

STATES OF JERSEY

SCRUTINY COMMITTEE BLAMPIED ROOM, STATES BUILDING

<u>Present:</u>	Deputy Rob Duhamel (Chairman)
	Senator Ted Vibert
	Deputy Gerard Baudains
	Senator Jean Le Maistre
	Deputy Phil Rondel
	Deputy Bob Hill

EVIDENCE FROM:

Finance and Economics

on

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EVIDENCE OF SENATOR LE SUEUR and IAN BLACK (FINANCE AND ECONOMICS PRESIDENT AND OFFICER)

DEPUTY DUHAMEL: Good morning. Welcome. Before we proceed, I have to read you the

Riot Act, or what comes close to it. It is important that you fully understand the conditions under which you are appearing at this hearing. You will find a printed copy of the statement I am about to read on the table in front of you.

Shadow Scrutiny Panels have been established by the States to create opportunities for training States Members and Officers in developing new skills in advance of the proposed changes of government. During the shadow period, the Panel has no statutory powers and the proceedings at public hearings are not covered by Parliamentary privilege. This means that anyone participating, whether a Panel Member or a person giving evidence, is not protected from being sued or prosecuted for anything said during hearings. The Panel would like you to bear this in mind when answering questions and to ensure that you understand that you are fully responsible for any comments you make.

SENATOR LE SUEUR: Right.

DEPUTY DUHAMEL: I would like to start the proceedings by asking you the first question or two. Do you accept that the decision making of the States sitting together as an assembly is paramount?

SENATOR LE SUEUR: The decision making of the States sitting is paramount, yes.

DEPUTY DUHAMEL: Sitting as an assembly?

SENATOR LE SUEUR: Yes.

DEPUTY DUHAMEL: You do. Are you aware, or presumably you are aware, that two decisions were taken in 2002, the first being that part of the agricultural policy document brought forward by the Agriculture Committee was accepted, in that the Agri-Environment Scheme, or part of it, the principles were accepted by the House by a majority vote and, further, that funding of that scheme, at least for the first year, was also agreed?

SENATOR LE SUEUR: I am. Well, funding ... the principle of funding was agreed and the Finance Committee was requested to finance it.

DEPUTY DUHAMEL: And, indeed, you actually voted for both parts.

SENATOR LE SUEUR: I did.

DEPUTY DUHAMEL: You did, yes. Could you actually outline to the Scrutiny Panel what measures have been taken or undertaken by your committee and department to actually ensure that these decisions taken by the Assembly together were actually given due priority and

weighting under the FSR process?

SENATOR LE SUEUR: Right. As you say, it is the Members of the States and State Assembly which has the ultimate voice in making decisions and, having made a decision that £700,000 should be funded, the States then have to consider that against all the other decisions which they have also made which requires, for example, schools to be funded or police to be funded and, at the end of the day, the States has to make judgments. They have to consider relative priorities and, in order to do that at the present time, in the absence of a Strategic Plan, we use a Fundamental Spending Review process, which I think Members of the Panel should be well aware of, in order to assess those priorities.

The request for each committee's area of priority is presented by the president or vice-president of that committee and initially the presidents themselves form a judgment of relative priorities of different requests which have been or are likely to be approved by the States. Having made their judgment, that is then put to committees and ultimately to the States body as a whole and, as you said at the outset, it is the States body that makes the ultimate decision.

In 2003, the Economic Development Committee, in the light of the States' decision in 2002, presented to the Fundamental Spending Review a bid for £700,000 for the Agri-Environmental Scheme to be included in the 2004 Budget. That was considered by the committee of residence and ranked sympathetically, but at the end of the day not high enough to make the cut. It was, therefore, not included or not recommended for inclusion in the Resource Plan by the Committee of Presidents. The Economic Development Committee accepted that decision. The States debated and agreed upon the Resource Plan and, as a result, the £700,000 did not feature in last year's Resource Plan.

Without going over too much, the same sort of situation occurred in this year, when the Committee again made that decision. That is not in the draft Resource Plan. It will remain to be seen whether, at the end of the Resource Plan debate, any amendment is made, as it can still be, of course, to reinstate that figure. But, at the present stage, it is not in this year's draft Resource Plan either.

DEPUTY DUHAMEL: In that respect ----

SENATOR VIBERT: Chairman, before we go any further, there is a bounce on the thing and we have got a radio wave coming backwards and forwards. Can the stenographer adjust it?

(Same done)

SENATOR LE SUEUR: If I am speaking too loudly, I apologise.

DEPUTY DUHAMEL: In that respect, it would appear that decisions can actually be made by the States sitting as a full Assembly and those decisions would appear to be able to be frustrated for a number of years and perhaps put off indefinitely. Do you think that the States should actually consider amending the procedures by which decisions appear to be able to be made in one place but undone without a proper full decision in another?

SENATOR LE SUEUR: Yes, I do. I think the idea that a decision made in the course of the year might have such a paramount importance that it overrode any other decision cannot be in the interests of good government. We have all sorts of very necessary decisions to make and those decisions in the end are competing for a limited number of funds. The only way logically that you could satisfy everybody -- and it would be a pretty insatiable appetite -- would be to fund everything that was asked for come what may. That would obviously be bad government and not feasible. So I think it would be beneficial for the new Public Finances Law to improve the present process, and it may well be that when that law is published we can consider whether the measures proposed in that law would be suitable or would be an improvement on the present process, because I believe that what we need is a better way of assessing relative priorities of all manner of competing bids.

