequence we are talking about, it is £20,000 a year: £19,980 something but let us call it £20,000. With the bare minimum figures of 7,500 people over the last 3 years, based at 10 people per party, we are looking at somewhere in the region of £384 a week. If the Connétable of St Helier, with his other 4 complainees, were to attend the swimming, they would all pay £3.20 each and the actual money that would be missing would be £307 per week. So, if the States of Jersey, after having invested millions of pounds, cannot find £300 a week to keep this pool open for the public, I think it is quite disgraceful. I also do think, and I have found trying to use facilities that are under the control of Sport and Leisure, that they are not as available as one would like them to be. I remember taking my son to Les Quennevais about 4 years ago, and tried to get to play on one of the basketball courts and I was told that it would cost me £40 to play with my son on the basketball court, because I would have to rent the whole court rather than just one end to put the ball in. It makes me wonder why there are so many children on the street. It makes me wonder why there are so many children hanging around in areas with nothing to do, with so many facilities going to waste. Perhaps there are issues of better utilisation and, understandably, those issues have to be looked at in relation to the costs of staffing them and maybe there are swimming pools and maybe there are staffing consequences but I certainly will be supporting the proposition of the Connétable of St Helier. I think that the closure of Fort Regent was done in arguable financial terms. I think it was more to beef up the attractiveness of selling us the Waterfront package which, on the whole, I do not believe was a good one. I will be supporting him because I think it is also important that we say to the people of St. Helier, St. Saviour and St. Clement, that when they choose to go down to that facility - when they get the opportunity in their busy lives with their children - they are not going to be suddenly faced with the situation that they cannot swim. Also, for the tourists who, on those, thankfully not so frequent, rainy days at the moment during their holidays, come and spend 2 weeks and the sun does not shine. What do they do with the children? **[Laughter]** Well, Senator Le Main says we do not have any tourists that come for 2 weeks but we certainly do and it would be nice if we had the swimming pool available for them to use. Therefore I will be supporting the Connétable of St. Helier.

1.9 Deputy P.N. Troy of St. Brelade:

I have got 2 children and many years ago now we used to go to the Merton Aquadome and book parties there and I seem to remember those parties; the pool was shared, they did not close part of the pool off. I do not understand why this facility needs to be closed off fully. I have not been to this facility so I do not even know what it looks like, I have not got a clue. Also remembering the past, I remember that Fort Regent, which had about 6 lanes I think, it used to close 2 or 3 of those lanes every now and again, for swimming clubs to swim up and down the lanes and they used to leave the other 3 lanes open. I think some sort of compromise like that could be reached because if you have a 25 metre pool with I do not know how many lanes this pool has, but if it has got 6 lanes or 8 lanes - 6 lanes I am instructed - one could close 3 lanes and leave the other 3 open for public use. So, there must be some compromise that the Minister and the Connétable could work out here and I really feel like going over there and banging their 2 heads together and saying: "Go and sort it out, lads". I think it is wrong that the Minister seems so entrenched in his position because he seems to have no idea that he wants to even enter into any sort of compromise situation and I think that is a bit of a shame, especially concerning the fact that public use is totally barred at these points. I think a compromise could be reached and I would hope that the 2 parties here could sort it out.

1.10 Deputy G.C.L. Baudains of St. Clement:

I was disappointed when I heard the comments of the Education Minister. I think Deputy Troy has adequately summed it up as being an entrenched position, because somehow his version of the situation did not strike me as terribly accurate and I do not personally believe that he addressed the real issue under debate, which is why the new pool does not offer the same service as used to be provided by Fort Regent. In that regard I agree with the comments made by Deputy Scott Warren earlier that the States were very probably misled at the time. I believe that was an issue also picked up by Senator Ozouf. Unfortunately, like many other things - and the Waterfront hotel springs to mind - a straightforward description of fact, when we are addressing these issues, seems to be becoming increasingly uncommon in this Assembly. Of course, the pool may not have all of its facilities available all of the time. Of course, swimming lessons need to take place in certain parts of the pool but surely, Sir, I wonder does that have to be at weekends? I would have thought that possibly much of the learning of swimming might be done in school time. The Minister suggested, if I heard him correctly, that the Connétable should choose his swimming times to work around the parties. I have to ask why can it not be the other way around. Why can the parties not be held at other times, times that are not inconvenient to the general public. I do completely agree with the Connétable, it is simply not on that private parties - a select few possibly more affluent families who can afford this - can exclude the general public from a public pool built, as we have heard, with public funds. Mind you, it should not be a surprise to Members that whenever we outsource facilities, which is a matter which a couple of other Members have mentioned already - when we outsource facilities that we used to run ourselves, to private enterprise, the focus changes from one of supplying a service to the public, to one of making a profit. We do need, in fact, as alluded to by the Connétable in his opening speech, to be more aware of this issue when we do change services into private or public partnerships or completely private arrangements. The Education Minister also spoke of the financial aspect. Parties were required, to make the pool break even. I think this only reinforces that view. It also reinforces the view, in my mind, that the contract we entered into - much like the hotel arrangement - was not a good one. In fact, the previous Scrutiny Panel was going to research the problem surrounding the Aquasplash and its finances. The only reason the Scrutiny Panel did not do that was because it was ruled out on prioritisation. Scrutiny Panels simply cannot do all the subjects that they would like to, there is simply not the resources to do that. There has been concern for some time - the reason why it was suggested as a Scrutiny subject - that the pool has not been performing as was expected and it is, in my view, unfortunate that the Education Minister is apparently oblivious to these problems. It is a basic fact that we have not got, at that

facility, what we were promised or what we expected, and the Connétable's proposition does in some way rectify that situation. He therefore has my full support.

1.11 Deputy J. Gallichan of St. Mary:

I am really regretful to say that I think, on a technical issue, I will not be able to support the proposition but as a parent, you see, I think that I would be very, very unhappy if a long-planned party I had arranged for my child was cancelled now as a result of this proposition. However, I want to send a clear message to the Minister for Education, Sport and Culture, that I am not happy at all with the way things are at present. If this proposition was worded differently; for example that no further bookings would be taken, rather than the pool would be available for public use, I would be definitely supporting it. You see, I think that I may be one of those 6 people, so perhaps I ought to disclose some sort of interest here. I did not make a formal written complaint but I certainly complained to the staff and I was certainly treated very courteously by the staff and given a refund and, in fact, free tickets for the next time. I arrived with my children and I said: "Can I just check the facilities are open, yes, everything is open". I went into the changing room and by the time we had got changed they had closed the pool for a party. I was not particularly happy about having to be in the small area because what I am not quite sure of is how often the Minister uses this pool but the area where you can swim, if you cannot swim in the 25 metre pool, is very, very small. The wave machine there, which they run, is excellent fun but as soon as the Klaxon goes to announce that that is going to be operating, everybody from every area of the pool dives in there and you cannot move for bodies: you cannot swim there certainly. So, I thought: "Well, my children enjoy this, my children enjoy the flumes, I am not going to make a fuss. I will go outside." Then, on a beautiful day, about 10 minutes later someone came to get me and said: "Excuse me, you have to come in now." I said: "But I cannot go in there, I cannot swim in the pool" "No, no, there is a risk of thunder, we have heard the forecast and we cannot allow you to be outside." I mean, obviously that is totally beyond their control and I am not criticising their policy, they have regulations. But on that particular day, I could not swim out and I could not swim in and I was justifiably, I think, upset about that and not the only person. So, I think the 6 complaints must be 6 written complaints and certainly not 6 complaints to staff. I think, in all honesty Minister, the number of people complaining is considerably higher than that. The Minister made the comment that perhaps the Connétable would like to hire the pool for a party, then and invite those 6 people. So, I am very much looking forward to my invitation, Connétable. **[Laughter]** However, I do not make any assumptions of the Connétable of St. Helier's financial status, but let me assure you all that it is not cheap to hire that pool for a party, it is not cheap by any means and I would say that for a large section of this population it is beyond their means. We already know that you have to have a minimum of 10 people and I think the last time I looked, I cannot be sure of my facts at the moment but I think it was something in the region of £8.50 a head so you are talking about £85 minimum charge. You try telling your child: "Yes, you can have Johnny and Sarah but you cannot have Jack because that is 11 and I cannot afford it" or whatever. So, for a large number of people it really is beyond their means. I have got no axe to grind with the operator for that because there are financial facts. I do not have a problem with the pool at all except to put it into context. I was not in the House obviously, when this was debated. I cannot claim to have been misled as a States Member but I can certainly claim that as a member of the public at that time, I was expecting something substantially different to what I got. I was extremely excited by this proposal, as a parent of then 2 young children one of whom is quite a lot older now. We went in the first week of operation and we were so looking forward to it. I arrived and it was clean and shiny and well operated, I have no complaints at all with the facilities or with the way it is run, but after about 10 or 15 minutes I went up to somebody and I said: "How do I get to the rest of it?" They said: "What do you mean?" I said, "Well, where is the rest of it, you know, there are 3 flumes here and a small pool, what else is there?" "Well, this is it". I could not believe that, for a huge investment which was going to be for tourists, for local people, you know, to be the major swimming, fun place to go, that we had cut off

our noses to spite our faces and had not made it that little bit bigger that it should have been to make it properly operational for our requirements. There should have been another or a larger area to swim when that pool was closed for parties or for training, and I am afraid we really did ourselves a great disservice because it is a lovely facility but it is not suitable. I would love to support this proposition and perhaps, if the Connétable can give me some comfort on this, then I will support him. First of all, I thought this was really quite a frivolous and a personal thing to bring but the more I have thought about it, the more I realise that there was a fundamental misunderstanding - and I am afraid I think it lies largely with the Minister - of what the people expected and the satisfaction they have got with what is there. Also, just to add my 2 penny worth, I personally find it scandalous that, on an Island such as Jersey, where we have one of the largest tidal movements and some really rather dangerous waters around this Island, that there is no provision for teaching our children to swim without resorting to ... to help the people especially who have no means of affording these swimming lessons, which are really, believe me, quite expensive. When I was a child every school had a small pool here, a small above ground thing. We all learned to swim at our schools.

Senator M.E. Vibert:

Swimming is part of the curriculum and all children are taught to swim in schools.

The Deputy of St. Mary:

Minister, is that not secondary schools because certainly at the junior school, that my daughter attends, there is no provision to teach them to swim. Anyway, I just would like to make that point that certainly I am disappointed about that. But moving to the proposition, I would like to support the Connétable in this, and I really would like the Minister to take note, that I am not alone in this. I, like other people here, talk to a lot of people. When I had my experience of not being able to swim, other people around me were not happy either. So, I just want people to go away with a positive outlook from this Island and then I want them to come back.

1.12 Deputy G.W.J. de Faye of St. Helier:

I am very pleased to follow on from, what I thought was a particularly intelligent speech from the Deputy of St. Mary, and indeed, most of the speeches I have heard this morning have all offered a considerable degree of merit. But I think, in the most part that has been coupled with a very high degree of frustration. Frustration with this particular problem, and I do not lay this at the feet of the Minister for Education, Sport and Culture, or at anyone's door in particular because, once again, this Chamber is facing an unfortunate track record of poor decision making. One poor decision following another and here we are trying to pick up the pieces and attempt to resolve the issue. I recall, many years ago now, when I was a regular user of the facilities at Fort Regent, mainly for playing squash, unbelievable ... I know it sounds, **[Laughter]** and perhaps the court was indeed a bit of a squash. One of the clear advantages, to that membership, was the ability to have, effectively, free use of the Fort Regent swimming pool, of which I often used to take advantage of both at lunch times and other times of the day. I have to say that, even then, I did feel a level of resentment when I would be told at whatever particular time it was, "I am sorry, you now have to leave the pool because it has been booked out to education who are now going to have a party of third year or fourth year" - they are now called keys or something - and you would be turfed out, as a member of the public, in order to make way for school children. Now, I have got nothing against young people learning to swim, I think that is fantastic and right and proper and, as the Deputy of St. Mary indicated, what a ludicrous position it would be if we had Jersey folk - Islanders, surrounded by sea - who cannot swim. No. I just, though, had to bite the bullet because there was only one pool. I also recall that we managed to design the pool so it was too short. If Members recall, we were unable to stage international or Olympic competitions because it was a matter of inches too short. Ridiculous. Ludicrous. But did we learn the lesson? I am not entirely sure that

Aquasplash fits the bill, I keep hearing the figures 25 metres: no one has challenged it. That is too short for international competitions, so we have the same problem all over again. Why is it that we just keep failing to provide the adequate facilities? There is a clear solution to this problem, it is the same as the fix down in Broad Street with Café Toulouse. It is 2 pools, one for lane training or whatever and the other one can be hired out for private parties. It is not rocket science. It is just amazing that we have not come up with the appropriate facility, after how many years of having the opportunity to think about it. Decades. Here we are, still back almost where we started, with a pool that is too short, that gets closed down for private parties, gets used up by ... It is barely a public pool, it is a sort of private educational sport and culture pool, with a little bit of tourism fluming thrown in on the end but apparently not in thundery weather. It is another poor decision, unfortunately, that we are having to live with. Now, do we buy our way out? I am afraid this is where I part company with the Connétable of St. Helier because, no, if I detect the mood from the Minister of Health that we will fix this problem with yet another assault on budgets that have been pared away week by week. First they are pared away to help with the prisons, then they are pared away again to help with third party appeals, and they are pared away again. Consequently, I am sorry, this needs a decision that does not affect my constantly nipped away budgets, thank you very much, and I think that it is perfectly reasonable to suggest, as has been indicated, that perhaps the Connétable of St. Helier gets together with the Minister for Education, Sport and Culture and you have serious discussions with whoever it is running the pool, and find out if there are ways around this, whether there is a compromise. I am not entirely convinced that Senator Ozouf's worthy suggestion about utilising school pools is necessarily the way forward because, as I am sure Members would realise, there are questions of responsibility: there is the cost of opening in the evening: there is who is paying to be the lifeguard and so on. There are not any easy solutions to this but my goodness we need to start finding them. We cannot keep building pools that are too short, do not have enough swimming space in them, and are being monopolised by various interest groups, and still purport to call themselves public pools, when we have heard clear evidence on a number of occasions that the public are basically not allowed to use the pools. It is unacceptable but I regret to say I do not think the solution is just to chuck some cash at it and ban the party operation, interfere with a contract that has been made, and with no duress, perfectly properly, with a private company. I do not think that would be the correct approach. So, regretfully, although I think I am grateful to the Connétable for raising this matter, he again has underlined as other Members have, the very unfortunate situation that surrounds the use of swimming pools generally throughout the Island and this one in particular. I am sorry, (...inaudible) I cannot support the proposition.

1.13 Connétable K.P. Vibert of St. Ouen:

Like the previous 2 speakers, I think I need to congratulate the Connétable of St. Helier for having highlighted this problem but like, similarly, the last 2 speakers, I share concern about the proposition. I do not believe that this proposition is going to achieve anything because exchanging one wrong for another one, will in fact put us in even more trouble. Taking away the facility from those members of the public - the voting public, the tax paying public - who, at the moment, wish to use that facility for private parties, will only alienate another section of our public. I think we need to seriously consider the points which have been raised in this debate; seriously consider the points which have been made by Senator Ozouf. There must be another way forward where everybody will win, and I do not believe that voting for this proposition - either one way or the other - will achieve anything, certainly will not achieve any credit for this house.

1.14 Deputy J.B. Fox of St. Helier:

Anybody who knows me, knows that I like a solution to a problem. I generally try and draw a line on all the things that have happened in the past because, most times, we cannot do anything that has happened in the past. Now, I was not in the States at the time of the big debate on whether Fort

Regent should be retained or whether we should have a new one on the Waterfront, but I do remember distinctly at the time that the arguments, toing and froing, from the various organisations - the Tigers Club, et cetera - was that there was a need for increased facilities, better facilities and then the argument against it was going to be the cost of the replacement for the Fort Regent swimming pool. The desirability of a swimming pool on the Waterfront that included flumes and other things that children particularly were interested in, were also at the forefront of the argument at the time. Inevitably at the end of the day, the question of money came into it and the main thing that I remember from the argument was that there was not going to be a new swimming pool at the Waterfront unless there was a public contribution to the fact, but it would be a lot cheaper than refurbishing the one at Fort Regent, and the decision was made. That is a fact. There was probably a lot more arguments to and fro, there usually are when the details ... but inevitably, yes, we are very well endowed, if you like, with swimming pool space within this Island; it is a question of its use. The other question is that we have built all these swimming pools and no, we do not have them in the schools any more for the simple reason that swimming pools cost a tremendous amount of money both to build, maintain, and to keep them up to standard. But long are the days when you could have somebody who was a keen parent that used to go swimming, that would come down and sit and act as water safety as a lifeguard, you have to have fully qualified people and you need a lot of them now. We, in Education, Sport and Culture, have to abide by all the rules laid down by Health Protection and Health Services, as everybody else has to do when they have members of the public come in. It is important also to remember that there have been propositions brought to the States on the refurbishment of the whole of Fort Regent, and we have had decisions in principle that there is a necessity to update and upgrade Fort Regent. Senator Ozouf is quite right: we, at Education, Sport and Culture recognise he is quite right, that there is a lot of space up there that could be better utilised than it is at this time. The reason being that there has been no money forthcoming to provide that uplift that Fort Regent clearly and desperately needs. Also, there was the question of whether Fort Regent should include having conference facilities and certainly, in Education, Sport and Culture, we have been waiting for some time for a decision to be made by the then Economic Development and subsequently by the Council of Ministers, as to what direction that is sought for the Island - not for Education, Sport and Culture - for the Island. Now, as a Parish Deputy in St. Helier, I too believe in having swimming facilities for young people, whether they be local people in St. Helier or whether they be from other parts of the Island or tourists or whatever, and I think it is very important. I cannot go for this particular proposal for discontinuing and turning down young children who have been promised parties, but I do not see any reason ... I wish the Connétable would talk to Education, Sport and Culture and especially the people that are dealing with the sport side of the business, Derek de la Haye, in particular, and the Minister who has responsibility, to have a better understanding of what all the other facilities that are being used for in the Island, whether they be at Haute Vallée School - like Tiger's Club uses after school, disabled groups use it, other people use it. But you cannot just have a member of the public, or even the residents around an area which one of our swimming pools are; they cannot just go and say: "I would like to swim today and here is my money" and come in. It takes a lot of money to keep those pools open for longer periods of the day, weekend or whenever, so it has to be organised. It has to have the staffing, it has to be maintained and that all costs money. Yes, the moneys we are a talking about for this particular thing sound small but they have a roll on effect. There are pressures, at the moment we had mothers and children in the Royal Square not so many weeks ago wanting the question of early years sorted out. We had an open meeting last night and the night before, where concerned parents were coming to talk to us and put their ideas into higher education. We are working, at the moment, on further education and all other types of education from 14 to 19 years. There are a lot of things that we have responsibilities for and we cannot just take money out of the pot without something suffering or something else not being improved. So, it is important that when change is necessary, that it is done constructively: it has been thought out. I would ask if the Connétable would withdraw this particular proposition, and let us talk about having meaningful discussions, and see if we cannot find a much more productive

way forward that does not have rhetoric or hark back on previous decisions. We cannot turn back the clock and I hope that all the rhetoric and everything else would be set aside in order to benefit the whole community, and our visiting community, but not at the expense of having to withdraw something else because of some hasty decision or ill thought out decision that just looks at one very small aspect instead of dovetailing it into a far greater picture. I would be very happy, as indeed the meeting that the Connétable is holding at lunch time, to be able to support being present to being able to find a positive way forward that we can find a better resolution to the current problem than that which exists at this time.

1.15 Deputy R.G. Le Hérisier of St. Saviour:

I wanted to say - if I could build on what Deputy Fox said and the Deputy of St. Mary and the Deputy of St. Brelade. - I think this is taking an inordinate amount of time. We are going around and around the mulberry bush, some very good issues have been - and I do commend the Connétable, I think he put an excellent case. But what seems to have arisen, is from his irritation with his inability to get any changes on a fairly narrow issue, as the Deputy of St. Helier just put it, has now blossomed into a full scale debate on privatisation and so forth. Would it be possible, Sir, for the Minister for Education, Sport and Culture, for the Connétable, perhaps under the chairmanship of the Deputy of St. Mary, who seems to have a very good grasp of the issues as a user, to meet together and sort out this and then, if we have got fuss and bother about the whole drift of that pool, that can be addressed in another proposition. We are going around and around. Could people just get together and sort out this immediate issue. I think the Connétable has got a very good point but we do not need the full effect of 53 people trying to work it out. Would the Minister be allowed to respond.

1.16 Senator M.E. Vibert:

For my part, I am quite willing to get together to try to resolve the issue. There is the problem of bookings being taken in the future, where people have booked, which I am very concerned about but I am quite happy to get together. I did not think this matter should have come to the States in the first place.

1.17 Deputy J.A. Martin of St. Helier:

Either I am misreading the proposition or everybody is reading it in a different way. All it is asking is to take steps to ensure that both the main pool and the leisure pool in the Aquasplash swimming complex on the Waterfront, are available for general public use on Saturday and Sunday afternoons. It does not say that the parties must not continue. I have, like the Deputy of St. Mary, been to parties. They do have a big inflatable. I have also used the flumes. Now, there are 2 problems with the leisure pool. On the tourist side - the leisure pool - the flumes, are not open in the autumn and winter time and the holiday time stops on the Friday before the children go back in September and they are not open on the Monday, Tuesday and Wednesday. So, I think the leisure pool - the lane pool - all need looking into, and this proposition does not say the parties cannot continue. I have just phoned up the Aquasplash; they are not £8.50, they now do not do food with the parties. You can get a concession from one of the other places but it is £6.50 a head for a party of 10 children. But the excuse that I got of why the flumes were shut - and this is supposed to be for tourists - through the winter and autumn, all day, all week ... the flumes are shut. The leisure pool is there but for anybody who has been, you can just about, for an average sized person, get wet up to your tummy. There are no flumes; that is what the children want but they will still charge you £5.20 an adult and £3.60 for a child and it is your choice whether you go in. It is not what the tourists want. So, this pool does not do what it says on the tin. It is not good for the people that live in St. Helier. Certainly, through the autumn and winter months when we do have visitors with

young children: a pouring day - "We will go down Aquasplash". No flumes. It is an absolute joke. I will support this because I think it might take a little bit of extra staffing to overcome at first, with the parties that are already booked, because I do know it is a very large inflatable. But having just spoken to Aquasplash, there are other alternatives. You can have smaller inflatables. It is down to what they wish to do, they do not need to cancel any parties. They could still have a couple of lanes for swimming. So, as I say, having read the proposition, I think that is all the Connétable is asking. I do feel if we do leave it in the air again today, things will just flounder on and nothing will be done and, as I say, the whole area of this pool - especially for the leisure side and the tourists, as well as the public of St. Helier - needs a really good looking at. We do not know how many people you are turning away. I walked away and my friend with her 3 children, when they said: "Yes, you can come in the leisure pool". I said: "Well, it is still school holidays" they said: "Well, to us they finish Friday" I said: "But the children do not go back until Wednesday". "Well, we are not operating, we do not have the staff. We cannot open, not enough lifeguards". It is all down to money, I understand that, but is it a public service, is it a tourist service; or is it another con that we were told and someone is making money somewhere. Because I know Fitness First is supposed to be making money but it is certainly not subsidising the leisure pool. I will be supporting the Connétable's proposition.

1.18 Connétable M.K. Jackson of St. Brelade:

I would just like to refer back to some years ago when I ran safety courses at Fort Regent and at that time, in order to reserve the pool, one had to put a notice in the evening paper, *The Evening Post*, at considerable cost, and that was the way you booked the pool so everyone knew. Clearly that now has changed. My observation on this is that, in practice, nobody thought about this when the original contract with Serco was taken out so, clearly, this is a subject which has arisen of late and needs to be addressed by the management of the pool - maybe ESC. I am a bit concerned about the figures which have been quoted because, clearly the figures quoted are the loss of revenue due to the lack of parties, but there is no indication of the other side. What revenue will come in from private individuals if the parties go? There is nothing to say that that revenue would not be in excess of what is being lost and I think those figures have to be taken with a pinch of salt. The point also needs to be taken on board that, in comparison with the Quennevais pool, which has been alluded to earlier - in that Quennevais is run by ESC - this is run by a private company and, I suppose in effect, that is a direct comparison, so Members can take their own views from that. I have to be a little bit careful on what I say because I appreciate that the Minister is a member of my Parish and I have a rates meeting tonight and I do not want to be heckled too much. I think that we have to be sensible about this and surely, private use alternate weekends has to be an answer. There has to be a simple answer to this which is achievable.

Deputy P.V.F. Le Claire:

May I just seek a point of clarification because we have been given figures this morning by the Minister, and we have been given figures this morning by Deputy Martin and also the Connétable of St. Brelade has now queried the figures, but based upon my calculations of the numbers we were given from the Minister - this morning - of 7,500 people, based upon the bare minimum, as he mentioned in his speech, of 10 people over 3 years - in my calculation £2,500 times the £6.50 comes to £16,000 not £20,000.

The Bailiff:

Deputy Le Claire, from whom are you seeking clarification?

Deputy P.V.F. Le Claire:

Possibly from the Minister, Sir, in relation to the moneys that we are being told will be forfeited if we do agree with the Connétable's proposition, because in my calculations it comes to £16,250 when we were informed this morning that it is £20,000.

Senator M.E. Vibert:

I can, very quickly. I did mention it was a minimum. The figures for the income is based on actual income in, that they have had and they have done ahead, but they did not want to inflate the figures of the number of young children who use the pool, so they used the minimum figures. But more children use the pool for children's parties so more income has come in.

Deputy C.J. Scott Warren:

Could we have clarification about what the costs would be if the children were not having the parties or were only taking half the lanes. What about, as has been alluded to ... what are the costs of income coming in from ...

The Bailiff:

Deputy, I am sorry, this is not a Committee meeting, this is a meeting of the Assembly. Connétable of St. Peter.

1.19 Connétable T.J. du Feu of St. Peter:

We have heard, in this debate, a number of concerns by Members. Now, if the Members are expressing those concerns from personal experience I have no doubt that a number - and perhaps a considerable number - of the public have also got concerns as to the operation for all manner of ways and the actual procedure which is adopted from day to day. The Minister has made an offer to sit down and talk around this problem. We have got the experience of the Deputy of St. Mary and we have got a considerable experience, I feel, with the Connétable of St. Helier on seafaring matters - although I would stop at suggesting that is out at sea - I would more or less say that we are probably going all at sea on this one. Nevertheless, could I plead with the Assembly to move on to other business - not move on just pushing this one aside - but constructively and ask the Connétable of St. Helier, please to accept the offer from the Minister and together, to show that there is a complete impartiality and a fair hearing, to include the Deputy of St. Mary and the Connétable of St. Brelade in those deliberations.

The Bailiff:

Are you moving a proposition, Connétable?

The Connétable of St. Peter:

I accept that, Sir.

The Bailiff:

I thought you were about to move that the Assembly move to the next item on the Order Paper.

The Connétable of St. Peter:

I said that I did not wish to take that course but merely gave the lasting opportunity to the Connétable of St. Helier to take up the offer, Sir.

The Connétable of St. Helier:

Might I respond to that, or not?

The Bailiff:

I am going to call on you to reply in a moment, Connétable. I call on thee if nobody else wishes to speak.

Deputy K.C. Lewis of St. Saviour:

May I just seek further clarification from the Minister of Education, Sport and Culture, regarding a previous question regarding rumours of the Fort Regent pool. Is it still full of water, has it been emptied or is it put beyond use?

The Bailiff:

No, on another occasion but not in the course of a debate, Deputy. I call on the Connétable to reply.

1.20 The Connétable of St. Helier:

I thank various Members have suggested meetings with the Minister. I have already had a meeting with the Minister and his staff, at which no movement was made possible. We have had a full debate on the subject and I am sure there are not that many speakers who wish to join in. I would prefer to see the debate through to its end and I will sum up and make various comments at that point.

The Bailiff:

Well, I have just called upon you to reply.

The Connétable of St. Helier:

I am sorry, Sir, I thought you wanted my views on the Connétable of St. Peter's suggestion. Fine. I do thank all Members who have spoken. I will deal with the important question raised by Members latterly in the debate about the status of existing bookings. First of all, if I may just run through a couple of the speeches that were made. I think all speeches were useful and constructive with the notable exception of Senator Vibert's and, as was pointed out by other Members, his speech was distressingly personal: not distressing to me I think, more distressing to perhaps States Members who feel that there may be room for negotiation. He seemed to be suggesting that the proposition was driven by my needs to swim in the pool, and I thought that was regrettable, unless it was meant as a joke but I do not think it was. Clearly, Members have accepted that there is an important issue of principle here. As one Member said: "This is not a frivolous proposition, it is fundamental" and that is indeed why I brought it. He claimed that I use selective quotation. That the majority of the pool is open when the lane pool is closed, and I think Members have satisfactorily dealt with that. There was no single reference in his speech to the needs of the tourist, which I think was significant, and indeed much of my speech was based around the needs of tourists and what they expect from a municipal pool. He did, helpfully, suggest that I do a petition and I am happy to oblige if it takes that; but interestingly, his question would be for the public: "Do you want parties stopped at weekends?" My question would be: "Do you think the public should have unrestricted access to their pool on weekend afternoons?" I think you would get a very different answer to that question. I thank Senator Syvret for his support, and equally Deputy Lewis, who rightly pointed out that when this first came to the States we were promised that the loss making pool would be cross-subsidised by the other facilities on the site. Deputy Southern also shares my concerns that if this proposition is lost, other attempts to privatise States-run facilities may have a tougher time of it in the States. Senator Ozouf has flashes of brilliance, when he rises to speak, and it is appropriate that I refer, in passing I think, to that flash of brilliance he came up with some time ago to do with the introduction of a commercial rate, and the fact that Parishes, this week and next week, are going through an historic rates assembly meeting where we have the equalisation as to welfare, which is due to a flash of brilliance from the Senator. His flash of brilliance today, as he spoke about the pool, I think, was directing our attention to the under-used facilities that have been provided by the public. As he was speaking it occurred to me that of course Langford pool is an excellent site for a

private party. It has got ample parking, it is well away from other problems and indeed, the Education, Sport and Culture Department should be looking at getting more revenue out of their pools to help cross-subsidise other facilities. I think where I disagree with the Senator is he said that the tourism bit is still open when the main pool is closed, and I take him back to mid Wales and to a family of tourists who were trying to share the looking after of the children. That is what it boils down to, as the Deputy of St. Mary knows. One of you swims while the other one is in purgatory and I am sorry but if you close the main pool at the Aquasplash then the tourism bit is not open. The tourism bit is at least half closed and, of course, we add to that what Deputy Martin said about the flumes being closed out of the holiday period, which I did not know about. Senator Ozouf said it was wrong that, and I quote: "We inflict the problem of maintaining public access at the weekends on the operator". I do not agree with that, I think that the operator has a job to do here and that job is to maintain public access at the weekends. How the operator deals with that, how the operator deals with existing bookings and future bookings, that is a matter for him and for the Education, Sport and Culture Committee to support them with. Deputy Troy's comments were also helpful. He suggested shared use. That the proposition - and other Members referred to this, Deputy Martin as well - the proposition does not say: "Stop private parties", it says: "Maintain public access" and indeed there are ways, as Deputy Troy suggested, of achieving that, possibly by the closure of only part of the main pool. Deputy Baudains I think helpfully, I did not know this but he helpfully told us that the operation of the pool has been the subject of a Scrutiny proposal which was not pursued and other Members have also been raising concerns which I think has made this useful. He said: "We have not got what we were promised" or, in the words of the Deputy of St. Mary who spoke next in an excellent speech, "Where is the rest of it?" I think those speeches were extremely helpful. I am grateful to the Deputy of St. Mary - a fellow parent of young children, a fellow sufferer in public swimming pools - for her comments. I hope that my comments to her that the proposition does not require a cancellation of bookings ... It requires some management decisions to be made and it requires some meetings to be taken: not involving me, not involving some of the good Members of this House who already have enough to do, but involving the Minister responsible for the service. That is where the meeting should be taking place between him and his team, and the operator, to make sure the public have the facilities that they deserve. I am grateful for other speakers who chipped-in. Deputy Martin of St. Helier returned us, usefully, to the terms of the projet and I am grateful to that. I have not asked that the parties stop: I have asked that public access is maintained. As I say, if the proposition succeeds - as I hope it will - Education, Sport and Culture will have to talk to the operator about 2 things: how to cater for existing bookings and how to maintain public access at weekends and I believe that does come within the role and the responsibility of the Minister and I ask Members to support the proposition. I ask for an Appel.

