

**THE STATES assembled on Tuesday,
13th May 2003 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 –

Senator Jean Amy Le Maistre – out of the Island.
Francis Herbert Amy, Connétable of Grouville – ill.
Michael John Touzel, Connétable of St. John – ill.
Terence John Le Main, Deputy of St. Helier – out of the Island.
James Gordon Reed, Deputy of St. Ouen – out of the Island.

Prayers

Welcome to Mr. William David Ogley, Chief Executive to the Council of Ministers and Head of the Public Service designate

The Bailiff, on behalf of all members, welcomed to the States Mr. William David Ogley, recently appointed Chief Executive of the Policy and Resources Department, and Chief Executive to the Council of Ministers and Head of the Public Service designate.

**Committee of Inquiry into Procedures for the Allocation of Residential Property by Housing Trusts:
Report – R.C.22/2003**

The Bailiff presented to the States the report of the Committee of Inquiry into Procedures for the Allocation of Residential Property by Housing Trusts and, on behalf of all members, thanked the Chairman and members of the Committee of Inquiry for their work.

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

Subordinate legislation tabled

The following enactments were laid before the States, namely –

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| Road Traffic (Saint Helier) (Amendment No. 12) (Jersey) Order 2003. | R&O 37/2003. |
| Island Planning (Designation of Sites of Special Interest) (No. 7) (Jersey) Order 2003. | R&O 38/2003. |
| Medicines (Kava-kava) (Prohibition) (Jersey) Order 2003. | R&O 39/2003. |
| Diseases of Animals (Importation of Miscellaneous Goods) (Amendment No. 17) (Jersey) Order 2003. | R&O 40/2003. |

Overseas Aid Committee – appointment of member

THE STATES appointed Senator Edward Philip Vibert as a member of the Overseas Aid Committee.

Matters presented

The following matters were presented to the States –

Jersey Competition Regulatory Authority: annual report 2002.
Presented by the Education, Sport and Culture Committee.

Jersey Child Care Trust: The Strategy One Year On – October 2001 – October 2002. R.C.23/2003.
Presented by the Education, Sport and Culture Committee.

Manpower report for the period 1st July 2002 to 31st December 2002. R.C.24/2003.
Presented by the Economic Development Committee.

Code of Practice on Public Access to Official Information: Annual Report for 2002. R.C.25/2003.
Presented by the Privileges and Procedures Committee.

The following matter was presented on 6th May 2003 –

Administration Decisions (Review) (Jersey) Law 1982, as amended: report of the Administration Appeals Panel for 2002. R.C.21/2003.
Presented by the Privileges and Procedures Committee.

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

Matters lodged

The following matters were lodged “au Greffe” –

Audit Commission: appointment of Chairman. P.59/2003.
Presented by the Finance and Economics Committee.

La Collette Fuel Farm, St. Helier: lease to Shell U.K. Limited and Esso Petroleum Company Limited. P.60/2003.
Presented by the Harbours and Airport Committee, and referred to the Environment and Public Services and the Economic Development Committees.

Draft Opticians (Registration) (Amendment) (Jersey) Law 200-. P.61/2002.
Presented by the Health and Social Services Committee.

Draft Jersey Association for Mental Health and Jersey Schizophrenia Fellowship P.62/2003.
(Integration with Jersey Focus on Mental Health) (Jersey) Law 200-.
Presented by the Health and Social Services Committee.

States approval for new “user pays” charges. P.63/2003.
*Presented by Senator S. Syvret, and referred to the Finance and Economics
Committee.*

The following matters were lodged on 6th May 2003 –

Attendance Allowance Board: appointment of members. P.53/2003.
Presented by the Employment and Social Security Committee.

Draft Shipping (Amendment) (Jersey) Law 200-. P.54/2003.
Presented by the Harbours and Airport Committee.

Draft Employment (Jersey) Law 200-. P.55/2003.
Presented by the Employment and Social Security Committee.

Administrative Decisions (Review) (Jersey) Law 1982, as amended: P.56/2003.
Administrative Appeals Panel – membership.
Presented by the Privileges and Procedures Committee.

Public spending and resource allocation: information for States Members. P.57/2003.
Presented by Senator S. Syvret.

Belle Vue, La Route des Quennevais, St. Brelade: proposed exchange and counter- P.58/2003.
exchange of land.
Presented by the Environment and Public Services Committee.

Arrangement of public business for the next meeting on 20th May 2003

THE STATES confirmed that the following matters lodged “au Greffe” would be considered at the next meeting on 20th May 2003 –

Attendance Allowance Board: appointment of members. P.53/2003.
Lodged: 6th May 2003.
Employment and Social Security Committee.

