THE STATES assembled on Tuesday, 9th July 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 Frank Harrison Walker - ill Senator Wendy Kinnard - out of the Island Maurice François Dubras, Deputy of St. Lawrence- out of the Island Peter Nicholas Troy, Deputy of St. Brelade- out of the Island

Prayers read by the Bailiff

Bailiff's Ruling - Standing Order 31(4)

The Bailiff made a statement in the following terms -

"I have been asked to give a ruling on the legitimacy of the decision by Deputy Duhamel to change his vote at the conclusion of the Population Policy debate on Thursday 4th July. Standing Order 31(4) provides, so far as it is material -

"If a member states that he voted in error he may claim to have his vote altered if his claim is made before the Bailiff has declared the result of the division".

I have seen a transcript of the relevant part of the proceedings where the Greffier, who was presiding, quotes that Standing Order and the following exchange takes place -

"Deputy Duhamel: In that case I vote contre.

President: So you voted in error the first time?

Deputy Duhamel: Yes.

President: There were 23 votes cast in favour, there are 23 votes cast against. As an officer I

have no casting vote and the question therefore is determined in the negative".

In the light of that unequivocal response from Deputy Duhamel the acting President had no other option but to accept that he had voted in favour of the proposition in error and to allow him to alter his vote.

It seems that after the debate and outside the Assembly Deputy Duhamel has indicated that after members had voted he became aware of the closeness of the vote and accordingly decided to change his mind. Members have asked whether knowledge of the likely outcome of the result of a division is a legitimate reason for a member to state that he voted in error.

The answer to that question is no. Deputy Duhamel appears to have been under the misapprehension that he was entitled to change his mind and to cast his vote differently provided that the result of the division had not been declared. That is not a correct interpretation of Standing Order 31(4). The Standing Order is directed at the situation where, at the time of voting, a member mistakenly casts his vote the wrong way. If he realizes his mistake before the result of the division has been declared, Standing Order 31(4) allows him to correct it. A member is not entitled, under the influence of other considerations whatever they may

be, to change a vote consciously and intentionally expressed at the time when his name is called Such a vote cannot be described as one cast in error.

It is regrettable that this misapprehension led to an outcome to the debate different from that which would otherwise have resulted. I have considered whether it is open to any member to request that the matter be re-opened and that the vote on the proposition of the Policy and Resources Committee be taken again. I have reached the conclusion that the answer to that question must be in the negative. History cannot be rewritten. The acting President quite properly accepted the statement that Deputy Duhamel had voted in error, allowed him to alter his vote, and then declared the result of the division. The fact that it has subsequently transpired that Deputy Duhamel misunderstood his right under Standing Order 31(4) does not affect the validity of the result declared by the acting President."

Subordinate legislation tabled

The following enactment was laid before the States, namely -

Battle of Flowers (Jersey) Order 2002. R & O 60/2002.

Matters presented

The following matters were presented to the States -

Employment and Social Security Committee: annual report and accounts for 2001.

Presented by the Employment and Social Security Committee.

Island Plan (P.69/2002) - comments - P.69/2002 Com.(2).

Presented by the Finance and Economics Committee.

Island Plan (P.69/2002) - comments on second and fifth amendments - P.69/2002 Amd.(2)&(5).

Presented by the Finance and Economics Committee.

Machinery of Government: Proposed Departmental Structure and Transitional Arrangements (P.70/2002): Amendment (P.70/2002 Amd.) - comments - P.70/2002 Amd. Com.

Presented by the Policy and Resources Committee.

Draft Sea Fisheries (Amendment) (Jersey) Law 200- (P.95/2002) - comments - P.95/2002 Com.(2).

Presented by the Finance and Economics Committee.

Cottage Homes Committee: Transfer of Functions to Housing Committee (P.104/2002) - comments - P.104/2002 Com.

Presented by the Finance and Economics Committee.

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

Matters lodged

The following matters were lodged "au Greffe" -

Machinery of Government: proposed departmental structure and transitional arrangements (P.70/2002): third amendment - P.70/2002 Amd. (3).