Senator M.E. Vibert:

Point of order before the vote. The proposition does refer to the 1st of July, which would be quite difficult, if Members supported it, for me to manage somehow to backdate it. Also I wondered if you could rule as it would seem to me that I do not know what the general public access - it would seem to me that you cannot have private parties and general public access - it would mean cancelling future bookings. **[Aside]** It is a point of order and the Bailiff, unless he rules otherwise, is the one to order whether it is a second speech or a point of order.

The Bailiff:

Connétable, it does seem undesirable for the Minister - if the Assembly adopts the proposition - to be requested to do something with effect from the 1st of July when we are 3 weeks past the 1st of July and I am wondering whether it might be sensible for you to ask, with the approval of the Assembly, that the 1st of August be substituted.

The Connétable of St. Helier:

Thank you, that is very helpful, Sir, I will so move.

The Bailiff:

Are the Members content to substitute 1st August for the 1st of July? The Minister raised a point of order in relation to the construction of the proposition. The proposition requests the Minister to take steps to ensure that the main pool and leisure pool are available for general public use on Saturday and Sunday afternoons. It is a matter for Members to interpret that but at least one interpretation is that shared use would be possible, it seems to me, as long as there is some public use of the facilities which is possible. If Members choose to construe it in that way or choose to construe it in another way it is a matter for the Members. You ask for an Appel, Connétable?

The Connétable of St. Helier:

Yes, please, Sir.

The Bailiff:

I ask the Greffier to open the voting and any Member in the precincts who wishes to return to vote, please to do so.

POUR: 28	CONTRE: 17	ABSTAIN: 0
Senator S. Syvret	Senator F.H. Walker	
Connétable of St. Mary	Senator T.A. Le Sueur	
Connétable of St. Peter	Senator P.F. Routier	
Connétable of St. Clement	Senator M.E. Vibert	
Connétable of St. Helier	Senator P.F.C. Ozouf	
Connétable of Trinity	Senator T.J. Le Main	
Connétable of St. John	Senator B.E. Shenton	
Connétable of St. Martin	Senator F.E. Cohen	
Deputy R.C. Duhamel (S)	Senator J.L. Perchard	
Deputy A. Breckon (S)	Connétable of St. Ouen	
Deputy of St. Martin	Connétable of St. Saviour	
Deputy G.C.L. Baudains (C)	Connétable of St. Lawrence	
Deputy P.N. Troy (B)	Connétable of St. Brelade	
Deputy C.J. Scott Warren (S)	Deputy J.J. Huet (H)	
Deputy R.G. Le Hérissier (S)	Deputy J.B. Fox (H)	
Deputy J.A. Martin (H)	Deputy S.C. Ferguson (B)	
Deputy G.P. Southern (H)	Deputy G.W.J. de Faye (H)	
Deputy of St. Ouen		
Deputy of St. Peter		
Deputy J.A. Hilton (H)		
Deputy P.V.F. Le Claire (H)		
Deputy D.W. Mezbourian (L)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy S. Pitman (H)		
Deputy K.C. Lewis (S)		
Deputy I.J. Gorst (C)		
Deputy of St. Mary		

2. Social Affairs Scrutiny Panel: division to create a fifth Scrutiny Panel (P.64/2006)

The Bailiff:

We come next on the Order Paper to projet 64 in the name of the Chairmen's Committee - Social Affairs Scrutiny Panel: division to create a fifth Scrutiny Panel. 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 (a) on the election of an additional Scrutiny Panel to be established as described in paragraph (b), to agree that the Social Affairs Scrutiny Panel be renamed the Education and Home Affairs Scrutiny Panel, with responsibility for scrutinising education, sport, culture and home affairs matters; (b) to establish an additional Scrutiny Panel to be called the Health, Social Security and Housing Scrutiny Panel, with responsibility for scrutinising health and social services, social security and housing matters; (c) to request the Privileges and Procedures Committee to bring forward the necessary amendments to the Standing Orders of the States of Jersey to give effect to their proposal and to include within the estimates of the States Assembly and its services in the Annual Business Plan, the necessary requests for additional funds from 2007 for the fifth Panel.

The Bailiff:

I call upon the President of the Chairmen's Committee.

2.1 Deputy R.C. Duhamel of St. Saviour (President of the Chairmen's Committee):

The Chairmen's Committee has, within its terms of reference, a requirement to keep under review the operation of the Scrutiny function, and, as appropriate, to make recommendations for change, and this comes under Standing Order 143(c). In bringing this proposition forward to the House today, this is exactly what we are doing. It has become apparent, Sir, indeed, it was probably apparent at the outset of the organisation of the Scrutiny function - (certainly by the comments that were made in the House when we were discussing the issues of setting up Scrutiny last time with the previous House) - members of the then PPC, and, indeed, I made comments and other members made comments, to the effect that the organisation that was being proposed for the creation of 4 Panels had not really taken into account the constitutional ... the make-up of the particular Committees over which those Panels would have their jurisdiction. In doing so, Sir, we started probably with a bit of a camel, in that Social Affairs, although given the responsibility for dealing with all social affairs, has a very large workload. Indeed, Sir, it encompasses 5 previous Committee workloads. Although it is fair to say that the Scrutiny function cannot undertake everything, that said, the responsibility for dealing with issues that fall within the previous remit of those 5 very large Committees does rest with Social Affairs. Therein, Sir, lies the rub. In order to carry out those functions sensibly, it has come to our attention, Sir, that we are severely hamstrung in not having enough staff or having the internal organisation within which to separate out some of the larger functions. Health and Social Services and Education - if we look at just those 2 Committees - they do represent 75 per cent, or getting on for that, of the spending of this particular House. We feel, Sir, and this is the Chairmen's Panel, after many discussions at many Committee meetings that the only fair way to discharge such a huge responsibility is to split the responsibilities for the Social Affairs Panel. In doing so, there has been long talk and discussion as to how it could happen. There were several different possibilities considered. But broadly, they all moved in the general direction of realising that probably the admin support that we have available for each particular Panel is probably only sufficient to discharge the duties and responsibilities that pertain to perhaps 2 Committee responsibilities previously. That said, Sir, we are suggesting that Social Affairs be split into 2 parts by the creation of a fifth Panel, and the Social Affairs existing Panel be renamed. There are 3 parts to this proposition. What I am intending to do in summing up is to take the in principle decision, which is to create a fifth Panel as parts (a) and (b), separately, as one vote, and, indeed the request to the Privileges and Procedures Committee to bring forward necessary amendments to

Standing Orders so that we can have a discussion as to the funding and the financing of the fifth Panel, to take place when the Annual Business Plan discussions are brought to this House. That said, Sir, we thought it was a wise move to suggest, within the body of the report, that should a request be made in the Annual Business Plan to the effect that we would require 2 admin staff to cover the Social Affairs new Panel in its entirety, then we only thought it was fair to forewarn the House as to the overall financial implications, which would be of the order of £185,000. That said, Sir, those discussions are for another day, although they have been referred to in comments made by the Privileges and Procedures Committee, and, indeed, the comments from the Council of Ministers. But, in essence, the issue today is whether or not the workload of the Social Affairs Panel can be adequately undertaken by the one Panel. We think it cannot. We have the full support of the Panel members and the Chairmen's Committee. As I say, Sir, what we are seeking to do is purely and simply to split those responsibilities into 2 parts, largely balanced so that the workload does not remain onerous to any one particular Sub-Panel or Panel.

The Bailiff:

Deputy, I am sorry to interrupt you, but may I just ask you to clarify what you just said to the Assembly in relation to paragraph (c)? My understanding of the proposition is that it contains, essentially, 2 parts: the splitting of one Panel and creating of 2 Panels and then an instruction, or, a request, rather, to the PPC to bring forward the necessary amendments to the Standing Orders and to include within their estimates the necessary request for additional funds. That is the proposition as I understand it.

Deputy R.C. Duhamel:

That is right, Sir. But if I can refer Members to the comment from the Privileges and Procedures Committee where they suggest perhaps that the order of this debate is back to front and that the Annual Business Plan should be discussed first and whether or not funds are available before we go on to consider in principle the splitting. Basically, when we come to the Annual Business Plan, there is more than one way. Indeed, if I read out the comment, this will be helpful to Members: "The Committee [this is PPC] stress at the moment that there is no scope within the existing budget of the States Assembly [and that is true, Sir, which is why a request is going in] and its services, to meet the cost of the fifth Panel and additional funding would need to be found either by reprioritising other areas of the States' expenditure [and, indeed, Sir, we will not know those until that work has been undertaken] or by increasing overall expenditure is this proposition is adopted." So at this point in time, Sir, we are unaware as to whether or not, by agreeing part (c) - when we get there - to give a notice to the Privileges and Procedures Committee to come forward to bring amendments to the Standing Orders to split the Panel, because we cannot split it without those Standing Orders being changed, likewise, Sir, to bring into the estimates of the business Panel ways to fund that fifth Panel, either by reprioritising other areas or by asking for an increase in overall expenditure. There is more than one way to crack this particular financial nut. Until we get there, Sir, we do not know how the PPC would intend to bring that part of the proposition back to the House.

The Bailiff:

I am sorry, Deputy, I do not think that you can split up the proposition in that way. What you are asking the Assembly to do is to agree that there should be an additional Scrutiny Panel, then to ask the PPC to do something about it.

Deputy R.C. Duhamel:

Yes.

The Bailiff:

It seems to me inherent from the use of the word “request” that the PPC will have to consider all the relevant circumstances if the Assembly does decide to split this Scrutiny Panel into 2.

Deputy R.C. Duhamel:

You are absolutely right, Sir.

The Bailiff:

It will not be possible for that to be achieved in 2007 for financial reasons.

Deputy R.C. Duhamel:

It might well not be, Sir. But, that said, we are not in a position, without asking for that to happen, to know what the outcome will be.

The Bailiff:

The point I am making to you, the point of order that I am making to you is that I think you cannot split up the proposition. You must ask the Assembly to approve the proposition as a whole.

Deputy R.C. Duhamel:

That is going to pose difficulties, Sir, because, in fact, you are asking then and reading into the proposition which we do not think is necessarily there, the suggestion that that £185,000 is found sufficient to fund in total, without reprioritisation or by increasing overall expenditure within the annual States Business Plan. You are suggesting that one or the other of those 2 courses of action be written into the proposition as it stands. That is not there.

The Bailiff:

No, I think what I am saying is that paragraph (c) contains a request for the PPC to implement the decision contained in paragraphs (a) and (b). As you rightly said earlier on, that will be a matter for another day. But I do not think the proposition can be split. I do not think you can invite the Assembly have separate votes on (a) and (b) and (c).

Deputy R.C. Duhamel:

Can I reflect on that until later, Sir?

The Bailiff:

Yes, by all means. I mean, I do not think either I or the Greffier was aware that you were going to advance in this way. If we had had notice about it, we could have had perhaps a discussion. But, certainly, as it appears to me at the moment, this is a proposition which stands or falls together.

Senator S Syvret:

Could I just ask for some clarification of your reasoning, because I intended to vote for (a) and (b) but not (c)? It seems to me that the Assembly could vote for (a) and (b) and I think, naturally, if that were the case, PPC would, in any event, make the necessary amendments to Standing Orders. But the avenue then open to the Scrutiny Panel chairman and the Scrutiny Panels and, indeed, PPC, might be to reallocate their existing resources within their existing budget to fund a fifth Panel, perhaps, reducing the funding, somewhat, of the 4 remaining Panels and contributing towards a fifth Panel. It seems to me that is an entirely viable way forward.

The Bailiff:

Senator, I accept that there are a number of different ways forward. But if one looks at the wording of paragraph (c), the third line, you find the words “to give effect to the proposal”. That links paragraph (c) to paragraphs (a) and (b). If paragraphs (a) and (b) are adopted and (c) is not adopted, we simply will have achieved nothing.

Deputy R.C. Duhamel:

There is a request to Privileges and Procedures to bring forward to this House that we cannot give effect to anything until the House has passed the request for the moneys, and that cannot take place until later. So as far as it has been written, Sir, it is to go through the normal standard procedures to make a request to the bodies who have to bring these things to the House and then the House will decide in the correct way. The difficulty is, Sir, that we do have some Members in the House who **[Interruption]** ... Sorry. There are, as I say, several different ways whereby the financing of this particular operation could be procured. But that is, in my view, for another day.

The Bailiff:

I am sorry, Deputy, but as I am at present advised, I think the Assembly can only vote on the proposition as a whole, then if you wish to ask the Assembly to put this back and deal with other matters before the lunch adjournment and perhaps have a discussion over the lunch adjournment.

Senator S Syvret:

I was going to make a similar suggestion, if, in fact, the proposition has to be voted on as a single entity in its entirety. It seems to me the better way forward would be for the Chairmen's Panel to seek to defer and possibly withdraw this proposition and lodge an amended one at some point in the future. Otherwise we are going to spend a great deal of time debating this question, without Members having the ability to vote as they may choose on the components of the proposition. Frankly, I think if you have to vote on it *en bloc*, I suspect the likelihood is that it will be defeated. So I would urge the Chairmen's Panel and their Chairman to come forward with a revised approach.

Deputy R.C. Duhamel:

Could we take up on your offer to discuss this over the lunchtime break? Perhaps it would be wise to move on to another item in the meantime.

The Bailiff:

Are Members content to allow the debate on this proposition to be adjourned until after lunch? Very well. The debate is adjourned.

3. Draft Teachers' Superannuation (Amendment No. 2) (Jersey) Law 200- (P.69/2006)

The Greffier of the States:

Draft Teachers' Superannuation (Amendment No. 2) (Jersey) Law 2000: a Law to amend further the Teachers' Superannuation (Jersey) Law 1979. The States, subject to the sanction Her Most Excellent Majesty in Council, have adopted the following Law.

3.1 Senator M.E. Vibert (The Minister for Education, Sport and Culture):

As Members will know, Sir, in a previous life I used to be a teacher. But I wish to confirm that I no longer have any interest whatsoever in the Jersey Teachers' Superannuation Fund. But as Members will also know, my wife is a teacher and therefore is a member of the Jersey Teachers' Superannuation Fund. To ensure there can be no perception of a conflict of interest, I wish to declare this and withdraw from the debate, Sir, asking the Chief Minister, who, if this proposition is passed, will make all future decisions about the Jersey Teachers' Superannuation Fund, as the States' employer representative, present the proposition instead, Sir.

The Bailiff:

Thank you, Minister. Senator Vibert declares an interest and withdraws.

Deputy G.P. Southern:

As does Deputy Southern on behalf of himself and his wife.

Senator T.A. Le Sueur:

Senator Le Sueur and his wife.

Deputy R.G. Le Hérisier:

And myself, Sir.

The Bailiff:

Deputy Le Hérisier, Senator Le Sueur also declare an interest of their spouses.

Deputy C.J. Scott Warren:

I think perhaps I better clarify that although my husband does teach as part of his remit, he is actually employed by the Don Balleine and he does not come within this fund.

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

This is an enabling law to enable changes to be made to the Teachers' Pension Scheme. For many years, successive - and successful, I guess Education Committees, and, indeed, Finance and Economics Committees, have been aware of the need to reform the Teachers' Pension Scheme. The Scheme, as currently structured, is increasingly expensive to fund, and, unlike the P.E.C.R.S. (Public Employees Contributory Retirement Scheme) scheme - and, of course, the employer in this case is the States - in which all other States employees are members the Teachers' Scheme, carries a statutory duty to maintain the fund in balance. Therefore, that effectively means that the States, through the Education Minister now, are legally responsible - although that will change to me too, which I will come on to later - for any deficits. This has meant, over a number of years, annual increases and significant and substantial increases in the Education cash limits to help keep the scheme in balance. These have increased by nearly £1 million since the year 2000, and, in fact, in 2005 - last year - they had gone up to £2.3 million, with no prospect of that doing anything other than continuing to escalate in future years. Now, the Education Committees, and, most recently, the department and the Minister, have been rightly concerned at this rising cost, which, as I have already said, projected to continue to rise and would, unless anything was done, rise to totally unsustainable levels. The Committee wanted therefore to take, and did take action necessary to avoid this serious - and it would have been very serious - funding issue in future years. The possibility of merging the Teachers' Scheme with P.E.C.R.S, which, as I have already said, covers all other States employees, was thoroughly investigated but turned out to be not possible because the cost of bringing together 2 such schemes was simply unacceptable. The outcome, so the Education Committee at the time and Finance and Economics Committee of the time was advised, would be an employer's contribution rate of something like 30 per cent, which I do not think any responsible employer would willingly move into. So therefore it was decided that the scheme should be reformed so that it mirrored the P.E.C.R.S. scheme for new members; reformed, so that its pension increases also were delivered in future by the fund and not from the Education Minister's budget; and that in return for an increase but a known and static increase in employers' percentage contributions. The proposal, therefore, is from 2007. The following will occur. Existing members of the scheme: teachers who are already members of the scheme - no change to their conditions, their pensions whatsoever. It is considered - and I absolutely believe this is fundamental - quite wrong to take benefits away or to change benefits to members who have been in the scheme for a certain period of time, have contributed, in some cases for many years, and have an expectation of a pension at the end of the day. I believe that would be totally unfair. But new members, i.e. new teachers recruited from the beginning of 2007 would have the same terms and

conditions as new members in the P.E.C.R.S. Scheme. Now, that includes reduced pension calculations. Effectively, although it is a technical issue, teachers at the moment have a pension based on one-sixtieth and so therefore for every year of employment they would get one-sixtieth in terms of pension. That will move to exactly the same terms as P.E.C.R.S. new members, which is calculated on one-eightieth. So there is a reduction in benefits for new members. I repeat, no reduction in benefits for existing members. Also there would be no longer the obligation for the employer to automatically fund the actuarial deficit. There would also be a new management board, again, very similar to P.E.C.R.S., identical, virtually, to P.E.C.R.S., with the employer and the employee - the member, if you like - equally represented. The *quid pro quo* for all this is that the employers' contribution would increase from 9.95 per cent to 16.8 per cent. But there would be no requirement: I repeat there would be no requirement to fund pension increases from the education budget. I go back to my point saying those are currently over £2 million and rising fast. To achieve this, as the States was notified in May and approved in the Strategic Plan - although I would accept probably only in principle, there is an additional funding required, annual funding required of £1.3 million. Now, Sir, in May the Education Minister presented a report to the States which outlined all of this very clearly, made it very clear what the thinking was, made it very clear that the contribution rate would change to the extent I have mentioned, and made it very clear that the amount of £1.3 million will be added to the department's cash limit to cover the transition. But the important thing, I think, from the States' point of view, is that from circa 2009 onwards - and it is not possible to be precise, somewhere between 2009 and 2011 - the balance will change and the States, the employer, will then begin to start saving money over the current position. That is, of course, the principal reason for bringing these amendments today: short-term costs for long-term gain. Of course, I think it is obvious that as time goes by, more and more existing Members will retire. They will be replaced with new Members and the cost of the scheme therefore will not escalate to anything like the expense that it otherwise would, and would if we made no change. If we make no change, then the cost of this scheme is going to continue to escalate to - and I have already used the word - unsustainable levels, where the amount of funding required would be quite outrageous and quite out of proportion for a scheme of this size. So, as I said, some short-term pain but very much for long-term gain. There is some urgency now on this, in that if we wish to introduce these changes in 2007, then we do need to take a decision either today or in the very near future. I would say these changes are extremely important for the States, as an employer, and extremely important, therefore, for the taxpayer. We do need to reform this pension scheme. We do need to ensure that it is affordable and properly funded and fundable in the future. I am satisfied that the proposal represents the best way forward. Sir, there is also an amendment to the amendment, which would make The Chief Minister the responsible Minister under the Law, which reflects the move within the States for all States employees to be employed by the States Employment Board, which is administered by the Chief Minister's Department. So, there is another amendment to it, but that is, I think, a relatively minor issue. But, Sir, I propose a preamble.

The Bailiff:

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

3.3 Senator B.E. Shenton:

I am going to ask Members to reject this proposition. I think for too long this Chamber has swept the pension issue under the carpet and I think now is the time to act in a responsible manner and sort it out. What you have to remember is this scheme is going to mirror the P.E.C.R.S. Scheme. My concerns about the scheme - and I have raised a number of questions over the last few months - are detailed in a letter that I sent to the Treasury Minister on 7th of July 2006, to which I have not had a reply as yet. I will not go through the whole letter because it is quite long and detailed. But the bullet points are as follows: "Employers' liability: F.R.S. 17 provides that any deficit must be shown in the accounts if there is a legal or constructive liability. In the U.K. this is not an issue

because the 1995 Pensions Act made the employer responsible for the deficit. All reporting entities, therefore, have to declare any deficit in the accounts. In Jersey it is not so clear-cut.” What I will do is I will read out the letter and then I will explain what I am getting at. It is not so clear-cut: “There is no legal liability but there may be a constructive liability. It would depend upon the court’s decision as what is generally understood by ‘defined benefits scheme’. If the court were to deem there was a constructive liability, then the States would have to declare the past service deficit in their accounts using F.R.S. 17 methodology. They would also be liable for meeting any shortfall for the scheme, which is contrary to the current understanding and accounting practice.” In other words, the States do not treat the P.E.C.R.S. Scheme as a final salary scheme in the accounts, which has massive implications on the way the accounts are presented, because they say they have removed the final salary guaranteed by the States. However, they do have a constructive liability to provide that guarantee and therefore the guarantee has not been removed. I wrote to Jonathan Teasdale, who is the Bacon & Woodrow actuary, and I only got the reply the day before yesterday, whereby he says the P.E.C.R.S. Scheme is a defined benefit final salary scheme. He goes on to say: “It appears your query may relate to the phrase employed in the section of Jersey Financial Report and Accounts for 2005. Neither the scheme nor the P.E.C.R.S. Committee of Management has any responsibility or influence over the wording of such documents,” implying that the States accounts are incorrect. The pre-1987 debt that the States took on last September ... and I know pension issues tend to bore Members and it is certainly not as exciting as debating the Aquasplash, but we are talking about hundreds of millions of pounds here, not £300 a week for a children’s party. “On actuarial evaluation I am at a loss to explain why your F.R.S. 17 calculation does not include pre-1987 debt. There is no cut-off in F.R.S.. The only explanation I can offer is that settlements are not declared within our F.R.S. 17 reporting requirements. What was the pre-1987 past service deficit when the liability was assumed by the States and how does it compare with the figure that was contained within the proposition reported to the States Assembly?” Last year the Policy and Resources Committee brought a proposition to the States Assembly, asking the States to take on that pre-1987 debt. But they did not report the figure in the recognised way of reporting the figure. They did not even tell the Assembly what that figure was, which was significantly higher than the figure they reported. So the States took on a debt that was a lot higher than the Policy and Resources Committee told them it was. My letter goes on: “I note that the trustees make a statement that increases in pensions cannot be guaranteed. But it would be interesting to see the wording of the provision within the trust deed and rules with regard to the discretion granted to the trustees in this regard. My interpretation on the limited information I have is that there is a contractual commitment given by the States to meet pre-1987 deficits and that a F.R.S. 17 disclosure for this deficit is therefore required, using the methodology set out in the standard. Furthermore, the States has a constructive liability in respect of the current schemes and the P.E.C.R.S. Scheme and should therefore be treated accordingly in the accounts. Most people do assume that final salary schemes are guaranteed. In my opinion, in order to remove this constructive liability in the current scheme, every member of the scheme must be made aware that this is not a guaranteed final salary scheme and that when they retire, it is feasible that benefits will be materially lower than those currently provided.”

Senator F.H. Walker:

Can I just ask for clarification? I would just like to double confirm that the Senator is now reading from his letter, not that he received from Treasury.

Senator B.E. Shenton:

No, no. This is my letter to the Treasury Minister: “The words ‘final salary scheme’ should be deleted from all documentation, as this is misleading. In reply to one of my questions, you wrote: [and this is the Treasury Minister wrote in reply to one of my questions] ‘The scheme is stand-alone and not a conventional final salary scheme.’” Well, I have got a letter from the actuary saying that it is a final salary scheme, that employers are not responsible for meeting any deficiency in the

scheme other than the pre-1987 debt. I do not believe that is the case. I believe the States still has the liability in this respect: "Accordingly, the States has no obligation to meet the costs of any deficits of P.E.C.R.S., which is why it has not recognised a liability in accordance with F.R.S. 17. Furthermore, it was stated that Members were aware that the scheme no longer had an employee guarantee through the following statement." This is how members of the scheme: nurses, manual workers, et cetera, were told that the guarantee had been removed. Do you think this statement would make it clear to a layman that the guarantee had been removed? "If, at a future valuation of the scheme, the actuary advises that its financial condition is no longer satisfactory, proposals agreed by the Committee of Management may be submitted to the States for members' contributions and/or employers' contributions to be increased or members' benefits to be reduced." I do not think it does: "It is my opinion that this statement may not be upheld by a court of law as clearly reflecting the changes that have been made as most members will not understand the ramifications of the statement. As a result, the employer, the States, retains constructive liability." Again, this is my letter to the Treasury Minister: "I believe that your letter, dated 20th March 2006 to States Members was grossly misleading. The letter stated that the scheme had a deficiency of only £17.4 million, as at the 31st of December 2004. Under F.R.S. 17 standards, the deficiency, as at the 31st of December 2004, was, in fact, £213,095,000. Furthermore, full F.R.S. 17 figures should have been presented to the States Members when these propositions were taken to the Assembly [I refer back to last year] regarding the pension fund deficit. This would be in accordance with U.K. rules." So I am not asking for anything other than what is in accordance with U.K. rules. Because we do not have the legislation over here, there is a lot more room for manoeuvre. In accordance with U.K. rules, the deficit is £213 million, not £17 million. If you want to know what the U.K. rules are, I go on to say: "The following extract is taken from the U.K. Office of the Deputy Prime Minister, General Guidance Notes for the Completion of Revenue Account Budgets, 2005 - 2006 2.2. F.R.S. 17 - Accounting for Retirement Benefits - the new Financial Reporting Standards 17 has been introduced to the code of practice on local authority accounting in the United Kingdom.

Senator F.H. Walker:

Can I just ask Senator Shenton to clarify one point? The figures he just quoted, they were the Public Employees Retirement Contributory Scheme rather than the Jersey Teachers' Superannuation Fund, I believe.

Senator B.E. Shenton:

Yes, they are. What I am getting at: this scheme will mirror the Public Employees Contributory Scheme, so we will have the same problems with a new scheme as we have with the Public Employees Scheme. I go on. Last September the States Assembly agreed ... I mean, new Members are excused from this decision: I can only assume that the older Members left their morals at home on that day. Last year they transferred the liability of the pre-1987 deficit, which was a lot higher than the figure given to them to be repaid over 82 years. So when I wrote to the Treasury Minister I wrote that: "The whole saga of debt transfer and 82-year repayments may not have been illegal but it certainly has the taste of Enron accounting and the actions of the actuary in accepting this route surprises me. It is morally unacceptable to pass the debt burden of our generation to our children and grandchildren." Again, we do not have the regulations they have in the U.K.: "In the U.K. the Pension Regulator insists that companies should clear deficits within 10 years." So in the U.K. the time limit is 10 years but in Jersey we do it over 82 years. I have also noted the following statements in the following document: Comptroller and Auditor General Draft Briefing for the Public Accounts Committee: "The 2005 accounts treat P.E.C.R.S. as a defined contribution scheme." A defined contribution scheme is like the opposite to a final salary scheme. The 2 are chalk and cheese. So, what is it? In the accounts it is a "defined contribution scheme" but the Members think it is a final salary scheme. It adds: "By far the most important point here concerns the basis on which future deficiencies in the scheme will be met. While the scheme Regulations

leave open the possibility that future deficiencies may be met in part or in whole by the States as an employer, this has not happened in the recent past. Where the possibility of future deficiencies have arisen, they have been dealt with by changing the benefits available to new members of the scheme and by altering the requirements for employees to join the scheme. Both politicians and management have stated repeatedly that it is not their intention that The State should make contributions to future deficits. It is important that the States should hold to this intention.” Then this me asking the question: “When the future service deficit becomes a past service deficit, what is the strategy for dealing with this deficit?” I believe that by defining the P.E.C.R.S. Scheme as a final salary scheme, the States is effectively underwriting future benefits and as such, it should be treated as defined benefits scheme in the States accounts. Finally, I have added: “It should be noted that The Accounting Standards Board have issued an exposure draft in which they propose some amendments to F.R.S. 17. The main change would bring F.R.S. 17 in line with I.A.S. 19, suggesting disclosure on buy-out basis. This figure is considerably greater than the one obtained using F.R.S. 17 assumptions because it is effectively looking at the price that a commercial organisation would demand to take on the risk.” Now, I am waiting for a reply from the Treasury Minister. I have also sent a copy to Christopher Swinson, the Comptroller and Auditor General. Again, you will remember that in the briefing notes by the Comptroller and Auditor General he wrote: “As the Committee is aware, the annual accounts of the States of Jersey are not currently prepared to show a ‘true and fair’ view and the result is that the income and expenditure statement is not prepared in accordance with all financial reporting standards, including F.R.S. 17.” In the States accounts, as mentioned above: “P.E.C.R.S. is not a conventional final salary scheme.” Is it a final salary scheme or not? Do the States have liability or not? You know, this is hundred of million of pounds. “P.E.C.R.S. is not a conventional final salary scheme” and “the employers are not responsible for meeting any deficiency in the scheme”. Well, I say that is rubbish. As such, F.R.S. 17 has not been applied in accounting for the scheme. As I said before, I urge Members to reject this proposition and send a clear signal to the Treasury Minister that the matter needs to be sorted out. I particularly ask the younger Members to reject this proposition, as this issue is a ticking time bomb and it will explode long after the Treasury Minister and the Chief Minister have retired and we will be left to pick up the pieces. So I think this needs addressing once and for all. Finally, on the Teachers’ Pension Scheme, as the Chief Minister mentioned, the employers’ contribution rate has been increased from 9.95 per cent to 16.8 per cent, an increase of 6.85 per cent. The employer is, of course, the States, so the funding will be taken out of the taxpayers’ revenue. If you were looking at in the private sector, the 6.85 per cent increase is, in fact, a pay rise for the teachers at a time when we have an accounting black hole. Furthermore, the Teachers’ Superannuation Fund problems have been increased by an Education Department that keeps on increasing its workforce, even though it knew it had a pension problem. Why does it keep adding teachers to the scheme to open new nursery schools, when it knew it had a problem? Did they not consider it prudent to sort out the pension problem before they went on a hiring spree? I refer to the Manpower Report, R.30 2006, where Education added 108 jobs. As I said before, I think this issue needs clarification. It will blow up in the future. I am not at all happy with the fact that we have left it for our children and grandchildren that we could pay off ourselves and I think we need to take this very responsibly and reject this proposition, just so that we can have a look at the whole matter.

3.4 Senator J.L. Perchard:

I would like to congratulate Senator Shenton on his research and excellent speech and he provided clarity to what is a very complex subject. I think the States probably could be accused of being negligent in the way they have addressed this extremely complex subject over many, many years. I feel he hit the nail squarely on the head. However, I am not sure it is reason enough to reject this Scheme. I will attempt to explain why, Sir. Is this scheme a defined benefits scheme which is a final salary scheme, or is the scheme a defined contributions scheme which is not a final salary scheme? I hope Members understand the difference. The notes to the 2005 States of Jersey

accounts, page xxiv advise us that the States operate 2 defined benefit schemes: the Jersey Teachers' Superannuation Fund and the Public Employees' Retirement Scheme. All the States pension schemes, in that case, are defined benefits schemes. Defined benefits schemes guarantees, on retirement, to pay out a pension based on final salary of the employee.

