

**THE STATES assembled on Tuesday,
4th November 2003 at 9.30 a.m. under
the Presidency of the Bailiff,
Sir Philip Bailhache.**

All members were present with the exception of –

Senator Jean Amy Le Maistre– out of the Island
Kenneth Priaulx Vibert, Connétable of St. Ouen– out of the Island
Alan Simon Crowcroft, Connétable of St. Helier– out of the Island.

Prayers

Welcome

The Bailiff, on behalf of all members, welcomed to the States Deputy Kevin Anthony Prevel of St. Sampson member of the States of Guernsey.

Subordinate legislation tabled

The following enactments were laid before the States, namely –

Road Traffic (Saint Helier) (Amendment No. 13) (Jersey) Order 2003.	R&O 109/2003.
Road Traffic (Saint Helier) (Amendment No. 14) (Jersey) Order 2003.	R&O 110/2003.
Road Traffic (Disabled Persons) (Parking) (Amendment) (Jersey) Order 2003.	R&O 111/2003.
Airport Dues (Tariff) (Jersey) Order 2003.	R&O 112/2003.
Lodging Houses (General Provisions) (Amendment No. 9) (Jersey) Order 2003.	R&O 113/2003.
Sea Fisheries (Fees) (Jersey) Order 2003.	R&O 114/2003.
Collective Investments Funds (Restriction of Scope) (Amendment) (Jersey) Order 2003.	R&O 115/2003.
Motor Cars (Driving Instruction) (Amendment No. 14) (Jersey) Order 2003.	R&O 116/2003.
Motor Traffic (Public Services Vehicles) (Fees) (Jersey) Order 2003.	R&O 117/2003.
Motor Traffic (Cabs – Fares and Charges) (Jersey) Order 2003.	R&O 118/2003.
Motor Vehicles (Driving Licences) (Amendment No. 2) (Jersey) Order 2003.	R&O 119/2003.
Road Traffic (Saint Helier) (Amendment No. 15) (Jersey) Order 2003.	R&O 120/2003.

Matters presented

The following matters were presented to the States –

Air Transport Permits: revised policy statement. <i>Presented by the Economic Development Committee.</i>	R.C.47/2003.
A Tobacco Strategy for Jersey (P.109/2003): amendments (P.109/2003 Amd.) – comments. <i>Presented by the Health and Social Services Committee.</i>	P.109/2003. Amd.Com.
A Tobacco Strategy for Jersey (P.109/2003): second amendment (P.109/2003 Amd.(2)) – comments. <i>Presented by the Health and Social Services Committee.</i>	P.109/2003. Amd.(2) Com.(2)

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

Matters lodged

The following matters were lodged “au Greffe” –

Budget 2004. <i>Presented by the Finance and Economics Committee.</i>	
Jersey Law Commission: appointment of Chairman and Commissioner. <i>Presented by the Legislation Committee.</i>	P.147/2003.
Southview, La Route des Genets, St. Brelade: purchase. <i>Presented by the Health and Social Services Committee.</i>	P.148/2003.
Television Licence Fees: rebate for senior citizens. <i>Presented by Deputy G.P. Southern of St. Helier, and referred to the Finance and Economics and the Employment and Social Security Committees.</i>	P.149/2003.
Draft Police Force (Amendment No. 10) (Jersey) Law 200. <i>Presented by the Home Affairs Committee.</i>	P.150/2003.
Draft Road Traffic (No. 54) (Jersey) Regulations 200. <i>Presented by the Home Affairs Committee.</i>	P.151/2003.
Fields 203, 204 (part) and 252, Rue de Jambart, St. Clement: restriction of development. <i>Presented by Deputy G.C.L. Baudains of St. Clement, and referred to the Environment and Public Services Committee.</i>	P.152/2003.

Residential and Business Parking Scheme, Stopford Road area, St. Helier: fees P.141/2003 – withdrawn

THE STATES noted that in accordance with Standing Order 22(3), Deputy Geoffrey Peter Southern of St. Helier had instructed the Greffier of the States to withdraw the proposition concerning the Residential and Business Parking Scheme, Stopford Road area, St. Helier: fees, (P.141/2003 lodged “au Greffe” on 14th October 2003), which had been set down for consideration at the present meeting.

Arrangement of public business for the next meeting on 18th November 2003

THE STATES adopted a proposition of Senator Terence Augustine Le Sueur that the propositions of Deputy Geoffrey Peter Southern of St. Helier concerning benefits paid by the Housing and the Employment and Social Security Committees: protection, (P.116/2003 lodged “au Greffe” on 29th July 2003), and income tax: introduction of higher rate, (P.131/2003 lodged “au Greffe” on 9th September 2003), be not considered on 18th November 2003.

Members present voted as follows –

“Pour” (27)

Senators

Norman, Walker, Le Sueur, Lakeman, Routier, M. Vibert, Ozouf.

Connétables

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

Deputies

Trinity, Huet(H), Dubras(L), Dorey(H), Voisin(L), Bernstein(B), Ferguson(B), St. Mary, St. Ouen, Rya (H), Taylor(C).

“Contre” (21)

Senators

Syvret, Kinnard, Le Claire, E. Vibert.

Connétable

St. Mary.

Deputies

Duhamel(S), Breckon(S), St. Martin, St. John, Baudains(C), Troy(B), Scott Warren(S), Le Hérissier(S), Fox(H), Bridge(H), Martin(H), Southern(H), Grouville, St. Peter, Hilton(H), De Faye(H).

