

**THE STATES assembled on Tuesday,
7th December 2004, at 9.30 a.m. under
the Presidency of the Bailiff,
Sir Philip Bailhache.**

**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 –

Maurice François Dubras, Deputy of St. Lawrence– out of the Island.

Prayers

Subordinate legislation tabled

The following enactments were laid before the States, namely –

Community Provisions (Implementation of the mandate of the International Criminal Tribunal for the former Yugoslavia) (Jersey) Order 2004. <i>Policy and Resources Committee.</i>	R&O 146/2004.
Excise Duty (Relief and Drawback) (Amendment No. 3) (Jersey) Order 2004. <i>Finance and Economics Committee.</i>	R&O147/2004.
Residential Homes (General Provisions) (Amendment No. 11) (Jersey) Order 2004. <i>Health and Social Services Committee.</i>	R&O148/2004.
Nursing Homes and Mental Nursing Homes (General Provisions) (Amendment No. 11) Order 2004. <i>Health and Social Services Committee.</i>	R&O149/2004.
Ancillary Dental Workers (Registration) (Fees) (Jersey) Order 2004. <i>Health and Social Services Committee.</i>	R&O150/2004.
Food and Drugs (Ice-Cream Stalls etc.) (Amendment No. 25) (Jersey) Order 2004. <i>Health and Social Services Committee.</i>	R&O151/2004.
Cremation (Fees) (Amendment No. 2) (Jersey) Order 2004. <i>Health and Social Services Committee.</i>	R&O152/2004.
Nursing Agencies (General Provisions) (Amendment No. 20) (Jersey) Order 2004. <i>Health and Social Services Committee.</i>	R&O153/2004.

Matters presented

The following matters were presented to the States –

States Members' parking (P.199/2004): comments. <i>Presented by the Privileges and Procedures Committee.</i>	P.199/2004. Com.
States Members' parking (P.199/2004): comments. <i>Presented by the Finance and Economics Committee.</i>	P.199/2004. Com.(2)
Budget 2005: amendments (P.203/2004) – comments. <i>Presented by the Finance and Economics Committee.</i>	P.203/2004. Com.
Draft Income Tax (Amendment No. 24) (Jersey) Law 200 (P.205/2004): amendments (P.205/2004 Amd.)– comments. <i>Presented by the Finance and Economics Committee.</i>	P.205/2004. Amd.Com.
Housing Rent Subsidy Scheme: disregard to long-term incapacity benefit (P.207/2004) – comments. <i>Presented by the Employment and Social Security Committee.</i>	P.207/2004. Com.
Budget 2005: second amendments (P.208/2004) – comments. <i>Presented by the Finance and Economics Committee.</i>	P.208/2004. Com.
Budget 2005: third amendments (P.212/2004) – comments. <i>Presented by the Policy and Resources Committee.</i>	P.212/2004. Com.
Budget 2005: third amendments (P.212/2004) – comments. <i>Presented by the Finance and Economics Committee.</i>	P.212/2004. Com.(2)
Budget 2005: fourth amendments (P.215/2004) – comments. <i>Presented by the Finance and Economics Committee.</i>	P.215/2004. Com.
Budget 2005: fifth amendments (P.216/2004) – comments. <i>Presented by the Finance and Economics Committee.</i>	P.216/2004. Com. (re-issue)
Budget 2005: sixth amendments (P.217/2004) – comments. <i>Presented by the Finance and Economics Committee.</i>	P.217/2004. Com. (re-issue)
Budget 2005: seventh amendments (P.218/2004) – comments. <i>Presented by the Finance and Economics Committee.</i>	P.218/2004. Com.
Budget 2005: eighth amendments (P.220/2004) – comments. <i>Presented by the Finance and Economics Committee.</i>	P.220/2004. Com.

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 25th November 2004, showing that, in pursuance of Standing Orders relating to certain transactions in land, the Committee had approved –

- (a) as recommended by the Environment and Public Services Committee, the lease to Mr. John Jackson of a three-bedroom house with garden known as No. 3 Howard Davis Farm, Trinity, for an initial period of

12 months at an annual rent of £13,000, subject to annual review at the discretion of the Committee in line with the Jersey Retail Price Index thereafter, with the agreement to be terminable by either party upon 3 months notice, on the basis that the lease was to be granted upon tenant's internal repairing terms with the public to be responsible for the structural items, external repair and decoration, and the tenant to be responsible for the payment of occupier rates and utility invoices;

- (b) as recommended by the Housing Committee, the sale to Mr. David Dorgan and Mrs. Patricia Joa Dorgan, née Feltham, (owners of Dale Cottage, No. 106 St. Saviour's Road, St. Helier), of an area of land, (measuring 50 square metres) adjacent to Dale Cottage, (as shown on Drawing No. M701/03 date 11th June 2004 prepared by the Public Services Department), for a consideration of £5,000, with the terms of the sale of land to be as set out in a report, dated 9th November 2004, prepared by the Director of Property Services. Each party would be responsible for its own legal costs in relation to this transaction (The Committee accordingly rescinded its Act No. A2(i) of 29th November 2002.);
- (c) as recommended by the Environment and Public Services Committee, the assignment to Mr. Attilio Pirozzolo and Mrs. Brenda Ann Pirozzolo, née Evans, by Mr. Peter Gibbins and Mrs. Ann Huelin, nee Gibbins of the property known as Le Braye Café, St. Oue's Bay, St. Brelade, for the remaining term of the current 6-year lease, the assignment to take effect from 30th November 2004, with the Lessee to be responsible for the payment of the reasonable costs of the transaction;
- (d) as recommended by the Environment and Public Services Committee, the renewal of the lease to Mr. Vernon Stuart Pallot of Field No. 724, Le Pré de la Reine, Grouville (measuring approximate 3.30.0 vergées), to be used for agricultural purposes only, for a period of 3 years from 25th December 2004, at an annual rent of £150, (payable on 24th June each year), on the basis that each party would be responsible for its own legal costs arising from the transaction; and,
- (e) as recommended by the Environment and Public Services Committee, the entering into of a Deed of Arrangement with Dandara Jersey Limited for the undermentioned land exchange and counter-exchange in respect of the Rex Hotel site, Pleasant Street, St. Helier—
 - (i) the acquisition by the public of a strip of land (measuring approximately 70.66 square metres— as shown on Drawing No. PHT 678 01) along the length of the site and bordering Pleasant Street in order to facilitate the creation by the company at its cost of a 2 metre wide pavement to the satisfaction of the Public Services Department, including making good the carriageway surface as required adjacent to the new pavement (whilst maintaining a 4 metre wide carriageway), for a consideration of £10;
 - (ii) the acquisition by the company of a parcel of land to the rear of No. 35 St. Saviour's Road (adjoining Pleasant Street – measuring approximately 28.78 square metres, as shown on Drawing No. PHT 678 01), for a consideration of £10.

Dandara Jersey Limited would be responsible for both parties' legal costs arising from the transaction.

Matters lodged

The following matters were lodged "au Greffe" –

Draft Medicines (Amendment No. 2) (Jersey) Law 200. <i>Presented by the Health and Social Services Committee.</i>	P.214/2004.
Manual Workers' Joint Council: membership. <i>Presented by the Policy and Resources Committee.</i>	P.219/2004.
Senatorial Elections 2005.	P.221/2005.

Presented by Deputy P.N. Troy of St. Brelade.

Draft Income Tax (Amendment No. 24) (Jersey) Law 200.
Finance and Economics Committee.

P.222/2004.

Draft Income Tax (Amendment No. 24) (Jersey) Law 200 P.205/04 – withdrawn

THE STATES granted leave to the President of the Finance and Economics Committee to withdraw the Draft Income Tax (Amendment No. 24) (Jersey) Law 200, (P.205/2004 lodged “au Greffe” on 23rd November 2004), set down for consideration at the present meeting, the Committee having lodged a revised proposition at the present meeting.

Arrangement of public business for the next meeting on 14th December 2004

THE STATES confirmed that the following matters lodged “au Greffe” would be considered at the next meeting on 14th December 2004 –

Sites of Special Interest and Buildings of Local Interest: financial implications. P.166/2004
Lodged: 28th September 2004.
Deputy of St. John.

