

Price : #1.00

THE STATES assembled on Tuesday,
26th February 1991 at 9.30 a.m. under
the Presidency of the Bailiff,
Sir Peter Crill, C.B.E.

All Members were present with the exception
of -

Senator Terence John Le Main - out of
the Island.
Dereck Ryder Maltwood, Deputy of St.
Mary - out of the Island.
Alan Payn Bree, Deputy of Grouville -
ill.

Prayers

Tribute to the late Mr. P.M. de
Veulle, former Member of the House

The Bailiff paid tribute to the late
Mr. Philip Mauger de Veulle, a former
Deputy of St. Clement.

Tribute to the late Mr. E. Watson,
former Member of the House

The Bailiff paid tribute to the late
Mr. Ernest Watson, a former Connétable of
St. Clement.

THE STATES observed one minute's silence as
a mark of respect.

Subordinate legislation tabled

The following enactments were laid
before the States, namely -

1. Weights and Measures (Prescribed

Quantities No. 4) (Jersey) Order
1991. R & O 8173.

2. Airport Dues (Tariff) (Jersey)
Order 1991. R & O 8174.

Agricultural Loans: report for 1990.
R.C.5

The Agriculture and Fisheries
Committee by Act dated 21st February 1991
presented to the States a report on the
Agricultural Loans and Guarantees Fund for
the year ended 31st December 1990 and
commenting on the operation during 1990 of
the Agricultural (Loans and Guarantees)
(Jersey) Law 1974, as amended, and the
Agricultural (Loans) (Jersey) Regulations
1974, as amended.

THE STATES ordered that the said report be
printed and distributed.

Information Technology Development
Plan for 1991. R.C.6

The Establishment Committee by Act
dated 15th February 1991 presented to the
States a report on the Information
Technology Development Plan for 1991.

THE STATES ordered that the said report be
printed and distributed.

Jersey Council for Safety and Health
at Work: report and accounts for 1989/90.
R.C.7

The Social Security Committee by Act
dated 6th February 1991 presented to the
States the report and accounts of the
Jersey Council for Safety and Health at
Work for the years 1989/90.

THE STATES ordered that the said report and
accounts be printed and distributed.

Prison Board: report for 1990. R.C.8

The Prison Board by Act dated 28th
January 1991 presented to the States the
report of the Board for 1990.

THE STATES ordered that the said report be
printed and distributed.

Broadcasting Committee: report for 1990. R.C.9

The Broadcasting Committee by Act dated 22nd January 1991 presented to the States the report of the Committee for 1990.

THE STATES ordered that the said report be printed and distributed.

Matters noted - land transactions

THE STATES noted an Act of the Finance and Economics Committee dated 18th February 1991, showing that in pursuance of Standing Orders relating to certain transactions in land, the Committee had approved -

- (a) as recommended by the Housing Committee, with the support of the Island Development Committee, the purchase from Mathilda Enterprises Limited of No. 60 Rouge Bouillon for the sum of #500,000, with a five per cent retention for a period of six months, with each party being responsible for the payment of its own legal fees;
- (b) as recommended by the Housing Committee, with the support of the Island Development Committee, the purchase from Delill Investments Limited of five vergées of land on part of Field 1311, Mont au Prêtre, St. Helier for the sum of #308,062, plus the payment of all legal fees;
- (c) as recommended by the Housing Committee, with the support of the Island Development Committee, the purchase from Mr. Paul Francis Wood and Mrs. Wendy Anne Wood née Carruthers of 0.65 vergées of land and an access track at Field 1311, Mont au Prêtre, St. Helier for the sum of #56,108, plus the payment of all legal and professional fees;
- (d) as recommended by the Public Health Committee, the renewal of the lease from 23 Havre des Pas Limited of the two-bedroomed

property Flat 6, 23 Havre des Pas, St. Helier, for a period of one year from 24th February 1991, at an annual rent of #6,896;

(e) as recommended by the Public Health Committee, the extension of the lease from Mr. George Bernardes of the three-bedroomed property Alzola, Upper King's Cliff, St. Helier, from 1st March 1991 subject to three months' notice being given by either side, at an annual rent of #9,996;

(f) as recommended by the Housing Committee, the granting The Mayfair Hotel Limited of a wayleave for both foul and surface water drainage pipes along a route to De Quetteville Court, St. Helier and the right to connect to the existing drainage system, for a sum of #1,000 with the company being responsible for the cost of all accommodation works and the payment of legal fees;

(g) as recommended by the Defence Committee, the lease to the Jersey Electricity Company Limited of a site for an electricity sub-station at the Territorial Army Centre at the R.E. Yard, Mount Bingham, St. Helier, for a period of 99 years an an annual rent of #1 commuted forward to the inception of the agreement, the lease to include a contract wayleave for the proposed cable shown on J.E.C. Wayleave Plan No. 22L, with each side being responsible for its own legal fees.