THE STATES acceded to a request of Senator Terence Augustine Le Sueur, President of the Finance and Economics Committee, that the States should resolve into a Committee of the Whole House at the next meeting on 18th November 2003, in accordance with Standing Order 38A, for the purpose of discussion of the Fundamental Spending Review process and all other issues relating to the proposed public spending proposals for the period 2005 to 2007 in accordance with the decision of the States of 18th September 2003.

THE STATES agreed that the following matters lodged “au Greffe” would also be considered at the next meeting on 18th November 2003, and that these would be considered as the first items of public business –

Proposed Ratification of the International Convention for Safety of Life at Sea, 1974 and Implementation of the Associated International Ship and Port Security Code. P.144/2003.
Lodged: 21st October 2003.
Harbours and Airport Committee.

Proposed Ratification of the International Convention for Safety of Life at Sea, 1974 and Implementation of the Associated International Ship and Port Security Code (P.144/2003): comments. P.144/2003.
Presented: 21st October 2003.
Policy and Resources Committee.

Jersey Law Commission: appointment of Chairman and Commissioner.
Legislation Committee.

P.147/2003.

Southview, La Route des Genets, St. Brelade: purchase.
Health and Social Services Committee.

P.148/2003.

Computer and I.T. systems operated by the States of Jersey – question and answer (Tape No. 863)

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

“Would the President inform members –

- (a) how many different computer systems are believed to be operated by the States?
- (b) whether the Committee has any plans to centralise all these systems under the control of one department and Chief Officer?
- (c) of the number of occasions on which the States I.T. systems and websites have been infected by computer viruses and state what action, if any, is being undertaken by the Committee to prevent this from happening in the future?”

The President of the Policy and Resources Committee replied as follows –

- “(a) In total, the States operates approximately 250 computer systems comprising a mixture of corporate applications used by many departments (financial management, word-processing, e-mail, etc.) and line-of-business applications operated by departments to carry out specialist functions (e.g. clinical systems used by the department of Health). Service delivery to end customers is provided by a mixture of these.

Whilst a very limited number of the line-of-business applications have automated links with others, the vast majority were developed as stand alone systems, not intended to share information or make use of other information sources. This presents a considerable challenge as the States works towards becoming a customer focussed organisation. The technology building blocks, for which funds were agreed in 2002, will provide the infrastructure to improve this position in the future, but the underlying problem of discrete systems remains and will need to be dealt with over time.

- (b) The Committee has been aware of the need to take a more corporate approach to the provision of IT across the States. The IT Director has proposed a structure for the organisation of IT across the States based upon a hybrid model in which some functions are centralised and some remain departmental responsibilities. This distributed approach is proposed within a wider structure that identifies an IT ‘Head of Profession’ to whom all States of Jersey IT staff will report (either directly or indirectly) for various matters, such as job descriptions, job families, policy and standards, compliance, succession planning, use of resources, etc.

The proposal is intended to find an efficient mix of centralised and departmental IT activity, to minimise duplication, maximise user support, and ensure that specialist requirements of the business are met by those most able to do so. The proposal has been circulated to members of the Corporate Management Board for their consideration before wider distribution.

- (c) The States’ network is constantly assaulted by viruses and network attacks. During September 2003, the main corporate Internet gateway stopped 760 e-mail borne viruses and 5,600 unsolicited (SPAM) messages – typically these figures increase month by month. In the past three years, of the many thousands of attacks, only three viruses have penetrated the network and resulted in downtime for States’ systems, preventing some staff from being able to carry out work as desired. None of the

attacks affected core data or systems or resulted in any long-term problems with the States' IT infrastructure.

The most recent attack (the 'Blaster' worm) affected many businesses both locally and globally, and many were very severely affected. Only some 20% of States of Jersey desktop computers were affected (no servers), caused, it is believed, by a failure of an unknown individual within the States network to comply with States security policy. This attack highlighted the need for a change in security procedures, and as a result, the Computer Services Department has reviewed and tightened virus protection and software update procedures, and has followed an industry trend towards securing not only the corporate internet gateways, but also the core network itself.

As reliance upon IT to deliver key services increases the risk and impact of virus attack will increase. Furthermore, the States of Jersey needs to ensure that it is not the source or unwitting carrier of viruses to others and so, in common with all other organisations who use IT, the States has no choice but to maintain robust defences."

Threshold for 1(1)(k) entrants to Jersey – question and answer (Tape No. 863)

Deputy Geoffrey Peter Southern of St. Helier asked the Deputy of Trinity, Vice-President of the Housing Committee, the following question –

“On 18th October 2003, members were informed of the Committee’s decision to lower the threshold for 1(1)(k) entrants via the front page of the Jersey Evening Post.

- (a) Would the Vice-President explain why he did not consider a statement to this Assembly as a more appropriate medium of communication of this change?
- (b) Would the Vice-President give members detailed annual figures to show the number of applicants rejected and accepted since 1(1)(k) scheme was first introduced?”

The Vice-President of the Housing Committee replied as follows –

“(a) Regulation 1(1)(k) is a Regulation which empowers the Housing Committee to grant housing consent to an applicant where that consent ‘can be justified on social or economic grounds’. The tax payment threshold for 1(1)(k) entrants has changed from time to time since the Regulation was introduced in 1970 and can be varied according to particular circumstances – there are no financial limits set out in the Regulation. The variation of this tax threshold is not a matter which has been reported to the States in the past and I do not consider it a material change from the policy which has applied since 1970.