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| Draft Shipping (Amendment) (Jersey) Law 200-. Lodged: 6th May 2003. <i>Harbours and Airport Committee.</i> | P.54/2003. |
| Administrative Decisions (Review) (Jersey) Law 1982, as amended: Administrative Appeals Panel – membership. Lodged: 6th May 2003. <i>Privileges and Procedures Committee.</i> | P.56/2003. |
| Public spending and resources allocation: information for States Members. Lodged: 6th May 2003. <i>Senator S. Syvret.</i> | P.57/2003. |

Use of CS spray – question and answer (Tape No. 820)

Senator Christopher Gerard Pellow Lakeman asked Senator Wendy Kinnard, President of the Home Affairs Committee, the following question –

“In the 2002 report of the Jersey Police Complaints Authority, which was presented to the States on 29th April 2003, there are three instances of complaints relating to the use of CS spray.

Will the President inform the Assembly –

- (a) of the injuries sustained?
- (b) if the persons involved were subsequently charged with a criminal offence? and,
- (c) whether a claim for compensation has been made in relation to any of these incidents?”

The President of the Home Affairs Committee replied as follows –

“Firstly, it is necessary to correct any mistaken impression that the States of Jersey Police use CS Gas.

None of the three instances of complaints to which the Senator refers, relate to the use of CS Gas. The personal protective equipment used by the States of Jersey Police is in fact a CS Spray. To clarify further, the liquid stream, propelled by nitrogen in the canister, contains the CS crystals in a solvent solution. There is no gas effect when the equipment is used, it is highly directional and the effects of the CS generally wear off within 15 – 20 minutes when correct de-contamination procedures are followed. All officers authorised to carry CS are trained in these procedures.

However, in response to the Senator’s specific questions in relation to the use of CS spray:

- (a) in two of the three cases no injuries were sustained. In the third, an initial doctor’s report at the hospital identified a ‘reddening of both eyes’. However following treatment, it was identified in a subsequent specialist eye report that there had been no permanent effect to either the patient’s eyes or their sight;
- (b) one of the three was charged, one was warned to attend a Parish Hall enquiry and no action was taken with respect to the third following a decision by the Law Officers;

However, it is important to point out that on 6 of the 12 occasions in 2002 in which the spray was used, people were actually wielding knives at officers; and,

(c) no claims for compensation have been received with regard to any of these incidents.”

Rent abatement – question and answer (Tape No. 820)

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

“In answer to my question on rent abatement on 21st January 2003, the President stated –

“I can confirm that those benefits, namely Family Allowance, Invalidity Benefit and Disability Benefit, which were disregarded as income for rent abatement in 2002 will continue to be disregarded in 2003.”

- (a) Can the Vice-President give the same assurance for 2004?
- (b) If the answer is in the negative, will the Vice-President inform members –
 - (i) the reasons why?
 - (ii) the date when the matter was first considered by the Committee?
 - (iii) how many tenants will be affected, the extent of the increase in their rents, and what the additional rental income will be? and,
 - (iv) what steps will be taken to avoid further hardship to tenants?”

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

“(a) I can give that assurance for Family Allowance but not for Invalidity and Disability Benefit.

- (b) (i) In 2002, as part of the Fundamental Spending Review process, the Committee, in common with all Committees except the Health and Social Services Committee, was required by the Finance and Economics Committee to submit a package of savings proposals of 10 per cent of its revenue expenditure for 2004. As rent subsidies comprise 66.5 per cent of the Committee’s expenditure in 2003 it is inevitable that savings proposals of the magnitude required for 2004 will impact upon this area of expenditure.

The treatment of Invalidity and Disability Benefits for rental assessment is currently out of line with the treatment of the two other similar benefits, namely pensions and sickness benefit, in that Invalidity and Disability benefits are disregarded while the others are regarded as income. Furthermore, this causes quite serious inequities in the treatment of income when the Benefit is not the only income in the family.

Appendix A compares the rents payable in 2003 by tenants who have similar incomes made up in different ways. The minimum rent payable is £20.83 for a single person and £34.56 for a couple. It can be seen that the first three single tenants all have the same income, £134.56 per week, but Mrs. B pays £1.64 less rent than the other two, because her income is all Invalidity/Disability benefit and is disregarded. As income rises so the inequities become more pronounced. For

families D and E, who both have incomes of £223.37, namely the level of a pension or benefit for a couple, the difference is £7. The last two couples have a gross income of £400 per week and the difference has risen to £43.29 because Mr. and Mrs. G earn all of their £400, but Mr. and Mrs. H have part of it as benefit. Mr. and Mrs. G will, furthermore, have to pay their social security contribution on £400, while Mr. and Mrs. H will only pay it on £265.44.

The regard of Invalidity and Disability Benefit will provide the Committee with some of the savings which are required for 2004 while also bringing the treatment of these benefits more into line with the treatment of other similar benefits.

