

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 25th SEPTEMBER 2007

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

PUBLIC BUSINESS – resumption

1 Annual Business Plan 2008 (P.93/2007): - paragraph (c)

The Deputy Bailiff:

His Excellency was last here in the early part of last week when we were discussing the Annual Business Plan. He has now returned and we are still discussing the Annual Business Plan [Laughter] but I am delighted to welcome him. We come next to paragraph (c) of the proposition in relation to the Business Plan. I will ask the Greffier to read paragraph (c).

The Greffier of the States:

“(c) To approve the summary set out in Summary Table A, page 43, being the gross revenue expenditure of each States’ funded body totalling £655,531,900 and having taken into account any income due to each of the States’ funded bodies the net revenue expenditure of each States’ funded body totalling £559,654,400 to be withdrawn from the consolidated fund in 2008.”

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

Last week we dealt with part (b) which dealt with the total spending of the States. Now we move on to focus on revenue spending. Although I have got a longish speech here I think I can probably shortcut it by referring members to page 18 of the proposition which details where the movements have occurred between 2007 and 2008. Picking out details from that, income support with the housing benefits and education benefits going through Social Security there is a significant transfer of £24.7 million there. Property Holdings has moved from various departments to my department. That is another £4 million also. The remaining transfers are the result of various support service reviews. But the analysis there also shows that we are making significant savings; another £2.4 million this year and a total overall by 2008 of £18 million a year. I remind members that together with other savings we have achieved a reduction in budget of over £30 million in recent years. But where spending has increased it has been targeted primarily to priority services in terms of the Strategic Plan review and the pressures that the States put on last year’s Business Plan. For example, we have funding for third party appeals, prison education and improvements, a fifth Scrutiny panel and a winter fuel claimant scheme. As well as those pressures the Council has also increased for supplementation and the increased cost of higher education. The Council of Ministers looked at its priorities and said really we need to continue in our focus on social benefits. That is why there is funding additionally for Health and Social Security primarily and some for Home Affairs. Can I say that although this increase is larger than I would have liked, we have tried to budget prudently and we are now I think constrained with a very tight budget situation. To summarise, Sir, of the addition, £24 million or 5.1 per cent comes from inflationary increases on pay and prices, and £12.7 million comes from net expenditure growth offset by £2.4 million in efficiency savings. Sir, the details of those changes are explained on that table. They support Table A on page 43. I propose part - whichever it is; I have lost track now - part (c).

The Deputy Bailiff:

Is paragraph (c) seconded? [Seconded] There is an amendment. I do beg your pardon. The amendment will be taken after the vote on paragraph (c). Does any member wish to speak in relation to paragraph (c)?

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

It does seem to me, Sir, this debate has become a bit of a mess; five or six days we have still got the budget debate to come when the previous budget debates only lasted four days. I am rather hoping that someone will consider reverting to the previous format because I think we have found over the

last few days that having a vague set of objectives linked with expenditure followed by taxation later on is possibly not an easy format to follow or indeed to allow members to dig deeply. I have found that there is really little opportunity for members to address the proposition as a whole in its entirety so if members will indulge me I would like to make a few general comments. The alternative is that I would speak on (c), (d), (e), (f) and (g) separately. I am sure members would prefer I made one speech instead of five. I was disappointed with amendment 9 being pulled by Deputy Ferguson. In fact I think it would be an understatement to say that I was. Maybe the amendment would have been carried; maybe lost. I do not know but it does seem to me, Sir, that at least a vote would have given us and the public a log of which members believe in working to cash limits and those who do not because currently there is much talk about fiscal prudence but it does seem to me that talk is very cheap, Sir. Also I have to say I think the worst example we had was the Minister for Education with his request for extra funding at the last meeting. I thought that his speech was the epitome of all that is wrong. A clear example of an era we are trying to leave behind. I am not picking on the Education Minister personally, Sir. I could say the same about several other Ministers. Whose fault is this? Well, ultimately ours. A few comments made by other members over previous days, Sir: "When you are in a hole do not keep digging" and: "This budget is unsustainable." Yes, we are heading towards a black hole which was of our own manufacture. I will not take up members' time explaining why or how that is. But I would like to just draw on comments I made in an earlier speech likening government to business when I look at this list of expenditure that we are asked to approve. Yes, we are not a business. We are not here to make a profit from the public although some elements of government do that in order to cover inefficiencies in other areas. But that does not mean that we should not behave in a businesslike way. Of course the trouble with government is we have no competition. We pay over the odds for nearly all the services and capital projects that we need. Whose fault is that? My analysis is, in a nutshell, because we are requiring civil servants to carry out jobs they are not qualified to do. If you go to any department... as an example you can send out your financial director or the left hand drive wheelbarrow operative. Send him out to purchase something and what will they do? They will get caught. Whoever they are buying from will think all their birthdays and Christmases have arrived simultaneously. You want some chairs here? "We have got some, just the thing. £650 each. They are good they are." Under his breath the salesman will say: "Bloody fool. Anybody else would only pay £35." I am not joking, Sir, because if you go down to the Scrutiny room you will find chairs that cost us £650 each. Another instance, Sir, some years ago I had a water pump the Government wanted to borrow. Somebody came to me, told me all the problems and their final words were: "Name your price." Sir, you do not do that. You say: "We would like to hire your piece of kit." You do not let on nobody else has got one, and you ask how much. If the price is too high you walk away because the person will come back to you and say: "I will give you a better price." Negotiating deals is an art but an art Government does not have. It does not need to have when their easy way out is to raise tax. That is why as I say I am eventually coming to the point that I cannot support this which is why I raised a few days ago the issue of management structure. To my mind we need somebody along the lines of Sir Harvey Jones from I.C.I. (Imperial Chemical Industries) as he used to be, to go through our departments. They need to be restructured to fit today's needs but instead of doing that we just keep adding to the problem. It is rather like an old inner-tube that has got a hundred patches on it and we are putting patches on patches and it still leaks. It would be cheaper to buy a new one than keep taking the tyre off and sending it for repair. We do not do that. Ministers are quite content under advice from their Chief Officers and endorsed by the Chief Minister to carry on patching things up. Why? Because we have always done it that way. Well, 40 years ago we did stick patches on inner-tubes. We even put gators in tyres; probably illegal these days. We are still patching tyres while the rest of the world has gone tubeless. Times change, Sir, not always for the better but Jersey cannot buck the trend. If we continue doing things inefficiently using yesterday's management structure and procedures, we will go bankrupt. We are going to when we hit the black hole. But unfortunately for the public, Government can carry on - unlike business - simply by raising taxes. I think it was Senator Perchard who said a couple of days

ago heading from a low cost, low tax society - and as we see here under (c) - towards a high tax, high spend economy it makes us uncompetitive. Uncompetitive with our competitors in the finance industry and tourism and agriculture and everything we do. It means they will no longer buy our services. This expenditure, Sir, that we are being asked to approve takes us further down that road of pricing ourselves out of business. It is unaffordable. It is unsustainable. Instead of seriously cutting costs we are simply carrying on going to raise taxes. I think it is 7.5 per cent if I remember correctly - we heard a lot of figures over the last few days - increase in spending. Way above inflation. Why? Because Ministers and this Assembly are quite content to carry on as before. Not for them the cost/benefit analysis that any business would carry out. When asked to stay within agreed cash limits, they refuse. The whole debate recently was about bluffing one's way out, suggesting frontline services would have to be cut. Frankly it disappoints me, Sir, because it is emotional blackmail. I also warn that when we debated amendment 9 that we face a prospect of diminishing returns probably within five years. That will be the point when we will not be having the discussions that we had about any particular Ministry prioritising its services. That will be the day when we tell the Minister concerned: "You are getting 30 per cent less and if it means you have got to close schools or fire staff so be it. There will be no redundancy pay because we have not got any money." That is why it was so important for amendment 9 to be voted on. But we need not suffer that pain, Sir. We can decide by reining-in our excesses, by prioritisation as opposed to the fiddling at the margins we have seen so far to cut back on bureaucracy and expense. At present there remains... we are told that inefficiencies have been cut out. There is no waste. I know there is and so do most other people. In fact there is so much it makes me angry. It makes me even angrier that nobody wants to do anything about it. When I asked why Health and Social Services were not having a management structure review, all I got was a woolly answer. Clearly no intention of doing anything about it because instead of doing things that are slightly difficult we take the easy way out and we raise taxes. What we should be doing is deciding first what we can afford and what really needs doing. But we are not doing that because that would require working within a budget. Unfortunately we do not know who supports working within a budget and who does not. Sir, I have come to the conclusion that under (c) which we are asked to endorse this morning we are all wasting our time. We can agree a budget but the Ministers will spend probably over it regardless, as they have done previously. Next year like this they will spend more than allocated. Fiscally irresponsible, Sir, and I believe treating this Assembly and the taxpayers in a cavalier fashion. Until that attitude changes, until something concrete is done about departmental structures, accountability and so forth, I will not be supporting these requests.

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

I am rising to say that I will not be voting in favour of the expenditure because I know it will go through but I want to make the same point that I have said before. I will repeat myself and a little bit of what Deputy Baudains said in regards to the amalgamation of Ministries. In the past I have said that perhaps Social Services and Social Security should be merged to manage the social needs of the Island under one roof. I have been giving that some thought for about a year and a half. I obviously do not have the access to the departments nor their managerial structures that Deputy Baudains has spoken about to evaluate that. Even if I did have that access obviously I do not have that acumen, Sir, to make that assessment that would be required to be made. But I note in pretty much every single business transaction that I have witnessed from the private sector - since I have been looking at the private sector some 20, 30 years working in and around those sorts of issues - whenever a large company purchases another company one may not see a reduction in services although sometimes you do. But you generally see a reduction in the duplication of the management. We have seen it recently in Jersey also where 20 or 30 middle managers that are going to duplicate and replicate what has already been done by the purchasing company get told that they will either have to become involved in another aspect of the business or go somewhere else. I am not advocating that we lay people off but what I am asking for is if the Treasury Minister and the Corporate Scrutiny Panel will undertake a review of whether or not is it possible to merge

Health and Social Services with Social Security and also Housing. Housing spends £13.6 million in the revenue forecast and makes £35 million. It has a good basis for producing an income. I think it has been headed in the right direction for some time. Health in 2008, £164 million and Social Services, £145 million - £309 million. If somebody would have mentioned that figure to me when I first became a States' member or if I would have mentioned it, I do not think anybody would have believed me. That is the trouble that I am not being believed. I think it is really time that the States thought long and hard about merging some of these Ministries. I think there is an issue with Planning and Environment. I do not really feel comfortable with Planning and Environment being under the same Ministry. I do not know what can be done about that. I plan to have a talk with the Minister on that issue in the next few days when I can find time to meet with him. I certainly do think that if Health, Social Services and Housing were put under one general social provision - one Social Services Ministry - then the savings on the expense from the letterhead itself between the three departments would probably cover the cost of the review. I am not talking about diminishing the Executive's balance of power because it is possible for them to have Assistant Ministers. As with Education, the Education, Sport and Culture Minister has two Assistant Ministers. It would be possible to allocate Assistant Ministers to those functions. But I seriously believe, as Deputy Baudains has stated, that the expenditure that we are seeing is unsustainable. Unfortunately with the tax take going down I do not see us making any new money. Although Economic Development Committee has stopped the train running flat-out, there is not enough track to lay down in front of it. No one is making any new industry in Jersey that I can see revenue from. There might be a possible way to raise revenue in the future from renewable energy. There might be something we can do but generally speaking I do not see any new product on the market that is going to come along and bail us out. We are inevitably hurtling towards that position where we will have to make some very, very tough and difficult decisions. Unfortunately for many of us it is going to have a really nasty effect. I am hoping just for once the Treasury Minister will take up my appeal and commission a review with the Corporate Scrutiny Panel and look at whether or not this can be done and report back to the States because it certainly does not need a proposition from me and a three hour debate on the issue, does it? We all know where that is going to get us. Nowhere. I will not win the proposition. We will have a three and a half hour discussion on the issue and the work will not get done in any case. But unless I do hear some form of commitment to looking at that then that is going to be inevitable. There is going to be a proposition to ask us to look at this because we have got too much overhead and not enough capital coming in. I am no great businessman but I have seen some. They certainly would not be running things like this.

The Deputy Bailiff:

Does any other member wish to speak? Very well, I call upon the Minister to reply.

1.1.3 Senator T.A. Le Sueur:

I think I thank the two members who spoke although perhaps they were speaking more in general terms than about this part of the proposition. I think Deputy Baudains in particular was trying to rerun a debate on amendment 9(a). But he suggests that overspends will continue and Ministers will have the power to overspend. Can I remind him and remind members that the States agreed last week that the cash limits were the cash limits and they will be adhered to? The only way in which Ministers can increase their spending is if this House agrees to it. It is not a question of taking the easy way out. He claims we still do things inefficiently and I think Deputy Le Claire makes the same point. Thankfully we have achieved efficiency savings over the last five years totalling £20 million. Yes, maybe we were doing things inefficiently. We are learning. We are improving. Can we improve still further? Yes, I think possibly a little bit but as with all these things you take the easy pickings first and it is going to get harder. Deputy Le Claire talks about merging departments. Frankly I thought we had a discussion about that a couple of years ago when the Ministerial system was introduced. But if you try to compare to the private sector, the private sector tend to merge businesses when there is some common synergy to it. I think before one looks at any

merging one has to see is there scope to get that synergy, to get that improvement. We did see that, for example, when Education merged with Sport and Culture. There were savings. Can it apply to Social Services and Social Security, I am not sure. They are, despite their similarity in name, quite different in operations. Anyway that is not a debate for today. That is a debate for another day. Can I look at this? I could do but I am not really an expert any more than the Corporate Affairs Scrutiny Panel is. We have retained experts in the past and they have come to the conclusion - perhaps rightly, perhaps wrongly but they are independent - that we would not benefit from that. But we can look again. Frankly we could spend all our time looking at ourselves. What we need to be doing I think is looking to what objectives the public expect us to deliver in accordance with the Strategic Plan. I think maybe these two speakers were a little bit pessimistic in respect to the future. I believe we are seeing signs of economic growth. I believe we are seeing a significant improvement in economic growth and, therefore, in States' revenue which hopefully will filter through in the future. In the meantime these proposals for 2008 reflect the total amount that we agreed last week, Sir, and I maintain the proposition.

The Deputy Bailiff:

The appel is asked for then in relation to paragraph (c) of the proposition; for or against paragraph (c). The Greffier will open the voting and I invite members to return to their seats.

POUR: 34

Senator W. Kinnard
 Senator T.A. Le Sueur
 Senator P.F. Routier
 Senator M.E. Vibert
 Senator P.F.C. Ozouf
 Senator T.J. Le Main
 Senator B.E. Shenton
 Senator F.E. Cohen
 Connétable of St. Ouen
 Connétable of St. Mary
 Connétable of St. Peter
 Connétable of St. Clement
 Connétable of Trinity
 Connétable of St. Lawrence
 Connétable of Grouville
 Connétable of St. Brelade
 Connétable of St. John
 Connétable of St. Saviour
 Deputy J.J. Huet (H)
 Deputy of St. Martin
 Deputy P.N. Troy (B)
 Deputy C.J. Scott Warren (S)
 Deputy P.J.D. Ryan (H)
 Deputy of Grouville
 Deputy of St. Peter
 Deputy J.A. Hilton (H)
 Deputy G.W.J. de Faye (H)
 Deputy J.A.N. Le Fondré (L)
 Deputy of Trinity
 Deputy S.S.P.A. Power (B)
 Deputy A.J.D. Maclean (H)
 Deputy K.C. Lewis (S)

CONTRE: 10

Connétable of St. Helier
 Deputy R.C. Duhamel (S)
 Deputy A. Breckon (S)
 Deputy G.C.L. Baudains (C)
 Deputy J.B. Fox (H)
 Deputy J.A. Martin (H)
 Deputy G.P. Southern (H)
 Deputy S.C. Ferguson (B)
 Deputy P.V.F. Le Claire (H)
 Deputy D.W. Mezbourian (L)

ABSTAIN: 0

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

2 Annual Business Plan 2008 (P.93/2007): - paragraph (c) 9th amendment

The Deputy Bailiff:

Very well. We then come to the amendment proposed by the Public Accounts Committee. That is paragraph (c) of the 9th amendment. I will ask the Greffier to read the amendment.

The Greffier of the States:

“(c) After paragraph (c) insert a new paragraph (d) as follows and renumber subsequent paragraphs accordingly: “(d) To agree that the revenue expenditure for financial forecast as set out in the reconciliation for financial forecast below Summary Table A is a figure that shall be used on which to base departmental comparatives in the States’ accounts for the year ended 31st December 2008.”

2.1 Deputy S.C. Ferguson of St. Brelade (Chairman of the Public Accounts Committee):

Members will be pleased to hear that I have only got one page today. members will have heard my complaints regarding the figures in the Treasurer’s report in the accounts. In case the weekend has proved too much I will just have a quick reiteration. In 2005 we voted for a net revenue expenditure figure of £441 million. Because of the reallocation of the 2005 underspend, transfers from the consolidated fund and other transfers, we found that we had unwittingly authorised £466 million. The £466 million is the figure which is used for the comparatives in the departmental accounts appended to the annual accounts. This is not a good basis for evaluating the financial performance of departments. This amendment requires the Treasury Minister to use comparatives based on the budget voted last week. The Public Accounts Committee has brought this amendment in order to make the accounts more comprehensible to States members and the public. I urge members to vote for this amendment.

The Deputy Bailiff:

Is the amendment seconded? [**Seconded**] Does anyone wish to speak on the amendment?

2.1.1 Senator T.A. Le Sueur:

The comments to the amendment make it clear the Council of Ministers is quite prepared to accept this amendment if it helps members to have a better comparison and understanding of how spending has changed over the course of the year. That is fine by me so I am happy to accept the amendments and hopefully that can cut the debate relatively short.

The Deputy Bailiff:

Does any other member wish to speak?

2.1.2 Deputy P.V.F. Le Claire:

Just very briefly to congratulate them for bringing it, Sir, and asking that the next Annual Business Plan expenditure portion of the day we have a small report from P.A.C. (Public Accounts Committee) showing the difference and giving us the examples as to how we have benefited from this.

The Deputy Bailiff:

Does any other member wish to speak? Very well, I call upon Deputy Ferguson to reply.

2.1.3 Deputy S.C. Ferguson:

I thank the Minister and the Council of Ministers for this. I thank Deputy Le Claire for his proposal. We will certainly take it on board. I move the amendment, Sir.

The Deputy Bailiff:

All those in favour of adopting the amendment, kindly show. Those against? The amendment is adopted.

3 Annual Business Plan 2008 (P.93/2007): paragraph (d)

The Deputy Bailiff:

We then come to paragraph (d) of the main proposition. I will ask the Greffier to read paragraph (d).

The Greffier of the States:

(d) To approve the summary set out in Summary Table B, page 44, being the estimated income and expenditure and estimated minimum contribution, if any, that each States trading operation is to make to the States' Consolidated Fund in 2008.

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

That is a detail within the 2008 figures. The Public Finances (Jersey) Law 2005 makes provision for the States to run trading operations. At the moment there are four activities within this definition. Those are: within Economic Development, the outgrowing of Jersey Airport and, secondly, Jersey Harbours; and under Transport and Technical Services, the activities of Jersey car parking and of Jersey Fleet Management. Members interested will find a financial summary on Table B on page 44 with further details and the annex to the Business Plan set out in the various headings. Sir, I move the proposition (d) of the Business Plan.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any member wish to speak on paragraph (d)? Very well, all those in favour of adopting paragraph (d) kindly show. Those against. Paragraph (d) is adopted.

4 Annual Business Plan 2008 (P.93/2007): paragraph (e)

The Deputy Bailiff:

We then come to paragraph (e) which I will ask the Greffier to read.

The Greffier of the States:

“(e) To approve each of the capital projects and the recommended program of capital projects for each States funded body for 2008 as set out in Summary Table D, page 46, that requires £42,441,000 to be withdrawn from the consolidated fund.”

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

Yes, we try to fix capital programs some way ahead and this capital program started from the base that we agreed in principle in last year's Business Plan. As always there have been some minor changes looking further into the future. They have meant some reprioritisation of the five year period in order to stay within the capital spending cash limits. The main changes are set out in section 6.2 on page 28, with further details on pages 164 and 165 of the annex. In summary, there is additional funding for the States I.S.C. (Information Society Commission) budget to £2.7 million. There is an additional £2 million for the Town Park project; some in 2009 and the balance in 2011. Individual items for fire fighting equipment at La Collette, weather radar in 2009, Emergency Services radio system in 2010, and hospital oncology unit refurbishment in 2011. The additional

funding required for these additions has been met basically by amortising the cost of the energy from waste plants over its expected useful life of 20 years to a charge of £7 million a year beginning in 2008. The resulting capital program for 2008 appears in Summary Table D with the details on page 152. Although the proposition asks us to approve each of the items, I am proposing them altogether, Sir, but members will be able to comment on each individual one. The total sum for 2008 being £42,441,000.

The Deputy Bailiff:

Is that paragraph seconded? **[Seconded]**

4.1.1 Deputy J.A. Hilton of St. Helier:

I just wanted to take this opportunity to make some comments with regard to the funding for the Town Park. The Minister has already mentioned that it does appear in the capital programme in 2009 in a total sum of £2.5 million but there are just two points that I would like to make. Ministers will be in receipt of a report next month which will outline to them the funding required to remediate the Town Park site. I have reason to believe that in fact the funds set aside for the Town Park will not be sufficient to deliver the park that I believe the public will expect. I stand today to make that point so that Ministers in the New Year when they are deciding their capital budget for 2008 onwards will take this into consideration. The other point I wish to make is that I am aware at the present time that the Connétable of St. Helier is using resources that he has available to him to try and identify alternative parking in the area of the Town Park site to bring this project forward. I just mention that because Ministers might have to bring the funding of the Town Park forward if indeed the Connétable is successful in finding temporary parking for about 300 vehicles. That was really the point I wish to make.

4.1.2 Deputy P.V.F. Le Claire:

I may be wrong. I have been wrong before. I will be wrong again. Sometimes I am right. I did not like the reference from the Treasury Minister to the indicative life of the proposed energy from waste plant being identified as 20 years. Although it may be on principle, in many of these capital expenditure allocations there seems to have been a decision made already. We seem to be walking towards a preferred solution. We are continually hearing backwards and forwards - no doubt we will now - the fact that the States is yet to make that determination.

The Deputy Bailiff:

Does any other Member wish to speak on paragraph (e)?

4.1.3 Deputy C.H. Egré of St. Peter:

I am not too sure whether this is the right time to bring this subject up. I look to the Minister for Treasury and Resources to see if it is. This is in regard to the Home Affairs bid for 2010 to replace the tetra system.

The Deputy Bailiff:

I think then that will come under paragraph (g).

The Deputy of St. Peter:

I thought it may, Sir.

The Deputy Bailiff:

When in-principle projects for 2009 onwards are considered. Does any other member wish to speak?

4.1.4 Deputy S. Power of St. Brelade:

I in error asked a question of the Assistant Minister for Economic Development last week about capital estimates for the Harbours Department. Would your reply to me be the same as your reply to the previous speaker?

The Deputy Bailiff:

It depends whether it is in relation to 2008 which is what we are debating at the moment.

Deputy S. Power:

It is in relation to 2008, yes.

The Deputy Bailiff:

It is?

Deputy S. Power:

It is. Can I ask the Assistant Minister to clarify two items on the Harbours Capital Development Programme for 2008? One is could he clarify the reference to pilots vessel? Is that one pilot vessel? Two, could he indicate if £1.9 million is being spent on the road around the west berth and does he have a contingency that these berths will be sufficient for those works?

The Deputy Bailiff:

Deputy, I do apologise. I gave you faulty advice. Of course it is paragraph (f) rather than paragraph (e) which it should be dealt with under but no doubt the Minister has noted the question and will deal with it under (f). Any other matters under paragraph (e)?

4.1.5 Deputy R.C. Duhamel of St. Saviour:

Could the Minister explain why in the thick document - the annex to the Draft Annual Business Plan 2008 - it says on pages 148 and 149 that funding repayments from the annual allocation to capital at a rate of an average of £7 million each year from mid 2008 will be noted or earmarked in the budget pending final decision from this House as to what the equipment replacement will be for the Bellozanne plant at the moment. But on page 148 in itemising these sums £7 million does not appear to have been earmarked for 2008. We have figures £3.5 million for 2008 and £7 million from 2009. Is this a mistake, Sir? The second point that is worth making is that seeing as the decision still has to be taken by this House as to what the equipment for replacement will be and as stated on page 149 it says in the second paragraph: "The Bellozanne energy from waste plant will be replaced with a modern, appropriately sized facility with the technology still to be decided by this House by 2010." Comments were made earlier, Sir, as to the sense of earmarking some £3.5 million for ground works for this plant in a particular position at La Collette before it had been determined what the plant was. I think the argument runs, Sir, that if a smaller, lighter plant is required then presumably lighter foundations and, therefore, cheaper foundations may also be required. I would not wish, Sir, as I mentioned earlier in the previous debate for the sums of £3.5 million to be earmarked to expenditure in this instance without knowing exactly what it is for but we appear to be wanting to do this. Likewise, Sir, the funding programme being set out for some £84 million to cover capital repayments. Again we do not really know, Sir, and to back me up, it says on page 149 that we do not know. But the costs exclude any financing charges *et cetera* which would vary depending on the procurement route chosen and indeed, Sir, on the decision of the type and size of any facility still to be decided. We appear to be putting the cart before the horse, Sir, in this respect. In terms of the capital financing it is a sizeable sum of money. On that basis, Sir, I would vote against it unless the Minister can assure me that decisions will be taken as to the right way to spend these moneys in this House before they are spent.

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

I welcome Deputy Hilton's remarks about the Town Park. I am concerned to hear that the price for remediation of the contamination may be higher than was expected. I think we all look forward to seeing the results of the very thorough survey work that has been carried out on the site. I am concerned also that the States seem to me to have a very poor sense of history when it comes to the capital programme. We have in the last half dozen years - certainly since I have been in the House - approved some enormous capital schemes particularly in the area of education. We have had some very large schools built. Of course we welcome the construction of new schools. But I am not aware of having seen any real analysis about whether these capital projects have met the agreed specification of the department or indeed of the teachers and pupils that use them. It seems to me we happily go ahead with our chequebook at the ready as a government. When do we stop and look back at our performance and say: "Did that particular capital project deliver value for money? Does it work the way it was supposed to? Is there an ongoing cost in repairing the mistakes that were not seen by the layers upon layers of consultants that were employed when that project was put together?" I am concerned that we just blindly carry on commissioning new projects without enough analysis of whether those projects ever lived up to our expectations. It has been said before, and it probably needs saying again, that no householder facing some financial uncertainty would be commissioning a new kitchen or a new conservatory. But it does seem to me that the States are quite happy to bring in a deeply unpopular and, in my submission, unnecessary tax on the public at the same time as cheques are written out for sums that any householder would simply say: "Well, I am not going to do that this year because I do not quite know what is around the corner and I think we can do without that extension, we can put off the conservatory until a year when we are a little bit more certain." That of course is not the problem for the States because they can simply ask the public to write the cheque. The Town Park has been mentioned, as I say, by Deputy Hilton and the cost for remediation. Clearly that has been something that should have been on our radar for at least 10 years as a House. For people to - as they probably will - criticise me for talking about spending money on the Town Park when I am opposed to spending money on other matters that I will come on to, I suppose you always get that. It does seem to me that a very sizeable petition collected a decade ago and presented in 1997 for the Town Park does carry with it a certain obligation on the States. For the States not to be willing to remediate the ground, not only is letting down the petitioners for the Town Park but of course is failing in our environmental obligations to clear up the site which is polluting the groundwater. Answers have to be delivered by the Council of Ministers for the contingency that this work mainly to be carried out earlier than they anticipated, which brings me on to a point I have raised in the Assembly a couple of times already and I have not had any answers from anyone about it. The Treasury Minister said earlier on this morning that the cash limits are the cash limits and they cannot be exceeded. Will someone explain to me why it is possible for the Transport and Technical Services Minister to get his hands on £500,000 to carry out improvements at Victoria Avenue which have not, as far as I am aware, been through any kind of decision-making process? We understand that the Town Park fund has been raided by the Minister. He is going to spend £500,000 on what I am sure are very important improvements to Victoria Avenue. That money will be repaid from some other pot in a couple of years' time when the Council of Ministers think the Town Park project will be ready to roll. That sounds to me like the exceeding of cash limits or at least of capital sums that have been agreed in the Assembly. For the Minister to say that this Assembly is the ultimate decision-making body over the spending of money by the Ministers, I remain unconvinced. I would like to know how that little bit of internal borrowing within the Council of Ministers took place. I share the concerns that have been already raised about the putting aside of several million pounds for the commissioning of an incinerator. It is no secret that I have called for a public inquiry. A public inquiry would be held in any other jurisdiction before a large incinerator was built. There is no question that you simply do not go down this road without having the kind of full public involvement in a capital project that you would see in any town in Cornwall, Somerset, wherever incinerators are being mentioned. To be certain we agreed that in the waste strategy some years ago is not really a solution because things

are moving on. People's views about their environment are changing. Recycling in particular is becoming much more important to the community. I have spoken to members of the public who are dismayed with what they see as a done deal. The States are going to build a very expensive incinerator which is going to knock the stuffing out of their recycling projects and which of course is going to cost the taxpayer a lot of money, not only in the capital cost but in the ongoing maintenance as we see from the current piece of kit which is costing an arm and a leg to maintain. I really cannot support a capital programme which neither looks to the past to analyse whether the money was well spent nor looks to the future to analyse whether the money needs to be spent in the future. I would urge members to reject the capital programme.

The Deputy Bailiff:

Does any other Member wish to speak on paragraph (e)?

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

Like the previous speaker, much has been said during this debate about the States' net revenue expenditure. You know that we spent a lot of last week discussing this. I also feel that a thorough examination of our capital projects and expenditure in future years I believe may well identify savings. I appreciate that many capital projects are essential; certainly very necessary. But I think this is one area where we maybe do need to be... I look to the Public Accounts Committee and I think Property Services. We need to see if there is any way to cut-back - rein-in - that budget in future years.

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

I was quite taken with some of the words that Connétable Crowcroft articulated.

The Deputy Bailiff:

The Connétable of St. Helier.

The Deputy of St. John:

Sorry, Connétable of St. Helier, I beg your pardon, Sir. Particularly on a review of the capital programme both in the past and the present. For example, we spent an awful lot of money on schools in recent years which is wonderful and I think we are all seeing the benefits of that. However, I get reports back from the likes of Le Rocquier School, for example, which is wonderful but we did not put any air-conditioning in so the teachers and pupils are finding it quite difficult to concentrate and learn when it is very sunny which unfortunately did not happen quite as often as we would have liked this summer. Nevertheless, in our Indian summer it certainly is. Likewise, has a review of that capital investment happened? I think what the Connétable was suggesting is clearly something we should be looking at. Also perhaps the Minister could confirm that all the proposed projects are in fact essential and not conservatories and double-glazing as the Connétable of St. Helier was suggesting. Could he also confirm that he is firmly of the belief that the Town Park is an essential item and not perhaps a conservatory or a very loud voice winning the day?