Presented by the Policy and Resources Committee.

Appointments Commission: appointment of Chairman and Members - P.117/2002.

Presented by the Policy and Resources Committee.

Public Employees Contributory Retirement Scheme: Committee of Management - appointment of chairman - P.118/2002.

Presented by the Finance and Economics Committee.

Farewell Wing, former J.C.G., St. Helier: approval of drawings-P.119/2002.

Presented by the Education Committee.

St. Helier Street Life Programme - P.120/2002.

Presented by the Planning and Environment Committee.

Draft Companies (Amendment No. 6) (Jersey) Law 2002 (Appointed Day) Act 200 P.121/2002.

Presented by the Finance and Economics Committee.

Draft Companies (Redemption, and Financial Assistance) (Jersey) Regulations 200- P.122/2002.

Presented by the Finance and Economics Committee.

Draft Limited Liability Companies (Registration Fees) (No. 4) (Jersey) Regulations 200 P.123/2002.

Presented by the Finance and Economics Committee.

Projets withdrawn under Standing Order 22(3)

THE STATES noted that the President of the Finance and Economics Committee had, in accordance with Standing Order 22(3), instructed the Greffier of the States to withdraw the following matters, the Committee having lodged revised propositions at the present meeting -

Draft Companies (Amendment No. 6) (Jersey) Law 2002 (Appointed Day) Act 200.

Lodged: 21st May 2002 - P.82/2002.

Finance and Economics Committee.

Draft Companies (Redemption, and Financial Assistance) (Jersey) Regulations 200- P.83/2002 (*re-issue*). Lodged: 21st May 2002.

Finance and Economics Committee.

Draft Limited Liability Companies (Registration Fees) (No. 4) (Jersey) Regulations 200 P.85/2002.

Lodged: 21st May 2002.

Finance and Economics Committee.

Arrangement of public business for the next meeting on 16th July 2002

THE STATES confirmed that the following matters lodged "au Greffe" would be considered at the next meeting on 16th July 2002 -

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

Lodged: 11th June 2002.

Agriculture and Fisheries Committee.

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

Presented: 25th June 2002.

Human Resources Committee.

Housing Committee Strategic Policy Report 2002 -2006 - P.2/2002.

Presented: 8th January 2002.

Housing Committee.

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

Presented: 5th February 2002.

Finance and Economics Committee.

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

Presented: 11th June 2002.

Human Resources Committee.

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

Lodged: 23rd April 2002.

Senator C. Stein.

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

Presented: 11th June 2002. Human Resources Committee.

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

Lodged: 14th May 2002.

Deputy J.A. Martin of St. Helier.

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

Presented: 28th May 2002.

Housing Committee.

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

Presented: 11th June 2002. Human Resources Committee.

Abattoir, La Collette, St. Helier: transfer of administration - P.109/2002.

Lodged: 25th June 2002.

Agriculture and Fisheries Committee.

St. Helier Surface Water Link and Storage Tank ("the cavern") - (Tape No. 752)

The Deputy of St. John asked the Deputy of St. Peter, President of the Public Services Committee, th following question -

- "(a) Would the President inform members by what percentage of operation the St. Helier Surface Water Link and Storage Tank Contract, commonly referred to as the 'cavern', is restricted by not having the Peter Street link operational?
- (b) as the cavern will not be 100 per cent operational until the Wests Centre/Peter Street shaft and ancillary works are complete, will the President indicate when this work will be completed?"

The President of the Public Services Committee replied as follows -

"(a) The central overflow shaft originally planned for Wests Centre, near the junction of Peter Street, was designed to allow the foul sewers to overflow to the storage tank (the cavern) at times of overload, in order to alleviate the risk of flooding in St. Helier.

Phillips Street had been the first choice for the location of this shaft, in order to minimise disruption during construction, but the computer modelling techniques available at that time had indicated that the main overload point in the sewer system was at the junction of Bath Street and Peter Street, and that the shaft would have to be located there.