Matters lodged

The following subjects were lodged
"au Greffe" -

1. Draft Weights and Measures (Prescribed Quantities No. 5) (Jersey) Order 199 . P.23/91. Presented by the Public Services Committee.
2. Draft Weights and Measures (Prescribed Quantities No. 6)

(Jersey) Order 199 . P.24/91.
Presented by the Public Services
Committee.

3. Draft Weights and Measures
(Additional Metric Measures)
(Jersey) Order 199 . P.25/91.
Presented by the Public Services
Committee.
4. 1 and 2 Old St. James
Place, St. Helier: approval of
drawings. P.26/91.
Presented by the Housing
Committee.
5. Draft Public Finances
(Administration) (Amendment No. 6)
(Jersey) Law 199 . P.27/91.
Presented by the Finance and
Economics Committee.
6. Motor vehicle registration,
licensing and duty. P.28/91.
Presented by the Finance and
Economics Committee.

The following subjects were lodged
on 19th February 1991 -

1. Draft Regulation of Undertakings
and Development (Amendment No. 6)
(Jersey) Regulations 1991 .
P.20/91.
Presented by the Finance and
Economics Committee.
2. Housing of essential employees.
P.21/91.
Presented by the Policy and
Resources Committee.
3. Mr. B.R. Cooper: appointment of
Special Committee. P.22/91.
Presented by Senator J.S.
Rothwell.

Arrangement of Public Business for
the next Sitting on 12th March 1991

THE STATES confirmed that the
following subjects lodged au Greffe should
be considered at the next Sitting on 12th
March 1991 -

Draft Regulation of Undertakings and
Development (Amendment No. 6) (Jersey)
Regulations 1991 . P.20/91.
Lodged: 19th February 1991.

Finance and Economics
Committee.

Housing of essential employees.
P.21/91.
Lodged: 19th February 1991.
Policy and Resources Committee.

Mr. B.R. Cooper: appointment of
Special Committee. P.22/91.
Lodged: 19th February 1991.
Senator J.S. Rothwell.

Draft Weights and Measures
(Prescribed Quantities No. 5) (Jersey)
Order 199 . P.23/91.
Lodged: 26th February 1991.
Public Services Committee.

Draft Weights and Measures
(Prescribed Quantities No. 6) (Jersey)
Order 199 . P.24/91.
Lodged: 26th February 1991.
Public Services Committee.

Draft Weights and Measures
(Additional Metric Measures) (Jersey)
Order 199 . P.25/91.
Lodged: 26th February 1991.
Public Services Committee.

1 and 2 Old St. James Place,
St. Helier: approval of drawings.
P.26/91
Lodged: 26th February 1991.
Housing Committee.

Draft Public Finances
(Administration) (Amendment No. 6)
(Jersey) Law 199 . P.27/91.
Lodged: 26th February 1991.
Finance and Economics
Committee.

Motor vehicle registration,
licensing and duty. P.28/91.
Lodged: 26th February 1991.
Finance and Economics
Committee.

Legal fees. Questions and answers
(Tape No. 83)

Senator Richard Joseph Shenton asked Deputy
Edgar John Becquet, President of the
Legislation Committee, the following
questions -

1. ``In 1985 the Legislation Committee in

a report on a proposition of Senator Shenton with regard to conveyancing fees stated ``The Committee is not satisfied that, at the present time, the advantages of opening up the practice of conveyancing to non-lawyers would outweigh the disadvantages". Does the President consider that the time has now arrived for a proper investigation to be instigated on conveyancing charges?

2. Will the President inform the House as to the present scale of legal fees charged in the Island of Jersey and would he consider approaching the Bailiff in order that an investigation may be undertaken to review present charges?
3. Will the President inform the House of the difference between legal fees charged by the profession and taxed costs?
4. Will the President inform the House where specific changes which have taken place with regard to the United Kingdom legal system and are relevant to the Jersey situation have been considered by his Committee?
5. Will the President inform the House whether the time has come for any of our Laws which are still in the French language to be re-enacted in English?
6. Will the President support an examination into the legal aid system which at present appears to favour the irresponsible rather than the needy in our society?"