4.1.8 Deputy S.C. Ferguson:

I would point out to members that after the cavern debacle the Audit Commission of the day came up with very strict guidelines for large capital project management. In fact the Treasury took these on board and applies them. However, I do sympathise with members and I think perhaps we do need to stand back and query if large projects are needed, why they are needed. Yes, we need to take a step back and I am hopeful that during the next year the Council of Ministers will put their minds to this.

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

As Assistant Minister for Education, Sport and Culture that was on the Committee before the Ministry when these capital projects... if you remember at the time many of the schools were falling apart and were in desperate need of replacement because of a policy that we had in the 1960s and 1970s. Indeed many of the shortfalls that we hear about were rectified at that point but because of budget constraints and cuts not everything was able to be included and things were pared-down. But nevertheless, one can see by the results that the education service is providing, not only in its G.C.S.E. (General Certificate of Secondary Education) and A-levels, but in all other fields, it has been remarkably successful in recent years. There are still things that need to be done, clearly, but it is a process. In regard to the energy from waste plant that has been discussed, I am very concerned that we should make sure that we have sufficient funding to fulfil whatever the States decide. This is the moment in time when we have to make those decisions, even if it is before the event. We made the mistake before of having an energy from waste plant that was too small, and we had to add to it later, which subsequently cost a lot more. Also, as I said before, in European terms the current energy from waste plant should have been closed down in 1996. It is breaking down all the time, and the surplus waste that cannot be accommodated at this time is being stored in bales at La Collette. So, I think there is a need for prudence. It does not necessarily mean you have got to spend all the money if you have allocated it if other considerations come in. But I think it very prudent at this time that this money is recognised to be set aside for whatever eventual decision is made by the States. Thank you, Sir.

4.1.10 Senator F.H. Walker:

Very briefly, Sir. I have to say I am a bit dismayed at some of the suggestions that the capital programme has been put together almost on the back of a fag packet without the necessary thought, discussion and indeed scrutiny of the various options. As in all years, the programme proposed represents a choice. Of course it does, because it just is not possible to fund all the projects that have been put forward for 2008. It represents a choice. But it is a choice that has been extremely carefully made by both the Corporate Management Board and, in particular, the Council of Ministers. I am not quite sure what members are looking for here. There seems to be some suggestion they opposed the programme, which means that we have no capital projects funded for 2008 at all. Are members suggesting that the programme is wrong, and if so, why are there no amendments to it? That would have been the way forward. But to oppose the programme *en bloc* is just irresponsible, basically. Sir, I would just mention two specifics that have been made in the debate. The first is the energy from waste plant. Well, we have been debating this and debating this and debating this for so long that I have forgotten when it started. What I do know is that the longer we go on seeking to find an alternative - an alternative to which the States have previously agreed - the worse the situation at Bellozanne, which is close now to critical, is going to become. We are in danger of having a serious collapse. I do not mean a building collapse, I mean a collapse of our ability to process our waste. We have to press on, we just have to press on. I am afraid to suggest that we can recycle everything and not have an energy from waste plant is pure fantasyland - cloud cuckoo land - call it what you will. Why is it that there is now more demand for energy from waste plants from around Europe than we have seen for many, many years, if not ever? It is because other countries are taking exactly the same decision, because it does represent the sensible way forward. Sir, I must make one brief comment about the contribution from the Connétable of St. Helier who makes great play on the fact that he has been successful in bringing down the costs of running the Parish, whereas the States have not been successful in bringing down their own costs. Well, Sir, he has done a good job in controlling costs, but if we look at the reality of the money the Parish spends, we will find that one of the reasons for that, and one of the principal reasons for that, is that the States have taken over the burden of a considerable amount of funding which used to be the responsibility of the Parish. So, I think some reference to that in terms of equity might have been helpful. But, Sir, I would urge members not to be in any way persuaded that it is a good idea to throw out this capital expenditure programme, because that would result in chaos in some very

much needed projects which have to go ahead. I mean, look at the health replacement I.C.T. (Information and Communications Technology), the below-ground works at the airport, Highlands blockade, a whole wodge of things that have to go ahead. If we vote this out, as I say, we are just going to end up in chaos, and that is not the right way forward. The right way forward, if members have reservations about the planned programme, would have been to have brought amendments. So, Sir, I urge members to support the programme.

Deputy C.J. Scott Warren:

Could I ask for a point of clarification before we take this vote? With all due respect to the Chief Minister, the concern is that the States have not taken the final decision on the energy from waste plant and the size of the energy from waste plant, and yet in the budget we are allocating the funds. I stand to be corrected, but I understand there may be a planning application already with the Planning Department before the States have made this decision. Obviously I support the capital budget this year, but what I want to ask, Sir, is if we go ahead, are we, by agreeing what is in this plan, agreeing to something we have not formally agreed to which has not come back to the States, by signing up to this capital expenditure? Thank you, Sir.

The Deputy Bailiff:

Do you wish to give any clarification, Minister?

Senator F.H. Walker:

Well, Sir, I am not sure it is for me to answer that, but, no we are not agreeing to anything in any sort of underhand way or whatever. Yes, the States will have the final decision on whether or not an energy from waste plant goes ahead. But this is what is considered to be a prudent provision in that eventuality. I would urge members to see the wisdom of that and to fully support it.

4.1.11 Deputy G.C.L. Baudains:

Building on the speech by the Chief Minister, Sir, and this energy from waste plant, I do hope we can put this to bed one day. But he did say that Europe was building energy from waste plants apparently as if they are going out of fashion. But, of course, this is to replace landfill which is even more unacceptable. Of course, yes, we do need a new plant, and nobody is disputing that. What seems to be the centre of contention is what type of plant we should be having, and I can understand the comments that have been made by people previously, that it is perhaps unwise to be putting in foundations when we do not know what the building is going to be. Could I seek assurance from the Treasury Minister? I have no problem with money being set aside, because clearly we are going to need a large sum of money in the future. So, building it up in a fund makes sense to me. What I am concerned about is what has been suggested recently in this Assembly, that we are going to start spending that money on doing ground works which, as I say, we are probably going to end up having to dig up because they are inappropriate for the piece of kit that we decide on. It would seem more sensible to me that the money is put aside in an interest-bearing account, ring-fenced for the purpose, until such time we know precisely what it is we are going to build. If I could have that assurance I would be a lot more comfortable with this. But I do get the impression that is not the case.

The Deputy Bailiff:

Does any other Member wish to speak? Very well. I call upon the Minister to reply.

4.1.12 Senator T.A. Le Sueur:

I think I will begin with the energy from waste plant. That seems to have generated the most heat this morning. [Laughter] I draw members' attention, if there are any doubts, to what Table D says. It says: "Transport and Technical Services Energy from Waste Sinking Fund", and that is all we are proposing. We are proposing a sinking fund into which monies will be put. Those monies will not

be released other than for planning purposes until such time as the nature of that plant has been agreed. But I hope...

Deputy P.V.F. Le Claire:

Could I just ask for a piece of clarification, please? The reason I started the debate on this was that during the Minister's own speech, he indicated that the indicative life of the plant was 20 years. That is why I made the point that if one talks about the indicative life of a plant being 20 years, and money being set aside for that plant, then one must assume that one is hearing somebody talking about a plant that is being considered - a plant, a type of plant, with an indicative life term of 20 years.

Senator T.A. Le Sueur:

What we are doing here is putting aside a relatively small sum of money, acknowledging the fact that even after five years, and having spent 47s are 28, £31.5 million, whichever plant we came up with is likely to cost that sort of money or more, a lot more. But in any case, if it was not used it would be refunded. I think, taking up Deputy Le Claire's point, he asks if therefore I identify the plant and does it have a 20-year life. No. This is simply a financial planning arrangement that we write off the cost over a 20-year period. Now, it may well be that the plant lasts 30, 40 or 50 years. I have no idea. I hope it will be a long-lasting plant, but from a financial planning point of view, it is wise to write these things off over a realistic timescale, and in my view a 20-year timescale, whatever the nature of the plant, would be a realistic timescale.

Deputy P.V.F. Le Claire:

May I just once more ask the Minister to give way? It is just that during the public scrutiny hearing this week in the town hall, the evidence that we received was that it was a 20-year life determined for that plant as well. So, it is just remarkably coincidental.

Senator T.A. Le Sueur:

It may be coincidental, Sir, but this plan was produced months ago and it was not produced on anything other than financial arrangements of good practice that you normally depreciate an asset over its expected or useful working life, and this was just a figure that was used. Going on then to Deputy Duhamel, who questions the figures. I hope I said, certainly the Business Plan says that we would reduce this funding from mid 2008, so at a rate of £7 million a year, for 2008 being midway through the year, the figure that was put into the accounts for this year's sinking fund is £3.5 million. Thereafter in subsequent years, members will see it goes up to £7 million. I have perhaps been remiss in talking at all about future years when Table D relates specifically to capital expenditure for 2008. I will go back and talk about things like T.E.T.R.A. (Terrestrial Trunked Radio) and fire-fighting equipment when it comes to that part of the proposition; and indeed, Sir, the other questions of Deputy Power, when we come to part (e) of the proposition. The other main source of concern was the Town Park and I am aware from Deputy Hilton's comments and others, that the funding we have may not now be sufficient to discharge all the necessary remedial works. If then, further expenditure is needed, it may well be that the capital programmes for 2009, 2010, 2011 and 2012 or whenever, will need to be re-jigged to take into account the actual monies that are needed. That decision will be made year by year, just as this year we have had to re-jig the capital programme slightly from what we agreed last year. I am pleased that the Parish is looking at alternative parking arrangements. If that means that the Town Park can be brought forward and arrive earlier, I am sure everyone will be very pleased. But at this stage, we plan on the basis of the information we know, and this is the best we know at this stage. The Connétable of St. Helier, though, does make a good point in terms of the process for capital expenditure. As Deputy Ferguson says, we are now very good at working out beforehand the best value for money for a scheme, and the guidelines which the Audit Commission produced are implemented by my department. Property Holdings, and previously members of my Financial Committee, go through

any capital schemes with a fine toothcomb and, I think, people like the Minister for Home Affairs will know just how much we have poured over the police station in order to get the cost of that down. But we do not, I think, look back having built a capital scheme and say: "Is that delivering what we expected it to do? Can we learn from what we have done?" That is something that I think we need to take up at a Council of Ministers, and I appreciate, and I thank the Connétable and the Deputy of St. John for making that point. He asks about whether the Council of Ministers have got around cash limits, and I point out to members that we have agreed the total cash limits now for the five years 2008, 2009, 2010, 2011 and 2012, and within that period there may be some internal flexibility. The important thing for members to realise and understand and take comfort from is the fact that the overall spending is totally fixed. If one puts it in one year or another for convenience reasons within that framework, that is fine; if one does it outside the framework, that is not fine and is not allowed, and the Public Finance Law will be in breach. So, what we are doing is spending within the total spending envelope of the States. He would like a public inquiry before building an incinerator. Well, that is fine. In any case, whatever solution we come up with is going to cost money. What we are putting aside is just the initial funding for whatever final scheme is arrived at. I hope, then, that that deals with the concerns of Deputy Scott Warren about the energy from waste plant. This funding has nothing to do with the planning application. This is just putting money aside for good financial planning. I think, Sir, that probably deals with most things. Deputy Ferguson also asks: "Do we need all the future capital expenditure that we have put down there?" I can assure her and members that capital programmes that came from the Council of Ministers must have totalled something like £400 million or £500 million over the next five or six years. There has been a significant amount of pruning coming down. This is what the Council of Ministers believe is the most important, the essential capital spending that we have to make over the next five years. Frankly, there are lots more capital schemes which Ministers would consider as essential which the Council of Ministers has said: "Sorry. They may be essential but we cannot afford them."

Deputy S.C. Ferguson:

Sorry, Sir. Can I perhaps clarify my comments, where I said that in fact before we need to go into capital expenditure, we need to consider more carefully perhaps? I was not saying that these should be reconsidered.

Senator T.A. Le Sueur:

I may have misunderstood the Deputy. But the fact is that all these capital schemes are considered by the Council of Ministers, and frankly it is quite a battle to get the figure down to what we need to squeeze into the overall envelope. If members look at the annex to the Business Plan, they will see comments about a number of other plans already identified which we said may be funded in the future but cannot fund at this stage. So, do we need it all? Yes. But if some members think that there are projects missed out that should be of a higher priority, then they can amend the Business Plan. If they think that some of this capital expenditure is unnecessary, then they could equally have brought an amendment to withdraw it. But, as I say, the Council of Ministers believe that all this expenditure is necessary, and it will all be delivered, as far as we are concerned, at best possible value for money. So, for the moment, Sir, I propose just the capital expenditure allocations for 2008 as set out in Summary Table D, totalling £40.141 million.

The Deputy Bailiff:

The matter before the Assembly is for or against paragraph (e). All those in favour of document paragraph (e) kindly show. The appel is called for. Very well. Would all members return to their seats? So, the appel has been called for in relation to paragraph (e). For or against paragraph (e). The Greffier will open the voting.

POUR: 35

Senator L. Norman
 Senator F.H. Walker
 Senator W. Kinnard
 Senator T.A. Le Sueur
 Senator P.F. Routier
 Senator M.E. Vibert
 Senator P.F.C. Ozouf
 Senator T.J. Le Main
 Connétable of St. Ouen
 Connétable of St. Mary
 Connétable of St. Clement
 Connétable of Trinity
 Connétable of St. Lawrence
 Connétable of Grouville
 Connétable of St. Brelade
 Connétable of St. Saviour
 Deputy A. Breckon (S)
 Deputy J.J. Huet (H)
 Deputy of St. Martin
 Deputy C.J. Scott Warren (S)
 Deputy J.B. Fox (H)
 Deputy S.C. Ferguson (B)
 Deputy P.J.D. Ryan (H)
 Deputy of Grouville
 Deputy of St. Peter
 Deputy J.A. Hilton (H)
 Deputy G.W.J. de Faye (H)
 Deputy J.A.N. Le Fondré (L)
 Deputy D.W. Mezbourian (L)
 Deputy of Trinity
 Deputy S.S.P.A. Power (B)
 Deputy A.J.D. Maclean (H)
 Deputy K.C. Lewis (S)
 Deputy of St. John
 Deputy I.J. Gorst (C)

CONTRE: 6

Connétable of St. Helier
 Deputy R.C. Duhamel (S)
 Deputy G.C.L. Baudains (C)
 Deputy J.A. Martin (H)
 Deputy P.V.F. Le Claire (H)
 Deputy S. Pitman (H)

ABSTAIN: 0**Deputy P.V.F. Le Claire:**

Could I ask for a piece of guidance from you, Sir? Is it really appropriate that when members are asking for a reading out of the way members have voted, to intimate that that was the reason for the rationale behind why they voted? If that is going to become the practice, Sir, is that really appropriate is what I am asking you, Sir? It does not seem to intimate that people have voted for a particular reason.

The Deputy Bailiff:

I agree. Normally one simply asks for the number of votes, but I am not sure it is for the Chair to prevent any attempt at levity occasionally.

5 Annual Business Plan 2008 (P.93/2007): paragraph (f)

The Deputy Bailiff:

Now paragraph (f) is the next matter, and I shall ask the Greffier to read out paragraph (f).

The Greffier of the States:

“(f) To approve each of the capital projects in the recommended programme of capital for each States’ trading operation, as set out in Summary Table E, page 47, the required funds to be drawn from the trading funds in 2008.”

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

This is where Deputy Power can ask his questions about the RO-RO and the like, because just as we have considered the revenue expenditure of the trading operations, the Public Finances (Jersey) Law requires the State to approve the capital spending of those operations. Although we approve that capital spending, it does not add to our overall total expenditure because the money itself comes out of the trading funds of those particular entities. So, that is the difference, Sir. The airport, although it will be spending £26.5 million on various schemes will be doing that from the airport’s trading fund. Although the harbours will be spending £23.7 million, they will be delivering that from their trading funds. The fleet management will be replacing vehicles for £200,000 from their trading fund. The details are provided within the annex of the Business Plan for each of the individual items. I propose the amount in total, and suggest that members with concerns may want to address them primarily to the trading departments responsible.

The Deputy Bailiff:

Minister, do you wish to take up the question you know is forthcoming from Deputy Power?

Senator T.A. Le Sueur:

Only in general terms, Sir. The trading operation, by its very nature, has to engage itself in replacement of capital assets, and in ongoing business programme, and as part of that ongoing business programme for 2008, the Economic Development Department, the harbour section of that, has decided that their RO-RO berth and their dredge pump and their pilot vessel need replacing and they have the funds within their trading fund to do so. This is the business plan for that department, Sir, and frankly one does not necessarily query the trading operations of departments. One assumes that they are running their departments in a commercial way.

The Deputy Bailiff:

Is paragraph (f) seconded? [**Seconded**] Does any member wish to speak on paragraph (f)? Yes, Connétable of St. Brelade.

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

If I just may ask the Treasury Minister for a bit of clarification on some figures? I note that in the total given for 2008 under the capital programme, the previous item mentioned was £3.778 million. Yet, on page 41 of the annex under the trading funds I see that other capital expenditure estimated 2008 is £8.119 million. So, we seem to be about £3.7 million short. I wondered if you could account for that, please? Thank you, Sir.

5.1.2 Deputy S. Power:

Yes, Sir. It is inappropriate for me now to ask a question of the Treasury Minister, because they were operational issues relating to the capital programme in the Harbours Department that I want to ask a question about. I attempted to ask this question last week, and I was told by the Bailiff after a degree of uncertainty by the Bailiff that it was inappropriate for me to ask that question last week. Indeed, Sir, when we came to section (e) which relates to Table D, you also had a degree of

uncertainty as to how this should proceed. I am not going to ask the Treasury Minister a question, but the point I want to make now, and it refers to last week as well, is dealing with (e), (f) and (g), capital projects 2008 and then capital projects pertaining from trading operations, and then (g) principle revenue and capital for 2009 to 2012. That infers three separate questions, if I want to ask one question of the Harbours Department of their capital expenditure programme. I do not have a criticism of the Harbours Department. It was clarification. So, I would say to the Treasury Minister, in future when a member wants to ask a question about either revenue or capital, that these detailed figures be set out in a manner that makes it easier for members to ask these questions. My summation of the way it is laid out at the moment is that it could be laid out in a more readable way. I am not an accountant, Sir. You are not an accountant, Sir. The Bailiff is not an accountant. I struggle with these different tables, Sir, and I have some practice. This is my second business plan, but it irritates me that I cannot ask when I am supposed to ask, and then it is inappropriate for me to ask the Treasury Minister when I should be asking either the Assistant Minister for Economic Development or the Economic Development Minister. Thank you, Sir.

5.1.3 Deputy P.V.F. Le Claire:

I am not an accountant either, Sir, so we are not getting very far. But accountability is really the key word. The Minister said that he would assume that most members would believe that the various departments are running their operations from a trading perspective, and on the grounds that they would manage their funds from a trading perspective sensibly, one would not necessarily need to doubt their ability to do so, and I do not. Some general questions, maybe for the future, in relation to the expenditure on runway at the airport, and I know that that is a necessity. But there has been, since I came to the States, an enormous amount of money spent on the airport - and an ongoing amount of money spent on the airport - which draws us into questioning how it is being paid for and how it is being predicted. Those particular questions are not why I am speaking. Those, perhaps, are for another day. I am certainly not asking for the Economic Development Minister to justify them, as I believe that they are necessary. But what I would ask about these figures is along the same line as Deputy Power has done, Sir, because I am a little uncertain about them. We are being told that these are all to do with the trading funds. Yet, within the asterisk on page 47, we see the runway construction and the fire pumps are allocated. Under the asterisk: "These items are designated below-ground works for which a rolling allocation is currently provided from the States' capital programme." So, it is that that I am seeking clarification from. Are these funds set aside in a rolling programme in terms of the States' capital programme as indicated on this page? In which case, why are we being told that these are being funded from the trading accounts? I am just uncertain. I am not an accountant and cannot figure these things out, but from an accountability perspective, when anybody asks me to justify what the States are doing in respect of some of these issues, I am scratching my head just as much as they are.

The Deputy Bailiff:

Does any other Member wish to speak on this paragraph?

Deputy G.C.L. Baudains:

Yes. Seeking clarification from the Chair, Sir, we seem to be now making some progress with this moving through and I am not quite clear where we are. We are supposed to be debating (f), but according to my crib-sheet here, that includes matters through to (i). Is that the case, Sir? Because I wish to comment on something under (g).

The Deputy Bailiff:

No. We are only on (f) at the moment.

Deputy G.C.L. Baudains:

We are only on (f). Okay.

5.1.4 Deputy A.J.H. Maclean of St. Helier:

Just very briefly, I have a degree of sympathy for Deputy Power over there who has tried on various occasions to ask questions relating to the Harbours Department. Rather than go into details now, Sir, I would suggest I am more than happy to talk to him privately afterwards and answer his questions. I did not catch the full detail of them, but I am sure we can answer them and settle the issue later. The same applies, Sir, to Deputy Le Claire who also has a question which I am sure we can answer separately.

The Deputy Bailiff:

Does any other Minister wish to speak? Very well. I call upon the Minister to reply.

5.1.5 Senator T.A. Le Sueur:

Yes, the Connétable of St. Brelade has well spotted the fact that the figure of £3,778 million does not agree with the figure on page 41. That is because the figure on page 41 in the annex is really a rolling thing in terms of actual timing. It may be that in 2008, that £8.119 million will include capital expenditure voted in the previous Business Plan but not yet spent in earlier years and due to be spent in 2008. There was a question last week as to why we had some unspent capital votes still hanging around. That is probably an example of one of them. Deputy Power's questions about harbours: yes, I too sympathise with this. The Business Plan is set out after considerable thought in order to conform with the Public Finances (Jersey) Law, and if we did not conform with the Law we could not pass the Business Plan. It does occasionally make the way of proposing and debating these things a little bit confusing. I am happy to talk to the Greffier, the P.P.C. (Privileges and Procedures Committee) and anybody else, to see if we can improve on that, so long as we do it within the constraints of the Public Finances (Jersey) Law. Deputy Le Claire makes the point that accountability is key, and he then again notes that the runway construction has a reference to below-ground works. I just draw his attention and the attention of other members to the fact that a few moments ago, in a previous proposition, we approved Summary Table D and within that lot, members will see the third item down, E.D.C. (Economic Development Committee) airport below-ground works has an allocation of £2.841 million. That is an ongoing allocation every year. We transfer just under £3 million to the airport for their below-ground works. What we have here is the amount being spent from the trading fund in respect primarily of above-ground works, but there is clearly some overlap. That, I think, explains why the figures appear in two places. How can long-term airport funding be paid for? That is a discussion which I am happy to have with the Assistant Minister for Economic Development. All I do know is that running airports is an expensive business. There is significant capital expenditure to be achieved year to year, and that requires good planning and a good business plan and forward planning. I am confident that is being achieved, and if we can deliver the funding to the airport in a better way, we will certainly do that. At the moment what we have here is a system which has been approved by the States and which is being delivered. I think, Sir, that deals with the trading fund operations 2008, and I propose paragraph (f).

The Deputy Bailiff:

All those in favour of adopting paragraph (f) kindly show. The appel is called for in relation to paragraph (f). I invite members to return to their seats and the Greffier will open the voting.

POUR: 29

Senator L. Norman
Senator F.H. Walker
Senator W. Kinnard
Senator T.A. Le Sueur
Senator P.F. Routier
Senator M.E. Vibert

CONTRE: 4

Connétable of St. Brelade
Deputy R.C. Duhamel (S)
Deputy G.C.L. Baudains (C)
Deputy P.V.F. Le Claire (H)
Connétable of St. Brelade
Deputy R.C. Duhamel (S)

ABSTAIN: 0

Senator P.F.C. Ozouf
Senator T.J. Le Main
Senator J.L. Perchard
Connétable of St. Mary
Connétable of St. Clement
Connétable of St. Lawrence
Connétable of St. Saviour
Deputy A. Breckon (S)
Deputy J.J. Huet (H)
Deputy of St. Martin
Deputy C.J. Scott Warren (S)
Deputy J.A. Martin (H)
Deputy S.C. Ferguson (B)
Deputy of St. Peter
Deputy G.W.J. de Faye (H)
Deputy D.W. Mezbourian (L)
Deputy of Trinity
Deputy S.S.P.A. Power (B)
Deputy S. Pitman (H)
Deputy A.J.D. Maclean (H)
Deputy K.C. Lewis (S)
Deputy of St. John
Deputy I.J. Gorst (C)

Deputy G.C.L. Baudains (C)
Deputy P.V.F. Le Claire (H)

6 Annual Business Plan 2008 (P.93/2007): paragraph (g)

The Deputy Bailiff:

Then we come to paragraph (g), and I invite the Greffier to read that paragraph.

The Greffier of the States:

“(g) To approve in principle the total net revenue expenditure for the States’ funded bodies as set out in Summary Table C, page 45, for the period 2009 to 2012, and proposed programme of capital projects for the States’ funded bodies for 2009 to 2012 as set out in the Summary Tables F to I, pages 48 to 51 respectively.”

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

Now, this part of the proposals really represent part of our longer term financial planning and discipline. What it does is to take the total spending for those next four years 2009 to 2012 which have been set down and agreed by the States, and now explain in general and principle terms how at this stage we would expect that money to be allocated. I say “at this stage” because things may well change over those four years. We have had the indication, for example, that the Town Park might need extra capital funding to be shifted from some other direction. But they are based on the best possible information we have at this time; best possible information particularly in terms of future pay awards, future inflation rates, likely efficiency gains and so on. The capital programme for each of those years is also set out, but again I stress, in principle. But the theme really is moving away from make do and mend into investing into proper infrastructure support. I think, perhaps, in the past we have been a bit remiss on our infrastructure support. I think what we are doing now is doing a lot more to improve that. Over those four years we are putting in £20 million to support I.T. (information technology); £90 million for Transport and Technical Services for the infrastructure in roads and drains; £28 million for the replacement energy from waste plant, whatever plant that may be; £50 million for sewage treatment works; and £11 million for the airport below-ground works - things affect our infrastructure, which it is vital we keep up-to-date. That means that really, whether

we want to have a capital programme or not, we really have to have a capital programme of some sort, just to maintain that basic infrastructure. There are others as well. Indeed, the plan pursuing this idea of forward thinking does indicate what might be coming along in 2013, 2014 and even 2015. But there is a lot of water to go under that bridge or down that sewer before we get to those dates. At the moment, Sir, these are simply in principle. Particular items in the capital programme on the prison improvement plan, the sewage treatment works, improvement to Les Quennevais School - all those items are individually made up in detail in the annex, Sir, and I do not propose to go through them in detail. I just move proposition (g).

The Deputy Bailiff:

Is the proposition seconded? [**Seconded**] Does any member wish to speak to paragraph (g)?

6.1.1 Deputy S.C. Ferguson:

Paragraph (g) of the proposition states that we will be voting to approve in principle the total net expenditure for the States' funded bodies. The proposition does not say that it is for each of the States' funded bodies, and it is questionable, as I said last week, as to whether we are voting for each departmental total. Can you clarify that for me, Sir? Am I correct in my thinking?

The Deputy Bailiff:

Well, the proposition says: "To approve in principle the total net revenue expenditure." So, there is a total as set out in summary (c).

Deputy S.C. Ferguson:

So, we are approving the £602 million, the £618 million and so forth. We are not approving £14.757 million for the Chief Minister's department or the £727,000 for the Governor's department?

The Deputy Bailiff:

Well, that is how the total is made up, is it not?

Deputy S.C. Ferguson:

Yes, but are we voting on the detailed allocations or are we just voting on the total?

The Deputy Bailiff:

Minister, you were questioning...

Senator T.A. Le Sueur:

In my view, Sir, and I will be guided on this one, the Public Finances (Jersey) Law only allows us to set firm budgets one year in advance. So, the best we can do under the Law is to give an indication of what is most likely to happen as far as we know at this stage. So, in respect to both the capital and revenue expenditure, we are not trying to mislead the House; we are simply saying that this is what we see at the present time as the way it will be done. But there is no indication, and certainly there is nothing in the Public Finances (Jersey) Law which would stop Ministers re-prioritising or reallocating those funds within the total. What we cannot do is change the total figure. That is why I think the proposition as it stands is properly worded. We agree the total figure and we approve in principle, that this is the way we expect to spend the money. I do not know if I have clarified it or made it more confusing, but that is my interpretation.

The Deputy Bailiff:

I think, Deputy, the whole thing is in principle. In other words, this is not a formal approval under the Finance Law. This is approval in principle and it has been indicated both total and, I would have thought, the way it is made up.

Deputy S.C. Ferguson:

Yes, but the way it is made up can be changed to the Minister and the Council of Ministers' hearts' content. So, I would remind members it is fairly clear we are voting only for the bottom line. As we have already said, the departments and the Minister can, under the auspices of the Finance Law move projects round or their allocations round as much as they want. So that when Ministers stand up and say they do not have a sufficient budget, we are not voting on that. We are just voting on the way the Treasury Minister gives them their budget.

6.1.2 Senator F.H. Walker:

Can I just add to what the Treasury Minister said, and indeed, what you yourself said. This is only in principle, and just as we have done this week and last week, in approving the detail of the 2008 Business Plan, so we will have to do the same and nothing is approved, nothing is allocated for 2009 or beyond until we have had the equivalent of this debate in each successive year. This is to give members the clearest possible indication of how the Treasury and Resources Minister and indeed the Council of Ministers, see spending most likely to be allocated in forthcoming years. But it is not binding and cannot be binding until this House has approved it in each of the annual business plan debates.

6.1.3 The Deputy of St. Peter:

Having taken on board all that has been said, and the fact that this is in principle, I will bring this back to the point I was trying to make earlier with regard to the expenditure on T.E.T.R.A. It is essential that this Assembly is provided with good accurate information when they are making decisions in the cases of expenditure of this sort of magnitude. I have to say, looking at the information that was provided for us in the main booklet on page 158 regarding this expenditure, I was concerned about it. Just to give some history, I believe in 1998, a new T.E.T.R.A. system was developed. In fact, it was developed in Jersey and the actual trial was done in Jersey. In 2000 the system was adopted, and also adopted in many areas in the U.K. (United Kingdom). At that time, the system had a 15 year guaranteed life. It therefore saddens me to see that in the submission for the replacement of the radio system, it says that in 2010 that the system is reaching the end of its operational life. I do not see it that way, Sir, and I do not think anybody else does. It has at least another five years to run. Also, in that submission it quotes the costings of £4.45 million.. Now, I am quoting from the *Government Radio Communications Corporate Approach Report*, which I managed to get hold of yesterday, and it very clearly defines that this expenditure of £4.45 million, and I quote: "The replacement system project provisionally allocated in 2010 programme, is based upon the assumption that..." and I quote again in emphasis: "The minimum requirement replacing the States of Jersey Fire and Rescue Force and the States of Jersey Ambulance radio system will be met at a cost of £4.45 million." It then goes on to say that other users - which I will outline in a minute - will secure funds in their own right to enable them to join the replacement system. That means there will be further expenditure. It is going to cost us £4.45 million to supply the system. Now, to outline: the owners are as I have described; the sharers include St. John Ambulance, Customs and Immigration, Honorary Police, T.T.S. (Transport and Technical Services), Jersey Harbours, Jersey Airport, Magistrate's Court, Health and Social Services and H.M. Prison. They will all have to find money out of their capital votes themselves to bring this system into force. All I would do is put the Treasury Minister on notice that I think this should be reviewed in detail on two counts: that this may be desirable but certainly does not appear to be essential for 2010, and that the information that has been provided should be scrutinised very carefully. Also, I feel it

would be useful if our Island Emergency Planning Officer was to head up the review of these costings, because it would appear that he has not been consulted.

