

**THE STATES assembled on Tuesday,  
7th March 2000 at 9.30 a.m. under  
the Presidency of the Bailiff,  
Sir Philip Bailhache.**

**His Excellency the Lieutenant Governor,  
General Sir Michael Wilkes, K.C.B., C.B.E.,  
was present**

All members were present with the exception of -

Jacqueline Jeannette Huet, Deputy of St. Helier - out of the Island  
Edward Philip Vibert, Deputy of St. Helier - ill

Prayers

**Deputy Edward Philip Vibert of St. Helier - resignation**

The Bailiff, in accordance with Article 13 of the States of Jersey Law 1966, as amended, informed the States that he had received a letter from Deputy Edward Philip Vibert of St. Helier resigning his office due to ill health. The Bailiff, on behalf of members, expressed regret that Deputy Vibert had to resign so soon after taking office and wished him well for the future.

**Subordinate legislation tabled**

The following enactments were laid before the States, namely -

**Airport Dues (Tariff) (Jersey) Order 2000. R & O 17/2000.**

**Road Racing (Karts) (Jersey) Order 2000. R & O 18/2000.**

**Road Traffic (Speed Limits) (Amendment No. 4) (Jersey) Order 2000. R & O 19/2000.**

**Cremation (Fees) (Jersey) Order 2000. R & O 20/2000.**

**Ancillary Dental Workers (Registration) (Fees) (Jersey) Order 2000. R & O 21/2000.**

**Food and Drugs (Ice-cream Stalls etc.) (Jersey) Order 2000. R & O 22/2000.**

**Nursing Agencies (General Provisions) (Amendment No. 15) (Jersey) Order 2000. R & O 23/2000.**

**Residential Homes (General Provisions) (Amendment No. 5) (Jersey) Order 2000. R & O 24/2000.**

**Nursing Homes and Mental Nursing Homes (General Provisions) (Amendment No. 5) (Jersey) Order 2000  
R & O 25/2000.**

**Harbours and Airport Committee - appointment of member**

THE STATES appointed Deputy Lyndon John Farnham of St. Saviour as a member of the Harbours and Airport Committee.

**Matters presented**

The following matters were presented to the States -

**Public Lotteries: report for 1999 - R.C. 10/2000.**  
Presented by the Gambling Control Committee.

**Draft Firearms (Amendment No. 2) (Jersey) Law 200 (P.2/2000): report- P.2/2000 Rpt.**  
Presented by the Home Affairs Committee.

**An elected President of the States (P.19/2000): report - P.19/2000 Rpt.**  
Presented by the Policy and Resources Committee.

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

### **Matters lodged**

The following matters were lodged "au Greffe" -

**Jersey Financial Services Commission: appointment of Commissioner - P.26/2000.**  
Presented by the Finance and Economics Committee.

**Draft Fire Service (Amendment No. 4) (Jersey) Law 200 - P.27/2000.**  
Presented by the Home Affairs Committee.

**Draft Matrimonial Causes (Amendment No. 10) (Jersey) Law 200 - P.28/2000.**  
Presented by the Legislation Committee.

**Draft Community Provisions (Repeal) (Ban on Supply to Indonesia of Equipment for Internal Repression or Terrorism) (Jersey) Regulations 200 - P.29/2000.**  
Presented by the Policy and Resources Committee.

### **Meeting of 21st March 2000 - cancellation**

THE STATES agreed not to meet on 21st March 2000 due to the insufficiency of public business set down for that day.

### **Arrangement of public business for the next meeting on 4th April 2000**

THE STATES confirmed that the following matters lodged "au Greffe" would be considered at the next meeting on 4th April 2000 -

Jersey Financial Services Commission: appointment of Commissioner - P.26/2000.  
Lodged: 7th March 2000.  
*Finance and Economics Committee.*  
*(consideration in camera)*

Draft Fire Service (Amendment No. 4) (Jersey) Law 200 - P.27/2000.  
Lodged: 7th March 2000.  
*Home Affairs Committee.*

Draft Matrimonial Causes (Amendment No. 10) (Jersey) Law 200 - P.28/2000.  
Lodged: 7th March 2000.  
*Legislation Committee.*

Draft Community Provisions (Repeal) (Ban on Supply to Indonesia of Equipment for Internal Repression or Terrorism) (Jersey) Regulations 200 - P.29/2000.  
Lodged: 7th March 2000.  
*Policy and Resources Committee.*

### **Social Security Registration Cards - P.31/99**

THE STATES noted that, in accordance with Standing Order 17(6), the proposition of Deputy Terence John Le Main of St. Helier concerning social security registration cards (P.31/99 lodged "au Greffe" on 2nd March 1999) had been withdrawn.