The President of the Legislation Committee replied as follows -

- 1 and 2 ``My Committee sees no justification for investigating in isolation the fees charged by the legal profession.

So far as conveyancing charges are concerned there is a scale which was laid down by the Royal Court in 1954.

My Committee doubts whether it is appropriate to attempt to control the fees of lawyers anymore than it would be appropriate to control the fees of accountants, architects or surveyors.

The fees of lawyers will vary according to the lawyer who is retained, the nature of the work, and the responsibility carried as a result of the client's instructions.

However, there are a number of other aspects of the practice of law, not mentioned by the Senator, which the Committee considers could usefully be the subject of a review such as that recently undertaken into the Island's Judicial and Legal Services. Such matters include the investigation of complaints against the legal profession, the practice of law in Jersey by persons without local qualifications, and the appropriate level of judicial fees; i.e., should litigants (subject to certain safeguards) pay the market costs of providing a court.

I propose to invite the Bailiff to constitute a Review Committee and shall be discussing with him the terms of reference for that Committee. At the same time my Committee will be discussing with the Finance and Economics Committee the availability of funds to meet the cost of such a review.

3. A successful litigant before the Royal Court is usually awarded his costs. Such orders for costs are either "on an indemnity basis" or "on a taxed basis". The fees recoverable under the taxed scale of costs as approved by the Royal Court are lower than those actually charged by most practising lawyers, partly because the taxed scale has not kept up with modern charges. While the "indemnity costs" order leaves the successful litigant without any legal fees to pay, an order for taxed costs (which is the more usual order) will allow him to recover from his opponent little more than one half of his legal fees incurred. The Committee considers that this state of affairs is not entirely satisfactory and understands that the Judicial Greffier has submitted to the Bailiff proposals for reform.
4. The legal system in the United Kingdom is quite different from that of this Island and the changes which have been

made in the United Kingdom would not be applicable in Jersey as they concern principally the rights of audience in certain Courts.

At the present moment a Working Party has been appointed to give consideration to the status and future practice of the solicitor branch of the legal profession in Jersey, including the possibility of amalgamation with the bar.

5. The general practice since 1948 has been that laws are enacted in English. The only exceptions to that practice have been where amendments to existing laws in the French language have been introduced or where (as with the Flying Freeholds draft law) there are other important reasons for using French. A great deal of basic Jersey Law is founded on the customary law of Normandy and there are certain laws, such as those relating to real property, which would make it difficult to frame into English.
6. The Committee disagrees that the legal aid system favours the irresponsible rather than the needy in our society. The legal aid system works for those who are most in need of it namely those who are without means and who are required to be in the Courts of this Island because of the circumstances in which they find themselves. Some of those who are needy may also be irresponsible; but as such people are generally brought before the Courts under a criminal prosecution, they ought to have the benefit of legal representation not just for themselves but as to assist in the administration of justice.

A great deal of time is given by the legal profession in attending to the needs of those on legal aid. I believe that the great service rendered by the legal profession to legal aid is not fully appreciated. If the English system were adopted the annual costs to this Island would amount to hundreds of thousands of pounds. As it is, there is no cost to the exchequer in Jersey for legal aid save in respect of certain disbursements.

During 1990 no less than 1,636 legal

aid certificates were issued, one-third of which concerned criminal matters the remaining two-thirds being mostly in respect of Civil matters, of which matrimonial advice, including cases of domestic violence, were predominant. Very often no charge is made for these services. When a charge is made it should be commensurate with the means of the individual. In cases of dispute the Bâtonnier has power to adjudicate and if necessary to direct the lawyer to reduce his account. If the States were to take over the legal aid system it is likely that the costs which the Island would have to bear, both in fees and administration, would be considerable. In the context of the Senator's questions, the Committee sees no need for a general examination of the legal aid system.

However, difficulties do occasionally arise where a legally aided litigant loses his case and costs are awarded against him. If, as will be likely, he has no means, the successful litigant cannot recover his costs. This seems unfair and is a further matter which the Committee considers could be examined by inclusion within the terms of reference of the Review Committee to which I have previously referred."