- (b) (ii) This matter was first formally considered when the Fundamental Spending Review submission was approved by the Committee at its meeting of 8th November 2002.
- (b) (iii) If the Benefit changes were to be introduced in phases over three years the number of tenants affected would be as set out below –

| Current Number of Tenants in Receipt of Invalidity / Disability Benefit | Abatement | Rebate |
|---|-----------|--------|
| | 680 | 158 |
| | | |
| Number of Tenants Affected in Each Year | Abatement | Rebate |
| 2004 | 200 | 52 |
| 2005 (Cumulative Total) | 245 | 71 |
| 2006 (Cumulative Total) | 575 | 121 |

It is worth noting that not all tenants in receipt of benefits will be affected.

Examples of the extent of the increase in the rents if the regard of Invalidity and Disability benefits as income is eased in over three years, along with the year in which it will impact, are shown in Appendix B. These figures have been prepared at current rental and income rates.

If the Invalidity and Disability Benefits are regarded as income for tenants the forecast of additional income and reduced expenditure for the Committee, at current rates for both rebate and abatement, is a net gain of about £152,000 in 2004, rising to a total of £597,000 per year by 2006.

- (b) (iv) As explained above, regarding Invalidity and Disability Benefits for assessment will merely serve to put the tenants in receipt of these benefits on exactly the same footing as those whose incomes are earned or made up of pensions or sickness benefit. The Committee considers its rental subsidies to be generous and, while some tenants will, if these changes are implemented, have less disposable income, there should not be any cases of hardship.”

Access for ambulance vehicles in St. Helier – question and answer (Tape No. 820)

Deputy Gerard Clifford Lemmens Baudains of St. Clement asked Senator Stuart Syvret, President of the Health and Social Services Committee, the following question –

“Would the President advise members whether the Health and Social Services Committee has any concerns regarding access by emergency ambulances to the streets of St. Helier given the number of road alterations to assist traffic flow in recent years, and, if so –

- (i) what these are and where they are occurring? and,
- (ii) what action, if any, does the Committee intend to take to address the issue?”

The President of the Health and Social Services Committee replied as follows –

- “(i) The Committee does not have particular concerns in relation to the access of emergency ambulances to the streets of St Helier. It is accepted, however, that some alterations, for instance the introduction of speed humps, may slow down an emergency response but it is also recognised that the overall benefit, in relation to road safety, is likely to override these considerations.
- (ii) As indicated in answer (i) the Committee is satisfied with the present situation. The level of co-operation and communication with the Environment and Public Services Committee and the Parish of St. Helier is good. All major proposed alterations are communicated well in advance, seeking comments where applicable and I have every expectation that this practice will continue. It follows therefore that the Committee has no need to take any action.”

Outcome of the 2004 Fundamental Spending Review – question and answer (Tape No. 820)

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

“The process of Fundamental Spending Review, involving a complex combination of reductions in services and “user pays” charges, has resulted in the following proposed budget adjustments for 2004 –

| | <u>£ (million)</u> |
|---------------------------------|--------------------|
| Health and Social Services | +3.4 |
| Finance and Economics | +3.1 |
| Education Sport and Culture | +1.1 |
| Employment and Social Security | +0.1 |
| Home Affairs | -0.2 |
| Policy and Resources | -0.2 |
| Economic Development | -0.9 |
| Housing | -1.8 |
| Environment and Public Services | -2.5 |

- (i) Does the President accept that such figures, where additional or increased charges are involved, are effectively equivalent to an additional taxation burden?
- (ii) Can the President give an estimate of the total additional income that will be raised through such additional or increased charges?”

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

- “(i) It is difficult to generalise about whether every single proposal contained within the net figures quoted by the Deputy regarding increased charges was effectively equivalent to an additional taxation burden. Nevertheless, taking the question in general terms, I accept that where additional or increased charges are concerned, the financial effect, on those incurring the charges, may appear to be similar to an additional taxation burden. There is however an important distinction to be made and it is this; any proposed ‘user pays’ charges must be commensurate in value with the service provided, whereas taxation is a compulsory levy raised by government which bears no relationship to any service provided. Thus, with a ‘user pays’ principle there is a higher level of relationship between the user, the service, and the cost of that service.
- (ii) Until all Committees have agreed the package of measures they are prepared to take for the coming year it is not possible to quantify the total additional income which might be raised through such additional or increased charges. At this stage I can simply indicate that the options agreed at the final fundamental spending review meeting included agreed savings generated on the ‘user pays’ principle of approximately £5 million. These will, of course, be subject to consideration by the States at the time of the debate on the Resource Plan.”

Employment and Social Security Committee's proposed 2004 budget – question and answer (Tape No. 820)

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

- “(i) Will the President inform members of the measures to be taken by the Committee which will enable it to restrict the growth in its 2004 budget to only £100,000?
- (ii) Does the President accept that, given the intrinsic nature of the Committee's sphere of activity, any reduction of services will inevitably lead to an increase in hardship for those dependent on benefit?”