### **Laying of fibre optic cables during the creation of the Channel Islands Electricity Grid - question and answer (Tape No. 572)**

The Deputy of St. John asked Senator Frank Harrison Walker, President of the Finance and Economics Committee, the following question -

"In adopting a proposition of the Finance and Economics Committee concerning the 'Channel Islands Electricity Grid' (P.136/96) on 19th November 1996 the States agreed that the laying of a power cable across the Island and beyond to create the Channel Islands Electricity Grid with Guernsey and France, safeguarded the public interest. Would the President advise members -

- (a) whether the Committee was aware at the time of presenting the proposition that fibre optic cables

were also to be laid by the Jersey Electricity Company Limited during the creation of the electricity grid and, if so, why was this information not given to members?

- (b) if the answer to (a) is in the negative, when was the Committee informed of this matter and why did the Committee decide that it was not necessary to inform the States of the Company's intention to lay these additional cables?"

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

- “(a) The Committee was not aware at the time of presenting the proposition that fibre optic cables were also to be laid by the Jersey Electricity Company.
- (b) The Committee received a letter dated 1st April 1998 from the Company indicating that they were intending to invest in submarine fibre optic link capacity, in excess of that required for the operational control of the Channel Islands Electricity Grid. The Committee decided to make the Telecommunications Board aware of the proposals.

The report accompanying P.136/96 clearly stated that the investment and other business decisions of the Jersey Electricity Company Limited are not normally subject to review by the States.”

### **Television licence fees for senior citizens - question and answer (Tape No. 572)**

Senator Corrie Stein asked Senator Frank Harrison Walker, President of the Finance and Economics Committee, the following question -

“On 18th January 2000 the President made a statement to the Assembly about television licence fees for senior citizens and assured the Assembly that this issue was being considered by officers from his Committee and the Employment and Social and Security Committee. He stated that a way forward, which met the needs of the elderly residents of Jersey, would be developed as soon as full information on the United Kingdom approach was available and had been reviewed.

Now that the United Kingdom has announced its administration procedures for the provision of free television licences for residents aged 75 and over, would the President advise the Assembly when the Committee plans to present proposals to the States to meet the needs of elderly residents of Jersey?”

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

“As I informed the Assembly on 18th January 2000 any proposals on this issue will be brought forward when practicable and only once full consideration has been given to an approach that will meet the needs of people in Jersey.

Since I made this statement my Committee has held discussions with the President of the Employment and Social Security Committee regarding television licence fees for elderly residents. It was agreed that the Employment and Social Security Committee, in conjunction with my Committee and the Comité des Connétables, would prepare an issues paper on this subject which is now being actively progressed.

Members will be aware that the Employment and Social Security Committee will shortly be bringing forward its proposals for a review of the financial support given to those less fortunate in our society, not just for the elderly, but for the community as a whole, and it would be wrong to agree to something new in isolation without first seeing how it fits, in priority terms, with this current initiative”.

### **Personal allowance for pensioners living in assisted places in residential accommodation - question and answer (Tape No. 572)**

Senator Corrie Stein asked Senator Terence Augustine Le Sueur, President of the Employment and Social Security Committee, the following question -

“In light of the fact that old age pensions for single and married persons have increased by 20.2 per cent over the last three years, would the President explain to members -

- (a) why the £18 per week personal allowance for pensioners living in assisted places in residential accommodation has not increased at all over this period, as it would now be £21.64 if it had been increased by the same percentage as old age pensions?
- (b) whether the Committee has plans to address this anomaly and, in addition, to introduce a statutory right to a set personal allowance for people who live in assisted places in residential accommodation as many of these pensioners have contributed towards their old age pension in order to safeguard a reasonably financially secure old age?”

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

“Before I respond directly to parts (a) and (b) of the question, it may help to set it in context. Comparison is drawn to a Social Security benefit - the old age pension - but the personal allowance for pensioners living in assisted places in residential accommodation (often referred to as ‘pocket money’) is, in fact, a type of welfare payment. It is paid by Parishes to those in need and the cost is borne by Parishes; for ‘non-natives’ this cost is refunded from general revenues.

