

**THE STATES assembled on Tuesday,
10th December 2002 at 9.30 a.m. under
the Presidency of the Deputy Bailiff,
Michael Cameron St. John Birt, Esquire.**

**His Excellency the Lieutenant Governor,
Air Chief Marshal Sir John Cheshire, K.B.E., C.B.,
was present**

All members were present with the exception of -

Francis Herbert Amy, Connétable of Grouville - ill

Prayers

Subordinate legislation tabled

The following enactments were laid before the States, namely -

Pilotage (Dues and Fees) (Jersey) Order 2002. R&O 154/2002.

Income Tax (Actuarial Equivalents) (Jersey) Order 2002. R&O 157/2002.

Excise Duty (Relief and Drawback) (Amendment) (Jersey) Order 2002. R&O 158/2002.

Cremation (Fees) (Jersey) Order 2002. R&O 160/2002.

Food and Drugs (Ice-Cream Stalls etc.) (Amendment No. 22) (Jersey) Order 2002. R&O 161/2002.

Ancillary Dental Workers (Registration) (Fees) (Jersey) Order 2002. R&O 162/2002.

Nursing Agencies (General Provisions) (Amendment No. 18) (Jersey) Order 2002. R&O 163/2002.

Residential Homes (General Provisions) (Amendment No. 8) (Jersey) Order 2002. R&O 164/2002.

**Nursing Homes and Mental Nursing Homes (General Provisions) (Amendment No. 8) (Jersey) Order 2002
R&O 165/2002.**

Matters presented

The following matters were presented to the States -

Jersey Law Commission: report for 2001 - R.C.49/2002.

Presented by the Legislation Committee.

Modernising Jersey's Gambling Legislation - R.C.50/2002.

Presented by the Gambling Control 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 29th November 2002 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 sale to Mr. David Dorgan and Mrs. Patricia Joan Dorgan, née Feltham (owners of Dale Cottage, No. 106 St. Saviour's Road, St. Helier), an area of land (measuring 50 square metres) adjacent to Dale Cottage, for a consideration of £7,500. The area of land being sold was always to form part of Dale Cottage and should never be sold off separately. The land was to be used for parking and garage facilities which might be constructed thereon subject to planning approval. In exchange for the land, the owners would give up all their access rights across the road of unknown ownership and unknown name and would be granted new rights of access and egress across public land, in order to have access to the public highway known as La Rue Le Masurier. Each party would be responsible for its own legal costs in relation to this transaction;
- (b) as recommended by the Agriculture and Fisheries Committee, the lease to the Jersey Electricity Company Limited of an area of land (measuring 3,079 square feet, as shown on Drawing No. P.565 02) at the States Abattoir, La Collette, St. Helier, at a commencing annual rent of £4,618.50 (representing a rate of £1.50 a square foot) payable quarterly in advance, to be subject to five-yearly rent reviews to Open Market Rental Value, with the lease to terminate in 2019, but with an option to renew. The said area of land was to be enclosed with a fence similar to the existing fence which separated the Company's land from the Abattoir site, and this would be the responsibility of the Jersey Electricity Company Limited. There would be no provision for the Company to sub-let or assign the land. The Company would be responsible for the repair and maintenance of the land and anything constructed thereon and the costs in connexion with gaining planning and development approval for the development of the site. It would also be responsible for the public's legal fees in connexion with drafting and agreeing the lease and passing contract, and also the costs associated with the employment of Professional Hi-tech Services Limited to record co-ordinate points of the boundaries and to confirm the area of the land being leased;
- (c) as recommended by the Housing Committee, the entering into of a Deed of Arrangement with Frogmore Holdings Limited in order to agree the position of the boundary between the proposed new development on the site of the former Laurent Garage and the existing Housing Committee site known as Kew Gardens, Grands Vaux, St. Helier. It was noted that the eastern extremity of the Frogmore Holdings Limited new development was to be constructed up to the centre line of the existing gable wall of the property known as No. 2 Kew Villas. The existing granite party wall which extended to the site in a southerly direction was to be retained, subject to any remedial work deemed to be necessary by the Housing Committee. The "existing Housing Department chimney breast" adjoining No. 2 Kew Villas would be demolished by Frogmore Holdings Limited at no expense to the public. No doors, windows or service penetrations were to be constructed in the gable wall adjoining Kew Gardens. Frogmore Holdings Limited was to be granted temporary rights to erect scaffolding within the communal garden area of Kew Gardens, and the public retained an unfettered right to build up to Frogmore Holdings Limited's gable wall. It was noted that Professional Hi-Tech Services Limited was to be employed to survey the precise location of the boundary in order to accurately record the position of the said party wall, at the expense of Frogmore Holdings Limited. It was noted that Frogmore Holdings Limited had accepted responsibility for all reasonable legal costs incurred by the public and it was proposed that the existing contractual drainage rights to No. 2 Kew Gardens in favour of the public would be cancelled as this was no longer relevant.

