

**THE STATES assembled on Tuesday,
7th November 2000 at 9.30 a.m. under
the Presidency of the Deputy Bailiff,
Michael Cameron St. John Birt, Esquire.**

All members were present with the exception of -

Senator Pierre François Horsfall - out of the Island
Senator Jean Amy Le Maistre - out of the Island
Francis Herbert Amy, Connétable of Grouville - out of the Island
Kenneth Priaulx Vibert, Connétable of St. Ouen - out of the Island
Imogen Stephanie Nicholls, Deputy of Grouville - ill
Celia Joyce Scott Warren, Deputy of St. Saviour - ill

Prayers

Withdrawal of questions - ruling by the Deputy Bailiff

The Deputy Bailiff made a statement in the following terms -

“At the meeting of 24th October 2000 Senator Horsfall asked for a ruling from the Chair following the refusal of the Greffier of the States, who was presiding, to allow him to read out the answer to a question on referendums. The question was due to be asked by Senator Le Claire but, when this item was reached on the Order Paper, Senator Le Claire informed the Assembly that he wished to withdraw the question as he did not like the answer that had been prepared and made available to members in accordance with Standing Order 14(4A). He further stated that Deputy Troy of St Brelade was to lodge a proposition on the subject and for that reason he felt the question was unnecessary. Senator Horsfall stated that, as the full text of the questions was now included on the Order Paper (which is received by members and the Press four days before a meeting of the States), it was not appropriate for him to be denied the opportunity to read out his answer. He suggested that the question could not be withdrawn without the leave of the States but the Greffier ruled that leave was not required and a member who did not wish to ask a question could not be forced to do so.

Standing Order 12 sets out the provisions relating to notice of questions and Standing Order 14 sets out the manner of asking and answering questions. Standing Orders are, however, silent on the method of withdrawing a question and this matter therefore falls to be decided by the Bailiff in accordance with Standing Order 49 which provides that any question of order or procedure not provided for in Standing Orders shall be decided by the Bailiff.

The Order Paper is issued to inform members of the business for the next meeting of the States. It lists, for example, papers which are to be lodged “au Greffe” at the meeting. Although the title of these, together with the name of the proposer are in this way given to the members and the press in advance of the meeting, the proposition is not actually lodged until the member presenting it so requests when asked to do so by the Bailiff at the meeting of the States. There are occasions when, for a variety of reasons, last minute difficulties mean that an item listed is not lodged. Similarly a member who has given notice to the Greffier that he intends to request that an item be considered at the following meeting (leading the Greffier to list it as a request under ‘E’) may inform the States at the meeting that he no longer wishes to ask for the item to be taken at the next meeting and the item is not therefore included in the list of matters set down for the next meeting.

In a similar way the list of questions to be asked is simply a notification of questions of which notice has been given and which are due to be asked at the meeting. In my judgment a member who, for whatever reason, decides that he no longer wishes to ask a question of which he has given notice, cannot be forced to ask that question. In these circumstances it is not necessary for the States to agree that the question should be ‘withdrawn’. Although the word ‘withdrawn’ is used, all that is in fact happening is that the member has decided not to ask the question.

Senator Horsfall also asked the Greffier to rule on whether he was able to read out his prepared answer even if the question were not asked. The answer to this must be 'no'. By definition an answer is a reply to a question asked and if no question is asked there cannot be a reply. Standing Order No.14(5) provides that *“Every question, whether asked with or without notice, and the reply thereto, shall be recorded in the minutes of the meeting at which the question was asked”*. If no question is asked there is nothing to record. The fact that the text of the question is now given to members in advance does not alter the fact that no question is 'asked' until the member who has given notice actually does so in the Assembly.

It has to be said that the preparation of an answer can be a time-consuming matter for the President and his officers. Unless there is good reason for not proceeding, it would seem inappropriate for a member to decide not to ask a question even if he has the right to do so.

It should however be noted that if a President, who is denied the opportunity to give an answer he has prepared, feels that the matter is of sufficient importance that the information contained in the reply should be given to the Assembly, it is open to him, at a subsequent meeting, to make a statement to the States based on the information collated for the answer.”

Notice of change in Presidency

The Deputy Bailiff advised the States that he would vacate the Presidency during consideration of the proposition of Senator Christopher Gerard Pellow Lakeman entitled Control of Public Entertainment (P.168/2000 lodged “au Greffe” on 26th September 2000) and the Greffier of the States would preside for that item.

Subordinate legislation tabled

The following enactments were laid before the States, namely -

Social Security (Earnings Limit) (Jersey) Order 2000. R & O 101/2000.

Building Bye-Laws (Amendment No. 4) (Jersey) 2000. R & O 102/2000.

Island Planning (Tree Preservation) (St. Helier) (Amendment No. 2) (Jersey) Order 2000 . R & O 103/2000.

Motor Vehicle Registration (General Provisions) (Amendment No. 8) (Jersey) Order 2000. R & O 104/2000.

Motor Cars (Driving Instruction) (Amendment No. 11) (Jersey) Order 2000. R & O 105/2000.

Motor Vehicles (Construction and Use) (Amendment No. 2) (Jersey) Order 2000. R & O 106/2000.

Motor Vehicles (Driving Licences) (Amendment No. 12) (Jersey) Order 2000. R & O 107/2000.

Lodging Houses (General Provisions) (Amendment No. 7) (Jersey) Order 2000. R & O 108/2000.

Health and Social Services Committee - resignation of member

THE STATES noted the resignation of Deputy Terence John Le Main of St. Helier from the Health and Social Services Committee.

Planning and Environment Committee - appointment of member

THE STATES appointed Deputy Terence John Le Main of St. Helier as a member of the Planning and Environment Committee.

Matters presented

The following matters were presented to the States -

Draft Census (Jersey) Regulations 200- (P.177/2000): comments - P.177/2000 Com(2).
Presented by the Finance and Economics Committee.