(b) I can provide figures for 1(1)(k) category consents granted to new applicants since 1998, as follows –

1998	-	3
1999	-	4
2000	-	2
2001	-	1
2002	-	1
2003 to date	-	2

During this period no applications formally considered by the Committee have been rejected. However, although the figures are not recorded, a number of enquiries were made of the Policy and Resources, Income Tax and Housing Departments during these years which did not satisfy the criteria for acceptance and were not pursued further by the applicants.

I am unable to provide figures for the number of new 1(1)(k) category consents granted from 1970 to 1998 without diverting resources for a considerable period of time from more important work. The

trend over the last thirty three years has certainly been for fewer applications to be made and subsequent consents granted.”

Taxation and the Jersey Income Distribution Survey 2002 – questions and answers (Tape No. 863)

Deputy Geoffrey Peter Southern of St. Helier asked Senator Terence Augustine Le Sueur, President of the Finance and Economics Committee, the following questions –

- “1. In the light of the decision to reduce the ‘benchmark’ of a £250,000 annual tax bill for 1(1)(k) residents to what has been described as a ‘six figure sum’ by the President of the Housing Committee, will the President inform members –
 - (a) How many 1(1)(k) residents paid personal or company tax in 2002?
 - (b) What was the total tax paid by these 1(1)(k) residents in 2002?
 - (c) How the ‘benchmark’ figure has changed throughout the period since the legislation was enacted?
 - (d) To what extent has the ‘benchmark’ been negotiable?
2. (a) Does the President accept that the data revealed in Table 9 of the Jersey Income Distribution Survey 2002, summarised below, demonstrates that our current tax and benefit system fails to compensate for the high cost of housing in the island?

Composition of household weekly income by quintile group (after housing costs)

	<i>Bottom 20%</i>	<i>Top 20%</i>	<i>Ratio (top/bottom)</i>
Pre-benefit income	£245	£1,703	6.9
Net income (after housing costs, benefits and tax)	£154	£1,361	8.8

- (b) When examining the impact of taxation on low income households, what measure of relative low income does the Committee intend to use?
3. In response to a question on 21st October 2003 the Vice-President stated that ‘A major priority of the Committee will be to ensure that the overall package (of taxes)... would be progressive with respect to levels of household income’.

Will the President inform members whether this aim will be made more difficult by the inclusion of a sales tax?”

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

- “1. (a) 136.
- (b) £10.7 million in tax was paid in 2002 by 1(1)(k) residents either in a personal capacity or through their companies and trusts.
- (c) Regulation 1(1)(k) was effective from December 1970. There are no precise financial limits set out in these regulations but the policy requirement at that time was that a tax contribution of £2,000 was expected of a potential 1(1)(k) resident. In September 1972, the tax contribution was increased to £3,000 per annum, in May 1973 to £4,000 per annum and in July 1973 to £10,000 per annum. In the 1980’s the fixed sum was abandoned but, in practice, there was an expectation of a tax contribution of at least £16,000 – £20,000 per annum. More recently, that

expectation had increased to £250,000 per annum with the addition of Jersey RPI plus 2% on an ongoing year by year basis. However, in the last 3 years or so, the U.K. Stock Market has suffered a significant decline, albeit with a rise in the last few months, and interest rates are at a 40-year low, so the tax contribution expected of a potential 1(1)(k) resident has been reduced accordingly to reflect these market realities.

- (d) As the previous answer illustrates, the 'benchmark' has changed from time to time and it can be varied according to particular circumstances. It must also be remembered that it is not just the tax contribution that 1(1)(k)s make that is so important. Many 1(1)(k)s also provide employment opportunities for local residents, use restaurants and shops, and many have made, and continue to make, substantial donations to local charities.
2. (a) Deputy Southern received an answer to a very similar question on 21st October 2003.

It would be misleading in my view to set targets for welfare policy based just on estimates of statistical averages for particular household groups in the Island.

The statistics which have been included with this question represent one source of information on relative incomes between groups of households. However, there are other data which might equally be used.

Members will appreciate that the States spends a considerable amount of money each year on rent subsidies. The system favours low income households and should more than compensate for the relatively high cost of housing.

Through the rent subsidy system, households on the lowest incomes should pay no more than 20% of that income in rent.

- (b) Members should be aware that there is no single and agreed measure of 'relative low income' available for any jurisdiction. It is for each jurisdiction to reach its own conclusions with respect to issues such as these.

The Finance and Economics Committee for its part will undertake a careful assessment of the distribution of gross and net incomes in the Island. It will do so in close consultation with other Committees, and in particular is working with the Employment and Social Security Committee in developing a strategy for tax and benefits.

The Committee is determined to ensure, in close consultation with the States and with residents in the Island, that future changes in tax and spending will be introduced in the most equitable way possible for everyone in Jersey.

3. Deputy Southern received a full answer from the Vice-President of the Committee to a very similar question on 21st October 2003.

I would not anticipate that the aim of the Committee would be made more difficult by the inclusion of a sales tax from amongst the various options for reform of the Island's tax structure. Indeed, it would be more likely to create a balanced package.

It is worth noting that many of those developed countries which have introduced a sales tax of some type have also achieved progressive systems of taxation. This includes the United Kingdom, France and Germany.

If the Assembly decided that a sales tax should be included as part of a future reform package then it would be for the Finance and Economics Committee, in close consultation with other Committees, to ensure that the overall package would indeed be progressive."

