

# STATES OF JERSEY

## OFFICIAL REPORT

WEDNESDAY, 17th JUNE 2009

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

**PUBLIC BUSINESS - resumption**

**1. Committee of Inquiry into the death of Mrs. Elizabeth Rourke (P.76/2009)**

**1.1 Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):**

Before we go on, as I mentioned yesterday in question time, I am very much aware of the concerns that Members have regarding the next proposition, P.76, and I see that Verita have agreed to do a presentation to States Members and they will come over next week. I feel that this is so important that States Members can make an informed decision prior to any debate. So, with that in mind, I am in Members' hands.

**The Deputy Bailiff:**

When you say you are in Members' hands, are you ...?

**1.2 Connétable J. Gallichan of St. Mary:**

If I might say something? Having heard what the Deputy of Trinity has just said, I was considering when to speak to propose a deferment of the debate on P.76, and having heard what the Minister for Health and Social Services has just said, I think that now is the moment, if I might be permitted? I was contacted over the weekend by the late Mrs. Rourke's widower who in his gentle way told me of his distress at the prospect of the whole matter being put back into the spotlight this week in the course of a States debate. He explained that he had been fully involved in the decision to undertake the Verita review, and was supportive of that being allowed to run its course. He was very concerned that there should be no undue delay, and I am sure he is, of course, looking for closure on this tragic incident in his life. He also pointed out that via the internet media, which naturally picks up each new incident such as would be aroused by the proposition, his family are continually being troubled by speculation. There is no respite for these people, and especially for Mr. Rourke who has suffered enough, surely. I have been in contact with this gentleman; I do not believe that Senator Syvret has been in contact with him, at least up until the weekend. I would ask Members to consider the feelings and the privacy of this man today, and to show their compassion for him by agreeing to defer the debate on this proposition for 2 weeks, which will at least allow Members to attend the Verita presentation we have just been advised of, and to make therefore an informed decision on the merit of the inquiry presently being undertaken. So, I propose a deferment.

**The Deputy Bailiff:**

You are proposing that the debate on P.76 be deferred for 2 weeks?

**The Connétable of St. Mary:**

Yes, I am.

**The Deputy Bailiff :**

Is it seconded? **[Seconded]**

**Senator S. Syvret:**

Can I make a point of order? In my view this is an abuse of procedure and against the rights of a minority Member. It is also extremely discourteous to the Assembly. We have already had this debate last week to determine that we would debate the matter today, and I do not believe that this proposition should be permitted. The arguments we have just heard were essentially arguments against the proposition, and if that is the way Members feel, they should vote accordingly.

**The Deputy Bailiff:**

I think, Senator, any Member has the right to propose that a matter be deferred, and that is before the Assembly as to whether they agree with it or not. I do not think it is for the chair to rule it out of order.

#### **1.2.1 Senator S.C. Ferguson:**

If I can speak on the proposition? There is one way of clearing this, and this is for the Minister for Health and Social Services to accept the proposition. I certainly am disturbed about the facts in the case and, as I say, I think we do need a fully independent review; and perhaps we could carry on with business and perhaps the Minister for Health and Social Services would like to consult with the Chief Minister as to whether this would be possible to accept the proposition?

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

May I speak then on the proposition? Obviously I am opposing the deferral proposition. The States Assembly already made this decision quite strongly last week, and frankly it is quite a cynical attempt in the kind of things we have just heard said to prevent the Assembly from doing its duty and grasping this issue. While, of course, the considerations and the concerns of the family are of paramount importance, one of the factors we have to consider, and that I will be addressing in the speech, is that this is not an issue only of concern to that family. This is an issue of concern to everyone throughout our community who has to call upon the services of the hospital. It is addressing broader issues - broader questions of patient safety and clinical governance than the admittedly tragic circumstances of this one individual; we have to bear that broad perspective in mind. If Members do not agree with the proposition, if they do not think it is the right way forward, then Members can say so, or if they do not wish to speak they can remain silent and simply vote against it. But there are fundamentally important issues here which do require public ventilation in the Island's legislature, and it would be quite wrong of us to duck that issue. As I said, I do consider this certainly to be grossly discourteous. I have done, and so have a number of other people in the community, a huge amount of work on this subject, and I have come here prepared to make the case this morning, only to find this political manoeuvre, this device, being used to try and stop the debate. It would be quite irresponsible of the Assembly to delay the debate today - not least because it would also make the Assembly look quite ridiculous. If Verita wish to come and give a presentation to Members in 2 weeks' time, let them do so, but before receiving such a presentation and knowing what to make of it, a lot of Members of this Assembly need to hear a lot of the information. They need to know, they need to be aware, of a lot of the key facts in order to be able to question Verita and independently assess their suitability. Now, a lot of Members will not be in that position if we duck the issue and delay the debate today. This is simply irresponsible politicking, and we should go ahead, have the debate and make a decision.

#### **1.2.3 Deputy P.J. Rondel of St. John:**

I can understand where the Minister for Health and Social Services is coming from, but that said, this debate has been tabled now for some time, and as far as I am concerned, I have done my research on this. We have got people who have been suspended for 2½ years who, like the family who have lost a loved one, need a closing to this situation. We have also got on the other side of it, within the hospital, staff who are acting as locums, et cetera, covering people who been suspended now for 2 and a half years. This needs a closure, and I do not believe yet another delay is going to make any difference whatsoever. We should have the debate now and get on with it.

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

I have sympathy with the sentiments of both the Deputy of St. John and Senator Syvret. I would just say 2 things to both of them. First of all, the Deputy of St. John is not quite right when he says this proposition has been before the Assembly for a long time. It has just been lodged on 29th May. I am not criticising back-benchers' ability to bring propositions with 2 weeks' notice. Other propositions need 6 weeks, and this is obviously an important issue which I would say does need to

lay before the Assembly for some time. I was not in the debate last week when the deferment was suggested. I also think that Senator Syvret is wrong in some of the things that he says. One of the decisions that we are faced with in this proposition is to cease the Verita inquiry - to cease it. He is, I think, inadvertently misleading Members when he is saying that Verita can come and talk to us. We are asked in an hour or so whether or not to cease Verita. In order to make an informed decision, I want to hear Verita before I decide on my own conscience what I want to do in terms of finding the truth - to finding the appropriate independent investigative vehicle to bring appropriate legislative scrutiny to this. I am with the Constable of St. Mary and the Minister for Health and Social Services. I want to hear Verita and then have this debate, and I would imagine that all States Members who would need to decide on Verita would want to do the same.

#### **1.2.5 Deputy T. Pitman of St. Helier:**

Just to echo everything really that the Deputy of St. John has said. People do need closure on this. We have seen what, in my opinion, amounts to character assassination of some people, and it has gone on far too long. This tactic really is just a wrecking tactic, and I think the Chief Minister should show some leadership and pull his troops into line here. This should be debated. What is the problem with it? One life lost, but many other people's lives have been impacted hugely. We saw deferment just the other week. There is no reason not to have this debate, and I would urge all Members to support that view. Senator Syvret is entirely right on this one.

#### **1.2.6 Deputy M. Tadier of St. Brelade:**

We heard not long ago from the Constable of St. Mary that ostensibly the reason that she is putting forward to delay this debate, effectively, is because she does not want to subject the widower of Mrs. Rourke to any further stress. Now, surely, if we are going to delay this presumably for 2 weeks, that is only dragging things out even further. So, surely we should be getting this done now and today. If, really, the reason is that we do not want to put anyone under any undue stress, certainly there are other ways to do that. I did not hear the Constable suggesting that we could have the debate *in camera*. I am not suggesting that is desirable, but that is certainly one option. We could get it done today *in camera* if the Assembly thinks it is necessary. Personally, I think it is best to do things in the open, but that is certainly one way to do it. There is also the suggestion that I have had from my colleagues that if Senator Syvret was willing to pull part (e) - I am not sure whether he is - then that might be more agreeable to the Minister for Health and Social Services, and we could have an open and honest debate today, without necessarily prejudging whether Verita should or should not carry on with the investigation that they are already doing. That is all I wanted to say.

#### **1.2.7 The Deputy of Trinity (the Minister for Health and Social Services):**

My concern, as I said all the way along, is that the truth should come out, and also that some sort of closure for the family and a full, open investigation should take place. Going back to what was said about the deferment that we discussed last week, the deferment was to wait until the report in October, not to defer it for a presentation from Verita. As Senator Ozouf said, it has only been lodged at the very end of May, and since then I think we have been in the States for the last 3 weeks; so, it is very difficult to arrange that. I have asked Verita to come over next week, if the deferment is agreed, for 2 weeks. We will carry on with this proposition in 2 weeks' time. Mention has been made, I do not want to drag it out any longer, and I for one totally endorse that. I would like to see it finished and completed as quickly as possible. But bearing in mind, if Senator Syvret's proposition is approved, it is a Committee of Inquiry, which indeed will take much, much longer

#### **1.2.8 Connétable P.F. M. Hanning of St. Saviour:**

Deputy Tadier has already made the point I was going to make about withdrawing part (e) decision.

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

Those Members who are seeking closure, I can well understand, but I would point out that the implication of a Committee of Inquiry is that closure would be delayed for some considerable time. Committees of Inquiry are a far more formal process, generally having considerable legal implications, and while it may be the right way to proceed - I am not judging that one at this stage - I am simply saying that it is not a quick solution, nor a simple solution, nor a cheap solution. Over the past week or so, I have heard various conflicting views about Verita and about the terms of reference which they have been given, and I think there is a lot of uncertainty and confusion in Members' minds - quite understandably. I think the only way we are going to have a reasonable and rational discussion on this proposition is to be properly informed about Verita's role in what they have been given to do; and I think in order to do that, we have had the proposal that a presentation be made by Verita, or an explanation, if you like, of what they are going to do and how they are going to do it and what other things they may want to say. I think provided that we are talking about a 2-week delay here in which we can hear Verita and then come back and discuss this proposition in an informed way, I believe that that can achieve closure in the same sort of length of time. But whatever it is, we will do it when it will enable us to debate P.76 from a more fully informed process than would otherwise be the case.

#### **1.2.10 Deputy F.J. Hill of St. Martin:**

I know, speaking from my own point of view as a back-bencher who has brought propositions, and I am concerned at the number of times that a Minister comes to the House at the last knockings with the comments and says: "We need more time." With the greatest respect to the Minister for Health and Social Services, this proposition was lodged on 29th May, which is within the time limit for us to debate it 2 weeks later; and on 2nd June there was quite a comprehensive list of questions that I know the Deputy of St. John posed, and I did as well, about the matter. Now, if I had been a Minister I would have been pulling out all the stops to ensure that everything was done way before the last day, because we had 16th June, and we have now had the comments lodged, the day of the debate - in fact, it is the day before the debate now. At the same time, I just feel this is just another way in which back-benchers are being treated totally unfairly. There has been a fortnight for the Minister for Health and Social Services to pull the finger out to ensure everything was done, and we could have seen Verita within the 2 weeks. I just feel this is another stalling mechanism to delay things.

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

What I feel is, I have no opinion on Verita. All I know is that Verita is an independent, or rather, private company. I have an opinion on a Committee of Inquiry, and that has been formulated through my time in the States, and know that it is one of the most powerful sanctions the States can give to a body of people to investigate a matter. It has supremacy in areas that private companies do not have. It has the ability to call people under oath, and it has the ability to deliver in areas where private companies would be faint-hearted or fearful in examining. What we are being asked in this proposition today by the Constable of St. Mary is to go along and listen to the arguments why we should be continuing with the private company, bolstering support for the private company, and endorsing the private company's conclusion of this issue. I, for one, have had private conversations with doctors and surgeons, and correspondence with doctors and surgeons in the States of Jersey employment at the highest levels, who have told me in no uncertain terms that operating conditions and incidents and matters of serious concern - there is a terminology for a matter of serious concern where a case review is conducted - have been occurring in this Island over the last 18 months. To support what Senator Syvret's arguments were stating about the inadequacy of situations and cover in the general hospital, I have been informed in no uncertain terms by one of the Island's most senior surgeons, and in words of other doctors and surgeons, that practices of shifts were occurring in the States of Jersey that are downright dangerous and would be illegal if they were in the U.K. (United Kingdom). When I asked if I could take this to Scrutiny and sent correspondence to Senator Breckon on this to see if I could get them in front of Scrutiny, I was

told by the surgeons: "Say nothing. I will be put down, put out and put under." That is the way this place works. Now, I have been on the Health Committee and I have been involved in meetings with the Health Committee when we have been misinformed about the state of affairs within the hospital.

**The Deputy Bailiff:**

Deputy, could you please get to the point of this.