The President of the Employment and Social Security Committee replied as follows –

- “(i) No, I cannot inform members at the present time, as the Committee is still considering the outcomes of the decision conference process and the impact on its 2004 budget which is, in fact, an increase of only £65,000.

However, so that members are fully aware of the measures we have been asked to implement and are currently considering, the outcome of the decision conference was to give inflation growth for Supplementation and Health Insurance Exemption and cut expenditure by –

- (a) introducing an income bar for the Christmas Bonus;
 - (b) containing the current subsidy rates on the Dental, Optical and Chiropody Scheme for the over 65s;
 - (c) achieving administrative savings on non-native welfare;
 - (d) introducing a new criteria for Disabled Transport Allowance, which would effectively exclude those in residential homes; and,
 - (e) freezing non-native welfare and non contributory benefits at 2003 levels.
- (ii) Not entirely because there is always the possibility of targeting and administering benefits more effectively. However, I would accept that some of these expenditure cuts, which did not receive a high enough priority in the decision conference, would certainly have an impact on the less well off. It is for this reason that the Employment and Social Security Committee is looking at ways of lessening the impact before coming to the States with specific proposals as may be required under any relevant legislation. I can assure members that the Committee will do all it can to protect those on the lowest incomes.”

Transport Strategy and revision of Motor Traffic (Jersey) Law 1935 – question and answer (Tape No. 820)

Deputy Roy George Le Hérisssier of St. Saviour asked Deputy Maurice François Dubras of St. Lawrence, President of the Environment and Public Services Committee, the following question –

- “(a) Given that the previous Public Services Committee was tasked under Point 1.5 of the Transport Strategy to revise the Motor Traffic (Jersey) Law 1935, as amended, to give effect to the Strategy, would the President indicate what action has been taken to date to implement this decision?
- (b) Would the President confirm that the States subsidy required for the first year of Connex's operation will be approximately £1.4 million, namely the sum quoted when the winning tender was announced in May 2002, or has it been revised in the light of changing circumstances, and, if so, what is the anticipated subsidy for 2002 and 2003?”

The President of the Environment and Public Services Committee replied as follows –

“I am not in a position to answer these questions today but I will provide a response at the next meeting.”

Transport Strategy and Easylink service – question and answer (Tape No. 820)

Deputy Geoffrey Peter Southern of St. Helier asked Deputy Maurice François Dubras of St. Lawrence, President of the Environment and Public Services Committee, the following question –

“In the light of the establishment of the Easylink service currently being operated under a char-à-banc licence, will the President inform members –

- (a) whether the Committee is satisfied that the new service is operating legally?
- (b) the effectiveness of the Motor Traffic (No. 8) (Jersey) Regulations 2002, in delivering the bus strategy?
- (c) outline what action, if any, will be taken to remedy any perceived ineffectiveness?
- (d) what consideration, if any, will be given to the adoption, or integration, of some of the more attractive aspects of the Easylink service into the States’ sponsored service?”

The President of the Environment and Public Services Committee replied as follows –

“I am not in a position to answer these questions today as the matter has been referred to the Law Officers’ Department. I will give a response as soon as I am able.”

Rent rebates, the Housing Committee’s maintenance/refurbishment budget, and the proposed 2004 Committee budget – questions and answers (Tape No. 820)

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

- “1. Will the Vice-President inform members what increase, if any, in rent rebate will be necessary in 2004 in order to fund the significant number of units of accommodation being completed this year and which will be passed on to housing trusts?
2. Will the Vice-President inform members what growth is envisaged in the Committee’s maintenance/refurbishment budget for 2004?
3. Will the Vice-President inform members of the measures that will be taken to achieve the £1.8 million cut in the Housing Committee’s 2004 budget, and, in particular, will he outline what steps will be taken to ensure that the measures do not cause hardship to those least able to afford it?”

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

- “1. The Committee intends to propose an increase of about £200,000 in the rent rebate budget for 2004 specifically to allow for the potential increase in applications from new housing trust tenants.
2. The Committee does not intend to propose an increase in the maintenance/refurbishment revenue budget for 2004.
3. I am not prepared to disclose this information at this time as the Committee will be giving further consideration to the matter at its next meeting on 23rd May 2003. However, I can confirm that a report

and proposition giving full details of the proposals will be brought to the States for consideration as soon as possible.”