Senator B.E. Shenton:

Just as a point of order: the 2 pension schemes are the Jersey Teachers' Fund and the Post Office Fund, not the P.E.C.R.S.. P.E.C.R.S. is not a final salary scheme.

Senator J.L. Perchard:

I have the notes of the accounts here, if you would like to confirm.

The Bailiff:

They are not for me to confirm. **[Laughter]** I am not coming into the debate.

Senator J.L. Perchard:

Okay. Perhaps, Sir, I will pass them on to Senator Shenton. Most importantly, members of the schemes, like the Jersey Teachers' Superannuation Fund, are guaranteed a specific pension which they can calculate. The alternative pension schemes that companies are being forced to embrace is a defined contribution scheme or money purchase scheme, which transfers investment risk to the individual, away from the company. Thus, if a stock market, for example, or equities under perform, the employee's pension is likely to be less than it would have been under a final salary scheme. In broad terms, the final salary scheme - the scheme like the Jersey Teachers' Superannuation Fund - guarantees a pension at the given percentage of one-sixtieth of final salary, which the States is obliged to fund to achieve the commitment. But a defined contribution scheme which is now becoming the norm outside the States of Jersey -, does not offer this certainty. I believe this imbalance is very unfair and it is now time to grasp the nettle on public sector pension reform in an effort to bring to an end the practice of private sector workers and tax-paying pensioners being forced to subsidise generous and inequitable retirement and pension arrangements for those working in the public sector. Failure to reform the Jersey Teachers' Superannuation Fund Scheme and the P.E.C.R.S. Scheme and the method in which they are countered will not recognise the fact that people are living longer and healthier lives, in the same way that private companies are having to restructure their schemes for this very reason. Private companies and non-public sector workers have to face an unacceptable tax burden, Sir. People struggle to provide for their own retirement, let alone for others. The situation, of course, is likely to be exacerbated with the introduction of '20 means 20'. Without reform, I believe we face the spectre of a pensions underclass, with private sector employees and companies struggling to fund pension benefits for themselves while they and even tax-paying pensioners are forced to pay for a more generous States scheme, a scheme that incidentally, also accommodates early retirement for its employees. Little has been offered by this proposition to address the genuine concerns, as Senator Shenton has laid out, regarding public sector pension provision in the face of people living longer and healthier lives, except to ask the States to bail out the scheme. The States are being asked to find £1.3 million a year. It does not mention in the report for how many years. The States are also being asked to fund £1.3 million a year. It does not mention in the report if it is to be, in fact, index linked. It is totally unacceptable that private sector workers should subsidise these schemes that provide superior returns and early retirement for other people. If firms and their workers are going to have to contribute more to pension schemes in the coming years, they cannot be hit a second time by the tax man in order to pay for more generous arrangement for others. Sir, I believe we are facing a pensions time bomb and the anomalies highlighted by Senator Shenton must be addressed. But I think failing to support this proposition will not address these anomalies. The matter is clear. There is ambiguity as to what type of scheme the States are offering and whether the Members of what we think is a defined benefit scheme are clear that they will not necessarily receive what they expect

when they retire. So I will be supporting the proposition but there is, Sir, through the Chief Ministers and the Treasury Department a lot of work to do on both the P.E.C.R.S. Scheme and the Jersey Teachers' Superannuation Fund to provide clarity, because there is none.

3.5 Deputy J.G. Reed of St. Ouen:

I equally have some serious reservations about this proposition. We speak of an "extra" £1.3 million. But what is the overall cost? We heard that last year £2.3 million of the education budget was spent funding this particular pension scheme. Does it mean that we take £1.3 million and add it to £2.3 million? That, in my maths, makes £3.6 million for next year's cost. What are the alternatives? What are the options to address this problem? What has been explored? Why are we asked to approve this when basically it is a proposition based on an unprincipled decision by the former Education Committee to protect its revenue implications? That is what is driving, by reading this report, addressing this situation. Equally we have got employers' contribution rates of 6.8 per cent proposed and which highlighted the fact that that is 1.2 per cent above that paid in relationship to P.E.C.R.S. So there is an additional cost. Why did the Education Committee decide, as suggested in this report, that they needed to alter or change the fund by including the widowers' benefits in respect of post-1988 service, when, in fact, the fund did not include that originally? In the report produced by Education, I think in May this year, it states that prior to that issue being addressed, a government actuary showed a valuation surplus of £16.6 million. However, with the alterations, that valuation surplus turned into a valuation deficiency of £64.4 million. How did that happen? Why? What was taken into account when those decisions were made? Nothing in the reports provided give that sort of background to the proposals as proposed by the Minister of Education, Sport and Culture. I therefore feel that it is extremely difficult to support his proposition. Unless we have full and detailed responses to the issues raised, I feel unable to support this proposition.

3.6 Deputy P.N. Troy:

I am a member of P.E.C.R.S. as the Committee of Management of P.E.C.R.S.. But firstly I think I would like to say that Senator Shenton needs to recognise that there is no requirement for Jersey to report under F.R.S. 17 as a pension fund at the moment. Now, if that is an issue that he wants to take up and he wants to say: "In future we need to report under F.R.S. 17," then he needs to negotiate with the Chief Minister and with P.E.C.R.S. and come to an arrangement how that might be effective in future. But for him to say that because we are not reporting under F.R.S. 17 let us throw this out, that is not of sufficient argument, in my opinion. He also talked then about the debt transfer over 82 years and of course he said that the debt transfer was questionable in the way that it was carried out. Well, of course, it was not questionable. It was a negotiated arrangement with the actuary and fully completed with all parties aware of the circumstances: the employer representatives on the Committee of Management and the employee representatives. Everyone is fully aware of the negotiated arrangement. So Members must recognise that this has been handled in a proper manner at all times. Of course, the government of Jersey is a very safe institution in a financial sense. This, of course - it is my opinion - that that would have given the actuary significant comfort when working out the ability of Jersey to meet any future liabilities. The States, of course, may have a moral duty to ensure satisfactory financing in the future. The States of Jersey are already demonstrating that they take this issue very seriously because the States of Jersey are covering the past debt. This is a serious issue and the government is taking it very seriously. I am sure that in the fund you have a large number of assets within the fund and future performance of assets within the fund. Anything can happen in the stock markets and bond markets but at all times the situation is monitored and the actuary keeps the employer and employee side and the Committee of Management fully aware of the circumstances of the fund and there are regular valuations and it is very much the case at the moment that everything is fully monitored and everyone is fully aware of the situation of the fund at any given time. So let me assure Members

that the actuary is comfortable with the whole issue of P.E.C.R.S. funding and the Teachers' Pension Funding as well and the actuary is perfectly comfortable with the way in which we have dealt with the past debt. Senator Shenton, I feel, is concerned with the reporting issue. That is the issue that he needs to take up separately but in this Chamber is not the right place.

Senator J.L. Perchard:

Thank you, Deputy. Being that you are a member of the Committee of Management for the Public Employees Contributory Scheme ...

The Bailiff:

Senator, are you ...?

Senator J.L. Perchard:

Asking a clarification, Sir.

The Bailiff:

It sounded rather like a second speech to me. **[Laughter]**

Senator J.L. Perchard:

No, no, Sir. It was just a question that he highlighted. Could he advise the Assembly whether it is a defined benefits scheme or a defined contributory scheme?

Deputy P.N. Troy:

Considering that Senator Shenton has read out 2 different letters with 2 different opinions, I am not going to rule on it, Sir. I would be a fool if I did. I think that needs to be clarified separately, Sir.

3.7 Deputy G.C.L. Baudains:

The previous speaker suggested that Jersey is a stable institution. Sometimes sitting here see I do truly believe I am in an institution. **[Laughter]** But be that as it may, like Senator Shenton, Sir, I do get concerned about final salary and other pension schemes which are becoming increasingly unaffordable. But on this particular proposition, Sir, the thing I want to highlight which was raised by another speaker, Sir, is the issue of the £1.3 million. I am getting increasingly concerned, Sir, by the way millions seem to be shuffled around by the Council administration. Looking at page 4 of the report: "The cost of this proposal will be an additional £1.3 million a year which has been added to the Department's cash limit from 2007." On the following page we read that: "following consideration by the Council of Ministers this has been added to the Department's cash limit from 2007." That is the £1.3 million. Well, Sir, what I would like the Chief Minister to do in his summing up is to tell us where the accountability is of this. Where does that £1.3 million come from? What was prioritised out in order to provide it?

3.8 Senator F.H. Walker:

The debate has been much more about the States pension schemes generally, and P.E.C.R.S. in particular, than it has been about the proposition *per se*. The proposition is not about reforming the total States pension scheme. The proposition is about reforming an increasingly expensive and shortly to become unfundable teachers' scheme, which is one element of the overall States pension structure. Now, Senator Shenton and Senator Perchard have both called for root and branch, basically, reform of States pension provision. As we have heard, Senator Shenton - and I know Senator Perchard is the same - has been in correspondence and contact with the Treasury Minister and the Treasurer in that respect. I make no comment today about whether P.E.C.R.S. needs complete reform. That may be the case. Personally, I doubt it. But even if it is the case, that is no

reason to reject the proposition today. I think Senator Perchard took the responsible and the fair line in this respect. If we were to reject this proposition then we would, in effect, be discriminating against teachers or we would be continuing to fund a teachers' pension scheme, which, as I have already said, will shortly become enormous in its funding requirements. So there is no benefit to the taxpayer whatsoever in rejecting this proposition, in fact, very much the reverse. Senator Shenton said: "Well, the increased contribution rate will come from the taxpayer". Yes, ultimately, he is right. But if we do not make this reform, the requirement from the taxpayer will be considerably higher than that shown in the proposition and that shown in the Strategic Plan. Now, I am not going to get involved in the detailed issues about whether or not P.E.C.R.S. is defined benefits or defined contribution. What I will say is 2 things. I will add to what Deputy Troy very helpfully put into the debate. First of all, the deficiency in P.E.C.R.S., as approved by the Actuary, is £17.4 million - as approved by the Actuary - who has given his absolute assurance that is the figure that the States of Jersey should be working to. That is a fact. Senator Shenton also confused himself when in one part of his speech he said he thought the P.E.C.R.S. was a defined salary scheme but in another part of his speech he said, in response to Senator Perchard, that it is not a defined benefits scheme. Indeed, in the truest sense of the word it is not and therefore the need to report under F.R.S. 17 is not there. Whether that is something that should be changed is an issue for another day. I say, personally, I doubt it. But it is no reason to vote against this proposition and cost the taxpayer yet more money by doing so, no reason at all. I think I have probably dealt with Senator Perchard's contribution, which is very similar in many respects to that of Senator Shenton, except he did take - in my view - the responsible and fair way out by saying, despite his reservations he was going to support this proposition. He did say we are continually asking the States to bail out these schemes. That is not true. That is not the case. This is an improvement, not bailing out the States. This is an improvement to prevent the sort of horror stories that both Senators were forecasting as possibilities for the future. So the Deputy of St. Ouen wanted to know what the overall cost is. The overall cost is, I think, clearly explained. The overall cost is £1.3 million in addition to the £2 million already subscribed to the education cash limit. The problem with the £2 million currently in the current level of funding is it is no longer £2 million. It was £2.3 million in 2005 and rising steeply. It will be set at £2 million in future. I repeat what I said in my introductory comments that 2009, 2010 and 2011 - that sort of era - the lines will cross and the States will save money as a result of this proposition. That is the basic rationale. There is no other rationale. It is not being brought to remove a burden from Education to the taxpayer. It has been to reduce the burden, longer term, on the taxpayer. That is the only reason why it is being brought. Deputy Troy, I think, made some very strong points in answer to a couple of Senator Shenton's assertions. The fact is that no one has been misled here, no one. The Actuary has fully approved all the actions the States have taken on past service debt and current liabilities. The Committee of Management of P.E.C.R.S. - half the membership represent the employer, half represent the employees. The Chairman is an extremely able, highly regarded, decorated member of the pensions industry in the U.K., who knows pensions inside out and back to front. They all approve of the action taken by the States. It is quite wrong to say that members of the scheme have not been given the information they are entitled to or that they have been misled. That is quite, quite wrong and is itself very misleading. It is just not true. They have been fully informed and fully involved in all the changes that have taken place. Sir, Deputy Baudains said he thought he was in an institution. Well, I trust he is at home in the institution. **[Laughter]** He wanted to know where the £1.3 million comes from. Well, I think that was included in the Strategic Plan. It is certainly included in the documentation he now has in his possession in the Business Plan. That was, indeed, also the subject of some questions I had from other Members quite a number of weeks ago. It is an allocation within cash limits. It is that simple. It is an allocation to save money for the States. Sir, whether overall pension reform is necessary or not is a question, is an issue. But it is an issue for another day. What this proposition does is put the teachers' scheme on a much more stable and much sounder footing. It gives certainty to the future funding of the scheme. It reduces the States' liability. It therefore reduces tax payers' liability. What is the alternative? We either do not have a teachers' pension scheme or we severely reduce it,

or we continue to pay far more than we need to and far more than we should. Neither seems to me to be in any way an attractive option. Let no one doubt that Jersey needs a competitive pension scheme for its teachers. If we do not have a competitive pension scheme we will not recruit the teachers we need, most of whom have to come - for reasons that I think are obvious - from outside the Island. There have already been some recruitment difficulties with teachers because our scheme is not considered that attractive when compared to similar schemes in the U.K. Now, we have got to strike a balance between serious value to the taxpayer of our pension schemes and having a pension scheme which enables us to recruit the teachers we need, and the high-calibre teachers we need, to maintain our high standard of education. So, it is a balance. But, Sir, to say no, to reject this proposition today, would do nothing for overall pension reform. That is not the point of the proposition. To reject it today would either mean that we are discriminating against teachers to their detriment and ultimately ours and not least our children's, or we will continue to pay through the nose and far more than we should to fund the scheme in the future. So it is a no-win situation to vote against. It is a win situation to vote for. The whole subject of pension reform, if it needs to be further addressed, can then come back to this House at some point in the future. So, Sir, I strongly urge Members to vote for this proposition.

Senator J.L. Perchard:

Can I just ask for some clarification? I did ask the Chief Minister a couple of small questions during my brief speech. The additional revenue implications of £1.3 million per annum, Sir, I did ask: will that be index-linked and how long does that go on for? What is the time-scale?

Senator F.H. Walker:

It is not index-linked and it goes on certainly until the period of the next valuation.

The Greffier of the States (in the Chair):

I put the principles of the Law. Would those Members in favour of adopting kindly show? Yes, the Appel is called for and Members are in their designated seats. The vote is for or against the principles of the law and the Greffier will open the voting.

POUR: 34	CONTRE: 4	ABSTAIN: 0
Senator S. Syvret	Senator B.E. Shenton	
Senator F.H. Walker	Deputy G.C.L. Baudains (C)	
Senator P.F. Routier	Deputy of St. Ouen	
Senator T.J. Le Main	Deputy S. Pitman (H)	
Senator F.E. Cohen		
Senator J.L. Perchard		
Connétable of St. Saviour		
Connétable of St. Mary		
Connétable of St. Peter		
Connétable of St. Clement		
Connétable of Trinity		
Connétable of St. Lawrence		
Connétable of Grouville		
Connétable of St. John		
Deputy R.C. Duhamel (S)		
Deputy J.J. Huet (H)		
Deputy of St. Martin		
Deputy P.N. Troy (B)		

Deputy C.J. Scott Warren (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy S.C. Ferguson (B)				
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 D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy A.J.H. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

The Greffier of the States (in the Chair):

This matter, although it is an education matter, appears to relate possibly more to the Corporate Services Panel. I look at the Chairman, whether you wish to scrutinise this matter?

Senator J.L. Perchard:

No, Sir. Thank you.

The Greffier of the States (in the Chair):

No. Very well. I perhaps invite you to propose the Articles *en bloc*, Chief Minister. Do you wish to propose them as amended by the amendment of Article 2?

3.9 Senator F.H. Walker:

Yes, please, Sir. I would wish to do both. I wish to propose them *en bloc* and I also wish to propose them as amended so that, as I said in my speech, the Chief Minister in future is responsible rather than the Education Minister. So, on that basis, I propose them *en bloc*.

The Greffier of the States (in the Chair):

The articles are proposed and seconded. **[Seconded]**. Does any Member wish to speak on any of the articles? If not, I put the articles. Would those Members in favour of adopting them kindly show. Any against? The articles are adopted. Do you propose the Bill in Third Reading, Chief Minister?

Senator F.H. Walker:

Yes, please, Sir.

The Greffier of the States (in the Chair):

Seconded? **[Seconded]**. Does any Member wish to speak? I put the Bill in Third Reading. Would those Members in favour of adopting it kindly show. Any against? The Bill is adopted in Third Reading.

Senator S. Syvret:

I wonder if now might be an opportune moment to propose the adjournment. There is an event taking place which some Members have to attend over lunchtime.

The Greffier of the States (in the Chair):

It is a matter for Members. Are Members content to adjourn now and reconvene at 2.15 p.m.? Very well, the Assembly stands adjourned until 2.15 p.m.

LUNCHTIME ADJOURNMENT

PUBLIC BUSINESS (continued ...)

4. Social Affairs Scrutiny Panel: division to create a fifth Scrutiny Panel (P.64/2006) (continued ...)

The Bailiff:

The Assembly now returns to Projet 64. It might be helpful for Members for me to repeat my ruling in terms of the separate voting on paragraphs (a), (b) and (c). My ruling is that these 3 paragraphs, as the proposition is drafted, hang together and that the Assembly cannot be invited to approve paragraphs (a) and (b) which establish a new Scrutiny Panel - without dealing with the consequences of that decision in one way or another. So far as the funding of the additional Scrutiny Panel is concerned, I need guidance, I think, from the President of the Chairmen's Committee. If the funding of the additional Panel is something that could be dealt with within existing resources no doubt the President will say so. If, alternatively, the funding of the additional Panel - which, as I understand from the Greffier amounts to about £188,000 a year - requires additional money, then, again, I think that should be made clear to the Assembly. But the drafting of paragraph (c) as it stands, does not, in my ruling, commit the States to fund the additional Panel from 2007 onwards. It commits the Privileges and Procedures Committee to include such funding within its estimates and to bring it forward for the approval of the Assembly but it would be for the Assembly, of course, to decide whether to allow it or not. But the long and the short of it is, if I may say this from the Chair, it seems to me to be axiomatic that if the Assembly wishes to establish a fifth Panel then it must be prepared to fund it. It must be prepared to produce the funds to do that, otherwise it is a rather curious decision to agree to establish a Panel but not to make any provision for its funding. Deputy Duhamel, you were halfway through your opening speech.

4.1 Deputy R.C. Duhamel:

Yes, I was Sir. I thank you for your ruling, Sir, and I think you have made it abundantly clear. I will be happy to take it in one part on the basis, as you say, that part (c) does not commit this House to deciding at this point in time whether the funding will be zero pounds or £188,000 or somewhere in between. That debate will take place at a later stage. All (c) does is to request that the PPC bring forward in the right way in the correct fashion the suggestions for the funding at a later stage. That said, Sir, I think I was pretty well through what I wanted to say. In a nutshell, basically, what has happened is that the Chairmen's Committee and the other Chairmen have considered - since the start of Scrutiny all the way through to now - whether or not the way of carrying out the Scrutiny function for social affairs can be adequately contained within the existing organisation. We have taken a decision, as far as we are able, that the organisation that we were given - or the States started us off with - is insufficient for us to continue to carry out that role into the long term. We are asking the House to agree with us that the Social Affairs Panel be split in the way that is indicated. I do not think there is really much more to say very much else there. I will listen to people's comments and answer questions.

The Bailiff:

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

4.2 Senator P.F.C. Ozouf:

I cannot believe I would be the only person to want to rise to speak on this matter. Can I start off by saying a clear statement that I support Scrutiny? I support strong Scrutiny. That was the offset of Ministerial government and without strong, independent, properly resourced Scrutiny, the Ministerial government that this Assembly has set up, and which we are all part of, does not happen. It is clear to me that the responsibilities of the current Social Affairs Panel are too broad, too weighty for one Panel. That needs to be dealt with. There needs to be a solution found for one Panel having such a broad remit. I am the only Minister who enjoys the sole attention of one Scrutiny Panel. That is an experience that I share and can share with some of the other Ministerial colleagues. Economic Development does have a wide range of responsibilities but only a budget of £50.4 million, excluding the Trading Committees. It seems curious to me that there is the attention ... and I speak also as an individual who was probably scrutinised more than any other President in the previous Assembly, having had the experience of Scrutiny at considerable length at the same time in parallel as Environment and Public Services. Deputy Southern moves his hands in a way in which he says: "Move on", but I do understand that if Scrutiny is to work effectively then there needs to be an appropriate workload both in terms of the Scrutiny Panel itself but also those people who are being scrutinised. Has this Assembly got before it a persuasive case that means that the solution to the problem, which we all agree on, is to create a further Panel with? I am afraid to say I will not buy Deputy Duhamel's solution or suggestion that, in fact, there can be zero or £180,000 funding. There is a clear implication with this proposition that there is a funding association with it. Now, I think the case has not been made for the creation of a separate, properly resourced Panel. In my department I have lots of calls on my budget. I have lots of calls on my time. It is about priority. It is about sequencing. It is about orderly organisation of work. I have just come from speaking at a certain sector of the finance industry that wants us to do particular work, particular law drafting and particular marketing in one section. I have to say that I cannot run off to the Treasury Minister or the Chief Minister or the Council of Ministers and say: "Give me another £400,000 or £200,000 to do that". The first call for any prioritisation must be the existing budget and the existing arrangements. There is absolutely no doubt that there is a requirement for a different workload for the Social Affairs Scrutiny Panel. However, the first port of call that must be incumbent upon the Chairmen's Committee to make, is a reallocation of the existing arrangements that exist. It seems to me that that is not currently being carried out and the clear table that is in the Council of Minister's report ... and I ask Members just to look at it and just examine the areas of responsibility that are set out in that report which clearly indicates that there is an imbalance of responsibilities. When the Scrutiny Panel and the Chairmen's Committee have looked at their own resources; when they have made an appropriate reallocation of that; when they can say that they have carried out that work and that they can come forward with a persuasive case that there is no alternative but to create an additional Panel with additional resources, then this Assembly should, perhaps, at that stage consider setting up another Panel. But that has not been done. So, I say - and I know that other people following my speech are going to say: "There is Senator Ozouf simply saying that (a) he does not support Scrutiny and, (b) he wants the Economic Affairs Scrutiny Panel off his exclusive back because then maybe there could be some sharing with the Corporate Affairs Panel". There is a responsibility to share, perhaps. There is a debate, I understand, about telecoms. Who scrutinises it? Is it Corporate Affairs or is it Economic Affairs? It does seem to me that there is a clear case and I am sending out ... and I do not want to be reminded by Members the fact I do not want strong Scrutiny. I do. All Ministers want strong Scrutiny. But the case has not been made effectively for the creation of a fifth Panel. I say to the Chairman's Panel: "Go and look at your existing resources. Reallocate them like Ministers do and then we will have a discussion about whether or not there should be more money."

4.3 Deputy J.A. Martin:

Truly spoken, from a Senator who has never ever worked on Scrutiny or respected Scrutiny and never ever wanted any Scrutiny training because he knows it all. Who is it he has said we have got to call on? Who does the Minister call on, Sir? He has a Chief Executive who has many, many staff under him. Now, I work on 2 Scrutiny Panels. My Social Affairs Panel budget covers over £300 million of the States expenditure. The other Scrutiny Panel is the Minister's Panel, Sir, the Economic Development Department, but it covers very large areas. We have the airport, the harbours, and all the economic growth that we have to do. Now, we are totally talking about a different ball game. I worked under the old system and now, Sir, I work under this system in Scrutiny. We waited, Sir, until yesterday when the debate was going to happen to come out with the comments from the Council of Ministers, which I think was absolutely insulting. The Chief Minister is not even in the Chamber at the moment. I find that, again, insulting. He probably has a good reason and when he comes back he will tell us why not. But I do not think Scrutiny is given the respect from the Ministerial benches. This alone, Sir, is what we have on my Social Affairs Panel. Under Education: there is sport and leisure; there is culture, then there is policy and planning; health, on a £130-odd million budget. Senator Ozouf himself said that there is a lot that Education should be looking at and there is a lot that we should be scrutinising on Education. If you do not get the policies right and if we do not scrutinise them, they will not be right. We are expected to do a job on a very, very small budget. Our Scrutiny Officers are nothing like Committee clerks and that is all we have and slight secretarial support. They have to arrange all our meetings. In Scrutiny, I was on the Education Committee before, Sir, and the Health Committee. One met fortnightly and one met monthly. On the Scrutiny Panels, I meet every week and so do our officers and they are doing research for us. Now, the Minister tells us we should reallocate the same amount of people to the same amount of budget and keep the same officers and we could still do the same amount of Scrutiny. I totally disagree, as one of the scrutineers, who works on 2 Panels and does not have the resources. We only got the Annual Business Plan yesterday, and if we all turn to page 3 - I had to look through Ministerial, non-Ministerial, and I went through and I could not even find Scrutiny. I just could not find it. Before the Minister explains, I have now found it. It is under States Assembly and Services. That is on page 138, Sir. If I could just ask people to turn to that? Scrutiny budget estimated for this year is £1,173,000. It already goes down next year. It goes down next year. Sir, the Minister for E.D.D. keeps shaking his head. We are talking about a minute per cent of what we are supposed to be scrutinising. We do not have the resources. However you spread the amount of people, we do not have the officer support. We do not know yet, Sir, if we can find this money out of the States Assembly and Services. It may be that once the Chairmen's Panel meet with PPC it will be able to be found. But everybody knew this was going to be a hard job to scrutinise the Council of Ministers' budget. You have got the Chief Minister, and not only that, Sir, at the moment we are also ... and I am sorry the Attorney General is not in the Chamber at the moment, but the Law Officers Department - £6 million. Scrutiny is getting no advice or no resources from that department at all. I am very sorry, Sir, we are still in debate. We have had no legal advice from the Law Officers Department on policies made by Ministers that we are scrutinising. No advice. So, to me, that is another £6 million of the budget that is totally for the Executive and not for the Scrutiny part of government.

Senator P.F.C. Ozouf:

As a point of order ...

Deputy J.A. Martin:

I am very sorry, Sir. This is a point of order - correction. All right, Sir, I will give way because he always knows best.

Senator P.F.C. Ozouf:

Is it a point of order when a Member is saying something that is just simply not true?

The Bailiff:

Well, try me out, Senator [Laughter]

Senator P.F.C. Ozouf:

Deputy Martin represents that she is not receiving any of the £6 million Law Officers Department budget. I know the law officers have been busy advising her Scrutiny Panel - rightly so - on fulfilment matters. She is getting part of the £6 million. It is not right that she says to the Assembly something which is blatantly inaccurate?

The Bailiff:

Well, I am not sure I would want to make a ruling on that. But I do think, Deputy, that you said that it was the function of the Law Officers to give legal advice on policy. I do not think it is the function of the law officers to give legal advice on policy. They give legal advice on law.

Deputy J.A. Martin:

Well, then, we need to find out because we know policies have been changed on legal advice. So I will retract that we are not getting any, but I will put it another way: that on every Council of Ministers meeting they have a legal representative from the States, normally the Attorney General or the Solicitor General. We find it, on Scrutiny, very hard to get a meeting with the Attorney General or the Solicitor General, possibly because of the time they spend with the Council of Ministers. But this is something we do need to be resolved. All I am saying, Sir, I am trying to make the point that we have a very small budget and resources compared to ... and our Scrutiny Officers, 2 to a Panel, have to do the work or help us scrutinise a department like Health, a department like Home Affairs, from the Chief Officer down to the Secretary. The Secretary grade is probably what our Scrutiny Officer is on. This is the point I am making and anybody who works on Scrutiny knows it is an impossible job. So, we are trying. If you do not give us the money, Sir - sorry, Sir, if they do not give us the split and we cannot find the money and then it is not supported in the Business Plan, we are not going to go away. It will make our job harder but it will just probably make us more determined. But if they really, really say they respect Scrutiny, we should have this split. We only have the same amount of people. We do need more officer support. I say this is the first debate in the House after the Ministerial government, whereas I heard it all from the Chief Minister. I heard it from other Ministers that are now here. How much Scrutiny will be able to hold the Executive to account? Well, if you have got me running around with my 5 reviews and the folders and papers I have got - I cannot even move let alone hold you to account at the moment. It is impossible. I know I may have taken on too much by doing 2 Panels but I thought that as I had done shadow Scrutiny I would be able to perhaps give advice. I am finding it hard. In fact, I am probably finding it impossible. But I am doing one or 2 of my reviews completely and utterly, researching everything, and on others I am having to scrimp and basically let other people take the lead roles. But I do not think that is the way Scrutiny was intended. As I say, in the main Business Plan - not the annexe in which, as I say, I did find us - there is one paragraph as well, Sir, that mentions, if the Assembly agrees to the split, States Assembly and its Services ... and it would in principle require expenditure limits and the States deficit to be increased by around £190,000. The Council of Ministers would need to consider appropriate funding, if this were approved, but would ask to seek to do so within the proposed Annual Business Plan. Well, as I say, Sir, we are talking about maybe another £190,000 to scrutinise nearly £400 million. I do not think that is a lot to ask. If you really want these policies that maybe save money or we feel in Scrutiny that could be spent better, you will agree to this split. If you seriously thought there was a better way of doing it, Sir, the Ministers could have brought their comments. They could have explained, because they have, as I say, the back-up, how we would have worked in a different way; how we could proceed; how

we could change Standing Orders, who we would put together; under what Ministers and under what scrutineers? Or could we work to solve another problem, if they want. We could all work completely on anything we liked. That would be a different way of going. But I do not think the Ministers would like that one either, because we would be asking for everything on their B agenda and at the moment we get a few things on their B agenda because you are not on that Scrutiny Panel or you are not doing that review. So what I am saying, Sir - and I just will reiterate because I am going to finish now - if they really believe, like Senator Ozouf, who said he is not against Scrutiny and he is a vigorous supporter of Scrutiny but ... and that was the “but”, of course. We are going to hear a lot of “buts”. I would say at least 10 from all the Ministers. But you will support this split because this is the only way we can function. As I say, do not be under any illusions, Sir, through you, that we are going to go away. Split or not, we will still be scrutinising you but we will probably just have to sort of probably spread ourselves thinner or maybe do fewer reviews and go right to the heart of the budget and go right down to the very level that perhaps we should not. But that is for another day, Sir. So, as I say, I hope that the Ministers really do support Scrutiny and then they will support this split. Thank you , Sir.

4.4 Senator T.A. Le Sueur:

Listening to the last 2 speakers I was reminded of the adage that America and England are 2 countries divided by a common language, and I suspect at some stage that the 2 speakers have tried to say the same thing, which is that the Social Affairs Scrutiny Panel has got a large work load. I do not think Deputy Martin disagreed with that and I do not think Senator Ozouf disagreed with that. But I would, myself, have risen a couple of times on points of correction. Law Officers do not attend all Council of Ministers meetings. Scrutiny Officers are not paid at the same level as the average secretary, as far as I gather from the current salary scale for both. If there are other inaccuracies which I have not picked up, that may be an indication of the enthusiasm of the Deputy in making her case. But I think it is important we make the case on the basis of good information. Turning then to information, I would point out to Members that Scrutiny, in its current form, has been given a budget, as the Deputy said, of £1-odd million and has been in existence for about 6 months now. Certainly, as Treasury Minister, I have no indication at the moment of how much has been spent in the last 6 months. I have no idea whether the present budget is adequate or inadequate, and I suspect it is far too early for any of us to judge whether the budget is sufficient or insufficient. But I do say to Members that it has always been the easy way out of this House if we have a problem: “Oh, well, let us throw more money at it”. I am sure that the present Minister of Home Affairs would gladly have some more money to throw at police and prison and everything else. I am sure that other departments would like to have more resources to be able to do more things. We have to have discipline, Sir, to live within our resources and that applies both to the Scrutiny function and to the Executive function. We will have to live within those resources as an Executive function just as much as any other department. But, Sir, if it does turn out that additional funds are needed, if and when that case has been made - and it certainly has not been justified to me, yet - then we can look at how it is best achieved. But as Senator Ozouf said, the general principle which I would apply whether it is to Scrutiny or any other Ministry, is firstly look within your own Ministerial area of responsibility and only then come and look at other areas, because if we are going to live within our means, if we are going to carry on in a responsible way, then whatever resources we divert to one area, we take away from another area. There is no free resource. If the case is to be made for additional resource in this direction, then let that case be properly made and judged against other resources at the time of the Business Plan. But at the moment, to simply say because a fifth Scrutiny Panel is needed - and I do not disagree with that - it follows, as night follows day, that there must be another £200,000 to go with it is a *non sequitur*. There may need to be an additional Scrutiny Panel. There may be other ways of funding it.