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

I am coming to it, Sir. I seriously have grave concern about manoeuvres like now to get us in front of a private company, to make us believe that that is the way to go. The way to go is for a Committee of Inquiry if we want to safeguard the interests of this Island and see those people that have been affected, and possibly could be affected, are best met. We need to press ahead with this debate and, in my view, we need a Committee of Inquiry.

**1.2.12 Deputy R.C. Duhamel of St. Saviour:**

I would like to think that all Members when being called upon to make a decision have enough information on which to base that decision, and certainly - and I think I speak for some others in this respect - I am not happy with my state of enlightenment, or indeed knowledge, on this particular issue. I think it would be wholly wrong, given that we could have a short break to bring over some of the bodies who will be at the centre of the argument, to ask those questions to that body directly. That goes for those persons who will be supporting the view that we should have a Committee of Inquiry and indeed those who are supporting the alternative point of view. If we do not allow ourselves to take this opportunity - and it could be argued that the opportunity should have been provided beforehand, and I think that is a valid point - nonetheless I think to launch today into a debate which will be heated, which will be emotional, and certainly will not be argued from an enlightened point of view on behalf of all of those Members in House who will be called upon to make a final decision, is wrong. So, on that basis, I think I would support a very short delay in bringing forward the debate on this important issue so that all of us in our heart of hearts can search them and agree that we have come and arrived for the right reasons at the right decision.

**The Deputy of Trinity:**

Can I raise a point of order, Sir? I am very concerned about what Deputy Le Claire said, and his allegations. As I am Minister for Health and Social Services, I think what he said is very serious, and I think he should come and see me with the evidence, because what he said is very serious, and it needs to be looked at.

**The Deputy Bailiff:**

Senator Syvret, did you say you want to raise a point of order?

**Senator S. Syvret:**

Yes, Sir. I think Deputy Duhamel was perhaps misrepresenting my approach to this matter.

**The Deputy Bailiff:**

That is not a point of order.

**Senator S. Syvret:**

As far as I am concerned, this debate will not be heated, it will not be personalised. It is far too serious a matter to deal with that. It will be dealt with with the appropriate dignity.

**The Deputy Bailiff:**

That is a point of clarification, if I may say so.

**1.2.13 Deputy J.A. Martin of St. Helier:**



I think there have been some good points raised, and I have a question. The question is directly to Senator Syvret, and which way I vote depends on it. I think there should be some possible compromise here, because if we accept the proposition as it stands and we decide to go ahead today, (e) says: "Health" and I think that is judging things to tell Health what they can and cannot do, but that is in the proposition. But if Senator Syvret was prepared, what is the problem with having the independent inquiry which is 4 months down the line? They will start their report and present it to the States in September when, even if this proposition without that is passed, we will not even be agreeing the terms of reference until September. So, I would like to hear from the Senator if he is prepared to pull part (e) of this proposition before we go any further with this debate on the proposition.

**Senator S. Syvret:**

Do you want me to answer that?

**The Deputy Bailiff:**

Well, it probably would be helpful to Members, would it not, just to get a short yes or no on it.

**1.2.14 Senator S. Syvret:**

I do not believe in playing games. So, as much as some Members may wish me to take a vote in parts, I am not going to, because the appropriate decision is to support or reject the proposition; and there is a very good reason for that, in that for all kinds of contamination of evidence reasons, it would not be credible to have the Verita inquiry go to its conclusion and then for us after that to set up a Committee of Inquiry. It simply would not work. So, to suggest that course of action is, I am afraid, another diversionary tactic. What we must do is have the debate and make the decision. The decision is, should we have a properly empowered Committee of Inquiry? Now, if Members do not believe that to be appropriate then they will vote against the proposition. But let us not pretend ...

**The Deputy Bailiff:**

Sorry, Senator. I think it is a point of clarification which the ...

**Senator S. Syvret:**

Let us not kid ourselves that that would be an appropriate way forward.

**1.2.15 Senator B.I. Le Marquand:**

I share, with many other Members of this House, concern in relation to which in particular a doctor has been dealt with here - a very long period of suspension, et cetera - and there are no doubt other concerns that Members have. But I want to reiterate, first of all, the point made by the Chief Minister, that if we go eventually to a Committee of Inquiry, that will not be a quick fix - that indeed will slow down the disciplinary process, et cetera, et cetera. But that is not my main point. My main point is to refer Members to paragraphs (b) and (e) of the proposition. (b) says: "To agree that a nationally recognised healthcare investigatory organisation be invited to undertake the investigation." Now that, in my view, when coupled with (e): "To agree to propose an investigation by Verita should not proceed" implies that Verita is not a nationally recognised healthcare investigatory ...

**Deputy M. Tadier:**

A point of order, if the Senator would give way: I am just concerned we are straying into the actual proposition here and not ...

**The Deputy Bailiff:**

No, we are not, Deputy, at the moment. Thank you.

**Senator B.I. Le Marquand:**

We are not, Sir. No. The point that I am trying to make is that it will be of the very essence of the debate, particularly now that Senator Syvret has insisted on taking all parts together, a factual issue as to whether or not Verita is a suitable body to undertake an inquiry. Now, there are also issues - and I understand these will be issues for debate eventually, in any eventuality - as to exactly what sort of inquiry we want. We need, in my view, to be careful that we do not end up with a multiplicity of inquiries, that we are extremely targeted on that, because I think this House is perhaps a little too willing to call for Committees of Inquiry. But my main point remains, the point that (b) and (e) are essential to it, and we do not have the facts.

**1.2.16 Connétable A.S. Crowcroft of St. Helier:**

Purely to add that the proposition that we are asked to consider does say that this firm is a Health and Social Care Investigatory Agency second, and a firm of spin doctors first; and I think that if the Minister for Health and Social Services has arranged for us to hear from this firm what they think in 2 weeks' time, I think it is only fair to hear their version of events.

**1.2.17 Deputy R.G. Le Hérisssier of St. Saviour:**

I will support it being debated today, even though I do have great reservations about it. But obviously the place to express those reservations is in the debate itself, because I think one of the major issues missing is the issue of political accountability which, of course, speaks to the Minister's role during that period. The other thing I would say is about Verita. We have 2 Ministers: we have the former Minister and we have the current Minister who have been intimately involved in negotiating and progressing the Verita report, and Senator Perchard, for example, has given us some quite detailed explanations of why he went that route, and why he thought it was the best route. It strikes me, in terms of our political accountability, he is able to speak in great detail on that issue, as no doubt will the current Minister. We often go ahead on propositions where we deal with the views of people not directly - not because we have met them in a meeting, but because we have been briefed about them and because we rely on the Ministers to give us that background information, and the reasoning as to why they got involved, for example, with a particular body; and that is how I will do it. I would have to say that the real issue that is probably confusing a lot of us is there is the issue of looking into the immediate matters concerning this case, and there are the issues that have been raised in Senator Syvret's proposition, that essentially - as in a sense was evidenced by Deputy Le Claire's contribution - behind it lies a system that was replete with corruption, bad management practice, deficient organisational structure, et cetera, et cetera. I have to say - and I will obviously express this more fully in the debate and wait to hear how Senator Syvret deals with this - if we are going to move into a massive investigation looking at all manner of things that are going wrong with the Health Service, and in that we are somehow going to wrap up this, I think we will be there for a long, long time, quite frankly; and that in a sense is almost a case for a separate Committee of Inquiry, if indeed there are serious views about the way the Health Department has managed. That is a separate committee. But, as I said, I think Senator Syvret should get his right to move today.

**1.2.18 Senator J.L. Perchard:**

I think Deputy Le Hérisssier raised a very, very important point there. As is often the case with much of what Senator Syvret says, there is always a bit of truth. In this case, Senator Syvret has highlighted that there may be problems with the management of consultants and senior management at the hospital. If we go ahead with the very prescriptive terms of reference, as highlighted by Senator Syvret, we will identify the circumstances around the death of Mrs. Rourke. If we were to hear Verita, and Members would be satisfied with the integrity of that company, the impartiality of that company and the professionalism of that company - as I am - let them report on the circumstances surrounding the death of Mrs. Rourke, and they will uncover no doubt some of the innuendo implied in the proposition made by Senator Syvret. That is the time to have an inquiry into the more generic actions of the hospital - not the specifics around this death. This is

very serious; it is very emotional. There are many people involved in this, and I want to say, a conclusion by the end of this year is achievable if Members were satisfied with the integrity and professionalism of Verita. I plead with Members to at least delay the vote for 2 weeks and then make an informed decision thereafter.

**1.2.19 Senator B.E. Shenton:**

I was Minister for Health and Social Services for the period in between the tragic death of Mrs. Rourke and Senator Perchard asking for the Committee of Inquiry. As Minister for Health and Social Services there was very little that you could do in that intervening period because we were waiting for the criminal investigation to take place, and apart from contacting the Attorney General to try and get matters sped up, we had to just wait for the police matters to take their course. While I was Minister for Health and Social Services I did obviously speak to the department, but I also spoke privately to a number of the people that were involved in this tragic case, and I spoke to at least one of them at my home and completely off the record, and until today the department would not even know that I had spoken to them. When you know the facts of the case you will know what tragic circumstances they were - how they spent hours fighting to save Mrs. Rourke's life. There were failings at Health; there were definite failings at Health. There were failings in the human resources area. There were failings with regard to how it was initially investigated. All these things will need to be investigated. But ultimately at the end of the day, the most important person in this is Mr. Rourke, who has been through hell and who works at the hospital as well. Mrs. Rourke was an extremely popular person at the hospital, and it is bad enough to lose someone, but even worse to lose someone that works with you. Now, I came here today with a view of supporting Senator Syvret and the Committee of Inquiry, but I ultimately believe that people come first, and we must take into account the feelings of Mr. Rourke in this, and we must put our politics second for once. Two or 3 weeks will not make a great deal of difference. But Mr. Rourke must come first in this, and I would be voting for deferment.

**1.2.20 Deputy A.T. Dupré of St. Clement:**

I too feel that another 2 weeks is not going to make a big difference. I would like to hear what Verita has to say, and I think we all ought to listen to what they have to say first before we make a decision.

**The Deputy Bailiff:**

Is there anyone who feels they can add something - a new aspect - to this matter? It is only on whether to defer it for 2 weeks, but obviously all Members have the right to speak if they wish to.

**1.2.21 Deputy S. Power of St. Brelade:**

I just want your permission, Sir, that if the Chairman of P.P.C. (Privileges and Procedures Committee), the Constable of St. Mary, could reread the note she read at the beginning, because I did not hear all of it - there was some background noise going on on these back benches.

**The Deputy Bailiff:**

She will be able to reply at the end. Does any other Member wish to speak? Very well, then. Do you wish to reply, Connétable?

**1.2.22 The Connétable of St. Mary:**

I would like to start by saying something categoric. I was contacted at the weekend by Mr. Rourke. We had a long conversation. I considered everything. I re-read Senator Syvret's proposition. I did not know at that time that the Deputy of Trinity, the Minister for Health and Social Services, would be making available a meeting with Verita, and I added that information in when it became known to me this morning. I am extremely concerned. I think it is quite shameful to say this is a political device or wrecking motion. I am responding to the heartfelt communication I had from the widower of the person concerned and that is the duty of every politician, I think, in this Island, to

represent where they see representation is necessary. **[Approbation]** To say it is a political device or wrecking tactic is purely shameful. I would be grateful if Senator Syvret could refrain from interrupting me, I know he likes to do it but I would really think that this matter deserves a little respect. Many of the things that were said today have been, I think, dealt with incredibly well by Deputy Le Hérissier when he spoke, even though he is not going to support me, the points he raised were very valid. It seems to me that timing is crucial here. We are part way through, a long way through in fact, an inquiry; to introduce a Committee of Inquiry would undoubtedly draw the whole process out leading to more uncertainty for longer. But the points that Deputy Le Claire raised and were echoed by Deputy Le Hérissier, it sounds as if a Committee of Inquiry could be necessary. But not this focused one on one particular incident. This incident has arisen, this incident is being investigated but the wider issue ...

**The Deputy Bailiff:**

Getting back on the subject; the point to Members is whether to delay it.

**The Connétable of St. Mary:**

I am coming to that, Sir. I believe that to hear all the facts is necessary, but hearing the facts includes hearing the representation that will be made by Verita. As Senator Syvret said, this is a matter for Members. Members will make their minds up how they wish. I would only like to say, and I was asked, I did not read what I had written down out verbatim because I find this quite difficult. I have not been in a situation where somebody's personal life has been opened up to me quite this way before and to have the thought of having it put out in the public domain is a very difficult thing, I am sure. I did say that Mr. Rourke had contacted me. In his gentle way he told me of his distress at the prospect of the whole matter being put back in the spotlight this week in the course of the debate. He explained that he had been fully involved in the decision to undertake the Verita review and was supportive of that being allowed to run its course. He has also told me about his extended family's concerns. Every time this pops up on the internet media, as it is obviously bound to do ...

