



THE STATES assembled on Tuesday,
15th February, 1983 at 10.15 a.m.
under the Presidency of the Bailiff,
Sir Frank Ereaut.

His Excellency the Lieutenant Governor, General Sir Peter
Whiteley, G.C.B., O.B.E., was present.

All members were present.

Prayers.

Connétable of St. Clement – welcome.

The Bailiff, on behalf of Members of the States, welcomed to the Assembly the newly appointed Connétable of St. Clement, Mr. Leonard René Hamel.

Subordinate legislation tabled.

The following enactment was laid before the States, namely –

Road Traffic (Public Parking Places) (Amendment
No. 13) (Jersey) Order, 1983. R. & O.7147.

Prison Board – appointment of member.

THE STATES appointed Senator John William Ellis as a member of the Prison Board in the place of the former Connétable of St. Helier, Mr. Peter Gorton Baker.

Etat Civil Committee – appointment of member.

THE STATES appointed Mr. Fred Philip Webber Clarke, Connétable of St. Helier as a member of the Etat Civil Committee in the place of the former Connétable of St. Helier, Mr. Peter Gorton Baker.

Telecommunications Board – appointment of member.

THE STATES appointed Mr. Charles Alan Le Maistre, Connétable of Grouville, as a member of the Telecommunications Board.

Regulation of Undertakings and Development: Report 1982. R.C.6/83.

The Finance and Economics Committee by Act dated 9th February, 1983 presented to the States its Report for 1982 on the Regulation of Undertakings and Development.

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

Manpower Report 1982. R.C.7/83.

The Establishment Committee by Act dated 2nd February, 1983, presented to the States its Report on Manpower for 1982.

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

Matters noted – land transactions.

THE STATES noted an Act of the Finance and Economics Committee dated 9th February, 1983, showing that in pursuance of Standing Orders relating to certain transactions in land, the Committee had approved –

- (a) as recommended by the Public Health Committee, the renewal of the lease from Mrs. Gaye Campleton, née Mathew, of three flats at 45 David Place, St. Helier, required for staff accommodation, for a period of two years from 25th December, 1982, at an annual rent of £3,380, which would be fully recoverable from the occupants of the three flats;

- (b) as recommended by the Public Works Committee, the cession to Mr. Michael Harvey Le Gresley of 7, Marett Road, Havre des Pas, St. Helier, of 9,986 square metres of land, forming an extension of the eastern wall of his property, and the cession by Mr. Le Gresley of 4,800 square metres of land forming part of his property, as designated on Drawing No. 2767/1, the latter area being required for the implementation of a re-alignment scheme to improve the visibility at the junction of Don Road and La Route du Fort.

Matter noted – financial transaction.

THE STATES noted an Act of the Finance and Economics Committee dated 27th January, 1983, showing that in pursuance of Rule 5 of the Public Finances (General) (Jersey) Rules, 1967, as amended, the Committee had noted that the Agriculture and Fisheries Committee had accepted the lowest of nine tenders namely that submitted by Mark Amy Limited in the sum of £399,963 in a contract period of 36 weeks for the redevelopment at Howard Davis Farm to provide office accommodation.

Royal Court Road, St. Helier. P.62/82.

THE STATES acceded to the request of Deputy Norman Stuart Le Brocq of St. Helier that the order in which the items of public business set down for consideration at the present Sitting should be altered by placing the Proposition regarding the Royal Court Road, St. Helier (P.62/82) after the Proposition regarding the improvement of productivity in the dairy industry (P.169/82).

St. Helier Traffic Plan. P.175/82.

THE STATES acceded to the request of the President of the Public Works Committee that consideration of the Proposition regarding the St. Helier Traffic Plan (lodged on 21st December, 1982) be deferred from 1st March, 1983, to a later date.

Draft Trusts (Jersey) Law, 198 . P.18/83.

THE STATES acceded to the request of the Finance and Economics Committee that consideration of the draft Trusts (Jersey) Law, 198 (lodged on 8th February, 1983) be considered on 15th March, 1983.

Cyril Le Marquand House. Questions and answers.

Senator Richard Joseph Shenton asked Deputy Donald George Filleul of St. Helier, President of the Public Works Committee, the following questions –

- “1. Will the President inform the House whether the Public Works Committee is satisfied that the design of Cyril Le Marquand House is properly suited to its use as an office block?
2. Is he satisfied with the working conditions of the staff employed there?
3. What provision is to be made with regard to canteen facilities for the staff?