4.5 Deputy G.C.L. Baudains:

The speech from the previous Minister was refreshing, in my view, Sir, because I have become increasingly tired of hearing Ministers expound how they really support Scrutiny, and yet, when, on Scrutiny, we try to find out things and attempt to examine what is going on we seem to come across every frustration that is possible. Referring to Senator Ozouf's comments, I believe I quote him correctly when he said that without properly resourced Scrutiny, the government model we set up does not happen. However, Sir, I do not think he understands how seriously under-funded Scrutiny is. Each Panel has an allocation of approximately £80,000 a year for operational expenses and that covers any consultants that have to be employed, any travel, all research and even the expenses of transcription. He suggests he wants effective and robust Scrutiny, Sir. Frankly, I do not believe him and I do not believe the Council of Ministers want effective Scrutiny. They have said before, Sir, this term that we have not heard yet this afternoon, they want "a critical friend". But, as we on Scrutiny very well know, Sir, that what they actually want is a friend, not in the least being critical. All Scrutiny reports produced by the Panels are evidence-based and yet it seems that hardly an opportunity is missed to either ignore the findings or rubbish those reports. So, really, Scrutiny is not achieving what it should be doing, which is a balance to hold the Council of Ministers to account. It is really not being able to achieve its job properly. Of course, part of the reason for that we have before us today. Scrutiny Panels of 4 persons with the budget that I have just mentioned of £80,000 cannot possibly scrutinise Education, Sport and Culture, Home Affairs, Health and Social Services, Housing and Social Security. It is an absurdity, Sir. It is ridiculous to even contemplate. Those 5 Ministries, to be effectively scrutinised, really need 4 or 5 Panels working on that. I do not even believe 2 would be able to do the job fully, yet at the moment we have only got one. We need more Panels, Sir. To create a second or another Panel will obviously be helpful - I still do not believe it is enough - and, obviously, the funding to go with it, ultimately, because without the funding, it, again, simply will not happen. We will not be able to do the research. We will not be able to get the answers. We will not be effective. Sir, it is just a situation where either we have effective Scrutiny - which means sufficient people to do the job properly and sufficient funding to do the job properly - or I fear we are going to have to rescind the decision to move to Ministerial government because we will just have to manage without Scrutiny. We are told that Scrutiny is essential for this form of government. Perhaps when the Chief Minister speaks he could tell us how we are going to manage this form of government if Scrutiny decides to give up because it simply cannot cope with the lack of resources and the lack of people.

4.6 Senator S. Syvret:

I was speaking to a journalist yesterday after yesterday's States sitting and he said to me - or he expressed a view to me - that he was very surprised how short the memory is of some States Members in respect of the '20 means 20' debate, given that the vast majority of people now sat in this Chamber who contested the elections last year expressed serious concerns to their electorates about '20 means 20' and how it was all going to work out. I was struck with a similar thought this afternoon, Sir, listening to some of the speeches we have had today. I could not begin to count the number of times this Assembly received absolute assurance that Scrutiny was vital, absolutely necessary, key, and absolutely central to the proper and effective functioning of the Ministerial system of government. That was always my view and I have always been a strong supporter of Scrutiny. I continue to be and for that reason I will be supporting the proposition today on the basis of the interpretation that you, Sir, and the Chairman have placed upon it, that it does not, in fact, bind P.P.C. to a specific amount of money. I am concerned about that. Money is tight in the States Assembly at the moment. I did want to be assured and I think I still need to be assured, that, in fact, we have turned every stone in an effort to try and find resources from within existing allocations. So I did have that doubt about the funding requirement. But as far as the principle of establishing a fifth Panel is concerned, there was simply no debate about it. Without question the Social Affairs Scrutiny Panel is ridiculously overstretched and we should have seen that. With hindsight, perhaps, we should have realised at the time that it would not be able to do it. But as Deputy Martin said,

that Panel is scrutinising a budget of about £400 million per annum - £400 million. That is an awful lot of money. That makes me think, is really £180,000 to be spent on effective Scrutiny such a heavy price to pay? The more I think about it the more I might be persuaded that the States should find the money, the additional £180,000, from somewhere, because, let us face it: we have had a debate this morning about pensions and it is clear, I think, that the States have not done a good a job in the last decade or so, or longer - perhaps the last 2 decades - in managing, foreseeing and properly planning for the pensions issue. I have no doubt that has cost and will continue to cost the taxpayers an awful lot of money. We are talking many, many, many millions of pounds. Now, had we had robust Scrutiny at that stage, maybe things would have been different. Maybe the quality of decision making would have been much, much more improved. Maybe we would not be facing quite such a pension's black hole. So I think Members should reflect on that. Scrutiny could more than pay for itself. Members need to bear that in mind. I was also reflecting on the fact that the overall States budget now is in the region of half a billion pounds per annum. Half a billion pounds. That is a huge amount of money. Scrutiny is just over £1 million of the States budget at the moment. That is 0.1 per cent, approximately - I am talking ballpark figures here - of States' expenditure. The £180,000, call it £200,000 for argument's sake, that is 0.02 per cent of the overall States' budget. So, I will be supporting the proposition today. I was not necessarily persuaded that we had to find the £180,000 additional earlier on in this process, but the more I think about it and the more I reflect upon the need and the legitimacy and the probable value for money of Scrutiny, the more I am beginning to come around to thinking that perhaps we ought to find the money. But one thing we have to be absolutely certain about is that this present Social Affairs Scrutiny Panel is ridiculously overstretched. I want this Panel to do good work on behalf of Health and Social Services because if there are things we are doing wrong or policies that could be improved I would be delighted and grateful for advice in that respect. But the present Panel cannot remotely hope to carry out the workload it has. So I think Scrutiny will be a value of money exercise on behalf of the Island's taxpayers. We have to think seriously about resourcing it adequately.

4.7 Deputy S.C. Ferguson of St. Brelade:

I am very glad to hear Senator Syvret's comments, which do put the matter into the whole financial context. As he says: "It is a pity we did not think of 5 Panels when we voted last year," I think it was. Still, as our revered Chief Minister says: "We are where we are". We are dealing with a new function, and, as with all new functions, budgets are estimates. At the same time, with the vast number of decisions being made by Ministers, we are stretched very thin. Perhaps if the Ministers would stop making decisions, we possibly would not need this. I am glad to be able to agree with Senator Ozouf on the amount of work involved. I think he has missed the point that his budget, although relatively small, has a terrific impact on the Island. I think the work being done by his department is highly significant and justifies the attention being paid to him and his department, as well as his magnetic personality. I say it seriously. As Senator Le Sueur has also said: "It is a new process and the budgets are estimates". We all knew this was going to be a new process, and, as with all new processes, a readjustment either up or down will be necessary. It is not unreasonable. It may be that we shall not need so much budget. However, this proposition does not say that we must have £180,000. This is an ideal figure based on the budget we started with. If we need to amend this then this will be done in conjunction with P.P.C. and the Public Accounts Committee. At the moment we are asking for approval of the reallocation of Scrutiny Panels and the money will be discussed with P.P.C. I do not think Members need to be reminded that Scrutiny, as a critical friend, effectively gives the Ministers a second pair of eyes to review policy, with the concomitant advantages. We have seen some of the results of Scrutiny work: reports which have made constructive comments which will, or have, led to much better debates. Fulfilment, water, agri-environment - which I support enthusiastically - there will be a Howard Davis Farm report, sickness levels in the States. I would thank the Deputy from St. Ouen. But I maintain that Scrutiny is giving value for money, especially when you look at the costs of the reports that we produce

compared to the cost of some of the consultants' reports. I support the split of the Panel and I hope this House will do as well.

4.8 Deputy K.C. Lewis:

It is in all our interests, Sir, to scrutinise ministerial decisions quickly and efficiently. I myself am on the Economic Development Scrutiny Panel. The Minister of Economic Development himself has a huge workload, so much so that he has 2 Assistant Ministers. Economic development: small title, very big remit. Scrutiny generally, Sir, is overloaded. If we vote against this proposition, the Scrutiny will still carry on but there is a very high risk of delay, which could slow down ministerial decisions. Thank you, Sir.

4.9 Senator F.H. Walker:

This debate should not be about - as some speakers have already tried to make it - Council of Ministers versus Scrutiny, or, indeed any group of Members against another group or whatever. This is about the process of government and it is very important that that we get it right. I was very saddened by Deputy Baudains's usual cynicism in his speech: not one positive idea, not one thought on how to move forward, merely the usual complaint - without justification - that the Council of Ministers do not co-operate with Scrutiny. I absolutely and emphatically deny that. Those Scrutiny Panels that have sought to engage properly with the Council of Ministers on the big issues will, I know, confirm that as well. Sir, I absolutely believe, as I have said, that this is something we have got to get right, because despite the cynicism from Deputy Baudains and maybe one or 2 others, I and my colleagues on the Council of Ministers do support strong, disciplined, structured Scrutiny. I have said on more than one occasion that Ministerial government cannot function in the way it is set up to function in Jersey without strong, disciplined and structured Scrutiny. I have said that in this House on more than one occasion and I reaffirm it in this debate this afternoon. I understand, for example, where Senator Syvret was coming from in terms of, well, maybe if we had more effective Scrutiny in the past we would not have the pensions issue that we have got now. I think that is a bit of a red herring and I just want to address it because I do not agree with my colleague, the Health Minister, on this occasion. I do not believe that the States of Jersey are heading for a pensions black hole as he and Senator Shenton have suggested. Therefore, I do not think we should say that: "Oh, had we had better Scrutiny in the past we would be in a better position in that respect now". I think that is a bit of a red herring. But I do support ... and I have no doubt that throughout the period of Ministerial government into the future, Scrutiny will play a very important part in enabling the States, enabling this House, to take better decisions. I have no doubt about that whatsoever. I also fully accept and agree with those who are saying that there are teething problems with the new system. That is inevitable. Some Members have said that there are teething problems with the way Ministerial government works and we are ready to look at that. Clearly, we have heard there are teething problems at the moment with the way Scrutiny is structured and the way Scrutiny works. I think we are all agreed on that. There is absolutely no disagreement, as far as I can see, that the Social Affairs Scrutiny Panel has too big a remit. I do not think anyone disagrees with that at all. All you have to do, I think, is look at the Council of Ministers' report and listen to the speech by Deputy Duhamel to recognise that has been blindingly obvious. Yes, we probably should have realised that when we set up the 4 Scrutiny Panels in the first place. I absolutely agree that something needs to be done. I accept the current position is not right. Something does need to be done to change it. But here, I am afraid, comes Deputy Martin: "the but". I do not agree, and nor do certainly the vast majority of my colleagues on the Council of Ministers, that that something that needs to be done should be a fifth Panel at a cost of up to £185,000. Now, I know there are thoughts and discussions about what the costs would be. I know it is not specifically in the proposition but it is very much in the report. We cannot escape the fact that if there is going to be a fifth Scrutiny Panel it does need resourcing. No doubt about that. You

cannot have a Scrutiny Panel without it being resourced. I thought at one point: “Well, the right way forward, certainly in the interim, would be for the Social Affairs Scrutiny Panel to use the ability it has under the States of Jersey Law to use Sub-Panels”. But I accept that does not address the problem because the sub-Panels are not resourced. I accept that. What I hoped was a helpful idea, I agree, it does not fly. It does not work. So that is not the right way forward. But I think it is premature to agree at this stage - we are 6 months, effectively, into the process - to say, already, the only way to address the issues of the Social Affairs Scrutiny Panel - and as I have already said, they need addressing - is a fifth Panel at this sort of cost. I think that is premature and as Senator Le Sueur said it is, same wording really - same meaning different wording - too early. Surely what Scrutiny should be doing is what the Council of Ministers do; is look at our priorities. We have to reprioritise within a budget. That is what the States tell us to do and that is what we believe we should do anyway. I have seen little, if any sign - now someone may tell me I am wrong - but I have seen little, if any sign, that Scrutiny have attempted to do that certainly in any meaningful way.

Deputy G.C.L. Baudains:

He is indeed wrong, Sir.

Senator F.H. Walker:

Well, then perhaps someone will give us the evidence. Sir, the Council of Ministers have had to accept, and have willingly accepted, the decisions of this House, to reprioritise to allow for winter fuel allowance, to allow for education of the prison and to allow for third party planning appeals. We have reprioritised within the total budget. As I say, I see little sign of Scrutiny doing the same. I see little sign at this point of Scrutiny prioritising the work they have to do. It was never intended that Scrutiny would attempt to scrutinise everything and nor, of course, can they. That was never the intention; the intention was that Scrutiny would select the high priority new laws and policies and scrutinise them to a pre-agreed programme. Now, that has not happened either and I do believe there is considerable scope for the Scrutiny Panels, working through the Chairmen’s Committee or whatever, to prioritise their work more effectively, to agree a programme of work in advance with the Council of Ministers, as the States of Jersey Law suggested should happen and that they can be more effective than they are today with 4 Panels. That is the way to move before agreeing already at this stage that we need to incur, at significant extra cost, we need to set up a fifth Panel and I cannot believe what I am hearing from Deputy Martin; that the work of Scrutiny is impossible. Scrutiny was set up based on experience of other jurisdictions; there was considerable research undertaken into how Scrutiny functions in other jurisdictions, how many Panels were required, what their remit should be and so on and it was on the back of that research that the Privileges and Procedures Committee of the day recommended that 4 Panels should do the job. Now, if the workload is currently felt to be impossible, then I would argue it is down to 2 things; it is down to not the best organisation that we could see and down to not having a sufficient line of priorities; a sufficient thinking about prioritisation. I believe that Scrutiny has had the opportunity to be more effective already than it is shown to be, than it is proven to be. I regret that, because despite the doubters, despite the comments, the negativity, I go back to what I said; we need strong structured Scrutiny and there is work to be done. How ever many Panels we have, there is work to be done in organising Scrutiny and in getting our priorities, getting Scrutiny’s priorities right. I was interested, I think it was Deputy Baudains who said why have the Council of Ministers not come along and offered to help? Well, generally speaking, Scrutiny quite rightly protects its independence from the Council of Ministers and does not really welcome what could be termed to be interference in their internal affairs and I can understand that. But if any such help is asked for, it would be more than willingly given. Sir, I believe the interim way forward is for Scrutiny to reorganise. It has to reorganise; we cannot maintain the present structure and, as I say, there is no disagreement with that at all. But I cannot agree that there is a real need and I do not believe the need has been justified or proven, to do so by creating a fifth Panel and incurring a cost, and it will happen, of

about £185,000 and that is the issue. It is not whether Scrutiny needs reorganising or not; it is how it is reorganised and at what cost. That is the issue of this proposition. Now, we are told by States Members, quite rightly, that we should be controlling our expenditure. There is real pressure on us to do that. We are also told by States Members, quite rightly and decisions have been taken in the Strategic Plan debate, to increase our spending on core social issues. Now it is winter fuel allowance, it is the prison, it is third party appeals and so on. We cannot go on working, something has got to give within those 2 pressures, so we have got to prioritise and we are prioritising how we spend our money in the future and my question really is, is this proposal, this proposition, at this time the best use of public resources? The best use of public money? In my view, because there are alternatives to addressing the problem we all know exists, in my view that case has not been proven. So, I will close by saying, before - I know, I can almost hear the speeches are going to come piling in on the back of what I have said - but can I say, I repeat that strong Scrutiny is vital, that change is necessary, the Social Affairs Scrutiny Panel do have too big a remit; they are over-stretched, there is no doubt about that. But I believe it can be achieved without the additional Panel as proposed and without the additional costs that go with it. I believe, if we are going to spend additional money, there are other more pressing issues in the best interests of the people of Jersey, which we should be spending that money on, rather than doing that at this time. So, sorry, one final thought; Senator Shenton has a proposition lodged before this House to review Ministerial government, which includes Scrutiny, and all the procedures and structures at the end of the year, 12 months after its introduction. Now, surely the right way forward and the prudent way forward, even though we could make changes in the interim, the right and prudent way forward would be to approve his proposition to undertake such a review - and I certainly fully support it - and in the course of that review look critically at the way Ministerial government is working, the way the Council of Ministers is working and also, of course, at the way Scrutiny and other Committees associated with it within the States are working as well and if any formal restructuring, any formal addition to the current structure is required, that review will show it and that review will give us a much clearer and much better informed way to proceed rather than, in my view, after only 6 months, leaping in with this proposition to add to the structure and to add to the cost. So, Sir, I would suggest to Members that we should all wait for that review; it is only a few months away, wait for that review and do the whole job thoroughly and properly rather than taking a short-term decision on the back of this proposition.

4.10 Deputy C.J. Scott Warren:

The Minister of Health and I attended the Social Affairs Scrutiny Panel at the beginning of the new Ministerial government, when the Panel was considering its priorities for the coming year. Within a couple of minutes, I would say, of being in that room with this Panel, it became obvious that there were such huge areas within the 4 major departments that they had to ... so it was almost like 'draw a raffle ticket to find out which area they would be able to scrutinise'. There were so many different areas, it became very obvious to the Minister of Health and me that there was very little chance of this Panel being able to effectively scrutinise any new major health initiatives. When Ministerial government was debated, several years ago, the States Assembly agreed and in fact everybody was assured that sufficient funds would be allocated to the Scrutiny function. It was deemed essential that that Scrutiny function must be a balance to the Executive government. I know that speeches were made then and when I say we were reassured, it was a total commitment and, to be honest, I do not think there is anyone, as the Chief Minister has just said, who could say that they could look at the amount of work this Panel has and say: "That is easy, you will get through all the important issues in those major departments." An impossible job, I believe, to effectively do, for one Panel. So I am therefore totally supporting this proposition. I knew from day one they had a total overload of work. To even effectively, to be honest, scrutinise one of those departments is a lot of work for one Panel, let alone to do 4, and so I whole-heartedly do support the funding being made available for the fifth Scrutiny Panel as soon as possible. Thank you, Sir.

4.11 Deputy G.W.J de Faye:

I want to acknowledge straight away that I am personally aware of a number of members of Scrutiny who work extremely hard and I think do a fine and creditable job. But having got that out of the way, I have been disappointed with Scrutiny up to now and having listened to some of these speeches, I am now becoming dismayed and depressed. Yes, of course there is an awful lot of work for one particular Panel to do. Does that mean that we have to have another Panel? Or should the work be reallocated among 4 existing Panels? Or perhaps we should have 3 Panels? I do not think the number of Panels is particularly significant; it is the allocation of the work resource. Scrutiny do not seem to be able to do that very well. Let me give a pretty obvious example; Fort Knox, it is full of gold, so much gold that I would not be able to tell you how much is in there. Let us say it is \$100 trillion of gold, an awful lot of money. It does not take much supervision; it has only got one big door and a combination lock, it is basically a safe. Frankly this idea that because health is a big budget, therefore it needs a big Scrutiny Panel to go with it, is bunkum, absolute bunkum. It is a question of how many policies are being put forward? Which are the controversial policies? Which are the policies that the public would have a keen interest in? That is not every decision that a Minister makes. How many people on Scrutiny are interested in my Bouley Bay Hill Climb road closures? Not very many. That is where I am depressed; that is why I am depressed. Because Scrutiny does not seem to know what it is doing. It seems to think it is some sort of alternative government, a shadow group, a quasi opposition. It needs to look at everything. No, the idea of Scrutiny was to be nimble, to be efficient, to be flexible, to be able to pick on those key issues that the public wanted. Now, I had hoped that we were going down that path when I was delighted to see Deputy Duhamel and his particular Panel go on a road show and they went round the Island asking people what did they want scrutinised. Excellent start, I thought, excellent start. But I am afraid it looks as though Scrutiny tried to take on too much. Now, as for this we have, you know, you run big departments and we do not, we only have a couple of Scrutiny officers, I have made the facilities of my department available to my Panel from day one. From our very first meeting, I said to the Chairman of my Environment Scrutiny Panel: "Look, I might have got this all wrong, so if you want to show me what your favourite design for a waste plant, with your all singing, all dancing autoclaves and your hazardous waste extractors and your riddlers and your mini composters and your anaerobic digesters and all, please give me the design and I will run it past my ... no, I will let you have my guys, do not even have me in the room." I have not had a single piece of note paper on the subject. The facilities of my department offered and spurned. So do not let Deputy Martin fool us all into thinking that somehow, you know, the departments are unco-operative, no, we fall over backwards to try and help. With one exception, which I will admit, and that is when Deputy Duhamel asked me for the manual records of all the outages on my plant going back to 1990, which would have required an enormous amount of shuffling around in the files, I said: "No." I think quite reasonably so. But I did give him all the computerised records; 5 reams of paper: if anyone knows what a ream is; it is an awful lot of paper. All the way back to about the year 2000. I thought that was actually being fairly reasonable. Is my critical friend reasonable? No. Let us face a few facts here; when nice Deputy Power asked if he could come and have a look around my Bellozanne plant, I said: "Of course you can." Fortunately I overheard his Chairman saying: "No, we do not want you to go unescorted. You cannot go alone." All for one boys; either we all go or no one. Why? Because poor Deputy Power, the man who I did not realise was known for a particularly weak mind, was thought to be in a position where he might have been brainwashed by some of those chaps that work down at Bellozanne for me. But were we being co-operative? Oh yes, I think we jolly well were. The departments are there to assist; they do assist. There is absolutely no good reason for saying that we need all our own experts when you have as much access as you want, freely given by me to my Panel. I do not know how the other Panels work, but I would imagine it is very likely that all the other Ministers are equally co-operative wherever they can be. There will be one or 2 incidents where, for confidentiality or business

reasons, we cannot be as open with the information as we would like. Senator Perchard knows he has got the full Business Plan breakdown on how I run my green waste composting plant and I am delighted to say, in fact, Senator Perchard was able to come around and talk to my officers only the other week and so the department is fully apprised of his ideas. That is how co-operative we want to be. That is why I have to say I do not think we are getting value for money out of Scrutiny at the moment. I do not blame Scrutiny particularly; this is early days, this is only 6 months down the line. We are all finding our way forward. That is why this is absolutely not the time to throw nearly £200,000 at the problem, which is an extraordinary demand coming from the very people who are critical of Executive government about being profligate with money. It is deeply ironic, is it not? No, there is a time and a place for this proposition. Now is not the time and, while this is the right place, bring it on on another occasion. Preferably after Senator Shenton's eminently sensible idea for a full review of how it is all working and I say to those Members on Scrutiny who are disappearing under vast workloads, prioritise your workload otherwise you will have a nervous breakdown. You cannot do everything; you are not expected to do everything. It is jolly lucky for Senator Syvret, as Minister of Health, to have an enormous department, because he probably will not get scrutinised as much as he should. But the point is, you in Scrutiny have got to decide which are the bits of his department that need the scrutinising. You have to work it out because I am afraid there is one thing a Minister is not going to tell you; which bit you need to prioritise in terms of Scrutiny first. Although Senator Ozouf, I see, is offering. I am a supporter of Scrutiny; I would like a critical friend. **[Laughter]** I would like a critical friend that does not stab me in the back at the same time. I want to co-operate. When my department co-operates, for example, with the Parish of St. John, we get a jolly good waste-recycling programme set up. It is slightly different in St. Helier, where it is all done softly, softly, covertly. No consultation with the professionals at Transport and Technical Services Department, but we will smuggle £5,000 out of the Scrutiny budget and do it on the quiet and we will come up with a specially designed waste recycling operation that will completely stuff the Minister. That is a charming critical friend to have, is it not? Smiling in your face and stitching up behind your back. Not the sort of Scrutiny I favour and not the sort of Scrutiny I want to chuck £200,000 at right now. I say simply this; you have got to walk before you can run and at the moment you are just toddling along.

4.12 Deputy G.P. Southern:

[Laughter] Oh joy! How appropriate I should be standing after that very entertaining virtuoso piece from the Minister of Transport and Technical Services. As I said yesterday, I do enjoy how entertaining he is, I just wish he could be a bit more informed and informative and a bit more educational, because what I am struck by is how a little knowledge goes a long way. Because he was giving Scrutiny - and I include myself among that - lots and lots of advice without an understanding of what Scrutiny involves and what Scrutiny, from our side, requires. He said what Scrutiny needs is to be nimble and it needs flexibility. He has obviously been watching me as a wicket keeper **[Laughter]**. I am your man; flexibility, nimbleness, you have got it. But then he said: "What you have got to do is reprioritise, reorganise yourself." Then he finally ended up saying: "I am a supporter of Scrutiny." I think perhaps what he meant was, and it appears to have happened several times today: "I am a supporter of Scrutiny, but I do not half enjoy the moment when I can give them a kicking ." That is what he did, or tried to, but this: "I support Scrutiny", we heard it straight away from Senator Ozouf: "I am a supporter of strong Scrutiny." There must be a delayed echo in the Chamber because it then bounced off that wall and came over from Senator Le Sueur: "I support Scrutiny" and then came off the back wall and we heard it from Senator Walker and now it is finally reached that wall and it has been heard with the dulcet tones of Deputy de Faye. I support Scrutiny; we all do. We are all agreed that we need efficient and effective and good Scrutiny, but we hear this call for reprioritisation. Do what the Ministers do; reprioritise. Okay, I am game for that. Let us have a look; reprioritise, do not attempt to do everything, just think about the number of policies and Regulations and initiatives that you have seen pass before your eyes in

the past 6 months and just think how much have we been able to get in and take a look at? I was just thinking round, from the 4 Panels and I am thinking 3 initiatives we were looking at, 3, probably 4 by the end of the year, 3 probably 4. A dozen of those initiatives, or those many initiatives, we have managed to take a look at and scrutinise. So, reprioritise, do not spend any more? What is that going to mean? It is going to mean do less or do them more slowly. Is that really what we want? I do not believe so. When we look at the range, just corporate affairs and economic affairs, between us; age of consent, GST, 'Zero/10', the dairy industry, fulfilment, telecoms - telecoms to come - one of us is going to choose it and we will have it. That is a pretty neat, pretty good, substantial list of items to be scrutinised. I think we have done very well. But a little knowledge goes a long way. Senator Walker said reprioritise in an ordered way, agreed before the start of the year. What he fails to mention is that on the Ministerial part, there was supposed to be a series of green papers and white papers. Have you seen one yet? Indeed, I have not seen a green paper.

Senator F.H. Walker :

Sir, on a point of clarification, I guess, that is just not true. There have been a number, the last one of which was last week. They may not be printed on green paper, they may not have a green paper title or a white paper title [**Members: Oh!**], but they meet the consultation function, as agreed, so what the Deputy is saying is just not correct.

Deputy G.P. Southern:

In which case, I will gladly withdraw it. No problem at all. Let us have a look at reprioritising and what it means for us. Is the House aware, for example, that no budget was set aside for the functions of PAC (Public Accounts Committee), originally? What we have done, we have reprioritised, we have taken some of our budget and we have given it to them to get on with it. What happens when they found a meaty topic that they want to have a look at in fairly short order? They had to borrow an officer; I lent them my officer. He happened to have a little quiet moment between one topic and the other topic, where he could spare some time and he spent 3 weeks with them. I am going to reacquaint myself with him some time soon and get him back on my topics, but nonetheless that is the sort of flexibility and nimbleness we have got. But that is the level of resource which we have, so if PAC want to do something pretty substantial and quick, where is the officer time? That is the key; the officer time. Senator Walker reluctantly admitted that just dividing up resource is not that easy; the limitation is officer time. What we are talking about here in this proposition is additional officers, with the associated resource, in order to be able to do the job. So, Senator Walker knows something about what goes on and has recognised some of the limitations that we are working under, but he has not seen the whole picture. Yesterday Senator Ozouf was here with someone who was doing work shadowing and he is not in the gallery today, so he has probably gone home exhausted by his frenetic activity but nonetheless, how I wish I could get a work-shadowing project, involving Scrutiny, to involve the Ministers. I would love to have you alongside me for a day, Senator Walker, or Senator Ozouf and certainly Deputy de Faye, alongside Scrutiny just to see the level of activity that goes on. Deputy Martin said she may have spread herself too far and she may have rendered her own job impossible, but she must have hit a button somewhere there because everybody seems to want to have a go at her. May I take the opportunity to praise her as an absolutely solid and the most effective and efficient worker that I know on Scrutiny? She is an absolute rock and in terms of Scrutiny skills, she has got what it takes [**Approbation**]. But it was not sufficient to satisfy what Senator Le Sueur was talking about; he was picking holes in what she was saying and he knows what an average secretary gets. Good news, no doubt Senator Le Sueur would agree with me that, if he ever tires of being Treasury and Resource Minister, he too would make an excellent scrutineer and he would be welcome to work on any Panel I was working on. But, he made the fundamental mistake, as has Senator Walker, as has Deputy de Faye, to talk of that the solution is not throwing more money at it. Careful; that is not what we are saying, as was carefully defined before this debate began, by the Bailiff, it does not say

throwing £188,000 at this new Scrutiny Panel; it says to give effect to the proposal and to include within the estimates of the States Assembly and its Services in the Annual Business Plan the necessary request for additional funds from 2007, for the fifth Panel. It enables PPC (Privileges and Procedures Committee) to work out what it is that will be needed. Now, where that sum of money comes from, we do not yet know, but unless we worked it out we will not be able to add it to the Business Plan and we will not be able to do anything in 2007. It would have to wait until 2008. Again, the suggestion of waiting on the 12 monthly review leaves us a year out of sync. We in Scrutiny know what we are trying to do and we recognise where the weaknesses are. This is one of them. Please accept that that is the way forward. Now, this sum of money could come in one of 3 ways; it could well be that PPC, when we go to them, say: "Ah, yes, we can juggle this. Perhaps if we move this money from here to here." I accept that Connétable Gray is shaking his head already. They might say to us: "Scrutiny, how much have you been spending? You have got this much left. Why do you not do this and use that money?" Or it may well be that there is some additional expense between there which might be from zero additional money - £0 additional money - to the full whack; £188,000. But somewhere in there is what effectively, practically, is the sum that we require. But it is not automatically throwing money after it; it is debating where that money comes from and in terms of if Senator Le Sueur only knew the level of my abstemiousness in spending my budget, he would be amazed. So, I can say categorically - although I will not say for anybody else; I do not know about the overall Scrutiny budget. Certainly in my terms, I believe, by the end of the year I will not have spent my budget; there will be a sum that I can say, gladly: "Yes, let us create the second Panel and here is my contribution towards the funding for it." So I can guarantee it will not be £188,000 because I know that some of my budget can go that way without a problem, without any difficulty whatsoever, should you agree. But the point is we need to make a decision now, in principle, so that we will be ready with whatever funding is required, in proper time for 2007, otherwise we miss the boat. We will not be able to do anything until 2008 and that is another year of inefficient working. That is the case and that is what we are doing today and that is what we are voting on. Finally, I will come back to the issue of reprioritising and it seemed to me that Senator Ozouf was objecting slightly to the intensity of the attention that he was getting from me. He was saying: "I am the only Minister with the complete undivided attention of a Scrutiny Panel." Can I reassure him that the thrill of the intensity of this attention is absolutely mutual? I like meeting him as often as I do, about as much as he likes meeting me as often as he does. But he seemed to be suggesting that one of the ways of rearranging things, or reprioritising, would be to run this single ministry Scrutiny Panel together with another, to make one Panel out of 2, to give space to make 2 Panels out of one. May I assure him that I will consider taking Corporate Services under my wing and leading up both, no problem. It would give me the opportunity not only to meet him a bit less regularly, but to meet Senators Walker and Le Sueur a bit more often and I would look forward to that with positive anticipation. Finally, may I suggest that if Scrutiny, in any one of its investigations, were to hit upon an issue that saves substantial money for the States, it would be worth more than its weight in gold. When I was on Shadow Scrutiny I often heard Deputy Duhamel and, indeed, Senator Vibert saying: "Just one good hit and we save the States 30 years, we save us millions, it will look like pennies, what we are spending, that is all we need." It will happen, it will happen; efficiencies will be made as a result of Scrutiny. Changes in policy, which do save money, eventually will be made because of Scrutiny and the fresh pair of eyes that look at it. It is absolutely, I believe, essential to pass this proposition today, then we can get on with reprioritising and reorganising appropriately for 2007 and beyond.