Matters noted - acceptance of tender

THE STATES noted Acts of the Finance and Economics Committee dated 29th November 2002, showing that, in pursuance of Rule 5 of the Public Finances (General) (Jersey) Rules 1967, as amended, the Committee had noted that -

1. the Public Services Committee had accepted the preferred tender for the proposed upgrading of the Ultra-Violet Treatment Plant at Bellozanne Sewage Treatment Works, St. Helier, namely that submitted by Sunwater Trojan Limited in the amended contract sum of £763,527.00 in a contract period of seven weeks.
2. the Health and Social Services Committee had accepted the preferred tender for the replacement of the cremators at the Crematorium, St. Helier, namely that submitted by Facultatieve Technologies in the sum of £419,183.37 in a contract period of 24 weeks.

Matters lodged

The following matters were lodged "au Greffe" -

Draft Public Elections (Amendment) (Jersey) Law 200- P.234/2002.

Presented by the Legislation Committee.

Projet de Loi (200-) (Amendement) au sujet des Centeniers et officiers de police - P.235/2002.

Présenté par le Comité de Législation.

Welfare grants and family responsibilities for the next of kin - P.236/2002.

Presented by the Employment and Social Security Committee.

Draft Sea Fisheries (Miscellaneous Provisions) (Amendment No. 3) (Jersey) Regulations 200 P.237/2002.

Presented by the Agriculture and Fisheries Committee.

States members remuneration - P.238/2002.

Presented by the Privileges and Procedures Committee.

Draft Planning and Building (Amendment) (Jersey) Law 200- (P.56/2002) - withdrawn

THE STATES noted that in accordance with Standing Order 22(3) the President of the Planning and Environment Committee had instructed the Greffier of the States to withdraw the draft Planning and Building (Amendment) (Jersey) Law 200- (P.56/2002 lodged "au Greffe" on 23rd April 2002).

Production of organic milk - question and answer (Tape No. 803)

The Deputy of St. John asked Senator Jean Amy Le Maistre, President of the Agriculture and Fisheries Committee the following question -

- “(a) On two occasions in 2002 the Dairy Industry received funding of approximately £850,000 for an exit strategy involving the numbers of cattle within the milk-licensing scheme. Will the President inform members whether cattle from organic farms were included in the licensing scheme?
- (b) Will the President explain what happens to the excess milk from organic cattle and say whether it is mixed with other milk from the milk-licensing scheme?
- (c) As organic milk could be mixed with milk from the licensing scheme, what rationale has the Industry got to deal with excess numbers of organic cattle and is capping going to be applied to this sector of the Industry? If no capping is planned, will the President explain the rationale in recommending a licensing scheme to the Finance and Economics Committee if organic milk from an uncapped scheme can be added to the milk-licensing scheme?”

The President of the Agriculture and Fisheries Committee replied as follows -

- “(a) The first point I wish to make is that the dairy industry will have received a total of about £850,0000 through the two Dairy Industry Restructuring Schemes; secondly, that the Jersey Milk Licensing Scheme applies to litres of milk supplied, not to numbers of cattle.

Organic milk producers are included in the provisions of the Licensing Scheme. Every milk producer has a licensed amount of litres, but in the case of organic milk producers this amount of licence is in effect held 'in reserve' against the possibility of their converting back to non-organic production at some time in the future. Their level of milk supply to Jersey Milk is not, however, governed by this licence held in reserve - as is the case for non-organic milk producers (excepting those producing less than 150,000 litres per annum). This means that the amount of organic milk supplied is not limited by the Licensing Scheme. The amount of licence held in reserve is part of the total amount of licensed

litres for the industry as a whole. The total amount of milk actually supplied in the year 2001/2002 by the organic milk producers was in fact significantly less than the total amount of licence held in reserve on their behalf.

It should also be noted that it is very difficult in practice for milk producers to convert to and from organic production. Conversion to organic milk production normally takes more than two years and involves a significant financial investment. Organic milk producers then have a five-year contract to supply organic milk and so cannot easily convert to non-organic production. At this time there are three units producing organic milk and one other milk producer is in the process of converting to organic production.