The President of the Public Works Committee replied as follows –

- “1. The design of Cyril Le Marquand House was originally based on the concept of a health centre – to be housed in the Octagon section – and a block of offices to accommodate a number of States’ Departments not in fact the same as those now in occupation. States’ decisions taken way back in the 1970s required the Architects’ Department to provide for a completely different set of occupants including the Treasury, for whom strongroom and other security provisions had to be made. In the interests of economy, it was at that time decided to utilise the same basic plans for these changed internal requirements, and as a result it must be said that the Octagon section of the building has not proved entirely suitable for administrative accommodation. The high rise block, on the other hand, is in the current standard for office accommodation and is entirely suited for its use.

2. Economics dictated the decision not to install full air conditioning at an early stage of the redesign; there has been and continues to be a problem in respect of certain areas where security conditions required to meet insurance requirements have produced enclosed or windowless areas; a small number of staff have in fact been subjected to working conditions of a standard below that which the Committee considers acceptable. The heating and ventilating consultants responsible for that part of the design have submitted proposals to overcome these difficulties and the appropriate steps are being taken, albeit at a cost for which States' approval will have to be obtained, to alleviate this unfortunate situation.
3. There are currently no canteen facilities for the staff; this provision was deleted in the redesign stage. No enormous demand exists for this amenity which, it is thought, might not be well used by tenant Departments, which have been provided with a small amount of kitchen facilities, indeed one has vending machines.

Among the uses to which the vacant third floor may be put in due course, a staff canteen is listed for consideration. In the meantime, it is intended to furnish a room for the use of the tenant Departments as a recreational/rest area, with vending machine facilities for those who wish to utilise them. The Committee is awaiting final accounts on the project before committing further expenditure and expects the House to support this prudent policy in respect of such facilities.”

Petition concerning the sentencing of persons convicted in the Police Court. Question and answer.

Deputy Ronald Walter Blampied of St. Helier asked Mr. Vernon Amy Tomes, H.M. Attorney General, the following question –

“With reference to my question in November 1982 concerning the petition with regard to the sentencing of persons convicted in the Police Court, can H.M. Attorney General inform the States whether there has been any further progress in supplying the report which the Legislation Committee needs in order to prepare its own report?”

H.M. Attorney General replied as follows –

“Yes; the report is partially drafted and will be completed as soon as other duties allow”.

Retirement of Chief Officer and Deputy Chief Officer, States of Jersey Police Force. Questions and answers.

Deputy Graham Douglas Thorne of St. Brelade asked Senator John William Ellis, President of the Defence Committee, the following questions –

- “1. In the Jersey Evening Post it was stated that the States Chief Police Officer is retiring in June, 1983. The position has now been advertised. Why was not a local person in the States Police Force trained to take this job?
2. Would it not have been normal practice for the Deputy Police Chief to have taken over the position?
3. Could the President state why the Deputy Chief Police Officer was retired when the media implied he wished to carry on and when one takes into account the economic climate, the money it costs to train a person to hold the position of Deputy Chief Police Officer and the faith the Defence Committee must have had in that person to elevate him to such a high position?
4. What will be the cost of replacing the Chief and Deputy Chief of the States Police Force?
5. What will be the pension of the Chief Police Officer and what is the pension of the now retired Deputy Chief Police Officer?”

The President of the Defence Committee replied as follows –

- “1. The post of Chief Officer of the States of Jersey Police is not one for which Officers can be specifically trained. It was open to any senior Officer in the Force to apply for the position of Chief Officer when the post was advertised. Any such application would have been considered on its merits. No Officer can be required to accept promotion to the post.
2. In the normal way it could have been anticipated that the Deputy Chief Officer might apply for the post of Chief Officer. The former Deputy Chief Officer applied to the Committee for early retirement on the completion of 25 years’ service and the Committee agreed to this request. Following the retirement of the Deputy Chief Officer it was decided to abolish that post and to create the rank of Police Superintendent. The Police Superintendent carries out the functions of Deputy Chief Officer. The present holder of the post of Police Superintendent has chosen not to apply for that of Chief Officer.
3. As stated in reply to question 2, the former Deputy Chief Officer applied to the Committee for early retirement on the completion of 25 years’ service and the Committee agreed to this request. An application to retire is not consistent with a wish to continue in office.
4. There is no cost incurred by the appointment of a new Chief Police Officer other than the salary he will be paid. The post carries a salary range, as advertised, of £20,736 – £23,409 per annum. The position with regard to the post of Deputy Chief Police Officer has been explained.
5. I am of the view that the amount of the pension of a public employee who has contributed to the compulsory pension scheme is a private matter. Should the questioner so wish, I will be prepared to provide the information he seeks, privately, and on a confidential basis.”