Sites of Special Interest and Buildings of Local Interest: financial implications P.166/2004.
(P.166/2004) – comments. Com.
Presented: 23rd November 2004.
Environment and Public Services Committee.

Draft Electricity Links with France (Protection of Submarine Cables) (Jersey) P.184/2004.
Regulations 200-.
Lodged: 26th October 2004.
Harbours and Airport Committee.

Fields 89, 89A, 90, 92 and 93, Le Marais, St. Clement: redevelopment- approval P.200/2004.
of drawings.
Lodged: 16th November 2004.
Housing Committee.

Maritime House, La Route du Port Elizabeth, St. Helier: transfer of administration. P.201/2004.
Lodged: 16th November 2004.
Policy and Resources Committee.

Draft Planning and Building (Amendment) (Jersey) Law 200-. P.210/2004.
Lodged: 23rd November 2004.
Environment and Public Services Committee.

Share transfer property: stamp duty. P.211/2004.
Lodged: 23rd November 2004.
Deputy of St. Martin.

Draft Health Insurance (Medical Benefit) (Amendment No. 60) (Jersey) P.213/2004.
Regulations 200-.
Lodged: 30th November 2004.
Employment and Social Security Committee.

Services of general practitioners – question and answer (Tape No. 982)

The Deputy of St. John tabled the following written question of Senator Stuart Syvret, President of the Health and Social Services Committee –

“Would the President inform members –

- (a) whether the Committee intends to validate General Practitioners (GPs), as currently done in the U.K., and, if so, how this will be achieved in the light that most of the Island’s GPs are in private practice and have invested heavily in these practices?
- (b) whether the Committee is considering taking over the various practices, and, if so, how this will be achieved and whether this includes reimbursement of those GPs’ financial investment in those practices? and,
- (c) whether the Committee will undertake to bring to the States any proposals for the implementation of revised GP’s service before any new scheme is put in place, if any, given the concerns of current GPs in the Island?”

The President of the Health and Social Services Committee tabled the following written answer –

“The General Medical Council (GMC) is the U.K. based body which is responsible for registering both consultants and general practitioners and, through that process, is responsible for ensuring that these professionals conform to clearly set professionals standards. The GMC is the body, which in extreme circumstances can ‘strike off’ a doctor from its register thus making it impossible for that doctor to continue to practice medicine. (For either a consultant or a GP to practise medicine in Jersey he/she must have full GMC registration and then be registered by the Royal Court).

In response to a number of medical blunders and scandals which occurred in the 1990s, the GMC proposed the introduction of “re-validation”. Re-validation is the means by which a consultant or a GP submits to a 5-yearly assessment of his/her clinical practice. If that doctor is re-validated then he/she will be issued with a ‘licence to practice’ which will be valid for 5 years, at which point the process would repeat itself. However if that doctor failed to be re-validated then, in extremes, he/she could be de-registered and thus no longer be able to practice medicine legally.

Since the concept of re-validation was first canvassed there has been a growing interest, and growing anxiety, amongst doctors about re-validation. These feelings are increasing now because the date from which re-validation comes into effect is close at hand, namely April 2005, less than four months away. The introduction of re-validation at this time is part of the U.K. government’s response to the Fifth Report of the Shipman Inquiry which is due for publication imminently. The report is assumed to be extremely critical of the current governance regime which allowed Shipman to murder so many of his patients.

The formal position is that only doctors working in the U.K. are required to subject themselves to re-validation. However, the convention and practice in Jersey is that the standards governing doctors are the same standards as apply in the U.K. Thus the Health and Social Services Committee will be taking steps to amend Jersey law to ensure that the re-validation and licence to practice arrangements which will apply in the U.K. apply also to Jersey. The Bailiwick of Guernsey has already begun the process of changing its law in this way. Retiring GPs look to new GPs from the U.K. to buy into the equity of their practices. The likelihood is that without re-validation operating in Jersey, the Island will be deemed to be a clinical backwater. It will, therefore, fail to entice new GPs, and this equity will rapidly become worthless. Thus on material grounds alone re-validation is extremely important for Jersey based GPs.

However, it is important to stress that representatives of consultants and GPs have declared that it is unacceptable for the medical profession in Jersey not to be re-validated and not receive licenses to practice. They believe this is important if they are to continue to give re-assurances to their patients and to the general population that clinical standards in Jersey are of the highest.

It is fair to say that, as a result of representations made by the Health and Social Services Committee to the GMC on behalf of Jersey based doctors, the GMC has recognised that it has under-estimated the impact of re-validation on those small jurisdictions which look to the U.K. for the determination of clinical standards. Thus, the Health and Social Services Committee has assisted the GMC in establishing contact with these jurisdictions; jurisdictions as far away as the Falkland Islands, in order that these new arrangements can be introduced equally across the board.

There are two routes by which GPs, (and consultants for that matter), can be re-validated. The first is an onerous and intrusive arrangement by which the individual doctor is subject to close personal scrutiny by the GMC itself. The second route is an arrangement by which doctors are actively involved in a 'GMC approved environment'.

A GMC approved environment is one which has all of the following characteristics –

Appraisal is practiced to a high standard.

There is a robust governance regime in place.

Procedures exist for identifying and dealing with significant concerns about a doctor's health or probity.

There are clear lines of responsibility and accountability for the overall quality of clinical care.

That the above arrangements are quality assured by a competent external agency such as the Healthcare Commission, (previously known in the U.K. as the Commission for Health Improvement).

If doctors work in such an environment then a senior accountable person can 'locally certificate' a doctor; in other words, re-validation would be by proxy. The Health and Social Services Committee can offer consultants such local certification because the characteristics of a GMC approved environment are almost in place, and will be fully in place for April 2005. Clearly, local GPs fall outside of such an environment at present.

In the light of the above preamble the three questions are answered as follows –

- (a) Whether the Committee intends to validate General Practitioners (GPs), as currently done in the U.K., and if so, how this will be achieved in the light that most of the Island's GPs are in private practice and have invested heavily in these practices?

It can be seen from the above that it is not the Committee which validates GPs. It is the GMC. If GPs wish to enter into a formal arrangement with the Health and Social Services Committee, by which they would fully participate in the Health and Social Services Committee's 'MC approved environment', then they are most welcome to do so. However, this would have to be on the basis of a clear and unequivocal policy statement which binds all GPs. Should GPs wish to become active members of the Health and Social Services Committee's GMC approved environment, and it is entirely up to them, then it must be recognised that this would have significant implications for the way in which general practice is deployed, funded and 'managed' in Jersey.

- (b) Whether the Committee is considering taking over the various practices, and if so, how this will be achieved and whether this includes reimbursement of those GPs' financial investment in those practices?

The Committee has no plans to take over GP practices. Indeed, the Committee has no powers to do this. However, the Committee is aware that some GPs believe that the pay and conditions of Jersey-based GPs are now falling significantly behind those of their U.K.-based counter-parts. Thus should GPs wish to re-negotiate their present remuneration arrangements with the States of Jersey then it will certainly be necessary to include in such a re-negotiation consideration of a number of factors

including national remuneration rates for GPs, incentivisation , equity values and the high ratio of GPs on the Island.

- (c) Whether the Committee will undertake to bring to the States any proposals for the implementation of revised GP's service before any new scheme is put in place, if any, given the concerns of current GPs in the Island?

The Committee has no powers to take over practices as explained at (b) above. However, should the circumstances arise that Jersey-based GPs wished to re-negotiate and change their remuneration arrangements, it goes without saying that such significant new arrangement would be brought to the States for approval. The Committee is not aware of any 'concerns of current GPs on the Island ... (about)... any new scheme'; for whilst I and the departmental officers have had discussions with local GPs on a wide range of issues, as the States would expect as part of an on-going discourse with GPs, general practice currently falls outside the management of the Committee itself. The Committee is aware that significant discussions are taking place amongst the General Practitioners at present, with a diverse range of views being expressed. We await with interest the conclusion of these discussion and we look forward to receiving a clear proposal from the Jersey Medical Society as to their preferred way forward."