6.1.4 Deputy G.C.L. Baudains:

We were told by the Chief Minister this is in principle and not binding but, of course, we have all been there before, and we know that when things come back to us, they say: "Well, it is too late to change this. We have already started spending money, evaluating these things and moving down the road, because you did agree it in principle." So, we need to be mindful, Sir, of the fact that these matters come back and bite us and have done in the past, and I am sure they will do again. So, having said that, Sir, I do appreciate, as the Treasury Minister has said, that there is a degree of educated guesswork involved in compiling these tables. In an attempt to be slightly better educated, Sir, I would like to have some better understanding of why, under Table G, the Chief Minister's corporate I.C.T. is £5 million. It seems to me it is rising. I would like to have some indication of where this money is going. Not to repeat the excellent explanation given by the Deputy of St. Peter, I do have concerns myself about the T.E.T.R.A. radio replacement. If nothing else, why does it come under the heading of Property Holdings? I would have thought it was Home Affairs. On page 49, being the cynical fellow I am, I get the impression it is designed to be missed. If it does, in fact, have seven years left in it at present, that means come 2010 it will still have four years of life. Why is it in (g) for 2010 when apparently that is not necessary? I would like some explanations of those two issues, Sir.

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

Just to pick up a few of the points that have been made. The item is under Property Holdings because there has been pressure put on us to move our capital projects across to Property Holdings. So, that is one of the projects that comes under that particular title. But going to the actual aspects of T.E.T.R.A., the Deputy of St. Peter will be aware that there are some technical difficulties with T.E.T.R.A. and some blind spots. My information is that there will come a time pretty soon when that system will no longer be able to be supported. But to cover the point particularly about the amount that is put in the budget, Sir, this amount is of course put in for 2009 and beyond. It is an estimate, and there is plenty of time to do more work on the figures this year and next year, before the Business Plan comes before the House next year for 2009 allocations. We have, Sir, a cross-departmental working group which is set up to look at this whole area including the figures. I am not entirely sure whether the Emergency Planning Officer is a member of that group, because this group was set up before he was in post, but certainly I would have no objection to him joining the group if he has an interest to do so. But the final figures that will come back to this House to be decided upon will, to some extent, depend on how far the roll-out of T.E.T.R.A. replacement goes. Do we just replace police and fire which was the original consideration, or whether, indeed, we roll it out to the other users - the sharers, as they are called? Indeed, the working group has already suggested that there are some advantages, and indeed potential economies of scale, that might be had from a joint bid covering all of the emergency services and sharers. There are also advantages in technology as well that we might be able to take advantage of in bringing down the cost. But, Sir, the working group has yet to report back with its conclusion. As I say, Sir, there is plenty of time to clarify the bid. This House will be the place at which the final bid is considered. It seems to me, Sir, that in the meantime it is prudent for us to make provision until we have further and better particulars available from the group which, of course, will come back to the House. So, that, Sir, is the explanation. There is a working group on-going with work. We are trying to make economies of scale where we can, and the final figure will come back for debate in this House next year, because this is the 2009 bid, not one for 2008. Thank you, Sir.

6.1.6 Deputy P.V.F. Le Claire:

In times gone by we used to act as a body within the Chamber of the States, and I felt more comfortable then in agreeing to in principle decisions about what we would do with policy decision

making and infrastructure requirements in the future. I am not so happy these days in approving in principle policy decisions from the Council of Ministers. It seems when anything goes right in the Island these days it is the Council, and when anything goes wrong it is the States. I for one am not too happy with that, and I am not too happy with the disconnect and the lack of information that members are receiving. I know how much information we are not getting because I used to be privy to the information before we stopped getting it. I know, even though I was only on a few committees, that the level of information I was receiving, as part of F and E (Finance and Economics Committee) or P and R (Policy and Resources Committee), was not adequate then because the main information was kept at those two Committees' levels. Policy and Resources, which is now really Council of Ministers, and the Finance and Economics Department which is now the Treasury Ministry, have all the information, have all the answers. The technical specifications and the policy requirements of the Council which determine those specs and those requirements are drawn upon from statistics, and also from an evaluation and assessment of the infrastructure. So, why we need repairs to schools, why we need more schools, *et cetera*, that is all done at that level. So, I am not really keen on approving these in principle decisions for all the reasons that have been mentioned already. I even heard recently in a public meeting when answering a member of the public's question that the departments are the Government now, not the Scrutiny arm. They represent the Government, and Scrutiny and the other members have really taken a place, if not legally at least philosophically, outside of the decision-making process. Therefore, I do not know what value there is in agreeing in principle to this, other than the fact there is some benefit in knowing a little. We have to remember a little information is sometimes a dangerous thing. I am disappointed in particular that we have not allocated... and I am sure there are reasons, but I do not know what they are. I would have to ask in a Scrutiny inquiry as to why that is; I would have to go away and ask my Chairman, speak to the Minister, why it is that we have got the re-use recycle centre down as a policy in principle initiative for 2010, and we have got sinking funds - millions of pounds - going into that incinerator already this year. It seems that we are just not being serious about looking at the alternatives in that respect. I am going to have to go away and ask the questions, hopefully going to be getting the answers, but on first reading, I am not happy with the 2010 allocation for that plant. I think it should be coming in a lot earlier. I am sure most members would agree with me. There are Parishes which have been waiting for years for more recycling to come to them, and so have the residents. As far as agreeing in principle capital expenditure for the next three or four years, I think that, realistically now although not legally, the Government of the States of Jersey is the Council of Ministers. I do not mean to be disrespectful, but I think that the Council of Ministers are acting as a government. Let us be realistic. We are part of the States of Jersey. States of Jersey agree in principle to these policy initiatives without the sorts of information that we require. They may be justifiable; they may be supportable. But I could not support a lot of the budget today with most of the information. How can I support policies and the budgets of tomorrow with no information? I think it is time the Council of Ministers had a review of how they do this, and what value they see in it, and ask whether or not getting members to agree to it in principle is a little cavalier.

6.1.7 Deputy J.B. Fox:

Going back to T.E.T.R.A: we have just heard from the Minister for Home Affairs that, in fact, there are blind spots. But we also heard earlier that in fact we were part of the pioneering for the T.E.T.R.A. company or group that produced a system that, from what I gather, was guaranteed for 10 years. If we have blind spots, the case I would be asking the Treasury Minister who is responsible for this is: "Why are T.E.T.R.A. not being called back in to look at the shortfalls that appear to be being discussed here today, that require us to look at replacing the system five years before its intended date?" The other question I have is that, we have heard again from the Home Affairs Minister, that there are a lot of other departments, organisations, *et cetera*, that want to tie into a replacement system. Would it not be more prudent to suggest that the Treasury Minister ascertain what type of figure is required, and if it should be asked through the States at the point of

the 2010 budget to have a comprehensive request of what the figure would be, as opposed to a part request which is what appears to be asked for at this moment in time? Thank you, Sir.

6.1.8 The Deputy of St. Peter:

If I may be bold enough to suggest I might assist the Minister on two points. Firstly, a point of clarification: the lifetime of the T.E.T.R.A. system is 15 years, and on a technical point about blind spots when the system was trialled, there were some blind spots found, at that was cured by the use of what they call repeaters. We do have two repeaters, and if there are blind spots in the area they can be covered in Jersey at the moment.

6.1.9 Senator W. Kinnard:

I cannot go into the details, but I have to say that there are certain areas where there still remain blind spots. But for operational reasons I am quite happy to share that information with the Deputy later.

6.1.10 Deputy R.C. Duhamel:

In relation to asking this House's permission or agreement to make a decision on items that are being proposed in principle, it does seem that we appear to be struggling, Sir. Were these items to be on any normal committee agenda, I would have thought that they may well have been taken as items to note, rather than to decide upon. I am a little bit concerned, Sir, that it is an odd process as has been referred to by a number of members previously. In April 2005 this House decided - a firm decision - that it would ask the Transport and Technical Services Department to provide a re-use and recycling centre by the end of 2006. We are now almost at the end of 2007, and here we are, Sir, discussing in Summary Table G whether or not, in fact, funds should be set aside for the building of this particular re-use and recycle centre by 2010. I am lost, Sir. I think the process does not work. It is broken and, other than noting these expectations or projections, I cannot see what is the way forward. We cannot be binding in any sense of the word. We have already been told that by a number of members. So, I question the process entirely.

The Deputy Bailiff:

Does any other Member wish to speak? Very well. We call upon the Minister to reply.

6.1.11 Senator T.A. Le Sueur:

I will pick up the point that Deputy Duhamel has just made, and Deputy Ferguson made earlier, and Deputy Le Claire as well, about these things being approved in principle. I think members should accept that this part of the proposition is just what it is and just what it says. It is approving in principle, or, to put it another way as Deputy Duhamel would say, noting it. Why do we do this? Basically, Sir, in order to give members more information, and we have just had a very good question raised by the Deputy of St. Peter about T.E.T.R.A. systems which were in the 2010 Business Plan as an "in principle" approval. This now gives us time to go back and look at it properly, for me to question the Home Affairs Minister, for the Council of Ministers to question this spending and say: "Is this appropriate? Is it the right thing to do?" Had we not had this debate here, it would have come to debate in 2010 and suddenly at the last minute we may have had to do a rethink. This, I think is a far better, far more orderly way of planning and going about things. So, I make no apologies for bringing part (g) of this proposition to the House. I do make an apology for a printing error: although this is down as a matter for the Treasury and Resources Minister, if members look at the pink page of the annex, page 158, the details of the replacement of the T.E.T.R.A. system, just to make it clear it is the responsibility of the Home Affairs Minister. But we shall work together in order to ensure that this does come up when it does in 2010, if it ever makes the light of capital programme then, it does have a proper business case to justify it. Besides those comments, Sir, I do not know if there is much else that I need to talk about. Deputy Ferguson suggests that Ministers can change these figures to their hearts' content. Well, yes, we can, but it

will not do us much good, because ultimately it is the States who will decide next year what the Business Plan will be for 2009 and so on. So, it is the States that decide what Ministers will spend, not Ministers. Deputy Baudains asks about the corporate I.T. programme, and why in part (g) the Chief Minister's Department is earmarking £5 million a year. I draw the Deputy's attention, and members, to page 33 of the Business Plan. The whole I.C.T. capital funding allocation for 2008 to 2012 is set out there in some considerable detail and he will see that the vote for corporate I.C. varies from £2 million next year, because we have got money in hand, to £5 million in 2009/2010; £6million in 2011 and down to £4.5 million in 2012. So, I think that is probably clearly explained as that one. Deputy Le Claire seems to be unhappy generally about the way that the Ministerial system operates. That is a decision which the House has made and he is entitled to his view. Can he ascertain whether T.E.T.R.A. are being held to account? Yes, I think as part of my ongoing review with the Home Affairs Minister, we all wanted to make sure that those questions can be answered. I repeat, Sir, that this is a proposal, in principle. The members should appreciate it is no more or no less than that and I move part (g) of the proposition.

The Deputy Bailiff:

Very well. The appel is called for in relation to paragraph (g) so I invite members to return to their seats, and the matter is for or against paragraph (g). The Greffier will open the voting.

POUR: 30

Senator L. Norman
 Senator F.H. Walker
 Senator W. Kinnard
 Senator P.F. Routier
 Senator M.E. Vibert
 Senator P.F.C. Ozouf
 Senator T.J. Le Main
 Senator F.E. Cohen
 Senator J.L. Perchard
 Connétable of St. Ouen
 Connétable of St. Mary
 Connétable of St. Clement
 Connétable of Trinity
 Connétable of St. Lawrence
 Connétable of Grouville
 Connétable of St. Brelade
 Connétable of St. John
 Deputy J.J. Huet (H)
 Deputy of St. Martin
 Deputy C.J. Scott Warren (S)
 Deputy of Grouville
 Deputy of St. Peter
 Deputy J.A. Hilton (H)
 Deputy G.W.J. de Faye (H)
 Deputy D.W. Mezbourian (L)
 Deputy of Trinity
 Deputy S.S.P.A. Power (B)
 Deputy K.C. Lewis (S)
 Deputy of St. John
 Deputy I.J. Gorst (C)

CONTRE: 9

Connétable of St. Peter
 Deputy R.C. Duhamel (S)
 Deputy A. Breckon (S)
 Deputy G.C.L. Baudains (C)
 Deputy J.B. Fox (H)
 Deputy J.A. Martin (H)
 Deputy S.C. Ferguson (B)
 Deputy P.V.F. Le Claire (H)
 Deputy S. Pitman (H)

ABSTAIN: 1

Senator T.A. Le Sueur

The Deputy Bailiff:

Then we come to an amendment from the Public Accounts Committee; that is paragraph (e) of the 9th amendment and I will ask the Greffier to read the amendment.

The Greffier of the States:

After paragraph (g) insert a new paragraph (h) as follows and renumber subsequent paragraphs accordingly: “(h) To request the Minister for Treasury and Resources not to exercise his powers under Article 15(1)(b) of the Public Finances (Jersey) Law 2005 regarding the allocation of year and under-spends before seeking the prior in principle agreement of the States Assembly.”

7.1 Deputy S.C. Ferguson (Chairman of the Public Accounts Committee):

I have already emphasised to members that the Treasury Minister has the power to reallocate under-spends and heads of expenditure as he deems fit. These are reported to the Assembly on a 6-monthly basis as specified in Article 15(2) of the Public Finances (Jersey) Law 2005. We were thinking that it would be helpful to the Assembly if these were notified when they occur rather than waiting for the six-monthly basis, however, Ministerial decisions do include these amendments and it is up to us as States’ members to keep an eye on these. I understand that the Scrutiny Panels are in fact doing this. Whilst the Public Accounts Committee will keep nagging - nay, even hand-bagging - the Treasury Minister on spending, we have reconsidered this and we consider that it is unnecessary with the Ministerial decision recording system as it operates and, accordingly, we withdraw this amendment.

The Deputy Bailiff:

Very well, the amendment is withdrawn. Do you wish to add anything, Minister?

7.1.1 Senator T.A. Le Sueur:

Just to thank the Public Accounts Committee and Deputy Ferguson, Sir. I am happy to work with the Public Accounts Committee to see if we can improve the situation even further. I would far sooner do that than get “hand-bagged” by her.

8 Annual Business Plan 2008 (P.93/2007): paragraph (h)

The Deputy Bailiff:

Very well, we come next to paragraph (h). The Greffier will now read it.

The Greffier of the States:

“(h) To approve the schedule of properties for disposal in 2008 and the property plan as detailed in Summary Table K page 53 of the report.”

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

The Property Holding section is going through a reorganisation at the present and, as I said last week, they have just appointed a new chief officer whose primary job at the moment - and I discussed this with him yesterday - is to set out long term strategy for Property Holdings. For that reason, Sir, we have been concentrating on those sorts of areas rather than identifying individual properties for disposal and what we have, for 2008, is a relatively light list of five properties. One of those properties - the first one, Hibernia Lodge - is a building adjacent to but not directly related to the Jersey College for Girls. This property is now totally superfluous. It does have its own separate access and it is proposed that this be sold off as a single unit through an estate agent. The remaining four properties, Sir, are properties which the States own and which are currently let out on long-term leases and all that we hold is effectively the ground rent on these properties. We have an obligation then to maintain and look after certain areas of these properties and it is really more bother than it is worth for the States to do this. It is far better for the individual property holders to

be able to have the complete ownership of their property. So, these reversionary interests are not necessarily hugely valuable to the States but a matter of tidying-up an exercise, Sir. These proposals, in fact, were agreed by the States in 1997 - some 10 years ago now - which is maybe an indication of how quickly the States moves, that we are now implementing that decision, admittedly a little bit belatedly. So, I propose the five properties in Table K of the States' Property Plan.

The Deputy Bailiff:

Is that seconded? [**Seconded**] Does any member wish to speak?

8.2 Deputy R.C. Duhamel:

While not openly opposing the sale of properties from the States' portfolio, I would like to raise two issues about one of the particular properties and that is the Hibernia Lodge, La Pouquelaye, St. Helier as referred to by the Minister. If members turn to page 170 in their yellow sheet in the thick annex document they will see a plan of the property in question. Quite often, Sir, it turns out then when we do find ourselves with properties that are next door to other properties that are also being sold, that there is usually the case of the higher value due to an association or a marriage value in putting those two properties together. The suggestion, Sir, is that the property is disposed of through an estate agent in its own right as a single property and I would like to be assured by the Minister before this property goes ahead to be sold on that basis, that in fact no higher marriage value could be associated by adding in Hibernia Lodge either to the Jersey College for Girls secondary site, or indeed, Sir - if members refer to the plan on page 70 - to the car-parking site and the Mont Cantel site immediately to the north which I believe is under the jurisdiction in part of the Education Sport and Culture Ministry, and will be coming back to this House at some stage for further redevelopment: as indeed perhaps will the former Jersey College for Girls junior wing further to the north. As I say, Sir, marriage values of properties next door to other properties do surprisingly bump-up the valuations of properties, in particular when it comes to completing a larger area for further redevelopment. I said I had two points. The second point is to note in the descriptions on page 169 it does state that this is a detached two-storey four-bedroom house and was converted by the Education Department appropriately seven years ago into four bed-sits with shared kitchen facilities to be used to house short-term contract teachers. I would also seek assurance from the Housing Minister that the current practice of converting units into a number of units of accommodation and then asking for them to be converted back is frowned upon by the Housing Ministry unless extra units of accommodation can be found. Now it seems to me, Sir, quite clear that the requirement for housing short-term contract teachers is probably not going to go away into the long term so, again, I think there is an element of explanation that is probably due to this House, again, by the Minister for Education, Sport and Culture to explain how he will be accommodating the four bed-sits in alternative properties. Indeed, Sir, how his department is able to convince the Housing Department that they are entitled and capable under the present law to convert a four-bedroom unit back into a single unit with four bedrooms, which would give rise to a diminution I think in the number of units that the Housing Department have as part of their statistics. So, with those two comments, Sir, I think I would support generally items two to five on the disposal of the flat acquisitions but I will suggest, Sir, perhaps that unless satisfactory explanations can be brought in relation to the two points I have made, that Hibernia Lodge be earmarked perhaps as a site that does require further study.

8.3 Deputy C.J. Scott Warren:

Whilst I can support this in principle, I just would like, Sir, clarification regarding people living in the flats - living in the properties - who for one reason or another are unable to buy and what the procedure will be.

8.4 Deputy S. Power:

A very quick question to the Treasury Minister relating to the sale of the lease of the 96 flats in Block 88 Quennevais and the 40 in Clos des Sables. Can he clarify whether this is a voluntary procedure or a compulsory procedure? The last paragraph on page 173 and 171 talks about: "There are advantages for the public as Property Holdings currently bears the cost of the management of all maintenance liabilities on behalf of the leaseholders for which Property Holdings is not reimbursed." There are quite elderly people - both couples, widows, widowers and single people - living in these flats and it may be that some of these elderly people may not find it terribly attractive so I would like the Minister to clarify whether it is compulsory or voluntary.

8.5 Senator T.J. Le Main:

I would like to follow from Deputy Duhamel on Hibernia Lodge in regard to the housing policy in regard to returning old family properties - or family properties badly converted often - into bed-sits, *et cetera*. The policy - my policy and my Assistant Minister's policy - is to encourage the removal of bed-sit accommodation as much as possible and to return some of these grand old houses that have been badly converted over the years - with their original staircases and other issues - back into the marketplace as family homes, Sir. So, we would very much support the removal and the return of this property back in the marketplace as a single dwelling.

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

I would have liked to endorse what Deputy Duhamel had to say and then since I have come in, I would say sometimes there is a bit of a contradiction. There have been times when large houses have been for the convenience all around, have been made into flats, and I am rather disappointed to hear that - from the Minister for Housing - that some have been very poorly developed. I would hope that those that have been in States' properties would not have been poorly altered. But that said, I generally support the principle of the sale but have a few questions to ask. One, is just that here we have a number of houses coming. Can I ask the Minister say whether in fact these will be coming each time a property is going to be sold, it will come to the States individually? Or will they be waiting until the end of the year to come as one job lot? I would have thought they would come through as indeed they are ready to sell. The other is that if one has a look at Hibernia Lodge, it says it is proposing to sell it through an estate agent. Again, just asking what the policy is and has any valuation been carried out? I understand we have a new executive officer at Property Holdings; whether in actual fact we will be - or the States will be - engaging estate agents to sell all the properties or is it envisioned that some of the properties will be sold by way of Property Holdings? I am sure some of these will not... some properties will not require a tremendous amount of sale. They will probably be in desirable positions and probably will not require a lot of work from estate agents. Thank you, Sir.

8.7 Deputy G.C.L. Baudains:

I have no strong views either way on this but I am just... I would seek clarification, Sir. Obviously the only one I am familiar with in this list is the Maison d'Azette at St. Clement which had problems previously with the exterior and needing refurbishment. What does concern me is the mechanism by which this scheme will work because I am not sure - taking this as an example - how the mechanism of looking after the property generally will work if some people are still on the contract lease and some are owners. It seems to me it is going to be virtually impossible to get everybody together to agree on maintenance issues and that... or will there be some form of pressure applied to leave if you are not willing to buy? I would like some clarification on that because I am not quite sure that it is going to be workable.

8.8 Deputy K.C. Lewis of St. Saviour:

Just to expand on that, Sir, there are apartments here in St. Brelade, St. Helier and St. Clement. Just to expand on previous questions, if residents there are senior citizens and are not able for whatever reason to purchase the flying freehold, will they be permitted to stay?

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

When the concept of Property Holdings was put forward to look after all States' properties I was a relatively enthusiastic supporter of a new idea of putting a bit of dynamism and constructive thinking and approaches into how the States manages their very considerable property portfolio. I have to say to the Minister that I am rather struggling to see whether we are getting the value for money, the creativity, the cross-departmental thinking and the general approved strategic approach I was looking forward to. Consequently I am rather struggling to see whether I can support this or not. The principle in general is fine but I have got some real worries about the fine detail. For example, on page 169, looking at Hibernia Lodge. It does sound there is some logic here in disposing of that property and yet when I read under "reasons why the property is being proposed for disposal" I discover the sentence: "Though it can, in the short term, be used for temporary staff accommodation, the intention is for Property Holdings to find alternative means of satisfying this need." So, I have to ask the Treasurer if there is a need for staff accommodation why are we in the process of disposing a unit with four units of staff accommodation? Either there is a need or there is not a need and if it is the case that this property has now become simply unsuitable for use, why does it not say that? If I could then move members' attention on a little further to page 175. I really feel I have to urge a note of caution and concern here. The flats 1-18 Maison d'Azette at La Grande Route de la Côte, St. Clement are described in the description of location as follows: "The property has superb sea views over Grève d'Azette." Superb sea views, and yet when I look a little further down the page: "Reasons why the property is being proposed for disposal" I read, rather to my surprise: "That these properties should be made available for sale under the flying freehold legislation for a nominal sum to those persons who currently occupy the properties on contract leases from the public of the Island." Well, I have my own views on the recent debate that we had over giving freehold to current leaseholders or rental tenants and, fair enough, the Minister at the time gave me assurances that that would be extended, but I have to say that despite again backing the general principle, it does seem very strange to me that we are talking about handing properties with "superb sea views" over to the current tenants for a "nominal sum". There is absolutely no indication as to what that "nominal sum" may be. Is it in the hundreds of pounds, thousands of pounds, tens of thousands of pounds, or hundreds of thousands of pounds? Because if this "nominal sum" is not right, and I recall that one of our Ministers - the Housing Minister I believe and he will correct me if I am wrong - was once on a Gambling Control Committee. This is something of a prize show we are looking at here where it will be entirely feasible for current owners to pay the nominal sum and sell-off these properties at very substantial profit because, let us face it, they have "superb sea views." So, I do wish to register a level of concern here. I am not happy that we are getting sufficient detail in knowing precisely how these disposals are taking place. But finally, on a more positive note, on page 179 "the schedule of sites requiring further study" I certainly do think that the St. Saviour's Hospital site, La Route de la Hougue Bie, St. Saviour requires considerable further study. That paragraph notes: "Health and Social Services acknowledge that the need for the site in its entirety no longer exists." Now, I do wish to put it to the Treasury Minister and to Property Holdings that we are currently poised to debate a sheltered housing proposition and I have to say that I sense that (1) States members have realised that housing plans in the countryside, whether they are called "sheltered housing" or "houses for our dear and beloved grandparents" or whichever way you want to ascribe them - "twilight housing", "glowing retirement housing" - it is still housing in the green zone and I have to say I think enormous sections of that proposal are doomed to disaster. So, could we have a very serious look at the St. Saviour's Hospital site, not for selling off necessarily into the private sector for another fistful of wodge, but possibly as a very appropriate place for comprehensive across-the-board sheltered housing for our local elderly? It

seems to me to be an absolutely prime site for exactly that type of development so I would ask the Treasury Minister for two explanations; and (3) a reassurance that he will give some very detailed consideration to the continuing use of St. Saviour's Hospital, I think, for what could turn out to be a new and very productive alternative future use.

Senator L. Norman:

A point of clarification, if I may, Sir. Following that speech, could someone confirm or otherwise whether the Business Plan was discussed at the Council of Ministers?

8.10 Senator M.E. Vibert:

Questions have been raised about Hibernia Lodge. Can I say that education is seeking to minimise the use of short-term contract teachers on educational grounds and we are succeeding in doing that in many ways. I do not believe that retaining four bed-sits with shared facilities for occasional use is the best use of the property. Property Services have said they will provide alternative accommodation if required. It is not a question of need. It is a question of need on an occasional basis depending if we have an emergency where we have to bring in a short-term contract teacher, but we are trying to avoid that if at all possible.

8.11 Deputy J.J. Huet of St. Helier:

I have to say I have a few alarms here on these flats at St. Clement. I can remember being on Planning when flats or cottages that were on lease around Hue Street, we were asked could we release these leases as they had originally been on a 99-year lease and they were down to 60-odd years - or 70 - and Property Services advised that a fair price for these was about £16,000 if I remember, and I laughed. When it went back and it came back, the correct price was up into the £60,000 and I want to be assured that the same thing is not going to happen here because it very nearly happened there. The people that were in the places were saying they could not sell them because they were on these leases. The reason they could not sell them was they were asking too much money. That is simple. But it could have so easily slipped through at that lower price and these flats that we are talking about now in St. Clement, I would have said even if there are 60 years left on there, they must be worth quite a lot of money and it certainly will not be £16,000 which was what we were being told for around Hue Street way. I would like to be assured that we will have more than one person or one firm telling us what the worth of these actual flats is because we could have very easily dropped a clanger in Hue Street.

8.12 The Connétable of St. Brelade:

I speak in connection with the several properties at Les Quennevais and Clos des Sables, St. Brelade. I speak in the interests of potential purchasers and neighbours and the Parish administration in general, principally because the adjoining roads around there belong to the Parish which we maintain. What concerns me, Sir, is the point brought by Deputy Baudains that the maintenance of the quite considerable area surrounding the blocks which are being proposed to be sold leads me to be very concerned. There is no firm indication in the proposition what is going to happen to these areas. It just simply says that historically they have been maintained at no cost to the leaseholders. Now, that has resulted in the surrounding areas looking reasonably tidy but we are now getting to a situation where there are going to be 136 separate owners and it seems to me as being a potential for an absolute nightmare. I fear that the surrounding areas could turn into an absolute shambles to the detriment of the area in general; to the detriment of neighbours and of course the Parish. So, I would ask that the Treasury Minister assures members that he is not simply abrogating his responsibilities with regard to looking after these areas, and perhaps if he might take into account in the contractual terms that the maintenance be considered possibly as a separate item. Maybe it should be considered that the flats be sold off in the entirety as individual blocks rather than individual flats. Lastly, Sir, I suggest that a lot of these properties are extremely suitable

as first-time buyer properties and/or possibly last-time buyer properties. I would urge the Minister to consider discussions on that basis as well.

8.13 Deputy P.V.F. Le Claire:

I wonder if I could just test the mood of the Assembly as to whether or not, given the concerns that have been expressed already - not least of which the comment by the Connétable of St. Brelade who stated that: "Leaves me to be very concerned" and he is hoping, and so is Deputy Huet... Perhaps I would like to test the mood of the House to see if it is not something that we could put to the Scrutiny Committee in respect of these issues: ask them if they would look into this and report back to the States in due course. Do we have to approve this today? We have got a new system of government that does not make guessing very attractive to the public. We have an expensive Scrutiny arm that is well-staffed, well-resourced. We are being told consistently that we have to make better decisions with less money and better use of our resources. Is it adequate to approve this today and trust the Treasury Minister will come back with all the 'i's dotted and the 't's crossed? Or is it more suitable... I will leave the members to decide. I propose that we refer this to Scrutiny, Sir, and put aside this decision today.

The Deputy Bailiff:

Deputy, are you making a proposition under Standing Order 79 then?

Deputy P.V.F. Le Claire:

I do not know what... I have the Standing Orders in my desk drawer. I am aware...

The Deputy Bailiff:

"A member of the States may propose without notice (a) the debate on any proposition be suspended [but I think that must be the whole proposition] and that States' requests the relevant Scrutiny Panel to consider having the proposition referred to it."

Deputy P.V.F. Le Claire:

Well, if that is how it is going to be interpreted and if that is how it is written, Sir, that is not appropriate because we obviously cannot afford to put off the entire matter. It is obviously open, Sir.

Senator T.J. Le Main:

Could I have a point of information to the Assembly about these blocks of flats, Sir? Sir, could I give as information, just to clarify the members understand what these blocks of flats and how they are occupied?

The Deputy Bailiff:

You have made a speech already.

Senator T.J. Le Main:

I would like to clarify. It seems to me members do not understand that these blocks of flats were first-time buyers...

Deputy P.V.F. Le Claire:

I was not giving way on this. I was asking for a point of clarification as to...

Senator T.J. Le Main:

Well, I think it is a bad mistake when the members do not understand the true facts of how these flats were sold in the first place and how people bought them as first-time buyers and they bought them on 99-year leases because it was not flying freehold in those days.

The Deputy Bailiff:

If, in fact, the Deputy makes this proposition then there can be a debate on that proposition so you will have the opportunity then, Senator, to say why it should not be referred to Scrutiny. I think, Deputy, that the Greffier has just advised me that, in fact, on previous occasions the Assembly has referred particular paragraphs of a proposition to Scrutiny. So, if that is so, then it is open to simply propose that paragraph (h) of the proposition be referred to Scrutiny.