Retirement of Director, Ports of Jersey. Questions and answers.

Deputy Graham Douglas Thorne of St. Brelade asked Senator Bernard Thomas Binnington, President of the Harbours and Airport Committee, the following questions –

- “1. As it has been known for a considerable time that the Director, Ports of Jersey, was retiring and on one occasion was asked to extend his term of office, thus giving the Harbours and Airport Committee plenty of time to consider training a replacement, will the President inform the States whether anybody locally has been trained to replace the Director?
2. When the Director, Ports of Jersey, retires, what will be his pension?”

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

- “1. In March, 1982, a Working Party was formed under the Chairmanship of Senator J.C. Averty, the President of the Establishment Committee and whose members consisted of myself, as President of the Harbours and Airport Committee, Mr. P. Baker, then Vice-President of the Harbours and Airport Committee, Mr. F.K. Ibbotson, a Management Consultant, Mr. C.N. Robson, the then Chief Executive Officer of the States Personnel Department and Mr. R.F. Amy of that Department, to consider the most appropriate future management structure for the Harbours and Airport Department, following the retirement of Mr. B.A. Mellor early next year.

The Working Party is presently considering a draft report of the Consultant and Officers of the States Personnel Department, prior to its presentation to the Harbours and Airport Committee.

As soon as a final decision had been made by my Committee in this respect, I shall, of course, make a statement in the House.

2. At age 65, Mr. Mellor will receive an Old Age Pension based upon the contributions that he has paid, together with a Superannuation Pension also based on the contributions paid, subject to the abatement arrangements in force between the two systems, the value of which is obviously not possible to quantify at this time.”

**States Contracts – faulty work or use of inferior materials.
Questions and answers.**

Deputy Graham Douglas Thorne of St. Brelade asked Mr. Vernon Amy Tomes, H.M. Attorney General, the following questions –

- “1. What redress does the taxpayer have through the States, in a case where a firm or company is carrying out contract work for the States and the work has to be rectified or redone –
 - (a) through faulty work?
 - (b) as the result of the use of inferior, sub-standard or faulty material?
 - (c) as the result of gross negligence?
2. What redress does the taxpayer have, through the States, in a case where a firm or company is carrying out contract work for the States, faulty work is done or inferior or faulty material is used and this work was supervised by a supervisor employed by the States and passed by that employee?
3. If work is done by direct labour instead of by a private contractor and similar circumstances as in question 1 applied, what redress would the taxpayer have where direct labour was involved?”

H.M. Attorney General replied as follows –

“It is, I think, unfortunate that the questioner did not seek to discuss these questions with me before tabling them. I

am far from certain what information it is that is being sought from me. I am somewhat mystified by the references to the taxpayer when the questions appear to enquire into the contractual rights of the States as one party to a bilateral contract with a commercial firm or company. These are matters of contract law and the individual taxpayer is a stranger to the contract and has no rights, obligations or duties under the contract.

Although the questions do not say so, I deduce – I assume correctly – that they refer to building contracts. In such contracts there are two parties, the States as client, and the builder. The builder may in turn nominate sub-contractors to perform specific aspects of the work. In Jersey such contracts are usually in standard form, the terms and conditions of which are prescribed by the Royal Institute of British Architects (R.I.B.A.). In such contracts the builder warrants to the client (in our case the States) that his workmanship will be of an acceptable standard and that he will use only materials of an acceptable quality. If he can positively be proved to be in breach of those undertakings then he has broken his contract. The questioner's first question confines itself to only one available remedy and to use his words '... the work has to be rectified or redone'. In normal circumstances this has to be done at the builder's expense to the satisfaction of the client (i.e. the States). That is the basic legal position. It may be affected in a variety of ways by the factual circumstances of a given case – e.g. the culpability of a sub-contractor, the availability of evidence, or questions of prescription, arising under the standard terms of the individual contract. As the question is posed in the most general terms, this is certainly not the forum in which it would be appropriate for me to speculate upon, or to recount, the innumerable possibilities which could arise depending upon the circumstances of individual cases.