**The Deputy Bailiff:**

This will happen on your proposition, this will happen in 2 weeks in any event, so I bring you back to this proposition.

**The Connétable of St. Mary:**

I have said enough, people can see how I feel about this. I am representing this man and I would ask Members to support me in a delay, which I do not think 2 more weeks is material in the time frame that would be involved in a Committee of Inquiry. I put the proposition and I ask for the appel.

**The Deputy Bailiff:**

The appel is called for and the matter is the proposition of the Connétable of St. Mary as to whether to adjourn the debate of Projet 76 for 2 weeks pending a visit from Verita. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 32</b>	<b>CONTRE: 15</b>	<b>ABSTAIN: 1</b>
Senator T.A. Le Sueur	Senator S. Syvret	Deputy J.A.N. Le Fondré (L)
Senator P.F. Routier	Senator A. Breckon	
Senator P.F.C. Ozouf	Senator S.C. Ferguson	
Senator T.J. Le Main	Deputy of St. Martin	
Senator B.E. Shenton	Deputy R.G. Le Hérissier (S)	
Senator F.E. Cohen	Deputy G.P. Southern (H)	
Senator J.L. Perchard	Deputy of Grouville	
Senator A.J.D. Maclean	Deputy P.V.F. Le Claire (H)	
Senator B.I. Le Marquand	Deputy S. Pitman (H)	

Connétable of St. Ouen		Deputy of St. John		
Connétable of St. Helier		Deputy M. Tadier (B)		
Connétable of Trinity		Deputy of St. Mary		
Connétable of St. Martin		Deputy T.M. Pitman (H)		
Connétable of St. John		Deputy M.R. Higgins (H)		
Connétable of St. Saviour		Deputy J.M. Maçon (S)		
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				

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

In that case I would ask for the proposition to be re-listed for 30th June as the first item. That is if Members can possibly tear themselves away from the no doubt far more important subject of States Members remuneration presently listed for the first item. I cannot help but observe no doubt States Members will, at the appropriate time, enthusiastically rush to embracing a Committee of Inquiry into Operation Blast which affects themselves but not the general health and safety and welfare of people in this community.

## **2. Public Finances (Jersey) Law 2005: proposed changes (P.54/2009)**

### **The Deputy Bailiff:**

Then we move on to the next matter on the Order Paper which is Projet 54, the Public Finances (Jersey) Law 2005: proposed changes, lodged by the Public Accounts Committee, and I will 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 Treasury and Resources to bring forward for approval amendments to the Public Finances (Jersey) Law 2005 to expand the remit of the Comptroller and Auditor General in relation to companies that are wholly or majority owned by the States of Jersey with the exception of publicly quoted companies to enable him to exercise similar functions in relation to these entities as those he exercises in relation to States funded bodies.

### **2.1 Senator B.E. Shenton (Chairman, Public Accounts Committee):**

This is a proposition which is brought to the States after the Public Accounts Committee, scrutiny, and even, dare I say, the Council of Ministers worked together to a certain degree. It was felt, following a Corporate Services Scrutiny Panel review that the corporate governance arrangements with respect to the Waterfront Enterprise Board gave some cause for concern and it had been a sort of to do item for a while that the Comptroller and Auditor General's powers did not extend to the

Waterfront Enterprise Board. Members are probably aware that under the Public Finances Law the duty of the Comptroller and Auditor General is to provide the States with independent assurance that the public finances of Jersey are being regulated, controlled and supervised and accounted for in accordance with this law. Obviously the fact that W.E.B. (Waterfront Enterprise Board) was slightly outside the C.&A.G.'s (Comptroller and Auditor General) powers meant that we could not be certain that everything was being checked and double checked to the degree it should have been. Also, I think it highlighted the fact that States appointed directors were in a very difficult position at times because they had to comply with company confidentiality arrangements and do what is best for the company and simultaneously do what is best for the Island, and sometimes there may be a slight overlap on that area. The Corporate Services Scrutiny Panel undertook a full review of the aspects of W.E.B. that could be strengthened and one of the main targets was to extend the C.&A.G.'s powers so that he could go into W.E.B. and go through the books and make sure that everything was right. I have been working now with the C.&A.G. for approximately 6 months and I must say that I do find him very thorough and, may I say, exceedingly independent. I have full confidence that extending these powers to him will give the public of Jersey and the States greater comfort in ensuring that the W.E.B. and other bodies are properly scrutinised. The actual law, when we were looking at it, we looked at all majority States-owned assets, which includes Jersey New Waterworks and Jersey Electricity, but then we came across a few problems with regards to Jersey Electricity. Jersey Electricity is a quoted company and has quite strenuous corporate governance requirements from the mere fact that it has a stock exchange listing. There could have been problems with the C.&A.G. producing reports as these would have been deemed to be sensitive items with regard to notification to the Stock Exchange and so on and so forth. So this actual proposition exempts publicly quoted companies, which in effect is just the Jersey Electricity company, for these reasons. We did look at this quite thoroughly to make sure that what we were recommending was right and we brought it on that basis. Jersey New Waterworks, although they do have loan stock in issue is not a publicly quoted company and, as such, it will be caught under this proposition. If Members have any questions I will be only too delighted to answer them. But I do think this is a step in the right direction, but it is just one step, and with regard to W.E.B., or whatever they are going to call it in the future, there is still a lot more work to be done. But it is a step in the right direction and I put forward the proposition.

### **The Deputy Bailiff:**

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

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

I have signalled to the Assembly the fact that I am reviewing the arrangements that the Treasury has for all of the States owned utilities. The Island and this Assembly and the functions discharged by the Treasury holds literally tens of millions, if not hundreds of millions, of pounds worth of assets. I was fortunate to persuade the Council of Ministers to allocate some of last year's carry forward to enable me to carry out a review of utilities, and that is underway. I am determined to put in place, while all is certainly not wrong, I do want to see strengthened arrangements in place for all of the utilities and it is likely that over the next 2 to 3 years we may be adding further wholly owned States entities under the responsibility of the Treasury. Certainly the States of Jersey Development Company will fall under the Treasury remit. There are discussions going on of what the right structure of entities such as Jersey Airport is in the future. So I am determined that the Treasury is fit for purpose in dealing with these important shareholder functions. We need arrangements that not only hold those, effectively, States subsidiaries to account but, as Senator Shenton quite rightly says, that we need standardised arrangements for corporate governance, which in itself assists in securing long term shareholder value. I warmly welcome this. I will undertake the review that is requested and return to the Assembly. I do not see any issues at all here with extending the remit of the Comptroller and Auditor General. I am going to report back to the States with my overall strategy in dealing with utilities and I will do so as soon as possible.

### **2.1.2 Senator S.C. Ferguson:**

I would just like to add my pennies to the comments that the Comptroller and Auditor General has certainly demonstrated his worth to the Island. I think it is absolutely correct that he should be able to look anywhere where taxpayers' money is involved, whether that be charities or corporations. I look forward to the expansion of his duties as soon as possible please, to the Minister for Treasury and Resources, through you, Sir, and I thoroughly support this proposition.

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

Notwithstanding the Minister for Treasury and Resources' comments that he is carrying out a review, I would like to know from the Chairman of the Public Accounts Committee, given that the real big player has been, so to speak, exempted from these arrangements, how does he think that the public interest should be asserted in regard to the Jersey Electricity Company because obviously we are the major shareholder and I think the Public Accounts Committee has got a major role to play in how our money is used. We know it is a very well managed, or has been very well and is a well managed company, but it has taken on a much more private company profile and *modus operandi* in the way it works. For a lot of members of the public they find that hard to reconcile the fact that we, in their eyes, rightly or wrongly, we are seen to be somehow protecting a monopoly.

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

I would like to add that the review that I am carrying out includes the J.E.C. (Jersey Electricity Company).

### **The Deputy Bailiff:**

Does any other Member wish to speak? I call upon the chairman to reply.

### **2.1.4 Senator B.E. Shenton:**

I would like to thank the Minister for Treasury and Resources for giving a rundown of the work the Treasury is undertaking and the admittance that there is a need for strong corporate governance in entities where the States have a control, and certainly the P.A.C. (Public Accounts Committee) will be working with the Minister for Treasury and Resources on making sure that everything is tightened up to a professional level. Senator Ferguson spoke, obviously I would like to thank her panel for doing the Scrutiny review, which was very worthwhile. I agree with her. Anywhere that taxpayers' money is involved we have to make sure that the C.&A.G. can stick his nose in and make sure that it is money well spent and used for the appropriate purposes. Deputy Le Hérissier, the P.A.C. spoke at length about the issue of the J.E.C. and it is part, as Senator Ozouf said, of the Treasury review. It is quite a difficult balancing act because you have the pressures of a private company and the need for profitability but also the need to make sure you generate sufficient returns for reinvestment and reinvestment is the key, having holidayed in places that have not reinvested in the electricity infrastructure is not a road we want to go down. But it is something that we have sort of high on the agenda and it is something that we will maintain and review with the Minister for Treasury and Resources. With that I would like to put forward the proposition and I ask for the appel.

### **The Deputy Bailiff:**

The appel is asked for then in relation to Projet 54. I invite Members to return to their seats for or against the proposition and the Greffier will now open the voting. All Members had an opportunity of voting? The Greffier will close the voting.

<b>POUR: 39</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Senator J.L. Perchard				

Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (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. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

### **3. Rent Control Tribunal: appointment of Chairman and Members (P.65/2009)**

#### **The Deputy Bailiff:**

We move next to the Rent Control Tribunal: appointment of Chairman and Members, Projet 65, lodged by the Minister for Housing. I will ask the Greffier to read the proposition.

#### **The 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 as amended to appoint the following persons to act as chairman and members of the Rent Control Tribunal for a period ending on 12th April 2010, namely Mr. Eric Henry Le Ruez, chairman; Mr. Edward George Trevor M.B.E., Mr. Jeremy James Robin Johnson, Mrs. Mary Margaret Gaiger.

#### **3.1 Deputy S. Power (Assistant Minister for Housing - rapporteur)**

This is a relatively short proposition. Rent control provides a statutory facility to enable a private sector tenant to appeal to an independent body, the Rent Control Tribunal, to have his or her rent reduced if he or she considered this to be excessive. It applies to rent only on residential properties



but not on commercial property. It applies only to tenants. Lodgers do not have rights at the moment under current legislation, and that is something that I am working on. As you will see in the report, Article 3 of the Dwelling House (Rent Control) (Jersey) Law 1946 provides for the States to appoint a Rent Control Tribunal consisting of a chairman and not less than 3, no more than 4, other members. The law also provides that the chairman and 2 other members constitute a quorum for any sitting of the Tribunal. Regulation 2 of the Dwelling House (Rent Control) (Jersey) Regulations 1946 states that the chairman and members of the Tribunal shall hold office for a period of 12 months ending on 12th April each year and be eligible for reappointment. The chairman and members who are currently serving on the Tribunal for the period ending 12th April 2009 have agreed to allow their names to be put forward for nomination for a further term and this is supported by the Jersey Appointments Commission. I make the proposition.

**The Deputy Bailiff:**

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

**3.1.1 Deputy R.G. Le Hérissier:**

Slightly off the point, but I suspect the Deputy knew it was coming. Could he tell us how active the Tribunal is at the moment? This question is asked every time, these are eminent, and I am sure very busy people. Are they playing a role, in the rapporteur's view, that is worth playing?

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

I do not know why the Assistant Minister was asked to read out what was in the report, I think all States Members could have probably read out the report themselves, but that is just an issue. Can I ask the Assistant Minister; was an application put out to see whether any new blood may well be required or may be interested in taking over this body? The other issue is maybe he could address, and I think probably the members of the panel themselves may welcome it, but Regulation 2 does state that these people are in office for 12 months. When one looks at the Complaints Board, P.92, the members are there for 3 years. One looks at the Income Tax and Commission, they are there for 3 years, W.E.B. Directors for 3 years, and I would have thought that these people probably would be far easier, probably less on States time as well, if they were also in office for 3 years. That may be something that maybe the Minister might consider.

**3.1.3 Senator S.C. Ferguson:**

I support these very worthy people on the proposition but it occurs to me that we have just had a list of names. Now, for those of us who have been in the House longer than a year, yes, we have read the biographies of these people before. But for new Members they do not possibly know all the names. Could I please ask that in future, in common with other departments, when names are put forward for election to a post then there should be a plotted biography attached in the report.

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

Slightly mischievous, I declare an interest as a tenant but would support this because I do not think it is pecuniary. I wonder if there is a need for a declaration of landlords in this debate or not.

**The Deputy Bailiff:**

I do not think that would be a personal interest, Deputy.