Draft Gambling (Betting) (Amendment No. 11) (Jersey) Regulations 200- (P.189/2000): comments - P.189/2000 Com.
Presented by the Finance and Economics Committee.

Draft Gambling (Licensing Provisions) (Amendment No. 12) (Jersey) Regulations 200- (P.189/2000): comments - P.190/2000 Com.
Presented by the Finance and Economics Committee.

Draft Census (Jersey) Regulations 200- (P.177/2000): additional comments - P.177/2000 Add. Com.
Presented by the Human Resources Committee.

The following matters were presented on 31st October 2000 -

Social Security Registration Cards - Proof of Identity (P.113/2000): Report - P.113/2000 Rpt.
Presented by the Employment and Social Security Committee.

Draft Census (Jersey) Regulations 200- (P.177/2000): comments - P.177/2000 Com.
Presented by the Human Resources Committee.

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

Matters noted - land transactions

THE STATES noted an Act of the Finance and Economics Committee dated 30th October 2000 recording the following decisions of the Treasurer of the States under delegated powers, in pursuance of Standing Orders relating to certain transactions in land -

- (a) as recommended by the Housing Committee, the lease to the Jersey Electricity Company Limited of the site of electricity sub-station No. 49 and Section Pillars Nos. 6665 and 6689, situated at Oak Tree Gardens, St. Helier, for a period of 99 years at an annual rent of £1 for each site, together with the granting of the associated wayleave free of charge, at a one-off cost of £297, each party to be responsible for its own legal costs arising from the transaction;
- (b) as recommended by the Housing Committee, the renewal of the lease to the Jersey Electricity Company Limited of the site of electricity sub-station No. 59, situated at Grasset Park, St Saviour, for a period of 99 years at an annual rent of £1, together with the granting of the associated wayleave free of charge, at a one-off cost of £99, each party to be responsible for its own legal costs arising from the transaction;
- (c) as recommended by the Harbours and Airport Committee, the termination of the lease by KLM UK of a ticket desk in the John Le Fondré Departures Hall, Jersey Airport, in respect of which a termination fee of £10,000 was to be paid;
- (d) as recommended by the Harbours and Airport Committee, the lease to C.I. Travel Holding Limited of one unit of office accommodation (Letting No. 41 - measuring 105 square feet) or the first floor of Alares House, Jersey Airport, for a period of three years from 1st September 2000, at an annual rent of £1,305 (representing a rate of £12.42 a square foot) being the market rent for the premises, with a break option on the part of the Lessee and Lessor, by giving three months notice in writing, the rent to be reviewed on 1st September 2001 and 2002 in line with the Jersey Retail Price Index;
- (e) as recommended by the Harbours and Airport Committee, the addendum to the current lease to Commodore Express (Jersey) Limited in respect of the Elizabeth Harbour (E27) Warehouse (due to expire on 30th June 2004), of the Elizabeth Harbour (E25B) Warehouse (including

toilets) from 1st August 2000, on the same terms and conditions as the existing lease, at an annual rent of £12,602.70 (plus £1,068.65 for toilets) - a total rent of £13,671.35 (representing a rate of £7.37 a square foot for a rental area of 1,710 square feet (and 145 square feet for the toilets);

- (f) as recommended by the Harbours and Airport Committee, the renewal of the lease to St. Catherine's Sailing Club Incorporated of a clubhouse, dingy park and surrounding land for a period of nine years commencing on 25th December 1999 at an annual rent of £1,495.88, subject to annual rent reviews in line with the Jersey Retail Price Index; and,
- (g) as recommended by the Planning and Environment Committee, the lease from Mr. William Bertram Payn of the property known as 4, Beachside, La Rue du Pont, La Rocque, Grouville, for occupation by a 'j' category employee of the Health and Social Services Committee, for an additional period of six months until 28th February 2001 at an increased annual rent of £15,660, with an option to extend the lease for a further 30 months, with all existing terms and conditions remaining the same.

THE STATES noted an Act of the Finance and Economics Committee dated 30th October 2000 showing that, in pursuance of Standing Orders relating to certain transactions in land, the Committee had approved, as recommended by the Harbours and Airport Committee, the assignment from Exel Europe Limited to Ferryspeed (CI) Limited of the unexpired portion of the lease for the period to 13th June 2004 of Elizabeth Harbour Warehouse (E26), comprising -

- (a) accommodation within the south west part of Phase I Warehouse Elizabeth Harbour, St. Helier, measuring 5,931 square feet, at an annual rental of £40,140.41; and
- (b) the ground site immediately outside the warehouse unit, measuring 461 square feet, at an annual rental of £592.42.

Matters lodged

The following matters were lodged "au Greffe" -

Referendums: Creation of a Legislative Framework - P.188/2000.
Presented by Deputy P.N. Troy of St. Brelade.

Draft Gambling (Betting) (Amendment No. 11) (Jersey) Regulations 200- - P.189/2000. (Re-issue)
Presented by the Gambling Control Committee.

Draft Gambling (Licensing Provisions) (Amendment No. 12) (Jersey) Regulations 200- - P.190/2000. (Re-issue)
Presented by the Gambling Control Committee.

Draft Competition Regulatory Authority (Jersey) Law 200- - P.191/2000. (Re-issue)
Presented by the Industries Committee.

Field 1114, La Grande Route de St. Jean, St. Helier: sale of organically grown food - P.192/2000.
Presented by Senator P.V.F. Le Claire and referred to the Planning and Environment Committee.

Trinity House, Bath Street, St. Helier: lease of accommodation for Jersey Advisory and Conciliation Service - P.193/2000.
Presented by the Employment and Social Security Committee.

Draft Amendment (No. 24) to the Tariff of Harbour and Light Dues - P.194/2000.
Presented by the Harbours and Airport Committee.

Draft Amendment (No. 25) to the Tariff of Harbour and Light Dues - P.195/2000.
Presented by the Harbours and Airport Committee.