Jersey Income Distribution Survey 2002 – question and answer (Tape No. 863)

Deputy Geoffrey Peter Southern of St. Helier asked Senator Frank Harrison Walker, President of the Policy and Resources Committee, the following question –

“In response to a question on 21st October 2003, the Vice-President of the Finance and Economics Committee suggested that further work was required to enable proper comparison between the Jersey Income Distribution Study 2002 and U.K. figures. Can the President confirm to members –

- (a) that this work has been done and shows that pay per worker is around 10% higher in Jersey than in the U.K.?
- (b) that the much higher figures produced when household incomes are compared are largely brought about by economic activity rates which are around 30% higher in Jersey than in the U.K.?”

The President of the Policy and Resources Committee replied as follows –

“In answering these questions let me point out that the Income Distribution Survey is the first comprehensive report of its kind. The Statistics Unit have taken great care to ensure that it presents a balanced picture across the Island in comparison with the U.K. It is, therefore, important that it is considered as a whole. The answers to the specific questions are as follows –

- (a) The Statistics Unit has examined the appropriate statistical sources and can confirm, subject to the normal margins of uncertainty, that gross pay per full-time equivalent worker in 2002 was about 10% higher in Jersey than in Great Britain. Net pay per worker, after deducting tax and social security contributions is estimated to be about 23% higher in Jersey. Pensioner incomes in Jersey and income from investment are also believed to be higher than in the U.K.
- (b) The average number of full-time equivalent workers per household in Great Britain, based on numbers of workers and households from the Labour Force Survey, is estimated at 0.96. The corresponding figure for Jersey, in both the Income Distribution Survey and the Census, was 1.24.

There are three factors contributing to the higher number of workers per household –

Firstly, household structure: the average Jersey household, while it has exactly the same number of people as in the U.K., has fewer children and pensioners and more adults of working age.

Secondly, more working age adults in Jersey are in work – the Census showed that both men and women had higher economic activity rates and lower unemployment rates than in the U.K.

Thirdly, our ratio of full-time to part-time workers is higher than in the U.K.

On a simple comparison of households, gross cash income from all sources, including pensions, benefits and investment income is estimated to be 37% higher in Jersey. After deducting income tax and social security contributions, household disposable income is some 54% higher, averaging £685 per week in Jersey and £444 per week in Great Britain.

When we ‘equivalise’ these figures to take account of the different household structures in the two jurisdictions and reflect relative standards of living within them, we arrive at average equivalised personal incomes, before taking housing costs into account, some 75% higher in Jersey. After deducting housing costs, the difference falls to 62%.

All the figures I have quoted so far are based on simple averages, which can be distorted by a few very high incomes. For many purposes statisticians prefer to use the median, where half of the population lie above and half below, because it is not subject to the same distortion. Median

equivalised personal incomes were 68% higher in Jersey than in Great Britain before deducting housing costs and 46% higher after deducting housing costs. It is these lower median figures which were used by the Statistics Unit as the basis for their comments.

The report stated that this relationship is reflected right across the income distribution.”

‘Harbourmaster’s House’, 15 Gorey Pier, St. Martin– question and answer (Tape No. 863)

The Deputy of St. Martin asked Senator Leonard Norman, President of the Harbours and Airport Committee the following question –

“The property known as the ‘Harbourmaster’s House’, 15 Gorey Pier has been unoccupied for some considerable time. Would the President explain why it has been unoccupied and, inform members what plans are in hand for the property to be occupied?”

The President of the Harbours and Airport Committee replied as follows –

“The property is in need of considerable refurbishment if it is to be inhabited. It was being retained for a prospective essential employee, although this is no longer a requirement.

Following a request from the Gorey Improvement Group, it has been decided to allow them to use it as an interpretation centre for Gorey for 2004 and review the requirement from then on.”

Guernsey fishing licence scheme – question and answer (Tape No. 863)

The Deputy of St. John asked Deputy Francis Gerald Voisin of St. Lawrence, President of the Economic Development Committee, the following question –

“As the Guernsey fishing licensing scheme is now in place, would the President inform members –

- (a) of the number of Jersey fishing vessels that have been excluded from fishing within Guernsey waters?
- (b) of the number of appeals to the Guernsey authorities by Jersey fishermen that have been successful?
- (c) what action the Committee is taking to resolve the present difficulties and state whether a request has been made to the U.K. Department for Environment, Food and Rural Affairs (DEFRA) for assistance?
- (d) whether the U.K. Minister with responsibility for the Channel Islands has become involved in this matter, and if so, notify members of the outcome of any meetings that have been held?”

The President of the Economic Development Committee replied as follows –

- “(a) Our information is that 76 Jersey vessels applied for Guernsey licences. Of these, only vessels with DEFRA (U.K.) licences have been granted a Guernsey licence. There were 8 such vessels; therefore 68 Jersey vessels could be seen to have been excluded from Guernsey waters and also waters lying between the 3-mile and 12-mile limit of the Bailiwick of Guernsey.
- (b) There have been no successful appeals by Jersey fishermen.
- (c) The Committee is taking the following action to resolve the present difficulties. Firstly, it will be meeting with the Guernsey authorities at the highest level. Secondly, it is reviewing how our licensing scheme can be amended to provide Jersey fishermen with a better chance of gaining access to the waters adjacent to Guernsey; this will require the cooperation of DEFRA, and our officers are

currently developing a case to take forward. Thirdly, advice is being sought from the Law Officers' Department on options available to challenge the legality of Guernsey's scheme.

- (d) At present the U.K. Minister with responsibility for the Channel Islands has not become involved in this issue. However, when the case referred to in answer (c) is taken to DEFRA then I will ask that the Minister does become involved."

