# THE STATES assembled on Tuesday, 11th June 2002 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 Paul Vincent Francis Le Claire - out of the Island. Francis Herbert Amy, Connétable of Grouville - out of the Island. Alan Simon Crowcroft, Connétable of St. Helier - out of the Island. Paul Francis Routier, Deputy of St. Helier - excused. Philip John Rondel, Deputy of St. John - out of the Island.

**Prayers** 

#### Subordinate legislation tabled

The following enactments were laid before the States, namely -

Air Navigation (Exclusion Zone) (Jersey) Order 2002. R & O 47/2002.

Health Insurance (Pharmaceutical Benefit) (General Provisions) (No. 2) (Jersey) Order 2002. R & O 48/2002.

St. Clement Fete (Jersey) Order 2002. R & O 49/2002.

# Matters presented

The following matters were presented to the States -

Housing Committee Strategic Policy Report 2002 - 2006 (P.2/2002): comments- P.2/2002. Com.(2). Presented by the Human Resources Committee.

Housing Committee Strategic Policy Report 2002 - 2006 (P.2/2002): amendment (P.2/2002 Amd.) comments - P.2/2002. Amd.Com.

Presented by the Human Resources Committee.

Housing Committee Strategic Policy Report 2002 - 2006 (P.2/2002): second amendment (P.2/2002 Amd.(2)) comments - P.2/2002. Amd.(2) Com.(2).

Presented by the Human Resources Committee.

Island Plan (P.69/2002): comments - P.69/2002. Com.

Presented by the Human Resources Committee.

Machinery of Government: proposed departmental structure and transitional arrangements (P.70/2002) - comments - P.70/2002. Com.

Presented by the Human Resources Committee.

Draft Terrorism (Jersey) Law 200- (P.75/2002): comments - P.75/2002. Com.

Presented by the Human Resources Committee.

Draft Terrorism (Jersey) Law 200- (P.75/2002): comments - P.75/2002. Com.(2)

Presented by the Finance and Economics Committee.

"Narkunda" and "Chantemerle", West Hill, St. Helier: transfer of administration (P.78/2002)- comments - P.78/2002. Com.

Presented by the Finance and Economics Committee.

Draft Police Procedures and Criminal Evidence (Jersey) Law 200- (P.89/2002): comments - P.89/2002. Com. Presented by the Human Resources Committee.

Draft Police Procedures and Criminal Evidence (Jersey) Law 200- (P.89/2002): comments - P.89/2002. Com.(2) Presented by the Finance and Economics Committee.

Report by the Government Actuary on the financial condition of the Social Security Fund as at 31st December 2000 - R.C.20/2002.

Presented by the Employment and Social Security Committee.

Commission Amicale: report for 2001 - R.C.21/2002.

Presented by the Commission Amicale.

Ecology Fund: report for 2001 - R.C.22/2002.

Presented by the Planning and Environment Committee.

Optometrists (Ophthalmic Opticians): issue of written prescriptions (P.80/2002) - comments - P.80/2002 Com. Presented by the Health and Social Services Committee.

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

## **Matters lodged**

The following matters were lodged "au Greffe" -

Machinery of Government: freedom of representation (P.25/2002) – amendment - P.25/2002. Amd. Presented by Senator P.F. Horsfall.

Island Plan (P.69/2002): amendment - P.69/2002. Amd.

Presented by Deputy G.C.L. Baudains of St. Clement.

Island Plan (P.69/2002): second amendments - P.69/2002. Amd.(2).

Presented by the Public Services Committee.

Island Plan (P.69/2002): third amendments - P.69/2002. Amd.(3).

Presented by the Deputy of St. Peter.

Draft Sea Fisheries (Amendment) (Jersey) Law 200- P.95/2002.

Presented by the Agriculture and Fisheries Committee.

Draft Crime (Going Equipped) (Jersey) Law 200- P.96/2002.

Presented by the Legislation Committee.

Office of Fair Trading: establishment - P.97/2002.

Presented by Deputy A. Breckon of St. Saviour and referred to the Policy and Resources and Industries Committees.