Deputy P.V.F. Le Claire:

Yes, Sir. It was my recollection that that had occurred; that is why I proposed it. It was my intention that we proceed as planned with the business today but set this aside until Scrutiny has had a chance to look at it. The Housing Minister has just leapt to his feet to say that it would be a sad day if the States members are not able to make a decision based upon the information that is available. Well, if the Housing Minister has the information available and the Treasury Minister has the information available, then they can allay the fears of the States members in short order and we can bring it back to the Assembly for approval in short order. The Connétable of St. Brelade's concerns which have been raised can be addressed, and other members' queries can be raised through the Scrutiny Panel and we can seek satisfaction that way. It is a matter for members, Sir. I am not going to make any more of it. I just propose that we do that, Sir.

The Deputy Bailiff:

You propose that the debate upon this paragraph be suspended and that the States request the relevant Scrutiny Panel to consider the proposition referred to it. What will then happen, if the Assembly agrees, is that the Chairman of the relevant Scrutiny Panel will come back at the next sitting to inform the House whether he wants to have it referred.

Deputy P.V.F. Le Claire:

Yes, Sir, I make that proposition.

The Deputy Bailiff:

Is that proposition seconded?

The Connétable of St. Brelade:

Yes, Sir. On the basis of what I have heard so far, I would be happy to second that proposition.

The Deputy Bailiff:

Senator, would you wish to speak? The debate now stands on whether to suspend debate.

8.13.1 Senator T.J. Le Main:

I think I need to reiterate again why I am opposing this issue. The issue is quite clear that these blocks of flats were sold-off as first-time buyer units. Many elderly people who live in there are still those original purchasers of those flats. Some of these people, Sir... Housing have been dealing with this situation for many years, where the Housing Department - now Property Services - are bound by the constitution of the 99-year share transfer to do all the work, to do the repairs, to look after the gardens, to do everything, and bill the residents for the work done. Sir, it is quite clear that when these flats were sold as first-time buyer units there was no share transfer in operation at that time. Means had not been found to be able to sell them freehold. So, these people in good faith bought these as owners of those properties; not 99-year leaseholders. That was the only way it could be done and when the 99-year leases... I can remember years ago when the question was asked: "What happens at the end of 99 years?" At the end of 99 years it was expected that the States would have renewed those leases to those people. They had purchased those properties. By delaying this and by not allowing freely to negotiate with some of these people to engage in flying

freehold if they so wish - that is my view; you cannot force them because they bought them on 99-year leases - you are going to frighten the daylights out of many elderly people, particularly Maison d'Azette and at St. Brelade. I urge the Assembly to not support this proposition of Deputy Le Claire but to allow the Property Services to freely negotiate for those who want to realise their asset now under a flying freehold basis with the homes they own. They are not 99-year leases. We have a duty as members of the Assembly to follow what was agreed when we sold them; that they belong to the people that live in them and at the end of 99 years we renew those leases. It is to assist these people to realise their asset. I urge members that this is a very, very well rehearsed issue and that we should get rid of the burden that we have at the moment and freely negotiate with those who want to take up this opportunity. Not force them. They belong to those people. As I say, I oppose this proposition of this amendment by the Deputy of St. Helier on the basis that we are going to frighten the living daylights out of people. They are good ordinary people. I know many of them and I have dealt with many of them in St. Brelade and Maison d'Azette. In fact, the Housing Department, not six or seven years ago, did an arrangement on the refurbishment where many of the residents - elderly tenants who have been there since new - could not afford it and we have made an arrangement that the refurbishment of the whole block of flats would come out of the sales when and if they were sold. Sir, I urge members that this is... we are dealing with elderly people. We are dealing with a lot of people that have been there all their lives - all their married lives - and I urge members to resist this; allow the Treasury Minister and Property Services to freely negotiate with these people to give them some clarity and give them some issues on this.

8.13.2 Deputy J.A.N. Le Fondre of St. Lawrence:

I am glad to follow the Housing Minister on what he has just said. I was also intending to add a little bit of light, I hope. I, when I first came across the whole scenario, had a little look at the background and will say, Sir, that my understanding is essentially when these flats were first constructed for first-time buyers as the Minister has just said, you did not have flying freehold legislation so you could not sell individual units to first-time buyers that were flats because the ones above the ground floor basically effectively, in legal terms, existed on a void. So, you could not identify legally who you were selling to, as I understand it. Flying freehold legislation is now in place and... in fact, I do not know on the timing. I am told it was brought in shortly after the in principle debate that the States had which is referred to in the Property Plan on 3rd June 1997. Sir, the point is this is now essentially trying to regularise the situation that was effectively undertakings that were given in the past and which have been approved by the States in principle. Now, in terms of value, members need to understand the difference obviously between a full freehold property and a leasehold property. If you have a leasehold property there are two elements in value. There is the value of the lease and there is the remaining element of the freehold of that property. If you start at 99 years, the value of a 99-year lease is a certain amount and the value of the freehold property is going to be very, very small. As time changes, as you get down to the 60-year lease, for example, obviously the increase of the freehold element has increased fractionally but you still have a 60-year lease. In terms of value generally, it is only when you start getting down to below 50 years, and certainly when you get down to about 25 to 30 years, that the freehold element starts becoming more significant in the equation. Now, I was certainly happy to give you an undertaking that when we do the valuation, if members wish, we will get an independent assessment of the values that we are looking to attribute to those elements and I think that is probably where the expression "nominal" has come in because at the time this would have been debated - which was obviously 10 years ago - the value of the freehold element would have been less than it is now. I hope that clarifies to an extent some of the comments that have been made. I have absolutely no problem with the principle of letting the individuals who bought these as first-time buyers many years ago, of finally owning the property that they bought into. As just a minor comment which I think is relevant to this debate as well in terms of additional information, Deputy de Faye has made a comment on the St. Saviour's Hospital site. I think what I would say there, Sir, is that that whole schedule is about sites requiring further study, and the emphasis is "further study." It has been

flagged-up. There is an issue for the future. There is an issue as to how it is being used and it would appear, from the information we are given from Health and Social Services, that its current use is declining in its current state. Certainly I did a tour of the place last year and I was amazed - and as I say, I continue to be amazed about the number of vacant properties I keep visiting - that probably of the entire main building there was one ward left there that might have been used at that time for another few weeks and was going to be left empty. The middle bit is used for a bistro for some of the... I will call them patients who attend the obviously very modern centre that is at the back of the main building. The rest of the main building is predominantly used for storage and manual handling courses and some office space. It is not used very predominantly by the Health Service for health matters. But, as I say, that is a very big site. We are certainly not going to treat it lightly and it is one that is requiring further study and that is the reason they are on that page. I hope that clarifies matters to an extent. Obviously I reiterate the comments from the Minister for Education about the property next door to Jersey College for Girls. Thank you, Sir.

8.13.3 Connétable D.J. Murphy of Grouville:

I would just like ask the Minister a question: whether in fact the valuations that are proposed are being carried out internally or...

The Deputy Bailiff:

Can I just remind members we are at the moment debating whether to refer this to Scrutiny? I appreciate that the Minister will have an opportunity to speak during this debate if he wishes.

The Connétable of Grouville:

Very well, Sir, I shall pass until that.

The Deputy Bailiff:

The debate on this should be reasonably confined, I would hope.

8.13.4 Senator P.F. Routier:

Really just some general observations. I think the Minister for Housing and the Assistant Minister who has responsibility for property has given some very good explanations of the situation regarding the various properties and I think we have an obligation to those people who are expecting to be able to buy their freehold, and we should be fulfilling our commitments. What I am a little bit concerned about is that the formulation of this Business Plan started way back in March time. I think there were times when this was shared with the Scrutiny Panel at that time, and there were offers given very freely to the Scrutiny Panels to be part of the development of the Plan. I understand that obviously other members who are not part of the Scrutiny Panels have not had the access that the Panels have, but even to say that, this Business Plan was published on 17th July and it seems a bit late in the day to be asking questions today of what is being proposed in this Plan. I would have thought that if any member had any queries or were unsure about anything, that they would have perhaps asked the particular Minister about what their concerns were and resolved it before so they were able to come today and vote on what is a very straightforward decision to be made by this House. If we are going to keep on getting to a stage and coming to the House on a business day and then coming up with questions at a late stage, I do not really think it is an appropriate way for the Government to be behaving.

8.13.5 Deputy S. Power:

I am not quite sure I am very happy with what I have just heard from the Minister for Social Security. I find it odd in the extreme that the Executive - the Council of Ministers - put together this Property Plan and produce it on 17th July and then they expect Scrutiny to review it from 17th July to now when half of us... when there is a recess.

Senator P.F. Routier:

The Business Plan was shared with the appropriate Scrutiny Panels well before it was lodged.

Deputy S. Power:

I still think there is a timing difference, Sir. I want to get on to the substantive part of Deputy Le Claire's proposition and that is the concerns about the schedule on Table K at page, whatever it is: page 53. My concerns are the lack of detail in the sale of the freehold properties of blocks A-H in Les Quennevais Park and Clos des Sables and there are a number of outstanding issues here relating to the Housing Department - through no fault of their own - and this relates to the fact that a lot of these units are going to have to be reglazed; three and four storey units. There are rusted drains and manholes. There are broken paving and paving slabs and I think that the Connétable of St. Brelade made a good comment that some more study must be given to things being sold block-by-block. There are lessees in these blocks of flats who have come to Communicare on the first Friday of the month and said they want to buy their lease, but there are also lessees who have been in those buildings since 1965, 1966 and 1967 who do not want to do it. So, there is an issue and there is a lack of detail here, Sir. So, what I suggest is that we debate this and depending on the result, whether it is supported or otherwise, that Treasury come back with far more detail on the mechanics of how these flats are to be converted from leasehold to freehold. Thank you, Sir.

8.13.6 Senator T.A. Le Sueur:

Perhaps it is worthwhile me speaking now before Members get totally confused about what they are trying to do here because I thought that the Housing Minister explained this - Deputy Le Fondre - quite clearly. The properties at Quennevais and elsewhere are effectively owned by the people who live in them now. They are effectively owned by the people who live in them now. All that the States' owns is what is called a reversionary interest, and maybe I should have put in the proposition: "To sell the reversionary interest" but I probably would have confused Members by the term of "reversionary interest" so I thought we would use simpler language. But what this amounts to, as Deputy Le Fondré says, is that the reversionary interest has virtually no value and it would only get a value if the land ever reverted to the States. But the States agreed when it sold these properties to the first-time buyers that it was effectively selling them to those people for good. It happened at the time we did not have flying freehold legislation and the legal mechanism we had to use was that of a 99-year lease. It could have been a 999-year lease or a 999,000-year lease but in reality a 99-year lease: in other words, effectively in perpetuity. As the Housing Minister says, effectively if those leases came to an end, we would feel obliged to renew them for a further 99 years because the whole intention was that these people were first-time buyers. They bought their property and maybe when I made my opening speech, Sir, I assumed that people understood this and so I did not go into the detail I should have done. But it was after the introduction of flying freehold and the ability to acquire these properties that the States decided - the States decided - 10 years ago to sell this reversionary interest to the occupants. So, I see little point in referring it to a Scrutiny Panel to say: "What is going on? Have we got all the information we need?" Well, yes, if we understand what has been proposed, we have all the information we need. Will we be selling at a fair valuation? Yes, of course, we will. But do not let members get the expectation that that valuation is hundreds of thousands of pounds. This is a reversionary interest. This is simply what would happen if the States ever got the properties back, but we do not intend to get the properties back so why not just complete the deal that we started when we sold these properties to the people some 35 years ago and give them the whole thing rather than 99 per cent of it. Sir, I hope that that tries to explain why the decision to refer this back to a Scrutiny Panel is a total waste of time. The Scrutiny Panel would come back and say: "Yes, we have looked at this and this is a perfectly sensible and reasonable thing to do" and above all, it is something which is voluntary. If the occupants do not want to do it, they do not have to do it. But any occupant, in my view, with any nouse will want to do it and have a full clear unencumbered title for their property; not a title with a minimal but still minor impediment to it, Sir. So, I do suggest to members that referring this to

Scrutiny is a complete waste of time. But in any case, had people like Deputy Le Claire had any questions about this or not understanding the situation, he has had at least two months to come and ask me or my Assistant Minister what the proposition is all about. To come at this late stage, Sir, and suggest that the States do not understand it, I think, naïve.

8.13.7 Senator M.E. Vibert:

In a debate not that many days ago, I referred to the need for responsible Government and I would like to echo that today because when I was a Deputy for St. Brelade, Sir, I represented a number of the tenants in this area who were very concerned about the fact they were still on leasehold and did not have the security they would have with freehold. I was pleased to see... and 10 years ago this States gave a commitment to all those leaseholders. It would be absolutely reprehensible to go back on that commitment and we should not even delay that commitment. It is very clear what it was and if people were unclear there has been the opportunity for several months to ask questions to clarify it for themselves. I am sure the issue that the Connétable of St. Brelade has queried about the communal areas and outside, can be resolved without, in effect, committing the existing leaseholders, many of whom are elderly - they were elderly when I was representing them; I am sure there are some even more elderly now - and I do not think we should inflict upon them further uncertainty. We said 10 years ago we were going to do this for their benefit and I believe we should do it today, Sir.

8.13.8 Deputy J.J. Huet:

Just to say, now it has been explained I would be the first to say it is nothing like the properties that I was talking about in Hue Street. Thank you, Sir.

8.13.9 The Connétable of St. Brelade:

Briefly two points, Sir: (1) I think members are aware of the general public concern about how we dispose of States-owned properties and I think any future disposals need to be absolutely clear, and my concern is in this proposition it is not clear and that is why I raised the points that I did. My concern is not really over the principle of selling these properties: I have no difficulty in that at all. I am simply concerned with the ramifications of the sale and the effect on neighbours and the Parish roads. Thank you, Sir.

The Deputy Bailiff:

Does any other Member wish to speak on whether to refer it to Scrutiny?

8.13.10 Deputy G.W.J. de Faye:

I do feel I have to raise this issue and that is I think a number of my fellow Ministers have been rather disingenuous about this requirement to raise questions before we get to the debate. They are more veteran political animals than I am and they know full well that if you really want to ask a serious question you do not do it behind closed doors; you do it in the Chamber and that is when you stage your ambush. That may even extend to Ministers buttoning their mouths at Council of Ministers meetings and putting the boot in later on. Now, I am not suggesting for a moment that that is what did as I asked for clarification on two issues which I have now had in fulsome quantity, and also for a reassurance on another matter. In consequence of that I really see no necessity for us to go to a Scrutiny re-evaluation but I do want to remind my colleagues that the entire purpose of open public debate is so that we can get these full explanations given; not just for our benefit but for the benefit of members of the public. To conclude, I do agree with the Treasury Minister that sometimes these things do boil down to matters of presentation, and perhaps we need think a little more closely about how we write these things up when they appear in reports. But I would urge members, we have had a good chat about this now but I do not think this requires further scrutiny.

8.13.11 Deputy A. Breckon of St. Saviour:

Just to perhaps give members a point of clarification. My understanding of this is if it was referred to Scrutiny, it would be the Corporate Affairs Scrutiny Panel who have responsibility for Property Holdings and for the reporting of the Treasury and Resources Minister. It is not *per se* in contract; it would not be a housing issue. The reason I say that, Sir, is a number of members have looked at me and that is probably the reason why they perhaps were looking for some indication from me about accepting this, and I see that Deputy Ryan has just parachuted in, Sir, so it is obviously... he heard what I said. Having said that, I think where members do require a degree of comfort... and the Connétable of St. Brelade mentioned this is our ability to negotiate property matters. I will not dwell on that, Sir, but perhaps there are instances where we have not been shown in the best light, and perhaps members require some transparency and some degree in comfort that we are getting value for money and also that we are being fair to the people who are occupying these things. I well understand what the Minister for Housing said because there is a lady in that area who has telephoned a number of other members on many, many occasions about some of the inequities about the system that is there where they have no real say over the maintenance or the cost of it or whatever else. It has happened to me over a number of years where I have received complaints about that. But I think, Sir, in suggesting more information, if that takes another week or two then it is not the end of the world. If there are details to hand and if some indication could be given about how the valuation will be done - obviously professionally and not somebody's guess - and all this is given, then I think a delay may well be justified and for two, three, four weeks I do not think it will cause anybody any discomfort bearing in mind that if we agreed it 10 years ago nobody is waiting on this decision and expecting anything to happen next week anyway, Sir. So, I think a reference may be the way to go.

The Deputy Bailiff:

Yes, the Greffier has advised me that he too considers it the Corporate Services Panel that would be the applicable Panel in this case. Does any other member wish to speak on the question of whether to refer to Scrutiny?

8.13.12 The Deputy of St. Martin:

What I wanted to ask earlier before Deputy Breckon got up was to ask the very question which has now been answered by the Greffier. But what I would ask now is that we now know it is Corporate Services. What I was going to do was invite the Chairman of Corporate Services to give a view on it. He will know how much work he has got; whether in fact he can take the work on because what we were doing today is agreeing for the Chairman, I understand, to go back to think about it within two weeks and come back and tell us whether he is capable of taking it on. If indeed he is not capable of taking it on, we just as well forget the matter now and move on, but possibly I can invite the Corporate Services Chairman to give us the view.

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

Yes, we can look at this around about September next year. We are heavily committed, so I have to say, Sir, that it would be a difficult task for us to take it on unfortunately. There are several other things that we would like to look at that we feel are priorities. I am not going to say to the States exactly what they are but that will become fairly apparent once we report on the processes that have taken place on this Business Plan. We do have some concerns; I certainly personally have some concerns. So, they will be taking up our time. We have things like Freedom of Information (Jersey) Law that we are already committed to look at in the early part of next year. We have to finish off the various things that we are doing now so I am afraid, regrettably, it would be something... perhaps we can look at it some time in the future but not at the moment.

8.13.14 Deputy P.V.F. Le Claire:

May I aid members, Sir? A brief interjection. I think, given the responses that we have heard so far and the information that has been forthcoming so far that was not available when I made this proposition, and also given the fact that the Scrutiny Panel is busy until September 2008, my concerns - and I believe the concerns of other members - have been answered, Sir. To proceed to a vote now on this issue would be... to proceed to continue with this debate on a referral to Scrutiny would be wasting States' time. We are now quite clear, Sir, as to what the situation is, as we were not before. In my defence, Sir, I did not have a problem with this proposition until I heard the problems that were being raised by other members. That is why I did not go to the Treasury Minister or the Assistant Minister before. I only raised the issue after these queries were raised this morning so with the leave of the Assembly...

The Deputy Bailiff:

You are seeking agreement to withdrawing it, are you?

Deputy P.V.F. Le Claire:

Exactly, Sir.

The Deputy Bailiff:

Very well. Does the Assembly agree to the withdrawal of that proposition? The Assembly, I think, agrees. Very well, so we return then to the debate on paragraph (h).

8.14 The Connétable of Grouville:

A second time I try: just two very small points to make. I ask the Minister to elucidate for me, firstly, the valuations on the proposed sales. Have they been done by external or internal valuers? I mean "valuers"; not "estate agents" as such. Qualified valuers. The second thing is I do not see any money in the estimates for the sale of Jersey College for Girls. Could he bring me up to date on what the situation is there now, please?

The Deputy Bailiff:

Does any other member wish to speak?

Deputy K.C. Lewis:

I thank the Minister for Treasury and Resources for his previous clarification, Sir. My understanding is that these properties have effectively been sold but the legislation was not in place at that time. Now the legislation is in place...

The Deputy Bailiff:

I am sorry, Deputy, have you not spoken already on this matter? According to my records you have.

Deputy K.C. Lewis:

A long time ago, Sir.

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

It seems to me that we have gone round the houses on this particular one. [**Members: Oh!**] Sorry about that, I did not intend that. But we have missed the point completely. The point is that this Assembly - not this presently constituted Assembly, but the States of Jersey - gave a commitment 10 years ago to the people living in these properties that we would deal with the issue and here we are 10 years on still arguing as to whether we should be doing it or not when in fact the decision was made 10 years ago. I think it is time we moved on, Sir.

8.16 Deputy A.E. Pryke of Trinity:

Just a quick question on the flats being sold at Clos des Sables. I see that it is a block of five but I presume that it is block 170 which is included in that block of three and is there any reason why that is not included in the sale?

8.17 Deputy S.C. Ferguson:

Yes, just a quick footnote, Sir. I agree with the Connétable of St. Ouen, why has it taken 10 years to bring this back to the House? I do ask the Minister for Housing and the Minister for Treasury for their reasons as to why they have dragged their feet? I would also remind members that the Public Accounts Committee report on the Property Plan did recommend an improvement in the commercial approach of Property Holdings and as we said in that report we shall be returning to the operations of Property Holdings and we will come back to the States with our report.

Senator T.J. Le Main:

For your information, Sir, I would like to respond that the Housing Department have tried for 10 years consistently...

The Deputy Bailiff:

Senator, you have already had a speech.

Senator T.J. Le Main:

Well, Sir, it was to clarify the point that there was great difficulty when four out of five wanted us to sell and the other one did not. I hope Property Services have more success than the Housing Department have had in the last 10 years.

The Deputy Bailiff:

Does any other Member wish to speak? For the first time. Senator Walker?

8.18 Senator F.H. Walker:

I will just make one simple and quick point. These people have always believed they in effect own their properties. What those who are minded to support opposition to the Property Plan are in fact suggesting is that the States or States members will have to stand in front of them and say: "Sorry, you did not own or you may not own your property, there is a question mark over it." Just imagine the fear, the fright, that that will cause to people who, on the back of a States' decision, genuinely believe they own their own property. It is just unthinkable that members can even contemplate going there - unthinkable. What we have got to do is give these people the absolute assurance that they are entitled to have, that they do indeed own their own property and under new legislation enable them to purchase it fully under flying freehold rather than under the originally agreed 99-year lease. Sir, it is unthinkable that anyone should oppose this proposition - absolutely unthinkable - and I hope any member who does will have the courage to stand in front of one of these property owners, these first-time buyers and say: "I supported a decision against you being able to ratify your ownership of your own property." I hope anyone who opposes this proposition will at least be prepared to do that.

8.19 Connétable P.F.M. Manning of St. Saviour:

I happen to know people that have lived and do live in these flats. The people I am referring to did know quite accurately that they did not own the freehold. They knew they were on a 99-year lease. They were aware of that. But I think if a commitment was given 10 years ago that they would be able to purchase the flying freehold or make sure that they were the owners of the property, I think we should carry out that commitment. To go back on that would be terrible. **[Approbation]**

8.20 The Connétable of St. Helier:

I must say that I am less concerned with the properties that are on this list than with the ones that are not. There are several properties and I will not go into the details because time is short, but several properties that I would have thought any organisation in a hurry to maximise its income would have had on this list for us to agree to dispose of and they are not there. I would ask the Minister to confirm that I am right in thinking, or that I am wrong in thinking, that perhaps these properties are being kept up his sleeve to release in a kind of drip feed way over the next few years to make up for shortfalls. Could he explain why there seems to be a lack of urgency being shown by the States in parting with properties which it clearly has no further use for?

The Deputy Bailiff:

Does any other member wish to speak? Very well, I call upon the Minister to reply.

8.21 Senator T.A. Le Sueur:

Well, now I shall learn that nothing is as simple as it looks and clearly I should have made better explanations than in the proposition. But I think those explanations have now been fully forthcoming and I hope members are convinced of not just the rationale but the necessity to offer these leaseholds to the existing owners or occupiers of those properties should they desire to purchase it. So I go back to the proposition generally and Deputy Duhamel asks about any marriage value being in Hibernia Lodge, and, yes, if there is a marriage value then we ought to and we will make use of that. It could well be that the ultimate purchaser of the J.C.G. (Jersey College for Girls) site also becomes the purchaser of that site. All this does is authorise the States to sell that property, it does not say in what way, but clearly you would have to ensure that it was sold in the best possible way. That links to the question of the Connétable of Grouville about the proceeds of J.C.G. That property is being readvertised for tender and when those tenders are received then I shall have to decide whether or not to accept any of the tenders and if so on what basis. But that is for the future. Going back to Deputy Duhamel and the description of Hibernia Lodge, I think that the Minister for Housing has explained the policy in respect of those sorts of properties and the Minister for Education has explained that there is no long-term need, although there may be occasional short-term needs. While the short-term need is there then we would not dispose of it. When the short-term need has gone away then we can dispose of it. To reassure people like Deputy Scott Warren on the leasehold sales, they are totally voluntary and it is up to those whether they want to or not. To Deputy Hill and others I will be using internal mechanisms or external agents. We use, almost invariably, external agents and certainly when it comes to valuations of leaseholds we will use external valuers. I do that simply in order to ensure that we can not only get a fair value, but demonstrate to get a value at arm's length and not maybe influenced at all by any internal views. I have to say that the views that come in from the department are generally pretty consistent with what the market valuers themselves would say. I think the other questions are really about the lack of properties in here and the approach being taken. I think I go back to the report of the Public Accounts Committee on the previous Property Plan and the need for us to have an agreed property strategy for the future. I think it is important that that strategy is in place first and we approve that before we look in too much detail about major sales of the type that the Connétable of St. Helier is talking about. We are not selling because we are short of money; we are selling - if we do sell - because we want to make best use of our resources. In order to make best use, we have to have a strategy about what those uses and what the future uses are going to be. So I make no apology for not having a great list of properties at this stage. When we have got that strategy - and we have not even agreed that - then I will happily come back with a longer list. So I think, Sir, that probably deals with most of the questions that have not been answered in the course of the discussions on the reference back. I pick up Deputy de Faye's point about St. Saviour's Hospital maybe being used for sheltered housing. Well, that will also depend on this whole strategy, back to the same principle. So I do thank Members for their patience here, it has taken longer than I think the occupants of these properties were expecting. The Deputy of Trinity asks about certain properties at Les Quennevais

not on the list; there are still properties that are held by the Housing Department for social rented housing, they do not form part of this. This is just in terms of the freehold properties which are other blocks. So I hope that that has dealt with the questions people ask. I thank Members for their concern and interest and I move whichever part that was - eight or something of...

Deputy G.C.L. Baudains:

While the Minister is still on his feet, Sir, I wonder if I could trouble him with a query I did ask at an earlier stage? That is how will this work if there is a mix in these properties of those who have taken up this offer and those who have not? I think it all really hinges on the nominal sum. I mean, if it is £10 or £20 clearly everybody will take it up, if it is going to be a couple of thousand there may be those who cannot afford it.

Senator T.A. Le Sueur:

My expectation, Sir, is that the majority of house owners will want to take this up because it gives them complete security and valid title. But if they do not then they will certainly be at liberty to retain it and they will have to be charged *pro rata*. It will be a bit messy, that is why I think, realistically, the demand has come from those occupants that they do want to have a full title and I am confident that there will be significant take up of the offer.

The Deputy Bailiff:

Very well, all those in favour of adopting... the appel is called for, very well. The appel is called for in relation to paragraph (h) and I invite members to return to their seats and the Greffier will open the voting.

POUR: 42

Senator L. Norman
Senator F.H. Walker
Senator W. Kinnard
Senator T.A. Le Sueur
Senator P.F. Routier
Senator M.E. Vibert
Senator P.F.C. Ozouf
Senator T.J. Le Main
Senator B.E. Shenton
Senator F.E. Cohen
Senator J.L. Perchard
Connétable of St. Ouen
Connétable of St. Mary
Connétable of St. Peter
Connétable of St. Clement
Connétable of Trinity
Connétable of St. Lawrence
Connétable of Grouville
Connétable of St. Saviour
Deputy R.C. Duhamel (S)
Deputy A. Breckon (S)
Deputy J.J. Huet (H)
Deputy of St. Martin
Deputy G.C.L. Baudains (C)
Deputy C.J. Scott Warren (S)
Deputy J.B. Fox (H)
Deputy J.A. Martin (H)

CONTRE: 3

Connétable of St. Helier
Connétable of St. Brelade
Connétable of St. John

ABSTAIN: 0

Deputy S.C. Ferguson (B)
Deputy P.J.D. Ryan (H)
Deputy of St. Peter
Deputy J.A. Hilton (H)
Deputy G.W.J. de Faye (H)
Deputy P.V.F. Le Claire (H)
Deputy J.A.N. Le Fondré (L)
Deputy D.W. Mezbourian (L)
Deputy of Trinity
Deputy S.S.P.A. Power (B)
Deputy S. Pitman (H)
Deputy A.J.D. Maclean (H)
Deputy K.C. Lewis (S)
Deputy of St. John
Deputy I.J. Gorst (C)

9 Annual Business Plan 2008 (P.93/2007): paragraph (i)

The Deputy Bailiff:

Then we come to paragraph (i) and I will ask the Greffier to read paragraph (i).

The Greffier of the States:

“(i) to approve the legislation programme for 2008 as set out in Summary Table L pages 54 - 59 of the report.”

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

This is the final element of this year’s Business Plan proposition and represents decisions on the law drafting programme. The 2008 budget reductions applied to the Law Draftsman’s Office has resulted in a reduction of 200 law drafting days. This is in addition to the reduction of 200 days in the current year, so a significant cut indeed. This year the Council of Ministers have included the detail of law drafting proposals for 2008 and the outline emerging programme for 2009. One would emphasise at this point that it is an emerging programme only. It will be developed in coming years so that members and the Law Draftsman will have a better view of forward plans for legislation. The consideration of law drafting is particularly important in that it makes it possible to consider the impact of oncoming legislation on the future financial and manpower resources of the States. As in previous years the bids for law drafting time in 2008 significantly exceeded the amount of drafting time available. A prioritisation exercise was therefore necessary and bids were assessed against a range of criteria, but particularly a link to the Strategic Plan, States’ decisions on the Strategic Plan and whether the financial implications were provided within the financial framework. All those who submitted bids were able to participate in the prioritisation process including Ministers and representatives of the Privileges and Procedures Committee and the Comité des Connétables. The proposed programme for 2008 is shown at Summary Table L and more details of the individual bids are provided in the blue pages 181 - 2004 of the annex to the Business Plan. Sir, I move the proposition.

The Deputy Bailiff:

Is the proposition seconded? [**Seconded**] Now there is an amendment to this paragraph so I will ask the Greffier to read the amendment.

The Greffier of the States:

In paragraph (i) after the words “pages 54 to 59 of the report” insert the words “except that in the said table for the following item: licensing law, a new law to provide a simplified regulatory regime suited to present needs, 30 drafting days there be substituted the following item financial services ombudsman’s law, a new law to establish a financial services ombudsman, drafting days 30.”

AJOURNMENT PROPOSED

Deputy A. Breckon:

I am in the hands of the House but I am aware of the time. I wonder if members would like to take this now or would like to adjourn?

The Deputy Bailiff:

Would members wish to adjourn before the Deputy starts? Very well, so the Assembly will adjourn and reconvene at 2.15 p.m. when Deputy Breckon will proceed.

Senator F.H. Walker:

I beg your pardon, I did not mean to interrupt, but I figured if I did not I might be too late. Sir, can I just remind members that there is a presentation in the Société Jersiaise Committee Room put on by the Minister for Home Affairs which will be very informative indeed about her policy strategies and the way they are being implemented and I would hope that all members who do not have other commitments will make every effort to attend.

The Deputy Bailiff:

Also perhaps just before the Assembly adjourns I think there has been lodged comments on P.84 Retail Strategy Impact Assessment comments which will be with members. Very well, we stand adjourned until 2.15 p.m.