Public sector employees with outside financial interests – question and answer (Tape No. 982)

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

"Would the President inform members whether any civil servants or other public sector employees have been permitted to resign from their posts or leave on health grounds for having outside financial interests and if so whether these involved trade with other States' departments, and, if so, would he provide details of the number of personnel involved in the last 5 years?"

The President of the Policy and Resources Committee tabled the following written answer –

"The question would appear to suggest that there may have been instances where an individual's employment could have been terminated due to outside financial interests, but that individual may instead have been permitted to resign or leave on health grounds.

In relation to retirement on health grounds, it should be noted that this would have to be fully justified on the basis of long-term incapacity and is subject to independent verification by the States medical advisers BMI. There have been no cases where an individual has been permitted to retire on health grounds rather than face dismissal for having outside financial interests.

In relation to the termination of employment on disciplinary grounds, any department considering dismissal on this basis is required to take advice from the States Human Resources Department. I am not aware of there having been any cases where an individual was permitted to resign for having outside financial interests, rather than face disciplinary action."

Possible review of Jersey Heritage Trust's management of Mont Orgueil Castle – question and answer (Tape No. 982)

Deputy Gerard Clifford Lemmens Baudains of St. Clement tabled the following written question of Deputy Sarah Craig Ferguson, Shadow Chairman of the Shadow Public Accounts Committee –

"In the light of recent public comment regarding the Jersey Heritage Trust's management of Mont Orgueil Castle, including such things as the commissioning and placing of statues, would the Shadow Chairman agree to undertake a review of this Body as soon as possible to ensure that public monies are being used

efficiently and effectively?”

The Shadow Chairman of the Shadow Public Accounts Committee tabled the following written answer –

“One of the areas which the Shadow Public Accounts Committee (PAC) intends to review next year is the accountability and corporate governance arrangements over grants paid by States departments to organisations. This follows on from the internal audit report produced earlier this year which identified a concerning lack of corporate governance surrounding the grant paid by the Economic Development Committee to the Jersey Competition Regulatory Authority (JCRA). The Shadow PAC will be issuing its own report on the lessons to be learnt from the internal audit report on the grant paid to the JCRA in January 2005.

In the absence of a Comptroller and Auditor General, the professional audit support provided to the Shadow PAC is currently supplied by the internal audit department of the States Treasury. The 2005 internal audit plan includes an audit of the grant paid by the Education, Sport and Culture Committee to the Jersey Heritage Trust. The primary objective of the audit will be to confirm how the Education, Sport and Culture Committee administer the grant payment, monitor how the expenditure contributes to their own objectives and satisfy themselves that the money is spent for the purpose intended and with due regard to the principles of corporate governance and value for money. The audit will involve checks at the Department of Education, Sport and Culture and the Jersey Heritage Trust.

The internal audit was scheduled to take place in April 2005. I can confirm that I have instructed that the audit should be brought forward to January 2005 and that the results will be reported to the Shadow PAC. The audit will be managed by the Chief Internal Auditor and undertaken by Foursight Consultants.”

Vehicle Registration Duty claimed back by the farming industry – question and answer (Tape No. 982)

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

“Would the President advise members how much money has been claimed back by the farming industry on Vehicle Registration Duty since the scheme began, the number of claimants and the number of and types of vehicles registered?”

The President of the Economic Development Committee tabled the following written answer –

“The scheme began in 2003, and since then there have been 32 claimants. The total paid out is £94,550 and the number and types of vehicles registered are as follows –

- 24 tractors
- 6 agricultural material handlers
- 2 forklifts
- 2 combine harvesters
- 1 forage harvester.”

Proposed States Business Plan – question and answer (Tape No. 982)

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

“Will the President inform members whether the Committee intends to include the judicial departments and the Law Officers’ Department in the proposed States Business Plan in support of the States Strategic Plan, to ensure a level playing field exists in relation to the even administration of public money in respect of matters such as the £10.7 million which is currently retained in the Criminal Offences Confiscation Fund, and, if not

the reasons why?”

The President of the Policy and Resources Committee tabled the following written answer –

“Yes, the Committee does propose to include the judicial departments and the Law Officers’ Department in the proposed States Business Plan, in the same way that they are currently included in the Resource Plan and Budget, and cash limits for all departments will be included in this document.

The Criminal Offences Confiscation Fund (C.O.C.F.) is managed and controlled by the Finance and Economics Committee in accordance with Article 24 of the Proceeds of Crime (Jersey) Law 1999. The C.O.C.F. is a Special Fund which is outside general States revenues, and the Law specifies that it may be used *‘in promoting or supporting measures that, in the opinion of the (Finance and Economics Committee), may assist –*

- (i) in preventing, suppressing or otherwise dealing with criminal conduct;*
 - (ii) in dealing with the consequences of criminal conduct; or*
 - (iii) without prejudice to the generality of clauses (i) and (ii), in facilitating the enforcement of any enactment dealing with criminal conduct;*
- (b) discharging the Island’s obligations under assets-sharing arrangements; and*
- (c) meeting the expenses incurred by the Committee in administering the Fund.’*

Other examples of Special Funds include the General Reserve and the Social Security Reserve Fund. As with these other funds, the C.O.C.F. has not been included in the Resource Plan and Budget, nor will it be included in the Business Plan.”

Benefits – questions and answers (Tape No. 982)

Deputy Geoffrey Peter Southern of St. Helier tabled the following written question of Senator Paul Francis Routier, President of the Employment and Social Security Committee –

- “1. Further to answers provided by the President to written questions on 9th November 2004, would the President –
- (a) confirm that the figures provided in response to question 1(b) show a marked decrease from 18% to 6.6% in those claiming a dependency increase for Short Term Incapacity Allowance (STIA) and that if this reduction were indicative of the year it would produce a saving on annual STIA spending of around £1.2 million?
 - (b) explain the meaning of the answer to question 2(a) that “if the CRSP research set the level of contributory benefits, this would mean substantial reductions in benefits” given the fact that the CRSP figures contain no housing element?
 - (c) explain, if there is to be no connection between the CRSP minimum budget standards and contributory benefit levels, how and when these levels were set, and whether they are to be reviewed in the future?
2. (a) Will the President undertake to produce for members estimates of the following annual figures in January, based on the 4th quarter of 2004 –
- (i) the numbers claiming dependency increase for STIA as in question 1(b) of 9th November 2004?

- (ii) the numbers moving to Long Term Incapacity Allowance (LTIA) with wives, working and non-working, now unable to claim dependency increase as in question 2(c)?
 - (iii) the numbers claiming LTIA now assessed at a percentage of benefit who previously would have claimed invalidity benefit at the full rate, and the consequent reduction in this budget?
- (b) Will the President confirm whether LTIA does not only apply to those with ‘permanent loss of faculty’ as implied by his answer to question 3(a) on 9th November 2004, but to those persons who have a long term illness and who are receiving treatment and who may recover sufficiently to return to work?”

The President of the Employment and Social Security Committee tabled the following written reply –

- “1. (a) The figures supplied in the answer on 9th November 2004, were based on only one month’s experience of the new incapacity benefits but did show a reduction in those claiming dependency increases from 18% to 6.6% in STIA. If this reduction continues, and the future incidence of sickness is at the same level and depth as that in 2003, (though it is impossible to make such a prediction), the estimated reduction in the payment of short-term incapacity allowance compared to sickness benefit would be between £800,000 and £900,000. However, this is not the whole picture as the system now allows payment of LTIA to those in work.
- (b) The figures published by CRSP were for a modest but adequate budget and were found to be lower than the standard rates of Social Security Benefits. Neither the CRSP figures nor Social Security Benefits contain an element for Housing.

Housing support is currently provided through other mechanisms such as the Rent Rebate and Allowance Schemes and Welfare Grants for those in need.

- (c) Contributory benefit levels were set in 1974 and since that time have been annually increased firstly by the index half way between the cost of living and the earnings index and latterly from 1992 by the earnings index alone. Originally, the rates were set at the Welfare level except for the pension which was set 20% below this figure but this was equalised in 1987. The effect of increasing benefits in this way has resulted in Social Security benefits outstripping price inflation and, therefore, Welfare benefit levels.