Introduction of a parole system at H.M. Prison, La Moye – question and answer (Tape No. 863)

Deputy Roy George Le Hérissier of St. Saviour asked Senator Wendy Kinnard, President of the Home Affairs Committee, the following question –

- “(a) Would the President indicate whether the Committee is intending to introduce a system of parole for those serving prison sentences at H.M. Prison and, if so, when?”
- (b) Would the President indicate what issues, if any, need to be resolved before the introduction of such a system?”

The President of the Home Affairs Committee replied as follows –

- “(a) The Home Affairs Committee has agreed a programme of focus groups connected with the development of a criminal justice policy. The first focus group held in October 2003, concentrated on how offenders are dealt with and sought to identify specific issues for more detailed inspection. One of the issues identified was indeed the introduction of a parole system to Jersey. Until the implications have been properly assessed, I cannot say whether, or when, a system of parole could be introduced.
- (b) There will be a further focus group looking solely at parole. These groups have been so constructed that they draw, at present, on the relevant expertise available in the Island. The intention is that this group will identify the issues that would need to be resolved. Deputy Le Hérissier has himself much to offer on the subject and I would welcome his involvement in the focus group during these early and critical stages.”

Release of prisoners on home leave – question and answer (Tape No. 863)

The Deputy of St. Martin asked Senator Wendy Kinnard, President of the Home Affairs Committee, the following question –

- “On 7th October 2003, in answer to a question regarding the release of prisoners for home leave or outside work, the President stated that prisoners are currently eligible for consideration for outside work scheme after having served half of the custody period.
- (a) Would the President inform members if any prisoners have been released on a discretionary basis for outside work or home leave before they have served half their custody period, if the answer is in the affirmative would the President give reasons for the early release?
 - (b) When did the above schemes begin and was the Committee aware of their implementation?
 - (c) How many prisoners have been released under the schemes during the last 12 months?
 - (d) How many prisoners are currently enjoying the privilege of early release under the schemes?”

The President of the Home Affairs Committee replied as follows –

- “(a) On the 7th October 2003, I also made a statement in which I informed the Assembly that the Committee would be commissioning an independent report on the operation of prison temporary release. The Committee appointed Dr. Debbie King, formerly the Island’s Chief Probation Officer, to carry out the report. She has completed her enquiries and is presently writing the report. I expect to receive the first draft in the next week. Part (a) of the question was included in her terms of reference and it would therefore be inappropriate to pre-empt her findings. The report will be presented in due course.
- (b) The present Committee delegated the power to grant temporary release under Prison Rule 73(2) to the Prison Governor at its second meeting on the 16th January 2003. The previous Home Affairs Committee had formerly given the Prison Governor the same delegation. In its time, the Prison Board first introduced an experimental home leave scheme in September 1993. In March 1995, the Board endorsed an outside work scheme.
- (c) Over the last 12 months, out of a total of 563 prisoners, 124 have been involved in temporary release schemes. Of the 124, 29 have also been ‘tagged’ under the Temporary Release Monitoring Scheme of which 14 remain ‘tagged’. The 124 prisoners on temporary release comprised of 89 adult males, 12 adult females, 20 male young offenders and 3 female young offenders.
- (d) There are currently no prisoners on home leave or any other form of temporary release except for nine prisoners currently engaged in the outside work scheme.”

Redecoration/repair charges for States tenants – questions and answers (Tape No. 863)

Deputy Geoffrey Peter Southern of St. Helier asked Deputy Terence John Le Main, President of the Housing Committee, the following questions –

- “1. As the Committee makes charges for redecoration/repair over and above ‘fair wear and tear’ for States tenants when they move, would the President inform members –
- (a) when these charges were first introduced?
- (b) how many tenants were billed for such charges for the years 2000, 2001 and 2002 –
- (i) as total number?
- (ii) as a proportion of those who moved?
- (c) what the total amount charged was in each year?
- (d) what proportion of the sums were eventually added to rent arrears for the tenant?
- (e) how many tenants have been prosecuted for non-payment of such charges?
2. Would the President inform members whether the Committee is satisfied that such charges do not cause distress or hardship to the tenants concerned?”

The President of the Housing Committee replied as follows –

- “1. (a) Recharges to tenants for redecoration/repair over and above ‘fair wear and tear’ have been applied for well over 20 years but not always particularly strictly.
- (b) I do not have figures for 2000 but for 2001, 2002 and to date in 2003 the following applies –
- 2001 – a total of 222 were recharged for works, whether moving or not. It is estimated that

about one third (74) were moving out of the accommodation subject to repair.

2002 – 55 tenants, about one-tenth of the total who moved, were recharged for repairs.

2003 – to end September – 33 tenants, about one-fourteenth of the total who moved, have been recharged.

(c) The total amount charged in each year for those moving was as follows –

2001 (estimated)	£27,268
2002	£31,131
2003 to end September	£24,822.

(d) I am unable to report what proportion of the sums recharged for those moving becomes rent arrears. Recharges for repairs are added to tenants' rent accounts. If the charge puts their account into arrears they can either pay it off immediately or make arrangements with the Rents Section for a managed repayment over time at a rate appropriate to their income. If a tenant is moving on from their accommodation and they are recharged for work to the property, they must either pay the charge immediately, or it is added to their rent account and this will be carried forward to their rent account for their new accommodation. If the tenant is leaving States property they will be invoiced for any outstanding charges, such as rent and repairs, still owed.

(e) One case is pending but the Committee has not in the last three years prosecuted anybody specifically for non-payment of this type of charge.