Field 126, La Grande Route de la Côte, St. Clement: construction of homes - P.98/2002.

Presented by Senator C.G.P. Lakeman.

Draft Social Security (Amendment No. 16) (Jersey) Law 200- P.99/2002.

Presented by the Employment and Social Security Committee.

Draft Water Pollution (Amendment) (Jersey) Law 200- P.100/2002.

Presented by the Public Services Committee.

## Population policy - P.101/2002.

Presented by the Policy and Resources Committee.

Population Policy: provision of information and alternative proposals - P.102/2002.

Presented by Senator S. Syvret.

Draft Telecommunications (Jersey) Law 2002 (Appointed Day) Act 200- P.103/2002.

Presented by the Industries Committee.

## Arrangement of public business for the present meeting

THE STATES noted that, in accordance with Standing Order 22(3), the President of the Industries Committee had instructed the Greffier of the States to withdraw the proposition regarding Victoria Chambers, The Esplanade, St. Helier: lease of 1st Floor office accommodation (P.91/2002) lodged "au Greffe" on 28th May 2002 and set down for consideration at the present meeting.

# Arrangement of public business for the next meeting on 18th June 2002

THE STATES confirmed that the following matters lodged "au Greffe" would be considered at the next meeting on 18th June 2002 -

Draft Referendum (Jersey) Law 200- P.40/2002.

Lodged: 26th March 2002.

Legislation Committee.

La Collette Fuel Farm, St. Helier: lease to Shell U.K. Limited and Esso Petroleum Company Limited - P.67/2002.

Lodged: 14th May 2002.

Harbours and Airport Committee.

La Collette Fuel Farm, St. Helier: lease to Shell U.K. Limited and Esso Petroleum Company Limited (P.67/2002) - comments - P.67/2002. Com.

Presented: 21st May 2002.

Finance and Economics Committee.

New North Ouay, St. Helier: erection of fencing- P.88/2002.

Lodged: 21st May 2002.

Deputy G.C.L. Baudains of St. Clement.

Draft Social Security (Amendment No. 15) (Jersey) Law 200- P.90/2002.

Lodged: 28th May 2002.

Employment and Social Security Committee.

Field 574 and part of Field 573, Les Falaises de Fiquet, Beauport, St. Brelade: exchange of land - P.92/2002.

Lodged: 28th May 2002.

Planning and Environment Committee.

Draft Island Planning (Amendment No. 8) (Jersey) Law 200 P.94/2002.

Lodged: 28th May 2002.

Planning and Environment Committee.

## Agriculture and Fisheries: policy report 2001 - question and answer (Tape No. 740)

Deputy Philip Francis Cyril Ozouf of St. Helier, asked Senator Jean Amy Le Maistre, President of the Agriculture and Fisheries Committee, the following question -

"On 14th August 2001 the Committee lodged its Agriculture and Fisheries: policy report 2001. Since that time significant further developments have occurred in all sectors of the agriculture marketplace: specifically a significant downturn in the demand and/or price for milk products, new potatoes and indoor tomatoes. Notwithstanding the work of the Policy Report 2001 Review Group set up to clarify and then consider further the concerns expressed by the Policy and Resources and Finance and Economics Committees on the policy report, would the President give the Assembly the Committee's position on the following -

- (a) whether, in the light of these changing market conditions, the above policy report is still valid?
- (b) whether any changes are necessary to the report and policy framework?
- (c) when the Committee intends seeking a date for the report to be debated?"

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

- "(a) Yes, I believe that the main elements of the policy framework in the Policy Report 2001 appear still to be valid. The Review Group report may of course lead to changes to some elements of the policy document. The Committee has not yet had the opportunity to view or discuss the Review Group's report.
- (b) When considering whether any changes are needed to the policy proposals it is helpful to distinguish between the proposed framework of policies and the extent of funding needed to implement them successfully. The changing market conditions referred to by the Deputy raise questions which relate directly to the level of funding needed. I do not believe that the main elements of the proposed framework of policies will need to be changed as a consequence of the changed market conditions, but there are likely to be changes in the funding requirement.
- (c) The Review Group has almost finished its work. On that basis I expect the Agriculture and Fisheries Committee to be considering the Group's report in the very near future and deciding whether its policy proposals should be amended. The Committee is anxious that the debate should take place before the summer recess."