Due to problems in acquiring the necessary permissions to construct the overflow shaft at this location, it was withdrawn from the contract, until a satisfactory alternative location was found, for it to be constructed after the completion of the existing contract. It was, of course, not known at that time (in January 1995) that it would take until August 1997 to complete the existing contract and until 2001 to settle outstanding claims with the contractor.

In the meantime, greatly improved computer modelling techniques had become available, which enabled it to be confirmed that Phillips Street would be a perfectly suitable location (from a hydraulic design point of view) at which to construct the shaft, and the plan now is to locate it there.

It is estimated that the Surface Water Link and Storage Tank, at the present time, is about 80 per cent operational, in terms of the overflow capacity that will exist when the central overflow shaft is constructed at Phillips Street.

(b) The funding for this shaft (now to be located at Phillips Street, as explained above) was discussed at a meeting of the Finance and Economics Committee at the end of 1998, when it was decided that the question of the funding should await the outcome of the negotiations on claims on the Civil Engineering Contract. As the resolution of the claims had taken much longer than anticipated, a request was made in 2000 for the funds for the construction of this shaft, to be included in the capital programme for Sewer Reconstruction for 2004.

Therefore, it is planned that the work of constructing the overflow shaft, at Phillips Street, and linking it to the foul sewage pipes inside the existing tunnel will be carried out in 2004, subject to the funding being granted in the Sewer Reconstruction capital programme."

Increase in long stay patients' charges question and answer (Tape No. 752)

Senator Corrie Stein asked Senator Stuart Syvret, President of the Health and Social Services Committee, the following question -

"Would the President advise members of the reasons why the Committee has increased the daily and weekly charges for long stay patients over the age of 65 by 27 per cent and 29 per cent respectively when States' policy states that annual increases should not to be above 2.5 per cent?"

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

"This unusual step was taken in order to bring the charges in line with the same uplift of £75 a week that has just been made to the rate paid for assisted fees to private residential homes. As the Assembly will be aware the decision was taken to uplift the fees paid to private homes by £75 to £394 a week to ensure that homes who cared for people who required assistance to meet their care fees were not disadvantaged financially.

If the Committee had not raised its own fees at the same time then the gap in charges would have distorted the market place by making it far more attractive to enter homes run by the Committee rather than pay the private sector rate for residential care. As it is the revised charge made by the Committee, £334 a week, is still £60 less than the standard weekly assisted fee of £394 paid to the homes. This is because the Committee charges only for the 'hotel services' element of the care it provides and not for the nursing care element which it has, by policy, provided free of charge to the public.

The additional revenue raised by the uplift in charges to £334 a week within its own homes will be used by the Committee to help to offset the additional fees it now has to pay in respect of the people whom it supports in private residential homes on the increased assisted fee of £394 a week."

Appointment to, and succession planning for, senior police posts (Tape No. 752)

The Deputy of St. John asked Deputy Alastair John Layzell of St. Brelade, President of the Home Affair Committee, the following questions -

- "1. Would the President confirm whether in recent months/weeks the appointment of two senior officers to the States of Jersey Police has been made from outside the Island? Would he -
 - (a) indicate the rank of these officers?
 - (b) advise members of their terms of contract?
 - (c) give reasons for recruiting from outside of the Island?
 - (d) advise whether or not officers from within the Jersey force applied for any of these positions?

2. Will the President -

- (a) explain the Committee's policy on training members of the States of Jersey Police Force, so that when senior positions become vacant, promotion may be from within the existing Force?
- (b) confirm that the vacancies for senior police posts have been caused by the resignation of senior officers on health grounds?
- (c) if the answer to (b) is affirmative, would he advise whether the retiring officers were asked to resign?"