4.13 Deputy S. Power of St. Brelade:

I will not reply in any great detail to what Deputy de Faye said a little while ago, except to say that it was Deputy Duhamel who invited me on to his Environment and Scrutiny Panel. I would like to start by saying what might have been 10 years ago, had we had Scrutiny. Reference is made by Senator Shenton that there are issues in pensions which have to be looked at in the future. If we

look at the waterfront design over the past 10 years and how it evolved, perhaps had we had Scrutiny, it might have turned out differently. Certainly some of the buildings that are on the Waterfront and the design of the underpass, I think, do not stand up and I do not think it will be there for long more and I am talking about a decade rather than 30 years. The closure of the Fort Regent pool, the covenant that was issued to develop the Aquasplash pool, whereby another pool - similar in size to the Fort Regent pool, or slightly longer - could not be built within 3 kilometres of St. Helier. The structure and composition and structuring of the Waterfront Enterprise Board. It looks as if that one is on a finite run out and, had that been open to Scrutiny in the last 10 years, perhaps we would not have the mess we have now where the Chairman has resigned, the Managing Director is gone and the Council of Ministers are looking to absorb this mess into Property Services. I dare say there are issues in health, in education, that can be looked at in Scrutiny. I was going to speak about the Island Plan 2002, but that in itself has presented so many problems for the Planning Minister today that I do not think I need to develop on that. Sir, I am an enthusiastic member of the Scrutiny process. I do not believe in alternative government, I do not believe in other agendas. I think that in Scrutiny we are working for and on behalf of the people of the Island of Jersey and the States of Jersey. I have learnt a lot in the last 7 months, I have learnt a lot from Deputy Duhamel, I have learnt a lot from the other members of my Panel; Deputy Le Hérisssier, Deputy Baudains and the Connétable of St. Mary and I have a lot more to learn. I feel that I am the junior on this Panel with L plates and these are seasoned, experienced politicians. I also have come to value and respect the 8 Scrutiny officers who work in Scrutiny, because they work very, very hard. Much like the Council of Ministers, we have an enormous amount of paperwork to plough through, an enormous amount. We do not have the resources of the Council of Ministers; we operate on a very finite budget and indeed I have been staggered by the amount of paperwork that we have all had to read in the last 7 months, consume, digest and study. Now, the stated wish of this projet is to increase the role of Scrutiny to a fifth Panel, by splitting the Social Affairs Panel. I do not want to go over that again; we know that they want to scrutinise education, home affairs, health, housing and social security and do it in a number of different ways. It was their right and it has been their decision that they have decided to scrutinise the role of the Centenier in the Magistrate's Court, out of hours GP services and the Youth Service. That is their right and that is their prerogative and they have decided to do that. There may be views within this Assembly that Social Affairs might have picked alternates but that is not for me to comment on. With the resources that we have got, the 4 budgets that amount to £360,000 plus the officers, Scrutiny needs to be imaginative, we need to be selective and we need to be careful as to how we spend our funds. I have to say today that I had not made up my mind, coming in here, as to how I would vote on this, but I have made up my mind now and, to a large extent, my mind was made up by Senator Syvret's speech. If we look at the allocation of resources to Scrutiny, which comes to something in the region of £1 million, give or take £100,000 and the State's annual budget is now £500 million. By my crude arithmetic, Scrutiny absorbs 0.2 per cent of roughly the whole thing. With the resources we have got, it is impossible to analyse in any significant way, a significant amount of States policy; we simply do not have the resources. We can pick one or 2 weighty issues per year and we can pick one or 2 minor ones and that is about as much as we can do because, with that kind of budget, I do not think we can do much more. I was very, very worried about coming to this Assembly by proposing a 20 per cent increase in Scrutiny resources when a lot of other States departments are cutting back. But, having looked at it again and having listened to what Senator Syvret said, I do believe that, in terms of the old role machinery of government and the funds associated with the machinery of government, that this increase is a realistic one. However, I would have preferred that this proposition had been brought in a slightly different way and I would have preferred that Scrutiny themselves had brought a Business Plan to the States for 2007/2008/2009, which would have reflected what we have done, what we have achieved, what we would like to do and where we would like to go. However, I will support this proposition, because I think it has merit in it and I hope the House does as well. Thank you.

Senator J.L. Perchard:

Sir, can I just make a correction on something that the Deputy said? He said the Chairman of the Waterfront Enterprise Board had resigned. In fact he has not.

4.14 Deputy J.B. Fox:

It causes me some confusion, this particular document. The timing is appropriate in reviewing things after 6 months and indeed we are doing the same thing for Assistant Ministers. We are often accused of being on the Executive and yet we probably have less communication than what the Scrutiny Panels do, [**Members: Oh!**] in various ways. It was not meant to be a laugh, it was meant to be serious that when you start off something new, a lot of positives come out of it, but there are also things we can learn from it and this is a learning process. The bit that confuses me is that we have got some Members that do not have a portfolio but my colleague to the left, Deputy Martin, is in on 2 Scrutiny Panels and is worked off her feet. Now, that does not make sense to me and it would make sense that she gives up one and allows one of the other 2 or 3 people that have not got a portfolio to have a portfolio, which, to me, is common sense. Also, that when I put in propositions, which I have been recently, I am usually told by the Greffe that I must identify a stream to fund what I am proposing before I can put it in and so I spend a lot of time talking to various people, including the officers, the Ministers, the Greffier, the Treasury and we find a way that we can incorporate the funding. Here we have one for a proposition that has no funding, but we had clarification today, it can be from nought to £188,000. Well, that does not seem to have any coherence in it and I appreciate that this is only a proposal in principle and normally I am hearing that we should have more meat on the bone, especially from Deputy Southern, then on this occasion we just have it without the meat but we will stick with the bone. On the other hand, on the comments that come from PPC, that they are quite happy to give effect to the proposals that should come into force until after the debate on the Annual Business Plan has been completed and an additional agreed funding by the States. So, again, it is saying, in the PPC one: "Yes, you can agree to this principle today, but we should not bring it in until we have the funding agreed by the States." Now, that answers one part of my question in relation to having to identify the funding. So, in other words, we are postponing the financial decision until after the Annual Business Plan and then it is a question about the Panel. Well, I have not seen a document that gives me arguments in relation to the breakdown of why we need a fifth Panel, apart from the size of the budget, the size of the departments and the amount that one Panel particularly has. I happen to agree with most of that. But normally someone who brings forth an argument gives me a breakdown of the workload that they are doing, the things that they perceive they should be doing in a particular area and the breakdown of the shortages and the costs that are coming in. I suppose we will call it a lightweight business plan, if you like. But I have not got that detail and it is probably because we are only looking at the bones and in principle. I think it would have been helpful to have an argument that we had looked into, whether it was through PPC or through the Chairmen's Committee of the Scrutiny Panel, whether in fact that we could make a fifth Panel, by utilising one member from the 4 other Panels and sharing officers, et cetera. I am not suggesting that is what is going to happen; I am suggesting that that debate could have possibly been had between the Chairman or the Chairmen's Panel of the Scrutiny Panels with PPC for bringing it forward for a debate along with the debate on the funding, et cetera. So I have got all sorts of questions. Then today the very valid thing that comes forward is that Senator Shenton is having and asked for a review, which is coming up very shortly, where not only would the executive government side of things be put into the equation, and indeed the Assistant Ministers and Scrutiny, and maybe all these should have gone together and brought forward? The other question that I have at the moment, which is causing me some confusion, is that we still have yet to debate the future size of the States. We have still got that in abeyance at the moment. You know, do we still have 53 Members? Turkeys for Christmas and all that, or do we lose 10 Members, or 5 Members or however many Members? How is it going to affect the size of the Scrutiny Panels, the Executive, or whatever? There are still questions to be

answered. I do not generally push the A button in front of us, but I have got so many questions outstanding at the moment that I have got a feeling today I might push an A button. But I do not think that that is a good policy, so I will probably push the C button and hope that next time - in a few weeks time, or a couple of months time - that we can push the P button and move this forward, as I believe that it is important that we move positively, that we do have a strong Scrutiny Panel that does provide the service that it has been designed for and asked for and gives not only this House but the public, the confidence that the Ministerial system is proving that it does make better decisions and the right decisions that are cost effective and achieves what it set out to do. Thank you, Sir.

4.15 Deputy A. Breckon of St. Saviour:

I am pleased to follow the Assistant Minister for Education, perhaps I can make him feel wanted and loved instead of unwanted, unloved and apparently uninformed [**Laughter**]. Within education, there are things that have come forward about things like higher education fees. Who has looked at that? Apparently the Minister was just going to do this and there was going to be no consultation whatsoever, but there has been a sort of rethink about that. Members were talking this morning about facilities, education, about swimming pools and people having access. I remember the debate and the idea was that there would be community facilities. Of course, most of education's premises are only open for 38 weeks of the year so perhaps somebody should be scrutinising that and look at the many millions of pounds that we have spent on these facilities. If it is best used, and if it is a community facility at all. Perhaps somebody should be scrutinising the millions we have spent on new skills and how those premises are 5 years on and how the people who are using them, feel they are fit for purpose, because we have never done that either. So within education, that is not mentioning Fort Regent, that there is perhaps a lot that the Assistant Minister for Education could get involved with and feel involved and indeed useful and effective [**Laughter**]. If you look at Home Affairs, I noticed the other night, I think, the fire service have just spent £400,000 on a piece of kit. Now, we have had debates about what the prison needs, now where was the prioritisation of that and perhaps somebody should have looked at that? It is a nice photo, I am not saying there is anything wrong with the thing, but how often will it be used? Where does the need come from? What was wrong with the old stuff? Who has looked at this sort of stuff? With the prison, again - I know that the Social Affairs Panel have touched on that - I think it is a resource issue for them and I think there are some service level agreements here that the public want. Who is looking on their behalf? I think we are light in some of these areas. With health, again, there is a lot of money there, approximately £130 million; quality and delivery of service is very important. Who verifies that? If it is the health service themselves, giving benchmarks, who is checking this? I would contend that somebody should. I think it is very important; we have not had a debate about public/private health, there have been one or 2 contentious issues but the Minister himself has said in the last couple of days that the money that comes from the private health facility is welcome, but again who has looked at that independently over the last years? I do not think anybody has. Again, social security; we as the States pay over £50 million in supplementation. Has anybody, apart from the previous Committee, of which I was a member, looked at that? But, again, not in any great detail. So perhaps that is another area? There is the long term incapacity allowance; I know that is under review. We have over £100 million paid in pensions, there have been possible changes with income support benefits and allowances, I know that has been looked at but it is a major task for some group that are under-resourced, I would contend. If we look at housing, we have had a policy shift without a debate. We were going to have a management company, now we are not and there is £6 million a year being allocated - and in my opinion it is long overdue - to catch up with some of the maintenance. We have not had a debate on that. Now, who is going to review that and ensure that we get best value for money? Again, with rent rebates probably in the private sector, many millions of pounds. Again, there has been no independent review of that. What there has been combined with that, is there has been a raid on the Dwelling Houses Loan Fund of £32 million. That has been

brought into play. Now, if every Member knew that was in play, perhaps they could have submitted schemes and bid for some of that but many of us were not informed of that. So, those are the areas really that somebody has been, one group in fact, is being asked to scrutinise and there is some vast area out there and many, many millions of pounds. I want to go back, Sir, because I remember a seminar that we had before we had the changes to the machinery of government. An officer came from somewhere, I think it was from Scotland, and the debate then was who sets the Scrutiny budget? The problem with that is, if it is the Executive, then they can choke off the Scrutiny by not funding it. That was a debate that was had at that time - and I cannot remember who that was - and this person was actually saying there is a very real danger in letting the Executive set the budget for Scrutiny, because then they can determine how far you look and in what sort of depth, and I think that is perhaps where we are today. Yes, there should be limits and of course there should be accountability but that can be done within the system, within funding and if there are problems with that, that can be reviewed. Of course there should be a reporting structure and I think I have some experience of Scrutiny and you are peddling on a bike without a chain on sometime. You do not seem to go very far and you can get swamped with information and sometimes you do not get enough and you have to chase it. But I do have a problem if there appears to be some executive control. The Chief Minister Senator Walker, mentioned prioritising things. I would respectfully suggest it is easier to change the priorities when you have got £500 million than it is if you have got £1 million. It is still a lot of money but of that million pounds, much of it is fixed costs so it cannot be moved around anywhere. It is about establishment and it is about base salaries and facilities. He also talked about a programme of work and not best organisation, not best prioritisation and he suggested an interim way forward was for Scrutiny to reorganise. Well, I would respect that is very difficult when somebody pulls something out of a hat that you do not know anything about and you then have to decide; do you change, do you stop what you are doing, do you pick this up? Telecoms is an example, that is an example of that [**Approbation**]. Another one is the dairy; the projects were down, they have now been delayed until the autumn but it is something that is being looked at, hopefully in co-operation with the Council of Ministers. He also talked about the better use for extra spending but, as other people have mentioned, if somebody hits oil here, then there are some significant benefits. When we discussed some of the issues in the machinery of government debate, what was stressed at the time was, there must be checks and there must be balances. I think we are reaching this point again now. We are talking about checks and balances and the critical friend, if you like, or the friend that might be a bit critical, but might also agree. That is an important thing. Also, we had this said during the States of Jersey Law debate; where are we with some of these balance issues? Again, with Standing Orders? Things were put in. Senator Syvret brought some of this debate about by the amendments that he brought at the time. Another thing that springs to mind is can the public just walk in and get this information themselves? Where are we with freedom of information? The President of PPC will remember where we were with that and I think some of the funding again has been checked by the Council of Ministers. So, if people are being denied access to information, who is going to do the bidding on their behalf if you also starve the Scrutiny process? So I think there is some tactical manoeuvres here because if anybody could walk in anywhere and get information, apart from within obviously certain restrictions - then perhaps we would not have such a problem but that has not come either. I can see Members on the other side of the house were on working groups probably 10 years ago looking at freedom of information. We are still not there and we agreed in 1994 or 1995 that there would be a law. We still do not have that law. We have had codes. We have messed about with it for convenience for some.

Senator S. Syvret:

Just on a point of information could I remind Members that the draft laws are in fact out for consultation at the moment.

Deputy A. Breckon:

It is, and the consultation closed the middle of last month, I think it was. So, again it is about access and with the Council of Ministers, I am not sure what their interference was - and I see it as that - with the funding. The difficulty with that is that when there are B agendas and there items on it how do you plan for that if you have started a Scrutiny process in December last year? You can put certain contingencies in but if it is a thing like that with public interest then it is not always easy to do that. I looked elsewhere and it was interesting because Scrutiny was being done while the policy was being developed. It was not a consultation exercise: "That is what we think are the recommendations but what do you think?" It was done while the papers were being prepared and people could have an input at that stage and that was found to be more effective. We might not all agree but it was felt that was useful. I think this should be supported because we have agreed to having checks and balances. I think this is a vital part of that. Yes, it is a considerable amount of money and I am not for throwing money at things but it must be accountable. If we touch on housing and rent rebates it would probably save us money tomorrow if you looked closely. If somebody looked at that there are probably things we could do and things we could change there. We could look at the system again. I know it is coming into income support but it could have been done long ago. I also do not believe that the Executive should dictate the budget and that is why I remember someone said years ago that we must be very, very careful if you do have non-Executive function that the Executive do not dictate funding because they can choke off whatever we may wish to do. I think this is a possible example of this. We do not have freedom of information so we should, I think, have stronger Scrutiny and follow it with freedom of information. I think it is wrong for the Executive to hand this down in this way. Yes, Scrutiny should be accountable but I do not think it should be shackled and I, for one, with any involvement in this will ensure that the money is well spent and will be accounted for. If it is not spent, and if there is another way of doing it, then that is the other way. I think it is wrong to choke it off at this stage and we should support this proposition at this stage. The detail can come back but I think what it needs is support in principle. Many Members have said: "Yes, we should have Scrutiny. Yes, it should be strong." Nobody has a problem with that but if we duck away from this I think we are seriously ducking the issue and I would ask Members to support the proposition.

4.16 Connétable D.F. Gray of St. Clement:

I think I should make it quite clear that this is not really a new idea because when I was elected as Chairman, in my election address I did say that I thought the Social Affairs Scrutiny Panel was trying to cover too wide an area and I suggested at that time that it should be split in 2. I think they are going a little bit further than that. It is not a new idea. I am concerned about the fact that we passed this and if we want to establish it for 2007 that funds need to be found. PPC do not have the resources - they are fully committed. Part of the commitment, of course, is remuneration for States Members and of course it is up to the States Members to put their hands in the pocket and give a little bit of bare money to Scrutiny if they wish. But that is another issue. I think Deputy Southern suggested that it might be possible for him to find a little bit from his budget but it is very unlikely. The free money, I believe, in each Scrutiny Panel is about £80,000. It is very little and we are looking at £180,000 to establish this new Committee so I do not think the money is coming from there. The principle is a good one and PPC do support it but you have got to find the money. Establish the principle, by all means, now but be prepared when the business plan comes along to find the money.

4.17 Senator F.E. Cohen:

Scrutiny is an essential complement to Ministerial government. I rely on my Scrutiny Panel and particularly on its Chairman for advice, friendly criticism and his awareness of issues. I regard my relationship as a true partnership and I hope that he does. My view is that it is working very well. I know some Members of the House are of the view that we can find money when we want it for new

ideas if it suits us. However, that simply is not the case. There may well be a compelling case for a fifth Panel but we must be practical in terms of costs. The Treasury Minister is quite rightly running a policy of prudent financial management and it is upon this policy that much of the Island's reputation rests. I feel that the principle of the fifth Panel may well be valid but we simply do not have the funds now in this unbudgeted way. I feel that as the Scrutiny process develops there may well be other changes that Scrutiny feel appropriate. It is perhaps premature to consider this measure and it may be better to wait until the other issues have been identified and a package of modifications may emerge from Scrutiny, perhaps coincidental with Senator Shenton's proposal for a review of Ministerial government. I would be very happy to support the principle of a fifth Panel if it were to emerge as part of a comprehensive review. However, I cannot on the basis that it is an isolated proposal at a maximum cost of nearly £200,000.

4.18 Senator P.F. Routier:

I do not want to be accused of being another Minister who is echoing the comments around the Chamber about how important we think Scrutiny is but I have to say that I will because it is so important. It is really vital to ensure that we provide services to the community in an effective way. I enjoy a really good relationship, I hope, with the Chairman of the Income Support Sub-Panel. I think we work pretty well together and we have regular meetings. I hope during that process we have been able to share a lot of the concerns we have and the issues and debating them in a very constructive way. During that process I also hope we have been able to share the problems we have in delivering the income support system in a timely way. We know that we have limited resource within the department to bring to bear on ensuring that income support comes in place on time. It is not only an issue for Scrutiny Panels when, for instance, you have set out your work programme in an orderly way at the beginning of the year to then find that you have other things thrown at you. I think Deputy Breckon and others have mentioned this issue with regards to Jersey Telecoms as an issue that they want to address. For my part I already have a problem in delivering income support within the limited resource I have; I now have to introduce winter fuel which has come out of the blue and I am going to have problems delivering that. It is going to be a real headache but I am having to readjust the way we work. So it is not just the Scrutiny Panels that are feeling a little bit hard done by with the work load. I know there is not much sympathy for Ministers and they might think this is a big department but there are people out there delivering services but the people who are organising policy and working with the Minister closely are very few and far between. We have to recognise that it is a 2-way street in ensuring that we have an effective way of delivering services. In terms of the budget which is currently spent on Scrutiny, £1 million and to perhaps increase it by another £180,000, it should not be forgotten that the other side of Scrutiny does reflect on the work load of the department, quite rightly. So Scrutiny is not only costing £1 million and possibly another £180,000, it is also reflected within the department's work load. It is not just a straightforward £1 million and a bit to achieve an effective Scrutiny within the States. I would not people just to think that was the situation. The work load of the Social Affairs Scrutiny Panel is immense and I believe that we need to address that. We need to address that, I believe, when we have the overview carried out of the whole of the Ministerial government. I will support that proposition of Senator Shenton to have this overview of Ministerial government which will include an overview of the Scrutiny Panels and the way they work. Unfortunately, this particular proposition I am unable to support because it does indicate that new money will have to be found for 2007 and I am really unable to do that as it stands. I certainly want to ensure that Scrutiny is there and effective and I will do everything I possibly can to ensure that does happen.

4.19 Deputy C.H. Egré of St. Peter:

I have listened to the debate with great interest. It has gone on for quite a length of time. I have heard people saying how important Scrutiny is from both the Executive and from the Scrutiny

Panels. I am perhaps one of the few Members of this House who has the advantage of not being on the Executive and not being directly involved in Scrutiny so, therefore, hopefully I can take an objective view. In reviewing, in my own way, what has been going on in Scrutiny I know full well that they are working extremely hard with very limited resources. I would just remind people again they have 8 staff. Now, within the Ministries I look to the Ministers and say: "How many staff do you have to assist you in your work in comparison to Scrutiny and how much work they have to do?" I have to say that the work load in Scrutiny is huge; it is vast and they cannot do the job properly within the resources that they currently have. I personally feel there is not an equity at the moment between the Executive and Scrutiny and I think that has to be addressed. The excuse that we can wait for a further 6 months just because there is a proposition to review the whole of the new form of government I feel is not necessarily a good argument because I feel something needs to be done now. In saying that I do have some concern because I am aware that there is a possibility that we could start up a fifth Panel now within the current resources that are available. The concern I would have is that if we were to set that up, the ongoing costing for the future may not be made available. I think I have made the point reasonably clearly that we need that equity in Scrutiny. I finally make the comment, when we talk about prudence within the overall expenditure, of what the public see we are spending money on. I have to say the headlines in our *Jersey Evening Post* over the last few months have indicated that we have spent £100,000 on dealing with one case of one police officer who has a problem and we have also spent in excess of £80,000 on one extra police car. Now those fundings, if they were made available and not been wasted as I think they have been, could fund the ongoing cost for, certainly, 2007. I look forward to some positive views from the ministerial benches and I for one will be supporting this proposition.

4.20 Deputy F.J. Hill of St. Martin:

I think it is a pleasure to follow the Deputy of St. Peter because he is talking with a load of commonsense, someone who knows something about the real world. I was a 100 per cent supporter of Clothier much to the chagrin of a lot of my friends because they said: "Oh, do not get involved in them because at the end of the day there will be an 'us' and 'them'". I had enough confidence to feel that, no, we would find a way of working together. I can still see Senator Horsfall standing at the back there saying: "Scrutiny will be properly resourced." That was a promise being made and those Members who last week noticed I did not vote for sexual offences, and the reason I did was because when someone said: "We have got an assurance on the floor" I said: "Yes, I have heard assurances before." This is a classic. We have had the assurance that money would be made available for Scrutiny and here it is not. What we are doing today really is trying to remedy a mistake because a mistake was made; a mistake was made by giving the Social Affairs Panel too heavy a work load. I think that has been recognised, recognised by PPC, the Council of Ministers and everybody else. As a Chairman of that Panel, quite clearly I have always believed if we are going to do a job, the job is worth doing well. I do not really feel we are doing the job well. We are just scratching at the surface. What has been quite interesting has been listening to what some of the Ministers have been saying and it is quite surprising - well, not surprising - but maybe our listeners would like to know that our Chief Minister is not in the Chamber. Our Minister of Home Affairs is not in the Chamber. Our Minister of Social Security is not in the Chamber. The Minister for Economic Affairs is not in the Chamber. Yes, I will say who is in a minute. There is someone else missing? Oh, the Minister for Planning and the Minister for Transport. So we know it is quite clear this afternoon that a lot of the Ministers do not really know much about Scrutiny and are not prepared to listen either. For the benefit of Senator Vibert I will say: "Yes, thank you. Nice to see you." Senator Syvret, likewise, who obviously knows all about Scrutiny and supports the proposition and it is nice to see that Senator Le Sueur is back in the Chamber. Yes, all right, he has returned to the Chamber, the Minister of Housing. So it is nice to see him. But what is interesting is the lack of knowledge by a number of people from the Ministry who is speaking today. I said earlier that we have not got the resources and what Scrutiny is doing is acting on a shoestring. Just

a shoestring; on a manpower shoestring. I think that is what the Minister has failed to understand, that we are only as good as the officers who are there to support us. I think that without exception, and I am not going to keep it to myself because I think we have got 2 cracking chaps; we can say that for all the other officers. Certainly I have worked with a lot of them and I think we are extremely well served by the officers who serve us and they are well lead. I think we are very well served there. However, we can only work to them. While States Members do not have a stopwatch, we work whatever hours we do and indeed I know the Scrutiny officers work more than hours than they need to or should do, what we looking for is that extra support which will come from manpower. That is what we are about today. It has been said that we could prioritise. Well, I can tell you with the Social Affairs Scrutiny Panel, we have prioritised. We have worked out a programme. We thought we could get through 5 areas ensuring every Ministry will be covered. As the Minister of Housing knows we have had to pull his because it was decided to withdraw what the Minister is going to do there. We have also had 2 we were hoping to look after in education but again that has been pulled, again not through us. We need flexibility within our programme and it has been said that: "You can easily do that. You can form a Sub-Panel." Again, the problem is not to do with the States Members. We can always fix up sub Panels. The problem is they have got to be resourced by staff and that is the problem. I do not think anyone really understands that. On Monday night, Deputy Mezbourian and myself, along with one of our Scrutiny officers, went to Trinity Parish Hall to see the Centenier. The officer had to be there, quite rightly, because they record everything that goes on. Everything has got to be evidence-based. So looking at setting up Sub-Panels really is not the answer. I think the Council of Ministers is really attempting to solve one problem by creating another and it had not found a solution. By saying that we should to look to it ourselves, they forget we are a Scrutiny Panel. We have looked to see the best way we could do this. If anyone thinks we have not looked at getting rid of, for want of a better word, Economic Affairs as has been suggested by the Council of Ministers, we realise the work they have is too important for that to just be discarded and put into Corporate Affairs. So we have looked at that. They say there has been no compelling case for additional funding. I find that a bit difficult when they say quite clearly that the current workload of the Social Affairs Scrutiny Panel is too onerous. There seems to be a contradiction there. Unbeknown to us or anyone we have a knight turning up on a white charger in the name of Senator Shenton but now he is being used. He is a great guy and good luck to him too. He has brought through a proposition for us to see what we are doing for 12 months. Well that could have been brought by the Ministry itself. Now what is happening is the Council of Ministers are using that as an excuse to do nothing. In fact, whenever I see Senator Shenton at the back I think of his father who always used to talk about the 'Do Nothing Brigade' and here we have the Ministers who do nothing. What we really have this afternoon is quite a simple choice. Do we go with what we have got on this report and proposition or not? If we do not, well, then we are back to square one. I will say, myself, that I do not enjoy doing a job that I cannot do properly. I think most of my Panel feel the same and if we have to continue doing what we are doing, then think carefully because without Scrutiny there is no Executive government.

4.21 The Deputy of St. John:

I just wonder if I could correct a couple of comments that have been made by the Deputy of St. Peter? With regard to Senator Kinnard, she is away on States business- she is at Buckingham Palace this afternoon. That is why she is not here; I cannot speak for other the Ministers. As far as the comments the Deputy also made about policing matters, the £1 million he was talking about ...

The Deputy of St. Peter:

Sir, could I just correct? It was £100,000 not £100 million and I did not make any mention about Senator Kinnard not being here.

The Deputy of St. John:

I apologise, Sir. The money that he is talking about being wasted on the police I would be happy for him to attend a private briefing on the matter. It might give him a bit more knowledge which cannot be disclosed in public that might indicate a little more as to why that money has been spent. The Home Affairs Department has a secretariat of only 5 and with that we manage customs, immigration, TA, prison, police and a number of other things. They work very hard and they are very effective.

The Deputy of St. Peter:

As a point, that does not carry out the police function. As a former Member of the Home Affairs Committee I can make sure that is fact.

The Deputy of St. John:

I am talking about the secretariat which is what we are also talking about for Scrutiny. At the end of the day Scrutiny costs us at the moment over £1 million. In Guernsey it only costs £200,000. We have a number of electorate complaining about the cost of this Assembly where we have 53 politicians that scrutinise, or should be scrutinising every projet that comes through and I am sure most of us do exactly that. That is Scrutiny too and some public think that is too much already. Do we really think the public will want us to spend another £200,000 on another Panel. We already have 4, Guernsey has one; we spend £1 million, they spend £200,000. We then have 50-odd politicians being paid as well to scrutinise every bit of policy and every projet. I do not really think the public want the money spent on that. I think they want the money spent on front line services: policing, health, education, and not on further Scrutiny. So on the basis of what I have heard and read I really cannot support this proposition.

Deputy C.J. Scott Warren:

On a point of order and clarification, Guernsey does not have the same form of Ministerial government that we have here.

The Deputy of St. John:

I did not suggest they did. I was talking about Scrutiny.

4.22 Deputy R.G. Le Hérisier:

It is nice to have confidence in the accounting skills within the Home Affairs Department and I think that does explain quite a lot. **[Laughter]** I think I am very disappointed in the Deputy of St. John. He is a very fine man and has got some excellent projects off the ground but it is desperately sad, Sir, that he has got such a grievous misunderstanding of what Scrutiny is about. It is this idea that the Executive knows best, the line that the good Deputy is pursuing, and let them get on with it and we will not have any problems. I am absolutely astounded that somebody from the Home Affairs Department should believe in that when it has been up to Back-Benchers, often against unimaginable odds and a high degree of denial which they have met constantly over the last couple of years and months, to wheedle out a considerable amount of information that quite frankly was hidden. It is to their credit. If you were to look at Scrutiny you would see that is a formalised process by which the Back-Benchers roll is designed to bring out that information. It is very uncomfortable for the Executive and it is meant to be uncomfortable and because we are still in the largely friend mode, it is still far too comfortable. We need much tougher Scrutiny and we have not seen anything yet. I hope we are going to see a lot more. I want to see all sorts of policies that have toddled along for years without a lot of thought as to what is going on, procedures that have become complacent and stagnant, people that have got away with never having to answer really incisive questions about what they are doing. I want to see much more of that and that is what Scrutiny is about. It can be done on a civilised level. It can be done on an evidence-based level and it must be done that way but that is what Scrutiny is about. Quite frankly, the Home Affairs

Department has yet to see it in full operation and the more the merrier, I say, and buy a new calculator. The other issue is it has never been brought to our attention that the Scrutiny model we have is an economy version. I suppose I am in part responsible for that but the States did go for an economy version. Other authorities have split out research; they have split out administration and they have split out organisation whereas we have embraced all roles in one set of officers. They are multi task, in the kind of management reform that Senator Walker is so keen to speak of. Our officers are multi-task; they switch from job to job and that has been one of the great hidden achievements of the grasp and the spin-off of Scrutiny. That transition has come about so effectively and working relationships have been so good. That is saving an awful lot of money if that is what we indeed desire to do. I hope people will realise that we have got the economy version of Scrutiny and we are working very hard. Another issue, Sir, is we have not been able to do as people have mentioned, like Deputy Breckon, the so-called minor reports or the quick reports which he intends to do with the dairy industry, for example, and which it is intended to do with Jersey Telecom. All this sort of flexibility has not yet come forward simply because of the very tight staffing that surrounds it. I was very disappointed to hear Deputy du Feu. It is this classic argument, which is getting a little tiring much as I do like his humour, of push together a few things that have happened over a long period of time, pretend they have all happened in the last few weeks and pretend that you are working with utter chaos and a bunch of incompetents. It has been a great laugh but a totally unrealistic and untruthful characterisation of Scrutiny. The point remains that people have been working exceptionally hard. They are working, in a sense, like topsy because they are developing a new system and although, as the Chief Minister and Deputy Breckon say, we look particularly to places like Scotland they are rich in resources and there is a great difference between the Local Authority Scrutiny, which we did look at probably too long if the truth be told, and Scrutiny that derives from national, more sovereign Assemblies, either Westminster or the Scottish Assembly. There is a great difference and if you go to Westminster and you see the whole panoply of Select Committees, the research staff they carry, the administrative staff, we are in that sense utterly minimal in our approach. So as far as I am concerned, yes, a mistake was made and the division was decided not so much on the basis of the size of budget because there was a feeling that the Public Accounts Committee with the CAG (Comptroller and Auditor General) - who I notice has got other money through a reorganisation of the vast Council of Ministers budget - have got additional money and I notice it came through very recently. Of course the whole idea was that the more financial aspects would be dealt with by PAC but given the public concerns that are coming out, that we still have not wrestled these basic issues to the ground of how we manage the public service and how we manage processes within the public service, I suspect there will be a time when PAC will have to come back to us. They are being very efficient at the moment; they are operating basically on a budget that buys them a few sandwiches but I am not sure how much longer we can keep them quiet with a few sandwiches. I am sure there will come a time when they will say: "Look, we are running around and we really need more money." So this notion that there is this bunch of money wasters contemplating their navels and not doing an awful lot while the Ministers are really showing management reform at its best, is a slight overdraw of the situation. The situation is quite different. I would like to finish by confirming what Deputy Southern said. It is not a secret or a covert or an ambiguous request for £180,000. It is the start of negotiations with PPC. The possibilities have been discussed as the Vice President, for example, has just said of where this money can be found and in no way will an unquestionable demand be put on the desk of PPC or the States themselves and say: "You must provide us with this money." That is not the intention. This is to get the approval in principle and then to start the negotiation, the bartering and the compromise because we are not foolish - we realise the straitened circumstances. I hope Members realise that Scrutiny is the friend not of the Ministers, it is the friend of the Assembly, and if they allow Scrutiny to be underserved, if they deprecate its role in the way some people are doing - because there are some very hollow forms of praise being enunciated today - or allow that to happen they are undermining themselves. Scrutiny has got the ability to come up with information and evidence that with a bit of luck will shake this government to its roots. That is what Scrutiny is

in the business of doing and if it does that, who knows, we might even deal with some of the public malaise and disenchantment with government. If you shoot us you shoot yourselves.