Office developments. Questions and answers (Tape No. 83)

Deputy Stuart Syvret of St. Helier asked Senator Pierre François Horsfall, President of the Finance and Economics Committee the following questions -

1. ``When did the moratorium on office development start and when is it due to end?
2. How many permissions to develop were granted in the three month period before the start of the moratorium and how does this compare with the usual amount for a three month period?
3. How many office developments are `in the pipeline'?
4. Are there any circumstances in which permission to develop would be granted regardless of the moratorium?

5. How many sites have been secured for housing as a result of the office building moratorium?"

The President of the Finance and Economics Committee replied as follows -

1. ``A policy statement on office development was made to the States by the President of the Finance and Economics Committee on 25th July 1989. Contrary to the impression given by the media this statement did not suggest a moratorium on all office development. The President informed the House that the presumption should be that for a period of at least five years the granting of licences for office development under Part III of the Regulation of Undertakings and Development Law would not be in the Island's best interests. However, this was subject to certain exceptions relating to the need to have proper regard for the floor space requirements of the finance industry and other sectors that arise from an accepted rate of business expansion, and from the need to accommodate new information technology. These requirements were expected to be satisfied through the development of a number of sites `in the pipeline', plus some modest office developments on sites that were accepted as being unsuitable for housing.

The main purpose of the policy statement was to seek to ensure that urban land suitable for housing was put to that use, and that sufficient resources of the construction industry were made available to undertake house building. To the extent that office development can be accommodated, within the context of both the policy statement and the zero job growth policy adopted by the States in December 1989, it is intended that this should continue to be done. Indeed, the Finance and Economics Committee is required under the provisions of the Regulation of Undertakings and Development Law to have regard to the merits of each case and under Article 5 of that Law a

decision to refuse a licence must refer to the reasons why this is justified, having regard to the need to regulate and manage demand on the resources of the Island.

As members are also no doubt aware my Committee continues to pursue a policy of only granting consents for office development where this can be shown to be in the Island's best interests, and such consents are only granted where a significant proportion of the floor space to be provided is to be occupied by a known user from whose activities the Island derives significant benefits.

2. In the period May to July 1989 there was one licence granted in respect of office development.

In answering the second part of the question, I think it is better to consider the licensing of office developments over a longer period than three months. The number of licences granted in 1988 for office development was 11, in 1989 the number was 8, and in 1990 the number was 5.

3. There is only one major development where the Finance and Economics Committee has granted a licence but where building work has yet to commence; that is, the Lancashire Textiles site in Bath Street. There are a number of other cases where the Committee has accepted that the site is unsuited for housing development, the Island Development Committee is keen to see an improvement in the urban fabric, and/or the best interests of the Island will be served by the granting of a consent if there are known users whose activities are of sufficient benefit to the Island. However, in the current economic climate there appears to be less pressure on the part of existing undertakings to take up the office space that could be provided if the developments concerned were to be proceeded with.
4. I hope I have made it clear in my answer to the first question that there is not a moratorium but a policy of limiting office development, for there are

circumstances in which licences to develop would be granted, and have been granted. Each decision will reflect the Finance and Economics Committee's assessment of what is in the best interests of the Island having regard to States policy, and the need to balance the availability of land and resources for housing with the office space requirements of a prosperous economy from which all Island residents benefit.

5. As a result of the policy statement in July 1989 the States pursued and were successful in acquiring the Ritz Hotel and Channel Television sites, together with the Cleveland Garage (Bath Street) site. There are certain other properties where discussions continue and where it has been made clear, in the context of both the Island plan and the Regulation of Undertakings and Development Law, that permission to undertake office building on the scale envisaged would not be in the best interests of the Island and that the sites would be better used for residential development.

There are further sites where the policy being pursued by the States has undoubtedly produced a different mix of development, with a higher proportion of the floor space to be constructed taking the form of residential as opposed to commercial accommodation."

Bankruptcy (Désastre) (Jersey) Law
1990 Appointed Day Act 1991

THE STATES, in pursuance of Article 51 of the Bankruptcy (Désastre) (Jersey) Law 1990, made an Act entitled the Bankruptcy (Désastre) (Jersey) Law 1990 Appointed Day Act 1991.

Public Lotteries Board: appointment
of member

THE STATES, adopting a proposition of the Gambling Control Committee, approved the appointment of Mrs. Cynthia Miriam Rumboll as a member of the Public Lotteries Board, for a period of five years from the date of appointment in pursuance of

Regulation 3 of the Gambling (Channel Islands Lottery) (Jersey) Regulations 1975, as amended.