The Employment and Social Security Committee took over responsibility from the Finance and

Economics Committee in 1997 for refunding non-native welfare expenditure incurred by the Parishes. Around the same time, the Working Party on Need, a body set up under the auspices of the Finance and Economics Committee, was wound up and responsibility for working with the Parishes to modernise the Parish Welfare system was passed to the Employment and Social Security Committee. One of the responsibilities of the Working Party on Need had been to recommend annual increases in welfare rates including the 'pocket money' allowance, and this my Committee, through the Benefit and Welfare Working Party, has done in recent years.

Unlike Social Security benefits which are now linked to the Earnings Index (which has been abnormally high in the last year), welfare grants are based on immediate need and are linked to the Cost of Living Index. Looking back over the Minutes of the Working Party on Need, the personal allowance referred to in the question has not always been uprated automatically each year in line with the cost of living. Where increases have been made, they have tended to be in amounts above the RPI.

Returning specifically to part (a) of the question, the 'pocket money' allowance was last raised in October 1996 from £17.50 to £18. My Committee considered the level of this allowance last summer and, on the basis of advice received from administrators connected with residential homes, formed the opinion that the level of £18 remained adequate in most cases. At the time, it compared favourably (and still does) with Guernsey and the United Kingdom, where the current weekly rates are £14.50 and £14.75 respectively.

I have, however, since met with some members of the Senior Citizens Association who expressed concern that this rate was causing hardship for some. We have therefore examined data from the research previously commissioned into minimum budgetary standards extrapolating those areas of expenditure not provided by the residential home such as clothes, toiletries, stationery, telephone costs, magazines and books. The research indicated that a modest increase in the allowance may be justified and we have passed this information onto the Connétables for consideration. As I have said, my Committee is in an anomalous situation as it has no statutory authority to set the rate of the 'pocket money' allowance. Accordingly, before making any adjustment to the present rate, I believe we have a responsibility to discuss our findings with the Comité des Connétables. A meeting has already been scheduled to take place on 14th March 2000.

Responding to the second part of the question, this allowance, as indeed the whole of the welfare system, has very little statutory backing. Members may be aware that we will shortly be presenting a report and proposition on the subject of a new system of low income support. It is envisaged that a low income support system could replace existing means-tested benefits, including welfare and be set up on a statutory basis. This will be dependent, of course, on States approval. In the meantime, my Committee is strongly of the opinion that, once the correct level of pocket money allowance has been agreed with the Connétables, it should then be uprated yearly in line with other welfare payments. I can assure members that this recommendation, subject to endorsement by the Comité des Connétables, will be implemented until such time as any new system of income support is put in place".

**Release of information by the Health and Social Services Committee - question and answer (Tape No. 572)**

The Deputy of St. Peter asked Senator Stuart Syvret, President of the Health and Social Services Committee, the following question -

“Would the President agree to make public -

- (a) details of the annual amounts paid to Southampton University Hospitals Trust for the wide range of specialist treatments given to Jersey residents in the past five years, and agree to release the comparable amount paid each year in future?
- (b) the full reports of the service review of the Health and Social Services Department which took place in the last couple of years?"

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

“(a) I am not prepared to make public the information requested by the Deputy because to do so may compromise the negotiating position of the Health and Social Services Committee when negotiating contracts with NHS trusts. I am satisfied that the information requested falls within exemption 3.2(a)(x) of the Code of Practice on Public Access to Official Information, which states that information shall be exempt from disclosure, if such disclosure would, or might be liable to -

prejudice the financial interests of an authority by giving an unreasonable advantage to a third party in relation to a contract or commercial transaction which the third party is seeking to enter into with the authority;

and exemption 3.2(b) of the Code of Practice which states -

the information concerned was given to the authority concerned in confidence on the understanding that it would be treated by it as confidential, unless the provider of the information agrees to its disclosure.

I am, however, happy to supply the information on a confidential basis to any interested member.

(b) Yes. Any individual wishing to access the full service review document should make an application in accordance with Part II, paragraph 2.2 of the Code of Practice on Public Access to Official Information”.

#### **Draft Planning and Building (Jersey) Law 200 - question and answer (Tape No. 572)**

Senator Christopher Gerard Pellow Lakeman asked Senator Nigel Lewis Quérée, President of the Planning and Environment Committee, the following question -

“(a) Would the President confirm how many groups or individuals have responded to the consultation document ‘Draft Planning and Building (Jersey) Law’ issued in November 1999?

(b) Would the President make available to members both a summary and a full copy of all letters received in relation to the proposed Law?”