2. The tenant is responsible under the terms of the tenancy agreement to keep the interior of the property in a reasonable state of repair, fair wear and tear accepted. Where the tenant has failed to comply with the terms of the agreement the Committee has the right to carry out any necessary repairs and to recharge the tenant. Tenants faced with re-charges for not meeting their responsibilities may be distressed but the Committee's view is that they are the authors of their own misfortune. However, in cases of genuine hardship and where damage has not been caused wilfully the Committee has the discretion to write off the debt."

Properties known as Amy's House and L'Hôpital, St. Martin– questions and answers (Tape No. 863)

The Deputy of St. Martin asked Deputy Terence John Le Main, President of the Housing Committee, the following questions –

- “1. On 1st July 2003 the States rejected the Committee's proposition (P.68/2003) concerning the sale of Amy's House, St. Martin. Rather than transfer the property to the Health and Social Services Committee, the President stated that the property would be refurbished and again let to someone on the States Rental Waiting list.
- (a) Would the President inform Members when refurbishment of Amy's House began?
- (b) How much will the refurbishment cost?
- (c) When the refurbishment will be completed and the property re-occupied?
2. On 20th May 2003, in answer to a question as to why the property known as L'Hôpital, St. Catherine was unoccupied, the Vice-President stated that, subject to the outcome of discussions with the Planning Officers and the receipt of permission, a start date had been programmed for July.
- (a) Would the President inform members of the progress of the work?
- ”

- (b) On completion of the work, will the property be let to people on the States Rental Waiting List?
- (c) If the answer is in the negative, will the property be offered to other Committees?"

The President of the Housing Committee replied as follows –

- “1. (a) The refurbishment of Amy’s House has not begun. The Housing Committee does not intend to refurbish the property. The Assembly will be aware that the Housing Committee has a number of miscellaneous type properties which are in need of either significant repair or are of a type which are not best suited to use as social housing. As part of a holistic approach to rationalise the current stock and to help address the lack of funds to remedy the problems which affect many of the properties that are to be retained, proposals will be brought to this Assembly as soon as possible to sell a number of properties. It would be nonsensical not to include Amy’s House in this list. Rather than deal with matters piecemeal, the Assembly will have an opportunity to consider the sale of Housing Committee property as a policy, debate the same and then makes its decision accordingly. In view of this commitment to bring this policy initiative to the Assembly for debate, I see no point in re-running the arguments over Amy’s House at this stage.
- 2. (a) Work has not started on L’Hôpital. The Department is waiting for final approval for the scheme from the Environment and Public Services Committee.
- (b) No.
- (c) L’Hôpital is one of the properties that the Housing Committee believes should be sold. It will, therefore, be included in the list of properties to be submitted to this Assembly for debate.”

Shipping routes between Jersey and St. Malo– question and answer (Tape No. 863)

The Deputy of St. John asked Deputy Francis Gerald Voisin, President of the Economic Development Committee the following question –

“On 20th October, in response to my request dated 15th October 2003 that a tendering process be introduced for shipping routes between Jersey and St. Malo, similar to the tender process used for the Jersey to U.K. route, the President wrote – ‘The EDC currently have no plans to introduce a tender process to grant exclusive contracts for routes to St. Malo, indeed the general view of the Committee is to allow free competition on all air and sea routes’.

Would the President inform members whether my letter dated 15th October 2003 was discussed at a properly constituted Committee meeting and, if so, was the Committee unanimous in its view or did any members register their dissent? If the letter was not discussed by the full Committee would the President explain why this was not done?”

The President of the Economic Committee replied as follows –

“Deputy Rondel’s letter to me dated 15th October 2003 was not considered by the Economic Development Committee because there was no decision to be made and I was able to provide information on the current status.

The ramp permits that are in place now are effective until the end of 2004. It has been agreed that discussions should be held between the Harbours and Airports Committee and the Economic Development Committee with regard to the award of ramp permits for all ferry operators and ferry routes after 2004. It is anticipated that these discussions will take place within the context of the draft Competition Law, which is to be lodged soon.”

Emeraude Lines – questions and answers (Tape No. 863)

Senator Edward Philip Vibert asked Senator Leonard Norman, President of the Harbours and Airport Committee the following questions –

- “1. Would the President –
 - (a) advise whether the Committee is in favour of competition on the northern Jersey-U.K. bearing in mind the Committee welcomed competition on the southern route?
 - (b) confirm whether any senior manager of the Committee has visited the Administrateur Judiciaire, Madame Gautier, in Rennes since the recent difficulties involving Emeraude Lines began?
2. Is the President aware that when the Committee seized the Solidor V, it had the effect of freezing Emeraude Lines’ bank account at Lloyds TSB and this was the reason why the bank refused their cheque of £20,000 which the President referred to at the last meeting of the States as having been dishonoured?”

The President of the Harbours and Airport Committee replied as follows –

- “1. (a) Yes.
 - (b) Senior managers of the Committee were present when the Committee met with the Administrateur Judiciaire in Jersey.
2. No. As a matter of law, the seizure of the Solidor V could not operate to freeze the bank account held by the company at Lloyds TSB. It follows that this cannot have been the reason why the bank refused to pay the cheque.”