**3.1.5 Connétable D.W. Mezbourian of St. Lawrence:**

Although Senator Ferguson has touched upon it; I have raised this matter in the past. I do think it is extremely discourteous to bring forward a report that states the names of people who are, albeit prepared to stand for reappointment. As Deputy Le Hérissier has said, they are eminent and busy people. I think this is the third time I have stood in this Assembly to ask that when such propositions are brought forward we do have some information on these eminent and busy people so that we are indeed able to make an informed decision. That is the whole process of the States,

our decisions should be informed. I do not know any of these people other than Mr. Trevor for another reason, but I am not able to make an informed decision on the people who have been proposed to us today. I ask the Assistant Minister to provide us, in his summing up, with the background to each of the individuals.

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

Just to follow up from Deputy Le Hérisier's request for how active this body is; can I be specific? How many times have they met in the past 12 months and how many cases has it dealt with?

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

On a point of order, and I did reach for my Standing Orders, under Standing Order 106 Declaration of Interest: "A Member of the States who has or whose spouse or cohabitee has an interest in the subject matter of a proposition must (a) ..." it goes on to declare financial interest but: (b) if it is not a direct financial interest but a financial interest which is general, indirect or shared with a large class of persons declare the interest", and we have had this before where it may not necessarily preclude Members from taking part in a debate but if they are landlords I do think that this would affect them potentially in the future and they would need to declare an interest.

### **The Deputy Bailiff:**

I think it is a matter for Members. This is simply to set up members of a Tribunal. It is not to take a decision which would affect landlords or tenants or such. It is simply to choose the members of a Tribunal which will decide whether it is fair or not. I think it is too far removed, Deputy, to declare an interest.

### **3.1.7 Deputy D.J.A. Wimberley of St. Mary:**

I just briefly want to support what Senator Ferguson said which is exactly on the nail, and the Constable of St. Lawrence. Once again we are asked to approve appointments without adequate information. There are 3 kinds of information that should be in every such proposition. One is an outline of what these people do, the terms of reference and the length of sitting and so on, which we do have in this report. The second is who the people are, background information. The third is the exact process by which the post was advertised and the whole selection procedure and how that worked. Without those 3 things we cannot possibly decide on these appointments, and it keeps coming to this House with one or other of those aspects missing. So I do plead not only with this Assistant Minister but with all Ministers who bring these appointments to the House that they give us the proper information in future.

### **The Deputy Bailiff:**

Does any other Member wish to speak? Then I call upon the Assistant Minister to reply.

### **3.1.8 Deputy S. Power:**

I thank those for asking me questions to clarify the situation. The first question was, and this came about with Deputy Southern's, and the first question was about the frequency of the meetings of the Tribunal. The current Tribunal has not been required to meet or adjudicate on any specific referrals in the past 12 months. The Tribunal did not meet to date in 2009 and they did not meet in 2008. The reason for that is the very limited activity of the Tribunal is due to the fact there have been no appeals to the Tribunal.

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

Would the Assistant Minister give way? Could the Assistant Minister offer some sort of explanation as to why there is this lack of activity? Is it because the market is working superbly well and there is never any complaints from any tenants, or is it possibly that tenants are unaware of the activities of this Rent Tribunal Panel and unaware of its existence, and will he correct that?

**Deputy S. Power:**

I cannot speculate for the reasons why private sector tenants have not appealed to the Rent Control Tribunal. It may be that they are not aware of its existence. It may be that there have not been complaints to date from within the private sector. It may be that rent increases have not been excessive. It may be that there is a reasonably healthy rental market out there. For me to speculate as to why there have not been complaints would be wrong.

**Deputy G.P. Southern:**

I do apologise, I do not wish to make his life hard; but will the Assistant Minister undertake to investigate why there have been no appeals and come to this House with some sort of answer about how effective this body is being?

**Deputy S. Power:**

I can answer the Deputy by saying I have already had a discussion with senior officers of the Housing Department as to why activity has been so low and I am going to make sure that the Rent Control Tribunal, its profile is raised in the local media over the next few months. That is the first query. The second query was with regard to advertising. The positions were advertised in 2006 and 2008 as follows in the *Jersey Evening Post*: “Tribunal members together here [this is an extract] and determine referrals for consideration of rent payable in accordance with the Dwelling House (Rent Control) (Jersey) Law 1946 as amended.” It also goes on to say there are a maximum of 4 members and the role of the Tribunal is an honorary one and attracts no remuneration. That was advertised twice in the *Jersey Evening Post*. I agree with the point made about term of office. I think one year is too short and if the profile of the Rent Control Tribunal is to be raised by me and the department I will look at increasing the period of office from 2 years to 3 years. I accept the points made by 2 Members about the lack of background information on the 4 persons named on the proposition. It is a fault and I apologise to Members for that. However, I will say that this is a reappointment of members who were appointed in 2006 and 2008 and I can confirm that the chairman is Eric Le Ruez who was the former chief officer of the Housing Department, Mr. Edward Trevor is the chairman of Shop Mobility, Mr. Jeremy James Johnson is a senior lawyer in a Jersey law firm, and Mrs. Mary Gaiger is a former director of the Guiton Group. If Members require me to produce a detailed summary of their C.V.s (curriculum vitae) I am very happy to do that. But all of these 4 persons have quite a bit of experience in these areas and again I apologise to Members for the fact that we have not included up-to-date C.V.s. If I have left anything out I will probably be reminded, but I do not think there is anything I have omitted. I make the proposition.

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

Could I just clarify that we are voting for one year? The Assistant Minister kept saying 2 years but it is only 12 months.

**Deputy S. Power:**

The proposition as reads is for one year and I will look at increasing the period of appointment from one to 2 years or to 3 years. I call for the appel.

**The Deputy Bailiff:**

The appel is called for in relation to the proposition of the Minister for Housing, Projet 65. I invite Members to return to their seats and the Greffier will open the voting. All Members had an opportunity of voting? The Greffier will close the voting. The proposition is adopted: 38 votes pour, 3 votes contre.

<b>POUR: 38</b>		<b>CONTRE: 3</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Deputy S. Pitman (H)		
Senator P.F. Routier		Deputy T.M. Pitman (H)		
Senator P.F.C. Ozouf		Deputy J.M. Maçon (S)		

Senator T.J. Le Main				
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (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 K.C. Lewis (S)				
Deputy of St. Mary				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				

**4. States Employees Standing for Election: use of annual leave and time off in lieu (P.66/2009)**

**The Deputy Bailiff:**

We move next to Projet 66, States Employees Standing for Election: use of annual leave and time off in lieu, lodged by Deputy Trevor Pitman. I will ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion (a) to agree that the employment of States of Jersey Employees (Jersey) Law 2005 should be amended as necessary to provide that, in addition to the existing right to special unpaid leave, any politically eligible employee who intends to stand for election to the States should also be permitted to use any owed annual leave or time off in lieu before taking unpaid leave in the period between his or her public nomination for office and his or her resignation after the election (if elected to office) or his or her return to work (if unsuccessful); and (b) to request the Chief Minister to bring forward for approval the necessary legislation to give effect to the proposal.

**4.1 Deputy T.M. Pitman:**

First I have to observe it is good to see States employees are of such great interest to the House of mass exodus. Says it all really. Last night was a strange night following a strange day. I got home after the debates and the post comes rather late where we are. It never comes before work, that is for sure. So after I had checked the surrounding properties to make sure there were no police photographers hanging in trees or anything I checked my mailbox. I was pleased I did because somebody had taken the trouble to put a note in it, which I have had to type out because it was ... the man or woman must have surely been a doctor because the writing was so unreadable, to me anyway, barely. If I could quote just from it a little, it does highlight the issue, I think. It says: "Dear Deputy Pitman. I write to you this letter for 2 reasons. I hope you do not mind I stuck this in your letterbox, I confess I would have felt a little foolish knocking on your door with it. But it relates to a proposition you are bringing on Wednesday or Thursday, I imagine, regarding States employees standing for election. I was a States employee for many years and having followed your story in the news prior to election I must wish you well on this. I really wish that it had been possible when I was younger as I think I had something to offer. I fear I am far too old to do so now but I know you are correct, there must be many, many States employees who would make excellent States Members." It then says a nice thing about me but I am not that vain so I will not read it out, much as I am tempted. It talks a little about the debate yesterday and I think this is relevant: "Politics should be about deciding matters on merit and about doing one's best for all. It should be about fairness and dealing with the facts and nothing more. On the evidence of some speakers in yesterday's debate there seems to be little hope of this; so best of luck." But the real important thing is the man or lady - because it is just signed as "J. Retired": "Our Island is facing the most difficult times since the years after the war. Like then we need States Members who understand what it is to struggle to make ends meet. What better place to find them than in our very own schools, civil service or workshops, et cetera." I just thought that was really, like, of interest. I hope the rest of the House agree. Yesterday, I think, certainly from my point of view, we heard one of the best and most thoroughly researched propositions that I have come across, and I have followed the States for a long time, in fact since I was a teenager I have tried to read all I could, and I accept some people may think I am a bit bonkers for doing that. But there we go. But the point is that proposition fell on too many deaf ears. I only really mention this now because I was not quite sure how to pitch this proposition and I was going to speak at great length, which is something I think people would concede I do not normally do. But having said that, and I admit in reaction to, from my point of view, an absolutely unbelievable decision with yesterday's debate, I am going to speak very briefly, because I also think that the fundamental issues here are so straightforward I would hope that all Members will support them. Last year the States made some steps forward, some back, but we brought in legislation which was aimed at making it easier for ordinary people who work for us, work for the States, that is, to put themselves forward for election. That was contained in Article 36(2) of the Employment of States of Jersey Employees Law 2005. This legislation was sold to the previous Assembly as being a step forward allowing, and indeed encouraging, ordinary States employees to put themselves forward for election. Unfortunately, and I am sure this was not intended, the way the legislation pans out, it made it all but impossible for either the most affluent States employers, which I do not think there will be that many, to be honest, or those who are the most doggedly determined to put themselves forward somehow, and I guess I fell into that category. I do not want to make this proposition about me, because it is not now, quite frankly. The real driving force for me was originally the injustice of it all. But also being contacted by 2 people who did stand for election eventually, were unsuccessful, but that is besides the point, and they contacted me subsequently to say how unfair and limiting these regulations were. How this was introduced; this law was basically telling people they could now stand for election if they were eligible. Some people could not... and I think that is quite fair enough: police officers, policy makers, I do not think many of us would argue with that criteria at all. But having been told that you could now put yourself forward to be among the great and the good and play your part, whatever your politics towards hopefully taking the Island forward, the reality was that you were then hit with the criteria that meant if you wished to campaign not only

did you have to find your election expenses, which every one of us knows is not cheap, you had to be forced away from your employment. I would like to make it quite clear to Members here, as I do in the proposition, I have no problem at all with a States employee being asked to stay away from his place of work throughout his or her campaign, and none of those people who stood or wish to stand as States employees had a problem with that. The issue is this was enforced unpaid leave. We are in the 21st century and every States employee I know of has a holiday entitlement. I put it to Members ... sorry, I will wait. There is movement in the ... He is not as quick as he was, Senator Le Main. I put it to Members that how can it be possibly logical in any way that if someone has got holiday entitlement that the States can interfere in what they do with that leave. Of course if you are doing something that brings you or the States themselves into disrepute, that is fair enough. But quite honestly is it any interest of ours or heads of departments if a States employee wants to paint the house in their holiday, if they want to play golf, lie on the beach, come and listen to States debates? Admittedly the last one you might start asking serious questions about their ... about what they do in their leisure time. But I think Members would concede it surely should be of no relevance. It is not an area that a democratic government should be getting involved in, in any shape or form. But that is what people were hit with. For me, and I was the starting point for this, I had more than a month's annual leave. I did my best to negotiate with my department, and I will be coming back to the comments from the Council of Ministers because they certainly deserve some comment. The nature of my job, I used to work long hours. I took an educational trip to France during the summer, on call day and night, I think 9 out of 10 days straight, by the time I was ready to go off for the election campaigns I had 8 weeks combined holiday entitlement and T.O.I.L. (time off in lieu), because, as people might know, in my profession you do not get overtime. Yet I was faced with this crazy situation. I could not use any of that to stand for election. Why? Well, I think Members would concede under what I have described so far, making sure I was away from my place of employment so I could not influence anyway, especially working with young people. I full accept that and back it. But then I was hit with another anomaly when I tried to challenge this. I was told I could not use my annual leave, my paid annual leave and T.O.I.L. to campaign for myself but I could have used it, paid leave, to come and campaign for any one of you good people. That to me is totally illogical. In fact it was put to me at one meeting, when I queried this I said: "So, you are seriously telling me I cannot use my holidays to campaign for myself but I can use it for a politician?" The response was: "Yes, that is right. You can go and vote and campaign for Mike if you want." I did not take that offer up, but that is not the issue here. The Council of Ministers, I believe, have said that they are happy to support because it is acceptable, this proposition, and I welcome that. As I say, to interfere in what a States employee does with his or her annual leave is complete madness. Let us just remember, if you stood in the Senatorials, £8,000, I think, you had to find to compete. Without your salary you also had to find your mortgage, as I did, and I know other people did. One lady who stood had 3 children. Let us put ourselves in that position trying to do that, suddenly with no money even though you had annual leave. That, I think, is quite clearly an error of judgment in the House passing this piece of legislation and that is why I ask Members to overturn. I do not think I have to say too more on the issue really. I would be happy to answer questions. I would just draw Members attention to comments from the Council of Ministers. It says: "In his report Deputy Pitman implies that he had the support of his line manager and department in resources representative in his endeavours." I am not implying that at all. I am saying I had it because it is fact. I can tell the House that if I have learnt one thing from all this process over the last year is that people should get minuted notes of every meeting they go to. During this process I approached, and I hope he does not mind me mentioning it, Senator Shenton and he did try to make some inquiries for me. It was very interesting because the response he got - I will not mention the civil servant - but one of the comments made was: "We find this quite hard to believe that there is a problem with this because nothing was mentioned in the construction of the law." I find that very strange because I took the trouble to write a very lengthy letter as a staff representative within the professional youth service. So, they may not have had many letters but they certainly had one and yet here it was being

