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THE STATES assembled on Tuesday,
11th December, 1990 at 10.00 a.m. under
the Presidency of the Bailiff,
Sir Peter Crill, C.B.E.

All Members were present.

Prayers

Subordinate legislation tabled

The following enactments were laid
before the States, namely -

1. Amendment (No. 12) to the Tariff
of Harbour and Light Dues. R & O
8147.
2. Collective Investment Funds
(Recognized Funds) (General
Provisions) (Amendment No. 6)
(Jersey) Order 1990. R & O 8148.
3. Control of Borrowing (Amendment
No. 6) (Jersey) Order 1990. R & O
8149.

Matters lodged

The following subjects were lodged
"au Greffe" -

1. Draft Census (Jersey) Regulations
199 . P.192/90.
Presented by the Etat Civil
Committee.
2. Draft Road Traffic (No. 39)
(Jersey) Regulations 199 .

P.193/90.
Presented by the Defence
Committee.

3. Langford, Mont Millais, St.
Helier: purchase. P.194/90.
Presented by the Island
Development Committee.

4. Lighting of main roads in St.
Helier. P.195/90.
Presented by the Public Services
Committee.

Draft Public Employees
(Contributory Retirement Scheme) (General)
(Amendment) (Jersey) Regulations 199 .
P.173/90. Withdrawn

THE STATES noted that the President
of the Establishment Committee had
withdrawn the draft Public Employees
(Contributory Retirement Scheme) (General)
(Amendment) (Jersey) Regulations 199
(lodged on 6th November 1990) which had
been set down for debate at the present
Sitting.

Draft Census (Jersey) Regulations
199 . P.174/90. Withdrawn

THE STATES noted that the President
of the Etat Civil Committee had withdrawn
the draft Census (Jersey) Regulations 199
(lodged on 6th November 1990) which had
been set down for debate at the present
Sitting.

Immigration and Nationality
Department: temporary accommodation.
Questions and answers

Deputy Alan Payn Bree of Grouville
asked Senator Reginald Robert Jeune,
President of the Finance and Economics
Committee, the following questions -

Will the President inform the House on the
following questions -

Question 1

``In its Act No. 15 of 26th November

1990 presented to the States as a Paper for information on 4th December 1990, the Committee agreed to make available immediately the sum of £150,000 to provide temporary accommodation for the Immigration and Nationality Department. What was the reason for this urgency?"

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

``At the end of October the Public Services Department advised the Treasurer of the States that in June this year it had received a report from architects within the Public Services Department which had been confirmed by consulting engineers Ove Arup and Partners regarding the structural state of the Immigration and Nationality Department's offices at Victoria Chambers. The conclusion of these reports showed that the building should be vacated as soon as practically possible. We were advised that Ove Arup had reiterated this opinion in a letter to the Public Services Department dated 5th August in which they state -

`Our concern is that, as time passes, there is a probability that rot and infestation will cause a weakening of the timbers (structural), and a timber member will partly collapse, causing a redistribution of load to other parts of the structure where loading eccentricities and rot problems already exist. A similar redistribution of load could occur should the foundations settle. This change of loading may then cause failure in other parts of the structure.'

My Committee, at its meeting on 26th November agreed to consider a late item because it was advised that the subject was urgent. The Public Services Committee wished to have funds made available immediately to relocate the Immigration and Nationality Department in temporary accommodation in the New North Quay as

a matter of urgency. My Committee was advised that the manufacturers of the temporary accommodation required at least 12 weeks to construct the office prior to delivery to site, and a further three to four weeks for erection and site works. We were also advised that the Immigration and Nationality Department will need to move into its new accommodation before 1st April 1991 as pressure of work during the holiday season will prevent a move at a late date. In view of the statements submitted to my Committee, we understood that it was essential that an order be placed without delay."

Supplementary question and answer

Deputy A.P. Bree - "Is the Committee not concerned at the apparent lack of urgency by the delay of four months from the receipt of the report and the notification to the Treasurer at the end of October?"

President, Finance and Economics Committee - "We dealt with the matter when it came to us. We considered it urgent to be dealt with at that time."

Deputy Bree

Question 2

"The Act states that the accommodation is to be located at the top of the New North Quay whereas a report in the Jersey Evening Post of 1st December 1990 indicated a location further to the east of the site of the former car ferry check-in point. Which is correct?"

President, Finance and Economics Committee

"The advice my Committee received from Public Services was that the temporary structure was to be located on the New North Quay.