The levels of benefit were last reviewed in the ‘Continuity and Change’ consultation in 1996 and were generally considered to be reasonable in relation to contribution levels. At that time, no-one wanted to increase contributions to provide a higher rate of benefit, preferring to increase contributions to sustain the benefit system through the demographic period.

As the Deputy is aware, the Committee has embarked on another ‘Policy Review of the Social Insurance system in Jersey’ and recently presented an interim report to the States (R.C.49/2004). No doubt, as this Review proceeds, benefit levels will be discussed, amongst all the other priorities identified in that report.

2. (a) The Committee will, as a matter of course, review progress and is happy to share any statistics with interested members. The Committee will be receiving a quarterly comparison from the Department to avoid any seasonal bias. This will also include all new incapacity benefits to ensure that a full and honest comparison can be made, including those who may not have qualified for benefit under the old system. The Committee would also add at this stage that one quarter’s evidence can be superficial and will be conducting a post implementation audit after one full calendar year of operation.
- (b) I can do no more than quote Article 16 (1) (c) of the Law –

Subject to the provisions of this Law, a person who.....

‘as a result of the relevant disease or injury is suffering from a loss of physical or mental faculty which is likely to be permanent, and....’

shall be entitled to long-term incapacity allowance.”

Effects of the proposed tax rate rises – question and answer (Tape No. 982)

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

“Would the President inform members whether the Committee’s own calculations support the conclusions set out in the figures produced by the Institute of Directors relating to the Committee’s ’20 per cent mean 20 per cent process which suggest that tax rate rises will be greater for the middle earners than for the highest earners, and if not, will he explain why?”

The President of the Finance and Economics Committee tabled the following written reply –

“No one has, as yet, provided a definition of what constitutes ‘middle earners’ and ‘higher earners’ but I can confirm that under the ’20 per cent means 20 per cent proposals higher earners will not only pay more in tax than middle earners but also a higher proportion of their incomes. The Deputy may be confused because mathematically the percentage increase for high earners could be lower, since they already start from a higher tax bill. However, the actual increases will indeed be higher.”

Oral questions

1. Deputy S.C. Ferguson to the President of the Housing Committee:

“When will repair work start on the severe cracks to Le Bel Denton, St. Aubin, and what reparations, if any, will be made to the residents in compensation for living in substandard accommodation for over two years? Will any reparation be sought from the builders?”

Deputy T.J. Le Main (President of the Housing Committee):

“Work is not considered to be essential at this time. It will not be carried out until the third party responsible for causing the damage has agreed to meet the costs. It is not necessary to consider the issue of compensation for residents. While there is undoubtedly damage to the building, this has not made the building either uninhabitable or substandard and, yes, Sir, lawyers acting on behalf of the Committee are presently pursuing those deemed responsible for the damage to make reparations.”

1(a) Deputy S.C. Ferguson:

“But this has been going on for 2 years. Given that the walls of most of the flats resemble a map of the world, will the President confirm when he thinks repairs will be able to start?”

Deputy T.J. Le Main:

“No, I cannot give any details on that. Negotiations are being pursued at the moment between the lawyers and the insurers acting for the third party and it is all in the hands of the legal team at the moment, and the Housing Committee is not prepared to start any works – we do not feel it is necessary at this time – until the matter has been satisfactorily resolved between both parties.”

1(b) Deputy S.C. Ferguson:

“Will the President confirm that he will speak to his officers and the lawyers in order to speed this affair up? It has been going on for more than 2 years.”

Deputy T.J. Le Main:

“There is no point in speaking to the officers. The officers have advised me that they are fully on top of the issue but cannot push the lawyers and both parties any further than they are doing. It is a legal delay,

and many of us know how long it can take sometimes to resolve some of these disputes.”

2. The Deputy of St. John to the President of the Economic Development Committee:

“Can members be given details of the accord between Jersey and Guernsey over Fishing Rights? Will he explain what involvement the United Kingdom Department for Environment, Food and Rural Affairs (DEFRA) has had, if any, in the accord and what implications this will have on Jersey’s fishing industry; and will any Jersey fishermen be deprived of fishing in Guernsey waters?”

Deputy F.G. Voisin (President of the Economic Development Committee):

“Yes, members can have details of the accord. There is certainly nothing secretive about this. If members wish, I can circulate a copy to everybody. The general thrust of the accord though is that both Jersey and Guernsey give a commitment to reaching agreement over access of Jersey fishing vessels to Guernsey waters and to reach that agreement before the end of the year. I can report indeed that discussions are continuing in a very fruitful vein, and I am confident that we are going to be able to achieve that deadline. The U.K. and DEFRA have not been involved on Jersey’s side, although they may have been involved on Guernsey’s side. We believe that this is a matter that the 2 Islands should be capable of resolving themselves. The implications for Jersey’s fishing industry are that in the future we will have certainty over how access of Jersey vessels is to be achieved into Guernsey waters and to resolve the dispute that has beset the industry for the last few years. There is certainly no intention for any Jersey fisherman to be deprived of fishing in Guernsey waters if they have the required track record.”

2(a) The Deputy of St. John:

“Within the accord will the President confirm that something like only a third of fishermen who have actually applied for a licence will be given a licence and the other two-thirds will fall by the wayside; and does he consider that his Committee has not done sufficient to make sure all our fishermen are treated equally?”

Deputy F.G. Voisin:

“I think the Deputy must be referring to the figures contained within the accord, which is also going to be contained within the access agreement that sets out the total limit of 28 vessels – Jersey vessels – that will be allowed into Guernsey waters. That is against the background of about, I think, 70-odd applications that were made when the Guernsey scheme was originally established. I think that both sides do accept that there were some spurious applications made by fishermen that do not fish, and had not been fishing, in the waters around Guernsey. It was accepted – and I think it is accepted – by both sides that those fishermen should not therefore be granted an exclusive... or at least a right to exploit those waters in the future. I would say though that the way negotiations are going at the moment, there is going to be some flexibility within the numbers – sorry, within the individuals – who are able to fish within the waters around Guernsey; and that will be able to help the situation where new fishermen coming into the industry will be able to get access to Guernsey waters.”

2(b) The Deputy of St. John:

“The President is trying to tell us that there is something like in the region of 40 spurious applications. I think it is incredible to believe that a fisherman would go to all the trouble of producing all the documentation that was required (and there was a lot of documentation required) in every application. I think the President is doing the fishermen a disservice. Does the President not consider that, first, by his late action in dealing with this particular matter, which is under his Committee’s control; and, secondly, getting to grips with the fishing dispute, his Committee has let our Island fishermen down and that it should consider standing down and resigning over this issue?”

Deputy F.G. Voisin:

“*[Aside]*. Sorry, but I do not believe for one moment that the Committee was ever late in taking action over this issue. Indeed, as soon as the Committee came into office it was briefed on this situation. We have consistently made representations to Guernsey. I think that there was one Senator who got into trouble for suggesting that it was like dealing with the hearing impaired. The thing is that we have now moved on from the situation where neither island were actually sitting down and entering into meaningful discussions about this and we now have a situation where we are very close to agreement and we are

going to be able to have an agreement where 28 Jersey boats have access to the waters around Guernsey. That is a considerably better situation than we had, for example, when the Jersey Fishermen's Association took the Guernsey authorities to court because they had issued just, I think, a handful of licences on the back of about 70 or 80 applications, so I do not accept that the Committee has been remiss in dealing with this. We have got to grips with it and we have certainly moved the situation on considerably from when we first took office. I should make it quite clear that I am not intending to resign and neither is my Committee intending to resign on this."

3. The Deputy of Grouville to the President of the Finance and Economics Committee:

"Would the President inform the Assembly how much tax is generated from the Jersey exempt company fees annually?"

Senator T.A. Le Sueur (President of the Finance and Economics Committee):

"The amount of tax generated from Jersey exempt company fees is approximately £10 million per annum."

3(a) The Deputy of Grouville:

"Given that that sum is relatively small – and I appreciate that there is a knock on effect of tax income generated from the industry as a whole – would the President consider it to be worthwhile, given that the ordinary people of Jersey have got to make up £100 million tax deficit, to accommodate this portion of the finance industry?"