The President of the Planning and Environment Committee replied as follows -

“(a) The Committee had received only 13 written responses to its consultation document by the end of February.

We are aware of persons who said they would respond but have yet to do so, and in view of the disappointing response we will consider comments received before the end of March.

(b) The Committee will make available a summary of the comments made, but will not, without the authors’ permission, publish individuals’ names or a copy of their letters”.

#### **Payment of compensation by the Planning and Environment Committee - questions and answers (Tape No. 572)**

Senator Christopher Gerard Pellow Lakeman asked Senator Nigel Lewis Quérée, President of the Planning and Environment Committee, the following questions -

“1. In response to questions asked by Deputy T.J. Le Main of St. Helier in the Assembly on 2nd March 1999, the President stated that a total of 10 compensation payments, totalling £268,482, had been made by the Committee since taking office in 1996. Would the President -

(a) confirm that the figures as stated to the Assembly at that time were the final figures for all of the cases there described?

- (b) provide an update by reference to the number of cases and the amount of compensation and costs (identified separately) paid by the Committee?
2. Would the President identify what measures are taken within the Department to ensure that officers are acting within the terms of the Island Planning (Jersey) Law 1964, as amended, and to ensure that appropriate legal advice is sought in a timely and precautionary manner?
  3. Would the President indicate from what source any payment of compensation and/or costs is met?
  4. Would the President identify what procedures are in place within the Department to ensure that appropriate action is taken after -
    - (a) the successful appeal against a decision of the Committee, and/or
    - (b) any informal resolution of planning disputes
 which involve the payment of compensation or costs?"

The President of the Planning and Environment Committee replied as follows -

- “1. In my reply to questions on 2nd March 1999 I informed the States that all of the ten matters where the Committee had to settle costs related to planning disputes which were left outstanding by previous Committees prior to 1997.

Since then one further payment has been made. This relates to an enforcement case which took place in 1994 and which was appealed to the Royal Court. Costs of £11,548 have been paid. Claims for costs are pending following two further Royal Court decisions in 1999.

2. Individual planning applications are considered on their merits in the context of the Island Plan and the Planning Law. The assessment frequently requires finely balanced judgements.

Officers within the Department are well versed in the provisions of the Planning Law, the Island Plan policies and supplementary policy guidance. There are three levels of monitoring within the Department to ensure that the relevant policies are being applied fairly and consistently. This internal scrutiny reveals those cases where a decision might be vulnerable to legal challenge.

In these or other cases where unusual factors are raised, the advice of the Law Officers is always sought, sometimes following consultation with the Committee.

The Chief Executive Officer and the Director of Planning are constantly vigilant. The Department's record, bearing in mind the great number of cases successfully dealt with, is an excellent one.

3. Prior to 1997 the Committee's budget included specific provision for these costs and these votes were shown in the States Budget Book and were subject to the approval of the States.

When the Committee took office in January 1997 £87,000 was available from unspent balances which had been carried forward to meet outstanding liabilities.

Two very long-standing claims required settlements of £171,000. In view of the significant amounts involved the Committee sought extra funding.

The Finance and Economics Committee approved an additional revenue amount of £52,500 in 1998 requiring the Committee to meet the balance from funds already available to the Committee.

- 4(a) Where there has been a successful appeal against a decision of the Committee, a report is made to the Committee with the reasons for its success, and a review of the Committee and Departmental actions leading to the appeal. The report would take into account political factors such as States or member involvement. If this review identifies weaknesses in the Department, changes in procedures will be adopted.

- (b) The informal resolution of planning disputes is much more frequent and avoids costs being incurred; we encourage such practice.

I should advise the Senator that despite these procedures there is no complacency. The States do have insurance cover against officers' negligence, which I am pleased to say has never been called upon for planning officers. Last year the Chief Executive Officer invited the Treasury Controller of Audit to review procedures and this is expected to take place this year".

#### **Payment of subsidies and the appointment of a new chief officer - questions and answers (Tape No. 572)**

The Deputy of St. John asked Senator Jean Amy Le Maistre, President of the Agriculture and Fisheries Committee, the following questions -

- “1. As half a million pounds of taxpayers' money has been given to the agricultural industry without a States debate, would the President inform members how this is to be targeted to the industry, and who will receive it?
2. As a new chief officer is to be appointed at the Department of Agriculture and Fisheries, would the President advise members whether the post will be advertised in the United Kingdom as well as Jersey?”