## Width of buses - question and answer (Tape No. 740)

Deputy Gerard Clifford Lemmens Baudains of St. Clement, asked the Deputy of St. Peter, President of the Public Service Committee, the following question -

"With regard to the recent tendering process for the Island's bus service, would the President advise members -

- (a) of the tender criteria relating to the maximum width of buses, and indicate whether this conforms to the Island's maximum width restriction?
- (b) whether the buses currently ordered by Connex exceed this width?
- (c) if an exemption has been given to Connex, whether the other tenderers were offered the same exemption, and if not, why not?"

The President of the Public Services Committee replied as follows -

"(a) The tender documentation drew the attention to bidders of the relevant legislation in respect of licensing buses. In particular, **all** bidders were advised:-

#### *'Vehicles*

The conditions of contract and service specification include details relating to vehicles to be used on the Island. The current vehicle length and width restrictions will continue to apply. Very minor differences from these dimensions are permitted and individual vehicles are required to be

- exempted by the appropriate officer of the States. It is understood for example that the current Dennis Dart vehicles operated by Jersey Bus exceed the maximum width by virtue of some external hinges, and are thus exempted. Operators should assure themselves that any vehicles they propose to introduce comply with the regulations or can be exempted.'
  - (b) The new buses that Connex have ordered exceed the maximum width stated in Article 6(1) of the Motor Vehicles (Construction and Use) (Jersey) Order, 1998, as amended. This has been discussed with the Inspector of Motor Traffic who under the powers available to him under Article 39A of the Road Traffic (Jersey) Law 1956, as amended, has agreed, in the public interest, to grant licences for these vehicles.
  - (c) I believe I have answered this part of the question in my response to (a)."

## **Increases in health funding - question and answer** (Tape No. 740)

Deputy Philip Francis Cyril Ozouf of St. Helier asked Senator Stuart Syvret, President of the Health and Social Services Committee, the following question -

"At the presentation by the Health and Social Services Committee to all States members on 28th May 2002, it was claimed the department's real growth, when compared to the United Kingdom, was low. Specifically, that for the period 2002 to 2003 the increase was in the region of three per cent. Would the President explain -

- (a) how the Committee arrived at the figure for real increases in health funding for Jersey?
- (b) how the comparative figure for the United Kingdom was compiled?"

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

"(a) The presentation on 28th May 2002 identified that as a result of decision conferencing an amount of £3,799,000 would be available, in 2003, for investment in developing health services. This amount was calculated from the figures notified to the Health and Social Services Committee by the Finance and Economics Committee on 25th April 2002, as the outcome of the decision conferencing process.

The Decision Conferencing process allocated funds amounting to £7,026,000 to the Committee, of this £2,077,000 reflects the recovery of the two per cent savings that each Committee was obliged to submit; £1,150,000 represents the effect of inflation on non-pay costs such as drugs and medical and surgical supplies; the remaining £3,799,000 is the amount available to the Committee to invest in developing health services in 2003. This equates to 3.76 per cent of the Committee's opening position, on which the decision conferencing was based, of £100,982,000.

The following table summarises the movement from the Health and Social Services Committee's 2002 cash limit to the proposed 2003 cash allocation.

Growth in Funds Available for Investment in Health and					
Social Services in 2002					

	£'000	£'000	%
Opening Cash			
Limit 2002 Cash Limit		103,329	
Less 2% savings		(2,257)	
Opening Position		100,982	
(as defined by Decision		,	
Conferencing)			

Decision Conferencing Process	2,077		2.06% increase
Recovery of 2% savings (excluding school milk)	1,150 <b>3,799</b>		1.14% increase 3.76%
Non Pay Inflation at 4% of non pay budget	3,177		increase
Resources available for Investment			
Total Funds allocated via Decision Conferencing		7,026	6.96% increase
Committee Transfers			
Payroll function transferred to Finance and Economics Committee		(144)	0.14% decrease
Notified result of Decision Conferencing		107,863	
Treasury estimate of pay settlements for 2003		4,700	4.65% increase
Proposed 2003 allocation in cash terms		112,563	11.47% increase over Decision Conferencing opening position

(b) The presentation also compared proposed growth in Jersey Health and Social Services against the planned investment in the NHS by the UK government. The figures quoted in the presentation were extracted from the UK government's 2002 Economic and Fiscal Strategy Report.