Harbour dues and Emeraude Lines – question and answer (Tape No. 863)

The Deputy of St. John asked Senator Leonard Norman, President of the Harbours and Airport Committee, the following question –

- “(a) In its proposition P.192/2002, adopted by the States on 22nd October 2002, the Committee stated that the practice in place at that time of charging harbour dues on the weight or volume of freight imports and exports might be contrary to E.U. law. Can the President update members on progress in amending the relevant legislation and state when the matter will be presented to the States for debate?
- (b) As the Committee has accepted that certain aspects of the method of levying harbour dues may be contrary to E.U. law and is taking steps to amend the relevant legislation, is the Committee satisfied that it was appropriate to take such strong action against Emeraude Lines by seizing Solidor V for past debts charged under the old system?
- (c) On 7th October 2003, in answer to a question from Senator M.E. Vibert, the President stated the money collected as harbour dues ‘is held in trust for the people of Jersey and should be paid to the Treasurer of the States’. Will the President explain what he meant by this statement?
- (d) At a public meeting held in the Albert Terminal on 9th October 2003, the Vice-President stated that, at the time of the Battle of Britain in September, the Committee had been asked to take steps to seize the Solidor V but had decided not to do so. Would the President inform members of the nature of the document submitted to it by its senior officers at this time which the Committee refused to endorse?

- (e) Would the President inform members whether insurance cover was in place when the Solidor V was seized in accordance with the Ordre Provisoire and, if so, who insured the craft for the period of its detention? If cover was not in place, will he give details of the consequences of the failure of the Committee to insure the vessel?"

The President of the Harbours and Airport Committee replied as follows –

- “(a) Legislation has been drafted. A minor drafting issue awaits guidance from the Law Officers’ Department.

Whilst the new Law will be E.U. compatible, advice is needed as to how Orders made under it can satisfy both E.U. compliance and the port user. The commercial port users remain adamant that the only fair and effective way to distribute port charges is through passing them to customers on a per tonne of cargo basis, rather than charging on a per ship basis. The Committee understands this and awaits further advice on the point. The Committee is aware that many other ports charge in the same way as Jersey presently does.

- (b) Yes – perfectly satisfied. Solidor V almost exclusively transports passengers and private vehicles, neither of which were subjects of the advice about E.U. compatibility.
- (c) When a passenger purchases a ticket for travel on a ferry, part of the ticket price is in respect of harbour dues. This money is held by the company, effectively in trust, and should be paid to the Treasurer of the States in a timely manner.
- (d) I do not recognise the event described in the question. On 9th September 2003, the Committee was advised that a cheque from Emeraude Lines in the sum of £115,866.70 had been returned unpaid.

The Committee decided that if cleared funds in this amount were not received by noon on Friday 12th September 2003, its legal advisers should be instructed to instigate legal proceedings for an Ordre Provisoire. In the event cleared funds were provided by the deadline and no further action was taken.

- (e) The insurance of the vessel was the responsibility of the owners, but as we could not be certain that the insurance premium had been paid and therefore that cover was in place, the Committee arranged for our existing port policy to be extended to cover the vessel while it was in our care, at no additional premium.”

Emeraude Lines – question and answer (Tape No. 863)

Deputy Gerard Clifford Lemmens Baudains of St. Clement asked Senator Leonard Norman, President of the Harbours and Airport Committee, the following question –

“With regard to Emeraude Lines, would the President advise members –

- (a) whether the reduction of invoice period from 60 days to one day was by negotiation or imposition, and
- (b) whether the alleged debt of c.£300,000 has been cleared and, if not, notify members of the current outstanding balance?”

The President of the Harbours and Airport Committee replied as follows –

- “(a) The arrangement to pay current harbour dues on a daily basis was by agreement with the Administrateur Judiciaire.

(b) The overdue debt has not yet been cleared and remains at £319,640.11.”

Variation of the Jersey-St. Malo ramp permit for Condor– question and answer (Tape No. 863)

Deputy Roy George Le Hérisse asked Senator Leonard Norman, President of the Harbours and Airport Committee, the following question –

“Would the President inform members whether the Committee, in arriving at its decision to vary the ramp permit to Condor to allow the company to carry accompanied private vehicles on the Jersey-St. Malo route, took note of a report submitted to the Jersey Transport Authority in mid-2002 which advised against the granting of rights to a second operator on the route?”

The President of the Harbours and Airport Committee replied as follows –

“During consideration of the application from Condor, which commenced in the autumn of 2002 and was finalised in March 2003, the Committee took note of all relevant reports, comments and advice including the statement attributed to Emeraude Lines by the JCRA, namely ‘Emeraude stated that they were strongly in favour of competition on the ‘northern’ and ‘southern’ routes’, and the advice of H.M. Solicitor General which stated ‘if the granting of an exclusive permit is unlawful, which in my opinion it is, then the Committee cannot be bound by it because the Committee cannot be precluded from discharging its statutory duty. As I have said, the statutory duty of the Committee is to consider any application which is made to it for a permit and to determine that application on its merits.’ ”

St. Malo-Jersey route – question and answer (Tape No. 863)

Senator Paul Vincent Francis Le Claire asked Senator Leonard Norman, President of the Harbours and Airport Committee, the following question –

“Would the President –

- (a) advise members what type of viability study the Committee envisages holding into whether the St. Malo-Jersey route is a ‘natural monopoly’ and whether the Committee believes that the Administrateur Judiciaire of Emeraude Lines’, Madame Sophie Gautier, is able to help in this process?
- (b) confirm that the Committee considers that such a study cannot be undertaken by the Jersey Competition Regulatory Authority?
- (c) inform members what he meant when he stated that he wanted to make sure such a study would be ‘truly independent and the further away from government the better’ and was this statement an indication that he does not believe that the Jersey Competition Regulatory Authority is truly independent?”