Draft Boats and Surf-Riding (Control) (Amendment No. 20) (Jersey) Regulations 200- - P.196/2000.
Presented by the Harbours and Airport Committee.

Draft Financial Services (Extension) (Jersey) Law 2000 (Appointed day Act) Act 200- - P.197/2000.
Presented by the Finance and Economics Committee.

Draft Fire Service (Amendment No. 4) (Jersey) Law 2000 (Appointed Day) Act 200- - P.198/2000.
Presented by the Home Affairs Committee.

Draft Public Service Vehicles (Fees) (Amendment No. 11) (Jersey) Regulations 200- - P.199/2000.
Presented by the Home Affairs Committee.

Draft Hire Cars (No. 10) (Jersey) Regulations 200- - P.200/2000.
Presented by the Home Affairs Committee.

Comptroller of Income Tax: appointment. P.201/2000
Presented by the Human Resources Committee.

Public Employees (Contributory Retirement Scheme) Committee of Management: membership - P.202/2000.
Presented by the Human Resources Committee.

The following matters were lodged on 31st October 2000 -

Draft Amendment (No. 22) of the Standing Orders of the States of Jersey - P.186/2000.
Presented by the House Committee.

Television Licence Fees: Rebate for Senior Citizens over 75 - P.187/2000.
Presented by Senator C. Stein.

Arrangement of public business for the present meeting

THE STATES acceded to the request of the President of the Legislation Committee that the following matter be considered as the first item of public business at the present meeting -

Draft States of Jersey (Amendment No. 7) Law 2000 (Appointed Day) Act 200- - P.178/2000.
Lodged: 17th October 2000.
Legislation Committee.

Arrangement of public business for the next meeting on 21st November 2000

THE STATES confirmed that the following matters lodged "au Greffe" would be considered at the next meeting on 21st November 2000 -

Employment legislation - P.99/2000.
Lodged: 20th June 2000.
Employment and Social Security Committee.

Employment legislation (P.99/2000): addendum to report - P.99/2000 Rpt.
Presented: 3rd October 2000.
Employment and Social Security Committee.

Employment legislation (P.99/2000): amendments - P.183/2000.
Lodged: 24th October 2000.
Industries Committee.

Former Motor Traffic Garage Site, Pier Road, St. Helier: transfer of administration - P.142/2000.
Lodged: 22nd August 2000.
Public Services Committee.

Draft Amendment (No. 21) of the Standing Orders of the States of Jersey - P.184/2000.
Lodged: 24th October 2000.
House Committee.

Draft Amendment (No. 22) of the Standing Orders of the States of Jersey - P.186/2000.
Lodged: 31st October 2000.
House Committee.

Television Licence Fees: Rebate for Senior Citizens over 75 - P.187/2000.
Lodged: 31st October 2000.
Senator C. Stein.

Draft Gambling (Betting) (Amendment No. 11) (Jersey) Regulations 200- - P.189/2000.
Lodged: 7th November 2000.
Gambling Control Committee.

Draft Gambling (Betting) (Amendment No. 11) (Jersey) Regulations 200- (P.189/2000): comments - P.189/2000 Com.
Presented: 7th November 2000.
Finance and Economics Committee.

Draft Gambling (Licensing Provisions) (Amendment No. 12) (Jersey) Regulations 200 - P.190/2000.
Lodged: 7th November 2000.
Gambling Control Committee.

Draft Gambling (Licensing Provisions) (Amendment No. 12) (Jersey) Regulations 200 (P.189/2000): comments - P.190/2000 Com.
Presented: 7th November 2000.
Finance and Economics Committee.

Draft Competition Regulatory Authority (Jersey) Law 200- - P.191/2000.
Lodged: 7th November 2000.
Industries Committee.

Trinity House, Bath Street, St. Helier: lease of accommodation for the Jersey Advisory and Conciliation Service - P.193/2000.
Lodged: 7th November 2000.
Employment and Social Security Committee.

Draft Amendment (No. 24) to the Tariff of Harbour and Light Dues - P.194/2000.
Lodged: 7th November 2000.
Harbours and Airport Committee.

Draft Amendment (No. 25) to the Tariff of Harbour and Light Dues - P.195/2000.
Lodged: 7th November 2000.
Harbours and Airport Committee.

Draft Financial Services (Extension) (Jersey) Law 2000 (Appointed day Act) Act 200- - P.197/2000.
Lodged on 7th November 2000.
Finance and Economics Committee.

Draft Fire Service (Amendment No. 4) (Jersey) Law 2000 (Appointed Day) Act 2000 - P.198/2000.
Lodged: 7th November 2000.
Home Affairs Committee.

Draft Public Service Vehicles (Fees) (Amendment No. 11) (Jersey) Regulations 200- - P.199/2000.
Lodged: 7th November 2000.
Home Affairs Committee.

Draft Hire Cars (No. 10) (Jersey) Regulations 200- - P.200/2000.
Lodged: 7th November 2000.
Home Affairs Committee.

THE STATES rejected a proposition of Deputy Jeremy Laurence Dorey of St. Helier that the Draft Competition Regulatory Authority (Jersey) Law 2000- (P.191/2000) be not considered by the States at the next meeting as it had only been lodged "au Greffe" at the present meeting and members might wish to present amendments.

THE STATES, acceded to a request of the Connétable of St. Peter and agreed to defer consideration of the proposition concerning equalisation of welfare (P.164/2000 lodged "au Greffe" on 26th September 2000) from this meeting to 21st November 2000.

THE STATES, having agreed to defer consideration of the matter (P.164/2000), Senator Christopher Gerard Pellow Lakeman lodged "au Greffe" an amendment to the above proposition "au Greffe" (P.203/2000).

Television licence fees: Rebate for Senior Citizens (P.53/200)

THE STATES, granted leave to Senator C. Stein to withdraw the proposition regarding Television Licence Fees: Rebate for Senior Citizens (P.53/2000 lodged "au Greffe" on 11th April 2000) having lodged a revised proposition at the present meeting.