Senator T.A. Le Sueur:

"I do not follow the question very clearly. As far as the phasing-out of this tax is concerned, we have taken into account relative measures to recover money from companies in a different way as part of our strategy for the future."

3(b) The Deputy of Grouville:

"If we were to account for our capital in the same way as Guernsey, how much would the potential tax deficit – the shortfall – be?"

Senator T.A. Le Sueur:

"I think that is a question I would need to have notice of so as to address the model properly, rather than giving an off the cuff answer."

3(c) Deputy G.P. Southern:

"Is the President aware that many in the finance sector suggest that these companies have no objection to paying the £600 fee and would accept it if that was rolled up into the registration fee, thereby producing little or no reduction in tax income? Is the President aware of this?"

Senator T.A. Le Sueur:

"Yes, Sir, I am, and my Committee has already taken that into account, but I have to point out to the Deputy that that is a charge that could apply both to exempt companies and also to companies which are legitimately trading in Jersey and it could adversely affect property that was in Jersey."

3(d) Deputy L.J. Farnham:

"Just to catch up on the issue, could the President confirm that it is proposed that the income from these companies will disappear under the new 0-10 policy?"

Senator T.A. Le Sueur:

"Under the new 0-10 policy, no longer will exempt companies be charged as such. It may be recovered in another way."

3(e) Senator P.F.C. Ozouf:

"Just following the Deputy of Grouville's question concerning Guernsey and the treatment of capital, would the President confirm that Guernsey publishes their budget surplus or deficit before capital

expenditure?”

Senator T.A. Le Sueur:

“That is correct, Sir.”

4. The Deputy of St. John to the President of the Environment and Public Services Committee:

“(a) Has the Committee undertaken any comparison between the local building bye-laws on the creation of a Radon Barrier and the legislation in the United Kingdom? Has the Committee undertaken research on what parts of Jersey are most susceptible to radon and whether it is a serious problem for schools, homes, hotels, etc., and wells and boreholes; and (b) will the Committee produce its own technical information on this subject and, if so, when?”

Senator P.F.C. Ozouf (President of the Environment and Public Services Committee):

“Radon is a naturally occurring radio active colourless and odourless gas which is formed in small quantities by radioactive decay wherever uranium and radium are found. It can move through the subsoil and so into buildings. It is known that exposure to high levels for long periods increases the risk of developing lung cancer. Results of tests undertaken on homes in Jersey in the early 1990s showed that radon levels were such that it would be prudent to build in radon protection measures when constructing new buildings. As a result, the building bye-laws requirements were changed in January 1997. Radon is particularly prevalent in granite areas. Levels do vary not only between different parts of the Island, but even between neighbouring buildings. The Department is not aware of any problems in schools and hotels. Concerning (b), detailed, easy to follow guidance is contained in the report *Guidance on Protective Measures for New Buildings* published by the United Kingdom Building Research Establishment. This provides the best guidance available on the protection of radon in buildings. My Committee does not see any benefit in the Department producing its own Jersey guidance and there are no proposals to do so.”

4(a) The Deputy of St. John:

“As Jersey appears to follow the United Kingdom in the regulations and information on radon and as radon only occurs in a few places in the United Kingdom, would it not be the duty of the EPC to produce its own technical information which is appropriate for Jersey? Also, Sir, could members be told of the areas in Jersey most susceptible to radon? In the President’s response he mentioned that the last lot of tests were done in the early 1990s and paperwork produced in 1997. When will this paperwork be updated, please?”

Senator P.F.C. Ozouf:

“That was quite a lot of supplementaries, Sir. No, the Department does not believe that it is appropriate to provide its own Jersey guidance. It is a preventative measure. The survey which was carried out by the Department of Health in 1993 showed that a number of properties had radon levels above the recommended level and these properties were spread evenly across the Island. It is known that the National Radiological Protection Board (known as NRPB), a body appointed by United Kingdom Health Ministers to advise on radon matters, holds radon tests for some 140 homes in Jersey and that these show that 15% had levels above the recommended action level. Tests have also been carried out that show that the measures included in the bye-laws are 99% effective in reducing any radon risk.”

4(b) The Deputy of St. John:

“During the time of the testing that was carried out in 1993, is the President aware or not that wells and boreholes were also tested for radon?”

Senator P.F.C. Ozouf:

“I am unaware of whether or not boreholes and wells were tested. I will need to have notice of that question, but I am happy to discuss that with the Deputy after consulting with the Department.”

The Deputy of St. John:

“Excuse me, Sir, but in fact the President did have notice because it was in my original question.”

Senator P.F.C. Ozouf:

“The Deputy is asking particularly whether or not tests were carried out in 1993 that included wells and boreholes and I have not got that information with me.”

5. Senator P.V.F. Le Claire to the President of the Finance and Economics Committee:

“On Tuesday 16th March 2004 the President provided answers to a series of questions on exempt companies, international business companies, captive insurance companies and international treasury operations. Would the President update his answers today?”

Deputy T.A. Le Sueur (President of the Finance and Economics Committee):

“Can I preface my remarks by saying that this is the sort of question which might be better in written form because I am sure that members will have difficulty in relating the answers to the original questions? If it will be helpful, I can circulate the answers in written form afterwards. But basically, Sir, the answers to the questions (b), (d), (f) and (h) remain the same. The answers given to questions (a), (c), (e) and (g) in relation to tax law and practice remain the same. There are currently approximately 16,800 exempt companies in Jersey and the sum collected from them in 2004 to date amount to £10 million. There are currently 183 international business companies in Jersey and the tax collected from them in 2004 to date amounted to £38.5 million. There are currently 11 captive insurance companies in Jersey and the tax collected from them in 2004 to date amounts to £169,200. The number of people employed in all financial institutions in Jersey in 2002, according to page 11 of the Jersey figures published by the Statistics Unit of the Policy and Resources Department, was 11,660. The rest of the answers to question (i) also remain the same.”

5(a) Senator P.V.F. Le Claire:

“It is going to be difficult, but in relation to the answers, could I just ask the President to comment on the following? In relation to the international business companies we have seen a drop of a figure of £52 million to £38.5 million, with the loss of only 2 companies. Given that these companies will eventually be phased out; given that this money is going to be eventually no longer in the Island, together with the exempt companies which have fallen from 17,700 to 16,800, with the loss of £0.6 million; and given the fact that these companies are obviously – it seems from these figures – deriving less and less income in the Island, how is this money going to be recouped, restructured, retaxed; and how is Jersey going to benefit from these companies in the future, bearing in mind that we are going to alter our tax structure to accommodate a larger proportion of the changes that we are having to make due to these companies?”

Senator T.A. Le Sueur:

“I think I should point out, firstly, that the figures I have given show the revenue in 2004 to date. It is not yet the financial year-end and there could be additional revenues still coming in. But in terms of the fall in my revenue and certainly the fall in revenue post the move to 0-10, it is clearly understood that it is in fact contributing to part of the deficit that we are talking about of £80 million to £100 million. That revenue will no longer be available and will have to be raised from other sources.”

The Bailiff:

“It seems to me that these issues really are appropriate, as the President has said, for written questions rather than oral questions and I propose therefore to move on to the next question.”

The Deputy of St. John:

“Sir, on a point of order, can I say that when we agreed a few months ago to go down the road of written questions and oral questions, we were told that we could have a broad spectrum of approach towards this. For the President to stand up and say he wants to give it in written form, that’s all well and good, but he should be open to scrutiny verbally, Sir.”

The Bailiff:

“That is absolutely right, Deputy, and I speak only for myself, but I must say that I could not understand the President’s answer to the question because I did not have in front of me the answers of 16th March 2004. Other members may be in the same position, I do not know. It does not seem to me that this is an

appropriate series of questions to be dealt with by oral questions, which ought to be more focused and more narrow. Standing Orders give the President a discretion and I am afraid I am going to move on.”

Senator P.V.F. Le Claire:

“May I, in accepting your ruling, Sir, just point out that it was not necessary for the President to give his answers in such a way as to leave the Assembly in total ignorance of the answers. The answers could have been structured. The questions, in particular relating to Standing Orders, are limited in their words, so I could not place the oral questions in front of the Assembly. The new structure only allowed me to put the question as it was given and the President could quite easily have given a comparison verbally for members to understand. To answer in the way that he did, that (a), (b), (d), (e), (f) and (g) remain the same and (x) and (y) and (z) and that these things should be done in written questions is totally unacceptable, Sir.”