Disabled access to the States Building – questions and answers (Tape No. 820)

The Deputy of St. John asked Deputy Maurice François Dubras of St. Lawrence, President of the Environment and Public Services Committee, the following questions –

- “1. Would the President inform members whether the level pavement in the Royal Square connected to the new entrance podium is to be the means of disabled access to the building, and, if so, what safety precautions are to be put in place in this area?
2. Will the President give members an assurance that the building will be re-assessed for minimum disabled access standards following completion of the refurbishment works and that all Building Bye-laws have been complied with during the project, particularly in relation to the provision of stairs, ramps, protective barriers, induction loops and assistance bells, and if not, state the reasons why?”

The President of the Environment and Public Services Committee replied as follows –

- “1. The existing pavement referred to has been extended up to the main public entrance with the podium parapet walls protecting the greatest difference in level and allowing the new flights of steps to be incorporated. These steps have yet to be altered by the contractor to comply with the design drawings. The existing terrace steps have been extended along with the existing pavement to meet the podium parapet wall.

Clarification on precisely what the Deputy of St. John meant by ‘safety precautions’ was sought on Thursday 8th May 2003. However, there was no reply to the telephone call made by the Director of Architecture. It has been assumed this may be a reference to the perceived risk of a wheelchair user approaching the main public entrance via the pavement which at the narrowest point is 1.5 metres wide. No other barrier in addition to the podium parapet has been envisaged. The visual intrusion, and inconvenience to the public of protecting the terraced steps with a balustrade, will be readily appreciated by members.

2. There is no Bye-Law requirement to address the issues raised by the Deputy regarding ‘minimum disabled access standards’ due to the fact that it is an existing building. The criterion adopted by the Building Control Officers is that any alteration should not make an existing condition worse. However, as was explained in the response to the questions raised on 29th April 2003 by the Deputy, the aim was to incorporate as many recommendations made by the Centre for Accessible Environments in their report, within the constraints of the budget and the practicalities of working in a building listed as a Site of Special Interest.

It had not been anticipated that the Centre of Accessible Environments would be invited to re-assess what has been implemented as this would incur additional cost and would simply indicate which items, from their original schedule, had been carried out and which had not.

With regard to the specific building elements listed by the Deputy, I confirm the following –

- (a) all new internal stairs are designed to comply with the Bye-Laws;
- (b) wherever possible, ramps have been installed where there are existing changes in level on main circulation routes. Due to physical constraints one short ramp on the ground floor exceeds the maximum recommended gradient;
- (c) protective barriers, where required by the Bye-Laws, have been installed generally to a design to match the existing handrails and balustrading within the building;

- (d) induction loops, to assist those with hearing difficulties and who wear a hearing aid, have been installed in the two largest areas open to the public, for both users and observers, namely, the States Chamber and the Royal Court; and,
- (e) assistance bells or alarm call pull cords have been incorporated within each disabled toilet. No other assistance bells have been included.”

Proposed sewerage charges – question and answer (Tape No. 820)

Deputy Geoffrey Peter Southern of St. Helier asked Deputy Maurice François Dubras of St. Lawrence, President of the Environment and Public Services Committee, the following question –

“The President has indicated that the Committee intends to introduce a sewerage charge at an average level of £80 per household, and that this may rise, over time, to £300 per household.

Will the President outline to members how this charge will be structured and, in particular, how those least able to afford it will be protected from hardship?”

The President of the Environment and Public Services Committee replied as follows –

“The charge has been proposed to cover the costs of operating and maintaining the Sewage Treatment Works, the whole sewer network and the pumping stations. It includes an allocation for capital investment, to reconstruct and replace elements of the existing systems and to extend the foul sewer system. The total cost of these combined essential services and infrastructure varies between £10 million and £12 million per annum, depending on how much the capital allocation is, and this is based on the current programme of work, which is limited by the anticipated amount of capital approved each year by the States.

The charge to individual properties will be based on either the water consumption, for those properties on water meters, or the rateable value of the property, in the same way that water bills are assessed by the Jersey New Waterworks Company.

A professional billing agent will be appointed to collect the charges, and one of its responsibilities will be to ensure that the method of charging will be structured to provide a range of periodic payments. Details of this are being developed as part of the tendering process and subsequent development process. It is anticipated that cases of genuine hardship will be addressed through the low-income support mechanism.”

Cost of main road white line painting – question and answer (Tape No. 820)

Deputy Gerard Clifford Lemmens Baudains of St. Clement asked Deputy Maurice François Dubras of St. Lawrence, President of the Environment and Public Services Committee, the following question –

“Would the President advise members –

- (a) the number of staff, the number of vehicles and the cost per mile incurred for main road white line painting, and whether the cost of the current process has been compared with any other methods available, and, if so, would he give details? and
- (b) whether this work has been put out to tender and, if not, why not?”

The President of the Environment and Public Services Committee replied as follows –

“(a) The total cost for providing road signs and paint markings on the Island main roads in 2002 was £374,523. The Department does not allocate costs to paint markings separately but this is estimated at

70 per cent of the total figure.