The President of the Home Affairs Committee replied as follows -

- "1. Two appointments have been made in accordance with a succession plan approved by the Home Affairs Committee earlier this year.
 - (a) Both are in the rank of Superintendent.
 - (b) One officer is on a five year contract. The other on a three year contract.
 - (c) The appointments were made as part of a succession plan which addressed known vacancies and the need to have a suitably qualified person in place to compete for the position of Deputy Chief Officer, which falls vacant next year. The position of Superintendent was advertised in Jersey and in the U.K. Three local officers were eligible to be considered and each was sent a recruitment pack and invited to apply.
 - (d) No local officers applied for the advertised post. At the final interview two strong candidates emerged. One was given the advertised post. The other, who had been director of operations for the National Crime Squad, was offered a new post of Superintendent (Crime) made possible by the impending ill-health retirement of a Chief Inspector.
- 2. (a) All members of the States Police follow a training and development programme according to their rank and service. Training is largely based on the U.K. model with some additional features to accommodate the Jersey dimension. In addition, the Home Affairs Committee has approved a range of measures proposed by the Chief Officer to strengthen the career prospects of local officers including -
 - (i) The establishment of a Jersey based promotion assessment-centre to replace the current system based in England.
 - (ii) The establishment of a local leadership development programme in which promising officers are given an opportunity to work in demanding areas of the U.K. and enhance their skills and experience. So far, one officer has been seconded to Strathclyde, one has completed an operational programme in Edinburgh and one is currently attached to the London area of the British Transport Police.
 - (iii) The new Superintendent (Crime) has been specifically tasked with the training and development of local detectives.
 - (b) Neither of the vacancies arose through resignation. One officer retired on pension on completion of nearly 34 years' service. The second was recommended for medical retirement by the States occupational health advisers.
 - (c) Not applicable."

Allocation of first-time buyer homes - statement

The President of the Housing Committee made a statement in the following terms -

"The Housing Committee has adopted a policy for the allocation of first-time buyer homes which is published, in summary, in the Housing Strategy P.2/2002. Where the Committee has ownership of a site developed for first-time buyers, for example the Woodville development, allocation of the dwellings is carried out in accordance with this policy. However, new homes on sites developed privately for first-time buyers are not necessarily allocated in accordance with Committee policy and, for example, a single person can be offered a three or even four-bedroom house.

Prior to the Island Plan debate the Committee wishes to make it clear that it will be exploring the legal possibility of bringing forward to the States for consideration an amendment to the Housing Regulations in order to ensure that the purchasers of new homes for first-time buyers on rezoned sites satisfy the criteria of the Committee's First-Time Buyer Allocation Policy. This is a proposed new control which will not supersede the existing requirements under the Planning Law for dwellings to be occupied only by first-time buyers."

Island Plan - P.69/2002, Comments, Amendments (1)-(12) and comments, amendments and addendum relative thereto

THE STATES commenced consideration of an amended proposition of the Planning and Environment Committee on the revised Island Plan (P.69/2002) as a Development Plan under Article 3 of the Island Planning (Jersey) Law 1964.

The Deputy of St. John declared an interest in the matter and withdrew from the Chamber prior to its consideration.

THE STATES adopted an amendment of the Connétable of St. Brelade that after paragraph (c) there b inserted the new paragraph (d)-

"(d) Policy BE11 - Shoreline Zone, subject to the following amendment -

at the end of the Policy after the words 'favourably considered' there be inserted the following paragraph -

'Proposals for the construction of a land reclamation scheme adjacent to St. Aubin's harbour, including public car parking, to restore St. Aubin's village its unique character, as approved by the States on 23rd July 1996, will be favourably considered' ";

and that in sub-paragraph (d), after the words"the Island Proposals Map, 1/02", there be added -

"except that there shall be included on the said Map the land reclamation scheme adjacent to St. Aubin's harbour, including public parking, as agreed by the States on 23rd July 1996."

and that the remaining sub-paragraphs be re-numbered as necessary.

Members present voted as follows -

"Pour" (34)

Senators

Le Maistre, Bailhache, Norman, Le Sueur, Le Claire, Lakeman.