LUNCHEON ADJOURNMENT

PUBLIC BUSINESS – resumed

Annual Business Plan 2008 (P.93/2007): paragraph (i) amendment (...continued)

The Deputy Bailiff:

Usher, could you see if you could summon people here. There is no quorum at present. A roll call, Greffier?

The Deputy of St. Martin:

Do you need a proposer, Sir, and also someone to lock the doors?

The Deputy Bailiff:

It says: “If having allowed such time as he considers reasonable the States remains inquorate he shall ask the Greffier...” I consider reasonable time has expired. Are we quorate now?

9.1.1 Deputy A. Breckon:

Thank you for the comfort break before I started. Sir, this is an old chestnut, if you like, or something that I have been working on for some time and the reason for that is I believe it is necessary and it is something that people out there really want. I would start by saying, Sir, if I had stood here two weeks ago - sometimes it feels like I have been standing here for two weeks - but if I had been here two weeks ago and said that people would be queuing outside a bank or a building society to get their money back, I would have been accused of being a nutcase or scaremongering

or going to the extremes. That will never happen in a modern financial system. Will it not? Did it? What happened? Well we have seen what happened and we are talking about many billions of pounds. The protection for people is their deposits are guaranteed up to £2,000. Interesting. The reason, Sir, the technicality of the law drafting is that individual members are allocated no law drafting time. It is given either by something approved by this House or by Ministers' priority within their own departments. This has been on the list, Sir, for a long time. Some preliminary work has been done, I will touch on that in a moment or two, but I want to begin, Sir, by looking at the law drafting programme and if members have the annex, it is on the blue pages which start at page 181. Within there, Sir, pages 181 to 189 outline in a little bit more detail what is proposed for 2008 and members will see that what I am proposing to take out is reference to the Licensing (Jersey) Law and it is the last item on there prioritised 29. I should point out, Sir, that later on today or perhaps tomorrow we do have Licensing (Jersey) Law Regulations so the thing is not standing still, it is moving and there are changes in the licensing situation and I will mention that in a moment or two. Page 190 just has a few aspirations in there, emerging legislation for 2009 perhaps. In pages 191 to 194 there is some, what may be considered, Sir, work in progress. As members will see by glancing through that it is fairly flexible, some instructions are awaited, that is to say they have never been received and some of these items, Sir, were instructions given before 2006 and have still yet to surface. So I would argue, Sir, that there is some flexibility in the system that would allow for the drafting of a local ombudsman scheme that could be slotted into there and things could be juggled around. Unfortunately the process does not allow me to bid for time in without bidding for time out. I think, as members will see by looking at that, it is or it can be indeed a slow process but it shows indeed that there is some flexibility. I want to come back, Sir, to where I was a few years ago with this, and this was in 2005. The reason I have included a substantive bundle in my amendment is that everything really is there. Sir, perhaps some members were not here at the time when I first brought this. The fact is that the information is there as well as some recent things. But in my report, Sir - if members would go to page 40 - in there at that time, which was in 2005 I think, I was seeking to remove the Limited Partnerships (Jersey) Law amendment and at the time it was one of those cases, Sir, where if you go to remove something then the Minister at the time stood up with some support to say: "The world will stop turning if this is not included" and indeed, Sir, on page 68 the comments of the then Policy and Resources Committee said: "The Committee believes that the Limited Partnerships (Jersey) Law should be included in the 2006 legislation programme as this will provide additional flexibility to the finance industry in an important area of business and will thereby help to maintain the Island's competitiveness." Now, Sir, if that was intended to be one of the tools in the box then if members would look on page 196 in the blue pages, the fifth item down it says: "Limited Partnerships (Jersey) Law amendments anticipated final draft prepared March 2007." In other words, Sir, it still has not been done some two years later and it was said at the time that it must be included and that is, I believe, the tactic that was used at the time to assist with this being delayed. Also in the bundle, Sir, pages 69 to 78, I have included the previous report of the - this was from last year - Minister for Economic Development and I have done that, Sir, because that was in response again to a former debate when an assurance was given to me that something will happen and that report is the something and it was, Sir, to me I should say a little bit disappointing. On page 84, Sir, I have included there some questions that were asked by Deputy Le Hérissier of the Minister and what it does suggest in there, Sir, is that there were various things that were said, this is the back page with some useful background information. It says that since it was first raised by the *Edwards Report* in 1998 a financial services ombudsman scheme has been considered in 1999, 2000, 2002, 2004, 2005 and again when the last report was presented on 6th June last year. On each and every occasion this matter has been looked at the conclusion has been the same. While everyone accepts having an ombudsman would be attractive, it is uneconomic to set one up in the form typically found in large developed economies. "This was the conclusion of my 2006 report", my report being the Minister for Economic Development. It goes on, Sir, to say in the answer to those questions: "While everyone agrees that having an ombudsman would, on the face of it, be attractive, we have to weigh carefully the costs and benefits

for the consumer, the finance industry and the Island.” Well, I would say to that, Sir, it is a win/win/win situation all round. We need to be clear that once an ombudsman is created, it might be very difficult to contain the running costs if complaints were to soar. The Minister went on to say, Sir: “I propose that we set up a round table steering group to commission an independent review of this matter” and he again, Sir, goes on to say: “To start work in January 2008.” Again, Sir, included in my bundle at page 51 is a group that was set up to do entirely that in 2001, 2002 and they were called the Ombudsman Working Party, there was members there from Olsens, two members from Lloyds TSB Offshore and the local branch, Coutts, Law Society, Bacchus, Royal Bank of Scotland International, Royal Bank of Canada Trust, Jersey Bankers’ Association, Citizens Advice and other people attended on an *ad hoc* basis. The reason I say that, Sir, if I had have been part of that working party that had done the thing and made recommendations, I would feel just a little bit of disconnect. Why did I bother? Why did I give my time? Who is taking any notice? At the time, Sir, that went to the Finance Committee later that year and then there were changes of responsibility from Finance and Economics to the old Industries Committee and this was something, Sir, that was left, I think behind the clock. Consultation indeed did take place with the industry and there was support from the Jersey Financial Services Commission and again, Sir, there are letters in the bundle with the Chairman and the former Chief Executive. There is some grey area, if you like, about who pays. Well, it is established that industry pays for its own regulation. It happens there is an ombudsman, would you believe, for removal people because they consider it effective if goods are damaged and disputes... it resolves disputes in a cost-effective way. Members pay and then disputes are resolved and sometimes there will be an additional cost but it is accepted that industry pays. Indeed many industries or many organisations have their own dispute resolution process within their organisation of course depending on the size of it. The question from that, Sir, is can Jersey financial institutions pay? I would say, yes, they can. I would like to give one or two details about why I believe they can. There is, Sir, a recognised cost of doing business, but as perhaps the recent example of Northern Rock shows, there are also examples and costs of not doing business. My report also, Sir, mentions the Citizens’ Advice Annual General Meeting and the Chief Financial Ombudsman was present; he gave an excellent presentation and knew about Jersey’s situation and made some comment really about the failure of us perhaps to move this issue on because he could see, as an experienced practitioner with no vested interest, the benefit of it. Again in my bundle, Sir, page 35 from the slides that he gave at that presentation he was asking what about Jersey? He mentioned the *Edwards Report* from nine years ago and it recommended an ombudsman scheme. He also recognised that since then a draft scheme had been prepared in 2002, little further progress but the Isle of Man scheme had started in 2002. Indeed they boast that they are the only offshore centre with a financial services ombudsman. They do it a different way. He also said, Sir, and made the offer: “That if Jersey has the will we can help.” That is the U.K. financial ombudsman service - bearing in mind it is not a legal dispute, it is a mediation or a conciliation process - and he said they could help with planning with the co-operation and with some partnership issues. Also in the bundle, Sir, page 30, he did look at some of the benefits and the benefits are it is free to the consumer. The average cost of a case is around about £500 and sometimes there could be a mis-sell policy where the dispute could be £100,000 so it is cost-effective when compared with that. Firms pay a yearly levy, a levy which amounts to about 30 per cent of the ombudsman’s total costs and the firms pay a case fee which is about 70 per cent of their operating costs. It is free to the consumer, the consumer does not need a lawyer; they have the specialist knowledge; they mediate; they investigate and they come to a fair and reasonable decision. The advantages for the firms: it generates confidence; it manages expectations; it gives access to expertise; there is a mediation process and it provides finality. Also, Sir, he did outline the yearly levy, it is based on market share, the bank pays £100 for every 300 bank accounts it holds, insurance companies pay £1 for every £22,000 of premiums and small intermediaries pay £50. Also included in that part, Sir, the case fee originally would be £400 per case fee, but the first two cases are free and only five per cent of the firms covered pay case fees. That is to say most of them, Sir, behave in such a manner that they do not need to come to the attention of the ombudsman. There is

other information included in there, Sir, that outlines some of the work and indeed many of the cases, because of the presence of the ombudsman, I think it is about 8 per cent only find his attention, the rest find remedy or are dismissed at an earlier stage. There are some issues that are highlighted in there, Sir, as well but, as I said, the presence of an ombudsman does get remedy but it does not avoid all ordinary process where people must write and get involved and go back to the company and ask for decisions and there is a process laid down where that must be demonstrated before they come to the ombudsman's attention. Most recently there were many disputes over mis-sold endowment mortgages and there have been literally thousands of cases. But the new hot issue, Sir, is bank charges. I have seen examples of this, Sir, where somebody might have an authorised overdraft of £1,000 and if they exceed that on a certain day the bank - and I have seen the charges on an account - would charge £125. The Office of Fair Trading looked at some of these practices and said it was a charge that was not compatible with any costs incurred and they must look at it again. As a result of this millions and millions of pounds have been reclaimed. I have seen figures, Sir, that show that the whole High Street banking sector profits in a year world wide are over £10 billion. It is estimated that over £1.7 billion of this comes from fees charged, some of which have now been considered unfair. Another example, Sir, I have seen where a person may have their salary paid into an account on the first of the month, the money is guaranteed, it could be from the States or a reputable employer, the bank have three standing orders for it - could be mortgage, insurance, something else. Before they put the payment in, they take the three payments out and make a standing charge on each one. I have seen these round about £30-35. So somebody's money is paid in, whoops, money paid out, £30 charge, another transaction £30 charge and they do it regularly. So that is why I have no compulsion with saying that banks and institutions should pay for an ombudsman scheme. They are very inventive at creating fee income, they will have no problem covering this whatsoever. There are also issues, Sir, with credit card charges but that is another issue. But it is something in general terms an ombudsman could apply a mind to and bring this back into line. There have been many cases, Sir - I must pay tribute here - that have gone to the Petty Debts Court for resolution; many cases. Sometimes people feel a bit inadequate with that because they are nervous about taking on a bank in a court albeit for up to £10,000, they are sometimes nervous about that. So, as I say, Sir, I do not have any problems with industry - with companies - paying for this. They do have their own dispute resolution process. That would still be there but it would apply minds, Sir, and I believe there is a benefit there for all. Most industries accept the cost of dispute resolution. It is part of the cost of doing business. The U.K. Financial Ombudsman, Sir, did say he could assist and he made that offer at the Citizens' Advice Annual General Meeting. The Financial Services Commission are supportive; they were in the past and I can say, Sir, they still are. There is a group that I am a member of at the moment that is looking at consumer credit and we are looking at how it is issued, how it is advertised, what the safeguards are, if people can change their minds. We have been working on this for about two years, Sir, but something that it is lacking is an ombudsman to back it up if lenders are not following codes and using what could be considered best practice. There is a benefit for business as well because if they cannot get the information and they do not know what is on their loan book, then they can be building up bad debts. So it is not all about the consumer benefit, there is benefit for business as well and I can say there is some nervousness out there, Sir, about some personal loan books. I know it is an issue that Citizens Advice is regularly working on. I think, Sir, the benefit of an ombudsman scheme and the process, it would not divert normal dispute channels, Sir, but I think it would apply minds a bit like perhaps the Employment Law and other stuff, if it is there as a backstop: as a last resort. I think its very existence would give individuals and companies some focus, especially when an individual may be taking on a very big organisation in a complicated process and the ombudsman could give that some focus, resolve the differences in a cost effective way. I said earlier, Sir, that the Isle of Man are boasting that they are the only offshore jurisdiction, but I think in a lot of areas we can knock the spots off them and we should be ahead of them in this and not behind them. I believe now, Sir, in proposing this amendment - as I have done for a long time - that there are benefits for all; for the individuals, for the Island's finance industry and for the Island in

general. We can say we are triple A (AAA): we will give this guarantee, we do business in an effective manner but when things do go wrong, when relationships break down and people stop talking to each other we do have processes that are cost effective that favour the small person, that can come into place and will resolve this. Finally, Sir, in conclusion I would just like to refer to the Licensing (Jersey) Law, which is something I know that might have been applying your mind in another place, but to get this financial service ombudsman in it means taking something out. I am not saying that our Licensing (Jersey) Law does not need change, does not need review, but as I speak pubs and clubs are closing, the business is changing, not just, I must say, Sir, the result of the bench, it is as business decisions apparently, so the situation is changing and we can review it. But how long will it take? Because the bid is for law drafting time next year and as we heard with the finances, we cannot do anything that quickly, you know, we cannot change things, well has the Licensing trade been consulted about changes to the Law? I have not heard anything. So how long will this process take? We have Regulations on the agenda for the next meeting later today or tomorrow. So things are happening so it is not standing still and I would suggest, Sir, that a review of the Licensing areas can still take place and it could even be slotted in if there was something urgent that was required to the Law, it could still do that. I think you could accommodate that. I must apologise, Sir, that it is rather a convoluted process to get something in and perhaps to make something happen, but it is the only way because were members to agree in principle it then needs to go into a law drafting programme where it has been before and it was in, it has done the hokey-cokey, it has been in and it has been out, but it has not been given the priority and that is the reason for my amendment, Sir. I hope members will see it in that way. It is not meant to be diverting any process but it is the only process. I know, Sir, it is at the end of a very long - I am not sure how long - debate and again that is because law drafting is a resource, we do need to make things happen but I hope members can support this, Sir, because I believe the benefits are there and I propose the amendment, Sir. Thank you.

The Deputy Bailiff:

Is the amendment seconded? [**Seconded**] Senator Ozouf?

9.1.2 Senator P.F.C. Ozouf:

The extent to which I have sympathy with Deputy Breckon is that I am well aware and he has reminded members that he has attempted on no less than six occasions to get the Assembly and perhaps Economic Development and predecessors to be converted to bringing forward a financial ombudsman scheme. I have answered numerous questions on this in the last few months and I have to say to the Assembly that my own position is that I support the need for a scheme. I am in agreement with Deputy Breckon with many of the things that he says about the importance of personal finance and an availability of seeking redress where there are issues. It has to be said that the previous Economic Development Committee was not convinced. I am trying to do something about that but I have not got a magic wand. For that reason I have to say and inform the Assembly that I just simply cannot do what Deputy Breckon is asking. My comments are going to be split into two because Deputy Breckon is proposing - and he has not said much about this - he is proposing effectively using the slot that was for Licensing (Jersey) Law to draft a Financial Services Ombudsman (Jersey) Law and that I am afraid, with respect to Deputy Breckon, is simply not realistic. E.D. (Economic Development) has, the last time I counted, around 12 different departments. The people that work on financial services are not the people that work on Licensing and Regulatory affairs. They have different workload. I have to say and Deputy Breckon I think is aware of this as a member of the Economic Affairs Scrutiny Panel, that there is a huge amount of work currently going on in financial services legislation. At the moment we are dealing with - and I have lodged, I think, six laws today in relation to - the I.M.F. (International Monetary Fund). There is an agreed financial services business programme and we are working through it. To ask those people to put in place now a Financial Services Ombudsman (Jersey) Law I am afraid is unrealistic. But I will come back to the ombudsman in a second because I do not think Deputy Breckon has

made a very compelling case for effectively removing the need for the Licensing (Jersey) Law. Members will, I am sure, be aware that the current Licensing (Jersey) Law is out of date, burdensome and over-complicated. It has not kept pace with modern times. It does not give the police, fire and rescue adequate tools to ensure the protection of property and most importantly the prevention of disorder. The new law has the full support of the police. Indeed I think the Minister for Home Affairs... and I would be grateful if she could comment and confirm that she agrees with me that a new law is desperately and urgently needed. I agree with Deputy Breckon too that this issue has been on the stocks and laying to be completed for far too long. There is a serious problem with alcohol abuse on this Island. We must deal with the issue of Licensing. I am determined - equally determined - to deal with the issue of licensing in 2008. That is why we have got a law drafting slot. The staff involved in Economic Development with Licensing are ready to deal with this issue in 2008 to consult and to bring forward a new law. Now as far as the financial ombudsman is concerned, unlike Licensing, we are simply not able to use the law drafting slot. Even if I knew what a financial ombudsman should cover... and it is complicated. Deputy Breckon has helpfully attached the report of the ombudsman in the U.K. and I am sure Members can see that it is very widespread in terms of its dispute resolution covering estate agency, businesses, financial intermediaries, banks, insurance companies: the whole realm of things. He did say that there had been some work done on it previously in 2002 and again I agree with him. There was a working party but that falls significantly short from an agreed law drafting instruction in order to take that from the concept of an idea into a law. This is going to be, if the Assembly eventually agrees, an important and big law. It is going to be - and he cites the example of the Isle of Man - an issue that we are going to have to charge businesses to do. I cannot think for one moment that I am going to win a debate to get £600,000 or £750,000 out of this Assembly to pay for a financial ombudsman, and that is the kind of cost that we would be looking for. This is going to have to be paid for by business. I agree, in theory, that it should be paid for by business and it is important that one consults with business in order to get to a situation where they would agree and accept the necessity to bring it in. I am afraid that this Assembly has agreed standard procedures, in terms of *White Papers* and *Green Papers*, on the consultation of law. Effectively, just simply asking me to bring forward a law in 2008 would not allow me to do the necessary consultation with business to bring it in. I am afraid I simply cannot bring a Financial Ombudsman Law to the Assembly in 2008. I think rushed law will mean bad law and I am sorry, but if the Assembly agrees to this proposition the effect will be that the slot will be unused. Moreover we will not be able to progress the issue of the Licensing (Jersey) Law which I think is equally important and urgent; moreover ready to go. What I have undertaken in my report to do is to consult on the need and to do as much as we possibly can to work up the bones of a scheme. What I would do is I propose to keep the Assembly informed of the progress of this work and hopefully, if a scheme can be worked up, to ask for a law drafting slot in 2009. I am afraid that that is the best that we can do. I am sorry that I do not have a magic wand. I am sorry that I do not have law drafting instructions ready to go but that is the reality. The Assembly is being asked effectively not to use a slot. I cannot do what Deputy Breckon is asking me to do and I urge members, with a slightly heavy heart, to reject the amendment and to support what we are trying to do, to work up a scheme in 2008.

9.1.3 Deputy J.J. Huet:

What makes us think we will get it in 2008? I mean, I hear what the Senator says, it sounds very good, but maybe I am a doubting Thomas because I have just looked at what I said last year and we are no nearer to it now. But I tell you what we are nearer to: I would now like to add insurance companies to this list because I feel that our people are being badly done on this and we keep saying this every year. Last year it was banks, now it is insurance. I am coming to the point that I feel like naming and shaming them, which I know one does not do, but a lot of people are suffering because of it, and does the Senator really believe, Sir, that these insurance companies and these banks are going to put their hands in their pockets to pay for it? No, of course they are not. He is living in cloud cuckoo land. They are not going to: they do not want one. Of course they do not

want one. They have never wanted one. How long has Deputy Breckon been attempting to bring it to the States? They are not going to want it and I just feel, Sir, that we go on and on and now we have: “Oh well, okay, yes, 2008 or 2009” and then next it will be: “Well, no, no, we cannot quite make it. They are not all agreeable. Let us try for 2010.” How long is a piece of string, I get the impression. But I am again going to go with Deputy Breckon and I hope other people will because this is way, way out of order and I am astounded to know that you now have Law Draftsmen - I presume, if I have it right - that know about drinking and you have to have Law Draftsmen that know about finance. I would have thought they were all law draftsmen. I did not really believe, Sir, that they were different sort of pots, as you might say. It has been very interesting to learn that. I am wondering what we do if we have Law Draftsmen for planners. Do they have to be builders? It could go on. Unbelievable. Utter rubbish, Sir, of course they can do it. If they can do one they can do the other. They are intelligent people.

Senator P.F.C. Ozouf:

Can I just correct the Deputy? I was not, with respect, talking about law draftsmen but rather my own department officials; that there is a separate department that deals with Regulatory affairs, to that of Financial Services. I cannot ask my own department officers to switch from dealing from alcohol affairs or from financial services to alcoholic affairs. It is two different people. That is different from law draftsmen. I accept that they can do it but they need the law drafting instructions and I cannot do it.

9.1.4 Deputy K.C. Lewis:

I believe an ombudsman in Jersey is long overdue. With regard to the finance industry I feel a financial services ombudsman would further boost confidence in Jersey’s financial services. With what is happening in the United Kingdom banking world at present that can only be a good thing. If I may quote an old contemporary of yours, Sir, Lord Howarth: “Justice should not only be done, but it must be seen to be done” and we must be seen...

The Deputy Bailiff:

I know I have a lot of grey hair, Deputy, **[Laughter]** but I am not sure it is fair to describe him as my contemporary.

Deputy K.C. Lewis:

Or predecessor, Sir: apologies. We must be seen to be policing ourselves to the highest degree. I will be supporting this amendment, Sir. The Isle of Man has had their financial ombudsman since 2002 and they are smaller than we are in financial services. I will be supporting this amendment.

9.1.5 Deputy S.C. Ferguson:

I had understood that the paper prepared by the J.F.S.C. (Jersey Financial Services Commission) was in fact tantamount to a law drafting brief. Certainly this was my understanding. I do query the cost quoted by the good Senator. I cannot see that £600,000 is necessary. Mind you, perhaps some of the grant to Jersey Finance could be put towards it, just take a bit of the £1,025,000. When I spoke with the Isle of Man they told me that effectively their ombudsman was a couple of people in their equivalent of Trading Standards. Yes, if they were very busy one or two of the others would help, but basically that was all they needed. We do not need to have a quango the size of the J.C.R.A. (Jersey Competition Regulatory Authority). I mean, my colleagues and I, when we were at the J.F.S.C., we used to deal with all complaints regarding banking and there were three of us at the time and that was just part of our normal work. The fact that we did not have any legal status and had to blagg our way through was a different kettle of fish. We do not need a Rolls-Royce set up. All we need is a bright, retired ex-regulator, that is all, with an efficient P.A. (personal assistant). I would also add that from the other side of the fence I helped write and set up a complaints procedure for a large international bank and I can tell you that the banks and the large financial

institutions would much rather get complaints settled in-house than let them get anywhere near the ombudsman. So, this again will reduce the workload on the ombudsman. So, we do not need a quango. I think Deputy Breckon's proposition has merit. I think at the same time as we have the law drafting time then we should just perhaps look at the way the Isle of Man have done it and just check on the costs of it before we dive into it. Thank you, Sir.

9.1.6 The Deputy of St. John:

I am slightly perplexed by this proposition. Members seem to be suggesting that there is simply no protection for consumers, in this case financial products, but we already have the F.S.C. (Financial Services Commission), we have the J.C.R.A., we have Trading Standards. To say there is no protection for people is a bit of a nonsense really. I know it is not perfect, but there is protection already for people in a slightly different way. In other words there is expertise there already. Perhaps we could use it in a different way. In the last few days we have been talking about cutting public spending and here we go again. This creates another quango, another department, something else to fund and that worries me, Sir. We are very good at coming up with ideas like this but somebody has to pay for them. It is all very well to say: "No problem. The financial services industry will pay for it." Hang on a minute, they are already paying for the J.C.R.A., they are paying for F.S.C., they are paying for Jersey Finance. Where does it stop? Somebody has to pick up the tab and I hear Deputy Ferguson suggesting that we can maybe do it, kind of, on the side. Maybe we just put somebody in part-time to do it, somebody who has a bit of experience and a bit of maturity. We are a respected financial jurisdiction. If we are going to do something surely we do it properly and if we do it properly it is going to have a cost and that concerns me, Sir. We have a number of other institutions or organisations that do similar work already. Perhaps we should be looking towards them for assistance with this, not creating something else again that we are going to have to fund, perhaps at the detriment of overseas aid or whatever. We have a certain pot, we have a Business Plan already, do we really want another organisation to oversee this when we are already respected as a *bona fide* financial centre that has lots of protection for consumers and for traders already? So, I find it difficult to support this but I do understand what Deputy Breckon is trying to do here and, yes, it is important that consumers should have protection but to create yet another quango I have severe reservations about that and would like to see more work done on this before we can debate this properly. We are in danger here of approving this proposition and then trying to find the funding for it and that is precisely what we should not be doing and that is what members time and time again attempt to do in this House and that is what we have been talking about for several days about not doing. Sir, I find it difficult to support this proposition.

9.1.7 The Deputy of St. Martin:

There are two issues here and I do have a lot of sympathy for Deputy Breckon because he, like me, has been in the House a long time and there are a number of issues that we have tried to progress and have stumbled along the way. However, as I say, there are two issues; one I think which he made a very strong case for - and that is the one for the ombudsman; and the other one was the Licensing (Jersey) Law - for which I thought his case was pretty weak. If we look at the issue of the ombudsman we have had an assurance - we have it here in black and white - that the Minister for Economic Development has the matter in hand, is going to come back and hopefully start work soon after Christmas. So, we have an assurance there, but what do we have for assurance about the Licensing (Jersey) Law and why should we stop the Licensing (Jersey) Law? Can I say, as one will see in my proposition here, that I did chair a panel way back in 1995 and we were unanimous that there was a need for a new law then and I am delighted that at long last - 12 years later - we are going to get a new law. Just because I was part of something 12 years ago... ever since any number of people within the community have been crying out: "Let us have change. What we have now is so complex, outdated: let us bring something which is new and up to date." Indeed it is supported by people outside and no doubt we may well hear from the Minister for Home Affairs. It would be interesting if we are all on the same side of this argument but it is good that we have something in

hand at long last. What I would ask is that we do not put a block on the Licensing (Jersey) Law. We need a new Licensing Law, let us get the wheels turning and I ask that those members, as much as I like to support the principle of the ombudsman, it is just not on for today. Let us recheck this proposition.

9.1.8 Senator W. Kinnard:

I must admit that at first this amendment put me in a bit of a quandary because I have always been keen on the idea of a financial ombudsman but I have to say the choice of replacing the Licensing (Jersey) Law with this is not one that I would wish to make. It has been asked why will it be progressed now and what guarantees do we have that it will be taken forward. I am certainly convinced that there is a need for it to be taken forward as quickly as possible and it is essential to things like the Safer St. Helier project, which I notice that some members from St. Helier have spoken in favour of Deputy Breckon's amendment. But I have to say to them that the parishioners in St. Helier have greater interest, I would imagine, in seeing a proper up-to-date Licensing law on the statute books. There has been an awful lot of work put into the Safer St. Helier group by ordinary people living in St. Helier and I think that it would be entirely the wrong message to pull the rug from under them, as it were now, and to say we are no longer going to progress the Licensing (Jersey) Law because this is an absolutely major part of pursuing their objectives. The current law, Sir, is antediluvian. It really is not fit for purpose. We do have problems in enforcing the current law for policing purposes and the fire and rescue service too would certainly argue that they do not have enough powers under the existing laws that we have. So we are very keen in Home Affairs to see this matter progress. I am aware, Sir, that the States of Jersey Police are already in discussion with officers at Economic Development to have our input as early on as possible to ensure that the law meets our needs, and I have to say that we have so far been welcomed in those discussions. It seems to me that it is not as if there is absolutely no protection, as the Deputy of St. John has mentioned, for those dealing in financial matters although I do agree I would like to see more, but if we are going to have greater regulation of financial matters this must always be done properly, particularly when we have our Island's excellent reputation of financial matters to maintain and we have already heard from the Minister for Economic Development that he and his department are really not in a position to be able to take on board this particular matter at this time. This is not to say that they are not going to progress it, or something along those lines, with the proper research at the point when they are able to do so. It seems to me, Sir, that there were a very many ordinary St. Helier residents who deserve a better Licensing Law and they deserve it as soon as possible. So, Sir, regretfully I cannot support this amendment.

9.1.9 Deputy I.J. Gorst of St. Clement:

I rise to sound a note of caution. While I agree with the principle of an ombudsman, and an ombudsman for our financial services industry, I am one who does not believe that it should be for Jersey alone. I believe that this provides us with an ideal opportunity for a pan-Channel Islands body to deal with all these issues. If we are truthful and if we pick up on some of the sentiments of Deputy Ferguson, there will be issues of cost and economies of scale and these issues, I believe, could be addressed through the use of both Guernsey and Jersey coming together and setting up a workable, realistic-type body. That will take time to achieve and therefore I believe that we should be supporting the Minister for Economic Development and his steering group and work towards a practical solution to this problem. I also wanted to sound a few notes of caution in regard to one or two points that Members have made. It has been said that the cost will be borne by the financial services institutions. Compliance always has a cost, so, yes, there will be a cost; however the cost will be borne once again by the consumer. Let us take the bank charge issue which Deputy Breckon spoke about; charges for going overdrawn and using your account in a way for which it was not prescribed. I believe that we will move probably towards the elimination of those charges but in their place what we will see is a charge for every single current account. So, the charge is not being stopped, the cost is merely being spread in a different manner and that will mean that everybody

that uses a current account will be charged for it. An ombudsman for Jersey: should it be an ombudsman for everyone who uses a financial services institution in Jersey, or are we really looking at a problem here which I believe revolves around the local residents and their interaction with banks and financial services institutions. And if we are looking at a scaled-down ombudsman which would allow local residents access to them, but not necessarily some of those people who are international players, then, yes, I would be fully supportive of that because I believe that is potentially where the need arises. Other speakers have said that they do not believe that the financial services institutions want an ombudsman. I am afraid I do not agree with that. If we look to the United Kingdom we see there that financial services and banking institutions welcome the ombudsman. That is because it deals with issues speedily and finally because the costs often involved in some of these issues is the time it takes to resolve them. Other members have alluded to the fact that they believe it might be a cure for all ills. I certainly do not believe that that will be the case, for after all let us be clear, the U.K. already has an ombudsman and it has not stopped the credit crunch at the Northern Rock. So, Sir, to finish, I support the need for an ombudsman, providing it is for local residents, but I believe that it should be pan-Channel Islands and that solution will take time. So, I cannot support this amendment.

9.1.10 Deputy G.C.L. Baudains:

Some things, Sir, in this Assembly never seem to change and one can almost follow the way a debate is going to go. We have been talking about financial restraint and we hear all about the promises that will be done but are never quite done; it is always done in a half-hearted way. Other matters which have been brought by a Back-Bencher and not brought previously by a Committee and now a Minister, there seems again to be a format that the debate will follow. Most of the Ministers agree with the principle, however there is always a reason why it cannot be done, but we will do it. It is underway, it is happening, and of course if you put it off long enough hopefully it will go away. I disagree with the Deputy of St. John - I see he is not here to hear my comments - this will, as it has been explained by the proposer, not cost the Island money. In fact, I believe it will save us money. It certainly will not do our image any harm and I am left wondering why it is that the Isle of Man can achieve this but we cannot. Obviously they are more expert in these matters than we are. I hear and understand the arguments about replacing one legislative item with another, but I am left with the concern that if we do not put it into our programme it will simply go round and round for another five or 10 years. I am quite sure that in actual fact with the contingency that there is and slack that occurs when drafting instructions are delayed, as they usually are, that the contingency will probably allow for both of these items to be in, but if we do not put in the ombudsman it is simply not going to happen. I am going to support this and I obviously support it on the understanding that it is not going to cost us money because, as Members will know, I have been vigorously opposing our expenditure and I would not be supporting something that was going to cost us money.