The Bailiff:

“I am sure the President will take note of that, Senator.”

The Deputy of Grouville:

“Sir, on that point, would it be possible to ask the President to supply his answer in written form?”

The Bailiff:

“I thought the President was going to supply his answer in written form.”

Senator T.A. Le Sueur:

“I have already undertaken that, Sir, yes.”

6. Senator E.P. Vibert to the President of the Economic Development Committee:

“Would the President inform members whether the Jersey Financial Services Commission (JFSC) has instructed lawyers to take action against the IT Manager of a Jersey trust company, who privately owns and operates a website on which critical articles have been posted regarding the Director General of the Jersey Financial Services Commission?”

Deputy F.G. Voisin (President of the Economic Development Committee):

“In providing an answer to the question posed by the Senator, I would wish to remind members that Article 2 of the Financial Services Commission (Jersey) Law 1998 provides that: ‘Save as this law provides to the contrary, the Commission shall be independent of the Committee and of the States.’ The importance of this independence was reinforced by the Edwards Report published in 1998 and the IMF Report published in 2003. There are also statutory limitations on what information the Commission can disclose on specific matters. This places obvious limits on the information that I am in a position to provide to members about the day to day operations of the Commission. However, what I can say, in response to the Senator’s questions, is that I have been informed by the Jersey Financial Services Commission that, while it sought advice from its lawyers on what action might be taken, it has not to date instructed lawyers to take action against the IT manager of a Jersey trust company. What the Commission’s lawyers did do is to write to the IT manager requesting that the private website concerned be closed. The website has the misleading address www.jerseyfsc.com, which is very similar to that of the Commission, which is www.jerseyfsc.org with the initials ‘FSC’ standing for the ‘Financial Scandals Collection’. The Commission also made the IT manager’s employer aware of their employee’s actions.”

The Bailiff:

“President, I am sorry, but your time has expired now.”

6(a) Senator E.P. Vibert:

“Do I take it that what the President is telling this House is they have actually no control at all over any actions taken by the Jersey Financial Services Commission (JFSC)?”

Deputy F.G. Voisin:

“The Committee has powers of direction over the Jersey Financial Services Commission and we are in the

process of discussing a service level agreement to the effect that we will only use those powers in matters of governance. What I would also like – and, indeed, it is quite proper for the Jersey Financial Services Commission to take action to protect the reputation of the Commission and also the reputation of the Island – but what I would welcome, Sir, is the Senator’s confirmation that before giving publicity to the critical articles posted on this private website through his question he took necessary and, frankly, appropriate steps to confirm whether the contents were accurate and fair to the Director General. For my part, I can say that the criticisms are totally refuted. I would also take this opportunity to say that the Island is extremely fortunate to have the present Director General. Since his arrival just a year ago, having been persuaded by the Chairman of the JFSC to delay his retirement for 3 years, he has contributed immeasurably to the standing of the Island as an internal finance centre. He has the highest of international reputations for personal integrity and professionalism, not least reflected in the fact that, on his retirement from the Hong Kong Monetary Authority, the authorities in Beijing asked that he be permitted to be retained on an advisory committee, the membership of which also includes the last Governor of the Bank of England. I have no hesitation in saying that I and my Committee have full confidence in the Director General and from everything I hear so too have all of the finance industry representative bodies.”

6(b) Deputy G.P. Southern:

“Does the President consider that it is appropriate for the FSC to try and insist on the sacking of this particular IT employee by the company?”

Deputy F.G. Voisin:

“I am not aware that the FSC is trying to do that.”

6(c) Deputy P.N. Troy:

“Does the President accept that the Jersey Financial Services Commission may have acted *ultra vires*, in that it has attempted to prevent freedom of speech of an individual – that it has attempted to prevent an individual from operating a website? Even if it does have the same or similar web address, the fact that that individual owns the web address and not the Jersey Financial Services Commission is in that individual’s right. He has a legal right to own that address. Does the President accept, Sir, that the Jersey Financial Services Commission may have acted out of its remit?”

Deputy F.G. Voisin:

“No, I do not accept that they may have acted out of their remit and there is absolutely no question of the Commission trying to stifle the individual’s freedom to express a view. As I have already said, the Jersey Financial Services Commission has a duty to protect the reputation of the Commission and of the Island and there is no doubt that the website www.jerseyfsc.com was clearly intended to mislead and it is largely on that basis that the operator of the website was asked to close this website.”

6(d) Senator S. Syvret:

“Given some extremely adverse national publicity concerning the gagging of critical individuals in the Isle of Man, does the President really believe that this kind of banana republic style action against the employment of this individual really stands to hold the Island in good stead?”

Deputy F.G. Voisin:

“I would, again, repeat that no action – no legal action – has been taken by the Commission. The operator of the website was merely asked to stop doing what he was doing. I also repeat that his right to freedom of speech has not been taken away from him at all. If he has been suspended, that is a decision of the employer. It is not the action of the Commission.”

6(e) Senator F.H. Walker:

“Will the President accept that the comments on the website are almost certainly libellous of the Director General?”

Deputy F.G. Voisin:

“I have not been able to see the comments on the website because they were removed before I had an

opportunity to have a look, but I understand that personal action has not been ruled out.”

6(f) Senator E.P. Vibert:

“Could I put to the President the question of the ownership of a website. If the JFC regards that they own it, it is a matter for the courts to decide, not for the President to decide; and the same applies to the question of whether what is there is libellous or not is a matter for the courts to decide. Could I ask the President whether he would be prepared, in view of the answer that he gave that pressure was not put on the employer to actually suspend this individual, to see the correspondence that I have which clearly shows that disgraceful pressure was used by the JFSC to suspend this gentleman?”

Deputy F.G. Voisin:

“To answer the last question first, I would always be glad to see correspondence. To answer the first question now, I do not believe that there is an issue over ownership. The issue is over whether the website was intended to mislead and, quite clearly, if somebody outside of the Island is trying to log on to the Financial Services Commission it is a very easy error to make to type in ‘.com’ instead of ‘.org’ and I think that is the issue here. It may indeed be said that it was an oversight of the Commission not to have registered jfsc.com in the past, but the Commission is now trying to do something about this.”

7. Deputy G.P. Southern to the President of the Finance and Economics Committee:

“Does the President accept that neither members of the States nor the public have had sufficient time to acquaint themselves with the detailed impact of the Committee’s proposals since the production of the calculator on the Income Tax Department website only 10 days from the Budget debates?”

Senator T.A. Le Sueur (President of the Finance and Economics Committee):

“Full details of the revised and improved proposals for ‘20 means 20’ were published on the income tax website on 2nd July 2004 and received coverage in the *Jersey Evening Post* the following week. That was over 5 months ago. The Budget book also contains details of the revised proposals and States members were also briefed on them at their Budget meetings 5 weeks ago on 8th November. I agree, however, that some of the misunderstanding regarding the effects of these proposals that have been put out in the last 2 weeks may have created concerns amongst States members and the public which I believe are unjustified.”

7(a) Deputy J-A. Bridge:

“Would the President not agree that the information provided up until 10 days ago was not sufficient for members of the public to make their own precise financial arrangements and also that, given that he made an undertaking in response to a question of mine on 23rd November to publicise a ready reckoner, putting on the website was really the least he could have done?”

Senator T.A. Le Sueur:

“I think the website is only one way in which this information can be accessed. It can also be accessed through correspondence with the tax office and through the *Evening Post* or by asking for the Comptroller of Income Tax at the Income Tax Helpdesk. I believe that my Committee has been very helpful in trying to provide all the information in a manageable form, but I do appreciate that that has only been available for the last 2 weeks.”

7(b) Deputy J.J. Huet:

“Is the President aware that, though it is on a website, I have been told that nobody has been able to get through that website over the whole of the last 2 days?”

Senator T.A. Le Sueur:

“I am not aware of that, Sir. As far as I know, that website has been accessed very frequently over the last two weeks and has raised a number of issues.”