Projet withdrawn under Standing Order 17(6)

THE STATES noted that, in accordance with Standing Order 17(6), the following matter had been withdrawn-

Social rented and first-time buyer housing: proposals for future funding - P.74/99.
Lodged: 25th May 1999 (paragraphs 1 and 2 adopted on 7th July 1999).
Housing Committee.

Pension arrangements of new employees of Jersey Post and Jersey Telecoms following incorporation - questions and answers (Tape No. 616)

The Deputy of Trinity asked Deputy Maurice François Dubras of St. Lawrence, President of the Industries Committee, the following questions -

- “1. On 4th July 2000 the States overwhelmingly approved my amendment (P.101/2000) to the Policy and Resources Committee’s proposition ‘Incorporation of Jersey Post and Jersey Telecoms: revised approach (P.90/2000)’. Does the President accept that the clear intention of my amendment was to ensure that the new Laws (with some possible individual exceptions which have been made clear) should require either new company, if it wished to set up alternative pension arrangements for new employees outside PECRS, to refer such alternative pension arrangements to this Assembly for prior approval.
2. If the answer to question 1 is in the affirmative would the President confirm that instructions have been or will shortly be given to the Law Draftsman to incorporate suitable clauses in the proposed Postal and Telecoms Laws and if not, would the President provide a full explanation of his reasons for ignoring the clearly expressed views of this Assembly, indicating in particular what authority he has relied on for so doing?”

The President of the Industries Committee replied as follows -

“I should like to answer these two questions together.

I agree that the intended outcome of the amendment is as described in the first question. That was the clear view taken by the Assembly on 4th July 2000. But, as was made clear in the debate that day, there are potentially different ways of achieving the objective and it is not clear that primary law is necessarily the best way. A decision on this remains open, but I can naturally assure the Deputy of Trinity that I have absolutely no intention of ignoring the views of this Assembly.

Since July, there have been two important meetings on the subject. The first was chaired by the

President of the Policy and Resources Committee, at which both I and the Deputy of Trinity were present. The second was with the Postal trade unions, chaired by Senator Walker. Some interesting points emerged from these meetings, including in particular the clear sense that what most mattered to the Unions was not a States debate at some time in the future but a clear agreement with management that any possible, future changes in pension arrangements would be the subject of full consultation between management, unions and staff. This is a point that bears careful reflection.

As part of the process in which my Committee is engaged to get the new telecommunications and postal legislation ready for submission to the Assembly, I shall be in touch with Senator Horsfall about calling a further meeting shortly in order to seek to bring all the threads together on pension issues. I am sure that the Deputy of Trinity will be invited to that meeting. I am confident that we can readily find a way forward that appropriately meets the aspirations and views of all the interested parties. Only at that point will my Committee be ready to decide in exactly what manner it should seek to instruct the Law Draftsman (who in the meantime is busy with all the rest of the work on the new Laws).

I should emphasise for the record, for the point sometimes seems to get lost in the debate, that we are talking here about possible new arrangements, possibly to be introduced by the two companies at some unknown date in the future, for new employees who may be recruited after that future date. The position of existing employees is not at issue. Their PECS rights will be safeguarded and there is no dispute about that. It is very important to make sure that this distinction is clearly understood.”

Transfer of funds allocated to the New Town Primary School project - question and answer (Tape No. 616)

Deputy Jeremy Laurence Dorey of St. Helier, asked Senator Frank Harrison Walker, President of the Finance and Economics Committee, the following question -

“During the course of the debate on the States Resource Plan 2000 (P.143/2000), on 26th September 2000, the Assembly was informed (contrary to statements made on Page 15 of that report) that its consent was *not* required for the transfer of funding from the New Town Primary School project, to make up the expected shortfall on the Langford site Sports Centre.

The reason for this, was that the Education Committee had used its powers under Article 18(2) of the Public Finances (Administration) (Jersey) Law 1967 to transfer funding (although it appears the Committee will in 2004 be requesting funding for a New Town Primary School again).

Doubtless the Finance and Economics Committee will in due course be complying with its duty under Article 18(3) of the same Law, to submit to the States a list of such transfers between votes.

Would the President accept -

- (a) that it is a matter of concern to the community and to this Assembly that monies have been ‘borrowed’, with no apparent intention of repayment, from an ongoing project in this way?
- (b) that this use of Article 18(2) has effectively deprived the Assembly, until the New Town Primary School project is itself resubmitted in 2004, of an opportunity to express its opinion on the full extent of capital spending in 2000?
- (c) that it is a matter of public concern that a project originally costed at £2.4 million should have an eventual outturn cost of £8.7 million, and that the community deserves a full explanation of this cost overrun, together with credible assurances that such a situation will not recur in the case of other capital projects, such as the major work to be carried out on Le Rocquier School?”

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

- (a) I accept that any overspend on a capital project is a matter of concern and needs to be addressed by the appropriate body under the relevant law. A request to transfer funds from one existing capital vote to another clearly falls within the confines of the Public Finances (Administration) (Jersey) Law 1967 - to be precise, Article 18B, paragraph (2), which states -

'Any Committee of the States may, subject to the approval of the Finance and Economics Committee, transfer any unused balance or proportion of credit for capital expenditure to the credit of -

another item of capital expenditure;

its authorised revenue expenditure;

the authorised revenue expenditure or an item of capital expenditure of another Committee of the States.'

The request to transfer funds from the New Town Primary School Vote (C2591) to the Langford site Sports Centre Vote (C2571) was properly made in accordance with this Article.

It is not correct to say that funds have been 'borrowed' with no apparent intention of repayment. In order to make the funds available, the Education Committee was required to forego a project for which funds had been previously voted. Whilst that project may be submitted for reconsideration as part of the 2004 Capital Programme it will be compared with other bids and there is no guarantee that it will achieve a high enough priority to be funded.