9.1.11 Senator T.A. Le Sueur:

I think it is naive to assume that an ombudsman can be provided without somebody paying the bill. It may not be the taxpayer through the States, but it may well be the taxpayer through his own individual charge that he has to pay to the bank. Either way it is going to be the consumer who pays, so I think before we approve any drafting instructions we need to be quite clear, as Deputy Gorst said, who we are trying to help here because at the moment I can see a danger that we have an all-singing, all-dancing ombudsman looking after the needs of customers worldwide with complaints and paid for by the local consumer, either directly or indirectly. That may be desirable, I do not know, but I think before we agree that we ought to consider it in a bit more detail. So, I think to echo Deputy Gorst's point, we need to be clear about why we are doing this and whether we can do it in a better, more effective way. Whether that involves Guernsey or not remains to be seen but I do stress that anyone who thinks that this can be done for nothing is not being realistic. It could be suggested that the institutions themselves would pay, but of course they will do that and then

charge it back to their customers. But in any case if the institutions fund the ombudsman then it is a question of how objective the ombudsman can be, so I think there are questions here still to be answered and I think before those questions are answered, and given the important benefits that we can get from the Licensing Law, we need to resolve that one rather than have two things sitting around in an uncertain state any longer. So let us at the present time reject this amendment with the knowledge that even in rejecting the amendment work will still go on, on developing draft instructions for a future year.

The Deputy Bailiff:

Does any other member wish to speak? Very well, I call upon Deputy Breckon to reply.

9.1.12 Deputy A. Breckon:

I would like to thank all members for their contribution. I will try to be brief in summarising. I well understand the comments of the Minister for Economic Development and I think in many of the issues we are indeed at one. We do not have differences there, it is just perhaps how it happens and how it moves on. I did mention the issues of consultation, Sir, but some of this was done over the years and I am going back to 2000/2001 following the *Edwards Report* which I think was in November 1998. Again, Sir, I would refer Members to the blue pages of the annex in legislation and at page 191 there is a list of work in progress instructions first received before 2006. It does not say when, so they could have been received in the year 2000. It does not say that, so it could have been two years before; it could have been six months before; it could have been five years before - but there are some issues outstanding and there is one there at number 7: "Civil Aviation Regulation Law under Economic Development, March 2006, draft being consulted upon demi-officially with the U.K. and other Islands." Now, what does that mean? Where is it? There is another list of things in there, Sir: "Copyright Law, draft prepared October 2005." It still has not emerged and that is why I say, Sir, this is a bit of smoke and mirrors with this law drafting. I am not saying it is not a science. There is another issue in there: "Financial Services (Control of Advertising) Order, revised draft to J.F.C. March 2006 - awaiting further instructions." Who is progress chasing some of these issues? That is why I feel that things can be slotted-in as they seem to be getting slotted-out. There are other things that are the same. There is another one: "Registered Business Names Law - Economic Development." This is: "Instructions first received before 2006 - Registered Business Names Law. Awaiting further instructions from Jersey Financial Services Commission May 2006." So, where are we with some of this stuff? Who is chasing it? I know the Minister has said there has been lots of financial regulations lodged in the last day or so, but there are also things in there that appear to be stuck in the system. So, I would say, Sir, there is perhaps some room for manoeuvre. I am a little bit surprised at some of the comments; one from the Deputy of St. John, which Senator Kinnard agreed with, about the effectiveness for the individual of the J.C.R.A. on competition. Individuals do contact them but they have no arbitrary power for the individual. If they are to get a lot of complaints about a particular issue then they can investigate; the same with the Jersey Financial Services Commission. Individuals do contact them and indeed did on being mis-sold endowment policies and they have no jurisdiction. Where they do have the powers and they have used them recently is a case that was before the Royal Court and an institution that was found to be perhaps misleading people, their licence was revoked and that is the nuclear option, if you like, that the Financial Services Commission has. I have to say I have read part of that judgment and some of which meant, sadly - and it does not give me any pride to say this - people who were not able best to manage their own affairs were conned out of many, many thousands of pounds and the judgment was critical of the legislation for not having something in place to protect people. That was contained in the judgment. I would add, Sir, it was not from you. It was the Commission. But having said that, the case has not been settled and it is going to the professional indemnity insurance of the people who sold the services, but the Jersey Financial Services Commission, although on occasion will try to intervene on behalf of the individual, they do not have a great deal of power. What they can do is, if there are a lot of complaints, they can

investigate an institution and their practices and the nuclear option is that they can be struck-off. Again with Trading Standards: in many areas they have no *vires* to get involved. One of the organisations who are proactive in this area is indeed Citizens' Advice and again they try and negotiate on people's behalf and do so successfully and it is a shame really that some of this has been compared with a safer St. Helier. Ask somebody who has been fiddled, or mis-sold a policy, and their house is at stake and it is £60,000, £70,000 or £80,000 which they would rather have - and that happened, I can assure members, to many people. But the institutions - the J.C.R.A. and the Financial Services Commission - are not necessarily consumer-facing; not for the individual. Costs and various things have been attached to this, Sir, but again the U.K. could advise on this and it is a case of what do we do first, or do we do nothing? I suggest we do not do nothing, Sir; it is time we did something and people out there are frustrated by the lack of... we say we are a world-class financial centre and I believe, Sir, this is one string that is missing from the bow. This is something that is a win-win. Deputy Gorst, I did not hold my head in horror, Sir, but when he mentioned a C.I. (Channel Islands) organisation, I thought: "This is good for five years delay at least." I would remind him that Guernsey do not have a Competition Law and they do not have Regulation of Undertakings. They do not have very good drainage either, but I will not go into that. But the fact is, Sir, that I think this could be an unnecessary complication. I can understand something that could over-reach, but I can also see some serious problems in getting that on to a drawing board. We could not even get the ferries right; one was five years and one was seven years so, some of these complex financial services, I do not see it happening. Senator Le Sueur mentioned, who are we trying to help? What I would say is we are trying to help everybody. It will be a credit to the finance industry. We can say we do business, but when things go wrong that is for you and in the main it is compensation up to £100,000 for a business that trades up to a turnover of £1 million. The reason is that with a large institution perhaps they could not take them on, if they had been mis-sold something. That is generally the rules within the U.K. It also helps the individual if they are not able to assist themselves and it also - I would suggest, Sir, for the institutions themselves it gives remedy - gives some certainty and they are able to use it in their sales pitch and say: "Well, we do business; if something goes wrong this is the backstop. This is what we offer." I would just like to close, Sir, with some comments. The Jersey Financial Services Commission set up a compensation scheme in the U.K. about a year or 18 months ago through a firm of London solicitors and the reason they did that... I cannot remember the exact time of it. It was these investments where there was an element of risk and people were not aware of and this scheme went pear-shaped and it looked like it could have blown a chill over the probity of the finance industry, so the Financial Services Commission set this up and individuals in the main were compensated as if it had been an ombudsman scheme and they did it for exactly the right reasons and then when it was done it was wound-up. But the reason that was done, Sir, was because Jersey and Guernsey were lacking in these areas and perhaps people outside the Island... it could have been a serious confidence factor, but I would say, Sir, if that could be set up that scheme could really be lifted and put in place for what I am talking about here. There is a cost, Sir, and I know members have mentioned things; most financial institutions deal with individuals - with their inquiries, with their complaints - on a daily basis. So, there is a cost and I think what an ombudsman scheme would do, Sir, it would give the individual and the organisations that focus to solve their dispute. If they do not then a process would be there which would do it for them. Having said that, Sir, it is equivalent to Employment Law. It is there as a last resort. The best place to resolve a dispute is with the people involved, as close to the source and as soon as possible and that still would apply. The figures from the U.K., Sir, I think the percentage is about 8 per cent that applies the mind of the ombudsman as a last resort and not every complaint is withheld. I think it is something like 70 per cent are dealt with at an early stage by one way or another, so I do not think we are setting up anything here. I do not think it will be a monster. I think it will be manageable and the benefits are there for all, Sir, so I think it is a win-win-win. I maintain the amendment, Sir, and I ask for the appel.

Senator P.F.C. Ozouf:

I did not want to interrupt the Deputy, but I am sure he did not mean to mislead the Assembly, but in relation to the compensation scheme of the investors that lost money, we do have the legislation to deal with the compensation scheme and we are dealing with it and he said we do not have the legislation. That is not correct.

The Deputy Bailiff:

Very well, the appel is called for on the amendment of Deputy Breckon. I invite members to return to their seats and The Greffier will open the voting.

POUR: 13

Connétable of St. Mary
 Deputy R.C. Duhamel (S)
 Deputy A. Breckon (S)
 Deputy J.J. Huet (H)
 Deputy G.C.L. Baudains (C)
 Deputy J.B. Fox (H)
 Deputy J.A. Martin (H)
 Deputy G.P. Southern (H)
 Deputy of Grouville
 Deputy P.V.F. Le Claire (H)
 Deputy D.W. Mezbourian (L)
 Deputy S. Pitman (H)
 Deputy K.C. Lewis (S)

CONTRE: 27

Senator L. Norman
 Senator F.H. Walker
 Senator W. Kinnard
 Senator T.A. Le Sueur
 Senator P.F. Routier
 Senator M.E. Vibert
 Senator P.F.C. Ozouf
 Senator T.J. Le Main
 Senator F.E. Cohen
 Senator J.L. Perchard
 Connétable of St. Ouen
 Connétable of St. Peter
 Connétable of St. Clement
 Connétable of St. Helier
 Connétable of St. Lawrence
 Connétable of St. Brelade
 Connétable of St. Saviour
 Deputy of St. Martin
 Deputy S.C. Ferguson (B)
 Deputy of St. Peter
 Deputy J.A. Hilton (H)
 Deputy G.W.J. de Faye (H)
 Deputy J.A.N. Le Fondré (L)
 Deputy of Trinity
 Deputy S.S.P.A. Power (B)
 Deputy A.J.D. Maclean (H)
 Deputy I.J. Gorst (C)

ABSTAIN: 0**The Deputy Bailiff:**

We return to the debate on the legislation programme. Does any other member wish to speak?

9.2 Deputy J.A. Hilton:

I just have a couple of quick queries. On this smaller document - on page 59 - there is a statement there which says that departments have been asked for their assurance that their bids have been made with the clear understanding that the financial implications of the resulting legislation can be accommodated in the proposed net revenue expenditure allocations to their department for 2008 and beyond. The reason I wrote that out is because if members look at the annex to the Business Plan - on page 182, the very first item - which has been given an overall priority of one, if you look at the resources it says the revenue impact not yet known and full time employees impact not yet known, so I am just a little bit curious about that particular statement, so if the Chief Minister could

possibly answer that, please. Also, this came up at the lunchtime presentation; this is referring to legislation on page 188 by the Home Affairs Committee access to vetting information enabling legislation. I just wanted to ask there, a comment was made at lunch time about the systems in place in other European Union (E.U.) countries and I think the inference was that they are not particularly as up to date as we probably are, and the U.K., and my concern there is that if we have a resident of an E.U. country, whose system is not up to date, and when it comes to vetting them for employment with vulnerable people, how confident can we be that the system is robust enough? If it is not, how are we going to address that issue? A final comment I wanted to make on page 189 is to do with the Public Elections (Jersey) Law 2002 Amendment which is concerning election expenses and the comment in the final paragraph is: "changes need to be in place as soon as possible." The question I really wanted to ask is, will those changes be in place for the 2008 elections? I believe it is very unfair on those members and potential candidates with limited resources having to fight elections against people who can throw any amount of money at their election campaign. Also now I read in the paper today that our only political party has been promised, on a pound for pound basis, up to £28,000 from the Joseph Rowntree Foundation, which obviously puts those members of that party also in a particularly strong position when it comes to their re-election prospects. For somebody like myself and those other independent members in this Assembly, and for those members of the public out there, who do not have those means available to them, I believe it is imperatively important that this piece of legislation is in place for the 2008 elections.

9.3 Deputy S.C. Ferguson:

Members have had on their desk a report by the P.A.C. (Public Accounts Committee) on Ministerial Decision TR-2007-0057. The P.A.C. is concerned that if the proposals in this decision are enshrined in legislation, as the decision is written, then States control of expenditure will be even more diluted. The Minister has commented that this part of the amendment is needed to allow departments to take advantage of favourable buying opportunities. The P.A.C. is sympathetic to this and would support the availability to the Treasury Minister of a reasonable contingency fund for use in these circumstances. We would like an assurance from the Minister that our comments will be taken into account when preparing the law drafting brief.

9.4 Deputy G.C.L. Baudains:

Referring to the blue pages from page 182 onward, I am slightly concerned about the resource implication that some of these are not yet known - not identified yet and such like - but obviously these refer to items which are important so they are not ones that we can argue that should not be done because of the resource implication. But a second issue, I find that looking at this list, we have just been discussing the inability to find sufficient space within the programme to put in another worthwhile law drafting issue and yet I notice there are quite a number of things on these pages which quite obviously are not ready yet for law drafting. In fact, if I could give as an example, number 16 on page 186, I would have thought this needs a whole lot of consultation. As I understand it, it looks like Social Services are going to start charging where they were not in the past. This cannot possibly be ready for law drafting instructions in 2008. I am just slightly concerned about the accuracy of this list, Sir.

9.5 The Deputy of St. Martin:

Likewise, I would like to endorse what Deputy Hilton had to say because I was going to raise the issue myself and I am delighted to hear that something is in hand but, on the same theme, on page 202, number 10 - it is about the Public Elections (Jersey) Law and we are told the instructions are awaited. Again, I know it is going to be quite a contentious piece of legislation and I ask if we could have an update on that. Again, is that likely to be in place before the elections next year? Likewise, on page 203, number 17 - Limited Liability Partnerships (Jersey) Law - and that brings back some fond memories. It does seem a lot of days being used for this piece of legislation. Those

that were in the House in 1994/1995 or whenever it was when we had the troubles with that piece of law, know it was very costly. Again, I am surprised to see that we are still another 15 days it would appear... is that on top of the 30 days, or is that 45 in all, or is it just 15 days? That is again page 203, number 17.

9.6 Senator W. Kinnard:

If I could just pick up on a couple of the points that were made about the vetting and barring systems and comments that were made about how robust were the existing systems and how robust would they be in future. I made a comment in response to a question during the lunchtime presentation that one of the difficulties in finding out information about individuals who may be coming from some of the new E.U. accession states is that in some of those countries their systems are not as computerised as our own and access to detailed information may not be as easy to access it as it is with other jurisdictions, such as the existing links that we have particularly with the United Kingdom and with the usual European States. What I would say, Sir, is that one of the things in Jersey is that we have had - and I do not like to point a finger at particular states - but we have had very few people coming to the Island from the particular states that I think I would have some concerns about, and the view taken by the Island has been that there has not been a need to restrict those individuals coming to the Island because so few of them have sought to do so. However, Sir, it is not an ideal situation and in an ideal world we would like to have absolutely perfect information, particularly where individuals were wanting to take up work in the Island. But having said that, Sir, we do have systems in place, particularly when it comes to the vetting and the barring, if necessary, of individuals seeking to take up work in the health service and the education service where they will be coming into contact with vulnerable individuals. If you ask me, Sir, how robust do I think the system is, or will be in the future, one of the reasons why my department has been looking at this issue of vetting and barring is because we do have some concerns that when the United Kingdom changes over to its system of accessing records next year, as a result of the piece of legislation, Safeguarding Vulnerable Persons Act, that we would not be in a position to access that information because at the moment information is accessed via the health and the education department through gateways. So my department has been working with a cross-departmental group to ensure that we are in a position of readiness to be able to access not just the existing databases that we access but also some new databases which would give us access to better information than we have had previously. So, Sir, the move is to not only ensure that we are in a right position for the changeover so that Jersey does not become a place which has lesser information than elsewhere in Britain, not only are we moving to a position to ensure that is not the case, but we will also be moving to a position where we will have access to further and better information than we do at present.

The Deputy Bailiff:

Does any other Member wish to speak? Very well, I call upon The Chief Minister to reply.

9.7 Senator F.H. Walker:

I pick up first on all the questions raised by Deputy Hilton, some of which I hope have been more than adequately answered by the Minister for Home Affairs, but the other question which Deputy Hilton raised - which was echoed by Deputy Baudains - is the question of the resources and accommodating them, where there are a number of cases where they said they have not yet identified. I have to say I think we can improve on that. I do not think that that is the best way of presenting it, particularly when there is a comment which says that all revenue and manpower implications are allowed for when the particular law is put forward and that is something I will be looking to improve upon. But, Sir, if there is any question of additional resources then of course it would have to come back to this House because we agreed much earlier in the Business Plan debate last week, the amendments of the Deputy of St. Ouen which made it abundantly clear that States' decisions are paramount. The States' decisions we have now taken are paramount so any changes in

that would have to come back to this House at, I would imagine, the time that the law is put forward for debate. Sorry, there was a third point that Deputy Hilton raised and that is the question of election expenses. Absolutely the intention is that the new controls should be in place in time for the 2008 election. So, I noted the comments of Deputy Ferguson on behalf of the Public Accounts Committee and, yes, I can assure her that the comments will be taken fully into account as we move forward. The Deputy of St. Martin raised a question about the Limited Liability Partnerships (Jersey) Law and whether or not the time allocated was excessive. Sir, all I can say is that that is the time we have been advised by the law draftsmen will be required and we have to take their views on this. They are after all proven experts in this field and they do not often get it seriously wrong. If they believe that 15 days is necessary for primary legislation and 30 days for subordinate legislation I for one am more than prepared to take their word for that. If I can conclude by just making a couple of general comments. The Law Draftsman's Department has been the subject of severe cuts in the recent efficiency programme over the last couple of years and we have taken 400 hours out of the programme to meet States' financial constraints. I know, because I do talk to the Chief Law Draftsman, that they are absolutely at full stretch. There is, contrary to the point made by Deputy Breckon when proposing his amendment, no slack in the system whatsoever. They are at full stretch and I believe they are doing quite an excellent job in the amount of very high quality legislation that they enable us to debate in this House and through which we are successfully able to govern the Island. So, Sir, I would commend the department for being able to maintain a very high output with very heavily constrained resources, so I maintain the proposition.

The Deputy Bailiff:

So, the matter before the Assembly is paragraph (i) of the proposition. All those in favour kindly show. The appel is called for in relation to paragraph (i). I invite members to return to their seats and the Greffier will open the voting.

POUR: 39

Senator S. Syvret
 Senator L. Norman
 Senator F.H. Walker
 Senator W. Kinnard
 Senator T.A. Le Sueur
 Senator P.F. Routier
 Senator M.E. Vibert
 Senator P.F.C. Ozouf
 Senator T.J. Le Main
 Senator F.E. Cohen
 Senator J.L. Perchard
 Connétable of St. Ouen
 Connétable of St. Mary
 Connétable of St. Clement
 Connétable of St. Helier
 Connétable of Trinity
 Connétable of St. Brelade
 Connétable of St. Saviour
 Deputy R.C. Duhamel (S)
 Deputy of St. Martin
 Deputy G.C.L. Baudains (C)
 Deputy C.J. Scott Warren (S)
 Deputy J.B. Fox (H)
 Deputy J.A. Martin (H)
 Deputy G.P. Southern (H)

CONTRE: 4

Deputy A. Breckon (S)
 Deputy J.J. Huet (H)
 Deputy of Grouville
 Deputy S. Pitman (H)

ABSTAIN: 0

Deputy S.C. Ferguson (B)
Deputy P.J.D. Ryan (H)
Deputy of St. Peter
Deputy J.A. Hilton (H)
Deputy G.W.J. de Faye (H)
Deputy P.V.F. Le Claire (H)
Deputy J.A.N. Le Fondré (L)
Deputy D.W. Mezbourian (L)
Deputy of Trinity
Deputy S.S.P.A. Power (B)
Deputy A.J.D. Maclean (H)
Deputy K.C. Lewis (S)
Deputy of St. John
Deputy I.J. Gorst (C)

The Deputy Bailiff:

Very well. That completes the Annual Business Plan.

Senator F.H. Walker:

I should thank all members for their contribution and add a very heartfelt postscript: thank goodness we have done it at last.

Deputy G.W.J. de Faye:

That was so much fun, do you think we can have another meeting? **[Laughter]** It is on transcript; we can read it later.

10. Expenditure Approval for 2007 Amendment (P.103/2007)

The Deputy Bailiff:

There is still one matter outstanding from the meeting from last week and that is Projet 103, Expenditure Approval for 2007 Amendment, and I will ask the Greffier to read the proposition.

Senator T.A. Le Sueur:

Before he does that, Sir, could I seek leave of the Assembly to withdraw part A of the proposition and ask the Greffier to read the preamble and part B?

The Deputy Bailiff:

Very well, Senator. I am not sure you need the leave of the Assembly as you are doing it before debate starts, so you withdraw it and simply go ahead with B. So, I will ask The Greffier to read paragraph (b).

The Greffier of the States:

“The States are asked to decide whether they are of opinion - in accordance with Article 11(8) of the Public Finances (Jersey) Law 2005 to amend the expenditure approval for 2007 approved by the States on 13th September 2006: (b) in respect of the Social Security Department head of expenditure, to permit the withdrawal of a maximum of an additional £2,649,800 from the consolidated fund for its net revenue expenditure in order to fund the additional costs of supplementation.”

10.1 Senator T.A. Le Sueur:

Perhaps I should begin by explaining my reason for withdrawing part A is that we have a new Minister for Health and Social Services and he would like a bit more time to discuss the implications of this funding with the Council of Ministers before bringing it to the States. It may or may not come back to the House at a later date but for the present sitting, Sir, that item is no longer under consideration. We have just finished debating the 2008 Business Plan which sets the spending or anticipated spending for each department for the coming year. Deputy de Faye suggested it was such fun we should do it all over again but no in fact we are going to now go back to the 2007 Business Plan because although the Business Plan sets out the anticipated needs none of us can foresee the unexpected, the not anticipated. Nevertheless unexpected events do happen and when they do and when they have financial implications then they have to be dealt with and dealt with in a timely way. So, we have the proposal today relating to a particular unexpected event in respect of the year 2007. So there are clear procedures if this sort of situation arises, the first step in the procedure is to see whether the department concerned can meet the financial consequences, either by reprioritising its own services or servings elsewhere within that department's budget. If the answer to that question is no then the Minister concerned raises the matter at a meeting of the Council of Ministers. It is the duty of the Council of Ministers to see whether the additional funding requirements can be found across the board within the overall spending limits of the States, either by reprioritisation of services or transfers from one department to another. Only in the event of neither of those two working does the third step come into operation and it is with regret that I have to implement that third step and bring this proposition to the House. Article 11(8) of the Public Finances (Jersey) Law reads as follows: "The States may, at any time, amend an expenditure approval as a proposition lodged by the Treasury and Resources Minister on the two grounds; (a) that there is an urgent need, and (b) that no expenditure approval is available." So, that short paragraph encapsulates three basic principles; firstly, that only the Treasury and Resources Minister can bring forward such a proposition, even though in this case it is to do with supplementation which is not directly to do with me. The second requirement is if the need is urgent and cannot be left until the following year; and the third is that money cannot be found within existing States' spending limits. I would point out, Sir, that on this basis under the Public Finances (Jersey) Law it is the States that decide whether we increase the spending limit that we have agreed. A few moments ago the Chairman of the Public Accounts Committee suggested we might want to bring forward a contingency fund. I am surprised to hear her say that because effectively that would take away the control from the States and allow the Ministers, if they had a contingency, to dip into that fund themselves and spend from it. Admittedly within the overall spending limits, but it would still be I think one step removed from States members who may want a say in whether money is spent or not. I think what is important in the context of this proposition is that this amount being voted or being asked for today is a one-off item. It does not affect the base budget of the department concerned. It may be that the causes of this are ongoing, but for future years, departments have to build that into their base cash limits. So you can have an unexpected one-off. You cannot have regular, repeated, unexpected items because they cease to become unexpected. Sir, I will leave it to the Minister for Social Security to explain in more detail why this particular item is so essential. He certainly managed to convince me and to convince my fellow Ministers that it is and I hope that he can also convince the House that it is. This proposition does need the House's support. So I move the proposition.

The Deputy Bailiff:

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

10.1.1 Senator P.F. Routier (The Minister for Social Security):

I shall speak, Sir. The Treasury Minister has asked me to explain a bit in further depth because as Members are aware this supplementation is one of those things which does get raised regularly as a concern for many members who feel that it is perhaps getting out of control, but it certainly is not

something that is getting out of control. What it is, is a formula which has been put into place many years ago where the States felt it was an obligation - a duty - to help fund the pensions of those who are unable to pay the full contribution rate. So it is an appropriate mechanism to help those people to meet the needs of their old age. As members will be aware, the initial thoughts were that the States would pay a third, employees would pay a third and employers would pay a third. So that is the general principle of how supplementation is worked out, but obviously different people pay different contribution rates. I do not know if any members have been able to look at the paper which I emailed to Members at the weekend. I am sorry it came just at the weekend, but certainly it gave a good overview of how the calculations are made. I think if members are thinking that for the future things should change, perhaps we agree that we do need to look at that. There is one piece of work which we will be undertaking as soon as the income support legislation is dealt with. That is the next piece of work that the department will be working towards. Supplementation in recent years has varied whereas the initial target of a third over recent years has been down to 31 per cent or 32 per cent. It has never really been exactly that 33 per cent. In fact, last year we paid some money back to the Treasury because the amount of money that was put aside for supplementation was higher than the actual figure that was eventually required. The mechanism for forecasting the amount of money that is required for supplementation is such that it is virtually impossible to forecast the exact amount because we are working so far ahead of ourselves. For instance, in the beginning of a year - in January, February time - we will be asked to forecast what the figure will be for the following year. There are so many variables within that: what the workforce is being paid, what earnings index is being paid in the following year, and the number of people who will be in work in the following year. So whatever target is put out there, it will be wrong. There is no getting away from it. I think we all need to recognise that that is the situation. There will be, as I say, an opportunity in the future, and we are going to look at it very carefully and to ensure that we do try and get a better handle of how we can forecast it in a better way for the States to be able to put aside a correct amount of money. I hope with the information that I was able to give Members at the weekend in the paper and the explanation which the Treasury Minister has given today, and what I have given, is sufficient for members to recognise that it is legislation which has been passed by the States. We cannot get away from it. It is a requirement of the Law to fund this amount of money. It is something that we need to do. I ask members to support the proposition.

The Deputy Bailiff:

Does any member wish to speak?

10.1.2 Deputy G.P. Southern:

I hesitate to ask because that exposition was as clear as mud, to my mind. The paper that came around at the weekend was really straightforward and very simplistic, but it did not get to the heart of why we are in the position of retrospectively asking for a greater contribution for the 2007 figures. Certainly the figures historically have floated around. It is rarely exactly one-third that supplementation makes up. It is 30 per cent, 31 per cent, 32 per cent. It floats around. It floats back and forth, around the 30-odd per cent mark. Every now and then people take a look at it and think: "We had better get back to paying a third to make sure we are okay." The question I need to ask is why this motion today to retrospectively add something to the 2007 budget? What happens to pensions or pensioners or to the fund if, for one year, we do not make this extra payment and we make it two years hence? We could plot it in for five years hence, even. Do people's pensions collapse? Does anybody suffer or does the total fund actuarially carry a deficit for a little while which we can make up with adjustments in the future? I am sure the Treasury and Resources Minister will explain to me, because the Minister for Social Security has not so far and cannot speak again, why it is so urgent to put this in now and why that could not have been put in the 2008 budget which we have just done and dusted, the 2009 budget or compensated somewhere in the system... in the long run because pension funds are a long run actuarially, what difference does this make? I suspect it makes damn-all difference in the long run, as long as, at some stage, we play that

piece of catch-up. So if I am going to vote for this today, I want to be persuaded that it is absolutely essential that I go back to the 2007 budget and stick some more money in it. Now, the Treasury and Resources Minister also mentioned the fact that some people are murmuring about the old-fashioned contingency funds. He was saying that would once again take power away from us, the Assembly, and give it back to him, the Treasury and Resources Minister. Not if we arranged it so that in order that we made a fund to start with - which would be useful because we would not be here now debating this - that he had to come to us for permission to dip into it. But at least we knew it was there. So where is this money coming from? What is it going to do? Is anybody going to suffer if we do not push this through, or can it be adjusted later on? Fundamental questions that need answering if I and others are going to vote for this proposition.

10.1.3 Deputy K.C. Lewis:

My question is regarding the provision of antivirals, Tamiflu, pre-pandemic...

Deputy J.J. Huet:

He has deferred that.

Deputy K.C. Lewis:

I beg your pardon, Sir. It has been deferred.

10.1.4 Deputy S.C. Ferguson:

He may be suffering incipient flu, with respect. I can assure the Treasury Minister that he would not have or be allowed untrammelled access to any contingency fund. No problem. Supplementation: the elephant in the room. The large increases have been ignored since 1997. I am a bit confused as to why we have not done any work yet. Why has our forecasting been so awry? We are constantly grubbing around to find more funds to cover this, and it is rapidly becoming like the Disability Transport Allowance or the rent rebate situation. It has been put to me that one possible theory is that the large increase is due to increased numbers of low-paid workers entering the job market. Although why there should have been such a jump in 1997, I am not clear. If this theory is valid, it could be said that a combination of a liberal immigration policy plus the all-encompassing I.T.I.S. (Income Tax Instalment System) net is leading to a situation where the States might be seen to be supporting employers employing lower-paid workers; not necessarily, but it is possible. It is a theory. We do not know. There is a considerable degree of urgency in finding out. If the Ministers do not know, what hope is there for us? I am totally in favour of supporting pension payments for the low paid, but this situation has dragged on since 1997 and it is getting out of hand. We cannot leave this until another 10 years to come up with a solution. I am prepared to support this for this year only. I would like to see some analysis and some options for a solution by early next year.

10.1.5 Deputy P.V.F. Le Claire:

The Assistant Minister for the Social Security Department is Deputy Troy, so he will be able to answer everybody's questions [Laughter]. He is sitting there, poised on the button. I do not have any great understanding in this. I do not know if other members would be so honest, but I certainly do not have a great grasp of what this is all about. I can understand from reading the papers that we have been given that it is something to do with topping up the fund. The questions I have, without looking into it in great depth over a period of weeks at a time - just on my feet, off the top of my head - would be is this fund in some way, like the pension funds that we manage for the Public Employees' Contributory Retirement Scheme, able to be adversely affected by stock market action in any way. Also what impact, if any, would the introduction of I.T.I.S. have had in relation to this sudden blip? I do not know how it plays-off, but I know that we have had a note from our paymaster that the I.T.I.S. deductions have been identified as a benefit and therefore we will not be taxed on it. Would that have had an effect across the board if the I.T.I.S. contributions had been played in there? So those two questions, just general, really. What impact, if any, did I.T.I.S. have

upon, as Deputy Ferguson mentioned, the low incomes? Also, has this been a result of some volatility in the stock market?