I think it will be helped, now that we have a Strategic Plan, but clearly that Strategic Plan is just in its infancy at this stage and that will need to be worked up in order that we can find a basis on which to assess relative priorities. At the moment, that basis is the fundamental spending review process, followed by discussions of the committees not ultimately based on the Resource Plan. But it is done, to a certain extent, in a vacuum. Those 10 committee presidents have to decide for themselves what is the relative order of priorities; whereas if the States have a Strategic Plan, that may set out in more clarity what those relative priorities are.

DEPUTY DUHAMEL: With that in mind, and bearing in mind the decisions that have been taken recently, not only in the light of the Agri-Environmental Scheme but with the Strategic Plan that you just referred to, would it be in order for the relevant departments or committees to actually come forward in this year's proceedings during the debate to actually see if the position could be rectified in terms of picking up the aims that the States have already agreed

and trying to reconcile them with those that are also included within the strategy?

SENATOR LE SUEUR: I'm not sure if I understand your question. Are you suggesting that we should revisit the Resource Plan in the light of the agreed Strategic Plan?

DEPUTY DUHAMEL: I think I am, because, I mean, had the aims of the Agri-Environment not been reflected in the current strategy document that has been agreed by the House, then one could have argued that perhaps things have changed and there were other reasons why the Agri-Environment Scheme as proposed previously should fall off the map, so to speak. But seeing as some of those aims have actually been replicated or duplicated within the strategic document, it would appear that the sentiment of the House is still firmly behind some of the principles that were actually put forward in the Agri-Environment Scheme.

SENATOR LE SUEUR: Sure, yes.

DEPUTY DUHAMEL: But the funding is not available.

SENATOR LE SUEUR: Yes.

DEPUTY DUHAMEL: So my question to you is, bearing those decisions in mind, do you feel that it would be in order for the department or the committee or maybe the individuals to come forward even at this late stage to see if there could actually be a position whereby the whole question of Agri-Environment could be reconsidered?

SENATOR LE SUEUR: Well, I have said it is always open to any Member to bring an amendment to the Resource Plan, but I think to try to reopen the whole Resource Plan process at the present time would not be good government. We have to make some spending decisions this year and we have to make those pretty rapidly. We have made them on the basis of a process which, though not totally perfect, does at least try to assess the relative merits of expenditure. I think, if one were to look at the Resource Plan afresh in the light of the Strategic Plan, it would need not only to be in respect of the Agri-Environmental Scheme but in respect of every policy of the States in every single department. Frankly, I don't see that that is a good use of Members' time between now and September, but it may well be that for the future and in the construction of subsequent years' business plans it will be more appropriate to refer to the Strategic Plan more as a starting point rather than committees' individual wish lists.

DEPUTY DUHAMEL: Okay. Thank you.

SENATOR LE MAISTRE: Can I come in there? I think we are trying to focus on different aspects within the scrutiny process, particularly in regard to the Agri-Environmental Scheme, but there is a principle here which actually goes way beyond that, and it is that of the States' decision being overruled at some point, surreptitiously almost. The question I would like to put to you ----

SENATOR LE SUEUR: It is not a question of surreptitiously. The Resource Plan is debated in open government in the same way as ----

SENATOR LE MAISTRE: Yes, I know, but the reality is that the decision of the States became frustrated within a process which was difficult to untangle, for the reasons that you put forward.

SENATOR LE SUEUR: Yes.

SENATOR LE MAISTRE: But that is always the reason that is then put, that it is difficult now we have gone through FSR, we have gone through this, we have done that and you really couldn't do it now.

SENATOR LE SUEUR: Yes.

SENATOR LE MAISTRE: The decision was clear. The scheme was voted on and carried.

SENATOR LE SUEUR: Yes.

SENATOR LE MAISTRE: The request for funding was voted on and carried.

SENATOR LE SUEUR: Yes.

SENATOR LE MAISTRE: And it was given a lower priority at the point of the Fundamental Spending Review. Now, the question I am putting to you, as I put to the President of P&R, is do you think that States' decisions should be overturned without a rescindment motion effectively, because if there is no intention, because of the process, to carry out a States' decision, surely the onus should not be on an individual Member or even a committee to justify its position because of a decision the States have taken, but rather the opposite, that the process should enable a rescindment motion to be brought to make sure that that is the States' view?

SENATOR LE SUEUR: Yes.

SENATOR LE MAISTRE: It seems to me that the cart has been put before the horse, if you forgive me the expression in this context.

SENATOR LE SUEUR: Yes.

SENATOR LE MAISTRE: The States' decision was very clear and effectively it could be argued it was frustrated at a process outside of the States.

SENATOR LE SUEUR: Yes.

SENATOR LE MAISTRE: And then, when it came back to the States, it was virtually impossible to change at that point. In theory, yes, it was, but, in practice and reality, it would be difficult.

SENATOR LE SUEUR: It could be argued that way, but I think I would make two comments. Firstly, on the generality, I think it is not a good idea for the States to make decisions in isolation about any one particular expenditure, whether it be agri-environment or anything else, without being able at that time to consider its relative importance. Although, in the great scheme of things, it may be very good to spend extra money -- I am sure, for example, a couple of years ago we would have, or last year we would have said it was worth spending another million pound or two million pound in implementing the Kathy Bull Report and no one would have disagreed with that, I suspect, at that time -- but, at the end of the day, you have to compare that: is that the most important part of educational expenditure, or health expenditure or home affairs expenditure? What priority does that take now in relation to the other activities of those committees? It is making decisions in isolation during the course of the year without being able to compare them which I think is one of the weaknesses of the present system. So I think that decision was made as a result of the weakness of the existing system. What we need to do, firstly, is to improve the existing system.