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

- “1. The half a million pounds has been added to the Agriculture and Fisheries Committee's enterprise support budget and will be distributed in accordance with the formula for the allocation of enterprise support which formed part of the Agriculture and Fisheries Committee's Policy Plan, approved by the States in 1993. This formula determines the cost and average three year return of each export crop, and aid is distributed in accordance with the crop performance. A total of 131 farm units qualified for enterprise support as a result of export crop performance in 1999.

The export crops returned £41 million in 1999, which is £4 million less than the average for the previous three years, and £7 million less than the equivalent return in 1994. In the face of this dramatic reduction in the returns for exported crops in 1999, my Committee intends to target the majority of the additional aid towards the growers who have been most seriously affected and establish a ceiling on the amount to be distributed to any individual unit. It is intended that any remaining sum in enterprise support will be directed towards initiatives which will improve trading prospects for the future.

Consultation with the industry has already begun and it is anticipated that agreement will soon be reached on the precise detail of the payments.

2. The post was advertised in Jersey in November 1999, but unfortunately no suitable candidates applied for the post. As a result, action was taken to contact a number of organizations in the United Kingdom, such as the Ministry of Agriculture, Fisheries and Food, to establish whether any of their employees would wish to apply for the post. Subsequently, a number of applications were received and action is now being taken, in conjunction with the States Human Resources Department, to process those applications and it is intended that interviews will be held at the end of March”.

#### **States of Jersey Police Force - question and answer (Tape No. 572)**

Senator Paul Vincent Francis Le Claire, asked Deputy Alastair John Layzell of St. Brelade, President of the Home Affairs Committee, the following question -

“Would the President inform members -

- (a) how many police recruits have completed their basic training in the last five years to become

members of the States of Jersey Police Force?

- (b) how many of those same officers remain currently employed by the States of Jersey Police Force?
- (c) how many officers are currently on light duties?
- (d) how many officers are currently on sick leave?
- (e) of the total number of police officers on the States payroll and how many are fit for full duties?
- (f) how many officers are due to leave the police force during the next twelve months?"

The President of the Home Affairs Committee replied as follows -

- “(a) 67 officers were recruited of which 61 completed the two-year training course;
- (b) 59;
- (c) 2;
- (d) 12;
- (e) the total number of police officers is 244. 230 are fit for full duties;
- (f) the Chief Officer and two others are retiring. One other officer is leaving to take up a new career in New Zealand.”

#### **Accidents involving police officers - question and answer (Tape No. 572)**

Deputy Gerard Clifford Lemmens Baudains of St. Clement, asked Deputy Alastair John Layzell of St. Brelade, President of the Home Affairs Committee, the following question -

- “(a) Accidents involving police vehicles are currently investigated by fellow officers. Would the President advise whether an alternative means of accident investigation exists so that future accidents involving police vehicles can be examined by independent persons?
- (b) If the answer to (a) is in the negative, would the President investigate alternative means of accident investigation and subsequently advise members of the process chosen”?

The President of the Home Affairs Committee replied as follows -

- “(a) No alternative independent system exists for the investigation of accidents involving police vehicles. These accidents are investigated by police officers because they are the only people empowered to investigate road traffic accidents as defined in the Road Traffic (Jersey) Law 1956, as amended.

The police have an established policy for dealing with accidents involving officers. This requires that all accidents are reported to a supervisory officer. An officer, usually of a rank senior to the driver involved, should attend the scene to investigate and report. If necessary, specialist accident investigation officers will be called to assist with the investigation and the interpretation of evidence. If a defect to the vehicle is alleged to be a contributory factor, an examiner from the Driver and Vehicle Standards Department will be called.

The accident report is submitted to the Head of Force Operations and then to the Head of the Complaints and Discipline Department. It is then forwarded to the Attorney General for legal opinion and direction.

The States Police do not have any influence over the prosecution of a police officer. If the Attorney General is not satisfied that the accident was investigated properly, the matter may be referred

back to the Chief Officer for further enquiries.

- (b) No. The Committee believes the procedures in place - which are based upon those used in other forces - ensure that a police officer involved in an accident is dealt with appropriately”.

#### **New rules of court on judicial review - question and answer** (Tape No. 572)

Senator Stuart Syvret asked Miss Stéphanie Claire Nicolle, Q.C., H.M. Acting Attorney General, the following question -

“On Tuesday 8th February 2000 the Royal Court (Amendment No. 15) Rules 2000 (R&O 10/2000) and the Court of Appeal (Civil) (Judicial Review) (Jersey) Rules 2000 (R&O 11/2000) were laid before the States. The brief explanatory notes explained that these Rules established Royal Court procedures for judicial review and a code of procedure for the Court of Appeal in respect of judicial review cases.