- (b) If there is an excess of organic milk on a particular day the excess is mixed with non-organic milk. Members will understand that, with only three organic milk producers, matching supply and demand seasonally is quite difficult.
- (c) The Commercial Executive of Jersey Milk has judged that there is a profitable market in Jersey for significantly more organic liquid milk and milk products than are currently available and so does not consider that there are currently excess numbers of cattle producing organic milk. On the contrary it would like to see more. The Jersey Milk Marketing Board therefore has no current plans to limit organic milk production by means of licensing. If the need arises in future, however, this could be done by amending the Licensing Scheme.

The Agriculture and Fisheries Committee has not recommended the Licensing Scheme to the Finance and Economics Committee and nor, I believe, has the Jersey Milk Marketing Board done so. The Milk Licensing Scheme was devised and implemented by the industry itself. Neither the Agriculture and Fisheries Committee, nor the Finance and Economics Committee were required or asked to approve the Scheme. The Agriculture and Fisheries Committee welcomed the initiative, was kept informed about it by the Jersey Milk Marketing Board and offered comments while the Scheme was being developed.

Finally, I wonder whether the thought behind these questions is the possibility of producers avoiding the control of the Licensing Scheme by producing organic milk. This has not happened to date and it has not been the intention of the organic milk producers. If in future there were a need to restrict the amount of organic milk supplied, it would be a relatively easy matter for the Board to amend the Licensing Scheme to this effect. It also needs to be borne in mind that experience shows that when a farm converts to organic milk production the amount of milk actually produced declines.”

Accident involving the Customs Rigid Inflatable Boat (RIB) - question and answer (Tape No. 803)

Deputy R.G. Le Hérisssier of St. Saviour asked the Deputy of St. Mary, President of the Harbours and Airpc Committee the following question -

“With reference to the accident involving the Customs Rigid Inflatable Boat (RIB), would the President -

- (a) confirm that the boat wrecked in the accident was, at the time, on loan to the Department?
- (b) advise whether the driver of the other boat was a member of the Department?
- (c) advise whether the owner’s or the Department’s insurance covered the other boat at the time?
- (d) confirm that the accident investigation has been completed and advise whether it will be made public?”

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

“(a) Yes.

(b) Yes.

- (c) Yes, the Department's insurance covered the other boat at the time.
- (d) Yes, the accident investigation has been completed, and no, it will not be made public."

Allocation of funds from the Tourism Investment Fund in respect of the redevelopment of Mont Orgueil Castle - question and answer (Tape No. 803)

Deputy Gerard Clifford Lemmens Baudains of St. Clement asked Senator Frank Harrison Walker, President of the Finance and Economics Committee the following question -

"The States decided on 27th July 1999, when it considered the 'Strategic Reserve: allocation of funds to Tourism investment fund' (P.93/1999) to allocate £3m for the redevelopment of Mont Orgueil Castle. Would the President advise members how much of that sum has been spent since that debate -

- (a) in total?
- (b) on the following -
 - (i) the hire and construction of scaffolding?
 - (ii) the production/publication of Conservation Plan volumes 1 and 2 and both 1st and 2nd editions?
 - (iii) the Jersey Heritage Trust's archaeological consultant and his Assistant?
 - (iv) all other consultants/organisations commissioned to record or otherwise advise on the Castle?
 - (v) project contractors?
 - (vi) setting up/maintenance of the Mont Orgueil web site?"

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

- "(a) The expenditure as set out in the latest position, reported to the Treasury on 25th November 2002, in the latest management accounts produced for the project's monitoring group totalled £1,250,380;
- (b) (i) scaffolding has cost £123,704. This is not only the scaffolding hoist, essential to transport equipment and materials to the top of the castle, but also on scaffolding for the repair of the Medieval Great Hall Roof, repointing walls, survey work and so on;
- (ii) the Conservation Plan, and associated measured survey and full photographic record together cost £79,520. This is the first time that the castle has ever been properly surveyed and photographically recorded;
- (iii) archaeological services have cost £131,141 to date. This covers the cost of the whole team that has been working on the project since October 1999. It does not include the value of the services provided freely by members of the archaeology section of the Société Jersiaise;
- (iv) all other professional fees, consultants, freelance specialists and other recording, research, surveys and advice, plus costs of public consultation have so far totalled £279,303;
- (v) building and exhibition contractors work to date totals £632,007; and
- (vi) setting up and maintaining the project website which allows free public access to all the reports produced for the project has so far cost £4,705.

The original sum of £3m is held by the Trust in a restricted fund. Interest accruing has been entirely attributed to the project.

The Trust has also secured and allocated other funding towards the project, including (with full permission from the Finance and Economics Committee) the transfer of £100,000 from the Ancient Monuments Fund to meet the costs of vital repairs to the Medieval Great Hall Roof. The related expenditure is included in the figures above.