7(c) Deputy G.P. Southern:

“On the matter of information coming at the last minute before the Budget, could I refer the President to his answer to the written question he tabled earlier today and can he outline for me the difference between

proportion and percentage, because it says in his answer ‘Higher earners will not only pay more in tax than middle earners but also a higher proportion of their incomes. The Deputy may be confused because mathematically the percentage increase for high earners could be lower.’ Percentage and proportion – proportion higher but percentage lower – that is actually mathematically impossible, is it not?”

Senator T.A. Le Sueur:

“I think there is a certain degree of confusion here amongst members and the public generally about the impact of the ‘20 means 20’ proposals. I do reiterate that people with higher incomes will pay more in income tax than those with lower incomes. The system is progressive, but what I was trying to do in my answer was to make that clear to the Deputy.”

7(d) Deputy G.P. Southern:

“Is it not true that for a single person with no children and no mortgage on a salary of £100,000, the maximum percentage payable will be 6.6% extra and that for someone on £42,000 salary that increase will be 16% greater? Is that not the truth? Is that not higher incomes receiving a proportionately less increase?”

Senator T.A. Le Sueur:

“I cannot comment, Sir, on the figures of the Deputy without notice, and I do not believe that he is actually comparing like with like in a meaningful way.”

8. Deputy J.J. Huet to the President of the Finance and Economics Committee:

“Would the President advise members whether the recently appointed new first Chairman of Jersey Post is now no longer the Chief Executive of Wealth Management at the Royal Bank of Scotland, and confirm that he has not held any full-time position with that bank for at least the last 2 years.?”

Senator T.A. Le Sueur (President of the Finance and Economics Committee):

“Dr. Cameron McPhail is not due to take up his full responsibilities as the first Chairman of Jersey Post until the incorporation of Jersey Post, and that is scheduled for 1st May next year. Dr. McPhail resigned as Chief Executive of Wealth Management at the Royal Bank of Scotland International over 2 years ago. At the same time, he has taken up a full-time projects and planning rôle within that company.”

9. Senator E.P. Vibert to the President of the Education, Sport and Culture Committee:

“Would the President advise members whether the Peter Mann Partnership, engaged by the Committee to carry out research on the commercial potential of Fort Regent, is the same company which was engaged by a previous Committee in relation to the development of Springfield sports stadium?”

Senator M.E. Vibert (President of the Education, Sport and Culture Committee):

“No research on the commercial potential of Fort Regent as a whole is being undertaken. Work is being done on the business case for a possible conference and events centre at Fort Regent, which would operate alongside and not displace the existing sports facilities. That work, commissioned jointly by three Committees (Education, Sport and Culture; Economic Development; and Finance and Economics) is being carried out by the same company which was engaged by a previous Sport, Leisure and Recreation Committee in relation to the development of Springfield sports stadium.”

9(a) Senator E.P. Vibert:

“Is the President aware – or was he made aware – that that same company was responsible for a 100% overspend on the stadium at Springfield and that subsequently their contract was terminated by that same Committee?”

Senator M.E. Vibert:

“No, Sir, I was not made aware of that and I presume that could be checked by the Senator asking the Senator currently sitting next to him today who was President of the SLR Committee of the time. The minutes that I have been able to access from 6 years ago at short notice say that the Committee were very happy with the Springfield project and the Chief Quantity Surveyor says it was finished on budget.”

10. The Deputy of Grouville to the President of the Finance and Economics Committee:

“(a) Is the President satisfied that it is fair to the public to impose the ‘20 per cent means 20 per cent’ tax increases in such a short space of time? (b) Has the Committee modelled the overall effect on middle income families with mortgages and children? (c) Does the Committee consider that these changes will have any detrimental effect on the economy?”

Senator T.A. Le Sueur (President of the Finance and Economics Committee):

“The tax increases are not being imposed in a short space of time, as it will be 5 years before they are fully implemented. Only those with the highest incomes will be affected and their tax will not begin to rise until 2007, with the full impact not being felt until 2009. As to (b), my Committee has fully modelled the effect of ‘20 per cent means 20 per cent’ on families with mortgages and children. Examples are contained both in the Budget book and on the income tax website. For instance, a family with 2 children and a £200,000 mortgage will not pay any extra tax until that family income reaches £63,800 and their allowances will only be phased out completely once their incomes reach £145,700. Most importantly, these take into account every family’s particular circumstances and ability to pay and the tax bills for the higher income families affected by these proposals will generally rise by between one per cent and 3% of their incomes. In answer to (c), these proposals will have a favourable impact on the economy because they are vital for generating fiscal and economic stability following the move to ‘0-10’ and by reducing the States’ deficit they will also reduce inflationary pressure in the economy.”

10(a) Deputy G.P. Southern:

“Since the President states that it will take 5 years before full implementation of these measures, does he not accept that it is equally valid to bring these measures to the States in February rather than now when they have just been fully explained?”

Senator T.A. Le Sueur:

“I am anxious that, once a decision has been made by the States, the public should be aware of its consequences and the law implemented as soon as possible.”

10(b) Deputy P.N. Troy:

“In the document entitled *Facing Up to the Future* of February 2004, it states ‘For a household with 2 children and a mortgage of around £120,000, the allowances would need to start being phased out at an income of around £80,000, with all the tax-free income gone by an income of around £150,000’. In the answer that the President just gave he did seem to indicate that more tax would be paid at £63,000, not at the £80,000 previously considered; so can he confirm that the ratings have been moved down the scale to bring people into the bracket at a much earlier stage than was previously envisaged?”

Senator T.A. Le Sueur:

“I can remind the Deputy and others that the original proposals for ‘20 per cent means 20 per cent’ published in *Facing Up to the Future* did attract some criticism for being inflexible between different classes of taxpayer. As a result, my Committee amended those ‘20 per cent means 20 per cent’ proposals when they brought forward a fiscal strategy in July and it is those amended proposals which have been published in the income tax website and generally ever since.”

10(c) The Deputy of Grouville:

“Does the President accept that it is the same few middle income people that are being hit to make up this £100 million deficit each time rather than the companies and corporations that are having their tax bill reduced?”

Senator T.A. Le Sueur:

“No, I do not accept that, Sir. The proposals for dealing with the shortfall of £100-£80 million will come from a variety of sources and will include people of all sections of the community, including the better off.”

10(d) Deputy G.P. Southern:

“Will the President answer the question but one fully and agree that the limits for a household with

2 children and a £120,000 mortgage with the wife working the limits have in fact come down and start now at £63,000 rather than £80,000?"

Senator T.A. Le Sueur:

"I see little point in debating at length a proposal which my Committee rejected some time ago and which the House also rejected in favour of superior proposals which they agreed last July."

10(e) Deputy R.G. Le Hérissier:

"Would the President tell us notionally what amount of income tax – were these proposals to go through – he expects to receive as a percentage from the middle income earners of Jersey, as a percentage of the income tax?"

Senator T.A. Le Sueur:

"I would need notice of that question, Sir. I do not have the answer in front of me and I do not even have a definition of what 'middle income' means."

Deputy R.G. Le Hérissier:

"I was not going to define 'middle income', but I do find it odd, Sir, that new tax schemes are being devised and the Tax Department itself does not have a definition. I do find that very odd. Thank you, Sir."

The Bailiff:

"Is that a question to the President?"

10(f) Deputy R.G. Le Hérissier:

"Yes, Sir. Does the President have a definition of what 'middle income' is for income tax purposes?"

Deputy T.A. Le Sueur:

"No, Sir, and I think the whole debate about '20 means 20' makes it quite clear that 'middle income' means different things to different people."

10(g) Deputy P.N. Troy:

"I would really like to get the President to clarify the point that he accepts that the reason he is getting such opposition from the public now on these points is that the entry level for the '20 means 20' has been reduced considerably so that people are coming in at a lower entry level, and I would ask the President can he confirm that in his own viewpoint, in the last 10 months, he has actually decreased the entry level for the '20 means 20'? Can he give a yes or no answer to that?"

Senator T.A. Le Sueur:

"In the particular example that the Deputy gave the entry level is at a lower rate because there are different entry levels now for any different category of taxpayer depending on their circumstances. So, yes, I can confirm that for that particular situation the entry level has been reduced."