Attendance Allowance Board:
appointment

THE STATES, adopting a proposition of the Social Security Committee and in pursuance of Article 4 of the Attendance Allowances (Jersey) Law 1973, as amended, appointed the undermentioned as chairman and members of the Attendance Allowance Board for a period of three years from 14th March 1991, namely -

Dr. J. Newell (Chairman)
Dr. D. Crill
Dr. S. Milner
Dr. A.D. Williams
Dr. D. Fullerton
Mrs M. Rebindaine
Mrs D. Le Feuvre

Overseas Trading Corporation, St.
Helier: purchase. P.19/91

THE STATES, adopting a proposition of the Island Development Committee -

- (a) approved the purchase from the Overseas Trading Corporation (1939) Limited of the site occupied by the Overseas Trading Corporation at First Tower, for the sum of #4.5 million, with each side being responsible for its own legal fees, subject to the Overseas Trading Corporation retaining possession of the building forming part of the site for a term not to extend beyond 30th June 1992;
- (b) authorised the payment or discharge of expenses to be incurred in connexion with the acquisition of the said land from the Island Development Committee's vote of credit "Acquisition of Land - Major Reserve" (Vote No. C0904);
- (c) authorised the Attorney General and the Greffier of the States to pass on behalf of the public any contracts which might be found necessary to pass in connexion

with the said properties and any interests therein.

Weighbridge area and west of Albert Pier reclamation site: development of roads. P.11/91

THE STATES rejected a proposition of Senator Nigel Lewis Querée -

(a) to rescind paragraph (a) of their Act dated 19th April 1988, in which they adopted a proposition of the Island Development Committee, and approved the layout of roads in the Weighbridge area and on the northernmost part of the reclamation site to the west of the Albert Pier; and

(b) to rescind paragraph (b) of their Act, dated 30th May 1989, in which they adopted a proposition of the Public Works Committee and approved, in principle, in relation to the first phase of development of the Albert Pier reclamation site a new road over the reclamation site, linking to the existing road north of the marina at Albert Pier, together with a junction and link road to Castle Street and a spur road for a future link to the reclamation site and Ro-Ro terminal.

Members present voted as follows -

``Pour"(16)

Senators

Shenton, Baal, Rothwell, Le Maistre, Carter, Querée.

Connétable

St. Lawrence.

Deputies

Becquet(T), Beadle(B), Blamplied(H), De Feu(P), Coutanche(L), Bailhache(H), Baudains(H), Le Geyt(S), Syvret(H).

``Contre"(31)

Senators

Jeune, Binnington, Horsfall, Stein, Chinn.

Connétables

St. John, St. Peter, St. Helier, St.
Clement, St. Mary, St. Ouen, St.
Brelade, Trinity, St. Martin,
Grouville.

Deputies

Le Gallais(S), Roche(S), Rumboll(H),
Wavell(S), Norman(C), Baudains(C), Le
Sueur(H), Le Masurier(O), Huelin(B),
Jordan(B), Rabet(H), Clarke-
Halifax(S), Le Fondré(L), Jehan(M),
Walker(H), Crespel(H).

Amendment (No. 13) to the Standing
Orders of the States of Jersey (P.176/90)
and Amendment (P.190/90)

THE STATES commenced consideration
of a proposition of the House Committee
regarding Amendment (No. 13) of the
Standing Orders of the States of Jersey and
rejected a proposition of Deputy Robin
Ernest Richard Rumboll of St. Helier that
in sub-paragraph (a) of paragraph (2) of
Standing Order No. 44A, after the word
"unremunerated" there shall be inserted
the words, "but not so as to require the
disclosure of any directorship arising
solely from the performance of the
professional duties of the member or the
member's spouse." After further discussion
the President of the House Committee
withdrew the proposition.

Investigation of Fraud (Jersey) Law
1991. P.18/91

THE STATES subject to Her Most
Excellent Majesty in Council, adopted a Law
entitled the Investigation of Fraud
(Jersey) Law 1991.

Adjournment

THE STATES then adjourned, having
agreed to defer consideration of the
outstanding items of Public Business until
the next Sitting.

THE STATES rose at 5.55 p.m.

R.S. GRAY

Greffier of the States.