This was checked with Public Services Department following receipt of the Deputy's question and the Department

confirms that the building will be located in the area of the former car ferry check-in point."

Supplementary questions and answers

Deputy Bree - ``Is it not true to say that the area shown has never been part of the New North Quay but is in fact infill of the old harbour?"

President, Finance and Economics Committee - ``The only consideration and my Committee's is we believe that this was an urgent matter and it's right and proper that one has the ability in any government to be as flexible as possible in urgent matters. We believe that what we have done and what we were doing is proper under the circumstances and I'm not particularly interested in whether this was part of the New North Quay or not."

Senator R.J. Shenton - ``Will the President of Finance accept that the Defence Committee feels most embarrassed at the fact that his Committee should be, taxed with these questions today when, after all, the matter was dealt with by the Defence Committee as expeditiously as possible. There was a danger to the staff, will be accepted that arrangements had tried to be made with the Harbours and Airport Committee to accommodate the staff down at the Albert Quay, which is also part of the old harbour, new harbour, New North Quay or whatever, that a location was provided in consultation between the Harbours and Airport Committee, Public Services and Defence Committees and that the Finance and Economics Committee came in at a very late stage and really had to pick up the pieces because of the delay by my Committee in reaching agreement with other Committees and will he accept my apologies for having to take the burden today for the questions?"

President, Finance and Economics Committee - ``Yes."

Deputy Bree

Question 3

``In the same report, a statement attributed to Senator Shenton as President of the Defence Committee indicated that `once vacated it (the present accommodation at Victoria Chambers) will be refurbished for occupation by a number of States departments'.

- (a) What is the likely cost of this refurbishment?
- (b) What will be the cost of the permanent building eventually to be built and where will it be located?"

President, Finance and Economics Committee -

- ``(a) My Committee has not been notified that the existing premises are to be refurbished, and therefore do not know what the refurbishment would cost;
- (b) on 15th October my Committee agreed that there was merit in a proposal made by the Public Services Committee to carry out a more detailed feasibility study for the amalgamation of the Impôts Department, which was currently in three locations, into a complex that would also provide additional accommodation for the Harbour Office and the Immigration and Nationality Department. We understood that this feasibility study was carried out in accordance with the procedures already agreed in P. 70/90 - `Capital Projects, Review and Control'."

Supplementary question and answer

Senator Shenton - ``Would the President of Finance agree that the decision of the Defence Committee to

try to save this building which is a prestigious building, fronting onto Liberation Square is far better than the original intention of some 15 months ago when it was suggested that the building should be knocked down, and would he not agree that when the amounts are reported to him he will take them into account to show that it's not outside bargaining, but members of the States who are equally concerned in preserving our natural heritage?"

President, Finance and Economics Committee - ``The answer again is yes."

Deputy Bree

Question 4

``This transfer of funds is tantamount to a capital vote of credit which will lead to further revenue and capital expenditure; were the Policy and Resources Committee consulted?"

President, Finance and Economics Committee

``As the contingency vote of credit is within the votes of the Finance and Economics Committee, the Policy and Resources Committee was not consulted."

Deputy Bree

Question 5

``Will the President indicate why this transfer of funds is not contrary to his Committee's own policy of restricting both supplementary and additional votes of credit and why the States were not given the opportunity of debating this matter, but simply presented with an Act somewhat lacking in information?"

President, Finance and Economics Committee

``The purpose of supplementary and additional votes of credit are clearly defined within the Finance Law, and I

have restated them on many occasions in this House. However, if a matter is one of particular urgency and especially in cases where the safety of the public and the staff is in jeopardy, my Committee would be prepared to consider the provision of funds from its contingency vote.

My Committee both acknowledges and endorses the cautious approach being put forward by the Deputy of Grouville. I can however, assure the House that my Committee is not prepared to sanction expenditure from this vote, unless it can be satisfied, as in this case, that the expenditure is extremely urgent."

Payment to certain old age pensions.
Question and answer

Deputy Shirley Margaret Baudains of St. Helier asked Senator Reginald Robert Jeune, Chairman of the Working Party on Need, the following question -

"Can the President inform the House when he expects to be able to give an answer to the supplementary question that I asked on 6th November 1990, with regard to the percentage increase in the personal allowance paid to old age pensioners?"