The questioner goes on to enquire, in his second question, as to the effects of 'a Supervisor employed by the States' passing work. I do not know whether he is addressing himself to the Building Inspectorate whose duties are defined and circumscribed by statute, or to the clerk of

works who co-ordinates the work of various contractors across the entire site or to the architect who issues completion certificates at various stages of the work. Very different legal considerations apply to each of those groups and each perform different functions at different stages of the contract. It would be idle of me to attempt to provide here a general academic description of those varying considerations embracing both the law of contract and the law of employment. All that I can usefully say, in general terms, is that where there has been contributory negligence on the part of the States, through its employees, the contractor is likely to avoid part if not the whole of his liability.

The questioner's final question appears to amount to this, 'What happens if the States themselves do faulty building work using their own workforce?' Examples of this must surely be rare but I have little doubt that the work would be rectified as necessary at the cost of the States. If the taxpayer is concerned that public money has been wasted as a result of this he could raise the matter with his political representative who could in turn raise this matter with the Committee concerned or, ultimately, in this House."

Falkland Islands. Statement.

The President of the Finance and Economics Committee made a statement in the following terms –

"The House will, I feel, be glad to be informed of what has taken place in relation to the gift of £5m. made by the Island to Her Majesty's Government for the Falkland Islands.

The House will recall that the gift was proposed, on the 8th June, 1982, at a time when the fighting was at its height, was approved by the House on the 14th June, and was in the following terms:

'that the Bailiff be requested to convey to Her Majesty's Government the offer of the sum of £5m. towards the expense of the recovery and re-establishment of the Falkland Islands.'

A cheque for the amount in question was formally presented to Her Majesty's Government by the Bailiff, accompanied by Senator John Averty, Vice-President of the Finance and Economics Committee, on the 29th July, 1982. Warm appreciation was expressed by Lord Elton, on behalf of Her Majesty's Government.

Although the gift was made to Her Majesty's Government towards the expenses either of recovery, which was the primary concern at the time the offer was proposed, or of re-establishment, Her Majesty's Government has stated that it would wish the whole of the amount to be applied to re-establishment.

The sum of £250,000 has so far been given to the Falkland Islands Appeals Fund, which was set up to provide immediate short term relief, for example in the replacement of lost possessions, and which was in urgent need of funds.

With regard to the balance of the amount, Her Majesty's Government has indicated that it would welcome the view of the Island representatives as to the purposes with which the gift should be associated, and has sent to the Bailiff a list of many possible projects. In consultation with myself, the Bailiff has submitted a short-list, with terms relating respectively to housing, a school and a hospital, about each of which he has asked for further details, including the nature, scope and cost of each project.

When these details are received, it is proposed to consult representatives of the House, probably the Presidents, as to what recommendations should be made."

Harbours and Airport Committee – amalgamation of votes of credit.

THE STATES, adopting a Proposition of the Harbours and Airport Committee, authorised that Committee to amalgamate the undermentioned Capital Votes of Credit into a single Vote entitled "Recabling Runways/Standby Power Station – High Voltage Cable Link" –

- (a) C.0288 – Recabling Runways 09 and 27 – VASI Units;
- (b) C.0289 – Standby Power Station – High Voltage Connection.

Housing Assistance for States' Employees – Amendment.

THE STATES commenced consideration of a Proposition of the Establishment Committee to amend an Act of the States of 30th November, 1977 relating to housing assistance for States' employees. After discussion, and on the Proposition of Deputy Maurice Clement Buesnel of St. Helier, the Proposition was lodged "au Greffe".

Transfer of capital vote of credit.

THE STATES, adopting a Proposition of the Land Reclamation Committee, approved the transfer to the Island Development Committee of the balance of the Capital Vote of Credit C.1404 granted to the Land Reclamation Committee under the heading "Preparatory expenses for reclamation schemes".

Dairy Industry – Improvement of productivity.