There are 255 kilometres of main roads and the cost equates to approximately £1,028.10/km. There are six staff and one vehicle permanently employed on this task.

The Department has traditionally used thermoplastic (hot applied) paints but are currently evaluating, as a trial, cold applied and water based paints in an attempt to achieve efficiency savings.

It is too early to provide a detailed financial comparison on the new systems but we are already seeing efficiency improvements.

- (b) This work has not been put out to tender as it is considered specialist work with no local contractor currently available to carry out the work. The Department carries out signage and markings for other States Departments, 11 of the 12 Parishes and private companies and individuals on a recharge basis.”

Report entitled ‘Review of Criminal Justice Policy in Jersey’ prepared by Professor Andrew Rutherford dated October 2002 – question and answer (Tape No. 820)

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

“Would the President inform members whether the Home Affairs Committee intends to present to the Assembly a response to the report entitled ‘*Review of Criminal Justice Policy in Jersey*’ prepared by Professor Andrew Rutherford dated October 2002, and, if the response is in the negative, could the President indicate what aspects of the report the Committee agrees and disagrees with?”

The President of the Home Affairs Committee replied as follows –

“There is a necessary, short preamble to the answer –

On 23rd and 24th July 2002, the States adopted P.70/2002 entitled ‘Machinery of Government: Proposed Departmental Structure and Transitional Arrangements’. Appendix 2 to the proposition described the ten departments of government in the Ministerial system. Paragraph 1.7.2 noted that the Home Affairs Department will also have responsibility for criminal justice policy.

Although mindful of the important and pivotal role of the Attorney General in Jersey, it is nevertheless a fact that the Island has never had a formal criminal justice policy laid down by the Executive. The Home Affairs Committee felt that the development of such a policy was too important a task to be left until the advent of Ministerial government and it decided, therefore, to commence work on it during the transitional period.

To help the Committee develop its thinking on the subject, it commissioned an independent review on aspects of criminal justice by Professor Andrew Rutherford, Dean of Law at the University of Southampton. His report was published in October 2002, and was made available to the public via the Home Affairs Committee website and the States Bookshop. On 29th November 2002, my predecessor sent a personal copy to all States members who were in office at that time, and I ensured that new States members were sent a personal copy on 14th February this year. On both occasions, the covering letters included an invitation for members to comment on the report’s recommendations.

And here I come to the point in answer to the first part of the Deputy’s question. Professor Rutherford’s report was commissioned to provide an independent view of where we are on some areas of criminal justice and as a catalyst for policy formulation, rather than as a possible policy template. In other words, it was a means to an end rather than an end in itself. With that in mind, we ought not to spend time responding formally to the report. What is important is the policy which the Home Affairs Committee proceeds to formulate, and in that the Assembly can be assured that the Committee will consult widely and at regular intervals. Distribution of the report in November and February began that process and, on both occasions,

members were invited to comment on the report and its recommendations. Members may like to note that, to date, I have received substantive comments from only two States members. These will be taken into account during the policy formulation process together with any other responses I may yet receive. Professor Rutherford's report will prove to be a valuable reference source as the Home Affairs Committee formulates a criminal justice policy. Much of its value is in the body of the report as opposed to the recommendations. It provides, for the first time, a statistical profile of crime and criminal justice in Jersey; it gives an overview of the criminal justice process and the profile of sentencing that has taken place; and it looks at the wider social influences on criminal justice. As to the recommendations, the Committee has already consulted the Bailiff and the Attorney General in some depth; however, a substantive answer to the question would be premature given that the Committee will be considering which recommendations to carry forward into the policy formulation process at its meeting on 22nd May 2003. Clearly, I will be better able to answer this question after that meeting.

Finally, members will know that policy formulation is a difficult and complex task to get right, even when there is an existing policy which requires review. Therefore, on 22nd May, we shall also be considering what would be a realistic timescale for developing this new policy. I do not wish to pre-judge this; however, suffice it to say that it is an area that touches all members of society and there are many opinions to be taken into account, not least those of the public, colleagues in the judiciary and those delivering front-line criminal justice services."

States Members' remuneration: establishment of an independent review body – P.26/2003 Comments P.26/2003

THE STATES commenced consideration of a proposition of Senator Edward Philip Vibert concerning the establishment of an independent review body for States members' remuneration, and agreed to suspend Standing Order 44(1) relating to the declaration of financial interests for the purpose of considering the matter.

Following discussion, the States adopted an amendment of Senator Christopher Gerard Pellow Lakeman that in paragraph a)(iv) of the proposition the words "*and its recommendations shall be binding*" be deleted, the Bailiff having exercised his discretion under Standing Order 18(2) to allow the amendment to be moved without notice.