In its April 2002 budget, the UK government announced, that -

'UK NHS spending should grow by 7.4 per cent a year after inflation over the five years to 2007-08.' and;

'to plan for increases in English social services resources in the period to 2006 at 6 per cent a year on average in real terms.'

Over the five year period, up to 2007/08, this investment of 7.4 per cent 'real growth' per annum after UK inflation (estimated at approx. 2.5 per cent) equates to average annual cash increases of over 10 per cent per annum. This totals 43 per cent increase in funding after inflation over the five year period.

In his 2002 budget speech Chancellor Gordon Brown stated: 'With year on year rises, UK health

spending will grow from this year 65.4 billions to 72.1 billions to 79.3 billions to 87.2 billions to 95.9 billions and then to 105.6 billions in 2007-8: even after inflation a 43 per cent rise over five years. Since 1997, a real terms doubling in health service investment.'

This growth will increase NHS spending as a proportion of UK GDP from 6.6 per cent in 2002/3 to 9.4 per cent in 2007/8."

## Work of the Privileges and Procedures Committee - statement

The President of the Privileges and Procedures Committee made a statement in the following terms -

"I would like to update members on some aspects of the work of the Privileges and Procedures Committee, (PPC), since its formation and inform members of our immediate programme of work for the coming months.

Before doing so, the Privileges and Procedures Committee would like to recognise the difficulty members of the previously constituted House Committee faced following the publication of the proposition on the Report on the Machinery of Government which recommended the disbandment of that Committee. I wish to record the appreciation of the Privileges and Procedures to the House Committee for its work in laying the foundations on which we can now work and progress forward.

#### 1. Resources

Members will recall that, when the Privileges and Procedures Committee was established by the States, it was agreed as part of the proposition that the Committee should have immediate access to adequate financial and manpower resources to undertake its work.

The Committee felt that, in addition to obtaining adequate resources, it was important to ensure that officers working for the Committee were independent. I am pleased to be able to inform members that the Committee has now arranged for a dedicated team of officers to work exclusively for the Committee in new office accommodation established for the Committee in the Peirson Room in Morier House.

Mr. David Filipponi, who will be known to members as a Senior Committee Clerk in the States Greffe, has been released on secondment from the States Greffe to work as Executive Officer of the Privileges and Procedures Committee for a period of 12 months. He is joined by Mrs Judith Bourke, on secondment from the Policy and Resources Department, as Administrator. The team, which has now taken up the work already underway as of yesterday, will be assisted by an Assistant Legal Adviser from the Law Officers' Department who is being seconded to work for the Committee as required. The Committee will, in addition, continue to receive assistance and support from its Committee Clerk, senior members of the States Greffe and the Law Officers' Department.

One of the most significant parts of the Committee's terms of reference is to bring forward proposals before the end of August this year on the establishment of Scrutiny Committees.

- (a) In order to assist our work, Senators C. Stein and W. Kinnard and Deputies C.J. Scott Warren and R.G. Le Hérissier and myself of the Committee, have already visited the House of Commons to learn about the operation of Select Committees;
- (b) Senator Stein and I, together with our Executive Officer, will be visiting the Scottish Parliament later this week to hold discussions on the operation of the Scrutiny Committee system in the new devolved Parliament; and,
- (c) In addition, as members have already been informed, the Committee has organised a seminar on 1st July 2002 when Dr. Chris Game of the University of Birmingham will be speaking to members about recent experience of scrutiny in England, especially in Local Government. There will also be an opportunity for general discussion on the issue of scrutiny and how it should operate in the new system of government in Jersey. A full set of papers will be distributed before the meeting and there will be break-out groups facilitated by the Committee members to obtain

the maximum benefit from members' input in this area.