dismissed as if it never existed. I really would say that this is an area Government has got to look at strongly, because if evidence - and this is not important evidence, I suppose - but if it can just be vanished, disregarded, treated as if it never existed, what message does it send out? I believe this legislation was constructed in good faith to help ordinary people because I think every one of us would believe, just as the man or lady who wrote that letter, within our States departments we have got lots of very capable people. I think I am quite capable. Many people might disagree but that is okay. I know certainly lots of the people I have come into contact with are very, very capable and I think we should make it as easy for those people to stand for election as possible. Just because you might be pushing a pen or pushing a broom does not mean you have got nothing to offer. I well remember a few years ago when the Mastermind winner was driving a van. Many people might have dismissed the person for doing such a job but I certainly know better, and I believe Members in the House know better. So all I would say is please, Members, support this proposition. The only contentious issue would have been if I was asking you to allow States employees to stay within their department. My example is probably the best to use. I worked with young people. If I had been left at my place of work that would have been wrong because I could influence people, even if I did not want to do it intentionally. There is that risk, but the law removes that. Why do we then need to go and interfere with someone who is willing to save up their annual leave? As I say, paint the house, lie on the beach, listen to a States debate: it is no business of government in a democracy and with that I move the proposition.

**The Deputy Bailiff:**

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

**4.1.1 Connétable J.M. Refault of St. Peter:**

It may surprise Deputy Pitman to hear that I do have a glimmer of support for his argument in this one, but I do need some clarity from him in that. I too was in a similar position some years ago when, as part of the Executive, I was encouraged to stand for the States but at that time I would have had to have resigned to be able to do that, so I did not. However, I am here now. The clarity I am looking for is, where is the equity in this? If I were to go with the proposition to allow prospective Members to use their holiday entitlement and time off in lieu entitlements, how does that equate to the self-employed person who would, in fact, not get paid at all. Then how does that equally equate with a person who may well be getting support from private business or even a political party to fund his election campaign and his subsistence in that period. That is my difficulty at the moment. My jury is still out and my mind, which I am going to go with the argument ...

**The Deputy Bailiff:**

I think if the Deputy leaves we may be inquorate. Carry on, Connétable.

**The Connétable of St. Peter:**

I look forward to the proposer summing up on how he sees this fitting in with the item of equity because I also see some credit in the Council of Ministers' comments as well. At the moment they are quite well balanced for me, and I would need some argument to force me to sway one way or the other.

**4.1.2 Senator B.E. Shenton:**

I am pleased that this proposition is coming before the House today. As Deputy Pitman said, I did take up the issue because I felt it was unfair. Working in the private sector you are well within your rights to use up any unpaid leave to run in an election and certainly I think if you were, say, running for election that is exactly what you would do rather than forego the income that you were justly ... I would not start going down the red herrings of what if you are self-employed or what happens if you win the lottery or what happens if this, that and the other. I mean this just brings equality between the public sector and the private sector and as far as I am concerned that is fine. I am not

going to make much of a speech but I did notice; I was very pleased that the Council of Ministers accepted the proposition but I think they should really check, do a bit of spell-checking or checking their comments beforehand. I love the last paragraph: “The States Employment Board is of the view that the proposition is acceptable.” That is good to know that the States Employment Board is of the view that the proposition is acceptable. I think a line that the Council of Ministers is of the view the proposition is acceptable may have been slightly better, but I am delighted that the States Employment Board are going to support this.

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

Just picking up that last point: the comments are in my name and my name as Chairman of the States Employment Board because it was the Employment Board that brought forward these regulations in the first place and the Employment Board that considered the anomaly which has arisen. But I can say that the Council of Ministers, as a body also, endorses this. I was anxious to get the comments out as quickly as possible. Yes, we did indeed bring this law to the States and the States approved it in 2008 and, as Deputy Pitman said, this was a considerable step forward. When the law was brought forward we thought it would have solved all the problems but as sometimes happens when you bring in a new law we did not get it absolutely right first time. The previous States Employment Board looked at this at the end of last year, acknowledged that it could be clarified, agreements should be done, Deputy Pitman has brought the proposition now to the House which we are quite happy to accept and to instruct the law draftsman to do that. To deal with the Connétable of St. Peter, the amended regulations will come back to the States for debate once they have been drafted and Members at that time will have the chance to debate them, and if they are not satisfied that is a solution they can propose alternatives. I believe it is a simple matter to rectify, it can be done relatively straightforwardly and certainly in time for the next set of elections. In summary, the States Employment Board and the Council of Ministers both accept this amendment and I hope we can resolve it without much more ado.

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

This is ... I will not use the phrase. This is obvious. This provides a solution to what is a problem. The problem has been the interpretation of what was a well-intentioned law. That particular law was brought in, in order to satisfy the needs of Article 3, Protocol 1 of the Human Rights (Jersey) Law 2000 because what we had previously was a blanket ban on people participating, i.e. standing for election if they were public sector workers, and that is clearly a disproportionate limitation on those employees' rights to participate fully in the electoral process. So, in bringing in some regulations to say it is not everybody, it is not a blanket ban, these people can, are politically eligible, these people in senior positions are not. It was entirely appropriate that we did and had to do that in order to stay within the bounds of human rights. Our own human rights that we brought in. To then say that the employee can state what you can and cannot do with your T.O.I.L. or your holiday pay or your holiday time is obviously an infringement of all sorts of things and not least probably our employment law. It is fairly obvious to me that that sort of limitation, it often happens, it seems to me, sadly in Jersey, where we bring in a law or a set of regulations whose principles and whose intentions are entirely worthwhile and then we interpret them in such a way that nobody can claim them. It seems to me that that is exactly what happened here. The interpretation of the States Employment Board was clearly wrong at the time, and the law was drafted wrongly to enable them to do that. They could not see a right way round it at the time. Thankfully they can see a way round it now and it is obviously a step forward and the principles are right and now perhaps the practice can be made right as well. This deserves unanimous support from all in the House.

#### **4.1.5 Deputy A.K.F. Green of St. Helier:**

Not wishing to do the job of Deputy Pitman but maybe I can help the Constable of St. Peter to make up his mind. It is interesting that if I - and I was a public employee that stood and took that



time off without pay - had I committed some heinous crime I probably would have been suspended on full pay. **[Approbation]** But I committed the crime of wishing to stand for the States. I was told when I asked if I could use my annual leave, I quote: "The States cannot be seen to fund political activity" and yet every Member of the previous House got paid right up to the day of the swearing in of the new House: so who was funding political activity? The other thing where it is inequitable is that it disadvantages those that lose because when I won my seat, and technically resigned, actually was dismissed under the law, when I won my seat I was then paid any outstanding annual leave and T.O.I.L. but any person that lost their seat was disadvantaged. I think this is totally unfair and I will be supporting the proposition.

#### **4.1.6 Deputy J.A. Martin:**

Deputy Green took the words out of my mouth. It is in our Standing Orders. There are times when the States shall not meet, and it is 21 days before any election of Deputies, and all of us sitting receive pay while we are running round knocking on doors, so if it is equitable that we get paid ... maybe a proposition that we should not get paid. But if we do get paid so should everybody else who is entitled to get **[Interruption]** ... well, that would probably be the next proposition. If you are looking for equitable status we do not ... this is a new Standing Order under the States of Jersey Law in 2005 for Ministerial. It never used to happen and we did work right up ... we used to sit right up. I remember leaving here at 8.00 p.m. going and knocking on doors so the law itself has changed and, as you say, this is probably ... they missed this one and I am glad the States Employment Board, which consists of the Chief Minister, has recognised this and will be accepting it.

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

Members have been touching on the discriminatory part of it. One of the issues I would like to raise is that possibly in 2005 there was a statement of compatibility that this particular law was compatible with human rights because under Article 16 in the Human Rights Law one must have that statement of compatibility. Last year I did bring a proposition to the States asking if the States agree that when that statement is made there should be some example or reasons as to why but unfortunately States Members did not agree with me. But this is a classic here where it should have been picked up, probably it should never have come to the House because quite clearly it is discriminatory. It was discriminating against those who were in public employment as opposed to those in private employment. What we are doing now is righting a wrong, but really we ought to be a lot more careful in what we do agree and, in fact, I was quite pleased to hear the Attorney General say the other day when we had the human rights seminar that it is time that we ought to be looking a lot closer at the legislation we pass, and in particular I think looking at it from a human rights angle. Had this been looked at we would not have had to discriminate against people, and quite rightly what people do on annual leave is entirely of their choice and I see absolutely no reason why anyone should really veer against voting against and giving every support for this matter. We ought to be looking a lot closer at the legislation we do pass in the future because quite clearly other things will slip through which will be discriminatory and also to disadvantage a lot of people.

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

Clearly we will be all supporting this proposition but I just like to put one thing straight. If you think that you have 3 weeks off when it comes to election time, and you go round and knock on doors, I for one have yet to find that. I usually find that I am spending more time resolving late issues or where people have suddenly come to light that: "Ooh, this is a good time now that I can see you to get something that has been on their mind sometimes for 3 years." In fact, I would suggest to you that we are probably busier during that 3 week period dealing with constituency or Parish matters and other States matters. So that is just to put the record straight. I shall be supporting this, of course, and it is natural justice. It was just a pity that the proposer started off with a negative. I was still in the House, as were others.

#### 4.1.9 Deputy M. Tadier:

Before we all start to congratulate ourselves too much, and I would also congratulate Deputy Pitman on a good speech, let us not be in any delusion. The reason we are passing this law today is not because we were convinced by Deputy Pitman's argument, it is simply because the Council of Ministers have accepted it. I am sure, likewise, the Constable of St. Peter will have made up his mind on the basis that the Council of Ministers have accepted this. So let us just go straight to the vote. It is not because we believe in the ideas. It is simply because the party whips across the way have told you how to vote.

#### The Deputy Bailiff:

I call upon Deputy Pitman to reply.

#### 4.1.10 Deputy T.M. Pitman:

I do thank everyone who contributed. I thank Deputy Green for hopefully answering the Constable of St. Peter. It is a fair question he asked. My response would have been that really this legislation can have no control over the self-employed or people in the private sector so it is a bit difficult really, so I was appreciative of Deputy Green's answer. One key issue that has come up there is human rights, and I really thank, I think it is Deputy Southern and the Deputy of St. Martin, because I really overlooked that and they are very right. It was mentioned that justification for this law was also that the States could not be seen to be funding people while they campaigned. Deputy Green is very, very right because States Members, although they are classed as self-employed, have been paid while they campaign and I did not want to mention that because next time I might need the money, to be quite honest. It is a very important issue. Human rights, in the process of trying to fight this legislation before the election, I did take it to lawyers and it is very interesting that I was told that I could win it as a human rights issue. Unfortunately I did not have the £5,000 spare which they wanted to spend me to a specialist lawyer in London. I can tell you that if I had taken it on it was suggested to me, which I think is something that should be investigated, that it could cost me £50,000 and yet here we are. If it is going to get passed, thank you, because that certainly will save someone in the future a lot of money. Senator Shenton, I appreciated his help in this matter many, many months ago and his observations about the States Employment Board are very telling. The Chief Minister, I thank him for his support in this. It is much appreciated and I know it will be by those States employers who certainly, I believe, will be wishing to stand next time. Deputy Green, again, it was really the point about the human rights, and like him I was not so much as thanked for what I did, I was dismissed and there are some real serious issues there. But that is for another proposition. Deputy Fox, I welcome his support. He has obviously been involved with a lot of States employees with his work, especially with young people in education. Deputy Tadier, people might think the Deputy's speech was a bit flippant but some might say he had some serious points to make, perhaps he did not make it in the way he wanted to. But, again, I welcome everyone who spoke. This is a move in the right direction, I think. I think if we pass this today next time we will see some new and very good States employees perhaps sitting in this House. I think that that can only help take this Assembly forward because as the anonymous letter writer said, it is people who have really been there, they know what it is like to be an ordinary person and to struggle. I call for the appel.