Would the Acting Attorney General provide for the Assembly -

- (a) a general explanation of the purpose and scope of judicial review including the type of cases in which the procedure may be invoked?
- (b) an explanation of the Rules and code of procedure established by the two sets of Rules?
- (c) an explanation of any differences between the Rules and code of procedure established by the Jersey Rules and the English system of judicial review?”

H.M. Acting Attorney General replied as follows -

- “(a) Judicial review is the process by which the Royal Court exercises a supervisory jurisdiction over the proceedings and decisions of inferior courts, tribunals and other bodies or persons who carry out quasi-judicial functions or who are charged with the performance of public acts and duties. It exists quite independently of any rights of appeal which may be conferred by Laws passed by the States, although the existence of a suitable alternative remedy may make judicial review unavailable. On judicial review, the court is not concerned with reviewing the merits of the decision in respect of which the application for review has been made but the decision making process itself. This is what distinguishes it from an ordinary appeal. The purpose of the remedy of judicial review is to ensure that the individual is given fair treatment by the authority to which he has been subjected.

On judicial review, the court does not substitute its opinion for that of the authority constituted by law to decide the matter in question. The court will strike down the administrative action on the grounds of illegality (where the decision maker has not correctly applied the law that regulates his decision making power), irrationality (where the decision maker has reached a decision to which no reasonable decision maker could have come had all proper material been taken into consideration and all improper material been excluded from consideration); and procedural impropriety (where, for example, the decision maker has refused to allow the citizen the right to be heard).

The remedy of judicial review may be sought by any citizen who is materially affected by the decision of a body or person exercising a public function. It therefore extends to a review of decisions of the States acting in an executive capacity where, for example, compulsory purchase has been resolved; decisions of Committees of the States; decisions of the Rent Control Tribunal; and decisions of the Parish Rate Appeal Board. These are examples rather than an exhaustive list of the circumstances where judicial review may be invoked.

- (b) Until the Royal Court (Amendment No.15) Rules 2000, there were no specific rules of procedure in relation to administrative actions for judicial review. Accordingly an application for judicial review was previously liable to be treated as any other action, and could conceivably, in some cases, delay implementation of the administrative decision for considerable periods of time. A case in point was the compulsory purchase of Kent Lodge which was approved by the States on

20th November, 1991 and gave rise to litigation which was not finally settled until January 1996. This led in that case to a firm statement by the Court of Appeal that rules analogous to those available in the United Kingdom should be introduced. Although in the *Les Pas Holdings Limited* case the challenge to the States decision for compulsory purchase was able to be dealt with speedily, those concerned with the appropriate court procedures came to the view that the better approach was that rules were particularly necessary -

- (i) to provide for the need for leave of the court before an action for judicial review could be commenced. This requirement, which exists in the United Kingdom, is to ensure that proper administrative action is not delayed by applications for judicial review which stand no reasonable chance of success;
- (ii) to ensure that the procedural rules were streamlined so that once leave had been given applications were brought to a hearing with the minimum delay in order that both the citizen and the administration would know as speedily as possible whether the decision under challenge was valid.

Although each rule addresses different steps in the procedure, these are the principles upon which the new Rules are based, and they are similar principles to those which exist in the procedure for judicial review in the United Kingdom.

Separate rules are made in relation to the procedure in the Court of Appeal for judicial review cases because -

- (i) it was appropriate to make provision for those cases where the citizen wished to challenge a decision of a judge of the Royal Court refusing leave to commence an action for judicial review.
  - (ii) the timetable for dealing with appeals in civil cases as prescribed by the current Rules was inappropriately long in cases where administrative action was under challenge.
- (c) Clearly there are differences in terms of detail between the Rules effective in Jersey and those effective in England because one is dealing with a different court system. In terms of principle and structure the Rules are very similar. There is, however, one material difference. In England the fact that there is a separate procedure for judicial review has on occasion caused injustice when an applicant has been held to have used the wrong procedure at a time when it was too late for him to embark on the right procedure. That has been the subject of consideration in the United Kingdom and was indeed discussed by the Law Commission Report of 26th October, 1994. The Jersey Rules have been drawn in such a way that this problem does not arise because the Court has power to allow an action to be transferred to the right procedure even if commenced incorrectly. There are no other material distinctions”.