Deputy P.N. Troy:

"That is what I wanted, Sir, thank you."

11. Senator P.V.F. Le Claire to the President of the Finance and Economics Committee:

"Would the President undertake to investigate, with the Comité des Connétables and myself, a proposal to make up any shortfall in States' revenues with increased commercial and private rates as an alternative to a new general sales tax or 0-10% corporation tax before committing the Island to these proposals?"

Senator T.A. Le Sueur (President of the Finance and Economics Committee):

"As the Senator is aware, the States has already approved the reform of the rates system, including the introduction of an Island-wide commercial and domestic rate. The extra income raised from the Island-wide rate will meet the cost of services which the Comité des Connétables will take over from the States in exchange for the States meeting the rising cost of welfare. The scope for raising further taxes from

property is unlikely to be significant and would certainly generate only a fraction of the yield of GST.”

11(a) Senator P.V.F. Le Claire:

“Given that the monies we are talking about in relation to the companies that we are seeing under pressure – the exempt companies and the international business companies – amounted last year to £62.6 million and this year they are sliding down to £48.5 million at the moment, how much money does the President actually determine will be collected across the Island-wide commercial rate as it is being negotiated with the Constables? What percentage increases are we expecting to see across the board for commercial rates and is it not prudent to examine that increase and examine the possibility of introducing a system that could be expanded upon, that is understood and is levelled fairly, perhaps bearing down on the commercial sector where it is more accommodatable on the grounds that these commercial rates can be deducted from a business’ operating costs, therefore avoiding any new tax and any morally weighted proposals which have been before us so far?”

Senator T.A. Le Sueur:

“The introduction of a new rate is a matter for the Comité des Connétables to discuss with the working group and my Committee, but I would also point out the need for any rating system to be fair and realistic and not unduly damaging to one sector of the economy.”

11(b) Connétable K.P. Vibert of St. Ouen:

“Would the President agree that the rating system is totally the wrong vehicle to address any shortfall in States’ revenues because of the fact that there is no ability to pay tied into it?”

Senator T.A. Le Sueur:

“Certainly, Sir, I was envisaging the commercial rate and the parish rate being used for the purposes intended for that rate in the debate on the revision of this system and I believe that that is the right use of that parish rate.”

11(c) Senator P.F.C. Ozouf:

“Would the President agree with me that it is challenging enough to get the commercial ratepayers and the Constables to agree to the small increase in commercial rates that is currently being proposed by the States Parish Working Party? Would he agree that it would be nigh on impossible to get the commercial rate to increase by five-fold in order to fill the hole for the £45 million?”

Senator T.A. Le Sueur:

“I think that would certainly be difficult, Sir, but I should perhaps direct that question to the Comité des Connétables, who will have that unenviable task.”

11(d) Senator P.V.F. Le Claire:

“Given that illuminating question by Senator Ozouf, may I pose another question? If the increase would need to be five-fold, are we then saying that the £50 million is actually going to be... that we are going to have an estimated £10 million raised by increasing an Island-wide rate and if the philosophy of moving these costs over to the parishes is irreconcilable with these kinds of notions before they have been thoroughly thought through, then really I struggle, Sir, to be honest with you. Is it not possible under the provisions where the law will change in 2006 to not have a round of parish assembly meetings where individual commercial rates are established and perhaps the law can be drafted in such a way that, if we are moving towards a philosophical shift in our taxation, that those changes could be made in the Assembly rather than in parish assemblies?”

Senator T.A. Le Sueur:

“I do not think I want to be drawn into a debate on the parish rating system at this time in the day, Sir, but I do stand by the original proposals that have been agreed about parish rates. All things no doubt are possible, but I think that would be a matter for another day’s debate.”

11(e) Senator P.V.F. Le Claire:

“Can he confirm then, Sir, the previous part of my question, which is that there will be £10 million raised under the current proposals, as illuminated by the question of Senator Ozouf?”

Senator T.A. Le Sueur:

“I cannot confirm that, Sir, because at the moment, as far as I know, no proposals for commercial rates have yet been finalised.”

12. Deputy G.P. Southern to the President of the Finance and Economics Committee:

“Would the President confirm that under the Committee’s proposals for the withdrawal of allowances a single person without dependants or mortgage will start paying additional tax at around £25,000 and will pay approximately 16% additional tax by the time he reaches £42,000? Is the President satisfied that the tax rises proposed by the Committee, of the order of 20 to 26% for some taxpayers, are the correct and equitable means of raising £10 million?”

Senator T.A. Le Sueur (President of the Finance and Economics Committee):

“I was certainly going to answer no to the original question of the Deputy, he is quite right, because he got his figures wrong, perhaps not for the first time. I would agree that, at £25,000 in that situation, a taxpayer would pay no additional tax in 2007, 2008 or 2009. It will be single taxpayers with incomes above £25,400 that the increase begins to bite and it will not come in until, as he says, £42,000, when they will be paying an extra 16%. I would point out to members that £42,000 a year income is over £800 a week. We are talking about £800 a week for a single person with no mortgage and no dependents. At that income they will then be paying tax at a rate of 20% and I do not think it is unreasonable that people in that situation should not be contributing a fair proportion of their income to the Island’s needs.”

12(a) Deputy G.P. Southern:

“Does he also accept that the rate at which the extra tax is being charged is rather steep? For example, at a salary of £30,000, this person would be paying an extra 6.75% in taxation in the tax year 2006 and therefore paying it in 2007? Where errors have crept into my calculations in the last 10 days, they are now corrected and it is about being able to handle the calculator on the website, which is actually a very crude device that has been put together at short notice.”

Senator T.A. Le Sueur:

“Sir, I am not prepared on the hoof to comment on questions about individual incomes and individual rates. I stand by my comment that the rates are progressive and that for single people in that situation, paying an extra 6% of their income over that period is not an unreasonable additional burden.”

The Bailiff:

“That concludes question time.”

Childcare – statement

The President of the Employment and Social Security Committee made a statement in the following terms –

“As Deputy G.P. Southern of St. Helier did not allow me to correct a matter of fact, when he refused to give way during his summing up at the end of the Childcare debate last week, I believe it is important to put the following correction on record.

The policy as regards payment of Childcare Allowance where a person's work is interrupted due to sickness or unemployment, is not, as was said by Deputy Southern, limited to 2 weeks. In fact, the policy is to avoid disrupting the child care place wherever possible. In practice, the allowance is paid for a minimum of 4 weeks. If, after that period, the person has not returned to or obtained work, the circumstances are reviewed and payment continued where appropriate. This can be for quite a long period, in some circumstances for many months, in cases of severe ill-health or where there is good reason for not finding work.

I would also like to remind members that we have been consulting on Childcare support, amongst many other

important issues raised whilst developing a new Income Support system and described in R.C.48/2004 'Income Support System.' The feedback to date has been quite supportive of the proposals in that report, that is, providing a childcare component, still linked to work, but extending coverage to necessary periods of training or retraining geared to finding or maintaining work.

The Committee would like to implement that change ahead of the new Income Support system once we are sure that the Education, Sport and Culture Committee's 'Education and Childcare Strategy' compliments our financial support policy and has been debated in the States.

The Committee will be discussing this with the Finance and Economics Committee early in the New Year when it hopes to have a better indication of likely additional costs."

Budget 2005

Amendments and Comments

THE STATES allowed the Treasurer of the States to be present in the Chamber during the consideration of the Budget.

THE STATES commenced consideration of the Budget for the financial year commencing 1st January 2005, which in accordance with Article 16 of the Public Finances (Administration) (Jersey) Law 1967, as amended, has been presented to the Assembly on 9th November 2004, by the Finance and Economics Committee and comprised –

- (i) the estimate of the revenue expenditure and income of the States;
- (ii) the estimate of the transactions of the capital fund;
- (iii) the estimate of the transactions of the trading funds; and,
- (iv) the Report of the Finance and Economics Committee thereon.

Adjournment

THE STATES then adjourned, having agreed that outstanding matters in the Budget and other items of public business should stand over until Wednesday 8th December 2004.

THE STATES rose at 5.40 p.m.

A.H. HARRIS

Deputy Greffier of the States.