- (b) The proper use of Article 18B(2) has enabled a decision to be taken by the Finance and Economics Committee, as delegated within the Law, in respect of a transfer of funds between two existing capital votes of the Education Committee.

That is not to say that the decision has been taken lightly.

The funding issue was considered in great depth by the Capital Projects Review Sub Committee at its meeting of 18th February 2000, attended by the Education Committee President and officers of that Committee. The Sub Committee received a report prepared by the Director of Education, in consultation with the Treasurer, which explained the background to the current position, clarified the funding requirements and proposed actions for the future.

The Sub Committee's recommendations and possible ways forward were considered by the Finance and Economics Committee on 13th March 2000.

The Committee concluded that the only viable way to achieve completion of the Langford Sports Complex to the required specification, without undue delay and without recourse to awarding additional funding or transferring funding allocated to another Committee's project, would be for the Education Committee to transfer funds from another of its approved projects.

To move the process forward, a meeting of the Presidents and Chief Officers of the Finance and Economics, Policy and Resources and Education Committees was convened on 7th April 2000. The possibility of utilising the funds voted to the New Town Primary School was discussed. The Education Committee considered and approved this proposal at its meeting of 12th April 2000.

This decision was ratified by the Finance and Economics Committee on 8th May 2000 and by the Policy and Resources Committee at its meeting of 15th June 2000.

The process I have outlined above fully addresses the Finance and Economics Committee's delegated responsibility under the law in achieving a pragmatic solution to the situation.

The transfer of funds to the Langford site Sports Centre Vote (C2571) was actioned after the outcome of the Resource Plan debate and will be reported to the States on the next list of transfers of funds between votes in accordance with Article 18B (3) of the Public Finances (Administration) (Jersey) Law 1967.

- (c) As I have already stated, I accept that any cost overrun on a capital project is a matter of concern. That is why the Finance and Economics Committee, through the Capital Projects Review Sub Committee, has developed a revised Code of Direction No. 8 which was issued in May 1999. The

Code contains comprehensive procedures to exert the necessary control to effectively monitor States capital projects.

It is worth noting that the Langford site Sports Centre project was initiated before the revised Code of Directions No.8 existed. Had the revised Code been followed it would not have been possible for overspends on this scale to occur as it provides the following safeguards **before** the project is included in the Resource Plan forward capital programme -

the completion of project briefs to be agreed by Policy and Resources, Planning and Environment and Public Services Committees;

undertaking a feasibility study and outlining costing exercise incorporating a full risk assessment, the results of which are considered by the Policy and Resources, Finance and Economics and Human Resources Committees;

the formation of Project (P70) group - with an independent member where the project's estimated out turn cost exceeds £5 million. The group reports at six monthly intervals to the Capital Projects Review Sub Committee.

After operating with these revised controls for some time, the Sub Committee has commissioned the Institute of Public Finance Limited, the trading arm of the Chartered Institute of Public Finance and Accountancy (CIPFA), to undertake a wide ranging review of their adequacy and effectiveness. The review will also compare these controls with international best practice to produce an improved and enhanced Code of Practice.

However, the appropriate Committee to be called upon to provide a full explanation of the circumstances relating to the additional budget requirement for the Langford site Sports Centre is the Education Committee."

Information on human rights - question and answer (Tape No. 616)

The Deputy of St. John asked Senator Frank Harrison Walker, Vice-President of the Policy and Resources Committee, the following question -

"Would the Vice-President advise members -

- (a) who is responsible for promoting knowledge and awareness of human rights in Jersey and where would a member of the public go to get this information?
- (b) when will householders be given a copy of the Human Rights (Jersey) Law 2000 with explanatory notes so as to be prepared for enactment day? (Some of this information is on the internet but many people do not have access to technology)?
- (c) which vote will fund the promotion of human rights in Jersey and how much has the Committee requested for this purpose?"

The Vice-President of the Policy and Resources Committee replied as follows -

"(a) I am very pleased that the Deputy of St John has asked these questions as the issue of the new Human Rights Law is very important for everyone.

With direct response to part (a) of his question, members will be aware that when the Law was debated and passed in the States last winter, the Policy and Resources Committee took responsibility for establishing a working group to assist Departments and Committees of the States of Jersey, the parishes and other public authorities to prepare for the implementation of the new Human Rights Law. As part of the Human Rights Working Group's (HRWG) terms of reference, it aims to increase general awareness of the Rights and Responsibilities to the general public.

The HRWG is chaired by a senior officer of the Policy and Resources Department and the other seven members are senior officers of major States Departments, the States Police, and Law Officers, the Greffier of St Helier, and Senator Christopher Lakeman.

The Group has been working over the last six months in developing not only a strategy of awareness for islanders, but also training workshops for States Departments and public authorities. To this end, Guidance Notes have been produced for departments and public authorities. The Group has taken advice from the United Kingdom's Task Force on Human Rights which has spent the last two years on a public campaign of its own. As a result of this information, the HRWG launched a Website on August 1st which can be accessed in English, French and the Portuguese languages. This Website [WWW.humanrights.gov.je] has all relevant human rights information, including the Human Rights Law and an explanatory note about the Law, the guidance notes for public authorities and States Departments, a question and answer section, other interrelated Human Rights agreements, as well as terms of reference and membership of the Human Rights Working Group.

Members of the public are able to obtain, free of charge, a brief explanatory document on the Human Rights Law at the Town Hall, Public Library and the States Bookshop. The States Bookshop also has copies of the actual States proposition and Law, and reference copies of the guidance notes. Copies of all of these documents can also be found in the Town Hall and the Public Library. A member of the public could also obtain all this relevant and current information through the up to date Website.

If members have been following the local media they will know of the Internet Website and the progress the HRWG has made over the last few months and will also have seen recently that to mark the occasion of the 50th anniversary of the signing of the European Convention on Human Rights this past weekend the HRWG published a leaflet detailing the Rights of the ECHR.