The Chairman of the Working Party on Need replied as follows -

"We wrote to the Comité de Connétables on that and another related matter and we have had a reply from the Connétables and they have increased the current 'pocket-money' allowance, they call it, by #2 to #12 per person weekly, taking effect from 1st November 1990 and this matter is coming before the Working Party on Need at its next meeting as soon as it's reconstituted."

Random breath testing. Statement

The Attorney General made a statement in the following terms -

``I have been asked to advise the House about the powers of the police to require motorists to take a breath test. The confusion which sometimes arises amongst the public about random breath-testing stems from a failure to distinguish two quite separate powers of the police. The powers in question are first the power to require a person to stop his vehicle and secondly the power to require a person to take a breath test.

The first power has been in existence for a very long time but is now contained in Article 26 of the Road Traffic (Jersey) Law 1956. Article 26(1) provides -

‘Any person driving a vehicle on a road shall stop the vehicle on being so required by a police or traffic officer and if he fails to do so shall be liable to a fine not exceeding #100.’

This general power allows the police to stop vehicles at random. It has been exercised for many years by both the States' police and the honorary police.

The second power, that is to require a person to take a breath test, is conferred by Article 16B of the Road Traffic Law and arises broadly speaking when a police officer has reasonable cause to suspect either that the motorist has committed a traffic offence whilst the vehicle was in motion or that the motorist has alcohol in his body. Unless a traffic offence has been committed, a police officer may therefore only require a motorist to take a breath test if he has reasonable cause to suspect that the motorist has been drinking alcohol. There is no power to require motorists at random to take a breath test.

In summary therefore the police have the power to stop vehicles at random but they do not have the power to require motorists at random to take

the breath test. That power only arises if either a traffic offence involving a moving vehicle has been committed or the motorist has been drinking alcohol. If therefore a police officer, having stopped a motorist and asked questions of him, forms the suspicion that the motorist has recently consumed alcohol, he has the power and indeed the duty to require the motorist to take the breath test. To confer power on the Police to require motorists at random to take the breath test, without having any suspicion that such motorists had recently consumed alcohol, would be a substantial change. It would obviously require legislation.

Whether it would be a desirable change is in my opinion debatable. The police clearly have wide powers which ought to be sufficient to enable them to carry out their duties of detecting offenders and deterring others from driving whilst unfit to do so. As the President of the Defence Committee is reported wisely to have said, policing requires consensus. I suspect that to require those motorists who do not drink alcohol at all, and perhaps especially elderly motorists, to take a breath test could well cause offence and be a bridge too far. My advice to the House is that, given continuing courtesy on the part of the police and tolerance on the part of the public, the existing law provides a reasonable balance between the freedom of the individual and the protection of the public.

I obviously do not know what was in the minds of individual members when the debate on the breathalyser took place earlier this year. It may be that because the principle of the breathalyser was accepted without dissent, and because discussion centred principally on the level of alcohol which a motorist is permitted to have in his body without committing an offence, sufficient attention was not focused on the combined effects of Articles 26 and 16B. But I am sure

that members will appreciate the desirability of deterring motorists from driving whilst unfit. The idea does seem to persist in some quarters that somehow a driver who is unfit to drive should be given a sporting chance to get away with his crime. Such people would contend that it is 'unfair', for example, for a police car to station itself near a public house or for the Police to conduct occasional road-checks designed to detect such drivers. I have never understood why anyone should be given a sporting chance to cause death or injury to innocent pedestrians or indeed to other motorists. The law-abiding motorist has nothing to fear from occasional road-checks. If he has not consumed alcohol he will in general not be liable to take the breath test. Nothing could be simpler than that. If a motorist does not want to be required to take the breath test, the message is quite clear - do not drink and drive. If the motorist chooses to consume alcohol before driving he must do so at his own risk. If stopped by the police he will then be liable to take the breath test and, if he has consumed more than the statutory limit, he will also have committed a criminal offence."

Clubley Estate, St. Helier: lease of
No. 64

THE STATES, adopting a proposition
of the Public Health Committee -

(a) approved the lease by the
Committee from Mr. Gordon Rafferty
of the furnished, five-bedroomed
property, 64 Clubley Estate, New
St. John's Road, St. Helier, on a
one-year lease, commencing 1st
December, 1990, renewable each
year as necessary, at a rent of
#250 a week, the rent to be
reviewed annually in line with the
Jersey Cost of Living Index;

(b) authorised the Greffier of the

States to sign the necessary lease.

