

**THE STATES assembled on Tuesday,  
19th November 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 Corrie Stein - out of the Island  
Senator Patricia Ann Bailhache - ill  
Senator Terence Augustine Le Sueur - ill  
Philip Francis Ozouf, Connétable of St. Saviour- out of the Island  
Shirley Margaret Baudains, Deputy of St. Helier- out of the Island  
Robin Charles Hacquoil, Deputy of St. Peter- out of the Island.

Prayers

**Welcome to His Excellency, Mr. Thorsteinn P lsson, the Ambassador of Iceland**

The Bailiff on behalf of members, welcomed His Excellency Mr. Thorsteinn P lsson, the Ambassador of Iceland at the Court of St. James.

**Subordinate legislation tabled**

The following enactment was laid before the States, namely -

**Companies (Fees) (Amendment) (Jersey) Order 2002 - R & O 136/2002.**

**Matters presented**

The following matters were presented to the States -

**Five Oaks Roundabout, St. Saviour: transfer of administration of land (P.207/2002): comments - P.207/2002. Com.**

Presented by the Public Services Committee.

**Budget 2003: amendment (P.212/2002): comments - P.212/2002. Com.**

Presented by the Health and Social Services Committee.

**Draft Employment (Jersey) Law 200- (P.187/2002) - comments - P.187/2002. Com.**

Presented by the Human Resources Committee.

**Machinery of Government: departmental structure - allocation and monitoring of public sector manpower numbers (P.192/2002) - comments - P.192/2002. Com.**

Presented by the Human Resources Committee.

**Jersey Airport: future funding (P.198/2002) - comments - P.198/2002. Com.(2).**

Presented by the Tourism Committee.

**Jersey Airport: future funding (P.198/2002) - comments - P.198/2002. Com.(3).**

Presented by the Human Resources Committee.

**Planning and Building Core Services: strategy for future resourcing (P.203/2002) - comments - P.198/2002. Com.**

Presented by the Human Resources Committee.

**Draft Telecommunications (Transfer) (Jersey) Regulations 200- (P.204/2002) - comments - P.204/2002. Com.**

Presented by the Human Resources Committee.

**Machinery of Government: structure of the Executive (P.191/2002) - comments - P.191/2002. Com.(2).**

Presented by the Finance and Economics Committee.

**Machinery of Government: structure of the Executive (P.191/2002) - comments - P.191/2002. Com.(3).**

Presented by the Privileges and Procedures Committee.

**Machinery of Government: structure of the Executive (P.191/2002) - amendments (P.191/2002 Amd.)- comments - P.191/2002. Amd.Com.**

Presented by the Policy and Resources Committee.

**Machinery of Government: departmental structure - allocation and monitoring of public sector manpower numbers (P.192/2002) - comments - P.192/2002. Com.(2).**

Presented by the Finance and Economics Committee.

**Planning and Building (Jersey) Law 2002 - removal of third party appeals (P.206/2002) - comments - P.206/2002. Com.**

Presented by the Finance and Economics Committee.

**Five Oaks Roundabout, St. Saviour: transfer of administration of land (P.207/2002)- comments - P.207/2002. Com.(2).**

Presented by the Finance and Economics Committee.

**States Abattoir, La Collette, St.Helier: transfer of administration (P.208/2002) - comments - P.208/2002 Com.(2).**

Presented by the Finance and Economics Committee.

**Jersey Airport: future funding (P.198/2002) - comments - P.198/2002. Com.(4).**

Presented by the Finance and Economics Committee.

## **Matters lodged**

The following matters were lodged “au Greffe” -

**Budget 2003: amendment (P.212/2002): amendment - P.212/2002. Amd.**

Presented by the Connétable of St. Helier.

**Draft Hire Cars (No. 12) (Jersey) Regulations 200P.213/2002.**

Presented by the Home Affairs Committee.

**Le Chemin du Douet, St. Ouen: acquisition of track- P.214/2002.**

Presented by the Public Services Committee.

**Election of Committee Presidents - P.215/2002.**

Presented by the Privileges and Procedures Committee.