10.1.6 Deputy A. Breckon:

A couple of times when I have looked at this, the question I have asked is what is the cost or indeed the benefit of, say, 1,000 more workers earning between £15,000 and £20,000? Is that economic growth that has a cost attached to it, and has anybody done those sums? Because if that is where there has been growth in the workforce, then it is driving the economy to one extent but there is a cost to us which I think has been shown here, Sir. I found the report that was sent out by the Social Security Minister useful, but it was also a bit confusing because I think it needed a soft light and a glass of red wine when I was looking at some of this. It looked like it had a sort of flavour: "This is what it says but it is not saying that." Just a paragraph from that, Sir, what it said was: "While the cost of supplementation is also driven by changes to the earnings limit and the total number of people employed in the economy, it will also be affected by the distribution of earnings, in particular, changes in the numbers employed receiving wages less than the earnings limit, currently £38,904 per annum, and the changes in their average earnings." Well, does that mean that there has been a growth in that area for which we are now getting a bill? I think really that is what it says. But there are some shortcomings, Sir, which it does highlight in the report because it said: "Data in respect of the annual changes to such factors is not readily available and neither, therefore, are the accurate forecasts of them." Well, I think there have been forecasts made for future years already. We have just spent days if not weeks debating some of this stuff, and numbers are in there. I know the Minister has some leeway and rightly so to move things around, but we do not want to come up with a number that exceeds what we think it is going to be, even at this late stage. It also says, Sir: "In order to analyse the reasons for changes to supplementation, proxy guides are used such as average earnings index for the whole of the economy and the labour market report." It does say in there, Sir, that in most instances the explanations are retrospective and therefore year on year, and over time, the costs of supplementation and the forecasting variables... the change in any year will be difficult to predict. Well, I can understand some of that, Sir, but I would have thought, and I think it is worthwhile going back and looking at sectors of the economy, putting workers perhaps into groupings within that particular sector and looking at earnings bandings and see where the growth areas are, perhaps, and where the problem areas are. That is something that could be considered if there is something driving economic growth and look at the cost of that and also if there is a benefit, and perhaps link that in with what somebody else said about perhaps the I.T.I.S. calculations because maybe there are people in here who we are supplementing who maybe would not be paying any tax either. So perhaps this could be a double whammy and I think it is something that needs to be high on the priority to be reviewed because if we look in the cold numbers, I think we have gone from just under £51 million in 2005/2006 to £61 million predicted I think it is for 2009. Now, that is a serious jump and perhaps we need to look at the system, what we are doing and why, and if perhaps it is worthwhile reviewing it but also is it worth changing. Now, you cannot predict that until you look at it, but I would like to think, Sir, that the Social Security Minister and the Treasury Minister would give that some serious consideration because I think it is priority because it is a very serious amount of money. I have my doubts about this, Sir, because I have seen in the past and I highlighted days ago or weeks ago things where there is carry-overs and various things and I think there probably was something in a drawer somewhere that could have been slotted into this, but what it does do, Sir, is give members that focus. I am not sure whether I will support it yet, Sir. I will wait and see what others have to say.

The Deputy Bailiff:

Does any other member wish to speak? Yes, Deputy Duhamel.

10.1.7 Deputy R.C. Duhamel:

Just a couple of comments. I think a number of members have already hit the nail firmly on the head. The reason for the rise in the figures is quite clearly due to too many people not earning

enough and the supplementation figures having to be brought into play. This is the point that worries me, Sir. In the States moving towards growth of the economy, I cannot really see to what extent the departments involved have any purchase or any ability to determine the amounts that individuals are earning within the particular sectors that they are being attracted into the Island for. It also worries me, Sir, that although it might look good in terms of an economic policy to be attracting people just to work in the finance industry because financial wages are higher than anywhere else, there is another side to the economy in terms of the services that people coming to the Island would expect, childcare, all the other things that people wish to put their money into. All these areas require workers and I do not think enough is being done by the Economic Development Minister, or indeed any others if we have some say in this particular problem, to come forward with a sensible, balanced plan, if you like, for how the Island's economy develops. We appear to be flying by the seat of our pants and this is the first sign that the work has not been done. If we look at the report on page 6, Sir, it does state towards the end, penultimate paragraph, that further work is currently being undertaken to further validate initial findings in respect of the increase in the cost of supplementation. I think not much work really has to be done there because we all do believe the figures. I mean, there is a deficit and it has to be made up. It goes on, Sir, to say that work will be undertaken to explore opportunities to improve forecasting. It is a difficult area. If people come to the Island and we do not really know if there are jobs that they are going to be attracted into, we cannot really have any sensible ways of judging whether or not there will be an element of supplementation at all. The final one is the one that interests me most, Sir, and that is to identify options to contain the cost of supplementation for 2008 within the budget allocated. I think any work that is going to be undertaken probably extends beyond the 2008 budget and probably extends well into the future. I would ask those Ministers involved with this particular issue to not only stop at the 2008 budget considerations but also try to build it into the in-principle plans that we have been asked to endorse today which go on for the next several years. This is a long-term issue and it is not very good, in my view, coming forward with shortfalls on a one-year basis, only to know that next year might be worse and the year after might be even worse than that and that substantial or radical changes for finding funds will have to be thought about in too short a period. If we are going to be in the business of financial planning, Sir, let us do it properly. Thank you.

10.1.8 Deputy J.A. Martin

I did receive the papers over the weekend and I have just had to go and print them off because I put them somewhere among this lot, Sir, and I did look at them. I also looked at figures we received I think through the Chair of the Health Scrutiny Panel on how they were breaking down in their estimates, why the cost of supplementation was going up. I really do not think I am going to support this because we have had problems trying to find out who these workers are, but I would just emphasise we have a growing economy. We were told that economy would create high-value, highly-paid jobs, keeping low-valued, low-skilled and low-paid jobs to a minimum. This was in the immigration in-principle document we all signed up to, I think, in 2005. We are yet to see more than just the bones of that, but I estimate that in these figures we are way off track. That is a decision for another day. Also, as Deputy Duhamel has said, on page six it is just a whim and a prayer that we are not being asked to supplement by nearly £5.5 million this year because of income support being delayed. So they have transferred a bit of that budget and now only need £2.6 million-something. As I say, I remember a very good speech - and hopefully he might allude to it more - very many years ago when I first came into the States. I am sure he was a Deputy then. He is now Senator Norman. He said: "Let us be very wary of supplementation and we need to look at it." Well, I have now been in the House, Sir, seven years May, and the bill is going up and up and up. I, for one, Sir, am not going to support this. I have no reasonable explanation. The explanation I have had is against all current policy of attracting highly-paid workers to the Island. Thank you, Sir.

10.1.9 Deputy G.W.J. de Faye:

Well, it is a most entertaining afternoon, Sir. I am not entirely sure whether Deputy Martin is on message from the party, but I am sure the Rowntree Trust will be quite shocked to know they have just donated £28,000 to a group of people who apparently do not want to give money to old-age pensioners [**members: Oh!**]. Quite baffling. We are really, once again, making heavy weather of this, Sir. This is a simple issue: do we want to give £2.6 million over or not. Why States members are wading through the mud on this, I do not know. It is members' favourite topic. We have people over a certain age and we can give the money, and they are a worthy cause. Just a quick look, the system pays incapacity benefits, maternity allowances and grants, death grants, survivor's benefit and, most notably, the Island's old age pension. Here we are arguing about it. This is not the time and place to decide whether supplementation is a good or bad thing, whether the form is right or wrong or whether we should raise the caps. It is simply a question of are we going to pay this £2.6 million or not. I, for one, rely heavily on votes from old-age pensioners [**laughter**]. I am absolutely delighted to put my vote behind this money.

The Deputy Bailiff:

Does any other member wish to speak? Yes, Deputy Troy.

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

Senator Routier mentioned that when the scheme was set up it was felt that there was a moral obligation that the Government should input into this whole scheme. Of course, Sir, what you have is the employer and the employee paying their contributions and the Government picking up around a third of the tab and it is currently at around 31 per cent. Deputy Breckon said there has been a large jump in the amount up to £56 million, but if one looks at the figures, in 2002 contributions were £104 million and they are currently £124 million. So they have risen by about 22 per cent, the contributions coming in on the employer and employee side. Then supplementation has gone from £48 million to £56 million which is up about 18 per cent. So they are running pretty much in tandem. People are earning more in the workforce and we have to supplement to a higher degree. Having said that, if one looks at the figures on page five of the document produced by our department, you can see that it is always running at around the 31 per cent. So, as a percentage of the contributions, it is staying static in that way, even though it is increasing, but you have got people earning more, you have to supplement more and there are other factors as well.

Deputy G.P. Southern:

Can I ask a point of clarification of the Assistant Minister, please, Sir? The Assistant Minister seemed to imply people are earning more therefore supplementation is going up. Surely supplementation is to make up the contribution for low earners. So it is not about people earning more therefore supplementation goes up. People earn more, therefore contributions go up. Supplementation not necessarily should do.

Deputy P.N. Troy:

I think you have got more people within the scheme that we have to supplement.

Deputy G.P. Southern:

That is numbers.

Deputy P.N. Troy:

Yes.

Deputy G.P. Southern:

Increased earnings.

Senator P.F. Routier:

May I, Sir? I think also that what is confusing is that the earnings limit goes up all the time as well. So people are earning more, the earnings limit goes up, the contribution rate goes up, and it all follows through each other. The Deputy has a very fair point.

Deputy P.N. Troy:

What I would like to say is that, as a percentage overall, we are seeing consistency in that percentage. Regarding the sums that are being paid to support the old-age pension, of course, those have to be invested into assets. So we do need to make payments into the Fund so that those funds can be invested out into the future to protect pensions. Of course, as the Minister said earlier, there will be a review which we will be carrying out at the department in due course. Some Members have suggested that the States should not be paying anything at all into this. I think it is important to work out whether the States do have that moral obligation to support pensioners, to support for incapacity benefits and to support those at the lower end of the scale. I think it is a very important issue which would need to be discussed in the future. If you did decide to pass everything over to the employer and the contributor themselves, of course, you would then put a burden on those people too. So one has to look at it in the round, really. Is shifting the burden away from the Government the right decision to make? That is something which we will all have to look at in the future.

10.1.11 Senator L. Norman:

Just briefly, it is not just the votes of old-age pensioners that Deputy de Faye is going to have to rely on because, if he lives that long, he is going to depend on his Social Security pension as well. The Social Security scheme is very, very important to Jersey people. They value it and, in fact, they totally - in many cases - depend on it. I remember - it was a few years ago when the then Deputy Le Sueur, I think, was President of the Social Security Committee - a road show that they had to do at virtually all the Parish Halls around the Island when the actuarial review had shown that additional funding was required if the scheme was going to remain solvent into the future and if pensions were going to be protected. I attended some of those meetings and it was almost unanimous and certainly with alacrity that the people who attended those meetings supported and accepted the need for increased contributions from themselves and their employers to protect the scheme into the future. They have had those increases; they are paying those increases to protect the scheme, and it is right, I think, that the States should also now do their part to protect the scheme into the future and to protect those people's pensions.

10.1.12 Deputy C.J. Scott Warren:

It seems to supplement the supplement; that is the question. It does seem, Sir, that we really do have no choice, but like many members here, I do think more work needs to be done as soon as possible regarding this issue. Thank you.

10.1.13 Deputy P.J.D. Ryan:

At the end of this debate, whatever the vote is, you are going to ask me whether my Corporate Services Scrutiny Panel wants to review it, or is that not the case with this particular one because it is slightly different in that it is part of the Business Plan? However, either way, I feel I ought to get up and say a few more words other than what might have been a simple yes or no.

Deputy P.V.F. Le Claire:

He said he was busy until September next year [Laughter].

Deputy P.J.D. Ryan:

Yes, indeed. First of all, with regards to Part A of the proposition...

The Deputy Bailiff:

No, Part A has been withdrawn, I think.

Deputy P.J.D. Ryan:

It has been withdrawn; I beg your pardon. Well, I am glad that it has been withdrawn because the comment that I would have made on that was quite simply...

The Deputy Bailiff:

I am not sure we need to know what your comment would have been.

Deputy P.J.D. Ryan:

Okay, fine. I will restrict my comments to Part B in that case. The Social Security side. There are two sides to it obviously. One is whether the forecasting was right and the other is whether we need to do something more fundamental with supplementation. Certainly with the latter of the two, Corporate Services wrote to the Health and Social Security Panel pointing out at quite an early stage in this year's Business Plan what was going on with supplementation and recommending that they would look at it in a lot more detail to see whether something needed to be done in the future. We had a reply. As I understand it, although perhaps Deputy Breckon would confirm it, I think it is on their agenda to look at pretty soon and I wait to hear from them. As regards the first part, whether the forecast is incorrect, members will be aware that we are looking at the whole question of forecasting, not just to Social Security which is only a small part of the forecasting, but the whole forecasting gambit. Hopefully we will be able to come forward with at least some comments on that one in fairly early course. I am glad to see, as other members have pointed out on page 6, that the Social Security Department is exploring opportunities to improve forecasting. I shall be very interested to hear what they have to say. We have not yet spoken to them in detail about that, but we intend to fairly shortly. Also to identify options to contain the cost of supplementation within the budget allocated. Of course that falls into the second part of my queries. So, Sir, I would just like to leave it there. The forecasting side we are going to be able to come to the States with fairly soon, I hope. I hope also that Deputy Breckon and his Panel will look at the whole question of the larger issue of supplementation again as a matter of priority because certainly Corporate Services believes that this is top priority and we are glad that they are going to do that. Thank you, Sir.

The Deputy Bailiff:

Does any other member wish to speak? Very well. I call upon the Minister to reply.

10.1.14 Senator T.A. Le Sueur:

In a former role, I used to be President of the Employment and Social Security Committee. One of the difficulties I had year after year was convincing or explaining to people just what supplementation is all about. I think there is still a lot of mystery, uncertainty and misconception about what supplementation is. Put very simply, supplementation is a form of low-income support. It is a contribution to the Social Security contributions of those on low incomes who would otherwise be unable to make a full contribution themselves. So, as Deputy Troy says, we have a moral obligation, if we want to help those on low incomes, to provide this support. I am grateful for the comments of Senator Norman, himself a former President of Social Security, who reminded me of the road shows I did in the 1990s when we were promoting '*Continuity and Change*.' The one thing uppermost in people's minds was the ongoing security of the Social Security pension. As well as that moral obligation, I would remind members that we have a clear legal obligation, that is, a legal obligation under the existing Social Security (Jersey) Law to pay this supplementation, like it or not. So unless and until we change the Law, there is no getting away from the situation that this money has to be paid unless the States is going to be in breach of its own Law. Deputy Southern then said: "Well, could we, in fact, move it to another year and pay it then? Would there be any

financial implication?" In fact the financial implications are not great. Pension schemes run for year after year, and whether you pay it in 2007 or 2008 is no great shakes, as they say. What we do have is a Public Finances Law as well as the Social Security Law, and the Public Finances Law sets up the concept of an accounting officer. An accounting officer is obliged by law not to overspend his or her budget for that year. So, however willing a chief officer might be or an accounting officer might be to say: "Well, let us put that off until next year", if they do that, they are in breach of the Public Finances Law because they will be incurring expenditure more than this House has voted to them. Do we want to let not just Ministers but chief officers overspend their budget? I think not. What we have, therefore, is an urgent need to vote this expenditure now for the current year. We cannot leave it until after the year end because otherwise the accounting officer would be in great difficulty. Deputy Southern then suggested that if we had a contingency fund, all would be well because, if that fund had been in place, we could have simply dipped into that. However, he said: "I am not having those Ministers or the Treasury Minister dipping into that fund without the States telling me or without the States knowing. I want the States to know." So, if we had a contingency fund and I had to come back to the States for approval, then I would today be coming back to this House and saying: "I have a contingency fund with £5 million in it. Please may I withdraw £2.649 million from that contingency fund to pay for supplementation?" We would be having exactly the same arguments about a Contingency Fund as we are currently having about the Consolidated Fund. If you change the title, you do not change the problem. The problem remains that we have a legal obligation to pay this, this year. It may be that we will want to change it for the future. That is an issue for another day. Certainly I am grateful for the fact that there is a review in the way this is implemented and the way it is forecast. I can assure members that when I first started, and I am sure when Senator Norman first started at Social Security, we believed that there ought to be some correlation between supplementation and incomes and the state of the economy. Surely if you had enough variables and enough input, you could model supplementation for the next three or four years ahead. Chief Officers coming into the department felt the same way. The reality is that forecasting social security is about as difficult as forecasting the weather for 17th April next year. You just do not know. You can make certain reasonable assumptions and then something comes along to confound you. I was confounded last year when the Social Security Minister told me that he had too much money for supplementation. He should not have told me, no. As a result of that, what do we do? We revised our forecasts on the basis of up-to-date information, but forecasting, as I have said on frequent occasions, is an inexact science. I welcome the input of the Corporate Affairs Scrutiny Panel into forecasting, and if they can achieve what Senator Norman, Senator Routier and myself have failed to achieve in the last 20-odd years in getting these forecasts right, he will be a very clever man indeed [laughter]. However, no harm in trying because the principle remains the fact that this moral obligation - to come back to Deputy Troy - is one of the States paying a third, employers paying a third and employees paying a third: a pact to secure income support for those on low incomes. Although the cash that we pay out or expect to pay out has gone up, so have the contributions for employers and so has the contribution from employees. Each year the earnings ceiling increases in respect of the previous earnings index and, of course, the earnings index also goes up year by year, depending on the mix of the economy. I do not want to today to get into a debate on migration policy, although I think some of the principles are quite clear. All I am interested in today, Sir, is the fact that we have a legal requirement to pay £2.649 million into the Fund for income support for the current year. If we do not do that, we are in breach of a legal obligation. On that basis, Sir, I propose the proposition.

The Deputy Bailiff:

Very well. The appel is called for. I invite members to return to the Assembly and the matter is for or against the proposition of the Treasury and Resources Minister. The Greffier will open the voting.

POUR: 40

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

CONTRE: 3

Deputy A. Breckon (S)
 Deputy J.A. Martin (H)
 Deputy G.P. Southern (H)

ABSTAIN: 0**The Deputy Bailiff:**

Very well. That concludes the agenda for the meeting which began last Tuesday. We now move to the Order Paper for today. With members' agreement, I propose that we take items such as prayers and roll call as having been satisfactorily concluded this morning.

Senator T.A. Le Sueur:

I would prefer we did roll call.

The Deputy Bailiff:

The Assembly looks fairly full. Do members wish to have a roll call? Very well. The Greffier will call the roll.

Deputy P.V.F. Le Claire:

Might I suggest that we just make a vote and then we can tell from the appel process? Maybe that would be easier.

The Deputy Bailiff:

Standing Orders say roll call, and if members are not willing to take it as read, then we had better have a roll call. We will take the roll call.

The Roll was called.

QUESTIONS

11. Written Questions

11.1 TO THE MINISTER FOR TREASURY AND RESOURCES BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING G.S.T:

Question

Following the publication of the most recent figures released by the U.K. Treasury which reveal that the lowest 10 per cent earners in the U.K. pay 26 per cent more tax (direct and indirect, including VAT) than the highest 10 per cent would the Minister inform members whether the introduction of G.S.T. may lead to a similar outcome for Jersey in the long term?

Answer

I am not aware of the figures to which the Deputy refers. However, I would find it difficult to believe that the U.K. Treasury states that the bottom 10% of U.K. earners pay 26% more in tax than the top 10% of earners.

I am happy to confirm that the introduction of G.S.T. could not possibly result in the bottom 10% of earners in Jersey paying more in tax than the top 10% of earners.

11.2. TO THE MINISTER FOR ECONOMIC DEVELOPMENT BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING THE IMPACT OF LIQUIDITY CRISIS IN U.K. ON JERSEY FINANCE:

Question

Will the Minister inform members what impact, if any, the current liquidity crisis in the U.K. and international banking markets is having on Jersey's finance sector?

Answer

The Minister has been monitoring this issue via information provided by the Commission which is presented to the house in order to answer this question.

Banks

The wholesale inter-bank money market has evidenced widespread withdrawal of liquidity, causing problems for those banks and other vehicles that are particularly reliant on this type of funding. The well publicized case of Northern Rock is thus far the most prominent in the U.K., with pressure also now being felt by Bradford & Bingley and Alliance & Leicester. The former has suffered a rush to withdraw deposits by its customers and a collapse in its share price such that its future is in significant doubt, despite the U.K. government providing a blanket guarantee to its depositors.

The Minister is informed that none of those three banks take deposits in Jersey and the Jersey deposit-taking sector does not exhibit the characteristic that has led to such problems i.e. a reliance

on wholesale money markets to fund lendings out. Indeed, our banks generally reflect the reverse trait of attracting funds at retail level and providing this liquidity to their parent organizations. The latter activity leads to a form of credit risk but those banking groups permitted to be represented in Jersey are all of international stature and substance.

Certain of Jersey's banks hold investments in institutions which have suffered problems or attracted adverse comment in the financial press recently but total investments tend to be well spread and no significant immediate problems have been identified in this respect. The Commission has been, and will continue to be, active in monitoring individual positions whilst the current turmoil continues but there is no indication at this stage that gives material concern.

Insurance

The Minister is informed that the Island's insurance sector carries a modest level of exposure to mortgage markets, which have typically provided the problem assets in financial structures, but the information provided is that these are only within normal parameters.

Funds

The Minister is informed that the values of funds (net asset values) are reported on a quarterly basis to the Commission. As the latest values held were provided prior to the current issues affecting the markets, it is too early to gain any useful information as a result of the analysis of these figures. The next values are to be provided on 1st October 2007 and may provide further information about the effect that the liquidity crisis might be having upon regulated funds.

The Commission has assured the Minister that it is monitoring the position generally and to this end is in communication with the Chief Executive Officers of all relevant institutions.

Finally, the Minister has requested the Commission to keep his department informed on an ongoing basis and in a timely manner of any further developments.

11.3. TO THE MINISTER FOR SOCIAL SECURITY BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING SUPPLEMENTATION:

Question

On 11th September 2007, the Minister referred to work already completed by the Statistics Department on Supplementation; will he release this piece of work and if not state why, and will he inform members when he will come to the Assembly with the results of his investigation of the causes of the growth in supplementation, previously promised for Autumn of this year?

Answer

My Department has worked to identify reasons for the increase to the cost of supplementation in 2006. In doing this the Department has used reports issued by the Statistics Unit and has worked with the Economics Adviser. The outcome of that work is the report which was sent to members over the last weekend and which, before release has been reviewed, commented upon and discussed with both the Statistics Unit and the Economic Adviser.

I am grateful for the assistance given to the Department.

12 Oral Questions

The Greffier of the States (in the Chair):

We come then to oral questions with notice, and the first question is from Deputy Lewis to the Minister for Home Affairs.

12.1 Deputy K.C. Lewis (of the Minister for Home Affairs) regarding the prevention of illegal immigrants entering the United Kingdom via Jersey:

What extra precautions, if any, is the Minister taking to prevent illegal immigrants entering the United Kingdom via Jersey?

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

I wonder if I could request that my Assistant Minister, the Deputy of St. John, answer this question as he is responsible for Customs and Immigration matters.

The Greffier of the States (in the Chair):

Very well. Assistant Minister?

The Deputy of St. John (Assistant Minister for Home Affairs - rapporteur):

In answer to the Deputy's question, I can advise the House that we have intelligence that suggests that small makeshift camps have been set up in Cherbourg by would-be immigrants to the United Kingdom. The U.K. Government is keeping a close eye on the situation and officials from the Border and Immigration Agency are in close contact with their French counterparts. There are direct freight passenger services from Cherbourg to Portsmouth, Poole and Southampton but, as you are aware, none currently to Jersey. Intelligence from these ports is shared on a regular basis with Customs and Immigration Services in Jersey. The latest information is that there has been no increase in the detection of illegal entrants at these ports. The authorities in Cherbourg appear to be containing the situation and preventing access to port areas where migrants try to board lorries or on stowaways on ships. We have been informed that extra police from the French National Guards' CRS (Compagnies Républicaines de Sécurité) are being moved to Cherbourg in support of the local police. There is no evidence that persons are moving towards the ports which provide our traffic. This has been confirmed recently by the French Frontier Police in St. Malo with which Jersey Customs and Immigration Service liaise closely. Should there be an increase in this type of activity in the ports adjacent to Jersey, we can expect to be informed by our French counterparts. Routine checks are carried out on vehicles arriving in Jersey from France with the use of detection equipment. French shipping agents in St. Malo also regularly check such vehicles. The Customs and Immigration Service will continue to work closely with their counterparts in France and the South Coast ports in the United Kingdom with the carrying companies to ensure that border controls to Jersey remain effective and security high. Thank you, Sir.

12.1.1 Deputy K.C. Lewis:

As the Assistant Minister just pointed out, Sir, the French CRS - which I believe is the riot police - are involved now. I hear reports that immigrants are, in fact, streaming into Normandy obviously with a view of heading into the United Kingdom. Does the Assistant Minister not agree that the same fate could befall us that has befallen, say, the Canary Islands who are seen as a back door into Spain, that we could be seen as a back door into the U.K., not necessarily from official ports? Does the Assistant Minister agree that we should carry on with the utmost vigilance?

The Deputy of St. John:

I totally agree with the Deputy that we should continue to be extremely vigilant. The risk of people trafficking through Jersey, through the unchannelised controls from the adjacent French coast, although they do exist and we have seen some sporadic attempts to test these routes, but I can say with some confidence that this is not the favoured option of people traffickers. Jersey is a small jurisdiction, Sir, and should anybody manage to get through our border controls, the sort of people that we are talking about here, I have to say, in Jersey would stick out somewhat like sore thumbs. We would be able to repatriate them fairly quickly as has happened in recent times. Thank you.

12.1.2 The Deputy of St. Martin:

I think the Assistant Minister almost started to answer the question I was going to ask. What powers, if any, does the Island have to return these immigrants to where they come from or to France? Which of the two, please?

The Deputy of St. John:

I think what the Deputy is referring to, really, is whether they are likely to claim asylum, in other words whether we can repatriate. The answer is yes, more easily than they can in the U.K. by virtue of the fact that we are not signatories to the Dublin Convention or its successor which is Dublin II Regulation which is the instrument which helps an E.U. member state establish or take responsibility for examining an asylum application. If a person arrives in Jersey from an E.U. state, we are able to judge the merits of an asylum claim at the time of entry. In all cases to date, it has been established that the claimant had the opportunity to claim asylum in an E.U. member state country before getting to Jersey. Therefore it then becomes the responsibility of the E.U. country, not of Jersey. So we can quite easily effectively extradite back to the E.U. where they can then claim asylum. Without the Dublin Convention here, they cannot claim asylum terribly easily at all. So we have even more protection than the U.K. does. Thank you, Sir.

12.1.3 Deputy J.B. Fox:

Perhaps the Assistant Minister could refresh my memory. If an attempted asylum seeker or other illegal immigrant arrives on our shores via a registered vessel from France, *et cetera*, it would be up to the carrier to pay for the return trip. What is the situation if the person is smuggled aboard or comes via an unauthorised route, that is, a stolen vessel or something else like that? Who pays for his return? Is it to the nearby coast, i.e., France, or do we have to pay for his return to his original country of origin? Thank you.

The Deputy of St. John:

The Deputy is quite correct in that if it is brought in by an official carrier, whether they are a stowaway hidden in a container or a foot passenger, it is the carrier's responsibility to return that person back to their place of exit. If indeed it is another way of entry, then unfortunately it would be a case of us having to bear that cost which is quite the reason why we want to avoid the issue that Tenerife is facing at the moment whereby they are faced with very high cost of looking after such people and repatriating them. We will prevent that happening by consultation with our French counterparts so they do not get here in the first place. If they do get here in what has been so far very small numbers - we do not see this as a preferred route of traffickers at all - then we would have to deal with it. The States would have to pick up the tab, but like I say, by having very strong border controls, I do not anticipate it being a major issue. Thank you, Sir.

12.2 The Deputy of St. Martin of the Minister for Home Affairs regarding an audit of the Criminal Justice Policy to ensure that the present prosecution arrangements in the Magistrate's Court and Parish Hall enquiries were Human Rights compliant:

As the States are being asked to agree to a policy statement in the section entitled, prosecution, on page 73 of the Criminal Justice Policy P.118/2007 will the Minister inform members whether an audit was undertaken to ensure that the present prosecution arrangements in the Magistrate's Court and Parish Hall inquiries are human rights compliant, and if so, when and by whom was this carried out?

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

I was disappointed that the Deputy of St. Martin did not attend the lunchtime briefing I gave on the Criminal Justice Policy today because I referred to him and his question. But anyway, the answer. The policy proposals under the prosecution section of the Criminal Justice Policy were first formulated in 2003 by the former Home Affairs Committee of which I was the president. At that

time human rights considerations as they affect Parish Hall inquiries were discussed at a meeting with the Attorney General when he was present and no concerns were raised. The Deputy will be aware that human rights aspects of the role of the Centeniers in the Magistrate's Court and Parish Hall inquiries has been the subject of a recent legal opinion which is currently under consideration. The Education and Home Affairs Scrutiny Panel are shortly publishing their report on the prosecution arrangements in the Magistrate's Court which will clarify their findings on this point. I should make the point, however, Sir, that the Home Affairs Department is not responsible for implementing an audit of legislation relating to the Magistrate's Court.

12.2.1 The Deputy of St. Martin:

I accept what the Minister is saying about possibly an audit was carried out around 2003, but as the Minister said, she has recently received an opinion from Mr. Jonathon Cooper which questioned whether in fact the human rights aspect of the courts was really compliant. Will the Minister inform members, does she really feel comfortable going ahead with a policy knowing there is this query regarding the human right aspect of the Magistrate's Court?

Senator W. Kinnard:

I feel perfectly comfortable going ahead with the policy. The legal opinion is only an opinion and yet it is not for me to take the wind out of the sails of the Scrutiny Panel that is looking at this matter. But I made it quite clear in my presentation today that the Criminal Justice Policy is a dynamic policy and within the proposition members are only required to agree a general policy statement 7, so the debate on the Criminal Justice Policy will not be affected by the matters that are under discussion by the Scrutiny Panel.

12.2.2 The Deputy of St. Martin:

In the Criminal Justice Policy on page 23, subparagraph (3)(8) it talks about: "A rigorous compliance check was carried out on several laws by the human rights law coming into being in 2006." Could I ask whether in fact the Loi (1864) réglant la Procédure Criminelle, Criminal Procedure (Connétables and Centeniers) (Jersey) Law 1996 and the Magistrate's Court (Miscellaneous Provisions) (Jersey) Law 1949 whether an order was carried out before this part of the policy was published?

Senator W. Kinnard:

As I said the Home Affairs Department is not responsible for implementing a human rights audit of any of those pieces of legislation. But I am aware that there is a new Criminal Procedure Law coming forward that has been worked on by a working group with the Attorney General. I do not consider that there is any conflict at all with the Criminal Justice Policy as drafted.

