



**THE STATES assembled on Tuesday,
11th February, 1986 at 10.15 a.m. under
the Presidency of the Bailiff,
Peter Leslie Crill, Esquire, C.B.E.**

His Excellency The Lieutenant Governor,
Admiral Sir William Pillar, G.B.E., K.C.B.,
was present.

All members were present with the exception of –

Senator John Le Marquand – ill.

Senator Peter Geoffrey Kevitt Manton – out of the Island.

Philip George Mourant, Deputy of St. Helier – ill.

Prayers

Subordinate legislation tabled.

The following enactment was laid before the States, namely –

**Road Traffic (Saint Saviour) (Amendment No. 12)
(Jersey) Order, 1986. R & O 7468.**

**Overseas Trade Promotions by Local Industry: financial
assistance 1984-1985. R.C.3.**

The Finance and Economics Committee by Act dated 3rd February, 1986, presented to the States a Report on the operation of the Overseas Trade Promotions Scheme.

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

Matter noted – land transaction.

THE STATES noted an Act of the Finance and Economics Committee dated 3rd February, 1986, showing that in pursuance of Standing Orders relating to certain transactions in land, the Committee had approved as recommended by the Public Works Committee, the acquisition from Channel Hotels and Properties Limited of 1,760 square feet of land, required in connexion with the provision of a right-hand turning lane on La Route de Quennevais, along the frontage of Quennevais Precinct, St. Brelade, at the rate of £4 a square foot, namely a total consideration of £7,040 plus the payment of legal fees.

Queen's Valley Reservoir. Questions and answers.

Deputy Norman Stuart Le Brocq of St. Helier asked Philip Martin Bailhache, Her Majesty's Attorney General the following questions –

- “1. In the light of the answers to question 1 put by Senator Sandeman on 4th February, 1986, would the Attorney General inform the States whether his interpretation of Articles 5 and 6 of the Island Planning (Jersey) Law, 1964 and Article 2 of the Queen's Valley Bill means that the authority of the Island Development Committee to lay down conditions for the necessary construction is negated, as well as its authority to refuse permission?
2. Does a similar interpretation apply to the provisions of Article 8(b) of the Queen's Valley Bill?
3. Is that Committee's authority to oversee the necessary compliance with the Building Bye-Laws also negated?

4. Is there any other legislation which is affected by the Attorney General's opinion, e.g. Housing Regulations regarding residence of people without housing qualification, Safeguarding of Workers legislation of the Social Security Committee?
5. In answer to Senator Sandeman's question 2, the Attorney General expressed the opinion that the arbitrator mentioned in Article 11 of the Queen's Valley Bill could be appointed by the Royal Court. Why should this be different from the provisions of Article 13 re the appointment of an arbitrator?"

The Attorney General replied as follows –

- “1. The power of the Island Development Committee to impose conditions subject to which any development must be carried out is contained in Article 6(2) of the Island Planning (Jersey) Law, 1964, the relevant part of which provides as follows –

‘... where application is made to the Committee for permission to develop land, the Committee may grant permission either unconditionally or subject to such conditions as it thinks fit ...’.

It is clear from the wording of this paragraph that the conditions may only be attached to a permission granted in respect of an application made to the Committee for permission to develop land. As I have already said, it is my opinion, for the reasons which I gave on 4th February, 1986, that the Jersey New Waterworks Company Limited would not be obliged to make an application to the Committee for permission to carry out the project specified in Article 2 of the draft Queen's Valley Reservoir (Jersey) Law, 198, ('the projet'). Any permission already granted by the Committee would be rendered superfluous by the passing of the projet. Since

conditions must be attached to a development permission it must follow that any conditions imposed by the Committee would be similarly invalid or superfluous.

2. It is a general rule of statutory construction that where two statutes conflict it is the duty of a court to interpret the statutes in such a way as will, if possible, bring about a reconciliation. It is only when there is an unavoidable collision, and the statutes cannot be reconciled, that the court will apply the rule that the later statute prevails. In my answer to Senator Sandeman on 4th February, 1986, I expressed the opinion that there was an unavoidable collision between the projet and the Island Planning (Jersey) Law, 1964, in that the projet imposes a duty on the Company to construct a reservoir and that duty cannot be reconciled with an obligation on the part of the Company to obtain development permission from the Island Development Committee for that same work. Article 8(b) of the projet, as amended, would empower the Company to impound appropriate and use certain water from outside the catchment of the stream in Queen's Valley. It would not impose upon the Company a duty to do so. There is no unavoidable collision between Article 8(b) and the provisions of the Island Planning (Jersey) Law, 1964. If the Company wished to exercise its powers to impound water outside Queen's Valley by developing another reservoir such work would require development permission from the Island Development Committee.
3. Article 2(1) of the Public Health (Control of Building) (Jersey) Law, 1956, empowered the Public Health Committee to make bye-laws for regulating the erection of buildings and related matters. In 1962 the administration of this Law, and of the bye-laws made thereunder, was by Act of the States (R & O 4377) transferred from the Public Health Committee to the Island

Development Committee (to which I shall refer as 'the Committee').