The Trust's governance, internal accounting and project management procedures were fully reviewed in 2002 by the States Treasury Audit and Risk Management Division. The conclusion was that *'This audit has confirmed current procedures do follow best practice ...'*.

All the expenditure set out above is either in line with the original project budget or has been committed in response to issues raised since 1999, which the Trust felt it was important to respond to.

The Trust will be coming forward in the New Year with its Development Strategy and full planning application for the castle. The total scope of the project as developed in detail remains in line with the principles agreed by the States in P.93/1999."

Le Talus, La Rue du Nord, St. John, sale of land, and at Fremont Headland, St. John, acquisition of land - P.200/2002

Comments - P.200/2002 Com.

THE STATES, adopting a proposition of the Public Services Committee -

- (a) authorised the purchase from Mrs. Daphne Joan Tomes (née Le Brun) of an area of land of approximately 20,100 square metres (11 vergées 7 perch) at Fremont Headland, north of Field 6: St. John, as shown crosshatched on Drawing No. 1756/02/50 for the sum of £10;
- (b) authorised the sale to Mrs. Daphne Joan Tomes (née Le Brun) of an area of land of approximately 2,230 square metres (1 vergée 10 perch) to the north and northwest of the property known as Le Talus, as shown hatched on Drawing No. 1756/02/50 for the sum of £10;
- (c) authorised the Attorney General and the Greffier of the States to pass, and the Greffier of the States to sign, on behalf of the Public, any contracts which might be found necessary to pass in connection with the said land referred to in paragraphs (a) and (b) and any interests therein, with Mrs. Tomes and the Public being responsible for their own legal fees in connection with the transactions;
- (d) authorised the payment and discharge of all expenses which might be required in connexion with the acquisition and disposal of the said land and all interests therein from the Planning and Environment Committee's Vote of Credit, Acquisition of Land - Major Reserve (Vote C0904).

Le Chemin du Douet, St. Ouen: acquisition of track- P.214/2002; Comments - P.214/2002 Com.

THE STATES, adopting a proposition of the Public Services Committee -

- (a) authorised the purchase by the Public of the track known as Le Chemin du Douet, St. Ouen as shown cross-hatched on Drawing No. 1869/02/51;
- (b) agreed that, if it was not possible to identify the owner of the track or not possible to agree a fair and proper price with any identified owner, the Public Services Committee should be empowered in accordance with the provisions of Article 3 of the Drainage (Jersey) Law 1962 to acquire the land by compulsory purchase on behalf of the Public, in accordance with the provisions of the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961, as amended;
- (c) authorised the Greffier of the States to sign the said drawing on behalf of the States;
- (d) authorised the Attorney General and the Greffier of the States to pass on behalf of the public any contract which it might be found necessary to pass in connexion with the said land and all interest therein; and

- (e) authorised the payment or discharge of expenses incurred in connection with the purchase of the said track and all interests therein from the Public Services Committee Capital Vote of Credit - Foul Sewer Extension Vote (C0452).

The Deputy of St. Ouen, having declared an interest, withdrew from the Chamber prior to the consideration of this matter.

Election of Committee Presidents - P.215/2002

THE STATES, adopting a proposition of the Privileges and Procedures Committee, agreed that during the election of the President of the Policy and Resources Committee on 12th December 2002 members of the States should be permitted to ask questions of each candidate nominated for the position for a period not exceeding 15 minutes for each candidate once the candidate concerned had, in accordance with the provisions of Standing Order 41(1B), addressed the States for no more than five minutes setting out the manner in which he or she would propose to discharge his or her responsibilities as President.

Members present voted as follows -

“Pour” (47)

Senators

Horsfall, Le Maistre, Stein, Bailhache, Syvret, Norman, Kinnard, Le Sueur, Le Claire, Lakeman.

Connétables

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

Deputies

H. Baudains(C), St. Mary, Trinity, Duhamel(S), Routier(H), Layzell(B), Breckon(S), Grouville, Hue (H), St. Martin, St. John, Le Main(H), Vibert(B), St. Peter, Dubras(L), St. Ouen, Troy(B), Voisin Scott Warren(S), Farnham(S), Le Hérissier(S), Ozouf(H), Fox(H), Bridge(H), Martin(H), Southern(H)

“Contre” (2)

Deputies

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

Draft Health Insurance (Medical Benefit) (Amendment No. 57) (Jersey) Regulations 200 P.216/2002

THE STATES, in pursuance of Articles 18 and 46 of the Health Insurance (Jersey) Law 1967, as amended, made Regulations entitled the Health Insurance (Medical Benefit) (Amendment No. 57) (Jersey) Regulations 2002.