In respect of the specific decision on Agri-Environment, the comments of the former Finance and Economics Committee were that there was no funding available at the time and that the request for £700,000 would have to be submitted as part of a future FSR process. So States' Members, at the time they decided to vote for the £700,000, were in no doubt, or should have been in no doubt, that it was subject to priority ranking in the future. I think any decision of the States to spend money, whether it be £700,000, £70,000 or £7 million, coming with that caveat, you have to accept the fact that it still has to overcome a further hurdle of being ranked at a time when all bids, however -- and I am sure other committees will have equally meritorious arguments for their particular spending -- all those have to be judged in

the use of a limited level of funding.

DEPUTY DUHAMEL: Right.

SENATOR VIBERT: Under that precept, how could one, when one is sitting on the States, possibly rank it during the year? For instance, a decision is made to institute the Clothier proposals.

SENATOR LE SUEUR: Yes.

SENATOR VIBERT: How do we make a decision on that, for instance, until we know the likely cost and how is that ranked in terms of priority? I'm just wondering, if you relate to the Agri-Environmental Scheme, when the decision was made on the Agri-Environmental Scheme, how does a Member of the States say: "Well, where is this ranked in priority? We are actually not going to be able to make a decision."?

SENATOR LE SUEUR: I think, in reality, it might be better for the States to have one single day in the year on which it makes all its decisions on spending. One might consider calling that something like a Budget Day or a Business Plan Day. Whilst during the year you may want it to make decisions in principle, "That it would be nice to have an Agri-Environmental Scheme and we note that it would be cost" or "Our proposed scheme would cost £700,000", the States could well approve that general principle, but then, only when all the States' expenditure for the year is looked at on one single occasion does one then assess the relative priorities. I say that I think that at the present time might be difficult to do without a Strategic Plan which had a bit more framework to it, but that is the way I think we ought to be going in the future.

SENATOR VIBERT: I think the difficulty that the Panel has also is that we know that our current States set-up is coming to an end by next December and we are going to Executive Government. Now, obviously under Executive Government, things are going to work out quite differently in terms of prioritising the way the funds are going to be spent, because it would appear -- we don't know yet, but it would appear -- that the Cabinet will make that decision and we are going to be able to avoid these kinds of things. In other words, if the Cabinet says "We are going to have an Agri-Environment Scheme", they have already costed it out as part of their budgeting for the year.

SENATOR LE SUEUR: I think, when one comes to debate a future budget, States Members

will have to do that in the light of the Strategic Plan and the Business Plan that the Council of Ministers will first have presented. I think it will be the rôle of Scrutiny to say “Does this budget, do those figures, tie up with the objectives in the Business Plan?”

SENATOR VIBERT: Yes.

SENATOR LE SUEUR: If they don't, then I think Scrutiny should say “Hang on, the Business Plan put a priority to Agri-Environment Scheme. Treasury Minister or Council of Ministers, you in your budget have ignored the Agri-Environment Scheme. Why was that?” I think it is that sort of rôle that Scrutiny will be able to build up in the future, but you can only do that against the framework of an agreed Business Plan. Now, that Business Plan, okay, will be presented by the Council of Ministers, but it will still need to be approved by the States. So, as the Chairman said at the beginning, the States is ultimately paramount in the decision making process.

SENATOR VIBERT: So you would find it difficult, would you, or your committee would find it difficult, to actually reverse the process that went on with the Agri-Environment Scheme, even though it was part of an unsatisfactory process?

SENATOR LE SUEUR: My committee has no particular powers in itself. My committee tries to rank different requests to which it is sympathetic. The Finance and Economics Committee and the previous Finance Committee said that they were sympathetic to the Agri-Environmental Scheme. It is difficult to rank, for any committee to rank, that in isolation. It is why the Fundamental Spending Review process tried to get a better idea of consensus across a wider group of people. But ultimately, the ultimate consensus machine is the States Assembly.

SENATOR LE MAISTRE: I think there is a point that I would like to raise as part of the process, which has been quite illuminating, and that is that those involved in the Fundamental Spending Review in the main voted against the Agricultural Policy, so it was hardly surprising that actually in the ranking process the outcome was as it was. Therefore, I think it was potentially, although we are dealing with the Agri-Environmental Scheme here in isolation really, although it is obviously linked.

SENATOR LE SUEUR: Right.

SENATOR LE MAISTRE: But the point that is trying to be made is that the FSR process was

actually used to achieve the objectives of those who were against the funding of the scheme, because clearly those who voted against it in the States appeared to be in the majority subsequently in that process.

SENATOR LE SUEUR: I don't know. I have a list of Members and I haven't compared it with those presidents who were there, but I think it would be wrong to bring in personalities to that.

SENATOR LE MAISTRE: It is not a personality, it is a principle.

SENATOR LE SUEUR: But I think ----

SENATOR LE MAISTRE: Of the way the system has operated.

SENATOR LE SUEUR: But whoever is present at the Fundamental Spending Review process is there representing the views of their committee, and I suggest that they were perhaps not voting against an Agri-Environmental Scheme so much as saying that they preferred their committee's scheme or some other committee's spending bid as a higher priority than Agri-Environment. I think, if you look at the FSR process, it is not that people are unsympathetic to the bids that don't make it, it is just that they are more sympathetic or they have to give higher weighting to those that come to the top of the pile. The fact that the bidder has made the FSR process in the first place and the fact that the States have agreed it is useful in the first place is indicative that there is a fair degree of support for the idea. It is at the end of the day just the relative importance of it and not the absolute.