**Draft Health Insurance (Medical Benefit) (Amendment No. 57) (Jersey) Regulations 200- P.216/2002.**

Presented by the Employment and Social Security Committee.

**Draft Family Allowances (Jersey) Regulations 200- P.217/2002.**

Presented by the Employment and Social Security Committee.

**Budget 2003: second amendment - P.218/2002.**

Presented by Deputy G.P. Southern of St. Helier.

**Draft Income Tax (Amendment No. 22) (Jersey) Law 200 P.219/2002.**

Presented by the Finance and Economics Committee.

**Draft Finance (Jersey) Law 200- P.220/2002.**

Presented by the Finance and Economics Committee.

**Income Tax: increase in small income exemption limits and allowances, and introduction of higher rate - P.221/2002.**

Presented by Deputy G.P. Southern of St. Helier.

**Arrangement of public business for the next meeting on 3rd and 4th December 2002**

THE STATES confirmed that the following matters lodged "au Greffe" would be considered at the next meeting on 3rd and 4th December 2002 -

Budget 2003.

Lodged: 5th November 2002.

*Finance and Economics Committee.*

Budget 2003: amendment - P.212/2002.

Lodged: 12th November 2002.

*Deputy G.P. Southern of St. Helier.*

Budget 2003: amendment (P.212/2002): amendment - P.212/2002. Amd.

Lodged: 19th November 2002.

*Connétable of St. Helier.*

Budget 2003: second amendment - P.218/2002.

Lodged: 19th November 2002.

*Deputy G.P. Southern of St. Helier.*

Draft Income Tax (Amendment No. 22) (Jersey) Law 200 P.219/2002.

Lodged: 19th November 2002.

*Finance and Economics Committee.*

Draft Finance (Jersey) Law 200- P.220/2002.

Lodged: 19th November 2002.

*Presented by the Finance and Economics Committee.*

Training and Employment Partnership: transfer of responsibility from the Employment and Social Security Committee to the Economic Development Committee - P.197/2002.

Lodged: 5th November 2002.

*Employment and Social Security Committee.*

Draft Parish Rate (Administration) (Jersey) Law 200-P.199/2002.

Lodged: 5th November 2002.

*Legislation Committee.*

Magistrate's Court, Union Street, St. Helier: approval of drawings- P.202/2002.

Lodged: 5th November 2002.

*Finance and Economics Committee.*

Draft Crime and Security (Jersey) Law 200- P.210/2002.

Lodged: 12th November 2002.

*Home Affairs Committee.*

Draft Hire Cars (No. 12) (Jersey) Regulations 200P.213/2002.

Lodged: 19th November 2002.

*Home Affairs Committee.*

**Proposed Sites of Special Interest and claims in this respect - questions and answers (Tape No. 791)**

The Deputy of St. John asked Senator Nigel Lewis Qu  r  e, President of the Planning and Environment Committee, the following questions -

- “1.(a) Would the President advise members -
- (i) when the frontage of ‘18 The Esplanade’, shown in the Register of Buildings and Site of Architectural Archaeological and Historical importance in Jersey as a Proposed Site of Special Interest (P.S.S.I.), was demolished, the site having been subject to numerous planning applications with final planning permission being approved on condition that the Esplanade frontage be retained?
  - (ii) The original owners went to considerable expense to put in place a steel cradle to support the area to be retained. Will the President explain why this P.S.S.I. has been demolished?
- (b) Since the demolition of the frontage at 18 The Esplanade, would the President advise members whether a claim has been made against the Committee by the original owners and if so, can the President give more details of that claim?
2. Would the President give members details of the number of claims made against the Department over the last three years, and where any appellant has been successful and has been awarded compensation, would he advise whether the claims have been settled, which votes funded the said claims and the value of all claims settled?”

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

- “1.(a) (i) The future of this historic warehouse was seriously jeopardised in November 1998 when the original owners commenced unauthorised works by demolishing the entire roof, leaving the masonry structure and the interior of the building exposed to the elements. The Committee intervened by designating the building as a Site of Special Interest. Following a protracted period of negotiation, during which time the roofless building continued to deteriorate, the Committee gave permission for the redevelopment of this building and the adjoining site. This permission was granted in October 1999 on the condition that the facades fronting the Esplanade and Commercial Street be retained, as well as part of the internal timber structure. I understand that the property was sold by the original owners in October 2000.