4.23 Deputy S. Pitman of St. Helier:

I reply to the Deputy of St. John and I would like to inform him that the Social Affairs Panel has been inundated with requests for us to carry out reviews. We have had to turn down many of these people simply because we do not have the time. To your question, certainly I believe that the public would support more money being put into Scrutiny.

4.24 Senator M.E. Vibert:

I hesitate to speak on behalf of the public, not having asked them. Thank you Deputy of St. Peter, and I do not think anyone here can speak on behalf of the public. I think it would be interesting to ask the public where they would like an extra £180,000 to go. If I was a betting man I would not put a bet that they would say that Scrutiny should be top of the shop or what we should spend their money on; an extra £180,000 on top of £800,000 already. You will not hear hollow praise from me, Deputy, because I think Scrutiny so far has proved very much a cure you take. It has been good in part and absolutely appalling in other parts. That is not hollow praise; that is telling it how it is and I am prepared to tell it how it is because I want Scrutiny to work properly, I want it to work well. Some parts of it that I have seen so far are, but other parts have been a disgrace to put it quite bluntly. They have not worked well. We have seen personal agendas being pursued not for the good of the House but to the detriment of this Assembly and the Island. Do you want it any clearer than that? I hope not, Sir. That said, what I looked for is evidence-based. The Chairmen's Committee are coming forward, seeking a fifth Panel. Where is the evidence this Panel is required to provide? Where is the evidence in this flimsy report? I will tell you what is very much missing in this report, and I look forward - because I do not quite know I will vote on this yet - to the Chairman in the summing up bringing forward some evidence. We are talking about Scrutiny. I have had a quick scrutiny of this paper and I point out to Members there is an absolute glaring omission in this. Each 4 of the Scrutiny Panels at present has an annual budget of £90,000 available to it for payment of specialist advisors, transcription of evidence from hearings and/or the commissioning of research. The Scrutiny Panels have now been in place for 7 months, or just over. Perhaps the Chairman of the Chairmen's Committee will tell us how much each of those Panels has spent of that £90,000 so far because he should have that evidence; he should have that information. For us, this is evidence-based. I ask that question because I was a member of PPC when this came to us. The answer is very little and I look forward to the exact figures from the Chairman. We are being asked to commit another £188,000 to Scrutiny without knowing where 4 lots of £90,000 - £36,000 are being spent already. Simple maths will tell you if that money is not being used, diverting some that money could form another Scrutiny Panel without the need for any extra funds whatsoever. I am afraid it is no good Deputy Le Hérissier saying: "That is not what we are asking for. That is not what it is." I am a member of PPC; I received the Chairman of the Chairmen's Committee who brought this proposition and that is exactly what he did ask for, I am afraid. It was the extra money and he wanted PPC's support for an extra £188,000. Now, I have no problem with the creation of a fifth Scrutiny Panel. I would welcome the Social Affairs Scrutiny Panel being divided up so that we could get better service in individual areas from that Panel. But, please, let us not commit or even look at committing further public money to creating such a Panel until we can be convinced that the present budget of Scrutiny cannot be readjusted to provide those funds. As I say, this report is absolutely silent on what has been spent of the Scrutiny budget of those £90,000 each Panel has for the extra work on top of their staff so far. I appreciate that if you have another Panel you need more staff. What I want to see is evidence that those extra staff and £53,000 per Panel for the research, the transcript and so on, is not enough because I have not seen any evidence so far. It has been completely ignored in this report and so far ignored by the speakers I have heard. I hear the Senator

saying it needs scrutinising. It certainly does. Let us hear how much of these £90,000 each have been committed so far. Let us hear evidence that the whole of the £90,000 of each of those Panels is required and that some £47,000 could not be given up each to create a new Panel with 2 staff and a budget of £53,000 for this research. If you can prove that to me and bring me evidence for it perhaps I will support you.

4.25 Deputy P.V.F. Le Claire:

It is a rather disappointing speech from the Minister for Education, Sport and Culture. Perhaps he would like to see another bronze tree at £200,000 included in the Island's budget or perhaps we could understand what the fiscal position is of the pension fund? But, no, we are concentrating on 4 lots of £90,000 which I am sure the Scrutiny Panels could come to this Assembly with. The proposition, as we are constantly reminded by the Minister, says what it says and it does not say anything about £180,000 in the words of the proposition. It says to request for additional funds for the fifth Panel in 2007. Now, if there is an additional sum of money then that would be considered in the Business Plan along with everything else and then brought forward in the budget at the right time. It seems to me, having been on many main and minor Committees of the States since I have been in the Assembly for seven and a half years including the PPC and the Shadow Scrutiny Panels, that there is a very nasty smell in this Assembly and I do not believe it is coming from La Collette. It is coming from a group of Ministers who are muscling their way through the changes that are embedding into this Assembly and this Island at this time. The Panel that is being asked to be divided is clearly, and was always, overloaded. The Members who are sitting in the Chamber with nothing to do have no resources either. So while I am doing as much as I can on, for example, the composting situation with reams of paper and reams of evidence to put together for a report to identify where millions of pounds can be saved by the taxpayer and the States of Jersey in addressing the situation differently, I do not have any officer support. Now, officers have been provided through the addition of Deputy Duhamel's Panel to my working party but independent Members working on their own could do a lot better and save a lot more money if they were properly engaged in the business of government. I get this sense that it is really a manoeuvring situation to turn around in 2 years time and argue the fact that there should be less Members, so therefore there is going to be less opposition to the Ministers whenever they want to muscle something through. It does not matter how many Members we have got, we have still got the same amount of people to look after and the same amount of land to manage, and the same amount of facilities within that, and the same amount of Ministries. Unless we are going to combine a Ministry or 2 and save money in that way we are still going to have these departments to manage. Less politicians and less Committees to look after these things will be devolving the responsibility. Maybe we can put them all down to quangos and have some more examples of leadership that the Waterfront Enterprise Board have given us in the past. I think it is absolutely ridiculous. I have served on main committees. I have served on Scrutiny Panels and I have also found myself, on a couple of occasions due to some antics at election time, out in the cold - in Coventry - in the wilderness for a few months to be taught a lesson. I am back here again. What I will say, having spoken to 3 Ministers and 2 Assistant Ministers, is that they consider their work load considerably less than when they were members of Committees. I know what it is like on Scrutiny and the work, which they do not all know about, is considerably more, up to 3 times as much as what we have been used to. I do not believe the existing Panel is operating at all. If we can get one thing right, if we hit the bull's eye once, this extra £180,000 that the Senator is talking about will be saved tenfold over. Besides which it may not need huge amounts of money to be found to justify the creation of this Panel. It may be a critical friend that helps in refining a policy here or there that we have been calling for from the beginning. I will be supporting the split although I am not enamoured to be joining the ranks of the Scrutiny Panel, I must confess. I do not relish the ambition of walking across the floor and facing the kinds of venom that has been thrown at them over the last few months that I have watched. I prefer being in the middle where I can duck: "There goes another

one.” I am not really looking forward to going over to that side of the Chamber and receiving the venomous types of attacks that we see in this Assembly from the bully-boy Ministers that we have seen today and in the past. Unless they are prepared to work more responsibly and collectively in refusing this proposition they will be sending a signal to those Members that are working 3 times harder: “Do not bother getting involved with Scrutiny. You will only be doing yourselves a disservice. You will be ridiculed and lambasted and accused of wrecking the Island.” Why bother doing 3 times the work? Sit in the middle, do nothing, be complimentary, slap them on the back and kiss their ...

4.26 The Deputy of St. Ouen:

I just want to address a couple of issues which have been made by various Members of the Council of Ministers. The first one that I would like to make is to ask those Ministers, what about mutual respect. Shame on you for your comments that you have made. This is an Assembly where we all have jobs to do and we all recognise each individual’s role. To try and diminish a particular Member or Panel’s role is not, I feel, the right way forward. With regard to funding requirements, yes, it clearly states quite rightly that there is a funding requirement. The maximum amount is £185,000. This could not be done in any other way. This is clear, transparent and accountable. I will say, however, that it also recognises where we need to be discussing this funding and it is not here - it is not in Strategic Plan debates either. It is at the Business Plan stage and that is what the proposition says. If there is a funding requirement it will be discussed at the business plan stage. Prioritisation and organisation was a suggestion of Senator Ozouf. First call, existing budget. Totally agree. No problem at all. I would ask what about the Minister’s proposals that have accompanied things like strategic plans? Where is their prioritisation, organisation, redistribution? Is this not double standards or could it not be considered as such? Scrutiny is aiming to use funds available as efficiently as possible and I certainly can vouch for that. All spending is monitored extremely closely and indeed I am currently working with the Greffier to identify more fully the way we are spending our money including manpower amounts. We had a member of PPC saying that they do not know how it is spent. They do, and if they do not the Greffier is totally involved with them and has that information at hand. Anyway, the case will be made at the Business Plan debate and the information that is required will be placed in front of Members to properly consider at the right and appropriate time. However, we need to make the decision first. It is worth noting, Senator Le Sueur and others in the Council of Ministers who are fully aware, that there was an underspend last year on behalf of Scrutiny of approximately £300,000. Now, one could argue that we should have spent it and possibly if we had followed department methods that money would have been spent. Listening to Senator Vibert, he says: “When you have spent the money you have got, then come back to us for more.” Well, surely, Senator, I prefer to make best and efficient use of the money and if we do not use it all, great, let us return it to the pot which can then be re-used elsewhere. But £300,000 amounts to about 2 years worth of extra staffing. I am pretty convinced that his year, equally, there will be an underspend because Scrutiny members believe sincerely, I hasten to add, that first of all their efforts, time and energy is fully used prior to importing consultants, advisors and so on. If that is the way the Council of Ministers believe that we should be heading then so be it but we all recognise that we do get a sum of money per annum and we aim to make the best use of that. It is wrong to say that just because we have not spent our budget that we should not get any more. However, quite rightly it was pointed out to the Chairman’s Committee that if we were going to propose this new Panel there would be an ongoing requirement and if we were to employ staff we would need to ensure that sum of money would be provided. As I said before, Scrutiny has already returned over £300,000 to the pot last year; I believe there will be a sum of money, although I do not know currently what it will be in total, returned this year. And, obviously, if you choose to offset those sums of money that will pay for a period of time. However, we have said: “No, we need to debate this at the Business Plan. We will put the figures forward and we will consider it with everything else.” That is what we do at the business plan. We

look at all the figures. We look at all the applications and the proposals for extra money and we collectively, as States Members, will prioritise it. That is a decision and debate to be had but it is not now. The debate to be had now is whether or not this States Assembly believes that we have or require an extra Panel. In the event of that decision being made, a further decision will be made at the forthcoming business plan discussions, whether or not that is funded. If it is not funded obviously it will mean that the fifth Panel will not be able to continue. That is the decision facing this Assembly.

4.27 Connétable G.W. Fisher of St. Lawrence:

Just to say that if we are still debating this in half an hour, I am going to suggest that the question now be put, Sir.

The Bailiff:

That seems to have encouraged Members, Connétable. I call upon the Chairman to respond.

4.28 Deputy R.C. Duhamel:

In some ways the Deputy of St. Ouen has said all that I wanted to say in summing up and he did it in an admirable way. This issue is not about money. This debate is purely and simply about this House granting the Chairmen’s Panel and the Scrutiny Panels the ability to reorganise their affairs. We cannot undertake a split of Social Affairs without this House agreeing to it. I do not think I really need to say very much more other than we have all heard the statements from Ministers and non-Ministers alike how much we support the Scrutiny process. In order to do so there is only one way that the vote can be taken today and that the vote can be made. We must support Scrutiny. You must give us the tools and the ability to do the job, organisationally first and foremost. There will be budget savings to be made. I can tell you that the figures that Senator Vibert called for I will give him a copy of at a later stage. As I have said, the Deputy of St. Ouen has told this House quite adequately that there will be some monies that will remain unspent and will assist in funding a fifth Panel. We cannot get into that until a later stage. Before we do we have to decide whether or not it is sensible to undertake a split of the Social Affairs Panel. We have heard from the Chairman of the Social Affairs Panel that he is struggling to bring about adequate Scrutiny across all the various functions and departments that he clearly wants to do. Let us give him the tools to do the job. Let us vote the right way. Ask for the Appel, Sir.

The Bailiff:

I invite all Members who wish to vote to return to the Chamber and I invite the Greffier to open the voting which is for or against the proposition of the Chairman’s Committee.

The Greffier of the States:

POUR: 33	CONTRE: 14	ABSTAIN: 0
Senator S. Syvret	Senator F.H. Walker	
Senator B.E. Shenton	Senator T.A. Le Sueur	
Senator J.L. Perchard	Senator P.F. Routier	
Connétable of St. Ouen	Senator M.E. Vibert	
Connétable of St. Peter	Senator P.F.C. Ozouf	
Connétable of St. Clement	Senator T.J. Le Main	
Connétable of St. Helier	Senator F.E. Cohen	
Connétable of Trinity	Deputy J.J. Huet (H)	
Connétable of St. Lawrence	Deputy J.B. Fox (H)	

Connétable of Grouville	Deputy of Grouville		
Connétable of St. John	Deputy G.W.J. de Faye (H)		
Connétable of St. Brelade	Deputy J.A. Le Fondre (L)		
Deputy R.C. Duhamel (S)	Deputy of St. John		
Deputy A. Breckon (S)	Deputy I.J. Gorst (C)		
Deputy of St. Martin			
Deputy G.C.L. Baudains (C)			
Deputy P.N. Troy (B)			
Deputy C.J. Scott Warren (S)			
Deputy R.G. Le Hérissier (S)			
Deputy J.A. Martin (H)			
Deputy G.P. Southern (H)			
Deputy S.C. Ferguson (B)			
Deputy of St. Ouen			
Deputy P.J.D. Ryan (H)			
Deputy of St. Peter			
Deputy J.A. Hilton (H)			
Deputy P.V.F. Le Claire (H)			
Deputy D.W. Mezbourian (L)			
Deputy of Trinity			
Deputy S. Power (B)			
Deputy S. Pitman (H)			
Deputy K.C. Lewis (S)			
Deputy of St. Mary			

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

The Bailiff:

Now we come to Projet 71: the Draft Sea Fisheries (Licensing of Fishing Boats) (Amendment) (Jersey) Regulations. I invite the Greffier to read the citation of the draft.

The Greffier of the States:

Draft Sea Fisheries (Licensing of Fishing Boats) (Amendment) (Jersey) Regulations. The States in pursuant of articles 7, 12, 13, 26 and 29 of the Sea Fisheries (Jersey) Law 1994 have made the following Regulations.

5.1 Senator F.E. Cohen (Minister for Planning and Environment):

The legislation you have before you does essentially 2 things to conserve fish stocks. The first is to bring in a general permit system for vessels in Granville Bay and the second is to make it necessary to have a specific permit to beam trawl. Outside the 3-mile limit around Jersey, the fishing in the waters is managed under the Granville Bay Treaty which was signed in 2000 and came into force in 2004. The fishermen and management teams for the Treaty have agreed to reduce beam trawling activity in the area and the best advice to do this is to implement a permit system, then to control the number of vessels that are awarded a permit. Thus this draft amendment to the Sea Fisheries Regulations seeks to put in place this permit system. By agreement only a limited number will be issued. This has been agreed as 5 Jersey vessels and 3 French vessels based on historical fishing records. Jersey and France have already limited the size of the vessels that may use beam trawls in the area so this additional limit on numbers means that the total beam trawling effort is strictly controlled. This proposal has been discussed at length by the fishermen's organisations involved

both from Jersey and France, and they are all in complete agreement with it. The French management system has already implemented this in the French-controlled zones of the Granville Bay. If the House agrees this amendment to the permit system, the regulation of beam trawlers will then be enforceable on all Jersey and French vessels throughout Jersey territorial waters. Sir, I propose the principle.

The Bailiff:

The principles are proposed. Are they seconded? **[Seconded]** Does any Member wish to speak on the principles of the Regulations?

5.2 Deputy R.C. Duhamel:

I think it is undoubtedly right that beam trawling should be limited. If we look at the practises and put them into an agricultural context, what happens with beam trawlers is akin to farmers ploughing their land every other day of the week. It is a practise that does huge damage to the sea bed; it is a practise that causes the sea bed to look like the surface of the moon. Although we are limiting or suggesting limiting the amount of effort by controlling the number of boats, I would have liked to have seen some indication or evidence, or maps, of the sea bed and the area that is fished. On those maps it would have been very useful for Members, before deciding, to see the effort that goes into trawling particular sectors of the sea bed. As I say, Sir, from my experience, areas are criss-crossed time and time again, which barely gives nature a chance to replenish herself and to put back what was there previously. It is not just a case of 8 boats being sufficient or whatever. It goes a lot further than that and if, indeed, in passing these Regulations when we get to it, they do go through I would ask the Minister to heed my advice and to see to what extent mappings of the sea bed in terms of the effort that is placed by fishermen can be produced so that we can have perhaps a record produced to this House on a regular basis to see whether or not the reduction in numbers is having the desired effect. Thank you, Sir.

5.3 Deputy R.G. Le Hérisier:

I wonder if the Minister could define what beam trawler is. I think some of us are a bit confused.

5.4 The Deputy of St. Ouen:

Just 3 brief questions really to the Minister. Maybe he could clarify what is meant by “no significant financial and manpower implications.” Are there or are there not any extra costs involved and if there are what are they? Thank you.

5.5 Deputy P.V.F. Le Claire:

I did watch a programme recently on television which did show the practice of beam trawling and the damage that it is doing to the planet and a considerable area under the sea the size of America or something every year is just being desolated. It did give me grave concern to see that we are still practising this and managing it at all and not seeking to have it reduced and eliminated. I think in managing down to 8 boats we are probably taking practical steps that have a great deal of historical fishing discussions behind them, but may I ask the Minister at the moment how many licences are there for these vessels? We are agreeing to set the limit at 8; how many are conducting this activity at the moment? Would he undertake to investigate the issue if he has not done so already to see whether or not Jersey really wants to have this kind of operation occurring in our waters in the future and perhaps, if it is possible, where these licences are surrendered, that we do not have them renewed? I know it might be a difficult thing to do and I am certain the Minister could enlighten me, but I certainly do believe that if we are going to adopt propositions in this Assembly similar to,

for example, the fur products thing which comes before us - issues of humanity and ecology - then this is certainly one area that will deeply affect the Channel Islands and the shores that surround them.

5.6 The Deputy of St. Martin:

I think it was me that took the agreement through the House a few years ago and what I am interested in in this particular proposition is that it says: "It is generally accepted that the use of beam trawls can damage the seabed and in order to limit this activity one measure is to ensure that no more than 5 Jersey and 3 French fishing boats can use. But at the top of the first paragraph it says: "The core principle of the agreement concerning the fishing of the Bay of Granville is that the fisheries should be reserved primarily for smaller inshore vessels working either from Jersey or from neighbouring French ports." I think the fact that we know that these beam trawls are going to cause than amount of damage, it seems rather peculiar that we are going to allow 8 to go. Why not 2; why not 3? Why have them at all and maybe when the Minister sums up could he explain or tell us what the implications are if, indeed, we did not approve this particular legislation today? Would it make any difference from our relations et cetera. and compliance with the law or is it just really to meet the need or the desire of 8 particular beam boats to carry out this particular operation?

5.7 Deputy G.C.L. Baudains:

Carrying on from the comments of the Deputy of St. Martin, Sir, it seems to me that the idea behind this proposition is extremely seductive but what will it achieve? Sir, it occurs to me that a couple of beam trawlers could damage Jersey's limited resources for the species targeted by beam trawls virtually overnight. So, it seems to me, as the Deputy of St. Martin has just suggested, that nothing really less than a complete ban would have a measurable effect, especially I am thinking, Sir, on our south coast. Also - it is a matter I have raised before - without land-based radar to monitor these vessels there is no chance of enforcing the Regulations anyway. We could, perhaps, disguise the Norman Le Brocq Fisheries Protection vessel as a rock - it does not move much more than one anyway. **[Laughter]**. But I am not sure that would be of great benefit. Frankly, I believe I will be supporting these Regulations but I have doubts as to what real benefit they will have and I would ask the Minister whether there are, in fact, any plans to install land-based radar. I know this has been a problem over the years: that when you have vessels fishing where they should not be you cannot prove they are there. By the time the Norman Le Brocq gets there they are gone and things become unenforceable.

5.8 Deputy J.B. Fox:

I appreciate that - and I shall vote for this particular amendment - because it seems that it is a core principle of agreement concerning fishing in the Bay of Granville. But perhaps the Minister may be able to assist: is there any practical reason why we cannot have a total ban if it is causing so much destruction or would it really cause us grief, if you like, between our new-found friends in the fishing industry in the Bay of Granville? Thank you.

5.9 Deputy G.P. Southern:

Could the Minister point to the Regulation which concerns the revocation of licences and can he say whether an access licence would be revoked or withdrawn were the vessel to be found fishing in the particular are and can he also indicate how easy it would be for a vessel with an access licence only to disguise the fact that it was fishing or to hide the fact that it was fishing when the fisheries protection vessel approached?

5.10 Deputy S.C. Ferguson:

I understood that these Regulations were for Jersey and French fishing boats but the preamble talks about restrictions on British fishing boats. Are they also going to be there as well as the 8 from Jersey?

5.11 Deputy G.W.J. de Faye:

I very much welcome these new and progressive Regulations that are tightening up on the marine fishing industry. I understand that the reference to historic fishing, I assume, means, Sir, that we are paying due respect to fisherman who have longstanding, perhaps, family businesses. Perhaps the Minister might confirm that. It is clear from the report that fishery officers will be able to enforce restrictions on all British and French fishing boats. However, I am sure Members will recall that the last major reference in the media to beam trawling was made to the activities of a Dutch beam trawler operating in Guernsey waters over which we have no control. Therefore, I would like to receive an assurance from the Minister, if he is in a position to give one, that if we are faced in the Channel Islands with a re-emergence of a Dutch beam trawler or, to put it in the wider context, European Union-based beam trawlers, that we will be in a position to take positive and enforcing action should those types of vessel attempt to fish in Jersey waters or those waters that are affected by the Bay of Granville agreement. My concern is this: we have arrangements that are described within the report as agreements with British and French fishing boats. To what extent do we have a liability or even a responsibility to deal, as it were, on a level playing field with other EU fishing vessels? Perhaps the Minister could clarify that point.

The Bailiff:

I call upon the Minister to reply.

5.12 Senator F.E. Cohen:

Well, I thought I was not going to get any points of clarification. **[Laughter]** I will seek to do my best. Deputy Duhamel raised the issue of mapping the seabed. Clearly the issue of mapping the seabed is an important issue. It is not specifically linked to these proposals, but I can assure Deputy Duhamel that the measures that we are proposing to put in place will be very carefully monitored and we will be able to seek to ensure that fish are better protected from beam trawling than they are under the present circumstances. Deputy Le Hérisier wanted to know what beam trawling is and beam trawling is a method of commercial fishing from a vessel principally for bottom-living fish, notably flatfish. It involves pulling a net over the seabed, the mouth of which is held open by a beam in the form of a solid metal pole or beam. At the front of the net there is usually some chain mesh to get the fish to rise up and be caught by the following net and I understand that it is the chain that also can cause significant damage to the seabed which is, no doubt, one of Deputy Duhamel's concerns. Deputy Reed raised the issue of the level of financial costs and implications. There are no specific costs involved in this legislation other than, obviously, monitoring the beam trawling in the area using the sea fisheries protection vessel. Clearly, it is in the interests of proper monitoring that the vessel goes out more regularly than less regularly so I suppose that you could argue that there will be additional costs in terms of fuel to operate the fisheries protection vessel. But that would be to the approval, I think, of Deputy Baudains anyway. Deputy Le Claire raised the issue of how many licences there are at present - how many boats are fishing at present. Presently there are known to be 4 vessels fishing with beam trawls but, of course, because there is no adequate licensing provision we cannot be entirely sure. The Deputy of St. Martin raised the issue of France and the U.K and the total number of fishing vessels there are. In total a proposal for 8 licences - I do not know how many licences there are available from the U.K. authorities. Deputy Baudains wanted no beam trawlers at all and he is quite right. That would be the ideal but, clearly,

we cannot go from a position of fishermen who derive their livelihood from fishing suddenly being prohibited from beam trawling at all and the purpose of this is to regulate properly. Deputy Fox also wanted a total ban. Deputy Southern, I could not entirely understand his questions, but the second one if I understood it correctly was relating to how could we identify whether fishing vessels are hiding their beam trawls. As far as I understand it, the fisheries protection team are very capable of identifying whether a fishing vessel is beam trawling or not and they will be seeking to rigidly enforce these proposals if they are approved. Deputy Ferguson raised the issue again of how many licences or how many boats operate from the U.K. I am afraid I am not able to answer the question precisely but I will provide her with details later today. Deputy De Faye raised the issue of Dutch vessels operating in the U.K. and would I be able to confirm that we will enforce against ships from other nations. Yes, we most certainly will be in a position to prevent unlicensed beam trawling. Thank you, Sir.

The Deputy of St. Martin:

I do have a feeling for the Minister because I did that job for 3 years and it was always difficult. One always found awkward questions to ask when I was presenting them. But I did ask the question, Sir, and I did not get any answer. I said: "In the terms of the agreement what would the implications be if we chose not to approve this particular legislation today?"

Senator F.E. Cohen:

I am sorry I failed to answer that question. As I understand it, because the Regulations have already been approved by our French counterparts, it would present significant difficulties because they already are in a position to implement identical measures and we would not be able to do so.

Deputy G.C.L. Baudains:

I did raise a query which the Minister overlooked. I do not blame him for that. The question of land-based radar: if there is any intention of installing any because I know this has been one reason why prosecutions have not been able to be brought in the past.

Senator F.E. Cohen:

I am unaware of any proposals for land-based radar at the present but I will check that and get back to the Deputy again later today.

Deputy G.P. Southern:

The Minister suggested that he did not hear my first question which was which Regulation is it that deals with the revocation of licences and whether an access licence would be revoked if the vessel was caught fishing where it only had access and not a fishing licence?

Senator F.E. Cohen:

I cannot get to the Regulation immediately but I can assure Deputy Southern that appropriate action would be taken in that case.

The Bailiff:

Deputy of St. Mary, you cannot ask a new question.

The Deputy of St. Mary:

No, sir, it is just for clarification. Did I mis-hear, Minister, I am sorry, when you were asked about how many boats there are currently fishing I think you said there were 4. Was that 4 Jersey boats?

Senator F.E. Cohen:

That is correct; there are known to be 4 vessels currently fishing using beam trawls.

The Deputy of St. Mary:

So we are, effectively, being asked to increase the number of boats?

Senator F.E. Cohen:

We were asking that the number be increased to a maximum of 5 but we certainly will not be encouraging additional beam trawling vessels.

Deputy P.V.F. Le Claire:

I did ask the Minister in my speech one question which he answered, but the other question which was not answered was whether or not when these licences have fallen out of the ownership of the boat whether or not they could possibly be removed and we could look towards the investigation of eliminating this operation from our shores.

Senator F.E. Cohen:

Clearly the intention is, long-term, to further reduce the level of beam trawling and the Deputy's suggestion is something that most certainly will be looked at.

The Bailiff:

I put the principles.

The Deputy of St. Mary:

Can I have the Appel, please?

The Bailiff:

I ask any Member who is in the precincts who wishes to vote to return to his or her seat and I ask the Greffier to open the voting, which is for or against the principles of the Regulations.

POUR: 40	CONTRE: 7	ABSTAIN: 0
Senator S. Syvret	Deputy R.C. Duhamel (S)	
Senator F.H. Walker	Deputy A. Breckon (S)	
Senator T.A. Le Sueur	Deputy J.J. Huet (H)	
Senator P.F. Routier	Deputy P.N. Troy (B)	
Senator P.F.C. Ozouf	Deputy J.B. Fox (H)	
Senator T.J. Le Main	Deputy D.W. Mezbourian (L)	
Senator B.E. Shenton	Deputy of St. Mary	
Senator F.E. Cohen		
Senator J.L. Perchard		
Connétable of St. Ouen		
Connétable of St. Mary		
Connétable of St. Peter		
Connétable of St. Clement		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of St. Lawrence		
Connétable of Grouville		
Connétable of St. John		
Connétable of St. Brelade		
Deputy of St. Martin		
Deputy G.C.L. Baudains (C)		
Deputy C.J. Scott Warren (S)		

Deputy R.G. Le Hérissier (S)			
Deputy J.A. Martin (H)			
Deputy G.P. Southern (H)			
Deputy S.C. Ferguson (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 of Trinity			
Deputy S.S.P.A. Power (B)			
Deputy S. Pitman (H)			
Deputy K.C. Lewis (S)			
Deputy of St. John			
Deputy I.J. Gorst (C)			

The Bailiff:

Minister, do you wish to propose the Regulations *en bloc*?

Senator F.E. Cohen:

I propose the Regulations *en bloc*.

The Bailiff:

[**Seconded**]. Does any Member wish to speak on any of the Regulations?

Deputy R.C. Duhamel:

In making my remarks over the principle about the nature of beam trawling and comparing it to farmers wishing to plough their fields every other day of the week and trying to paint a picture of the damage that would be caused to the fields and indeed to the seabed under that situation, it does strike me as a little bit odd that the Regulations apply to giving fishermen licences to fish indiscriminately in all areas designated as fishable areas. In order to preserve the fishing stocks or indeed to reduce the fishing pressures in particular areas and to stop over-fishing - or indeed beam trawlers which do, indeed, criss-cross the seabed on regular occasions, causing damage on one day and further damage the next - it would have been better, in my view, Sir, that the permits be given under a licensing system which tied the fisherman's ability to operate his beam trawler in a specifically defined area rather than allowing him to freely roam the seas, adding to and compounding the damage that does take place. In those terms, Sir, I think the regulations as defined are deficient. It might well be that the Regulations that are being put forward are merely a copy or a replica of Regulations that have either come from the E.U. or from the U.K. and mirror the fishing practices there. But, as I said, Sir, and I think other Members are beginning to realise, if we are, indeed, masters of our own fishable areas and we do want to pay attention to the sustainability issues in terms of allowing fishing stocks to replenish themselves so that the seabed is kept in good order - as, indeed, we would do with general agricultural and farming practices - then I think the Regulations, as I said before, are somewhat deficient in that respect by giving an overall licence and a freedom to roam and fish wherever possible, albeit that it will be in reduced numbers. On that basis, Sir, I think that I shall probably vote against *en bloc*.