DEPUTY HILL: Can I just come in here?

DEPUTY DUHAMEL: Certainly.

DEPUTY HILL: Your answer to the first question was that you considered the decision of the States to be paramount.

SENATOR LE SUEUR: Yes.

DEPUTY HILL: I think what is coming out from this useful exercise we are here to do today is the fact that people interpret things differently, because what I want to say is when the Members voted for the policy and they voted for the £750,000, do you think there was the perception that that £750,000 was automatically going to be given or do you think it was with the perception that it had to go and be prioritised?

SENATOR LE SUEUR: I can't tell you of the perception of the other 52 Members of the

States. I know that I read the comments of the Finance and Economics Committee and I understood what they said. Each individual will have his own perceptions and I can't tell what they're thinking.

DEPUTY HILL: No, because this is the question which was asked, that you make a decision in the States.

SENATOR LE SUEUR: Yes.

DEPUTY HILL: If we are going to overturn a decision, should we have a rescindment? I think it is this perception of where we voted for 700, it was automatically going to be given.

SENATOR LE SUEUR: If States Members jumped to that conclusion, then they should be very careful, because if you had too many decisions during the year and they say "Yes" to all of them, at the end of the year how do they reconcile that with the need to keep spending under control? I think they have to be realistic. As I say, I can't judge or I can't tell you what any other States Member was thinking in July 2002.

DEPUTY HILL: I think it is becoming obvious really that there is this perception that could be seen either way. Rightly or wrongly, those Members who voted for it, thinking that the 700,000 was going to make it possible.

SENATOR LE SUEUR: If that was the perception, maybe the comments of the Finance and Economics Committee were not strongly enough impressed upon them at the time, but it was there in black and white and I can't say any more than that.

DEPUTY HILL: Okay. Could I just also, whilst I'm on my feet, so to speak, you said that when the Members, the Presidents go there to decide that FSR, they represent their committees. I have a difficulty reconciling that statement because I am a member of Health and I know that when our President goes, our president is going there to push for Health matters. I don't think we consider any other committees and what their bids are. So we would, you know, me and my President would be voting for the Agri-Environment, he would not be voting on behalf of his committee because the committee would not have considered anything about Agri-Environment, so our committee President would have been there to vote on behalf his committee, but not with the committee's backing to argue against any other or argue for. That is just to reinforce what Senator Le Maistre was saying, you know, is it possible to reconcile your answer saying that you are representing your committee's views

when in actual fact would they not really be the individual's views?

SENATOR LE SUEUR: Right. Maybe rather than representing the committee's views I should have said presenting the committee's view. Maybe it is the wrong use of the word. But I think the principle of the Fundamental Spending Review is that it should be a consensus process, that the presidents sitting there as a group should see what is best for the Island as a whole. They present their committee's view and they will obviously present their committee's views as forcefully as they can in respect of their own committees. But, at the end of the day, it is a process of consensus where all those presidents have to decide, really even against themselves, that someone else's request really has a higher priority.

For example, when the present Home Affairs required extra money for the prison, you could say, in that case, why didn't the other nine presidents vote against her, because that would have been pushing their priorities down? They didn't. They supported the request of the prison because they could see that, in the overall interests of the Island, it was better to spend money on a prison than to spend money on the hospital, we will say. That was reached by a consensus of people, including the President of Health and Social Services. It is, I think, the way that consensus has to work. Yes, you present your case for your own committee's request, but you also have to consider the best interests of the Island.

DEPUTY HILL: I will just finish on this point. I accept what you are saying, but, at the same time, I think that the process still allows for that perception to be there, but if you are nine members and, of that nine members, a number of you voted against something, you might be a little prejudiced in your thinking in the way you would vote for that when it comes to the FSR process. You know, we are not laying blame at anyone.

SENATOR LE SUEUR: Yes.

DEPUTY HILL: We are saying that the process seems to be suspect.

SENATOR LE SUEUR: I hope not. I would say that the process, the outcome of the process, everyone is anxious to try to get the best possible outcome. I think, if one could not achieve some sort of general level of consensus, the whole Fundamental Spending Review process would have fallen apart.

DEPUTY HILL: Yes, but human nature being what it is, if you are opposed to something, when you go and vote for it at an FSR process, you might be a little bit prejudiced. I am

saying that the process allows for that to be a possibility.

SENATOR LE SUEUR: I can't disagree that it allows for the possibility. I think I have more faith in my fellow committee presidents.

DEPUTY HILL: I'm not disputing that. What I'm saying is that the process allows for it.

SENATOR LE SUEUR: The process allows for it, and I don't see how any process, which requires 10 people to make a decision (or however many people, 53 people to make a decision) cannot do other than be influenced by people's personal views.

DEPUTY HILL: That is fine.

DEPUTY DUHAMEL: Just to pick up, before we go to Deputy Rondel, on that issue, should the process not actually therefore in fact not be extended to all 53 Members, bearing in mind that they will be required to make the final decision when it comes?

SENATOR LE SUEUR: A process like that is inevitably a compromise. To have 53 people debating something like 200 different bids might be rather time-consuming.

DEPUTY DUHAMEL: It might, but in terms of equity and fairness?