#### The Deputy Bailiff:

The appel is called for in relation to the proposition of Deputy Pitman, Projet 66. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 45</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				

Senator B.E. Shenton				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (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 M. Tadier (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

## **5. Insolvency: Temporary Scheme for Compensatory Payment – Extension (P.67/2009)**

### **The Deputy Bailiff:**

Next to Projet 67, Insolvency: Temporary Scheme for Compensatory Payment - Extension, lodged by Deputy Southern, and I will ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion (a) to refer to their Act dated 20th March 2009 in which they requested the Minister for Social Security to establish an easily accessible and well publicised system within the Social Security Department to deliver payments on a similar basis for all Jersey workers made redundant by insolvency from 4th February 2009 and to maintain this system of payments until an insolvency system was in place, and (b) to request the Minister to

extend the scheme, details of which were presented to the States by the Minister on 29th April 2009, to enable the Minister in consultation with the Viscount to use discretion to make payments to workers who had been made redundant without the payment of statutory notice by businesses that have stopped trading, even if the businesses have not yet been declared insolvent.

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

This is the third time I have brought something on this subject to the House and I make no apology for that because I am concerned that we do make the scheme that we have created for compensatory payments in place of redundancy, while we get the redundancy law in place, is made to work efficiently and properly as we intended. I am glad to read that the Minister is prepared to add to his report a statement that gives, as far as I am concerned, the required flexibility to the decisions of the Minister for Social Security on these issues. The issues are very simple. The intention certainly behind my wish to set up the temporary scheme to deal with some form of compensatory payments in the case of redundancies through insolvency was that ... as made out in my very brief report, where redundancies through insolvency are occurring - and they are still - financial support will be required to compensate those made redundant in a timely manner. People made redundant need assistance at the time they are made redundant. Now the scheme as intended to operate, supplied a 4 week payment early on in the redundancy to tide people over while their situation was fully assessed, and then their situation was adjusted through income support and other payments to balance out for the required period of notice that they had not received. The Minister, in several occasions, referred to the timing of the issue as being important. When he said: "... as well as avoiding unnecessarily delay another priority has been to design a scheme that is easily accessible to those submitting a claim and pays out relatively quickly to those who qualify." So his intention was shared by me, my intention, I believe it was shared by all of the House that we should be able to get these payments to people in a timely manner when they needed the assistance. However, it seemed to me, and it happened in the case of Collas & Le Sueur, in particular where I think there were some 7 employees eligible for redundancy payments and that the whole process was taking an inordinate length of time. So by the time of writing this particular proposition they had been 5 weeks without any form of payment while the process of insolvency ground its way to completion, and no payments had been made. In fact, the insolvency was only declared, I believe it was last Friday, after 7 weeks. Now what I was concerned at, that in this meantime, in this interval, they had received no payments in the majority of cases. No assistance and certainly not the assistance that we had designed into the system. The problem is that the process of going *en désastre* or insolvency requires the company or the owner of the company that goes insolvent to do something about it. He has to go and talk to the Viscount and arrange for the proper winding up of his company and, for any number of reasons, he might take his time over that. He may be desperately trying to gather some sort of package to get his company going still, or he may have simply locked himself in the bedroom and drawn the curtains and gone into a sorry state of depression and hoped the whole thing was going away. It is possible to delay the whole process like that, and that is what appears to have happened. The alternative is that the creditors should go and try and wind up the company to realise what they are owed from the company. However, that requires a charge or indemnity to be paid because we do not want people willy-nilly trying to make people insolvent, and so in this particular case the employees who were one of the main creditors were loath to go forward and say: "Well, I want my money and until you are declared insolvent I cannot get even the compensatory money from the Government, et cetera" but that required a charge up front, an indemnity which they could not ... they had been made redundant, was not available to them. So, the problem stuck. However, as I say, the intention I believe was to get prompt payment out there. I think it is right in principle, I think it is now right in practice that what I have asked for to give the Minister for Social Security a degree of discretion in conjunction with the Viscount in order to decide, yes, the insolvency process has not been completed yet but it is pretty safe to go forward with these payments. They will be being insolvent sooner or later. That discretion I think is what is needed in order to get the payments out. The worst case I think that could happen is that

somebody apparently being made insolvent ended up not going insolvent, but then all I can think of is they would have revived the company in some way and there would have been an asset there which the Government could chase in order to get the payment back anyway, and that is the worst case. But certainly by putting in a safeguard of talking to the Viscount, let us see about the process: how quickly can you get these payments in place, because that is what we want you to do. Do that at your discretion and have that flexibility instead of sitting there saying: “No, insolvency has not been declared, therefore there is nothing we can do, therefore it is tough on those employees”, that is not what we intended to do when we passed this particular scheme. I am glad to see that the Minister effectively has agreed with me and is prepared to add the comments that he said to his report, and I believe this does the trick. I urge Members to support this and the Minister for Social Security in his desire to have the discretion and the flexibility to deliver this scheme in a much more efficient and timely manner, and I urge Members to support this wholeheartedly.

#### **The Deputy Bailiff:**

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

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

As one who was made redundant about 40-odd years ago with the rest of the staff one feels very sympathetic to this cause and I would support it. But the thing that bothers me is when I hear instances of retailers going out of business under the name of Pound World and then it shortly to be opened up under another name from what I am told are the same directors. [**Approbation**] This indirectly has been referred to in the comments by the Minister for Social Security in the last paragraph that it would be reckless to make payments purely on the grounds the employer has simply ceased trading, and I agree with that. What I would have liked to have seen in this proposition would be some recognition that we have a responsibility, certainly with public funds, to protect our Islanders from such stripping of assets, if you like, for whatever reason without the opportunity of the States making retribution through its regulations or laws to recover the funds, and although the proposer might not believe that it is his responsibility for this proposal it is something that I hope that the States in its deliberation today would send forth a message that this is an important aspect in the name of natural justice and justice to others that this potential loophole is dealt with. I will be supporting this proposition.

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

Members may have noticed that the Minister for Social Security and the Assistant Minister are both out of the Island and accordingly I am wearing another hat today as Minister for Social Security. In that context I am happy to confirm the acceptance of this proposition by the Minister and indeed to welcome it as further clarifying the desire to assist those employees in resolving as swiftly as possible the concerns and difficulties which they undoubtedly will have in this situation. It is, as the proposer said, be much a matter of exercising discretion sensibly and in an informed way and using the assistance of the Viscount’s Department in ensuring that that discretion is used wisely, as well as widely. Hopefully not too widely ... certainly wisely. Certainly in picking up the anomalies that might occur in the situation such as that mentioned by Deputy Fox. I think it is just a matter of getting as much information as possible and being as well informed as possible, and that where there are instances like that it may be that there ought to be restrictions on directors activities in new companies or, as Deputy Southern says, in being able to recover assets if the insolvency does not prove to be insolvency. But those I think are details which should not detract from the main intention here, which is that of helping employees in a position of difficulty. I welcome the amendment from Deputy Southern and confirm that the Minister for Social Security will exercise his discretion in an informed way pending the implementation of a proper redundancy scheme. I do not want to speak at this moment about that particular scheme which is a much broader issue, which we can touch on on another day. I think for the moment I will confine my comments simply to this particular proposition.

### 5.1.3 Senator P.F. Routier:

I am grateful for the Chief Minister who is wearing his Social Security hat today for those comments because when I read the proposition and the comments I did not come to the same conclusion the Chief Minister came to with the way the Minister for Social Security was going to react, because the way I read it was although the Minister was prepared to put into his own report something which covered that I then went on to read the last paragraph of the comments which did talk about the possibility of reckless payments to an employer who had just simply ceased trading. I understand from reading the proposition again, there is discretion that the proposition is asking for discretion to be used and obviously that will be in the hands of the Minister for Social Security. The issue with regard to companies that do close down and use all the mechanisms to close their business has been highlighted by a previous speaker about the Pound World shop, and I have to say I feel a little bit cheated by the directors of the Pound World organisation because I am aware that they are now trying to open up the shop again and, to me, they have really hoodwinked us into getting money out of the States when there was absolutely no need for them to do that. I do feel as if we have been cheated and I just hope that when the Minister for Social Security is considering applications in this nature that he will make every endeavour to make sure that a similar circumstance cannot carry on in the future.

#### The Deputy Bailiff:

I call upon Deputy Southern to reply.

### 5.1.4 Deputy G.P. Southern:

I do hope that Members do not get distracted by the issue around limited liability and directorships. That is not my fault. That is the way capital companies have been set up under our law where directors have limited liability and may close down one company, with or without debts, et cetera, and open another company the day after doing something very similar with a different name, and there is very little we can do about it. It was not my intention to address that issue. It remains an issue. What we do about it is beyond my expertise despite the requests from several Members that I ought to do something about it. There are only 24 hours in the day and my God I am doing enough for the moment, thank you very much, without mastering the intricacies of limited liability and directorships, which no doubt I could but it would not happen very quickly. I thank Deputy Fox for his concerns and his drawing attention of the Minister for Social Security to that particular issue, but that should not detract or distract from the central thrust of this which is to try and get timely payment and timely support to workers made redundant. Again, I thank Senator Le Sueur for his clarity and, as he said, accidentally I think, that the Minister for Social Security is able, in conjunction with the Viscount, to use his discretion wisely but not widely is absolutely appropriate, and I do call on Members then to support this proposition with the backing of the Minister for Social Security, for a change, and I call for the appel.

#### The Deputy Bailiff:

The appel is called for in relation to the proposition of Deputy Southern, Projet 67. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 41</b>		<b>CONTRE: 1</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Deputy J.A.N. Le Fondré (L)		
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator F.E. Cohen				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				

Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

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

I was just trying to change my button. [Laughter] As a matter of record it is to repay the compliment that Deputy Southern paid to me a few propositions ago when I was nominated as a Member and it was 40 to 3 or something.

**6. Draft Companies (Takeovers and Mergers Panel) (Jersey) Law 2009 (Appointed Day) Act 200- (P.90/2009)**

**The Deputy Bailiff:**

We come next to Projet 90, the Draft Companies (Takeovers and Mergers Panel) (Jersey) Law 2009 (Appointed Day) Act lodged by the Minister for Economic Development and the Greffier will read the Act.

**The Greffier of the States:**

Draft Companies (Takeovers and Mergers Panel) (Jersey) Law 2009 (Appointed Day) Act 200-, the States in pursuance of Article 25(2) of the Companies (Takeovers and Mergers Panel) (Jersey) Law 2009 have made the following Act.

**6.1 Senator A.J.H. Maclean (The Minister for Economic Development):**

This Act brings into force the Companies (Takeovers and Mergers Panel) (Jersey) Law 2009 which was adopted by the States on 16th July 2008 and received the sanction of Her Majesty in Council on 10th December. Takeovers and mergers in Jersey have for some time been regulated by the Panel for Takeovers and Mergers, a body based in the U.K. Regulation by the panel is considered to have worked well in practice during that period. The law will allow the existing informal arrangements for Jersey takeovers and mergers to be put on a statutory basis. It closely mirrors the equivalent legislation in the U.K. and will ensure that the panel has consistent functions and powers across all the jurisdictions regulated by them. The Appointed Day Act will bring the law into force on 1st July 2009. This date has been chosen to co-ordinate with the date on which the equivalent legislation will come into force in Guernsey so as to ensure consistency in the treatment of takeovers and mergers across the Channel Islands. I commend the Act to the Assembly.

**The Deputy Bailiff:**

Is the Act seconded? **[Seconded]** Does any Member wish to speak on the Act? All those in favour of adopting the Act kindly show. Those against. The Act is adopted.

**7. States of Jersey Complaints Panel: appointment of members (P.92/2009)**

**The Deputy Bailiff:**

We move finally to Projet 92, States of Jersey Complaints Panel: appointment of members lodged by the Privileges and Procedures Committee. I will ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion in accordance with Article 5(2) of the Administrative Decisions (Review) (Jersey) Law 1982 to appoint the following persons as members of the States of Jersey Complaints Panel from whom members of Complaints Board can be drawn for a period of 3 years: Chairman, Mrs. Carol Elizabeth Canavan; Deputy Chairman, Mr. Nigel Peter Edgar Le Gresley, Advocate Richard John Renouf; Members, Mr. John Geoffrey Davies, Mrs. Mary Le Gresley, Mr. Tom Siouville Perchard, Miss. Christine Vibert, Mr. David James Watkins.