Over the coming months the Committee will be attempting to provide all members of the States with a wide range of information about the operation of scrutiny in other jurisdictions whilst, at all times, keeping in mind the need to create a system suited to our local situation rather than simply seeking to copy systems elsewhere.

#### 2. Facilities for members

Members will be aware that the Committee is required by its terms of reference to bring forward proposals on the remuneration and facilities for members of the States. The Committee has already given consideration to these two issues and will shortly be circulating a consultation document to all members before bringing forward its proposals.

## 3. Confidential information

Another difficult but important issue that the Privileges and Procedures Committee has considered is that of access by members of the States to Committee Minutes and other confidential information in the custody of the Greffier of the States. The Committee has given initial consideration to this subject and intends to draw up new guidelines which will be presented to the States for approval in the near future. The Committee is determined to preserve the current ability of States members to access Committee Minutes and other information required as part of their political duties. We are conscious that the right to access material which can often contain private, personal and highly confidential information must be exercised within a framework which ensures that there is no breach of relevant human rights and data protection legislation and general rights to privacy. In addition the Committee will be requesting all Committees of the States to review the manner in which private and personal information is dealt with in papers prepared for politicians and at Committee meetings."

## Draft Road Traffic (No. 53) (Jersey) Regulations 200 P.66/2002

THE STATES, in pursuance of the powers conferred on them by the Order in Council of the twenty-sixth day of December 1851 and Article 49 of the Road Traffic (Jersey) Law 1956, as amended, made Regulations entitled the Road Traffic (No. 53) (Jersey) Regulations 2002.

Draft Act amending further the Act of the States dated the 4th day of December 1990, establishing a Scheme to provide compensation for victims of crimes of violence - P.76/2002

THE STATES, adopting a proposition of the Home Affairs Committee, made further amendments of the Scheme established by their Act dated the 4th day of December 1990, to provide compensation for victims of crimes of violence, as amended.

"Narkunda" and "Chantemerle", West Hill, St. Helier: transfer of administration - P.78/2002 Comments - P.78/2002. Com.

THE STATES commenced consideration of a proposition of the Public Services Committee concerning the transfer of administration of "Narkunda" and "Chantemerle", West Hill, St. Helier. After discussion Senator Corrie Stein proposed that the proposition be referred back to the Public Services Committee which proposition was rejected.

Members present voted as follows -

"Pour" (10)

#### **Senators**

Le Maistre, Stein, Bailhache, Syvret, Kinnard.

## **Deputies**

S. Baudains(H), Duhamel(S), Le Hérissier(S), Martin(H), Southern(H).

## "Contre" (36)

#### Senators

Horsfall, Quérée, Norman, Walker, Le Sueur, Lakeman.

#### Connétables

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

# Deputies

H. Baudains(C), St. Mary, Trinity, Layzell(B), Breckon(S), Grouville, Huet(H), St. Martin, Le Mai (H), Vibert(B), St. Peter, Dubras(L), St. Ouen, G. Baudains(C), Dorey(H), Troy(B), Voisin(L), Scc Warren(S), Farnham(S), Ozouf(H), Fox(H).

THE STATES resumed consideration and, adopting a proposition of the Public Services Committee, referred to their Act dated 18th March 1997 which authorised the purchase of certain properties adjacent to the Bellozanne Valley waste disposal plant, and

- (a) authorised the transfer of administration of the properties known as "Narkunda" and "Chantemerle", West Hill, St. Helier as shown on Drawing No. 1599/01/38 from the Public Services Committee to the Housing Committee; and
- (b) authorised the Greffier of the States to sign the said drawing on behalf of the States.

Members present voted as follows -

"Pour" (37)

#### Senators

Horsfall, Le Maistre, Quérée, Bailhache, Norman, Walker, Le Sueur, Lakeman.

## Connétables

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

# **Deputies**

H. Baudains(C), St. Mary, Trinity, Layzell(B), Breckon(S), Grouville, Huet(H), St. Martin, Le Mai (H), Vibert(B), St. Peter, Dubras(L), St. Ouen, G. Baudains(C), Dorey(H), Troy(B), Voisin(L), Scc Warren(S), Ozouf(H), Fox(H).