SENATOR LE SUEUR: In terms of equity and fairness, then, yes, and I think with all these things you have got to weigh up relative priorities. Yes, we could spend a month with 53 States Members, whether they be in the States Chamber, the IJA or anywhere else on a desert island, discussing relative merits of the FSR process and relative priorities. We would then get those views. It is ultimately still the Policy and Resources Committee who have to present a Resource Plan to the States. The Policy and Resources Committee puts that to the States and you would still have the same opportunity, because the States is paramount, that any one of those 40 Members who are not involved could then still bring amendments to the Resource Plan and you would be back exactly to square one. I think we have got to be realistic in how we use our time and how we govern properly and my personal view is that a FSR process with 53 States Members would not be the best use of time. Equally, I am not saying that the FSR process in its present form is perfect by any means. But what I am saying is that with a strategic framework now we have a better chance that future business plans can be more structured and can be better prioritised. But, at the end of the day, it is down to personal preferences.

DEPUTY DUHAMEL: Thank you. Deputy Rondel?

DEPUTY RONDEL: How much influence do you think chief officers have on the whole process and, if they had an influence, could there have been a conflict between senior officers from Policy and Resources, your department, F&E, and the Environmental Advisor, Dr Romeril?

SENATOR LE SUEUR: Are you talking about the Agri-Environment Policy or in general?

DEPUTY RONDEL: Both.

SENATOR LE SUEUR: Right. I think we have to be quite clear that the terms of reference for this particular Scrutiny Panel are Agri-Environmental Scheme and how maybe the process could be changed. I would like to think that the committee presidents, or the committee members decide what is the best policy for their committee. In doing that, they will take advice from the chief officer, from environmental officers and from any other person that they need to take advice from. They will receive policy papers which will no doubt give reasons why you should or should not do a particular thing and the consequences of doing or not taking a particular course of action. It is up to the committee to decide what their priorities are and it is up to the committee then to submit those to an FSR process.

Within that process, I think there is scope for external review of those bids to make sure that they have been submitted on a consistent basis. At the present time, that has been done both by chief officers looking at bids of other committees, not their own, in order that there can be objectivity in that respect, and it has also been looked at by the Audit Commission, and perhaps in the future could be looked at by some similar group. But, whoever it is, it needs to be objectively looked at to make sure that the initial submissions are on a consistent basis. I have no reason to believe that, if committees are doing their job properly, that should not occur.

Now, if a committee is not doing its job properly and simply allows an officer to put in whatever he or she may think are appropriate bids, firstly, that may well be picked up at the review process by those chief officers, but, secondly, I would just say that would be down, I think, to a lack on the committee concerned. I have no evidence to suggest that any committee does not do its job properly in submitting bids to the FSR process and putting their bids in priority order ranking. If someone was manipulating the order of those things, then I think there are ways it can be picked up, including challenges at the FSR process by other

committee presidents themselves, who will be well aware of decisions made in the States.

If, for example, going back to the specific question here, the Economic Development Committee had not submitted a request for £700,000 for the Agri-Environmental Scheme, then I am sure that one or other of the presidents would have said “But hang on, in 2002 States agreed an Agri-Environmental Scheme. Why haven’t you, EDC, put that forward under your bids for 2004?” EDC could rightly be criticised had, say, their chief officer or somebody not put that bid in. But in fact that is hypothetical because the bid was submitted last year. The bid was submitted this year. The bid was considered by the other presidents and the bid was sympathetic but rejected.

DEPUTY RONDEL: Could I come back on this thing? Could you either on a yes or no answer, or do you believe there may have been a conflict between Mr Mills and Mr Romeril at the time of this process going on?

SENATOR LE SUEUR: I don’t think that is relevant. The States made a decision in July 2002. When the States decided ... when the Committee of Presidents decided this in March 2003, the submission to last year’s Resource Plan, neither Mr Mills or Mr Romeril were involved in the process. They were not around at the time, either of them. It was submitted by the President of the EDC with, I believe, the support of the environmental adviser and the chief officer. I have no idea what goes on within the individual committees’ decision making and how they reach their decisions. All I know from the President of F&E’s point of view is that they made that bid as, I think it was, their second highest priority for two thousand and ... I think it was one of the first ones they must do, I think it was. So it was effectively their highest priority and, nonetheless, the FSR process did not include it.

DEPUTY DUHAMEL: Senator Vibert?

SENATOR VIBERT: Yes. I know we are concentrating on this particular area during this period because it is a fundamental, or appears to me to be a fundamental, issue about the rights of the States over a group of people at the Fundamental Spending Review. I wanted to put to you the difficulty that an environmental plan has, which is what I would call, in a hardnosed financial climate, a very difficult thing to sell because the benefits, even though I think they are obvious to many people, are still difficult to quantify in financial terms. So, in view of the fact that the States made the decision to approve, there was a review of it and you were in fact

part of that review.

SENATOR LE SUEUR: Yes.

SENATOR VIBERT: Which also approved.

SENATOR LE SUEUR: Yes.

SENATOR VIBERT: It then went to the Fundamental Spending Review and, because of the process, was rejected. Senator Le Maistre has made the point that that is in fact a place where people who oppose the whole plan can very easily turn the argument against an environmental, a “soft” issue. If I took it away from environment and just made it the soft issue, because when the debate was held in the States the whole matter was debated fully, the whole plan is put forward fully, when you look at it, you review the whole plan, but when it comes to the Fundamental Spending Review it really is a paragraph, or two paragraphs of it, about the Environmental Plan. We put the point yesterday to the President of Policy and Resources about whether he thought that once the committee, the States, had made that decision, when it went to the Fundamental Spending Review it was sacrosanct, it could not be moved off the list because it had already been debated, the States had already decided and the review had already decided the point. I just wondered what your view is as to whether that should not be the process?

SENATOR LE SUEUR: I thought I already made my view clear, that I didn't think it was correct for the States to make individual decisions like that in isolation. The fact that the present process allows that is something we have to work within, and what we wanted to do and what we should be trying to do is to improve the process so that these sort of conflicts don't occur in the future. A decision such as that one would then indicate in the future that the States did attach a considerable importance to it.