Given that the work ahead in preparing both States Departments and the general public is an enormous one, I am pleased to say that a Project Officer has been appointed to specifically undertake the work that the HRWG has planned over the next two years before implementation of the Law. As part of the Project Officer's job, more literature will be produced on an ongoing basis, and a series of Parish Road Shows is planned which will involve and invite public discussion. The Project Officer takes up her post 1st January 2001.

Already the HRWG has made contact with the schools with the aim of incorporating Human Rights training throughout the primary and secondary education system. Every Parish Hall has been issued with a HRWG poster, which not only gives the Website address but also the telephone number of the Policy and Resources Department. Indeed, it was due to the great interest by the general public through the Website and calls to the Department that further emphasised the need of a full-time Project Officer. These posters are also displayed in many places in other public buildings to which the general public has access.

- (b) Copies of the Human Rights Jersey Law 2000 are available from the States Bookshop as are all laws. As I have said in my previous response, explanatory notes are available free of charge at the Bookshop, at the Town Hall and at the Public Library, and of course, the Law is accessible from the Internet.

The HRWG are investigating the possibility of sending the Law and explanatory note with the 2001 Census, but this will of course depend on cost.

- (c) The Policy and Resources Committee agreed to an initial funding of £100,000 for the HRWG, which will be revisited once the Project Officer is in post and the Group's strategy is fully in place. The HRWG reports, that the costs of the training sessions, Website and printing have already used a substantial part of this allocation.

Since this matter has been raised by the Deputy, I would like to remind all States members that they have received a letter from the HRWG inviting them to a special training session for States members on the Human Rights Law on Friday, 1st December 2000. I have been told that

only 11 States members have so far said they will attend this session, that eight members have already said they cannot attend, and that 34 members have still not replied. I would like to stress to members the importance of the opportunity they have been given to attend this training session so that they become more aware of the new Law and can perhaps themselves assist in helping the general public learn about the Law.”

Loi (1864) Réglant la Procédure Criminelle, as amended on 24th October 2000 - questions and answers
(Tape No. 616).

Deputy Gerard Clifford Lemmens Baudains of St. Clement asked Senator Wendy Kinnard, President of the Legislation Committee, the following questions -

“1. Paragraph 4 of Article 10 of the Loi (1864) Réglant la Procédure Criminelle, as amended on 24th October 2000 states -

‘any person having been, in the Island or elsewhere, sentenced to imprisonment for not less than one month;’

Would the President explain to members -

- (a) if this means anywhere in the world, or, if not, what limits are intended?
- (b) what checks are made to ascertain whether a potential juror complies with the requirement of paragraph 4?

2. With regard to the last line of paragraph 5 -

‘or sentenced in like manner outside the Island’

Would the President explain to members who is responsible for the necessary comparison, and how the various systems of justice and sentencing outside the Island are equated with our own?

3. Now that it is no longer a requirement for a juror to be a British subject, would the President advise members whether all nationalities are accepted, or whether any restrictions apply?”

The President of the Legislation Committee replied as follows -

- 1.(a) the words ‘or elsewhere’ [‘ou ailleurs’] in the actual text of the proposed legislation mean anywhere in the World.
- (b) at present the list of potential jurors is forwarded to the Police Headquarters by the Viscount in order that (so far as it is possible to do so) any criminal record of a potential juror is ascertained.
2. The Viscount in the first instance is empowered to exclude from the list of potential jurors persons properly disqualified. If the Viscount is uncertain, he may refer the matter to the Royal Court. At all events, if there be a dispute as to whether or not a person is disqualified under this provision, the matter ultimately would fall to be determined by the Royal Court.

As to the second part of the question the French text of the law reads ‘ou condamnée à une peine équivalente hors de l’Ile’. The purpose of this provision is to ensure that any person who receives a sentence outside the Island equivalent to any of the sentences listed in paragraph 5 should be disqualified from jury service. The manner of sentencing is not relevant. The actual sentence imposed is relevant. For example, if a person in Scotland or in the Netherlands is subject to say a probation order, the Law ensures that the person is disqualified even though, under Scottish or Dutch law, the system of probation may not be identical to that of Jersey. If such a provision were not inserted, a person from even England and Wales might not be disqualified; yet a Jersey person would be disqualified.

It is impossible to state how every system and sentencing outside the Island approximates to Jersey.

For example, Northern Island is different from Scotland. In turn, Scotland is different from Guernsey which in turn is different from England and Wales which in turn does not correspond identically with Jersey.

3. The abolition of the requirement for a juror to be a British subject leaves in place the requirement that a juror be an inhabitant 'habitan' of the parish in order to be eligible for inclusion on the list furnished by the Connétable. The sole question of the nationality of an inhabitant otherwise eligible for jury service ceases to be relevant."

Recent public disorder in Liberation Square, St. Helier - statement

Deputy Alastair John Layzell of St. Brelade, President of the Home Affairs Committee, made a statement in the following terms -

"Yesterday I viewed the closed circuit television coverage of the public disorder at Liberation Square and the Weighbridge on Friday and Saturday nights. I have to tell the Assembly that the footage – which, I have been advised, the Police are unable to release for wider viewing – shows scores of youngsters, many in their early teens, provoking and intimidating police officers.

Those officers were responding to fights that had broken out in the area. I am, of course, unable to refer to specific incidents that have led to charges but I am able to say that the footage shows, quite clearly, many other youngsters encircling police officers and apparently encouraging the violent actions of a few.

I am sure members will agree that this is wholly unacceptable behaviour and cannot be tolerated. Members will also want to know, as I do, why the parents of those involved are not ensuring that their children are acting as responsible and decent citizens rather than ruffians. In this connexion, I have asked the Police to urgently investigate ways of re-establishing parental control and making parents responsible for the actions of their sons and daughters.

The Home Affairs Committee has already established an officer working group to examine the problem of drink-related violence and this will, of course, extend to violence involving youngsters. Earlier this year the Committee appointed Deputy Jennifer Bridge to progress the youth aspect of the Crime and Community Safety Strategy and I welcome the recent call by the President of the Health and Social Services Committee to work together.