"Contre" (9)

#### Senators

Stein, Syvret, Kinnard.

## **Deputies**

S. Baudains(H), Duhamel(S), Farnham(S), Le Hérissier(S), Martin(H), Southern(H).

## **Change in Presidency**

The Bailiff retired from the Chair during consideration of the proposition of the Public Services Committee concerning the transfer of administration of "Narkunda" and "Chantemerle", West Hill, St. Helier, before consideration of the proposition of Senator Corrie Stein that the proposition be referred back to the Public Services Committee and the meeting continued under the Presidency of Miss Catherine Mary Newcombe, Greffier of the States.

# Optometrists (Ophthalmic Opticians): issue of written prescriptions - P.80/2002

THE STATES, adopting a proposition of the Industries Committee -

- (a) agreed, in principle, that optometrists (ophthalmic opticians) and medical practitioners registered in accordance with the provisions of the Opticians (Registration) (Jersey) Law 1962 to conduct eye tests should under normal circumstances be required to give persons whose sight had been tested, immediately following the test, a signed, written prescription for an optical appliance; and
- (b) requested the Health and Social Services Committee, after consultation with the Jersey Optical Association, to bring forward for approval by the States the necessary legislative amendments to give effect to the proposals.

Members present voted as follows -

"Pour" (36)

#### Senators

Horsfall, Stein, Bailhache, Syvret, Norman, Kinnard, Le Sueur.

#### Connétables

St. Ouen, Trinity, St. Brelade, St. Lawrence, St. Mary, St. John, St. Peter, St. Clement.

# Deputies

H. Baudains(C), St. Mary, S. Baudains(H), Trinity, Duhamel(S), Breckon(S), Huet(H), Le Main(H Vibert(B), St. Peter, Dubras(L), G. Baudains(C), Dorey(H), Troy(B), Voisin(L), Scott Warren(S), L Hérissier(S), Ozouf(H), Fox(H), Martin(H), Southern(H).

"Contre" (1)

# **Deputies**

St. Martin.

One member abstained from voting.

Senator Christopher Gerard Pellow Lakeman and Deputy Jennifer-Anne Bridge of St. Helier declared an interest in the matter and withdrew from the Chamber prior to its consideration.

# Draft Community Provisions (Control of Exports of Dual-Use Items and Technology) (Application) (Jersey) Regulations 200- P.87/2002

THE STATES, in pursuance of Article 2 of the European Communities Legislation (Implementation) (Jersey) Law 1996, as amended, made Regulations entitled the Community Provisions (Control of Exports of Dual-Use Items and Technology) (Application) (Jersey) Regulations 2002.

# Draft Community Provisions Dual-Use Items (Export Control) (Jersey) Regulations 200- P.86/2002

THE STATES commenced consideration of the Draft Community Provisions Dual-Use Items (Export Control) (Jersey) Regulations 200- P.86/2002, and adopted the preamble.

Regulations 1 to 12 and Schedules 1 and 2 were adopted.

Members present voted as follows -

"Pour" (40)

## **Senators**

Horsfall, Le Maistre, Stein, Bailhache, Syvret, Walker, Kinnard, Le Sueur.

#### Connétables

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

# **Deputies**

H. Baudains(C), St. Mary, S. Baudains(H), Trinity, Duhamel(S), Breckon(S), Grouville, Huet(H), S Martin, Le Main(H), Vibert(B), St. Peter, Dubras(L), St. Ouen, Dorey(H), Troy(B), Voisin(L), Sco Warren(S), Le Hérissier(S), Ozouf(H), Fox(H), Martin(H), Southern(H).

"Contre" (1)

# **Deputies**

G. Baudains(C).

THE STATES, in pursuance of Article 2 of the European Communities Legislation(Implementation) (Jersey) Law 1996, as amended, made Regulations entitled the Community Provisions Dual-Use Items (Export Control) (Jersey) Regulations 2002.

THE STATES rose at 12.38 p.m.

M. N. DE LA HAYE

Deputy Greffier of the States.