Connétables

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

Deputies

H. Baudains(C), St. Mary, S. Baudains(H), Trinity, Duhamel(S), Routier(H), Breckon(S), St. Mart Vibert(B), St. Peter, St. Ouen, G. Baudains(C), Dorey(H), Scott Warren(S), Farnham(S), Le Hériss (S), Ozouf(H), Martin(H), Southern(H).



Senators

Stein, Quérée, Syvret.

Connétables

St. Helier.

Deputies

Layzell(B), Grouville, Huet(H), Fox (H).

THE STATES rejected an amendment of the Deputy of St. Peter that after paragraph (a) there be inserted new paragraph (b)-

"(b) Policy G1 - Sustainable Development subject to the following amendments -

at the end of sub-paragraph (iii), after the words 'developed land' there be inserted the words 'including vacant, derelict or ruined former residential sites served (or to be served) by mains drainage, which have been in residential use at any time since 1900' ";

and that the remaining paragraphs be re-numbered as necessary.

Members present voted as follows -

"Pour" (10)

Senators

Le Maistre, Norman.

Connétables

St. Peter.

Deputies

St. Mary, St. Peter, G. Baudains(C), Dorey(H), Le Hérissier(S), Ozouf(H), Martin(H).

"Contre" (35)

Senators

Horsfall, Stein, Quérée, Bailhache, Syvret, Le Sueur, Le Claire.

Connétables

Grouville, St. Martin, St. Ouen, Trinity, St. Brelade, St. Lawrence, St. Mary, St. John, St. Clen St. Helier.

Deputies

H. Baudains(C), S. Baudains(H), Trinity, Duhamel(S), Routier(H), Layzell(B), Breckon(S), Grouville Huet(H), St. Martin, Le Main(H), Vibert(B), Voisin(L), Scott Warren(S), Farnham(S), Fox(H), Bridg (H), Southern(H).

THE STATES commenced consideration of an amendment of the Tourism Committee that in the preamble, after the words "dated 20th June 2002" there be inserted the words -

"except that in paragraph 11.18 of the said Section 11 the words'(excluding caravans)" shall be deleted and that at the end of Policy TR1 - Development of New Tourist Accommodation in the said Section 11 there shall be added the following words-

'Visiting caravans - provision for the location of caravans brought to the Island by *bona fide* visitors on a temporary basis and under strict controls will be considered provided that the sites are fully serviced with water, drainage, electricity, are of high quality and screened from vision from the general public and are in accordance with the principles and policies of the Plan' ".

After discussion, the States granted leave to the President of the Tourism Committee to withdraw the amendments. The President of the Planning and Environment Committee having made a statement in the following terms -

"The Planning and Environment Committee and the President of the Tourism Committee have met to discuss the proposed amendment regarding caravans. The Tourism Committee's proposal is designed to enable the Island to attract caravan owners, under certain circumstances and certain controls. The issue is not a matter which rests simply with the Island Plan, as there is provision in the Planning Law specifically to restrict caravans. Therefore any proposal to encourage caravans must address that as well.

It has therefore, been agreed that the Planning and Environment Committee will work closely with the Tourism Committee as soon as possible, after this week, to understand more clearly the proposals and the regulatory or legal implications, and, if appropriate, bring forward proposals to deal with this."

THE STATES rejected an amendment of Deputy Francis Gerald Voisin of St. Lawrence that after paragraph (a) of the proposition there be inserted a new paragraph (b)

- "(b) Policy C6- Countryside Zone subject to the following amendments -
 - (i) after item (vii) there be inserted a new item (viii) as follows
 (viii) small-scale proposals for new residential developments adjacent to existing buildings
 and the remaining items be re-numbered as appropriate; and
 - (ii) item (f) of the Policy be deleted"

and the remaining paragraphs be renumbered as necessary.

Members present voted as follows -

"Pour" (16)

Senators

Le Maistre, Bailhache, Norman.

Connétables

Grouville, St. Martin, Trinity, St. Brelade, St. Mary, St. Peter.