The Committee recognises that most young people are well-behaved and respect others. However, all right-thinking people must share the Committee's concern that a minority is out of control. I hope the Committee will have the support of this Assembly in attempting to understand the cause of this problem and in dealing with it."

Draft States of Jersey (Amendment No. 7) Law 2000 (Appointed Day) Act 2000 - P.178/2000

THE STATES, in pursuance of Article 11 of the States of Jersey (Amendment No. 7) Law 2000, made an Act entitled the States of Jersey (Amendment No. 7) Law 2000 (Appointed Day) Act 2000.

Jersey Law Commission: appointment of Chairman - P.185/2000

THE STATES, adopting a proposition of the Legislation Committee, referred to their Act, dated 30th July 1996, in which they approved the establishment of a Jersey Law Commission, appointed Mr. David Oswald Moon, Solicitor, as Chairman for a period of five years with effect from 15th November 2000 in place of Advocate Keith Sherwood Baker.

Draft Police (Honorary Police Complaints and Discipline Procedure) (Jersey) Regulations 200 - P.159/2000; amendments - P.169/2000; second amendments - P.171/2000

THE STATES commenced consideration of the draft Police (Honorary Police Complaints and Discipline

Procedure) (Jersey) Regulations 200- and adopted the Preamble.

Regulations 1 to 7 were adopted, the States having accepted an amendment of the Deputy of St. Martin that in Regulation 7(f) for the words “a member of the Honorary Police or of the Force who shall not be” there should be substituted the words “any person, other than”.

Members present voted on the amendment as follows -

“Pour” (30)

Senators

Syvret, Norman, Le Claire.

Connétables

St. Helier, St. Martin, St. John, St. Clement, St. Lawrence, St. Mary.

Deputies

H. Baudains(C), St. Mary, S. Baudains(H), Trinity, Duhamel(S), Routier(H), Huet(H), St. Martin, St. John, Le Main(H), Crowcroft(H), Vibert(B), St. Peter, Dubras(L), St. Ouen, G. Baudains(C), Doré(H), Troy(B), Voisin(L), Le Hérissier(S), Martin(H).

“Contre” (11)

Senators

Quérée, Bailhache, Kinnard, Lakeman.

Connétables

St. Brelade.

Deputies

Layzell(B), Breckon(S), Farnham(S), Ozouf(H), Fox(H), Bridge(H).

Regulations 8 to 11 were adopted, the States having rejected an amendment of the Deputy of St. Martin that in Regulation 11 paragraph numbering (1) should be omitted and paragraph (2) should be omitted.

Members present voted on the amendment as follows -

“Pour” (3)

Connétables

St. Mary.

Deputies

Duhamel(S), St. Martin.

“Contre” (39)

Senators

Quérée, Bailhache, Syvret, Kinnard, Le Sueur, Le Claire, Lakeman.

Connétables

St. Peter, St. Helier, St. Martin, St. John, Trinity, St. Saviour, St. Clement, St. Brelade, St. Lawrence.

Deputies

H. Baudains(C), St. Mary, S. Baudains(H), Routier(H), Layzell(B), Breckon(S), Huet(H), St. John, I

Main(H), Crowcroft(H), Vibert(B), St. Peter, Dubras(L), St. Ouen, G. Baudains(C), Dorey(H), Trc (B), Voisin(L), Farnham(S), Le Hérisseier(S), Fox(H), Bridge(H), Martin(H).

Regulations 12 and 13 were adopted, the Deputy of St. Martin having withdrawn an amendment to Regulation 13 that for paragraph (2) there should be substituted the following paragraph -

“(2) The Attorney General shall give the member concerned, at the same time as he gives notice pursuant to paragraph (1), written notice of the right of the member concerned to be represented by any person at the hearing.”

Regulation 14 was adopted, the Deputy of St. Martin having withdrawn an amendment that for paragraph (1) (b) there should be substitute the following sub-paragraph -

“(b) whether and by whom he intends to be represented at the disciplinary hearing; and”

Regulation 15 was adopted, the Deputy of St. Martin having withdrawn an amendment that, in sub-paragraph (b), for the words “elect to be legally” there should be substituted the words “intend to be”.

Regulations 16 to 18 were adopted, the Deputy of St. Martin having withdrawn an amendment that for Regulation 18 there should be substituted the following Regulation -

“Representation at disciplinary hearing

- (1) The member concerned may conduct his case in person or may be represented by any person.
- (2) The case against the member concerned shall be presented by a member of the Force, an advocate or a solicitor.”

Regulations 19 to 22 were adopted, the States having accepted an amendment of the Deputy of St. Martin that for paragraph (4) of Regulation 22 there should be substituted the following paragraph -

“(4) The member concerned may be accompanied at the hearing by any person other than an interested party.”

Regulations 23 to 26 were adopted, the Deputy of St. Martin having withdrawn an amendment that in paragraph (1) of Regulation 26, there should be omitted the words “Subject to Regulation 11,” and in paragraph (3), there should be omitted the words beginning “if he - ” to the end of the paragraph.

Regulations 27 to 43 were adopted.

THE STATES commenced consideration of the Schedule and rejected an amendment of Deputy Gerard Clifford Lemmens Baudains of St. Clement that for paragraph 11 there should be substituted the following paragraph -

“Alcohol

11.-(1) - Officers shall not, when on duty or before coming on duty, consume alcohol to such an extent that, whilst they are on duty, their judgment or ability to perform their duties is likely to be adversely affected or is likely to bring the Honorary Police into disrepute.

(2) - An Officer is on duty at all times during his duty rota except during such times as he has, with the prior agreement of, if he is a Vingtenier or Constable’s officer, the duty Centenier or, if he is a Centenier, another Centenier of the Parish, been relieved of duty.”