### **Appointment of the Chief Officer of the States of Jersey Police Force - statement**

Deputy Alastair John Layzell, President of the Home Affairs Committee, made a statement in the following terms -

“Members will be aware that the Chief Officer of the States of Jersey Police Force will retire at the end of this year. His post will be advertised later this week in Jersey and the United Kingdom. It is anticipated that interviews and assessment centres for the shortlisted candidates will take place in May with an appointment being made in May. The successful candidate will be expected to shadow the current Chief Officer from October and take over at the turn of the year.

The Home Affairs Committee has codified the procedure for interview and appointment by adopting Home Office guidelines which were published in 1996. These will be well-known to candidates. The assessment centre will be based upon a model adopted by the Human Resources Committee. In keeping with the guidelines, Her Majesty's Inspector of Constabulary will act as technical adviser to the assessment panel which I will chair and which will include the Vice-President of the Committee, the President or Vice-President of the Human Resources Committee, the Chairman of the Police Authority

and the Chief Executives of the Policy and Resources and the Human Resources Departments.

Since this important appointment is made not by the Committee but by this Assembly - sitting *in camera* - the Committee is most anxious that all States' members should have confidence in the process. The guidelines document is so large that it is impractical to circulate it to all members. Any member wishing a copy may contact the Committee Clerk. Additionally, I or any members of the Committee will, of course, be happy to answer any questions about the appointment process."

### **Processing of applications under the Housing Law - statement**

Deputy Harry Hallewell Baudains of St. Clement, Vice-President of the Housing Committee, made a statement in the following terms -

"The Housing Committee is very concerned that ill-informed statements are being made through the media to the effect that housing qualifications are being granted to persons simply by virtue of their ethnic origin and without regard to the Housing Law and Regulations. I would like to reassure the Assembly that all persons who apply for housing consent are treated strictly in accordance with the existing legislation, without fear nor favour.

In addition, it has been suggested that applicants for States' rental accommodation are treated more or less favourably, depending on their ethnic origin. Once again, I would assure the Assembly that all applicants are subject to the same criteria before being accepted or rejected for States' rental accommodation. The same non-discriminatory policy applies in respect of the allocation of accommodation".

### **Draft Water Pollution (Jersey) Law 200 - P.15/2000 Amendments - P.23/2000. Second amendments - P.25/2000**

THE STATES commenced consideration of the draft Water Pollution (Jersey) Law 200 and adopted the preamble.

Articles 1 to 18 were adopted, the States having accepted an amendment of the Public Services Committee that for the words "paragraph (1) of Article 17" in Articles 18(2) and 18(4) there should be substituted the words "Article 17(1)".

Articles 19 to 31 were adopted.

Article 32 was adopted, the States having accepted an amendment of the Public Services Committee that, in paragraph (1), for the words "by this Article" there should be substituted the words "on a designated officer by paragraph (3)", and an amendment of Deputy Jeremy Laurence Dorey of St. Helier that after paragraph (6) there should be inserted the following paragraph -

"(7) Where a designated officer has exercised any powers under this Article in respect of any land, vehicle, vessel, hovercraft or aircraft, he shall in writing inform the owner, occupier, driver, master, commander, or person in charge (as the case may be) as soon as reasonably practicable and in any event within 21 days -

- (a) of the powers he has so exercised; and
- (b) of everything he has taken or removed in the course of exercising those powers."

and that paragraph (7) should be renumbered as paragraph (8).

Articles 33 to 48 were adopted, the States having accepted an amendment of the Public Services Committee that for Article 48 there should be substituted the following Article -

"ARTICLE 48

### **Criminal liability**

(1) Any person who aids, abets, counsels or procures the commission of an offence under this Law shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.

(2) Where an offence under this Law committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of -

- (a) a person who is a director, manager, secretary or other similar officer of the body corporate; or
- (b) any person purporting to act in any such capacity,

the person shall also be guilty of the offence and liable in the same manner as the body corporate to the penalty provided for that offence.

(3) Where the affairs of a body corporate are managed by its members, paragraph (2) shall apply in relation to acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.”

Articles 49 to 53 were adopted, the States having accepted an amendment of the Public Services Committee that Article 53 should be re-numbered as paragraph (1) of that Article and that after paragraph (1) as so re-numbered there should be added the following paragraph -

“(2) Nothing in any of Articles 36, 37 and 39 -

- (a) derogates from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under any such Article; or
- (b) affects any restriction imposed by or under any other enactment.”