Deputies

S. Baudains(H), Trinity, St. Martin, Dorey(H), Voisin(L), Scott Warren(S), Martin(H).

"Contre" (28)

Senators

Horsfall, Stein, Quérée, Syvret, Le Sueur, Le Claire, Lakeman.

Connétables

St. Saviour, St. Lawrence, St. John, St. Clement, St. Helier.

Deputies

- H. Baudains(C), Duhamel(S), Layzell(B), Breckon(S), Grouville, Huet(H), Le Main(H), St. Pete
- St. Ouen, G. Baudains(C), Farnham(S), Le Hérissier(S), Ozouf(H), Fox(H), Bridge(H), Southern(H).

Change in Presidency

The Bailiff retired from the Chair during consideration of the amendment of Deputy Francis Gerald Voisin of St. Lawrence to the Island Plan and the meeting continued under the Presidency of Miss Catherine Mary Newcombe, Greffier of the States.

THE STATES rejected an amendment of Deputy Gerard Clifford Lemmens Baudains of St. Clement that in paragraph (b) after the words "Policy H2 of the Plan," there be inserted the words -

"with the exception of sites -

- 3. Fields 203, part 204 and 252, St. Clement
- 4. Extension to Hodge Nurseries, Fields 89, 89A, 90, 92A, 93, St. Clement
- 9. Field 40, La Rue de Maupertuis, St. Clement,"

Members present voted as follows on site 3 -

"Pour" (19)

Senators

Le Maistre, Syvret, Le Claire.

Connétables

Grouville, St. Martin, Trinity, St. Mary, St. John, St. Clement.

Deputies

H. Baudains(C), S. Baudains(H), Duhamel(S), G. Baudains(C), Dorey(H), Scott Warren(S), Farnha (S), Le Hérissier(S), Martin(H), Southern(H).

"Contre" (26)

Senators

Horsfall, Quérée, Bailhache, Norman, Le Sueur.

Connétables

St. Ouen, St. Saviour, St. Brelade, St. Lawrence, St. Peter, St. Helier.

Deputies

Trinity, Routier(H), Layzell(B), Breckon(S), Grouville, Huet(H), St. Martin, Le Main(H), Vibert(B) St. Peter, St. Ouen, Voisin(L), Ozouf(H), Fox(H), Bridge(H).

Members present voted as follows on site 4-

"Pour" (14)

Senators

Syvret, Le Claire.

Connétables

St. Martin, Trinity, St. Mary.

Deputies

H. Baudains(C), S. Baudains(H), Duhamel(S), Vibert(B), G. Baudains(C), Dorey(H), Scott Warren(Le Hérissier(S), Southern(H).

"Contre" (31)

Senators

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

Connétables

Grouville, St. Ouen, St. Saviour, St. Brelade, St. Lawrence, St. John, St. Peter, St. Clement, St. He

Deputies

Trinity, Routier(H), Layzell(B), Breckon(S), Grouville, Huet(H), St. Martin, Le Main(H), St. Pete St. Ouen, Voisin(L), Farnham(S), Ozouf(H), Fox(H), Bridge(H), Martin(H).

Members present voted as follows on site 9 -

"Pour" (15)

Senators

Syvret, Le Claire.

Connétables

Grouville, St. Martin, Trinity, St. Mary, St. Clement.

Deputies

H. Baudains(C), S. Baudains(H), Duhamel(S), Vibert(B), G. Baudains(C), Scott Warren(S), Farnha (S), Southern(H).

"Contre" (30)

Senators

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

Connétables

St. Ouen, St. Saviour, St. Brelade, St. Lawrence, St. John, St. Peter, St. Helier.

Deputies

Trinity, Routier(H), Layzell(B), Breckon(S), Grouville, Huet(H), St. Martin, Le Main(H), St. Pete St. Ouen, Dorey(H), Voisin(L), Le Hérissier(S), Ozouf(H), Fox(H), Bridge(H), Martin(H).

THE STATES then adjourned until 10th July 2002.

THE STATES rose at 6.07 p.m.

C.M. NEWCOMBE

Greffier of the States.