The Bailiff:

Deputy, I am sorry, but I should have asked you, wearing your hat as Chairman of the relevant Scrutiny Panel, whether you wished to have these Regulations referred for Scrutiny. **[Laughter]**

Deputy R.C. Duhamel:

Well, the difficulty, Sir, is that if one would wish to scrutinise what is there or what is not there. If it is a Scrutiny of the legislation, probably not. But if it were the principles under which the Law has been brought, then I think there might well be something to look at.

5.13 Deputy P.V.F. Le Claire:

I would like to ask, Sir, I do not know if the Standing Orders allow me to, but I would like to ask that it be referred to the Scrutiny Panels to identify ...

The Bailiff:

Deputy, I am afraid you cannot. I beg your pardon, Deputy. I have done you an injustice. Standing Order 72(2) says that: "If the Chairman of a relevant Scrutiny Panel informs the States that he does not wish to have a draft referred to the Panel, any Member of the States may propose, without notice, that the States request the Panel to reconsider the decision." Do you wish to make that proposition?

Deputy P.V.F. Le Claire:

You do not normally do me wrong and I did make a bit of a nasty speech earlier today, so I have tried to calm down a little since then and I want the States to try to consider, if possible, a very, very quick review by the Panel, if the Scrutiny Panel is willing to take it, of whether or not if there are 4 people fishing in beam trawlers in Jersey today, if we can identify those by an inspection - they must be licensed through the Harbour Department - of their boats and their nets. In the Marines I used to work on the fisheries protection vessel, HMS Jersey, and we did establish what kinds of fisheries, what types of nets they were using on their boats. So, it should not be difficult, in my view, from an experienced perspective, for them to ascertain how many boats are conducting this practice from Jersey. If there are only 4 at this time, certainly it is not wise to include another when we want to see this practice excluded in the future and we could have the Regulations brought back to limit that number to 4 and perhaps a cursory phone call to the French authorities to establish whether or not they are aware as to their numbers. We might be able to identify that instead of licensing 8 boats to do this type of practice we could license 7 and it is for that reason that I would like a very quick, short, sharp shock look at the issue and that is why I requested it, Sir.

The Bailiff:

Are you proposing that the Regulations be referred to the Scrutiny Panel?

Deputy P.V.F. Le Claire:

Yes.

The Bailiff:

Is the proposition seconded? **[Seconded]**. Well, I hope that we do not need to have a debate on this issue. May I put the question? Those Members in favour of referring the Regulations to the Scrutiny Panel kindly show.

Senator P.F.C. Ozouf:

Can I have the Appel, Sir?

The Bailiff:

Very well. The electronic vote, and the vote is for or against the proposition of Deputy Le Claire that these Regulations be referred for Scrutiny. I ask the Greffier to open the voting.

POUR: 22	CONTRE: 23	ABSTAIN: 1
Senator T.J. Le Main	Senator S. Syvret	Deputy G.C.L. Baudains (C)
Senator B.E. Shenton	Senator F.H. Walker	
Connétable of St. Mary	Senator P.F. Routier	
Connétable of St. Peter	Senator M.E. Vibert	
Connétable of St. Clement	Senator P.F.C. Ozouf	
Connétable of St. Helier	Senator F.E. Cohen	
Deputy R.C. Duhamel (S)	Senator J.L. Perchard	
Deputy J.J. Huet (H)	Connétable of St. Ouen	
Deputy P.N. Troy (B)	Connétable of Trinity	
Deputy C.J. Scott Warren (S)	Connétable of St. Lawrence	
Deputy J.B. Fox (H)	Connétable of Grouville	
Deputy G.P. Southern (H)	Connétable of St. John	
Deputy of St. Ouen	Connétable of St. Brelade	
Deputy of Grouville	Deputy A. Breckon (S)	
Deputy of St. Peter	Deputy of St. Martin	
Deputy J.A. Hilton (H)	Deputy R.G. Le Hérisier (S)	
Deputy P.V.F. Le Claire (H)	Deputy S.C. Ferguson (B)	
Deputy D.W. Mezbourian (L)	Deputy P.J.D. Ryan (H)	
Deputy S.S.P.A. Power (B)	Deputy G.W.J. de Faye (H)	
Deputy S. Pitman (H)	Deputy J.A.N. Le Fondré (L)	
Deputy K.C. Lewis (S)	Deputy of Trinity	
Deputy of St. Mary	Deputy of St. John	
	Deputy I.J. Gorst (C)	

The Bailiff:

Does any other Member wish to speak on the Regulations in Second Reading?

5.14 Deputy P.N. Troy:

Well, I did want to ask the Minister, Sir, that Regulation 3 amended in part B seems to grant the licence to the boat and I wanted to ask is the licence granted to the boat or is the licence granted to the person who owns the boat or the company that owns the boat? Because what I think it is a shame that it did not get through to Scrutiny because I think some of these licences are often traded by the masters of the boats. Is it the boat or the master of the boat that is licensed and is there anything that can be put into the Regulations to prevent the trading of these licences? Really, once a licence is over it should be handed back to be given out to some other individual.

5.15 Deputy G.P. Southern:

Just to inform the Minister that the Regulation I was seeking from him, the number of the Regulation is Regulation 12 concerning revocation.

The Bailiff:

I call upon Deputy Baudains.

5.16 Deputy G.C.L. Baudains:

I have just asked the Minister whether there was any provision within these Regulations to reduce the number in the future inasmuch that we have heard from Deputy de Faye that maybe there are 4 people whose livelihoods depend on that at the moment. I am thinking that if there are perhaps one or 2 fishermen who intend giving up in the near future the licences could then be reduced to 2. Will the Minister be reviewing that in the future or is there provision in the Regulations to do so. I have not seen that there is.

5.17 Deputy J.J. Huet:

Well, Regulation 10, Sir - I am just having a quick shuftly at it - it says 5. Is it possible to bring this down to 3? I mean, does it have to be 5? Why can it not be 3 and then you get the both worlds?

The Bailiff:

I call upon the Minister to reply.

5.18 Senator F.E. Cohen:

Deputy Duhamel raised the issue of an improved system for the regulation of beam trawling and clearly the proposals that we are looking at presently could be improved if the objective is to completely stop beam trawling and that, in time, may be the correct imperative. However, you must realise that these Regulations are a mirror of the Regulations that have recently been brought in in France. Deputy Troy raised the issue of whether the licences given to the boat or the skipper. The licence is given to the boat, but we are looking at implementing a fair system to stop the permits, effectively, being traded. I can confirm that, in relation to Deputy Le Claire's question, we know that there are 4 vessels operating presently. Deputy Baudains wanted to know if we could limit the number to a lower number in the future and certainly the objective would be to try and lower the number in the future. But these Regulations do not take that into account and it is important to realise that we are looking at a maximum number of 5 fishing permits - not that we have to issue 5 fishing permits. Thank you. I propose the Regulations.

Deputy R.C. Duhamel:

Can we have the Appel?

The Bailiff:

Yes. The vote is for or against the Regulations in Second Reading. I ask the Greffier to open the voting.

POUR: 34		CONTRE: 11		ABSTAIN: 0
Senator S. Syvret	<input type="checkbox"/>	Deputy R.C. Duhamel (S)	<input type="checkbox"/>	
Senator F.H. Walker	<input type="checkbox"/>	Deputy A. Breckon (S)	<input type="checkbox"/>	
Senator P.F. Routier	<input type="checkbox"/>	Deputy J.J. Huet (H)	<input type="checkbox"/>	
Senator M.E. Vibert	<input type="checkbox"/>	Deputy of St. Martin	<input type="checkbox"/>	
Senator P.F.C. Ozouf	<input type="checkbox"/>	Deputy P.N. Troy (B)	<input type="checkbox"/>	
Senator T.J. Le Main	<input type="checkbox"/>	Deputy J.B. Fox (H)	<input type="checkbox"/>	
Senator B.E. Shenton	<input type="checkbox"/>	Deputy of St. Ouen	<input type="checkbox"/>	
Senator F.E. Cohen	<input type="checkbox"/>	Deputy of Grouville	<input type="checkbox"/>	
Senator J.L. Perchard	<input type="checkbox"/>	Deputy P.V.F. Le Claire (H)	<input type="checkbox"/>	
Connétable of St. Ouen	<input type="checkbox"/>	Deputy D.W. Mezbourian (L)	<input type="checkbox"/>	

Connétable of St. Peter	<input type="checkbox"/>	Deputy of St. Mary	<input type="checkbox"/>	
Connétable of St. Clement	<input type="checkbox"/>		<input type="checkbox"/>	
Connétable of St. Helier	<input type="checkbox"/>		<input type="checkbox"/>	
Connétable of Trinity	<input type="checkbox"/>		<input type="checkbox"/>	
Connétable of St. Lawrence	<input type="checkbox"/>		<input type="checkbox"/>	
Connétable of Grouville	<input type="checkbox"/>		<input type="checkbox"/>	
Connétable of St. John	<input type="checkbox"/>		<input type="checkbox"/>	
Connétable of St. Brelade	<input type="checkbox"/>		<input type="checkbox"/>	
Deputy G.C.L. Baudains (C)	<input type="checkbox"/>		<input type="checkbox"/>	
Deputy C.J. Scott Warren (S)	<input type="checkbox"/>		<input type="checkbox"/>	
Deputy R.G. Le Hérissier (S)	<input type="checkbox"/>		<input type="checkbox"/>	
Deputy G.P. Southern (H)	<input type="checkbox"/>		<input type="checkbox"/>	
Deputy S.C. Ferguson (B)	<input type="checkbox"/>		<input type="checkbox"/>	
Deputy P.J.D. Ryan (H)	<input type="checkbox"/>		<input type="checkbox"/>	
Deputy of St. Peter	<input type="checkbox"/>		<input type="checkbox"/>	
Deputy J.A. Hilton (H)	<input type="checkbox"/>		<input type="checkbox"/>	
Deputy G.W.J. de Faye (H)	<input type="checkbox"/>		<input type="checkbox"/>	
Deputy J.A.N. Le Fondré (L)	<input type="checkbox"/>		<input type="checkbox"/>	
Deputy of Trinity	<input type="checkbox"/>		<input type="checkbox"/>	
Deputy S.S.P.A. Power (B)	<input type="checkbox"/>		<input type="checkbox"/>	
Deputy S. Pitman (H)	<input type="checkbox"/>		<input type="checkbox"/>	
Deputy K.C. Lewis (S)	<input type="checkbox"/>		<input type="checkbox"/>	
Deputy of St. John	<input type="checkbox"/>		<input type="checkbox"/>	
Deputy I.J. Gorst (C)	<input type="checkbox"/>		<input type="checkbox"/>	

The Bailiff:

Do you move the Regulations in third Reading, Minister?

Senator F.E. Cohen:

I move the Regulations in Third Reading.

The Bailiff:

[Seconded]. Does any Member wish to speak on the Regulations in Third Reading?

5.19 Deputy R.C. Duhamel:

In voting against, I think Members should be quite clear that I would like to see a long-term move towards perhaps outlawing this type of fishing or, at least, regulating it in a fashion that does pay some attention to the damage that is done to the seabed. If, indeed, the Minister will bear those words in mind and perhaps enter into negotiations with the other French authorities within which the Granville Bay fishing agreement works to see whether or not at some stage in the future a move in this direction would be able to be undertaken. Thank you, Sir.

The Bailiff:

I call upon the Minister to reply.

5.20 Senator F.E. Cohen:

I fully understand the points raised by Deputy Duhamel. Clearly, as a long-term objective, his suggestions are absolutely correct and I will do my best to explore what options are available in that respect.

The Bailiff:

Well, I put the Regulations in the Third Reading. Those Members in favour of adopting the proposal please show.

Deputy P.V.F. Le Claire:

Can I ask for the Appel, please, Sir?

The Bailiff:

The Appel? Very well. I ask the Greffier to open the voting. The vote is for or against the Regulations in the Third Reading.

POUR: 36	CONTRE: 10	ABSTAIN: 0
Senator S. Syvret	Deputy R.C. Duhamel (S)	
Senator F.H. Walker	Deputy A. Breckon (S)	
Senator P.F. Routier	Deputy J.J. Huet (H)	
Senator M.E. Vibert	Deputy of St. Martin	
Senator P.F.C. Ozouf	Deputy P.N. Troy (B)	
Senator T.J. Le Main	Deputy J.B. Fox (H)	
Senator B.E. Shenton	Deputy of St. Ouen	
Senator F.E. Cohen	Deputy P.V.F. Le Claire (H)	
Senator J.L. Perchard	Deputy D.W. Mezbourian (L)	
Connétable of St. Ouen	Deputy of St. Mary	
Connétable of St. Peter		
Connétable of St. Clement		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of St. Lawrence		
Connétable of Grouville		
Connétable of St. John		
Connétable of St. Brelade		
Deputy G.C.L. Baudains (C)		
Deputy C.J. Scott Warren (S)		
Deputy R.G. Le Hérisier (S)		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy S.C. Ferguson (B)		
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 J.A.N. Le Fondré (L)		

Deputy of Trinity			
Deputy S.S.P.A. Power (B)			
Deputy S. Pitman (H)			
Deputy K.C. Lewis (S)			
Deputy of St. John			
Deputy I.J. Gorst (C)			

ADJOURNMENT PROPOSED

6 Senator P.F.C. Ozouf:

I know the senior Member is normally asked to propose the adjournment. May I test the mood of the Assembly by suggesting there are 6 items on the Order Paper, 2 Appointed Day Acts 3 appointments and 1 issue concerning composting P.76. May I propose, Sir, that we would continue to deal with all matters on the Order Paper save for P.76, which I would propose that we move to a later sitting for 2 reasons. First of all, because it would mean that we would be able to finish business today, but that is not the major reason. The most important reason is that deferring consideration of this matter would allow the Assembly to be informed of the work that is currently underway in respect of finding alternative composting locations. Work is underway by a Scrutiny Panel. I also understand that Deputy Le Claire is also working on this issue and the Minister also is working co-operatively in that regard. It seems to me that it would make sense for the Assembly to be properly informed about those findings in advance of a discussion about whether or not we would shut down the composting facility, which in any event cannot happen overnight. So, may I respectfully move, Sir, that we defer consideration of P76. I am aware that 12th September is overloaded, but I would provisionally suggest that it could happen, say, on 10th October or, indeed, 26th September, when we would have those reports but we also then move to complete the rest of the Order Paper which should be, I am told, relatively straightforward matters that could be despatched relatively quickly.

The Bailiff:

Shall we deal with one thing at a time, Senator? You are proposing that the debate on Projet 76 - Composting Facilities - be deferred until 10th October?

Senator P.F.C. Ozouf:

That seems to be the date which does not have any other business on at the moment.

The Bailiff:

There is one other matter. Is that proposition seconded? [**Seconded**], yes. Does any Member wish to speak on it?

6.1 Deputy G.C.L. Baudains:

Well, naturally, I would oppose that because what I am trying to do with this proposition is curtail a nuisance and, in fact, if one reads my proposition carefully, it does not require the closing down of that facility. What it requires is that it should be odourless, which is a completely separate matter, Sir, and I see no reason why we cannot debate it tomorrow. It is not the matter which Deputy Le Claire is working on or, indeed, the Scrutiny Panel - of which I am a member - is working on. It has little relevance to this particular proposition, Sir, and I would ask that Members take it tomorrow because the residents of St. Clement, St. Helier and St. Saviour are suffering from this nuisance.

The Bailiff:

Can I suggest that Members do not engage in a long debate on this? May I put this to the vote?

The Deputy of St. John:

Sir, can I suggest a compromise would be put it on 12th September?

The Bailiff:

12th September is very overloaded, Deputy.

Senator P.F.C. Ozouf:

The principal reason, Sir, was that the benefit to the Assembly would be the reports that, no doubt, are going to be coming out on the whole matter.

Deputy J.B. Fox:

Can I ask just one question? Sorry, a point in clarification: what the Senator is talking about, by the delay, is a hope value at the moment that there will be answers to the proposed working parties. Can I just seek some observation or opinion from those that are involved in the working parties whether that date would be sufficient for having the information available to the States Members. Because if it is not available it seems a waste of time delaying it.

The Bailiff:

Right. Deputy Le Claire, can you deal with that briefly?

Deputy P.V.F. Le Claire:

We have undertaken investigations, as promised, and I will conclude the field trips by the end of next week. I will begin to accumulate the report and get that ready for Members as soon as I can over the next 2 weeks. There is an issue in relation to the Business Plan on 12th September because part of the Business Plan does ask us to agree that there will be a single composting facility by the end of quarter A in 2008. So therefore, it might be that the Business Plan itself needs amending in that regard, which does refer to the compost facility.

The Bailiff:

Well, you have been asked whether you would be ready by 10th October and I think the answer is yes?

Deputy P.V.F. Le Claire:

Yes, Sir.

The Bailiff:

Somebody else? Deputy, you wanted to ask the Minister?

Deputy G.W.J de Faye:

We are, separately to Deputy Le Claire, talking to members of the agricultural industry and I have every intention of putting forward some proposals to see if there are any expressions of interest in composting within the agricultural industry.

The Bailiff:

Very well.

Deputy R.C. Duhamel:

Likewise, Sir, as Members will recall there is an acting review being undertaken in regard to waste management facilities which includes composting and we fully expect to have terminated the Reviews by that date.

The Bailiff:

Very well. Well, if that helps Members do you want electronic vote, Deputy, or ...?

Senator P.F.C. Ozouf::

Appel, Sir.

The Bailiff:

Appel? Very well. The vote is for or against the proposition of Senator Ozouf that the debate on Projet 76 be moved to 10th October and I ask the Greffier to open the voting.

POUR: 32		CONTRE: 15		ABSTAIN: 0
Senator S. Syvret		Senator B.E. Shenton		
Senator F.H. Walker		Connétable of St. Helier		
Senator T.A. Le Sueur		Deputy of St. Martin		
Senator P.F. Routier		Deputy G.C.L. Baudains (C)		
Senator M.E. Vibert		Deputy P.N. Troy (B)		
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)		
Senator J.L. Perchard		Deputy P.V.F. Le Claire (H)		
Connétable of St. Ouen		Deputy D.W. Mezbourian (L)		
Connétable of St. Peter		Deputy S. Power (B)		
Connétable of St. Clement		Deputy S. Pitman (H)		
Connétable of Trinity		Deputy K.C. Lewis (S)		
Connétable of St. Lawrence		Deputy I.J. Gorst (C)		
Connétable of Grouville		Deputy of St. Mary		
Connétable of St. John				
Connétable of St. Brelade				
Deputy T.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy J.J. Huet (H)				
Deputy R.G. Le Hérissier (S)				
Deputy J.B. Fox (H)				
Deputy S.C. Ferguson (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 J.A. Le Fondré (L)				
Deputy of Trinity				
Deputy of St. John				

Senator P.F.C. Ozouf:

Could I, therefore, move that we then continue with the rest of the Order Paper until we complete matters?

The Bailiff:

Are Members content to complete the business this evening? Very well.

PUBLIC BUSINESS (continued...)

7. Draft Bankruptcy (Désastre) (Amendment No. 5) (Jersey) Law 2006 (Appointed Day) Act 200- (P.74/2006)

The Bailiff:

Well, we come now to Projet 74 - the Draft Bankruptcy (Désastre) (Amendment No. 5) Jersey Law (Appointed Day) Act and I ask the Greffier to read the long title.

The Deputy Greffier of the States:

Draft Bankruptcy (Desastre) (Amendment No. 5) (Jersey) Law 2006 (Appointed Day) Act. The States, in pursuance of article 22 of the Bankruptcy (Désastre) (Amendment No. 5) Jersey Law 2006, have made the following Act.

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

May I ask for one of my Assistant Ministers, the Connétable of St. Lawrence, to act as rapporteur?

The Bailiff:

Yes, Connétable.

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

I would like to request a slightly unusual approach to this: that P.74 and the next Projet, P.81 are very closely related and there seems little point in me making the same speech twice. So, I will make it once and we will see how we get on but, obviously, each projet will need to be - I presume anyway - proposed and voted on separately and I recognise that. So, this Appointed Day Act - the Bankruptcy (Désastre) (Amendment No. 5) (Jersey) Law 2006 (Appointed Day) Act 200- and the following projet, P.81.2006 - the Draft Companies (Amendment No. 8) (Jersey) Law 2005 (Appointed Day No. 2 Act, 200-: these 2 Appointed Day Acts will have the effect of bringing into force the 5th amendment to the Bankruptcy Law and those provisions of the 8th amendment to the Companies Law that did not come into force on 1st February this year. The Bankruptcy Law amendment is a straightforward piece of legislation, the chief effect of which is to update the creditor protection measures in that Law. The amendment itself was overwhelmingly approved by the States in October last year. As an insolvent company may be subject to either a desastre under the Bankruptcy Law or a winding up under the Companies Law, there is a clear need to ensure that the creditor protection provisions in each Law precisely mirror each other, which is the reason that we are looking at the 2 projets at the moment. It was for this reason that a number of provisions in the Companies Law (Amendment No. 8) relating to creditor protection were held back until the Bankruptcy Amendment was ready to be introduced. It is proposed that the Bankruptcy Amendment and those remaining provisions of the Companies Law Amendment come into force on 1st August 2006. I would ask that the House support them. Thank you, Sir. I propose the projet in respect of P.74.

The Bailiff:

[Seconded]. Does any Member wish to speak on the proposition?

7.3 Deputy P.N. Troy:

The report states that cells of cell companies can be the subject of bankruptcy proceedings. Can the rapporteur, Sir, advise how if a cell of a cell, surely the cell that is the subject of the cell which has been declared bankrupt, would not the other cell be possibly responsible for the bankruptcy debts?

7.4 The Connétable of St. Lawrence:

I am not absolutely certain on this but if I remember rightly when the new Companies Law was introduced and cell companies were introduced at that point, this point was raised and, as I recall - and I do not have the information right in front of me - each cell is independent from a bankruptcy point of view; and, therefore, if one cell goes down it would not affect the others.

The Bailiff:

I thought that was the purpose of the cells. Well, I put the proposition. Those Members in favour of adopting it kindly show. Those against. The proposition is adopted and, rapporteur, I ask the Greffier to read the citation of the Act, please, for Projet 81.

8. Draft Companies (Amendment No. 8) (Jersey) Law 2005 (Appointed Day No. 2) Act 200- (P.81/2006)

The Deputy Greffier of the States:

Draft Companies (Amendment No. 8) (Jersey) Law 2005 (Appointed Day No. 2) Act 200-. The States, in pursuance of Article 42 of the Companies (Amendment No 8) (Jersey) Law 2005, have made the following Act.

The Bailiff:

You have moved the proposition, rapporteur?

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

I do, Sir.

The Bailiff:

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

9. Rent Control - Appointment of Members – P.80/2006

The Bailiff

We come next to Rent Control - Appointment of Members - Projet 80 in the name of the Minister for Housing and I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion, in pursuance of paragraph 1 of Article 3 of the Dwelling Houses Rent Control (Jersey) Law 1946, to appoint the following persons to act as Chairman and members of the Rent Control Tribunal for a period ending on 12th April 2007, namely, Mr. Ronald Peter Welling, Chairman, Mrs. Mary Gaiger, Mr. Jeremy James Robin Johnson, Mr. David Crespel.

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

It is with a degree of sadness that I stand before the Assembly today to say that sadly our Chairman of the Rent Control Tribunal, Mr. Terry Lavery, passed away at the end of last year after very many years of sterling public service and it was a sad occasion for many of us. Particularly, I know, Deputy Breckon, who had a great working relationship. A great fair man who did his work diligently. There is, as I say, a degree of sadness today; I wanted to say what a good man he was and a loyal person to this Island, and he will be sadly missed. Mr. Christopher Sheehan, also recently retired, is another member who has given long and creditable service. Sir, I do not intend to go through the report; it is there for all to see. The normal procedure has taken place, advertising; we had, I think, 4 or 5 people that have put their names forward, and my assistant Minister interviewed all the candidates, and the 2 successful candidates were Mr. Jonathan and Mr. Crespel. So I have pleasure in proposing the new Tribunal.

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. Planning Applications Panel: appointment of members (P.84/2006)

The Bailiff

We come to Projet 84 - Planning Applications Panel: Appointment of members, and I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to appoint, in accordance with Article 9(c) of the Planning and Building (Jersey) Law 2002, on the recommendation of the Minister for Planning and Environment, the following persons as members of the Planning Applications Panel, with immediate effect, for a period of 3 years. (a) The Connétable of St. Peter, as a member; (b) the Deputy of Trinity, as a member; (c) the Connétable of St. Saviour, as a reserve member; (d) the Connétable of St. Helier, as a reserve member.

10.1 Senator F.E. Cohen (The Minister for Planning and Environment):

Under the Building and Planning (Jersey) Law 2002, it is necessary to appoint the Panel. I therefore propose the names as previously read out, under the Chairmanship of the Assistant Minister, the Connétable of St. John. They have done sterling work on the Panel so far, and I have absolute confidence in their ability. I propose the appointment.

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.

11 Rate Appeal Board: appointment of members (P.87/2006)

The Bailiff

We come next to Projet 87, Rate Appeal Board: Appointment of Members, and I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion in pursuance of Article 44 of the Rates (Jersey) Law 2005 to appoint Leslie May, Jeremy James Robin Johnson, Brian Ahier, Peter John Norman, Thomas Slattery, Timothy George Cartwright, Jethro Adams, as members of the Rates Appeal Board for the period ending 31st December 2009.

11.1 Senator T.A. Le Sueur (Minister for Treasury and Resources):

I would like to begin by thanking those members of the Rate Appeal Board who have given many years of service and who retired at the end of last year. Their names are in the report, but I will mention them again: Mr. Leslie Crapp, Mr. Colin Baird, Mr. Martin Dryden, Mr. Paddy Freeley, Advocate D.G. Le Sueur, Mr. Michael Vibert. There was a time when the Rate Appeal Board members had quite a busy time. I am pleased to say that with the advent of enhanced Rate Laws in recent years the Rate Appeal Board have met quite infrequently. Nonetheless, we do need to appoint a board to deal with what appeals there are, and I thank those members, both new and ongoing, for volunteering their services on an honorary basis. The new Panel is a mixture of the old and the new; there are 3 continuing members: Mr. Leslie May, Mr. Brian Ahier and Mr. Jeremy Johnson; and 4 new members: Peter Norman, Tom Slattery, Tim Cartwright and Jethro Adams, all of whom were selected following a normal advertisement process. I thank them for putting their names forward, Sir, and I propose their nomination.

The Bailiff:

Is the proposition seconded? [**Seconded**] Does any Member wish to speak on the proposition? The Connétable of St. Ouen.

Connétable K.P. Vibert of St. Ouen:

I thank the Minister for bringing this forward. We were in a dilemma; without this proposition, no rates appeals could be heard.

The Bailiff:

I put the proposition. Those Members in favour of adopting it kindly show. Those against? The proposition is adopted.

12 Waterfront Enterprise Board: Appointment of Chairman and directors (P.89/2006)

The Bailiff

We come finally to Projet 89, Waterfront Enterprise Board: Appointment of Chairman and directors, and I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion, (a) to appoint Mr. Francis Gerald Voisin for a period of 3 years, expiring on 20th August 2009, as a non-States Director and Chairman of the Waterfront Enterprise Board Limited; (b) to reappoint John Claude Tibbo and Mr. Peter Joseph Crespel for a period of 3 years expiring on 20th August 2009, as non-States Directors of the Waterfront Enterprise Board Limited; (c) to request the Greffier of the States to notify the company of the States' decision.

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

This proposition and the reasons behind it has been the subject of considerable publicity, some more accurate and informed than others. But, Sir, the facts are simple. The Council of Ministers feel that there is a need to restructure WEB (Waterfront Enterprise Board), to extend its remit to

cover other important States property assets, and that has been the subject of some discussion previously. Secondly, we believe that if that is to happen, the company, which will be a new company, will require a Chairman with property experience, in whom we can have complete faith in terms of his experience, knowledge and ability on property matters. Thirdly and finally, the term of office of Mr. Pierre Horsfall expires on 20th August, and the Council of Ministers felt that given the changes that it wishes to put to the States at a later date, that that was a natural end to his term of office as Chairman. The Council of Ministers will need time to work up and to come forward with more detailed proposals on the new property structures, and that should be the subject of an important proposition to be lodged in September, and obviously will be the subject of a full States debate. So we are, therefore, in the meantime proposing an interim Chairman. Now, ex-Deputy Mr. Gerald Voisin has to be appointed for 3 years under the articles of association of WEB, but he has accepted that if necessary his term of office could be somewhat shorter than that. But that again would be subject to a States' decision. Sir, Mr. Voisin would bring, if the States agrees to the role, great experience, relevant experience to make him a very capable and very much welcome interim Chairman. He does, of course, have extensive business experience; he has previously served on the board of WEB, and of course knows the political scene very well through his membership of this House until recently. I am very grateful, and my colleagues are very grateful to him for allowing his name to come forward and to be prepared to take up this job at this time and under these conditions. Sir, so far as continuity is concerned, continuity is of course important, and I am also very grateful to Jurat John Tibbo and Mr. Peter Crespel for their acceptance that their names should go forward, also of course, to be nominated for 3-year terms. I am very grateful to them, not only for allowing their names to go forward, but for the considerable amount of work they have already done as non-executive, non-States directors of WEB. Sir, finally, I would like to thank Mr. Pierre Horsfall for his work as Chairman. It is not widely recognised, because WEB has been a highly-criticised body, but WEB has done the job that the States set it up to do and the States asked it to do and it has set us up - set the Island up, if it wants to - to reap many dividends from the Waterfront: economic, financial, social and, indeed, environmental. None of the much-criticised buildings currently on the Waterfront can be laid at Mr. Horsfall's door. They were agreed and, indeed, built before he took up his position as Chairman. So I would like to pay a sincere tribute to him for his chairmanship of WEB through difficult and very controversial times. Sir, I make the proposition that Mr. Voisin should be appointed for a period of 3 years as Chairman of WEB and that we should reappoint Jurat John Tibbo and Mr. Peter Crespel, also for a period of 3 years, as non-States Directors.

The Bailiff:

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

12.2 Deputy A. Breckon:

I would just like to ask of the Chief Minister if he can recall some developer presentations that were made and videos that were produced, and I remember a number of States Members were in them. I think Deputy Ryan is in it; Senator Le Main had a special haircut for his appearance, and I asked him at the time how he knew about it and some Members knew before others. The reason I say that, Sir, is I think former Deputy Voisin was also in this presentation, and he was fairly gung-ho about developers and height. The reason I say that, Sir, is not with any disrespect for former Deputy Voisin; I would just like the Chief Minister to comment on that and perhaps the impartiality if anything crosses over the desk.