**7.1 The Connétable of St. Mary (Chairman, Privileges and Procedures Committee):**

As Members will know, the Jersey Complaints Panel is constituted in accordance with the Administrative Decisions (Review) (Jersey) Law 1982 to deal with complaints arising from dissatisfaction of decisions made by any Minister or States department. The term of office of the current members of the panel expired in late May and some weeks ago the P.P.C. initiated the process for the appointment of new members with the involvement of the Appointments Commission as is required. This was a rigorous, transparent and comprehensive process under the control of Mr. Brian Curtis M.B.E. of the Appointments Commission. At this point I would like to pay a very heartfelt and sincere tribute to the outgoing panel, all of whom work extremely hard giving a great deal of time on a completely honorary basis in order to ensure that the complaints are dealt with comprehensively and, very importantly, on a timely basis. The lion's share of my gratitude must undoubtedly go to the chairman, Mrs. Carol Canavan, for her diligence and the sheer professionalism that she brings to this role. **[Approbation]** I would also particularly like to thank the 2 members who have chosen to step down at this time, Mr. Patrick Freeley and Mr. Peter Farley, for their valued service over a number of years. The Privileges and Procedures Committee is pleased that the current chairman, deputy chairmen, and 5 members are willing to serve for a further 3-year term. Although the committee considers that it is important to appoint new members it is also vital to maintain some continuity and experience, and with the agreement of the Appointments Commission the committee is pleased to be able to nominate them for reappointment. This will enable the work of the panel to continue without undue delay to complainants. The committee is hopeful that a further proposition recommending the appointment of new members to join the nominees in this proposition can be lodged very shortly for debate



before the summer recess. There is no fixed maximum number to the membership of the Complaints Panel and although only 2 members are stepping down the committee hopes to be able to recommend for appointment a number of new members after the interview process and hopefully they will come from varying professional backgrounds. Having said that, I put the proposition.

**The Deputy Bailiff:**

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

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

It is unfortunate this is really coming in a 2-part because I think the second part is to follow and that is the interesting bit that I would like to speak about. I think it is well-known that I have supported the system, in fact, I made a load of amendments which the States approved to improve the Administrative Law, but I was a little bit concerned that we did not hear from the chairman about the number of people who have made applications for the new panel and whether, in fact ... some idea of how many people are interested in doing it because I think there is a lot to be said for having continuity. At the same time, there is also a lot to be said for fresh blood and while it is very good we have these number of people who are willing to give their time, and we know that 2 people in fact are stepping down, but possibly we would get some indication in the summing-up of how many people actually applied and how many are likely to be put forward when the proposition comes back. When I said about fresh thinking, the Chairman knows that I recently had a case in which the complaints were dealt with. There were issues there which I will be coming back to P.P.C. but I think it is important that I could air them here but the concerns I had was the fact that the actual Complaints Boards' attention to, or lack of attention to, considerations regarding human rights. In its report on the particular case I took, it said it did not consider itself able to determine human rights issues when one wonders where, if one goes to an authority like a Complaints Board, one would have thought that they would have been, particularly if human rights issues were put as part of the actual complaint. While I do accept that they also said that precedents should have been given in advance, but again unless the complainant knows of that one is not going to put him forward, but maybe that is just an area which I will develop when I meet with P.P.C. The other issue, of course, it has been raised by other people, about the filming and whether one who is allowed into public hearings. Again, this is something which I know P.P.C. are looking at and I know that the Scrutiny Panels have been looking at as well. Again, I think that with maybe fresh thinking about that these are public hearings and what is wrong with the public having access to it and indeed having the opportunity to film these things for greater audience participation. All in that I am happy to support what is being proposed. I commend the work of those people who give up their time and their expertise for the benefit of others and long may they continue.

**7.1.2 Deputy K.C. Lewis of St. Saviour:**

I do not have a problem with this proposition. I am in full support of it. I have to point out that there is a name on here, the Deputy Chairman is my legal adviser, but I do not feel conflicted as (a) it is voluntary and (b) I have not had to see my lawyer for well over 8 years and that was for a house purchase.

**7.1.3 Deputy R.G. Le Hérisier:**

Very quickly, Deputy Hill has spoken and I was very intrigued to hear that Deputy Lewis has a legal adviser who acts in a voluntary capacity for him. **[Laughter]** He clearly knows lawyers of which we have never encountered. **[Laughter]** I would like to ask the Chairperson, again not quite the remit, but are there plans to review the role of the Panel, notwithstanding the excellent work done by the Members at the moment and to see whether it is working according to its remittal, whether that remit needs to be extended?

**7.1.4 Deputy G.P. Southern:**

I just want to highlight what the Deputy of St. Martin was saying about the lack of expertise in areas like human rights challenges. It is a matter fundamental to the good governance of Jersey in that decisions that decide on the balance of proportionality as to whether an individual's human rights have been disproportionately restricted are at the heart of many decisions that the Government takes. An appeal body that does not feel itself equipped to deal with human rights issues is one which is hamstrung by its lack of expertise in that area. It is an area that, increasingly, we will need to pay a good deal of attention to because that, as I say, goes to the heart, the crux of a lot of issues where dispute arises between an individual and the powers of the Government. So, it is an issue that we will need to come back to in the future. At the moment I believe the only redress for there is the Royal Court and I will, I think, expect before the end of the year, to be exploring the capabilities and the issues in the Royal Court to that very end.

**The Deputy Bailiff:**

I call upon the Chairman to reply.

**7.1.5 The Connétable of St. Mary:**

I will, if the Assembly will allow me, stick exactly to the bones of the proposition which is an appointments proposition. As the Deputy of St. Martin inquired, I believe there were 10 new inquiries to join the Panel. Matters of how the Panel functions and its remit, et cetera, are matters that quite probably could be discussed and probably will be discussed by the Privileges and Procedures Committee as the Deputy of St. Martin has said. He will be visiting the P.P.C. shortly and there are matters there that can be discussed. They do not, I believe, fall within the remit of this proposition. So, I think I have touched on the only relevant point. Having said that, I make the proposition.

**The Deputy Bailiff:**

All those in favour of document proposition kindly show. Those against. The proposition is adopted.

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**The Deputy Bailiff:**

So we come on now the arrangement of public business for future meetings. Chairman of the P.P.C.?

**8. The Connétable of St. Mary (Chairman, Privileges and Procedures Committee):**

The arrangement will be as per the lavender sheet with the addition on 30th June at the next sitting of P.76, the Committee of Inquiry into the death of Mrs. Elizabeth Rourke, deferred from this meeting and also of P.100, the Television Licenses for persons over 75 lodged by Deputy M. Tadier and the addition on 14th July of P.101, the Jersey Financial Services Commission: Appointment of Chairman lodged by the Minister for Economic Development.

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

At the risk of incurring the wrath of the good Deputy of St. John, I wish to ask Members if they would agree to defer for 2 weeks the Deputy's proposition in relation to Esplanade Quarter and the Waterfront Development: Deferral P.77. Members will be aware that I have informed the Assembly that I am working with W.E.B. in order to bring to a conclusion the matters in relation to the Harcourt contract which, in any event, needs to come for sanction before the Assembly. The deadline for Harcourt to return to W.E.B., and in turn the Treasury, is at the end of the month, i.e. I am advised 30th June. I would respectfully say to Members that I will be in a better position to inform Members, and Members cannot draw into anything of what I am saying either positive or negative in relation to Harcourt, but I will be if the States were to agree the debate on 14th July. I will be in a position to report to Members the full situation in respect of bonds and guarantees.

Members then will be in a full position to be able to ... it may well be the issues may well be different at that stage in various different scenarios, I am sure Members can read into what I am saying but it would be beneficial if we were to have an informed debate after that deadline so that Members can decide what they wish to do in relation to Esplanade Square. So, I would ask Members, for that reason, to defer the debate until 14th July.

**The Deputy Bailiff:**

The Deputy of St. John, do you wish to comment on that?

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

Yes, I do, Sir. I most robustly object to any delay of my report and proposition but I will offer an olive branch to the Minister and suggest that we put it on the end of the Order Paper of the 30th because I am sure we are not going to finish all the work on the 30th. It will run through into the 1st or 2nd July, thereby putting it towards the end of the Order Paper, and it will allow the Minister to have gathered all his thoughts and his information and we will be past the sell-by date (for want of a better word) and, therefore, I will not go for a move. It had been laid down for that date for several weeks and as far as I am concerned it stays there.

**The Deputy Bailiff:**

Very well. Does anyone else wish to say anything else about that matter? No?

**8.3 Senator P.F. Routier:**

Just very briefly, Sir. I am not sure obviously what the outcome of the Minister for Treasury and Resources' findings with regards to Harcourt would be but I would really like time to consider that in a more considered way rather than trying to just rush comments out from the Minister for Treasury and Resources and also you need to have time to think about it. I think it is a very reasonable thing to ask to put this back just for a fortnight and rather than rushing and making a wrong decision.

**8.4 Deputy G.P. Southern:**

Once again we see the display of the usual tactics on the part of Ministers and their Assistants. I think the Deputy of St. John has offered a very reasonable compromise that we debate this on the 1st or 2nd July and I would urge Members to support the Deputy of St. John.

**8.5 Senator F.E. Cohen:**

I would like to concur with the suggestion made by the Minister for Treasury and Resources. The matter will probably, by the sounds of it, come to a head on 30th June and I think that the Minister for Treasury and Resources will need some time to consider what Harcourt present to him and decide how to impart that information to the States. We are only talking about a 2-week delay and I hope Members will accede to the Minister for Treasury and Resources' request.

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

I do regret the comments by Deputy Southern. This is not an attempt to delay a debate or to clip the wings of back-benchers at all. This is a genuine attempt to ensure that Members are fully informed with all of the facts. He is shaking his head but I do regret this sort of ya-boo type of approach that Deputy Southern sometimes makes. I will try and extend an olive branch to my good friend, the Deputy of St. John. It is reasonable, I would say to him, that I need a few days in order to get advice and to put that advice into an appropriate format for Members' digestion so that Members are informed and I must maintain my request for the 14th. I do think I am being unreasonable in asking that but the Assembly does have my undertaking that nothing can be done in the progressing of any deal in Esplanade Square until this Assembly says so. So, there is no danger in relation to any deals being progressed. I want to ensure that Members are fully informed so I press that and ask for the appel.

**The Deputy Bailiff:**

Very well. There is an appel called for then in relation to the proposition of the Minister for Treasury and Resources that the P.77/2009 be removed from the list on 30th June and put in the list for 14th July, so if you want to defer it you vote pour, if you do not ...

**The Deputy of St. John:**

Sir, before you take the vote can I just inform the Assembly that yesterday myself and the Minister did agree that I would put it on the end of the agenda of the 30th and he was quite happy. Thank you.

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

But that was on the basis that the deadline was not the 30th, I am afraid, and I did not expect to get there until this time. The situation has changed in terms of information.

**The Deputy Bailiff:**

Very well, so the matter is pour if you are with Senator Ozouf, contre if you are with the Deputy of St. John [**Laughter**] and so the Greffier will open the voting.

<b>POUR: 33</b>		<b>CONTRE: 12</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Senator A. Breckon		
Senator P.F. Routier		Connétable of St. John		
Senator P.F.C. Ozouf		Deputy of St. Martin		
Senator T.J. Le Main		Deputy J.A. Martin (H)		
Senator F.E. Cohen		Deputy G.P. Southern (H)		
Senator S.C. Ferguson		Deputy of Grouville		
Senator A.J.D. Maclean		Deputy of St. John		
Senator B.I. Le Marquand		Deputy of St. Mary		
Connétable of St. Ouen		Deputy T.M. Pitman (H)		
Connétable of St. Helier		Deputy T.A. Vallois (S)		
Connétable of Trinity		Deputy M.R. Higgins (H)		
Connétable of St. Martin		Deputy J.M. Maçon (S)		
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (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 M. Tadier (B)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				

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

Sir, excuse me, as an aside, with reflection on what you have just said in relation to the vote, I would say it reminds me of the famous line: "You have either got or you have not got style" and you certainly have it. **[Members: Oh!]** I am not seeking a vote here. I am not trying to butter you up. Could I just make a request? In a previous Arrangement of Public Business I highlighted the fact that we are going to be possibly considering the composition of the States Assembly on the 14th and you quite rightly pointed out that we could think about that in days to come as to whether or not we take it. Could I make an appeal to the Chairman of P.P.C. to table for Members, a paper on the implications of any delay past the summer recess in regards to this proposition so that if we do decide on the 14th to put it back until after the summer, we will be fully aware of any implications in doing so in regards to timings, please.