12.3 The Deputy of St. Martin of the Minister for Home Affairs regarding the Articles within the States of Jersey Law 2005 and the Police Force (Jersey) Law 1974, which enabled her to charge the Jersey Live organisers for policing that event:

Following her answer of 11th September 2007 would the Minister advise members under which Articles within the States of (Jersey) Law 2005 and the Police Force (Jersey) Law 1974 that she was able to charge the Jersey Live organisers for policing?

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

Article 26(1)(c)(1) of the States of (Jersey) Law 2005 empowers a Minister to enter into agreements for any purpose of his or her office. Article 3(5) of the Police Force (Jersey) Law 1974 provides that the Minister may make an agreement with the police force in any other part of the British Islands whereby they will, on request, place at the Minister's disposal members of that force for the purpose of enabling the force to meet any special demand on its resources; and in any such case those members shall, during their period of duty in Jersey, carry out the duties and possess the

powers and privileges of a police officer. Article 8(1) of the Police Force (Jersey) Law 1974 provides that it shall be the duty of the Minister to secure the maintenance of an adequate and efficient Force in Jersey. For the purpose the Minister may; (a) provide and maintain such buildings, structures and premises and make such alterations to any building, structures or premises already provided as may be required; (b) provide and maintain such vehicles, apparatus, clothing equipment and other articles as need may be required. So, given the above Articles and in the absence of a statutory regime for the recovery of charges a voluntary agreement was made with the organisers of Jersey Live and that the costs incurred by a police force from another part of the British Islands could be recovered. The organisers of Jersey Live were made aware of the potential costs of mutual aid provision and they, I assume, took those into account when they made their decision to hold the event over two days.

12.3.1 Deputy S.C. Ferguson:

If the charge was only in respect of the U.K. officers, of whom I think the Minister said there were 33, can the Minister tell us the total number of uniformed police officers who were on duty that day?

Senator W. Kinnard:

I have already been asked this question last week. The charge was only in respect of mutual aid officers. I made it quite clear that the total number of uniformed officers would not be given in open session but it is certainly something I am quite happy to share with the Scrutiny Panel because they are going to be looking into this piece of legislation. I make it absolutely clear no charges were made despite the fact that States of Jersey officers worked very, very many hours of overtime and so did their honorary colleagues.

Deputy S.C. Ferguson:

I understand according to the paper there was something in the order of 60 honorary officers. Does this mean that there was significantly more officers from the U.K. on duty than there were from Jersey?

Senator W. Kinnard:

I am not about to stand here and ask a yes/no question and answer session. I have made it quite clear there are particular operational reasons why I have not given the number of uniformed States of Jersey police officers. I am happy to share that with the Scrutiny Panel.

12.3.2 Deputy C.F. Labey of Grouville:

Given that there were about 60 honorary police over the two days, 33 U.K. police, however many from Jersey, does the Minister have a guide as to how many paid security officers there were brought and supplied by Jersey Live. Could she give us a rough indication as to how many security/police uniformed honorary officers were on duty for the event?

Senator W. Kinnard:

I would need to have notice of the question for the number of security officers, I do not happen to have that among my papers with me today.

12.3.3 Senator S. Syvret:

The Minister was keen to emphasise that the agreement was not captured by the States of Jersey extant policy on user pays charges; which is, they have to be approved by the Assembly because it was a voluntary agreement. Is this the kind of voluntary agreement that one hears getting made in Godfather movies, the offer you cannot refuse?

Senator W. Kinnard:

It was a matter of their choice to hold the event over two days.

12.3.4 The Deputy of St. Martin:

I do not want to cast any aspersions on the States of Jersey Police, however, I have got to say [Laughter] not at all, I am asking a question because there is a perception that the reason why the English police had to come in was that the Jersey police were unable to withstand two days work. I am sure that is not correct but maybe it would help the House, if indeed the Minister gave the details last year of the number of officers who were engaged on both days, why the secrecy this year?

Senator W. Kinnard:

I have explained that there are particular operational reasons which I am prepared to share in-confidence with the Scrutiny Panel because they can be trusted to deal with such information and there are particular reasons why I am not prepared this year to give that figure.

12.3.5 Deputy J.B. Fox:

I am confused. I cannot remember the number but I could have sworn that I heard on the main national news that the Metropolitan Police announced how many police officers were needed. I have, I think about 3,000 for the Notting Hill carnival. Now I am confused as to why we have, it seems, a new policy that says that we cannot divulge such information. I would ask the Minister, would she please ask her counterpart at the Home Office whether it is something, is it a Home Office guideline and if it is not if you can come out and tell us why there appears to be this difference of one carnival being able to give us the numbers and the other carnival not? The other question is, if she is prepared to give the information to a Scrutiny Panel but appears not to trust the remaining States' members, I am sure she did not quite mean that but perhaps she could answer that?

Senator W. Kinnard:

It is not a matter of policy, it is just that there are particular reasons at this time why I am not prepared to make the announcement about figures in public. I do not mean to cast any aspersions upon other members, the reason I mentioned the Scrutiny Panel is, (1) they are looking into this whole area and; (2) there is provision, of course, that when Scrutiny Panels have information shared with them in-confidence that they do keep that information confidential. I would say that I am absolutely prepared to share that information with a Scrutiny Panel and convince them of the reasons why. On this particular occasion, I do not think it is right to give those figures out in open session.

12.3.6 Deputy J.B. Fox:

Supplementary, please, Sir, would she be prepared to privately share it with me?

Senator W. Kinnard:

No, Sir, I cannot start treating some members differently to others.

12.3.7 Connétable J.L.S. Gallichan of Trinity:

I just feel I have to say something. I am listening to all these people. The question - I am not going to say, because I would just like to say, Sir, for the first time at the Jersey Live there were a number of honorary police and States' police working together. This was a great success. People always worry about the number...

The Greffier of the States (in the Chair):

It is question time.

The Connétable of Trinity:

The question... right, Sir, the question is; is the Minister very happy the way the honorary police, of all the Island, the States' police, the security and everyone involved with the Jersey Live Festival proved it a great success and nobody came to any harm and the disturbance was controlled, and I think they should be praised not questioned all the time. At the end of the day it is public people's safety we have to ensure. Does she agree with the great success on that count?

Senator W. Kinnard:

I absolutely concur with everything the Connétable has said.

12.3.8 Deputy J.A. Martin:

Did the Minister just inform the House that she is going to try to convince the Scrutiny Panel with the reasons that she is keeping this information top secret and if that is so, is it not just a waste of time of the Education and Home Affairs Scrutiny Panel to even invite her along?

Senator W. Kinnard:

No, Sir.

12.4 Deputy S. Power of the Minister for Home Affairs regarding a recent complaint of alleged blackmail that was made to the States of Jersey Police against certain principals of the Tax Justice Network:

The Minister will be aware of a recent complaint of alleged blackmail that was made to the States of Jersey Police against certain principals of the Tax Justice Network. Can the Minister inform the Assembly of the approximate accrued costs to the police in following up this allegation and the number of man hours involved up to the date the allegation was withdrawn?

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

£237 and no more than eight hours.

The Greffier of the States (in the Chair):

We come finally in oral questions with notice to a question that Senator Norman will ask the Chairman of the Privileges and Procedures Committee.

12.5 Senator L. Norman of the Chairman of the Privileges and Procedures Committee regarding the legislation to give effect to the States decision to enable the Connétables to be all elected on the same day for a term of office of four years.:

When does the chairman anticipate being able to bring forward for debate the legislation to give effect to the States' decision to enable the Connétable to be all elected on the same day for a term of office of four years from 2008?

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

We already have in hand the law drafting instructions and I anticipate that the projet will be lodged and debated this year.

The Greffier of the States (in the Chair):

Very well, that concludes the question time with notice. We come now to questions without notice. The first question period is to the Minister for Home Affairs.

13. Questions to Ministers without Notice - The Minister for Home Affairs

13.1 Deputy P.V.F. Le Claire :

I did not attend the lunchtime session because I was with the States of Jersey Police investigating issues of road safety and pedestrian safety in town and I was given great support in that by the States of Jersey Police, as normal. During that period, this lunchtime I was informed about the line logging process, whereby it is preferable for people to complain on a regular basis with telephones so that States of Jersey Police can identify a hot spot and respond accordingly. This is a modern principle of policing I am told and...

The Greffier of the States (in the Chair):

Question, please, Deputy

Deputy P.V.F. Le Claire:

The question is about road safety. Is it the Minister's policy that the public are no longer able to telephone States of Jersey Police to complain about dangerous driving and that they must report to the States' Police headquarters to make an official statement. If she is aware of that policy is she not concerned, as I am, that that leaves that dangerous driver on the roads until such time as the report and statement has been given?

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

No, I am not aware of any such policy, and I will certainly check it out. I would be as interested, I think, as the Deputy, if such comments have been made, to find out why they have been made. I do not believe it is the policy and it seems to me that it ought not to be.

13.2 Deputy D.W. Mezbourian of St. Lawrence:

We know that there is an increasing use of probation and community service orders as an alternative to prison. We are told in P.110, which is the draft Criminal Justice (Community Service Orders) (Amendment) (Jersey) Law that during 2006 over 10,000 hours of community service were performed by offenders for the benefit of the local community. Will the Minister advise the House how the community has benefited from 10,000 hours of community service?

Senator W. Kinnard:

I do not have a full exhaustive list in front of me but I am more than happy to provide that to the Deputy. The community service orders are operated by the Probation and After Care Service. The sorts of projects that people are involved in are environmental projects. I know some community service people have been working on environmental projects, painting and decorating premises for charities, all sorts of things like this where they are tending to help other community groups in the community. That tends to be the way in which the community service is played out. But, Sir, I apologise I do not have a full list but I am more than happy to provide one to the Deputy and anyone else who is interested.

13.3 Deputy S.C. Ferguson:

Given that the Minister has a budget of £41 million and given that the police budget is £22 million and given that rumour has it that they are apparently replacing all the Hondas shortly, and given that they have acquired a new van with a closed-circuit television camera fitted on the back, apparently to help them reverse, and given that the new anonymous gun metal grey Volvo is apparently off the road, why are the cutbacks always offered from the prison with a total budget of about £8.9 million?

Senator W. Kinnard:

I do not deal in rumours. If the Deputy has particular issues she wishes me to investigate if she is kind enough to put them in an appropriate manner I will investigate them. It is true that half of the budget does go to the States of Jersey Police. Generally that has always been the case with the Home Affairs budget. I made it quite clear during the debates on the Annual Business Plan in the last few days - it was last week I think - that it would be totally inappropriate for us in Home Affairs to have more than one failing service. I also made it quite clear that Customs and Immigration, too, are on the brink. It seems to me, Sir, that it would be a very false economy indeed to seek to take any more money than we already have done from those other services to prop up the worst failing. We would end up with a number of failing services instead of one that is the most definitely failing service.

Deputy S.C. Ferguson:

I am sorry, Sir, the Minister has not answered the question. We are not asking her to reduce the police budget to zero, we are asking why the poorest one is always picked on when the efficiencies and cuts come up?

Senator W. Kinnard:

Every department within Home Affairs has played its fair share in terms of efficiency savings. Indeed, over a period of time we have done everything we can to shore up the budget of the prison, but it too unfortunately has had to take its share of efficiency savings. There is no way that any of my departments can get out of that.

13.4 Deputy J.B. Fox:

To say thank you to the Minister, I have finally got my succession planning information which opened up a very tremendous amount of questions; I will just stick to the police with two questions if I might ask, because I think they are important. One is in relation to the senior command training course at the Police Staff College at Bramshill. The answer given to me, two officers are in the preliminary stages of working towards such an application. Can the Minister enlighten us whether they will have obtained their senior command course training by the time the current chief officer is due for replacement, again for succession planning? The other one is that officers are also supported for degree level qualifications in police studies and related subjects, which is excellent. But it does not indicate, and perhaps the Minister would be kind enough to indicate, whether we have any officers at this time taking such degree course qualifications?

Senator W. Kinnard:

The answer to question one is yes, and the answer to question two is yes.

13.5 The Deputy of St. Peter:

Having had recent discussions with the emergency planning officer the subject of a joint control room came up. Can the Minister revisit the setting up of a joint control room to include all blue light services and in so doing, if that is accepted, could we then be able to use the £38,000 software package that was purchased by the police for command and control?

Senator W. Kinnard:

The answer to the first part of the question is that we are already revisiting the issue of a joint control room since the employment of the new fire chief. This has been an area of high priority for him to review. So that is going ahead. In terms of the software package, I am aware, I think, of the package the Deputy refers to but clearly I would have to refer to my operational officers for an answer directly.

13.6 The Deputy of St. Clement:

Can the Minister confirm that Jersey Police are not bound by health and safety regulations to such an extent that they are ordered not to intervene in incidents where persons may be drowning, as we have recently seen in the U.K.?

Senator W. Kinnard:

I would be absolutely appalled were that the case.

The Deputy of St. Clement:

Was that a yes or a no?

Senator W. Kinnard:

They will not be bound to that extent.

13.7 Senator S. Syvret:

Could the Minister for Home Affairs confirm to the Assembly that she is entirely happy and prepared to co-operate fully with Professor June Thoburn in her new capacity as Chair of the Jersey Child Protection Committee and also that full co-operation will be given to the Howard League for Penal Reform when they commence their independent analysis of all the child custody issues in Jersey?

Senator W. Kinnard:

The answer to both questions, Sir, is yes.

13.8 The Deputy of Trinity:

I am sure it is of great concern to all the Members regarding the number of prisoners which are caught in the so-called revolving door. Could the Minister indicate if prison officers actively work with organisations like Shelter and Jersey Homeless Outreach Group to try and prevent this occurring?

Senator W. Kinnard:

The prison officers, particularly the personal officers responsible for individual prisoners, do work with all the groups that they can and of course we do have a probation officer now at La Moye Prison who again engaged in an awful lot of outreach. There is still much more we can do but we will need more resources to do it.

13.9 Deputy K.C. Lewis:

Last year I did ask the Minister for Home Affairs a question regarding the problem of underage drinking. The Minister did say at the time that she would consult the Minister for Economic Development regarding a way forward. Would the Minister update Members with progress so far?

Senator W. Kinnard:

Part of that was brought up just earlier on in the debate. States of Jersey Police have had meetings and are in contact with Economic Development over the new licensing law and some of those matters will be addressed there. But in the interim period, Sir, of course we have been having the Safer St. Helier project which is particularly interested in addressing the drinking habits of young people and anti-social behaviour.

13.10 Deputy C.J. Scott Warren:

Is the Minister confident that she will now get sufficient additional funding to bring the prison, at long last, into the 21st century?

Senator W. Kinnard:

I pray every night that that will be so. I am in the hands of my other colleagues on the Council of Ministers and in the hands of members of this House. The Minister has indicated an intention to come back to this House on the basis that under funding is proving to be the case where the prison is concerned with its budget and in terms of the Prison Improvement Plan. So, yes, Sir. Well, I hope so, Sir.

13.11 The Deputy of St. Martin:

Last week the Minister assured members that the members would receive a copy of the report following the two suicides. It has been in the public domain. Are members of the States allowed to have a copy of this?

Senator W. Kinnard:

I did not say that I would circulate a copy, I said that my understanding was that as soon as it was in the public domain that the Viscount would arrange for it to go on the website.

13.12 Deputy D.W. Mezbourian:

My understanding is that the prison governor resigned earlier this year, one of the reasons he gave was that he encountered too much bureaucracy within the system in Jersey. Will the Minister advise what she has done to ensure that when the new incumbent is in post they will not encounter the same problems?

Senator W. Kinnard:

I am not entirely agreeing with the comment that was made by the prison governor because I think that my colleagues have bent over backwards, in particular in terms of bringing forward the programme for new buildings at the prison. But what I have done, Sir, is that I have spoken to him at length about the issue, and indeed so has my Assistant Minister, and we have taken on board those comments and we will be reviewing them and obviously we will discuss those aspects when we have an opportunity with whoever the new prison governor is when he or she is appointed.

13.13 The Connétable of St. Helier:

I have recently been contacted by two constituents in a same sex relationship who have had to leave the Island in order to obtain a civil partnership elsewhere before coming back to the Island. I would like to ask the Minister what progress has been made with making the Island human rights compliant and offering civil partnerships?

Senator W. Kinnard:

Civil partnerships, the law is not under my wing, as it were. It is being dealt with by the Chief Minister's Legislation Sub-Committee of which my Assistant Minister is, I believe, now a member. I am aware that there have been discussions but I am afraid one would have to ask a Member or in fact the Chairman, who is I believe the Connétable of St. Ouen for an update. I am afraid I am not aware of where they are with it.

The Greffier of the States (in the Chair):

Any other questions of the Minister for Home Affairs?

13.14 The Deputy of St. Martin (of the Minister for Home Affairs):

I have one quick one, Sir. Some time ago much publicity was given to the use of pedal bikes by the States' Police. Can the Minister give us an update on how frequently the officers are using their cycles and are they proving value for money?

Senator W. Kinnard:

I think I would need notice of that question.

13.15 The Connétable of St. Helier:

It is a question that has been asked before but I will bring it up again. I was walking up through town on Saturday evening at 10.00 p.m. with another States' member and we were going from an event to eat out and we were quite struck by the fact that there were no police. We did not see any uniformed police at all as we walked up the precinct and to the restaurant we were going to. At 10.00 p.m. on a Saturday evening, I thought that was a little strange and wondered whether the Minister is happy that there are enough police on the beat in town at times like this?

Senator W. Kinnard:

I am never happy that there are enough police on the beat, I would like to be able to put more on the beat. We have changed, as I have mentioned before, the shift system to ensure that we have more officers on the beat when there is likely to be the greatest disorder. But clearly this is an issue that the Connétable is concerned about. What I would like is for him to give me the details of where he was at what time, I will look into it and see if there is a particular reason why the officers seemed to be thin on the ground at that particular time.

13.16 Deputy G.P. Southern:

Can the Minister say whether she has had any success in removing the Jersey Field Squadron's budget from her remit and, if not, whether she still has problems in funding through the Home Affairs?

Senator W. Kinnard:

The issue of the Jersey Field Squadron budget did come up during the Annual Business Plan. It is in my budget, we do have problems with it. We believe that we will come within budget having put extra money into it within this year but we know that there are problems going forward. We have agreed to renegotiate it, we had to give six months' notice. In conjunction with the Chief Minister's Department I am on the point, when we get out of this place, of trying to check up where exactly we are, because I think we must be getting near the six month time.

Senator S. Syvret:

A point of information that may be of interest to members. I have with the Greffier a draft proposition that will ask the Assembly to agree the scrapping of the defence contribution based on a number of reasons. Primarily from my point of view the illegality of their war in Iraq but also because of the way the U.K. has treated us in respect of racking our taxation system and the higher education charges.

The Deputy Bailiff:

Very well. So we come then to questions without notice to the Minister for Treasury and Resources.

14. Questions to Ministers without Notice - The Minister for Treasury and Resources

14.1 Deputy G.P. Southern (of the Minister for Treasury and Resources):

Will the Minister confirm to members that G.S.T. (Goods and Services Tax) will be paid on impôt on alcohol and petrol, that is, it will be a tax on a tax effectively and will he clarify the position on the equivalent stamp duty on house sales? Will there be a tax on that?

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

I confirm that G.S.T. will be assessed on top of impôt duties, it will be a tax on a tax in that respect. The duty on house sales - the Deputy raised that one with me and I have not found the answer yet because the Director of G.S.T. is on a week's holiday - the question is in hand. I think, Sir, the answer is no, but before confirming it I need to check.

14.2 Deputy P.V.F. Le Claire:

In light of the recent turmoil in the U.K. in respect of Northern Rock, the British Government, I believe, and the Treasury are looking to introduce a greater capacity for people to recoup losses and I think it was something along the lines of the first £3,000 for example and then 75 per cent up to £36,000. They are talking about introducing new legislation to cover you up to 100 per cent of £100,000 I think. How does that fit in with people's savings in Jersey, if at all?

Senator T.A. Le Sueur:

The answer, Sir, is very little because in terms of deposit taking the Financial Services Commission are very strict in who they licence to permit the taking of deposits. They only permit banks in the top 500. So although for many years now many building societies have applied to set up deposit taking facilities in Jersey, we have to date always refused them licences. On that basis, Sir, the likelihood of any default for those depositors is very small indeed.

14.3 Deputy J.B. Fox:

In relation to the La Pouquelaye Community Centre and the desire to have this resolution resolved has the Minister made any arrangements with the Connétable of St. Helier yet to resolve this issue to an amicable conclusion?

Senator T.A. Le Sueur:

I am hoping to meet with the Connétable of St. Helier on a day when the States is not sitting. Unfortunately it seems in the last two or three weeks though that we are permanently in this building.

14.4 Deputy A. Breckon:

Could I come back to Goods and Services Tax. In the Business Plan the full-time equivalent manpower for Treasury and Resources is proposed to increase from 10 to 13 and two extra posts at Customs. Could the Minister confirm that the manpower establishment has now gone from 10 to 15?

Senator T.A. Le Sueur:

That seems to be the case, yes, Sir. But I think a part of that is just initial transitional setting up costs and I think in the longer term numbers will come down. The effect is that irrespective of numbers the staffing costs are still limited to £1 million between my department and Customs irrespective of how many people we employ.

14.5 The Deputy of St. Peter:

I know in the previous day's debate the subject of the JCG was touched upon. Could I ask the Treasury Minister to clarify exactly at what point are we going to tender for the JCG sale?

Senator T.A. Le Sueur:

My intention, Sir, was to tender early in September. There has been some legal questions raised by the previous unsuccessful tenderer, the people previously involved, as a result of which I have instructed that before the advertisement of the tender is placed I need to get legal advice from the Solicitor-General as to the wording of that advertisement. The Solicitor-General's been on holiday

and only returned last week, Sir. Once she has got the dust off her desk and gone through the backlog of papers that... I hope it will be advertised before the end of the month.

14.6 Senator J.L. Perchard:

Whatever the view of Members regarding the value of the Jersey Field Squadron and the appropriateness of our TA defence contribution. Will the Minister for Treasury and Resources join me in thanking our servicemen and women, some of whom are currently serving in Iraq and Afghanistan, for their service and their bravery? Will he join me in, as I say, thanking them and wishing for their safe return? **[Approbation]**

Senator T.A. Le Sueur:

Yes, and I would hope it would not just be me but this House as a whole, and I gather from the foot stepping that that is indeed what people think.

14.7 Deputy C.J. Scott Warren:

Does the Treasury and Resources Minister believe that there may be a case, albeit in rare instances, for taking money either from the interest or investment income of the Strategic Reserve Fund. One such valid reason, in my opinion, being the prison?

Senator T.A. Le Sueur:

Yes and no, Sir. Yes, I agree that there may be a case, rarely but possibly, for taking any interest in the Strategic Reserve. The Chief Minister alluded to this in the event that the Zero/Ten proposals were insufficient and we needed transitional arrangements that that might be a possible use. The Strategic Reserve is intended for unforeseen contingencies and emergencies. The prison funding needs to be put on a permanent regular footing with proper funding. So this would not be an appropriate use of the Strategic Reserve. If I can elaborate on the question, Sir, I will shortly be presenting a proposal for the setting up of a fiscal policy panel with three members and part of the fiscal policy panel's duties will be to advise on the appropriate uses of the Strategic Reserve.

14.8 Deputy P.V.F. Le Claire:

I did ask during the previous debate if the volatility of the stock market which has reverberated around the globe recently had any affect upon the funds held within Social Security and did not receive any answers. I know that we move out of bonds but only from the PECRS (Public Employees Contributory Retirement Scheme) portfolio. I am wondering in a general way how have both schemes performed in relation to that volatility recently and have there been losses? If so, how much?

Senator T.A. Le Sueur:

Although I am not as closely involved as I used to be with the Social Security Pension Scheme both that scheme and the public employees scheme will inevitably be affected by movements up or down in the stock market and the volatility of that market. On the other hand, the products that we have and the split we have between equities and bonds and other investments is such that we try to minimise the impact of that volatility. So, yes, I think pension funds will be affected to some extent but I think not materially and certainly in the context of a pension fund which has a life of hundreds of years. Effectively, short term fluctuations like this are a normal thing which you have to take into account.

14.9 The Connétable of St. Helier:

Given that the Minister was either unwilling or unable to attend the recent rally in the Royal Square on G.S.T. I wonder whether he could advise us whether he would be willing to attend the public meeting which it is hoped to be called before the debate on the petition attempting to get a deferral of the implementation of G.S.T.? Given that that debate is scheduled for 9th October the public

meeting is quite likely to be the previous evening on 8th October. Would he say whether he is going to make every effort to attend that meeting and would he further suggest that his fellow States' members make every effort to attend that meeting given that only five of them attended the rally in the Royal Square?

Senator T.A. Le Sueur:

Starting at the other end, I think the fact that only five members attended Royal Square is an indication that decisions on G.S.T. are made in this House not in meeting rooms around the town hall or elsewhere. The subject of G.S.T. has been discussed *ad nauseam*. I have attended meetings on G.S.T. in a fiscal strategy over the years when this House was discussing what sort of fiscal strategy we should have. We now have an agreed strategy. We now have agreement on G.S.T. and to attend public meetings to suggest that we now re-open those matters is not something which I believe is doing anything other than misleading the public. So, no, I do not intend to make every effort to attend that meeting.

14.10 Deputy K.C. Lewis:

Recently, I think it was just a few hours ago, we agreed to the disposal of Hibernia Lodge, La Pouquelaye which is adjacent to the former Jersey College for Girls. The Minister has stated that I think contracts may be signed in the very near future regarding the disposal of Jersey College for Girls. Can the Minister inform members whether that will now include Hibernia Lodge?

Senator T.A. Le Sueur:

I am not sure if the Deputy's hearing is correct or if it is mine that is not quite correct, I have no indication if Hibernia Lodge will be sold in the near future. It is presently occupied and it is only when it becomes vacant that it will be disposed of. All this does is give permission for disposal at a suitable time in the future. As to the sale of JCG as we have not yet gone out to tender I do not think it is likely that the contract will be signed imminently.

The Deputy of St. John:

The fact that the current defence contribution covers residents for repatriation from or evacuation in places such as Beirut - that have access as British passport holders. They also have access to the embassies around the world. They also get career support for our education departments and the contribution of £750,000 goes into our economy. Does the Minister feel that this is a valid contribution both to our economy and prove good value for money as far as our contract with the Minister of Defence is concerned?

Senator T.A. Le Sueur:

I have no opinion at this stage whether or not that is good value for money. I think by the sound of it we are going to have a debate about the value or otherwise of the current defence contribution. I am aware that it does provide some benefits to the Island. On the other hand I am also aware that it does throw up some costs to the Island. Whether those costs are outweighed by the benefits at this stage I could not say.

14.11 Deputy G.W.J. de Faye:

A little earlier in the afternoon Deputy Gorst gave his opinion that there was an almost inevitable likelihood of retail banks charging for current accounts. I am not sure what the Deputy's view is on that but I am not at all happy with that prospect. I wonder whether the Treasury Minister would indicate to this Assembly, firstly, whether he has any powers in respect of his regulation of banking licences to insist that every retail bank based in Jersey must provide free current account facilities to local residents, and (2) whether he would consider using such powers if he has them?

Senator T.A. Le Sueur:

To the best of my knowledge there is no such powers in the banking law. If the powers were there I would be very concerned about using them or misusing them. There is a very strong likelihood that any bank faced with that situation trying to run a business commercially would simply leave the Island completely. I think the question is spurious and misplaced. The fact is that banks have to recover their costs and if additional costs are imposed upon them then they will charge their customers accordingly. That does not mean, Sir, that banks should charge unnecessarily unfair or high charges and if there was evidence of high charging then there is means to recover that either in the way it has been done through the *Jersey Evening Post* fair play campaign or possibly through the Jersey Competition Regulatory Authority. But not through the banking law.

The Deputy Bailiff:

Any other questions of the Treasury Minister. Yes, Deputy of St. John?

14.12 The Deputy of St. John:

I understand that - we were talking about supplementation earlier, that the fund has fallen some 30 per cent behind at the moment. The last actuary's report suggested that in order to keep it on an even keel contributions should be increased by at least half a per cent. After that actuary's report was the last increase as a result of that? Also in order to negate the need for supplementation it was estimated that we would need to raise the whole contributions by about as much as six per cent. Would the Minister ever consider doing that even if it was phased in over a long period? Could he answer the question about the actuaries as well?

Senator T.A. Le Sueur:

That is a very broad policy issue which should not be answered by a simple yes or no question in Minister's questions without notice. Certainly the latest actuary report I think is due later on this year or early next year, I was looking at the Minister but he is not there at the moment. Yes, certainly if we were to abolish supplementation it would effectively mean employers or employees or a combination of both lifting their contributions by a figure in the region of six per cent, I do not disagree with that. At a time when we are already considering possibly long-term residential care in a scheme like Guernsey, which might have contribution affects and increases in that respect, and looking at increased longevity which might require future additions, in any case to the existing pension scheme funding, I think Members have to be very careful about thinking that social security contributions are a tap you can turn on *ad nauseam*. Social security contributions are a cost just like any other cost to business and we have to put them into context and be realistic.

14.13 The Connétable of St. Brelade:

At the risk of prolonging the discussions on G.S.T. I wonder whether the Minister would advise members whether G.S.T. will be payable on television licences?

Senator T.A. Le Sueur:

On the basis that a television licence is a service it would normally expect to incur G.S.T.. However the licensing is paid to the B.B.C. (British Broadcasting Commission) in the U.K. So I suspect that one could argue that the service is provided not in Jersey but provided in the U.K. I think the answer in retrospect - looking at it legally - is that G.S.T. if the service is regarded as a U.K. service would not be chargeable. That is a legal technicality, Sir, which at this stage I would have to get advice on.

The Connétable of St. Brelade:

So does that mean the Sky Television will be the same?

The Deputy Bailiff:

Sorry, I saw Deputy Breckon.

14.14 Deputy A. Breckon:

Following on from that then, perhaps the Minister could enlighten us that if I booked a hotel room in the U.K. through a local travel agent, if I have to pay G.S.T. on it, bearing in mind it is a service in the U.K.?

Senator T.A. Le Sueur:

The travel business, as the Deputy well knows, is a very difficult one and service is provided in respect of activities outside the Island. Flights and hotels elsewhere are not liable to G.S.T.

The Deputy Bailiff:

That completes the time allowed for questions without notice to the Minister for Treasury and Resources.

ADJOURNMENT PROPOSED

Senator M.E. Vibert:

Can I propose the adjournment.

Deputy A. Breckon:

Sir, I wonder if I may raise a procedural matter before we adjourn. At the end of the last sitting we did not read formally the agenda for the next sitting which we are now in. I just wonder, bearing that in mind, Sir, there is a substantive agenda, if members perhaps can consider overnight if there is anything that is not that pressing if perhaps it could roll into the sitting after that, Sir?

The Deputy Bailiff:

I think as a matter of technicality, Deputy, the Assembly last time did agree to this agenda, although it was understood that all those who had propositions would be requested to consider whether it was essential that they remain. That is very much your request again. I do not know whether any members have been in touch with the Greffe or the Chairman of P.A.C. (Public Accounts Committee) but until they do the agenda at the moment remains as on the Order Paper. Very well the adjournment is proposed. So we will reconvene at 9.30 a.m. for public business.

ADJOURNMENT