Members present voted on the amendment as follows -

“Pour” (5)

Senators

Le Sueur.

Deputies

H. Baudains(C), St. Mary, G. Baudains(C), Dorey(H).

“Contre” (41)**Senators**

Stein, Quérée, Bailhache, Syvret, Norman, Walker, Kinnard, Le Claire, Lakeman.

Connétables

St. Peter, St. Helier, St. Martin, St. John, Trinity, St. Saviour, St. Clement, St. Brelade, St. Lawrence, St. Mary.

Deputies

S. Baudains(H), Trinity, Duhamel(S), Routier(H), Layzell(B), Breckon(S), Huet(H), St. Martin, St John, Le Main(H), Crowcroft(H), Vibert(B), St. Peter, Dubras(L), St. Ouen, Troy(B), Voisin(L Farnham(S), Le Hérissier(S), Fox(H), Bridge(H), Martin(H).

The Schedule was adopted, the States having rejected an amendment of Deputy Gerard Clifford Lemmens Baudains of St. Clement that for paragraph 12 there should be substituted the following paragraph -

“Appearance

12. - Unless on duties which dictate otherwise, officers should, when performing their duties, be well turned out, clean and tidy.”

Members present voted on the amendment as follows -

“Pour” (23)**Senators**

Norman, Le Sueur, Le Claire.

Connétables

St. Helier, St. Martin, St. Clement, St. Mary.

Deputies

H. Baudains(C), St. Mary, S. Baudains(H), Duhamel(S), Huet(H), St. Martin, St. John, Le Main(H Vibert(B), St. Ouen, G. Baudains(C), Dorey(H), Voisin(L), Farnham(S), Le Hérissier(S), Martin(H).

“Contre” (23)**Senators**

Stein, Quérée, Bailhache, Syvret, Walker, Kinnard, Lakeman.

Connétables

St. Peter, St. John, Trinity, St. Saviour, St. Brelade, St. Lawrence.

Deputies

Trinity, Routier(H), Layzell(B), Breckon(S), Crowcroft(H), St. Peter, Dubras(L), Troy(B), Ozouf(H) Bridge(H).

There being an equality of votes the Deputy Bailiff, in accordance with convention, exercised his casting vote against the amendment.

THE STATES, in pursuance of Article 28 of the Police (Complaints and Discipline) (Jersey) Law 1999 and Article 4(4) of the Police Force (Jersey) Law 1974, as amended, made Regulations entitled the Draft Police (Honorary Police Complaints and Discipline Procedure) (Jersey) Regulations 2000.

Jersey Police Complaints Authority: appointment of Chairman and members - P.160/2000

THE STATES adopting a proposition of the Home Affairs Committee, referred to their Act of 13th April 1993 when they approved, in principle, the establishment of an independent Jersey Police Complaints Authority and approved the appointment of Mr. Leslie May F.C.C.A. as its Chairman (Designate) and, in accordance with Article 2 of and the Schedule to, the Police (Complaints and Discipline) (Jersey) Law 1999 -

- (a) appointed Mr. Leslie May F.C.C.A. as Chairman of the Police Complaints Authority for a period of three years, with effect from 1st January 2001;
- (b) appointed the following as members of the Jersey Police Complaints Authority for a period of three years, with effect from 1st January 2001 -

Mr. Anthony Beaumont
Major General Charles Gordon Cornock C.B., M.B.E.
Advocate Nuno Santos Costa
Mr. Peter Holliday
Mr. Derek Le Maistre
Mrs. Toni Roberts.

Draft Police (Complaints and Discipline) (Jersey) Law 1999 (Appointed Day) Act 200 - P.158/2000

THE STATES, in pursuance of Article 33 of the Police (Complaints and Discipline) (Jersey) Law 1999, made an Act entitled the Police (Complaints and Discipline) (Jersey) Law 1999 (Appointed Day) Act 2000.

Draft Rehabilitation of Offenders (Jersey) Law 200 - P.130/2000

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, adopted a Law entitled the Rehabilitation of Offenders (Jersey) Law 200.

Draft Criminal Justice (Community Service Orders) (Jersey) Law 200 - P.141/2000

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, adopted a Law entitled the Criminal Justice (Community Service Orders) (Jersey) Law 200 .

Poplars Day Centre extension: approval of drawings - P.180/2000

THE STATES, adopting a proposition of the Health and Social Services Committee -

- (a) approved drawings Nos. 4125/21a, 23a and 26e, showing the proposed extension to the Poplars Day Centre;
- (b) authorised the Greffier of the States to sign the said drawings on behalf of the States.

Astoria Guest House, 93 Rouge Bouillon, St. Helier: acquisition - P.181/2000

THE STATES, adopting a proposition of the Health and Social Services Committee -

- (a) approved the purchase from Strombolus Limited of the freehold property known as Astoria Guest House, 93 Rouge Bouillon, St. Helier, as shown on drawing No. PS/002/00, for a consideration of £530,000, with each party paying its own legal costs;

- (b) authorised the Attorney General and the Greffier of the States to pass the necessary contracts on behalf of the public;
- (c) authorised the payment or discharge of any expenses incurred in connection with the purchase of the said property and all interest therein from the E. Bailhache Trust Fund, which represents the reinvestment of the proceeds from the sale of two properties bequeathed to the States by the late Mrs. Eunice Bailhache, namely, 12 Halkett Street and 78 New Street, St. Helier.

Matter lodged

The following matter was lodged “au Greffe” -

Incorporation of Jersey Post and Jersey Telecoms: pension arrangements for new employees - P.204/2000.
Presented by the Deputy of Trinity.

Adjournment

THE STATES then adjourned, having agreed that consideration of the outstanding items of public business should be deferred until the next meeting on Tuesday 14th November 2000 and further agreed to take the Draft Census (Jersey) Regulations 200 (P.177/2000) as the first item of business.

THE STATES rose at 5.48 p.m.

C.M. NEWCOMBE

Greffier of the States.