Field 205, St. Peter: purchase

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

- (a) approved the purchase from Mr. Richard Peter Bonny of Field 205, St. Peter, measuring 3.9 vergées, for the sum of #15,600 and the fonds of the track and right of way leading to the field in the sum of #2,400, with the Committee being responsible for all legal fees incurred in the preparation of the contract;
- (b) authorised the payment or discharge of the expenses to be incurred in connexion with the acquisition of Field 205 and the fonds of the track and right of way leading to the field and all legal expenses, from the Harbours and Airport Committee's vote of credit C2814 - Improvements to North Perimeter Area;
- (c) authorised the Attorney General and the Greffier of the States to pass, on behalf of the public, any contract which it is found necessary to pass in connexion with the acquisition of the said property and any interest therein.

Hue Street, St. Helier: purchase of No. 3. P.154/90

THE STATES, adopting a proposition of the Island Development Committee -

- (a) approved the purchase on behalf of the public from the curator of Miss Dora Foot of her two-thirds share in the property, No. 3 Hue Street, St. Helier, as shown on Drawing No. 272/1, for the sum of #80,000 plus vendor's legal expenses;

(b) authorised the purchase on behalf of the public from Mr. Stanley Foot of his one-third share in the property No. 3 Hue Street, St. Helier, and decided that, if it was not possible to reach agreement on a fair and proper price to be agreed by the Finance and Economics Committee, the Island Development Committee be empowered to acquire the land by compulsory purchase, in accordance with the provisions of the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961;

(c) authorised the payment or discharge of the expenses to be incurred in connexion with the acquisition of each of the said shares in the property and all legal expenses from the Island Development Committee's vote of credit C0904 - Acquisition of land (Major Reserve);

(d) authorised the Attorney General and the Greffier of the States to pass, on behalf of the public, any contract which it is found necessary to pass in connexion with the acquisition of the said property and any interest therein.

Mal Assis/Nicholson Park
redevelopment. Phase I. P.138/90

THE STATES, adopting a proposition
of the Housing Committee -

(a) approved Drawings Nos. 1545/101-3, 1545/106-119, 1545/121-123 and 1545/126-134, showing the development at Le Pré de Mal Assis which comprises Phase I of the scheme to refurbish Nicholson Park estate;

(b) authorised the Greffier of the States to sign the said Drawings on behalf of the States.

Pesticides (Jersey) Law 1990.

P.178/90

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, adopted a Law entitled the Pesticides (Jersey) Law 1990.

Committee Presidents: election procedure. P.187/90

THE STATES, adopting a proposition of the House Committee, requested the Bailiff, at the time of the appointment of Committee Presidents under Standing Order 41, to arrange that the procedure for holding a ballot, or ballots, in instances where more than one Member was nominated was such as to secure the appointment of the nominee who receives an absolute majority of the votes cast.

Road Traffic (No. 38) Regulations 1990. P.188/90

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. 38) (Jersey) Regulations 1990.

Milk (Sale to Special Classes) (Amendment) (Jersey) Regulations 1990. P.189/90

THE STATES, by virtue and in exercise of the powers conferred on them by the Order in Council of the fourteenth day of April 1884 made Regulations entitled the Milk (Sale to Special Classes) (Amendment No. 3) (Jersey) Regulations 1990.

Debate in camera

The Bailiff, in accordance with Article 3(2) of the Public Finances (Administration) (Jersey) Law 1967, and in accordance with Standing Order No. 46(2), ordered the withdrawal of strangers and the closing of the doors of the Chamber in order that the appointment of Mr. George

Mackay Baird, LL.B., C.A., as Treasurer of the States, be debated in camera.

Appointment of Treasurer of the States

THE STATES, having deliberated thereon in camera, proceeded to vote in public assembly by ballot and approved the appointment of Mr. George Mackay Baird, LL.B., C.A., as Treasurer of the States with effect from 1st July 1991, in accordance with Article 3 of the Public Finances (Administration) (Jersey) Law 1967.

Retiring Members

The Bailiff conveyed the best wishes of the House to the eight Members who would not be returning in the new Session and, on behalf of the Island, thanked them for their service.

Greffier of the States, E.J.M.
Potter, Esq.: retirement

The Bailiff, on behalf of the Assembly paid tribute to the services rendered to the States by the Greffier, Edward James MacGregor Potter, Esq., during his many years of service and especially during the last 20 years as Greffier of the States.

THE STATES rose at 12.45 p.m.

E.J.M. POTTER

Greffier of the States.