

BEQUEST OF THE LATE MR. H.E. LE SEELLEUR: REQUEST FOR *EX GRATIA* PAYMENT

**Lodged au Greffe on 13th February 2001
by the Health and Social Services Committee**



STATES OF JERSEY

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PROPOSITION

THE STATES are asked to decide whether they are of opinion -

- (a) to make an *ex gratia* payment of £39,843.14 from the funds arising in respect of the bequest of the late Mr. Harold Ernest Le Seelleur to the States of Jersey, *en lieu* of 'redundancy' payments to certain long-standing employees of Mr. Le Seelleur;
- (b) to authorise the Treasurer of the States to make the appropriate payments to the employees concerned.

HEALTH AND SOCIAL SERVICES COMMITTEE

Note: The Finance and Economics Committee supports the *ex gratia* payments in lieu of 'redundancy' payments to certain long-standing employees of the late Mr. Le Seelleur, however, such *ex gratia* payments should not constitute a precedent for similar circumstances in the future.

Report

The late Mr. Harold Ernest Le Seelleur died on 10th October 1996, leaving various legacies and bequests from his movable estate to charities. The residue, which amounts to approximately £411,000 net, was left to the Great Ormond Street Hospital for Sick Children.

His immovable estate, conservatively valued at £2,000,000 at the time of death, was devised to the States of Jersey “*with a particular view toward the use of [the] properties for the benefit of aged, infirm and needy residents of the Island.*”

In accepting the bequest, the States agreed (P.71/97) that the administration and all benefits received from the properties should be vested in the Health and Social Services Committee for the benefit of aged, infirm and needy residents of the Island.

In October 1999, the States Treasury referred to the Health and Social Services Committee a request on behalf of Mr. Le Seelleur’s former housekeeper and three long-standing employees for payments *en lieu* of notice, in accordance with the Termination of Employment - Minimum Periods of Notice (Jersey) Law 1974, and a request for *ex gratia* ‘redundancy’ payments to be funded largely out of the immovable estate, the balance being contributed by Great Ormond Street Hospital.

The individuals concerned had been employees of Mr. Le Seelleur’s building business for over 22 years, nearly 30 years and over 30 years respectively, and his housekeeper had been employed for a shorter period. Mr. Le Seelleur had made no provision for these employees, apart from the life enjoyment of a property by one of the above employees.

The Solicitor General provided detailed advice on the request, as follows -

- The termination payment was a legally due debt that should come from the movable estate before Great Ormond Street had any claim on the residue.
- Whilst the Committee was under no legal duty to make a redundancy payment, it might wish to consider whether it would be proper or desirable to make such payments, taking into account the long periods of employment of the individuals concerned and that it had, to some extent, become the practice in Jersey for employees suffering termination to be paid a lump sum commensurate with their period of employment.
- As a consequence of the explicit terms on which the bequest had been accepted by the States (P.71/97), it would be necessary to seek the approval of the States to any *ex gratia* payment.

The States should also be aware that, in the terms of the bequest, the States are obliged to consult the executors regarding the use of the bequeathed properties and proceeds arising. The executrix, as events have turned out, is one of the potential recipients of a ‘redundancy’ payment, and concurs with the proposed payments. In these circumstances, the executrix has been advised by a local firm of Advocates, who have proposed a fair and reasonable claim in respect of each of the potential beneficiaries.

In regard to the wish of Mr. Le Seelleur that the properties should be used “*with a particular view toward the use of such properties for the benefit of aged, infirm and needy residents of the Island*”, the Solicitor General has advised that, on a proper construction of the will, this does not imply an *exclusive* requirement and it is open to the States to use the monies for other purposes subject to consultation with the executrix.

On 27th March 2000, the Finance and Economics Committee informed the Health and Social Services Committee that it did not wish to adopt a particular stance at that time, but expressed a view that it must be made clear that any *ex gratia* payment should not constitute a precedent. The Solicitor General has advised that she does not consider that the making of an *ex gratia* payment in these circumstances would give rise to any legally enforceable legitimate expectation on the part of any other person, whether in the case of this will or in any subsequent wills.

It should be emphasised that the question of any *ex gratia* payments is a voluntary matter entirely in the discretion of the States, as there is no legal obligation to make any payment in this regard. However, for the reasons given above, the States are asked to authorise the making of such a payment.

The request for ‘redundancy’ payments to the four individuals, in different amounts commensurate with their periods of employment, amounts to a total of £47,741.03. The Health and Social Services Committee has no basis on which to propose an alternative sum. The Health and Social Services Committee has received, through the Advocates advising the executrix, confirmation from the Solicitors to Great Ormond Street Hospital and the Charities Commission that they would authorise a contribution from Great Ormond Street Hospital.

It has been proposed the funding of the 'redundancy' payments might be apportioned *pro rata* between the movable and immovable estates as follows -

	£
Great Ormond Street Hospital	7,897.89
States of Jersey	<u>39,843.14</u>
Total redundancy payments	<u>47,741.03</u>

It will of course be noted that the proposed share to be borne by the immovable estate is markedly greater than the share which it is proposed should be borne by the movable estate. The reason for this is that the amounts of the payments made to the four employees are calculated by reference to their respective periods of employment by Mr. Le Seelleur. The three longest serving employees were all employed in Mr. Le Seelleur's building business, and thus contributed to the upkeep and maintenance of Mr. Le Seelleur's own immovable estate which has now devolved upon the States. It is also the case that the movable estate has borne in full the termination payments.

The States Treasury has confirmed that the amount of the States' contribution can be met from the balance of funds arising from the properties concerned.