THE STATES, in adopting the proposition, as amended, of Senator Edward Philip Vibert –

- (a) agreed that an independent States Members' Remuneration Review Body, comprising persons who were not Members of the States, should be established and that –
 - (i) the Body should consist of a non-voting Chairman and 3 other members with a relevant mix of skills and experience, all appointed by the States on the recommendation of the Privileges and Procedures Committee;
 - (ii) the Chairman and members should be remunerated for their services at an hourly rate to be determined by the States;
 - (iii) the Body should hold public hearings and receive oral and written submissions from any persons, including Members of the States, who wished to make a submission to it; and
 - (iv) the Body, having made whatever additional enquiries it deemed necessary, would report annually to the States on the appropriate level of remuneration to be paid to elected Members of the States; and,
- (b) charged the Privileges and Procedures Committee to take the appropriate steps, including the preparation of draft legislation if deemed necessary, to give effect to the proposals.

Members present voted as follows –

“Pour” (36)

Senators

Walker, Kinnard, Le Claire, Lakeman, Routier, E. Vibert.

Connétables

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

Deputies

Trinity, Huet(H), St. Martin, St. John, Dubras(L), Baudains(C), Voisin(L), Scott Warren(S), Farnham(S), Le Hérissier(S), Fox(H), Bridge(H), Martin(H), Southern(H), Bernstein(B), St. Mary, Ryan(H), Taylor (C), Grouville, St. Peter, Hilton(H).

“Contre” (9)

Senators

Syvret, Norman, M. Vibert.

Deputies

Duhamel(S), Breckon(S), Dorey(H), Troy(B), Ferguson(B), De Faye(H).

**Former Gorey Youth Centre, La Chèvre Rue, Grouville: proposed sale – P.36/2003 (re-issue)
Comments P.36/2003**

THE STATES, adopting a proposition of the Environment and Public Services Committee –

- (a) approved the sale of the Former Gorey Youth Centre, La Chèvre Rue, Grouville as shown on Drawing No. 134/01/20 to Le Patron Holdings Limited for the sum of £185,000 with each party being responsible for its respective legal costs;
- (b) authorised the Attorney General and the Greffier of the States to pass the necessary contract on behalf of the States; and,
- (c) authorised the Treasurer of the States to receive any payment to the Public as it become due.

European Convention for the Protection of Human Rights and Fundamental Freedoms: extension of Protocol 13 – P.39/2003

THE STATES, adopting a proposition of the Policy and Resources Committee, requested the Bailiff to inform the Lord Chancellor that it was the wish of the Insular Authorities that the United Kingdom’s ratification of Protocol 13 to the European Convention on Human Rights and Fundamental Freedoms be extended to the Bailiwick.

Draft Maintenance Orders (Facilities for Enforcement) (Jersey) Law 2000 (Appointed Day) Act 200-P.43/2003

THE STATES, in pursuance of Article 48 of the Maintenance Orders (Facilities for Enforcement) (Jersey) Law 2000, made an Act entitled Maintenance Orders (Facilities for Enforcement) (Jersey) Law 2000 (Appointed Day) Act 2003.

Draft Maintenance Orders (Facilities for Enforcement – Convention Countries) (Jersey) Act 200- P.44/2003

THE STATES, in pursuance of Article 22 of the Maintenance Orders (Facilities for Enforcement) (Jersey) Law 2000, made an Act entitled Maintenance Orders (Facilities for Enforcement – Convention Countries) (Jersey) Act 2003.

Draft Maintenance Orders (Facilities for Enforcement – Hague Convention Countries) (Jersey) Act 200- P.45/2003

THE STATES, in pursuance of Article 30 of the Maintenance Orders (Facilities for Enforcement) (Jersey) Law 2000, made an Act entitled Maintenance Orders (Facilities for Enforcement – Hague Convention Countries) (Jersey) Act 2003.

Draft Employers' Liability (Compulsory Insurance) (Authorised Insurer) (Jersey) Regulations 200- P.46/2003

THE STATES, in pursuance of Article 6(2) of the Employers' Liability (Compulsory Insurance) (Jersey) Law 1973, made Regulations entitled Employers' Liability (Compulsory Insurance) (Authorised Insurer) (Jersey) Regulations 2003.

Draft Police Force (Amendment No. 9) (Jersey) Law 200- P.47/2003

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, adopted a Law entitled Police Force (Amendment No. 9) (Jersey) Law 200-.

Draft Motor Traffic (Third Party Insurance) (Amendment No. 11) (Jersey) Law 200- P.48/2003

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, adopted a Law entitled Motor Traffic (Third Party Insurance) (Amendment No. 11) (Jersey) Law 200-.

Draft Motor Vehicle Registration (Amendment No. 2) (Jersey) Law 200- P.49/2003

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, adopted a Law entitled Motor Vehicle Registration (Amendment No. 2) (Jersey) Law 200-.