THE STATES commenced consideration of a Proposition of the Agriculture and Fisheries Committee regarding proposed measures to improve productivity in the dairy industry. Having adopted the proposition of Senator Ralph Vibert that sub-paragraph (e) of paragraph (1) be referred back to the Committee, and having rejected the Proposition of Deputy Edgar John Becquet of Trinity that the whole of paragraph (1) be referred back, and having consequently re-lettered sub-paragraphs (f) and (g) as (e) and (f) respectively, the States –

- (1) referred to the Act of the States dated 23rd October, 1973 relating to milk recording incentive bonus schemes, and agreed that the existing procedure for the payment of such bonuses should be changed by –

- (a) withdrawing the bonus paid to producers for participation in the milk recording scheme;
- (b) maintaining at 8p per gallon the winter bonus on milk but altering the period covered to October to February instead of November to March as at present;
- (c) changing the basis upon which yield incentive bonuses are calculated;
- (d) introducing an additional incentive to reward producers whose animals produce a butterfat content of 5.2 per cent or more;
- (e) offering further incentives to encourage better grassland management, improved drainage, fencing and watering of animals;
- (f) encouraging the formation of Breeders' Groups to improve herd selection.

Consideration of paragraph (2) was deferred to 1st March, 1983.

Members present voted for sub-paragraph (a) of paragraph (1) as follows –

“Pour” (49)

Senators

Vibert, Shenton, Jeune, Averty, Binnington,
de Carteret, Horsfall, Ellis, Baal, Rothwell.

Connétables

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

Deputies

Mourant(H), St. Ouen, Morel(S), Le Maistre(H),
St. John, Quenault(B), Perkins(C), Troy(S),
Le Gallais(S), Roche(S), Le Brocq(H),
Le Quesne(S), St. Martin, Filleul(H), St. Peter,

Le Main(H), O'Connor(C), Farley(H), Le Fondré(L),
Rumboll(H), Buesnel(H), Grouville, St. Mary,
Beadle(B), Thorne(B), Wavell(H), Blampied(H).

“Contre” (3)

Senator

Sandeman.

Deputies

Trinity, Vandervliet(L).

Harbours (Amendment No. 12) (Jersey) Regulations, 1983.

THE STATES, in pursuance of Article 4 of the Harbours Administration (Jersey) Law, 1961, made Regulations entitled the Harbours (Amendment No. 12) (Jersey) Regulations, 1983.

Deputy B.E. Troy of St. Saviour – resignation.

The Bailiff informed the States that he had received notice in writing from Deputy Brian Edward Troy of St. Saviour resigning his office.

Deputy B.E. Troy of St. Saviour – resignation. Personal statement.

Deputy Brian Edward Troy of St. Saviour made a statement in the following terms –

“It is with profound regret that I must resign my seat in the House.

My resignation is to take immediate effect and is entirely due to a change in my situation at my office. For the last seven years, I have only been able to carry out my political work because of the very considerable support given to me by my partner Advocate Michel and I would like now to pay public tribute to him. Unfortunately, however, that support will shortly no longer be available to me and I have therefore been obliged to reconsider my position.

I have, of course, looked at the possibility of remaining in the House but resigning my Presidency and drastically curtailing my other political activities. I have come to the conclusion that this course of action would be undesirable both from the political point of view in that I would not be doing justice to the office of Deputy and also from a personal point of view.

I have therefore decided that the best thing to do is to make a clean break now so that I can concentrate on my business for the new few years. I hope to be in a position to offer myself for re-election at some future date.

It is unfortunate that I have to leave Fort Regent without a Chief Officer and also at a time when broad proposals for the Rotunda development are almost ready for submission to the House. However, my resignation now will enable the new President to be involved in the selection process of the Chief Officer and I have agreed to make my services available in an advisory capacity for that purpose if required.

As far as the Rotunda is concerned, it is a personal disappointment to me that I will be unable to present the forthcoming proposals but there remains some further enquiry and preparation which will benefit from being completed at a proper rather than a hurried pace.

I must pay tribute to my Committee, which has remained substantially the same for four years, for all their hard work and loyal support which they have given me. I also thank my other States colleagues for their friendship.

I am grateful to my Electors in St. Saviour No. 2 District for doing me the honour of choosing me as one of their Deputies and for their support and encouragement during my term of office.

Finally, Sir, I must thank you for your unfailing support, understanding and courtesy at all times.”

Deputy B.E. Troy of St. Saviour – resignation.

The Bailiff, on behalf of the States, thanked Deputy Brian Edward Troy of St. Saviour for his services to the Island over the past seven years and conveyed to him the best wishes of the Assembly.

Fort Regent Development Committee – vacancy in Presidency.

In accordance with Article 28(3) of the States of Jersey Law, 1966, the Bailiff gave notice that there was a vacancy in the office of President of the Fort Regent Development Committee.

THE STATES rose at 5.35 p.m.

R.S. GRAY,

Deputy Greffier of the States.