I think, if I can pick up on one of the things you are saying, it is inevitable in a Fundamental Spending Review process talking about money that you have to try to put a value on things which are often difficult to value. Basically you have to have some yardstick, and money is the most convenient yardstick to use. If you have a Strategic Plan which can look at broader issues than finance and sets States' spending into that broader context, it may well be you can get an improved result. But, at the end of the day, we have to face the fact that there is so much money and some things have to be paid for. Much as I did and do support the

Agri-Environmental Scheme, I have to say “Well, would I do that by taking £700,000 off the hospital budget?” I don’t know. I would have to be persuaded. How do you make that judgment? It is a similar amount of cash. One is for people’s health and one is for the environment.

SENATOR LE MAISTRE: But it may polarise it perhaps unfairly.

SENATOR LE SUEUR: It may polarise it unfairly, but I am suggesting nonetheless that hard decisions have to be made. There is a certain level of funding and we have to make decisions. Yes, you have to rule with your head as well as your heart.

SENATOR VIBERT: Could I in fact put to you that the concept that the rescission motion, once a Fundamental Spending Review has taken place and an item that has already been approved by the States has fallen by the wayside, would you support a situation where a motion to rescind that and a debate on that rescission should actually be brought by the committee that has done the rescinding?

SENATOR LE SUEUR: My initial thought is no. That might suggest that the EDC no longer consider giving the Agri-Environmental Scheme such a high priority. I am sure they do. I think you get a mixed message by bringing a rescindment motion, which says “EDC proposes that the States rescind this decision to spend £700,000.”

SENATOR VIBERT: No. I was suggesting that it would be the Finance and Economics Committee or the Policy and Resources Committee that have to do that.

SENATOR LE SUEUR: Well, equally, I am sure my committee supports the idea of an Agri-Environmental Scheme and, in my view, we do not need to rescind the decision made in July 2002 to find funding for £700,000, because that was made clear at the time that it was subject to the vagaries and successes of the FSR process.

SENATOR VIBERT: Do you not think it would be more equitable and more satisfactory in terms of government, as far as the public are concerned and industry is concerned, that it should really be democratically decided by the whole of the Assembly, to return to a point Deputy Duhamel was saying, that that actually would become a democratic decision?

SENATOR LE SUEUR: The democratic decision is when the Resource Plan is voted upon and, if anyone feels strongly enough, be it the Economic Development Committee or an individual Member, they can ask that it be reinstated into the Resource Plan. I think what we have to do is to accept the fact that we start from a fundamentally flawed position, where

decisions are made at different times during the year in isolation. I think that is the thing that needs to be rectified, not the fact that a decision, having been made under that flawed process, may then not be capable of implementation in the way that some people would have expected.

SENATOR VIBERT: I think your concept that you raise that a day could be set aside to actually decide priorities is in fact a democratic Fundamental Spending Review.

SENATOR LE SUEUR: Yes, but I think that has to be done within a more structured framework.

SENATOR VIBERT: Sure.

SENATOR LE SUEUR: To submit a couple of hundred bids to a process of that nature and debate that in an orderly fashion would be, I think, quite difficult to achieve.

SENATOR VIBERT: Perhaps it is a nice idea.

SENATOR LE SUEUR: It is a nice idea. I think that is why we need a Strategic Plan, a proper Strategic Plan.

DEPUTY DUHAMEL: Senator Le Maistre?

SENATOR LE MAISTRE: I wonder if we could move to another aspect or question in the Agri-Environmental Scheme because we are obviously focusing on that, looking at our terms of reference for the Scrutiny Panel? The area that I would like to focus on is that of the value for money aspect of the scheme. Obviously, you personally, I am sure, have no difficulty with the scheme as such. There were questions raised by the Chief Officer of P&R on the question of demonstration of value for money, but there is one aspect which I think may be or could be useful to have your view on, and that is the question of conditionality and the way that the taxpayers' money is used. The scheme, as such, had that relationship with direct aid, that direct aid would be tied in to environmental goods. Do you have any views on that question, because that was obviously one of the core principles of the scheme, to ensure that delivery was right across the Island? It was voluntary in terms of anybody could pick it up, but they wouldn't benefit from direct aid unless they actually embark on or engage in the scheme.

SENATOR LE SUEUR: I think you are asking me that question as the current President of Finance and Economics Committee rather than as a Member, and my short answer is that you don't keep a dog and bark. Having agreed an Agri-Environmental Scheme and suggested a sum of money with which to implement it, it was then really up to the committee responsible

for those activities to use that money in the most cost-effective, value for money way. If it were felt that the proposals for using the money were not in a value for money way, then that might be challenged at a later date.

SENATOR LE MAISTRE: It relates ... sorry to interrupt, but it does relate to a States' decision and not a free for all afterwards.

SENATOR LE SUEUR: Right.

SENATOR LE MAISTRE: The principle was part of that States' decision.

SENATOR LE SUEUR: Yes.

SENATOR LE MAISTRE: Now, if that were to be changed, because there is a relationship here to the way in which taxpayers' money is spent, should that be the proper way forward to rescind that tie if that is to be changed, or has any committee got total freedom to disregard States' decisions without coming back to the States?

SENATOR LE SUEUR: I'm not quite sure what you are getting at here and I may be a bit obtuse, but the Agri-Environmental Scheme approved by the States was presumably that suggested by the Agriculture and Fisheries Committee of the day and on the basis that the States approved the scheme. Future questions about how that gets implemented are really hypothetical because the Committee does not have the money with which to do that. If the Committee had the money, had the £700,000 with which to implement the Environmental Scheme, I presume they would wish to implement it in the way that the States expected them to when they made the decision.