The Building Bye-Laws (Jersey), 1960, were made in pursuance of Article 2 of the Public Health (Control of Building) (Jersey) Law, 1956. The combined effect of Bye-Laws 2, 3, 4 and 5 is that the bye-laws apply only to buildings and works connected therewith and not to works of development unconnected with buildings. The building bye-laws are therefore not relevant to any part of the project other than the construction of buildings. The Committee has a power and a duty under the Building Bye-Laws to ensure compliance with certain standards of building work, and in respect of certain bye-laws, a developer or builder is obliged to submit plans.

Article 5 of the Public Health (Control of Building) (Jersey) Law, 1956, provides that the Committee shall pass plans deposited with it, unless they are defective, or show that the proposed work would contravene any of the bye-laws or would impede the efficient working of the public sewage system or any other public service, or would constitute a danger to persons resorting to the building or that the use of the building for the purposes for which it is intended to be used would be prejudicial to health. The power to reject plans is therefore very limited. If plans are presented which are not subject to any of the specified objections, the Committee must pass them. There is therefore no unavoidable collision between the provisions of the Public Health (Control of Building) (Jersey) Law, 1956, and the project. Insofar as any part of the project consists of the construction of a building or buildings the Company must in my opinion comply with the Building Bye-Laws.

4. No. Neither the Housing (Jersey) Law, 1949, and the Regulations made thereunder, nor the

Safeguarding of Workers (Jersey) Law, 1956, and the Regulations made thereunder, would empower the Housing Committee or the Social Security Committee respectively to refuse consent to the carrying out of the project specified in Article 2 of the project. There is thus no conflict between these laws and the project.

5. There is no legal reason why the arbitration provisions in Article 11 should be different from the arbitration provisions in Article 13, or indeed in Article 12. The distinction drawn presumably results from a policy decision.”

H.M. Attorney General. Personal Statement.

Philip Martin Bailhache, Her Majesty’s Attorney General, made a personal statement in the following terms –

“I would like all members of the States to know that I am the owner of a property adjacent to Queen’s Valley and that I own a strip of land which falls within the area covered by the Deposited Plan. I bought the property in 1983 being aware of the plans of the Jersey New Waterworks Company Limited and indeed in the knowledge that a reservoir might be constructed in Queen’s Valley. If called upon to give legal advice during the course of any debate on the subject of the proposed Queen’s Valley Reservoir I shall of course advise the States impartially and to the best of my ability. But I wish, nevertheless, to make my position crystal clear.”

Broadcasting of States’ Sittings. Statement.

The President of the Broadcasting Committee made a Statement in the following terms –

“Members will recall that I have previously agreed that the Broadcasting Committee will present a Report and Proposition to the States recommending an

experiment for the broadcasting of States' Sittings. This will be presented as soon as the necessary technical reports have been completed.

In order that States' Sittings can be broadcast, however, improvements to the sound system will have to be made and one way of achieving these improvements would be to have additional suspended microphones.

Members will note that additional microphones have been installed in the Chamber. These are 'dummies' and have been placed here simply so that Members can consider the aesthetic effect.

I would be grateful if Members could let me have their comments on the suspended microphones."

Queen's Valley reservoir: Rescission of Act of the States. P.9/86.

THE STATES commenced consideration of a Proposition of Senator Jane Patricia Sandeman asking the States to rescind that part of their Act of 11th November, 1980, concerning the construction of a reservoir in Queen's Valley and then adjourned until 9.30 a.m. on 12th February, 1986.

Mr. Charles Alan Le Maistre, the Connétable of Grouville, declared an interest as the owner and tenant of land in Queen's Valley and informed the States that he would speak but not vote.

Deputy Michael Adam Wavell of St. Helier declared an interest as an owner of property in Queen's Valley and withdrew from the Chamber.

THE STATES rose at 5.45 p.m.

R.S. GRAY,

Deputy Greffier of the States.