Draft Family Allowances (Jersey) Regulations 200- P.217/2002

THE STATES, in pursuance of Article 7 of the Family Allowances (Jersey) Law 1972, as amended, made Regulations entitled the Family Allowances (Jersey) Regulations 2002.

Draft Public Employees (Contributory Retirement Scheme) (Amendment No. 17) (Jersey) Regulations 200- P.224/2002

THE STATES, in pursuance of Article 2 of the Public Employees (Retirement) (Jersey) Law 1967, as amended, made Regulations entitled the Public Employees (Contributory Retirement Scheme) (Amendment No. 17) (Jersey) Regulations 2002.

Senator Christopher Gerard Pellow Lakeman, having declared an interest, withdrew from the Chamber prior to the consideration of this matter.

Draft Public Employees (Contributory Retirement Scheme) (Existing Members) (Amendment No. 6) (Jersey) Regulations 200- P.225/2002

THE STATES, in pursuance of Article 2 of the Public Employees (Retirement) (Jersey) Law 1967, as amended, made Regulations entitled the Public Employees (Contributory Retirement Scheme) (Existing Members) (Amendment No. 6) (Jersey) Regulations 2002.

Senator Christopher Gerard Pellow Lakeman, having declared an interest, withdrew from the Chamber prior to the consideration of this matter.

Draft Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Amendment No. 4) (Jersey) Regulations 200 P.226/2002

THE STATES, in pursuance of Article 2 of the Public Employees (Retirement) (Jersey) Law 1967, as amended, made Regulations entitled the Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Amendment No. 4) (Jersey) Regulations 2002.

Senator Christopher Gerard Pellow Lakeman, having declared an interest, withdrew from the Chamber prior to the consideration of this matter.

Draft Public Employees (Contributory Retirement Scheme) (General) (Amendment No. 8) (Jersey) Regulations 200- P.227/2002

THE STATES, in pursuance of Article 2 of the Public Employees (Retirement) (Jersey) Law 1967, as amended, made Regulations entitled the Public Employees (Contributory Retirement Scheme) (General) (Amendment No. 8) (Jersey) Regulations 2002.

Senator Christopher Gerard Pellow Lakeman, having declared an interest, withdrew from the Chamber prior to the consideration of this matter.

Draft Public Employees (Contributory Retirement Scheme) (New Members) (Amendment No. 8) (Jersey) Regulations 200- P.228/2002

THE STATES, in pursuance of Article 2 of the Public Employees (Retirement) (Jersey) Law 1967, as amended, made Regulations entitled the Public Employees (Contributory Retirement Scheme) (New Members) (Amendment No. 8) (Jersey) Regulations 2002.

Senator Christopher Gerard Pellow Lakeman, having declared an interest, withdrew from the Chamber prior to the consideration of this matter.

Draft Social Security (Amendment No. 15) (Jersey) Law 2002 (Appointed Day) Act 2002- P.229/2002

THE STATES, in pursuance of Article 8 of the Social Security (Amendment No. 15) (Jersey) Law 2002, made an Act entitled the Social Security (Amendment No. 15) (Jersey) Law 2002 (Appointed Day) Act 2002.

Draft Boats and Surf-Riding (Control) (Amendment No. 24) (Jersey) Regulations 200 P.231/2002

THE STATES, in exercise of the powers conferred on them by Article 4 of the Harbours (Administration) (Jersey) Law 1961, as amended, made Regulations entitled the Boats and Surf-Riding (Control) (Amendment No. 24) (Jersey) Regulations 2002.

Draft Harbours (Amendment No. 35) (Jersey) Regulations 200 P.232/2002

THE STATES, in pursuance of Article 4 of the Harbours (Administration) (Jersey) Law 1961, as amended made Regulations entitled the Harbours (Amendment No. 35) (Jersey) Regulations 2002.

Senator Patricia Ann Bailhache - resignation

The Deputy Bailiff, in accordance with Article 13 of the States of Jersey Law 1966, as amended, informed the Assembly that he had received a letter from Senator Patricia Ann Bailhache tendering her resignation as a member of the States.

Retiring Members

The Deputy Bailiff conveyed the best wishes of the Assembly to the members who would not be returning to the States in the next session and, on behalf of the members and Islanders, thanked them for their service and contribution to the Government of the Island.

Senator Pierre François Horsfall O.B.E. replied to conclude.

THE STATES rose at 11.25 a.m.

M.N. DE LA HAYE

Greffier of the States.