Articles 54 to 57 and Schedules 1 to 5 were adopted.

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, adopted a Law entitled the Water Pollution (Jersey) Law 2000 .

The Deputy of St. John declared an interest and withdrew from the Chamber prior to consideration of the draft Law.

### **Special Needs Employment Service: Acorn Enterprises Limited and Oakfield Industries Limited - P.16/2000**

THE STATES, adopting a proposition of the Employment and Social Security Committee -

- (1) approved, in principle, the setting up of a new Board to co-ordinate action and services for people with special needs currently provided by the Employment and Social Security, Health and Social Services, and Education Committees;
- (2) agreed that the new Board should be constituted by, and be responsible to, the Employment and Social Security Committee as outlined in the report of that Committee dated 20th January 2000;
- (3) charged the Employment and Social Security Committee to take the necessary action with regard to integrating into the proposed structure the existing independent Boards of Acorn Enterprises Limited and Oakfield Industries Limited.

### **Jersey Aero Club relocation: grant of funds - P.20/2000**

THE STATES, adopting a proposition of the Harbours and Airport Committee -

- (a) agreed, in principle, the financial package offered to the Jersey Aero Club, as set out in the report of the Harbours and Airport Committee dated 26th January 2000 and;
- (b) requested the Finance and Economics Committee to make a grant of £650,000 to the Jersey Aero Club from the general reserve.

Deputy Alastair John Layzell of St. Brelade and the Deputy of St. John declared an interest and withdrew from the Chamber prior to consideration of this matter.

### **Former Postal Headquarters site, Mont Millais, St. Helier: sale to Jersey Homes Trust - P.21/2000**

THE STATES, adopting a proposition of the Housing Committee -

- (a) approved the sale to the Jersey Homes Trust of the freehold of the former Postal Headquarters site, Mont Millais, St. Helier, for redevelopment as social rented housing, for a nominal sum to be agreed by the Finance and Economics Committee;
- (b) authorised the Attorney General and the Greffier of the States to pass the necessary contracts on behalf of the public.

Members present voted as follows -

**“Pour” (43)**

#### **Senators**

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

#### **Connétables**

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

#### **Deputies**

H. Baudains(C), St. Mary, Trinity, Routier(H), Layzell(B), Grouville, St. Martin, Le Main(H), Crowcroft(H), M. Vibert(B), St. Peter, Dubras(L), St. Ouen, G. Baudains(C), Dorey(H), Troy(I), Voisin(L), Scott Warren(S), Farnham(S), Le Hérisier(S), Ozouf(H), Fox(H), Bridge(H).

**“Contre” (7)**

#### **Senators**

Syvret, Kinnard.

#### **Connétable**

Grouville.

#### **Deputies**

S. Baudains(H), Duhamel(S), Breckon(S), St. John.

### **Jersey Electricity Company Limited: appointment of directors - P.22/2000**

THE STATES adopting a proposition of the Finance and Economics Committee, approved the appointment of the undermentioned members as directors of The Jersey Electricity Company Limited, with effect from 1st April 2000, in accordance with Article 90 of the Articles of Association of the Company -

Senator Jean Amy Le Maistre;  
Connétable Malcolm Cedric Pollard of St. Peter;  
Deputy Derek Ryder Maltwood of St. Mary;  
Deputy Michael Edward Vibert of St. Brelade;  
Deputy Kenneth William Syvret, M.B.E., of St. Ouen.

**Bailiff's Consultative Panel: States members - P.24/2000**

THE STATES, adopting a proposition of Senator Pierre François Horsfall, appointed the following as States member representatives on the Bailiff's Consultative Panel -

Senator Corrie Stein;  
Deputy Alan Breckon of St. Saviour;  
Deputy Paul Francis Routier of St. Helier.

**Changes in presidency**

The Bailiff retired from the Chamber during consideration of Articles 7 and 8 of the draft Water Pollution (Jersey) Law 200 and the Greffier of the States, Geoffrey Henry Charles Coppock, Esquire, took over the presidency. The Bailiff resumed the presidency after the lunch adjournment prior to consideration of Article 27 of the draft Law but retired from the Chamber during consideration of the proposition of the Housing Committee on the Former Postal Headquarters site and the Greffier of the States presided for the remainder of the meeting.

THE STATES rose at 5.14 p.m.

**G.H.C. COPPOCK**

*Greffier of the States.*