12.3 Deputy P.J.D. Ryan of St. Helier:

I have 4 points to make and then a question, if you would bear with me. I am well aware that I may well incur the wrath of the Chief Minister in this speech, but I am quite used to that, so there we go. I am speaking entirely on part (a) of the proposition. I used to work with Deputy Voisin, and I got

on very well with him. I have the greatest respect for him, and I think he did a very good job as the President of the Economic Development Committee. However, he was a member of the old Policy and Resources Committee, and I believe as that member of the old Policy and Resources Committee he was very clearly politically aligned with Senator Walker, our Chief Minister. There is nothing wrong with that particularly. Nevertheless, I make it as a point, bearing in mind that the Waterfront Enterprise Board is separately constituted and supposedly independent of the political process. It would be very soon, if he were to be Chairman of WEB, even on a temporary or interim basis, after he has left politics. Truly he was a director of WEB, but he was a politically-appointed director of WEB. That is a different thing to being an independent director, I believe. Even though politicians are supposed to be independent, when they act as board members, I think it is fairly reasonable to assume that all politicians have a political agenda. If we did not, we would not be politicians. The third point, and although I do not suggest that it would be a problem, I would suggest that it may not be appropriate to appoint the former Deputy as the Chairman of WEB. I believe he may well have a fairly clear conflict of interest on many of the issues that would come in front of the Waterfront Enterprise Board. Now, he had that also as the President of EDC (Economic Development Committee), and there were occasions where it was a problem for him, and I believe that he will come up against those same kinds of conflicts of interest as the Chairman of WEB, but probably more so, in his role as the owner or managing director of a very large local retailer and in his role of the chairmanship of WEB, who negotiates, after all, with developers who very often are in the retail sector. I think there is that. The fourth point. It seems to me that there has been no Appointments Commission on this one at all. The reason given is that this is only an interim measure, but I do not think it is appropriate to prejudge, presuppose, second guess in advance a States decision on the Jersey property holdings development set-up business. The States may decide - I do not say they will; I do not say I am pro or anti - but the States may decide not to, and then we will have a Chairman that will be there for 3 years, if that were to be the case. So I believe that there should have been an Appointments Commission on this case, as there was with Mr. Horsfall when he was appointed. There were several people who applied for the job, and Mr. Horsfall was appointed in a properly constituted way. I think that was right, and I think the same should apply in this instance. I finish with a question. If this is why this is only an interim appointment and in the interests of continuity, why was the existing Chairman not offered the position? I find it strange. I leave it there, Sir.

Deputy of St. John:

Can I ask for a point of clarification? If we are going to talk in quite some detail about individuals, should we be moving into camera, Sir?

The Bailiff:

I was about to raise that very point with the Chief Minister. Chief Minister, if the merits or demerits of the appointment of particular individuals are going to be considered, I wonder whether you might like to move that at least this part of the debate be conducted in camera.

Senator F.H. Walker:

Yes, Sir, if it is indeed heading that way, then I think that would be the safer course of action, so I will make that proposition.

The Bailiff:

Is that seconded? [Seconded]

Deputy P.J.D. Ryan:

Absolutely, Sir, and may I say that I did consider whether I should ask for that to happen before I spoke, but I tried to keep whatever I said as entirely impersonal as possible.

The Bailiff:

There may be Members who wish to say things which do not require the Assembly to discuss the proposition in camera, but I understand the Chief Minister to be proposing that the States continue in camera, to allow any Members who wish to express views about individual candidates without inhibition. I accordingly put the proposition ...

Deputy P.V.F. Le Claire:

Can we engage if anyone else wants to speak, first, Sir?

Senator F.H. Walker:

I was thinking about that when you were reaffirming the proposition. There is only any point in doing it if there are other Members who wish to speak and who wish to make points about Mr. Voisin or any other individual.

The Bailiff:

I have a note that Senator Shenton wishes to address the Assembly.

Senator B.E. Shenton:

Yes, I do, Sir, but I am not sure whether it needs to be in camera or not. Maybe I should just address the Assembly.

Deputy P.V.F. Le Claire:

I think it should go in camera, then, if there are going to be more speeches, Sir.

The Bailiff:

Well, the issues are clear. Do Members wish to sit in camera to continue this debate or not? I put the proposition. Those Members in favour of sitting in camera ... I ask the Greffier to open the voting, and the vote is for or against the proposition that the Assembly should sit in camera to continue the debate.

POUR: 38		CONTRE: 9		ABSTAIN: 0
Senator F.H. Walker		Senator S. Syvret		
Senator T.A. Le Sueur		Senator J.L. Perchard		
Senator P.F. Routier		Connétable of St. Peter		
Senator M.E. Vibert		Connétable of Grouville		
Senator P.F.C. Ozouf		Deputy A. Breckon (S)		
Senator T.J. Le Main		Deputy of St. Martin		
Senator B.E. Shenton		Deputy G.C.L. Baudains (C)		
Senator F.E. Cohen		Deputy R.G. Le Hérisier (S)		
Connétable of St. Ouen		Deputy J.A. Martin (H)		
Connétable of St. Clement				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of St. John				
Connétable of St. Brelade				
Deputy R.C. Duhamel (S)				
Deputy J.J. Huet (H)				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy J.B. Fox (H)				

Deputy G.P. Southern (H)				
Deputy S.C. Ferguson (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. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

The Bailiff:

I ask the producer to cease the transmission of the debate.

[Debate proceeded in camera]

The Greffier of the States (in the Chair):

Very well, the Assembly is now in public assembly. Chief Minister, do you wish to make any further remarks before we take the vote? Well, Deputy Baudains.

Deputy G.C.L. Baudains:

I presume, Sir, now is when those Members who have not spoken in camera can now speak before the second summing up, Sir.

The Greffier of the States (in the Chair):

I apologise, Deputy, yes.

12.4 Deputy G.C.L. Baudains:

That is all right, Sir, it has been a rather confusing meeting. **[Laughter]** If I had have known it would be running this late I would have brought my sleeping bag. **[Laughter]** Sir, as the Deputy of St. Peter so correctly told us - it seems like quite some time ago now - the proposition we are voting on is, in fact, as worded and nothing else. We have had promises that it will only be for an interim period but as we know - from past experiences in the Island Plan - promises count for nothing. It is as worded. Secondly, Sir, it does occur to me that with a planning Supremo recently appointed to oversee Waterfront development, I am beginning to wonder the purpose of WEB's continuance. No reflection on the appointment of the proposed people, Sir, but it does seem to me that there was previous conflict between WEB and Planning because they are basically 2 States' bodies going towards the same ends but by different routes and there is, therefore, a conflict. I can only see that if we continue WEB's existence we will continue that conflict. The report does tell us - and of course it has been expanded on by the Chief Minister - that consideration has been given to the possibility of establishing a new development company. Now, the Chief Minister has told us, Sir,

that with this new development company there will be a proposition in a couple of months and it could be up and running very shortly. But, that is not exactly what the report says, Sir. It does not say there will be one or there might be one, it says only consideration as to the possibility. Now, Sir, that does sound to me that it is just about on the horizon with the radar that has not yet been installed for fishing boats. Only under consideration, Sir, we cannot prejudge its formation. Therefore there is, to me, a lack of clarity whether this board is going to carry on for another couple or 3 months or whether it is going to run for 3 years. We do not seem to know. But, going back to my comments about the Supremo, Sir, it seems to me that WEB is now superfluous and I really do not see why we cannot wind this company up as soon as possible. In that regard, we do not need a high profile Chairman, Sir; we could surely appoint one from the existing board if it is only for the sake of winding it up over the next few months, Sir. The Chief Minister did tell us that the Chairman is contracted to do - I think it was 40 days a year. Well, it occurs to me, Sir, that if he has only got a couple of months to go - as the Chief Minister did in fact tell us or suggest that would be the case - that makes about a week's work, so I do not find it very plausible that it would be unlikely to find the Member of the existing board to do the job because the work would be onerous, Sir. Thank you.

The Greffier of the States (in the Chair):

Does any other Member wish to speak?

The Deputy of St. Peter:

A point of clarification - if I may - now that we are out of camera: could I just ask the Chief Minister to confirm that no matter what happens in September - either if we have a new system of WEB or the old system of WEB - a proper system of choice will be made for the new chief?

Senator F.H. Walker:

In answer to that I absolutely confirm that the answer to that is, "Yes".

12.5 Deputy J.A.N. Le Fondré:

I would like to make a couple of points now we are back in the public domain: there are times when I will agree with Senator Syvret and there are times when I am going to disagree with him. He will be pleased to know I am 100 per cent behind him. I do not think I have ever agreed more with what he said previously, and also with the Council of Ministers. I think we are getting hung up on procedure, Sir. Whether or not it is our problem we have got to sort it out. It strikes me that this is the time for someone with enthusiasm and drive. I think we need a practical approach to getting this resolved. Realistically - and I hope I am not stretching the bounds here - if you have already informed someone that they are not being re-appointed you cannot go back and ask them to carry on with the job. I have known Mr. Voisin, in his role as Deputy of St. Lawrence, for a number of years and I, as with everybody else, I can confirm he is a man of great integrity. I think he is probably doing this out of a desire to continue his record of service. Yes, he was a former President of Economic Development and I think that states he has got a huge experience in a variety of area. I would also say I believe he has generally got - and genuinely got - the interests of Jersey at heart. I believe he has got the enthusiasm, the energy to do the job, and it is energy that we need at the moment, especially when we have a change in the MD that is already happening. The Minister for Planning and Environment has said we are at a key point and I urge Members to support the proposition, in its entirety, so that we can move things forward. Thank you, Sir.

12.6 Deputy S. Power:

Very briefly, 30 seconds: I was minded to not support this but I am supporting the appointment of Mr. Voisin because of the speeches of the Planning Minister and the Health Minister.

The Greffier of the (in the Chair):

I call on the Chief Minister to reply again.

12.7 Senator F.H. Walker:

Thank you, Sir. It is not often I get a chance for 2 replies. Sir, we have heard that the process that the States is being asked to consider and approve today is not ideal, and it is not. That, as I have said already, is the absolute view of the Council of Ministers. But, we have arrived at the situation because of timing, basically. We have acknowledged the need to develop, or to structure, a company which will have a wider remit than WEB. We have acknowledged the need for the Chairman of that company to be someone of real property experience. That is the position that we are moving towards. I think I have already given assurances. I was disappointed, again, with Deputy Baudains who was basically questioning pledges and promises that I had made to the States. Sir, I would challenge him to come forward with any occasion when I have made a promise to this House that I have not met. That, Sir, is the case. The Council of Ministers will be coming forward with a proposition to set up a new property company and we intend to do that in September. Following that - with States' approval - we will engage in a full advertising and properly constructed recruitment process to find the long-term Chairman. In the meantime, we are extremely fortunate that Mr. Gerald Voisin has offered his services on an interim basis because - as we have heard from the Planning Minister - Mr. Voisin is someone with whom he knows he can work successfully. If he is to deliver, not just his vision but the forthcoming reality, I believe, of a world-class Waterfront, then he needs to be able to work continuously - with immediate effect - with someone in whom he has complete faith and who can work, not only with him, and the developers and ex-Deputy Voisin is such a man. So, I do not think there is any need for me to rehearse any more of the arguments, except just to make one point which I made earlier: if they reject this proposition, then the alternatives facing the States are, possibly, if the States would wish a continuation of Mr. Horsfall's term of office; an attempt to appoint another non-Executive Director to the position of Chairman which - because of the 48 days, not one week's work, Deputy, the 48 days the Chairman is committed to - is a very unlikely proposition. Or, we have to look at the structure of WEB, itself, which is not something that is in the public interest. There are hundreds of millions of pounds of public money at stake here and we need an interim Chairman who can work with the Planning Minister to ensure that he is able to deliver the world-class Waterfront that he is determined that Jersey will have. No substitute. No second-class. Determined it will be world-class. So, Sir, I would ask the House to support the proposition and ensure that the Planning Minister can continue to deliver. One more point: Deputy Baudains has said that having appointed a Supremo there was no need for WEB. Well, frankly, that displays an astonishing lack of understanding of the respective roles. The Supremo is an architect. He does not formulate plans. He does not strike contract with developers. He does not value land. He does not enter into arrangements to sell or to lease land. It is an astonishing lack of understanding of what the respective roles are. There is no way that an architectural Supremo can do the job that WEB is charged by this House to do. If it is to do that job and enable the Planning Minister to deliver then Deputy Voisin is an ideal interim Chairman **[Interruption]** - former Deputy Voisin, I beg your pardon - is an ideal interim Chairman and I strongly urge the House, Sir, to support the proposition in its entirety.

Deputy G.C.L. Baudains:

Would the Minister clarify, Sir, that one sixth of 40 is approximately a week?

Deputy D.W. Mezbourian:

Point of clarification if I may? The Chief Minister has twice said that Mr. Voisin offered his services. Would the Chief Minister confirm, please, that Mr. Voisin was approached and agreed, or would he confirm that he did indeed offer?

Senator F.H. Walker:

Gladly. Mr. Voisin was approached following a unanimous decision of the Council of Ministers that he should be so approached. After a number of days of consideration, he agreed to take up the position as I have outlined.

Deputy J.A. Martin:

Yes, Sir, it is more of a procedure point and it is a bit late in the day but I really would like this clarified because this proposition was brought very quickly. Can you tell me the contradiction under Standing Order 26(3)(a) a lodging period of 2 weeks and a minimum lodging period under Standing Order 24(6)(c) where it says: "A proposition on any matter relating to the administration of property" which is clearly what the board is. Could you explain to me how the Chief Minister has been allowed to lodge this and debate this in 2 weeks and not the minimum because both of those Standing Orders are totally contradictory, Sir.

The Greffier of the States (in the Chair):

I do not think they are contradictory, Deputy, in the sense that this proposition is clearly Standing Order 26(4)(c) which as you say refers to: "A 6 week lodging period for any proposition on any matter relating to the administration of property was intended to cover matters such as leases, sales, actually administering property directly." Whereas, as you say, Standing Order 26(3)(a) allows a 2-week lodging period for: "A proposition for the appointment of any person to any tribunal or any public body or office" which is the provision this has been brought under.

The Deputy of St. Martin:

Just a clarification from the Chief Minister if I could, please? I take it, irrespective of which way this vote goes, the term of office of Mr. Horsfall finishes on 20th August anyway. So, even if he will not be re-elected, he just finishes. I would assume that was the case.

Senator F.H. Walker:

Yes, Sir, his term of office expires on 20th August and there is no proposition that that should be extended.

The Greffier of the States (in the Chair):

Now, Chief Minister, some Members have expressed a wish to vote separately on (a) and (b). Is that something you are willing to exceed to, or do you wish to vote *en bloc*?

Senator F.H. Walker:

En bloc, Sir.

Deputy R.G. Le Hérissier:

I think there is a point Deputy Martin raised, and we may well be guilty in this regard: 4(d), Sir, of the Standing Orders, does it not override the Standing Order you just quoted, 26(2)? In other words: "Any proposition lodged by the Council of Ministers must be lodged for 6 weeks."

The Greffier of the States (in the Chair):

You overlook the provision, Deputy at the end of paragraph 4 and to which paragraph 3(8)(e) does not apply. The proviso after subparagraph (8) of (d) specifically refers back to the fact that those preclude it.

Senator F.H. Walker:

In answer to your question, we are talking here about the integrity. I do not mean the integrity in a personal sense, I mean the integrity of WEB as a company and the need for it to continue to act in a professional and complete way and work with the Planning Minister. So, Sir, I regret I will not agree to split the proposition. I would ask Members to vote on it *en bloc*.

The Greffier of the States (in the Chair):

Very well. The Appel. Therefore the vote is for or against the proposition, that is paragraphs (a), (b) and (c) and the Greffier will open the voting.

POUR: 32		CONTRE: 10		ABSTAIN: 2
Senator S. Syvret		Senator B.E. Shenton		Senator J.L. Perchard
Senator F.H. Walker		Deputy R.C. Duhamel		Connétable of St. Clement
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 R.G. Le Hérisier (S)		
Senator T.J. Le Main		Deputy J.A. Martin (H)		
Senator F.E. Cohen		Deputy G.P. Southern (H)		
Connétable of St. Ouen		Deputy D.W. Mezbourian (L)		
Connétable of St. Peter		Deputy S. Pitman (H)		
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of Grouville				
Connétable of St. John				
Deputy J.J. Huet (H)				
Deputy P.N. Troy (B)				
Deputy S.C. Ferguson (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				
Deputy J.A. Le Fondré (L)				
Deputy of Trinity				
Deputy S. Power (B)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**13. The Greffier of the States (in the Chair):**

Very well, that concludes the public business. The remaining item is the arrangement of public business for future meetings and I invite the Chairman of PPC to propose that arrangement.

13.1 The Connétable of St. Clement:

Thank you, Sir. I would propose the arrangement that is outlined on the pink sheets under (m) with the addition of, on 26th September, P.93 which are Income Tax: exemption thresholds and, as we have already agreed, on 10th October P.76, Composting Facilities at La Colette, St. Helier: cessation. Can I just point out, Sir, that the first item of business on 12th September is the Annual Business Plan, which is designated to be in that position? It cannot be moved but I think the Members must be aware that that is likely to take 4 days and that I would propose that the meeting starting on 12th September is extended until the Friday and, if we still need to meet, that we meet again on the 19th. I would ask Members to properly consider the rest of the agenda and possibly moving some of the items to a later time.

The Greffier of the States (in the Chair):

Does any business arise from the arrangement?

13.2 Deputy J.A. Martin:

I would like to make a proposition that we do not debate the Annual Business Plan on the 12th and we at least move it back to the 26th. I will give you 2 reasons: we have received one email from the Greffier informing us that not only do amendments have to be in by the 29th, they have to be lodged by the 25th because of the Bank Holiday Monday. On a separate issue, my Scrutiny Panel - the Social Affairs Scrutiny Panel - has got the Annual Business Plan to be discussed on Monday. But, also, we are going to have a review on the early childhood education and care and we received on Tuesday a letter from Senator Vibert, the Minister for Education, saying: "I write to advise you that I will be out of the Island between the 10th and 22nd and officers of the department will also be on annual leave during this period. The Panel may wish to defer this review until September." Now, we are talking about a budget of over £108 million that the Social Affairs Panel or other Members may want to amend but we will not, Sir, have the Minister. And by this, a letter on a different subject, admittedly, but many of the officers will be on annual leave - I find probably across the next 6 weeks, so will many Members. So I ask the House, looking at the figures and the detail that is not in the plan that we will have to get from the departments ... Housing say that I am going to agree with the States - sorry: "Approve the report and proposition into the future delivery of social housing in the Island." Now, this report and proposition has not even been brought yet but it is in the Business Plan. I hope it is going to come before the 26th. It may be amended. Well, the Housing Minister, Sir, is saying it is not but there is a lot of work to be done and it is an absolute insult, again to Scrutiny, if you think any sensible amendment or study of this Business Plan can be done and presented and lodged before 25th August. So, I really do ask people - I know it is late in the day - but I really do ask people to consider this seriously.

The Greffier of the States (in the Chair):

The Deputy is proposing that the Business Plan be deferred from 12th to 26th September. Is that proposition seconded? **[Seconded]** Does any Member wish to speak briefly on that proposition? I will obviously call the Chief Minister or the Treasury Minister to reply. Deputy of St. Martin?

13.3 The Deputy of St. Martin:

I was not aware that Deputy Martin was going to give such a long speech about it but I do support what she is saying. On behalf of our Panel we have 5 Ministries to look at. We are going to look at

it Monday but, really, it may well take more than that time. Certainly, I would be hoping that the House would agree to put it back for 2 weeks.

13.4 Senator T.A. Le Sueur:

The timetable for major States debates was agreed at the start of the year, both for the Strategic Plan, the Business Plan and, importantly, for the Budget. It is a very rigorous timetable. But, nonetheless Members are aware of it. There is a consequence that it is not possible to defer the Annual Business Plan until later in September without having an adverse effect on the ongoing budget debate which - by the Public Finance Law - has to be debated in December. Frankly, Sir, this date has been known for 7 months now. It is tight but we always knew it was going to be tight. It is up to Members, I think, to organise their arrangements in such a way as to take account of that. We cannot really go back and change this date. I have looked at it and I have discussed with officers whether we can stretch that date any further and it is really impossible to do so, recognising that the Business Plan itself will start on the 12th. Probably it will not, in fact, be concluded some time on the 15th. To delay any longer than that, Sir, would be absolutely impossible and have catastrophic effects on the budget.

Deputy G.P. Southern:

That is an absolutely outrageous statement to say that it is up to Members to organise their business, when he has just heard one of his Ministers saying that he will be out of the Island for 3 weeks and his officers, too.

Senator T.A. Le Sueur:

I am sorry, Sir, that is totally wrong. I have given notice that I will be on leave for 12 days and I will be available at any other time.

13.5 Deputy G.P. Southern:

Okay, sorry, I made the mistake. **[Interruption]** It is late. Calm down please, through the Chair, Sir. **[Aside]** Nonetheless, when we discovered that the majority of the time in which we have to organise amendments to the Business Plan ... which is the appropriate opportunity to do it - as we have been told time and time again - is taken up by what is widely regarded, and what is, holiday time. I cannot believe that the delay of a fortnight, which allows people to study the plan, as we break now, work out where they want to go and still leave some time - a fortnight, it is absolutely vital - to devise exactly what they want to do and make sure that it is delivered in an amendment. I cannot believe that that fortnight is absolutely impossible. I remind Members and I will just read them the last paragraph - if they will bear with me - of what the Greffier is saying: "As I explained, when I spoke about the process at the briefing this morning the matter of a debate date is, however, entirely a matter for Members. The Assembly will be asked to agree this date at the end of this week's sitting and it would be open to you, or any other Member, to propose that the date be deferred. The Minister for Treasury and Resources would oppose it for reasons he gave later in the briefing today, but it is ultimately a matter for the States to decide. The only constraint is that the Annual Business Plan must, by Law, be agreed at least 3 months before the start of the next financial year." That is permissible if we move this a fortnight. Then, although even there is a let-out, there is a Public Finance Law which says, "Unless the States decides otherwise". So, we are not asking for something unreasonable. It is within the bounds of what our Regulations say. Let us do it and give people a chance - if they wish to - to bring forward some decent, coherent amendments, where they see fit, to the Business Plan because otherwise we will end up being too late.

13.6 Senator P.F.C. Ozouf:

May I just say one thing, that I hope is supposed to be supportive of Scrutiny: we are at 19th July. There is now 2 months of Scrutiny. We know that is a number of weeks. We know that is in the holiday period. If the Business Plan is pushed back the Treasury Minister has informed the Assembly that will have a catastrophic effect on the issue of the Budget. That also means that there is then an even more limited time in order for Scrutiny to scrutinise the budget. So, therefore we do need ... we have set out a clear programme of major debates, spending in the Business Plan and the Budget and we both need to give each other opportunities to scrutinise. You push the Business Plan back and you create problems with the Budget, not only in terms of the Treasury Minister and he has said the word "catastrophic" but also you effectively narrow the opportunity for scrutinising the Budget. I maintain the fact that we must debate this on the 12th. That is 2 months away. We all have responsibilities but there has to be sufficient time in order to give it a good level of Scrutiny, which it deserves.

The Greffier of the States (in the Chair):

We must not let this issue continue, it is already 8.05 p.m. but I will call 1 or 2 more speakers. Deputy Breckon?

13.7 Deputy A. Breckon:

I think this is another ploy of the Council of Ministers' strategy of how to win friends and influence people. I know it is the first year and there are teething problems. But when you think about it, we are talking about 12th December. We got a serious bundle yesterday and we also got the Home Affairs Department Criminal Justice Policy and the consultation period ends a few days after. I wonder sometimes, is this a deliberate ploy of 'hit people hard, hit them heavy and hit them late'? [Aside] Now, Senator Ozouf has just mentioned about pushing this back and the problems with that. But should we not get it right? Should people not have the opportunity, whether individual members or whether it is a Scrutiny Panel or whether it is the Council of Ministers themselves to change things? I think it is fairly reasonable to do that and to give people the time. People have made arrangements. The other thing with this, I in the States have never had so much information late. We got this as it was lodged. We did not have prior knowledge. We had a meeting and there were handouts and whatever else. Normally, we would get things on a Friday or a Saturday or something like that. We are not getting information beforehand, even on a confidential basis. Now, some of this stuff has been discussed on (B) agendas for a long time. Now, if it had been shared a month ago I could understand the protestations. But when you get it late and heavy, I think there is room for manoeuvre and the world will not stop turning if this goes back for a couple of weeks.

13.8 Senator F.H. Walker:

I will respond to that, first of all, in terms of the lodging period. In fact, the Business Plan has been lodged 2 weeks earlier than the programme calls for. It has been lodged a full 8 weeks before the debate, not 6 as the Standing Orders dictate, but 8. So, to suggest that Members have not been given advance warning is patently incorrect. I am sure the Deputy will appreciate that. It is in fact in Members' possession 2 weeks longer than it need have been. So, there is clearly no ploy on behalf the Council of Ministers to keep things quiet, away from Members, or whatever it may be. So, it is lodged for 8 weeks. There is a full 6 weeks for Scrutiny in that programme. But, what is important here is that that programme has been agreed for months. I personally went to the Chairmen's Committee of Scrutiny, together with the Chief Executive and we discussed the programme. There was no suggestion of any thought of delay, or whatever, at that point at all. I think to come forward now at the 11th hour 59th minute, without any pre-warning that this would be the case - to suggest a delay to a process which has been agreed and approved for many months -

is not the way to run a government. It just is not. Sir, in my view it is far too late to change because, as we have heard from the Treasury Minister, and I do not think that many people doubt the Treasury Minister's word in any matter but particularly when it comes to matters financial. We have heard from the Treasury Minister that a delay would have a serious adverse effect on the Budget. Now, if anyone wanted a delay they should have approached the Treasury Minister, or myself, a number of weeks or months ago to discuss it and quite possibly the whole programme could have been readjusted. But, to come forward now without any forewarning, without any hint of asking for delay is just too much too late. Members need to consider every Member would like more time, of course they would, but Members need to consider the effect on our financial management, the business of the States, the serious effect it would have if this debate was delayed. We need to really think about what we are doing here and whether or not we are working in the best interests of the public. We need a strong Business Plan. We need it to be scrutinised, of course we do. There is time in that process. But, equally, we need a strong, well-informed and put together budget. Take this one back and you will have a serious affect on the other. The time-scale is tight but this is the most appropriate and most effective time-scale for us to conduct our business effectively and in a manner which the public expect.

13.9 Connétable of St. Peter:

Trying to assess the balance of both sides of the argument, could I make a suggestion that I think would solve the entire problem: that we would not go for the 26th but in fact we would put it into the middle of that and go for Tuesday the 19th, deal with our business as tabled already on the 12th and deal solely with the Business Plan on the week of the 19th. If there is a conflict, I take the point that the Treasury Minister has stated about the timing and, if needs be, to conform with all law requirement, move our budget from 5th to 12th December.

The Greffier of the States (in the Chair):

It is getting slightly complicated. There is effectively an amendment to the proposition of Deputy Southern that the debate be pushed back to 19th September, not the 26th.

Senator T.A. Le Sueur:

I do not think we can change the Budget date, Sir, because that is set out. But if we did it the 19th, that would be feasible but certainly from my point of view not desirable because it squeezes the budget process. I understand Members' concerns about the lack of time. I do suggest to Members that it makes us look rather silly when at the start of this year we arranged to meet every 2 weeks. We set the times when we would be meeting and the times when we would not be meeting and we could fix holidays or other plans. Having set that out quite firmly we all knew where we were going, we decide to change it and stick in another meeting. If it is the wish of the House 19th September would be feasible but, in my view, not desirable. Now, I would still prefer to go for the 12th but I am prepared to be guided by the wishes of the House.

The Greffier of the States (in the Chair):

Well, perhaps the easiest way is to put the amendment of the Connétable of St. Peter. We could be here a long time.

Deputy J.A.N. Le Fondré:

Can I ask for a clarification? Are we voting on an amendment and then on the proposition?

The Greffier of the States (in the Chair):

No, I think we vote on the amendment effectively. Well, those Members in favour of asking for the Business Plan to be taken on 19th September ...

Deputy P.N. Troy:

Before you do take a vote can I just say that if we do take it on the 19th and then we go through to the 20th and the 21st, then we could even be pushing through into the next session if it goes on for a long period, depending on the number of amendments. So, I think there is a danger in that. I am not going to vote for the 19th. **[Interruption]** But I think it is worth pointing out, Sir.

The Greffier of the States (in the Chair):

Do you wish a standing vote, Connétable, or an Appel? The Appel. **[Interruption]** Yes, the vote is for or against the proposition, effectively, which is an amendment to the original proposition of the Connétable of St. Peter that the Business Plan be not listed for 12th September but be listed for 19th September, one week later. The Greffier will open the voting.

POUR: 17		CONTRE: 22		ABSTAIN: 0
Senator S. Syvret		Senator F.H. Walker		
Connétable of St. Peter		Senator T.A. Le Sueur		
Connétable of St. Clement		Senator P.F. Routier		
Connétable of Grouville		Senator M.E. Vibert		
Deputy A. Breckon (S)		Senator P.F.C. Ozouf		
Deputy of St. Martin		Senator T.J. Le Main		
Deputy G.C.L. Baudains (C)		Senator F.E. Cohen		
Deputy R.G. Le Hérissier (S)		Senator J.L. Perchard		
Deputy J.A. Martin (H)		Connétable of St. Ouen		
Deputy G.P. Southern (H)		Connétable of St. Helier		
Deputy of St. Ouen		Connétable of Trinity		
Deputy of St. Peter		Connétable of St. Lawrence		
Deputy D.W. Mezbourian (L)		Deputy J.J. Huet (H)		
Deputy of Trinity		Deputy P.N. Troy (B)		
Deputy S. Pitman (H)		Deputy S.C. Ferguson (B)		
Deputy K.C. Lewis (S)		Deputy P.J.D. Ryan (H)		
Deputy of St. John		Deputy of Grouville		
		Deputy G.W.J. de Faye (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy S.S.P.A. Power (B)		
		Deputy I.J. Gorst (C)		
		Deputy of St. Mary		

The Greffier of the States (in the Chair):

I think that does leave the way open for Deputy Martin's original proposition to be put to the vote, namely, that the Business Plan be deferred from 12th September to 26th September. The Appel is called for. The Greffier will reset the voting system and open the voting.

POUR: 13		CONTRE: 26		ABSTAIN: 0
Senator S. Syvret		Senator F.H. Walker		
Connétable of St. Peter		Senator T.A. Le Sueur		
Connétable of Grouville		Senator P.F. Routier		
Deputy A. Breckon (S)		Senator M.E. Vibert		
Deputy of St. Martin		Senator P.F.C. Ozouf		
Deputy G.C.L. Baudains (C)		Senator T.J. Le Main		
Deputy J.A. Martin (H)		Senator F.E. Cohen		

Deputy G.P. Southern (H)		Senator J.L. Perchard		
Deputy of St. Ouen		Connétable of St. Ouen		
Deputy D.W. Mezbourian (L)		Connétable of St. Clement		
Deputy S. Pitman		Connétable of St. Helier		
Deputy K.C. Lewis (S)		Connétable of Trinity		
Deputy of St. John		Connétable of St. Lawrence		
		Deputy J.J. Huet (H)		
		Deputy P.N. Troy (B)		
		Deputy R.G. Le Hérisier (S)		
		Deputy S.C. Ferguson (B)		
		Deputy P.J.D. Ryan (H)		
		Deputy of Grouville		
		Deputy of St. Peter		
		Deputy G.W.J. de Faye (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy I.J. Gorst (C)		
		Deputy of St. Mary		

The Greffier of the States (in the Chair):

The matter will therefore be listed for 12th September. Are there any other matters arising from the arrangements of business?

13.10 Senator P.F.C. Ozouf:

I would be grateful if Senator Syvret would agree for a deferment of the fur products petition. I have been consulting with the Home Affairs Minister. I understand it is not urgent but I have no idea about whether or not I am going to be ready on the 12th, but we agreed to push it to the 26th, please.

Senator S. Syvret:

I am happy to agree to that, Sir.

The Greffier of the States (in the Chair):

Very well. That matter will be deferred to the 26th.

13.11 Deputy A. Breckon:

There is another matter down. Could I just check with the Chairman of PPC what he said about Howard Davis Farm. It is down for 10th October and there will be a Scrutiny process, which will not be reporting until 2 weeks after that. So, could I ask, Sir, that that matter is deferred until later in October or early in November because the other Project, Howard Davis Farm is down for the 21st.

Senator T.A. Le Sueur:

I see no great difficulty in having a deferment on that one, Sir, so long as it does not affect the date of the ultimate proposition.

The Greffier of the States (in the Chair):

Very well. The matter will be deferred until November. Well, if there are no further matters the arrangement is agreed.

ADJOURNMENT

The Greffier of the States (in the Chair):

The meeting is closed and the Assembly will reconvene on 12th September.