The President of the Harbours and Airport Committee replied as follows –

“(a) The type of viability study is best indicated in the following draft terms of reference:

- 1. To carry out an in depth review of the economics and future viability, of passenger and car carrying ferry services between the Island and France and the Island and the United Kingdom operating year round with capacity to meet the demands of all categories of user (island residents, tourists, day trippers, commercial) and at the best value; and
- 2. To recommend action that could be taken to enhance the viability and security of the services; and whether or not the long term interests of the Island would be served by encouraging open

competition’.

I shall expect the study to take full account of the work already done and to build on it so that we are not paying for old ground to be re-worked.

Members may want to consider these draft terms and I am more than happy to receive input, which might improve the specific nature of them.

It is my opinion that those selected to carry out the study will wish to meet with a wide range of people. The study will need to concentrate on economic and commercial facts, rather than opinion. In this regard, the Administrateur Judiciaire of Emeraude Lines may well be a key person.

- (b) The Jersey Competition Regulatory Authority made it clear in its car ferry study (page 6, 3rd bullet point) that consultants would be needed.

It is also explicit in Article 6(3) and 6(4) of the Competition Regulatory Authority (Jersey) Law 2001, that external bodies with their own expertise should advise the Authority and that such advice can then be provided to the Economic Development Committee.

The study cannot therefore be undertaken by the JCRA itself.

- (c) By making this statement I meant that we need commercial facts to progress matters. Opinions or personal loyalties to one company or another can obscure the facts. I think that a study carried out independently of Government will help to reassure the public that they are getting the facts.

As to the extent of the Authority’s independence, its functions under Article 6(2) and 6(4) are quite independent of government as is made explicit under Article 10(2) and I certainly do not dispute that.”

Release of Solidor V – questions and answers (Tape No. 863)

Deputy Geoffrey Peter Southern of St. Helier asked Senator Leonard Norman, President of the Harbours and Airport Committee, the following questions –

“Would the President confirm that, when the Committee negotiated the release of Solidor V, part of the agreement was that Emeraude Lines would drop any legal action against the Committee, including the pending matter of possible legal action concerning the Committee’s decision to allow Condor to carry passengers with cars on to the Jersey-St. Malo route when Emeraude Lines believed they had exclusivity on the route?”

The President of the Harbours and Airport Committee replied as follows –

“No. The agreement reached with the Administrateur Judiciaire contained no such reference. For the sake of completeness I can say that Emeraude had in August clarified that no legal action would arise from the Committee’s decision to extend Condor’s ramp permit. On Wednesday 8th October 2003, the Committee received confirmation that no legal action would arise from the action taken in respect of the arrest of the vessel.”

Presentation of information to the States relating to each Committee’s service analysis – statement

Senator Terence Augustine Le Sueur, President of the Finance and Economics Committee, made a statement in the following terms –

“Members will recall that during the debate on the 2004 – 2008 Resource Plan, the States agreed to amend

paragraph (b)(iii) of the Proposition by adding the following narrative–

‘to agree that Committee cash limits for 2004, as indicated in Table 5.1, where they exceed £80,000,000, should be broken down and comprehensive departmental service analyses presented to the States by the Committees concerned before consideration of the 2004 Budget, and as part of the Resource Plan in subsequent years;’.

During the debate on this amendment a number of members expressed the view that it would be beneficial for all States Committees, not just those with cash limits in excess of £80,000,000, to present detailed service analyses to the States prior to the Budget 2004 debate and in subsequent Resource Plans.

I proposed to Committee Presidents that as the Fundamental Spending Review process requires all Committees to provide a detailed service breakdown of their estimated expenditure to the Treasury, the Finance and Economics Committee could therefore present this information to the Assembly, as an Annex to the Budget 2004. Both documents have been released today.

The Committee believes this information will enable a fuller understanding and appreciation, both by politicians and the public alike, of the extent and cost of services provided by the States. The Committee hopes this improved understanding will promote a better informed debate of our public spending priorities.

The Annex provides a detailed breakdown of estimated expenditure analysed by service split by direct and indirect costs. Any cost recovered or income received for a service is set against the cost to present the net cost of the service delivered. In addition, an analysis of the number of Full Time Equivalent posts (FTEs) deployed in the service areas is also provided.

Finally, the Annex identifies some of the performance measures currently used to assess the performance of the services, which will be developed further through the benchmarking project.

This is the first time such a detailed breakdown of estimated service costs has been published. The Finance and Economics Committee believes this information, provided by departments themselves, is one of the significant benefits which has flowed from the Fundamental Spending Review process to date. The Committee is indebted to all departments for their co-operation in providing this information.

The Committee hopes that this additional information will be seen as a benefit, and I am sure that the relevant Committee or Department will be able to deal with any queries in relation to the information contained in this Annex.”

Draft Transfer of Functions (Policy and Resources Committee) (Jersey) Act 200- P.140/2003

THE STATES, in pursuance of Article 29 of the States of Jersey Law 1966, made an Act entitled the Transfer of Functions (Policy and Resources Committee) (Jersey) Act 2003.

Harbours and Airport Committee: Vote of No Confidence – P.143/2003

THE STATES commenced consideration of a proposition of Senator Edward Philip Vibert that they had no confidence in the Harbours and Airport Committee and discussion continued until the adjournment.

Adjournment

THE STATES then adjourned, having agreed to continue consideration of the proposition of Senator Edward Philip Vibert that they had no confidence in the Harbours and Airport Committee the following day or Wednesday 5th November 2003.

THE STATES rose at 5.30 p.m.

M.N. DE LA HAYE

Greffier of the States.