**The Deputy Bailiff:**

Very well. The Connétable of St. Peter, did you wish to say anything or not?

**8.7 The Connétable of St. Peter:**

Just to assist you in the timetabling, and you have matters to be debated on on our next sitting on 30th June, given that the States Members Remuneration Review Board has now delivered its report, I am delighted to see that they have concurred basically with the main part of my proposition, therefore I think the pressure to withdraw my proposition totally on the back of the report which is now received.

**The Deputy Bailiff:**

Very well, so you are withdrawing Projet 24/2009.

**The Connétable of St. Peter:**

I will do. Thank you, Sir.

**8.8 Deputy J.A. Martin:**

Sir, on Public Business, I do not think we should be coming in on the 30th by this way. I have got to move P.43. Well, we knew that the Masterplan for the north of town would be moved to the end of the month. I think it is going to be presented to the Council of Ministers around the first week in July so at the moment I will keep it on the Order Paper for the 14th but it looks like it will probably be down for discussion. I will wait and see what we do on the 14th but it will probably be moved again to the first session in September. Thank you, Sir.

**The Deputy Bailiff:**

You are certainly moving it from the 30th?

**Deputy J.A. Martin:**

I am definitely moving it from the 30th. Thank you.

**The Deputy Bailiff:**

Very well. Does anyone wish to make any other observations on the programme?

**8.9 Deputy M. Tadier:**

Sir, can I ask that my proposition about T.V. (television) licenses be taken before P.64 as it would seem the logical thing to do?

**The Deputy Bailiff:**

Yes, very well.

**Senator P.F. Routier:**

Sir, I am sorry, P.64 was lodged when? I am sorry; I have not had a chance to read it yet so I am a bit unclear about what it does so it is difficult to decide exactly what it is going to do.

**Deputy M. Tadier:**

I am happy to give a brief explanation. I do apologise for the slightly ...

**The Deputy Bailiff:**

I am sorry; I do not think we can go into this now. It has been lodged and the Chairman had suggested it be taken next time ...

**Senator P.F. Routier:**

It just seems rather quick to me but I mean I have not had a chance to look at it yet, Sir.

**The Deputy Bailiff:**

Very well. Now, are there any other matters anyone wishes to raise? Yes, Chief Minister.

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

As Members will know, the Minister for Social Security and the Assistant Minister are both not here at the moment and I think it is rather unfair to present them with a proposition which they will perhaps only have a day or 2 to consider prior to the debate. It is likely that any change to the television licence arrangements, which would have financial implications, could be a matter for budget treatment consideration later in the year. I cannot see that a short further delay on the proposition from Deputy Tadier would have any adverse effect on the recipients without potential benefit ... I think in fairness to the Minister for Social Security it is rather premature to ask for a comment on that proposition at a time when this might be a little bit difficult to achieve.

**The Deputy Bailiff:**

So, are you proposing not to take Projet 100 then?

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

That we do not take it on 30th June.

**The Deputy Bailiff:**

Then take it 2 weeks later. Is that seconded? **[Seconded]**

**8.11 Deputy M. Tadier:**

It seems logical to me that this proposition should be taken before P.64 as it will have implications on it. I would be happy if P.64 were also moved to a later date and then mine could be taken on the same day earlier on on the Order Paper, if that is what the Minister is proposing.

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

I would concede that, yes.

**The Deputy Bailiff:**

Very well, so on that basis then, Deputy, are you content that both P.100 and P.64 be taken 2 weeks later on 14th July?

**Deputy M. Tadier:**

I am happy, so long as mine is taken first.

**The Deputy Bailiff:**

Yours is taken first, yes, very well.

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

I did not quite catch what the Chairman of P.P.C. said about P.76. Will that be the first one on the agenda of the next sitting? That was the one we deferred today. Will it be first on the agenda?

**The Deputy Bailiff:**

The Senator asked for that. Does the Assembly agree that should be taken first?

**8.13 Deputy R.G. Le Hérisier:**

What is the answer to Deputy Le Claire's question? Is government reform going to be considered on the 14th or not?

**8.14 The Connétable of St. Mary:**

The Deputy asked me, I believe, to advise the House of the next sitting of what the implications would be if we did defer it to September and I think that is the best course of action.

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

The Constable of St. Peter has withdrawn P.24 and my amendment to P.24 probably falls away accordingly. I just wanted to say that the object of that amendment was to table the reduced expenditure in association with Jersey charities. That is now no longer possible and I would ask that the Minister for Treasury and Resources consider this and the fact that I have not been able to make those arguments.

**The Deputy Bailiff:**

Very well, so does the Assembly approve ... have we got more? Deputy Martin?

**Deputy J.A. Martin:**

Sorry, I just wanted a clarification there. So, the proposition P.64 and Deputy Tadier's will move to the 14th.

**The Deputy Bailiff:**

Correct, yes.

**Deputy J.A. Martin:**

Everyone is aware what we have on for the 14th [**Approbation**] and they are prepared to put an extra week in after. That is all I would like to say.

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

Just to slightly mollify Deputy Martin, can I advise Members of projets on 14th July and ask that Projet 79 on the States of Jersey Development Company be deferred until the first sitting of the Assembly in session in September because I think that would give the Scrutiny Panel more chance to comment on that proposition. I would just like to notify Members of that debate. It may be that the Panel wants even more time but at this stage I will ask for the first sitting in September.

**The Deputy Bailiff:**

Very well. Now, Deputy of St. Ouen, you wanted to say something.

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

In light of all the changes relating to June 30th and aware of the business planned for 14th July, I would like to ask that Privileges and Procedures speak to the various individuals responsible for the propositions that are currently identified for 14th July to see if any of those could be advanced to 30th June. [**Approbation**]

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

I am willing to have mine brought forward today. [**Laughter**]

### **8.19 The Connétable of St. Mary:**

I would say that I did take the opportunity during the last sitting to go and speak to all the Members concerned. Of course the problem is that pretty much nothing on 14th July can be brought forward save for (because of lodging times I hasten to add), ironically, the composition and election of the States, which in fact we would rather put a longer lodging time in to allow for amendments. I would hesitate now, at this late stage, to bring it forward. Of course I will do what I have undertaken to do to entuse Deputy Le Claire, and Members might decide to take it later, but that is a matter for the House and not for today, I think.

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

While we are on the issue of business, I failed to get in earlier when the Chief Minister was saying that effectively he could not promise to have a comment on a relatively small proposition on T.V. licences in the fortnight required. Is that the case? I think it sets a dangerous precedent that the Chief Minister can just say: "Oh, we could not possibly produce our comment in a fortnight therefore we will put something back."

#### **The Deputy Bailiff:**

I think what he said was that the Minister for Social Security was not here and we would only have a short time. Now, is there anything else anyone wishes to say?

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

I know that we sometimes do not look the best when we are discussing business and spending such time to the outside world, but there is a real issue on 14th July, which does need to be settled quickly and that is that normally Members are reluctant to sit in the week after the beginning of the summer session because holidays, et cetera, have been booked. So, are we in a position today to resolve whether or not we are going to continue the week after 14th July; in other words, sit on 21st July with the alternative, even though that may well mean bringing forward certain propositions to sit on 7th July so that we are in a position to be able to deal with all business by the week ending 14th July as opposed to sitting on 21st July. I think it is only fair to Members for holiday arrangements, school holidays, et cetera, that that decision is made quickly.

#### **Deputy M. Tadier:**

Can I second that? I was going to stand up and suggest that we think of convening on the 7th and have the 14th as a continuation.

#### **The Deputy Bailiff:**

The only thing is, Deputy, the question as to whether any of the matters on the 14th have been lodged long enough.

### **8.22 The Connétable of St. Mary:**

As I said, we could in fact bring forward the Composition and Election of the States, as I understand it. I believe I am right. The Greffier is shaking his head, maybe I am wrong but everything else, as I understand it, has been lodged in time to debate on July 14th at the earliest.

#### **The Deputy Bailiff:**

I think it is very difficult to sort that on the floor of the Assembly. Can I suggest that the Chairman of P.P.C. takes this away with the Greffier and sees whether there is any practicality in ...

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

For the health of the Assembly I have got Scrutiny hearings on those days given that these have to be arranged in advance and we have got our experts coming from the U.K. to give evidence. When these sorts of things happen and we are bringing extra dates and people alter dates to give a lot of



extra work on the 14th that could be dealt with on the 30th, nothing helps and when we are talking about altering the dates when we have got Panel hearings.

**The Deputy Bailiff:**

Can I suggest for the moment we concentrate first on the 30th. Do Members agree to take the items as amended? In other words, P.24 comes out, P.76 goes in its place, P.43 is out, as is P.64 and P.77.

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

Unfortunately Senator Syvret is not here at the moment. Projet 49 has been deferred in successive meetings and put back to a different time and it would be helpful if the Senator could give an indication, maybe in advance of what the Senator is doing, whether he is going to pursue that date or not before we all start preparing for it. I suspect he is going to do Projet 76 on that date. He may well wish to move Projet 49, but I cannot speak for him.

**The Deputy Bailiff:**

It is a matter for him. He has asked for it, at the moment, to go on 30th June. Very well. Now, on 14th July do Members agree to take the matters there as listed? The Chairman of P.P.C. has said I think she is going to consult with proposers to see if any can be either brought forward or put back to see whether the Order Paper can be shortened for that date.

**8.25 Deputy G.P. Southern:**

May I draw attention of the Chairman of P.P.C. to the fact that there are quite a number of propositions lodged by the Minister for Economic Development which were only lodged on the 2nd. I cannot believe that all of those require putting into force immediately.

**8.26 The Connétable of St. Mary:**

I am sorry, could I just remind the House also, while we are talking about that, that we did discuss last time a 5-day sitting for July 14th; it is starting on July 13th.

**The Deputy Bailiff:**

Very well, so that is agreed then, is it? So, the sitting of the States will start on the 13th and will continue for up to 5 days, possibly, if necessary.

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

Can I just ask the Chief Minister whether he is going to lodge comments in response of my P.98/2009 Suspension of States Employees: Composition of Review Panel? If he is, could I ask that they are lodged at least a day or 2 before the date of the debate.

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

The States Employment Board is meeting tomorrow morning to discuss the proposition with the Deputy and I hope we will be able to present some comments shortly thereafter.

**8.29 Deputy J.A.N. Le Fondré:**

Just from a general discussion going around in our corner of the world over here, questions on P.41, P.56, P.57 and P.58, some of which are electricity tariffs and the other ones are Economic Development - because I am looking obviously at the Minister - are those capable (although we have agreed 30th June I suppose) of being brought forward to 30th June? They have either been lodged long enough or they do not seem contentious.

**8.30 Senator A. Breckon:**

On P.41, which is the Jersey Electricity and the charges, I have deferred it once because I am awaiting a report from Economic Development [**Laughter**] and the thing is that the clock is

ticking. Really, it can be brought forward certainly if the report ... and I have just had a conversation with the Minister and that is probably not the case. Even on 14th July it looks very tight. So, that is out of my hands, so it could be that despite I have given away for that report it might not be there.

**8.31 Deputy M.R. Higgins of St. Helier:**

Also, the Economic Affairs Scrutiny Panel is reviewing the Draft Sea Fisheries (Bag Limits) at the present time and also I have been having some discussions with the Minister. All the legislation to do with the Department's conservation scheme is also going to be reviewed by the Scrutiny Panel. We are not in a position, at this point, to get on to it because of other commitments.

**The Deputy Bailiff:**

Yes, so it looks as if there may be a number of matters which will be put off. Deputy Green, did you wish to speak?

**8.32 Deputy A.K.F. Green:**

Really, I was just going to ask that P.58 be left where it is. I have been working for some time on the amendment for that and would need the time to get that in and lodged properly.

**The Deputy Bailiff:**

Can I suggest that the Assembly ask the Chairman of P.P.C. to work closely with all those who have propositions [**Approbation**] with a view, first of all, to seeing whether anything can be brought forward from the 14th to the 30th. Obviously it will be for Members to decide on the day whether to approve that. Secondly, to see whether there are any matters on the 14th which can probably be deferred to make for a manageable list on the 14th. Are Members happy to proceed in that way? Sorry, on the 13th. I beg your pardon; the Greffier has corrected me. We will be starting on the 13th. Well, subject to that do Members approve the ...

**The Deputy of St. John:**

Yes, as long as I can have mine first on the list on that day. [**Laughter**]

**The Deputy Bailiff:**

Very well. Well, that completes the business of the Assembly so we now stand adjourned until 30th June.

**ADJOURNMENT**