SENATOR LE MAISTRE: Sorry, that is really what I'm asking you, whether that was your view, and it is, obviously.

SENATOR LE SUEUR: Well, yes. I think it is subject to the caveat that time has changed and that if, for example, the money didn't come forward till 20 years time and by that stage there were no longer any potato farms and no longer any glasshouses, then the situation might well have changed. So one has to be realistic and flexible, but not just ignore the States' decision.

DEPUTY DUHAMEL: Perhaps I could just add a point there? Within the Strategic Plan you agreed the other day, two of the success indicators under section 4, which was "*To protect the natural and built environment*", are in fact "*the withdrawal of production-led subsidies for agriculture and the development of the environmental improvement and rural enterprise*

initiative”, so it looks as if the underlying sentiment which was tied into conditionality, you take way one money in exchange for something else, is still there, although we have yet to see the detail of it.

SENATOR LE SUEUR: I think that is encouraging, because it suggests that the current EDC, who clearly had an input into the drafting of that Strategic Plan, maintain the views of the States in 2002.

DEPUTY DUHAMEL: Yes.

SENATOR LE MAISTRE: Yes, but the reason I pick it up is that the submission to the Fundamental Spending Review actually varied that and was proposing that it shouldn't be tied, which is a terrible contradiction to the policy as previously drawn.

SENATOR LE SUEUR: If you are suggesting that had the EDC submitted their proposition to the Fundamental Spending Review in a way which linked more closely to the States' decision, would that have changed the views of the presidents at the time, I would have to say, firstly, that is a hypothetical question and I don't know the answer to that one, but if you ask me to take a judgment, I would say it probably didn't, because the Agri-Environmental Scheme bid was not rejected on the grounds of how the scheme was constructed, but it was rejected because other schemes had a higher priority. So it wasn't that the presidents took a view for or against how the bid of the EDC in respect of the Agri-Environmental Scheme was worded. It was simply that it, if you like, fell off the edge.

SENATOR LE MAISTRE: But I am sure you take the point that ----

SENATOR LE SUEUR: I take the point and I say that it is a hypothetical question.

SENATOR LE MAISTRE: It does state very clearly in the submission for 2005/6/7, as I read it, in particular the scheme will need to be voluntary, without conditionality.

SENATOR LE SUEUR: To that extent, yes, it may well vary the States' decision. I would have to ----

SENATOR LE MAISTRE: But I think it is so important. You see, it is a very fundamental principle that underpins the scheme. Now, I'm not suggesting the States wouldn't now change if it was presented to them.

SENATOR LE SUEUR: Yes.

SENATOR LE MAISTRE: What I'm asking is whether it is right for subsequent States'

decisions, for committees, having established a policy and the States agreed a policy.

SENATOR LE SUEUR: Yes.

SENATOR LE MAISTRE: For them to ... do you follow?

SENATOR LE SUEUR: I think, and I say I find it very difficult with hypothetical questions, but I think, were a committee to want to alter the proposal originally agreed in the States, the comments of the Finance Committee in 2002 were comments based on the proposals of the Ag and Fish Committee at that time.

SENATOR LE MAISTRE: At the time, yes.

SENATOR LE SUEUR: Were there to be proposals to spend that money without conditionality, it may be that the F&E Committee would want to raise a red flag or orange flag and say "Hang on, this is not what the States decided." As it turns out, that was not relevant.

SENATOR LE MAISTRE: Of course, but it could have been.

SENATOR LE SUEUR: Yes, and, were that the case, then we would have looked at it and one might argue that EDC should have flagged that up when they were submitting the bid, or one might argue that when the bids are scrutinised it might have been noticed that that wasn't quite in line with the States' decision. But I think we have to be careful here as to what the States actually decided in July 2002, because the States decided on voting money for the Agri-Environmental Scheme and it depends just how much it was linked to the content of the report. I don't want to go into the usual argument of how much does the States' decision depend on the proposition and how much depends on the report. That is an argument for another day. Clearly, if there was a proposal to spend a sum of money labelled Agri-Environment and was something totally different, then clearly that would be improper. If, for example, the £700,000 for an Agri-Environmental Scheme was then given to the glasshouse industry or the dairy industry, that would not, in my view, have been a proper use of the process or a proper way in which to use the funds without further consultation.

SENATOR LE MAISTRE: But the point I'm raising is really hooked into the States' debate and having accepted a policy (and it could apply to education or health or whatever), is it right, in your opinion, that there should be considerable flexibility thereon to do what you want; and what you are saying is really no, unless I get that wrong. There should be some constraints to come within that policy as well. There may be occasions when there are minor

tweaks and so on.

SENATOR LE SUEUR: I think you can look at this two ways.

SENATOR LE MAISTRE: You can look at it five ways probably.

SENATOR LE SUEUR: Possibly, but you could say that what EDC were submitting in their Agri-Environmental bid was a completely fresh bid, irrespective of what the States decided in July 2002. That would then be a bid without any States' backing and approval, made purely by EDC on the basis of what they believed their policies are. Remember, they are a new committee at this stage. They may well have changed their policies. Now, if they want to submit a new policy to the FSR which has not been decided by States Members as a whole and the FSR processes chooses to adopt it, then that is something which it is free to do and obviously committees may well choose their policies, but it would have to be made quite clear that that bid was not the bid based on what the States had decided the previous year, but this was a new bid because a new committee thought differently, in the same way that one Education Committee have one policy on 14 to 18 education and another committee might have a different one. Now, if they change their policy without telling anybody, then I would certainly raise some eyebrows, but in terms of the FSR process -- and I think this is where we have to accept that there has perhaps been possible confusion -- any committee is quite at liberty to put into the FSR process any bid it cares to make. It is just that you have to decide how likely it is that a bid which is totally untried and untested would be approved.