H.M. Prison, La Moye: reception and accommodation block – approval of drawings – P.50/2003

THE STATES, adopting a proposition of the Home Affairs Committee –

- (a) approved drawings Nos. – 3.100 (rev 2), 3.101 (rev 5), 3.102 (rev 5), 3.103 (rev 6), 3.104, 3.105 (rev 3.106 (rev 5), 3.107 (rev 5), 3.108 (rev 6), 3.112 (rev 3), 3.113 (rev 4), 3.114 (rev 3), 3.115 (rev 3.116 (rev 5), 3.117 (rev 6), 3.118 (rev 1), 3.119, 1003~~05~~, showing the proposed construction of a two-storey reception and accommodation block for prisoners within the boundary of H.M. Prison, La Moye, St. Brelade; and,
- (b) authorised the Greffier of the States to sign the said drawings on behalf of the States.

Members present voted as follows –

“Pour” (40)

Senators

Syvret, Walker, Kinnard, Le Sueur, Le Claire, Lakeman, Routier, M. Vibert, E. Vibert.

Connétables

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

Deputies

Duhamel(S), Breckon(S), Huet(H), St. Martin, St. John, Dubras(L), Baudains(C), Dorey(H), Voisin(L), Scott Warren(S), Farnham(S), Fox(H), Martin(H), Bernstein(B), Ferguson(B), St. Mary, Ryan(H), Taylor (C), Grouville, St. Peter, Hilton(H), De Faye(H).

“Contre” (1)

Deputy

Troy(B).

No. 2 La Croix Crescent, La Rue à Don, Grouville: removal of restrictive covenant – P.51/2003

THE STATES, adopting a proposition of the Home Affairs Committee –

- (a) authorised the entering into of an agreement on behalf of the public as owner of No. 2 La Croix Crescent La Rue à Don, Grouville with the owners of Nos. 1, 3, 4, 5, 6, 7 and 8 La Croix Crescent, La Rue à Don, Grouville, to permit the complete removal of the restrictive covenant contained within the contracts relating to each of the properties as shown on Drawing No. 586/03/56, which restricts any alteration development or building without the formal agreement of each and every owner, with each of the parties being responsible for their own legal fees;
- (b) authorised the Attorney General and the Greffier of the States to pass, on behalf of the public, any contracts which might be found necessary to pass in connection with the transaction; and,
- (c) authorised the Greffier of the States to sign the said drawing on behalf of the States.

No. 1 Oxford Road, St. Helier: proposed sale – P.52/2003

THE STATES commenced consideration of a proposition of the Health and Social Services Committee concerning the proposed sale of No. 1 Oxford Road, St. Helier. After discussion, Senator Wendy Kinnard sought leave to propose that the matter be referred back to the Committee. The Bailiff ruled that, in accordance with Standing Order 26(1), the effect of such a proposition would be to negative the question and it was therefore disallowed.

THE STATES resumed consideration of the proposition and, after further discussion, the Deputy of St. John sought leave to propose that the States move on to the next item on the Order Paper. The Bailiff ruled that, in accordance with Standing Order 27(1), it appeared that the proposition was an abuse of the procedure of the States and it was therefore disallowed.

THE STATES resumed consideration of the proposition and after further discussion, Senator Christopher Gerard Pellow Lakeman sought leave to propose that the matter be referred back to the Committee. The Bailiff ruled that, in accordance with Standing Order 26(1), the effect of such a proposition would be to negative the question and it was therefore disallowed.

THE STATES rejected the proposition of the Health and Social Services Committee, requesting them to –

- (a) authorise the sale by the public to Fensom Ltd. of the property No. 1 Oxford Road, St. Helier, for the sum of £356,000, with each party being responsible for its own legal fees; and
- (b) authorise the Attorney General and the Greffier of the States to pass the necessary contract on behalf of the public.

Members present voted as follows –

“Pour” (15)

Senators

Le Sueur, M. Vibert, E. Vibert.

Connétables

Trinity, St. Lawrence.

Deputies

St. Martin, Dubras(L), Voisin(L), Scott Warren(S), Le Hérissier(S), Bridge(H), Ferguson(B), St. Mary, Taylor(C), Hilton(H).

“Contre” (29)

Senators

Syvret, Walker, Kinnard, Le Claire, Lakeman, Routier, Ozouf.

Connétables

St. Ouen, St. Saviour, St. Brelade, St. Mary, St. Peter, St. Clement.

Deputies

Trinity, Duhamel(S), Breckon(S), Huet(H), St. John, Baudains(C), Dorey(H), Troy(B), Farnham(S), Fox (H), Southern(H), Bernstein(B), Ryan(H), Grouville, St. Peter, De Faye(H).

THE STATES rose at 5.52 p.m.

M.N. DE LA HAYE

Greffier of the States.