DEPUTY DUHAMEL: I would like to go back slightly and just ask a general question. Can value for money judgments that are inevitably taken in comparing whether to spend on one scheme or another be ever seen to be objective and, if so, how?

SENATOR LE SUEUR: I would say it is pretty difficult.

DEPUTY DUHAMEL: It is difficult. Okay. Senator Vibert?

SENATOR VIBERT: I wonder if I can just raise some concerns that were given to us yesterday by landowners about the current state of the agricultural position and by the farming representatives about the position they now find themselves in as a result of the failure to implement the Agri-Environmental Scheme. As far as the farmers are concerned, the evidence that was given to us yesterday was that the marketplace in the United Kingdom, i.e., the big supermarkets who now control most of the market in Jersey Royals, have laid down protocols

that they have to keep to, otherwise they can't market their products. A lot of those protocols are involving considerable expense in terms of agriculture protecting the environment. So they are in fact having to pay for this without any aid at all from the Government. It is a bill that they have to pick up.

Equally, the landowners are saying that because there is now a lack of interest in a lot of their land, they are having to spend their monies making sure that the land doesn't disappear from agriculture and stays in reasonable condition -- they have to maintain it, they have to do branchage -- and, in addition to that, Jersey apparently is the only place that pays rates on land and, as a result of the change to the rating system, whereas before, if your land wasn't being used, you didn't have to pay rates on it, now you have to pay rates on it. So they are actually getting no income and they see and evidence has been given, although there is conflicting evidence from the farmers for one thing and the landowners thought another, the landowners seem to think that during the next couple of years a large amount of land is actually going to not be used for agriculture and they are holding it and they are going to have to maintain it for environmental terms to save it going back to nature. Is that something, both as a Member of the States and as the President of Finance, that concerns you, what likely cost is going to be involved in bringing it back to agriculture if there is a need to bring it back to agriculture?

SENATOR LE SUEUR: Certainly I am well aware of the changing nature of the agricultural industry and the fact that certain fields may no longer be agricultural, but the nature of the agricultural industry will change, and that change needs to be managed and it needs to be assisted in being managed. The Economic Development Committee has to have policies to support that management of change. Now, it is up to them to submit policies, and I think the Strategic Panel have had some indication of how they place some importance on Agri-Environmental Schemes as part of that in order to deliver those objectives. So all I would say is I don't think we can stand still. I think something will need to be changed, and I do believe needs to happen. But it is not for me as President of F&E to dictate the direction in which those changes should occur.

SENATOR LE MAISTRE: Can I pick that up? As the President of F&E, isn't it partly our responsibility, as a corporate States, to consider the consequences of not doing something as

well as doing something?

SENATOR LE SUEUR: Absolutely.

SENATOR LE MAISTRE: In financial terms. I am talking about in financial terms.

SENATOR LE SUEUR: In financial terms, yes, yes. I have many responsibilities, and that is why we have to weigh up those responsibilities and I have to be guided by a Strategic Plan, just as anybody else has to be. We all have to work, as far as we can, to the same rulebook.

SENATOR VIBERT: Can I just ask one more question? In view of the fact that in the Strategic Plan quite a bit of the agricultural side of it is in fact almost the same as the Agri-Environmental Scheme was, in terms of principles -- not how it was done, just in terms of principles -- bearing in mind that this hit the buffers the last time, why isn't it possible that it will hit the buffers the next time, because of the difficulty of proving the value of the environment against value for money?

SENATOR LE SUEUR: It is possible it will hit the buffers again next time. I have no idea. I have not at this stage prioritised future spending. I am busy at the moment trying to prioritise the current year's bids. But I think, realistically, as perhaps States Members have become more enlightened and look at Agri-Environment not just in itself but in the light of an island's strategic needs, then what was a lower priority this year may become a "must do" next year or the year after. I can't tell.

DEPUTY DUHAMEL: All right. Are there any further questions from the Panel? No? Would you like to make any further comment or statement?

SENATOR LE SUEUR: I don't think I want to. My Chief Officer has been sitting there patiently listening. I don't know if he needs to or wants to.

MR BLACK: Perhaps if I just come in on one I guess peripheral, it is about this allocation process and linking it to priorities. We have recently done the new Public Finance Law and what we have discovered is our current States of Jersey processes are unusual, if not unique. There aren't many places round the world where spending propositions can be taken during the period; and, in fact, most places disallow it. It is actually in their law. The reason is because you can never, you can never, prioritise with resource allocation if you do it during the period.

SENATOR VIBERT: Does that mean we are going to get a fundamental change to the way

the whole system works?

MR BLACK: Yes.

SENATOR VIBERT: Under Executive Government, is that what ----

MR BLACK: No, the States of Jersey one. The Public Finance Law in fact follows best practice, that you shall have strategic priorities, linked priorities, to resource allocation and do that on a periodic basis.

SENATOR VIBERT: It makes a lot of sense.

MR BLACK: Yes.

DEPUTY DUHAMEL: On that basis, I would like to, on behalf of the Panel, thank you for attending and for your submission and your comments and thank you for coming.

SENATOR LE SUEUR: Thank you.

Senator Le Sueur and Mr Black withdrew