The new owners began preliminary work on the approved development at the end of 2001 and asked the Committee for permission to take down and rebuild the Esplanade facade. The Committee concluded, in October 2001, that a persuasive case for rebuilding had not been made out and therefore declined this request. The new owners then shored up the facade in anticipation of carrying out repairs. They undertook further detailed structural investigation of the frontage and carried out trial stripping of modern cement render that concealed the original granite and brick facade. This further work revealed additional technical difficulties, notably that the removal of the cement render would cause irreparable damage to the masonry beneath.

On the basis of this further investigative work a second request for permission to dismantle and reconstruct the facade was made by the new owners to the Committee. Having closely scrutinised the evidence available the Committee agreed to this request in March 2002, subject to the facade being reconstructed so as to replicate the original materials and details. The facade was dismantled shortly afterwards. Had the original owners undertaken the same thorough investigative works and presented the same technical evidence to the Committee then they would undoubtedly have been granted the same approval.

- (ii) I understand that the original owners sold the property in October 2000. The steel cradle was erected by the new owners at the end of 2001. I have already explained the circumstances leading to the Committee's approval to allow the facade in question to be rebuilt.
- (b) I can confirm that no claim has been made by the original owners, or any other parties, in respect of the Committee's agreement in March 2002 to allow the dismantling and reconstruction of the facade in question. A written complaint has been received from the original owners about the Committee's recent approval of the reconstruction of the facade and a full explanation has been provided to them.
- 2. Every year the Department and Committee together make many thousands of decisions on Planning, Building Bye-Law, historic building and other matters, all of which affect property owners and occupiers and members of the public. All decisions are open to legal challenge and have the potential to lead to claims for a variety of reasons. In the continued absence of an independent appeals machinery pending the introduction of the new Planning and Building Law, the Committee operates a procedure to provide an opportunity for review. This involves the Committee hearing informal requests for reconsideration of decisions made by the Department and Sub-Committees. This involves approximately two hundred cases per year, although in 2002 the service was suspended for five months. Most decisions can be subject to appeal in the Royal Court, and all may be subject to requests to the Greffier for a Review Board. Often a claim may be intimated but frequently is without foundation and does not materialise.

Only a limited number of cases are subject to Royal Court appeal each year. Less than half of these proceed to Court hearings. Circumstances do arise during the conduct of these cases where it becomes apparent that the risks of failure with consequential costs being awarded are too high. This may result in the withdrawal of either of the parties with agreement as to costs. At present 10 Royal Court appeals against the Committee's decisions are pending.

Financial settlements are only made by the Committee where in the following circumstances -

- (a) a claim of negligence is accepted (which cases are dealt with by the States Insurers);
- (b) the Royal Court has awarded costs against the Committee;
- (c) a Royal Court appeal is withdrawn with agreement to costs; and,
- (d) exceptionally where the circumstances warrant it, an offer of ex-gratia payment as an alternative to costly litigation.

The amounts settled during the last three years totalled £70,471. The amounts were met from the Committee's revenue budget supplemented by additional funding in 2000 authorised by the Finance and Economics Committee.

In 2002, no payments have been made. In 2001, six payments were made totalling £14,015. In 2000, four payments were made totalling £56,456. Details are as follows -

- (a) Alleged negligence £250

In the last three years there have been only two claims of negligence, and for many years no cases

have been accepted. A claim was made by the owners of La Sirene Guest House which was not substantiated but the Department had to meet the policy excess of £250 to cover the fee paid by the Insurers to the loss adjusters (a requirement of States procedures). The second claim from a property owner relating to damp ingress from defective cavity trays in the house which they had purchased was not accepted.

(b) Royal Court awards £12,390

There were three cases during the last three years where the Royal Court awarded taxed costs against the Committee. In one case the appellant sought an indemnity from the Committee for out of pocket costs which was refused.

(c) Actions withdrawn with agreement to costs £55,000.

During the past three years five appeals previously lodged in the Royal Court were withdrawn, with the Committee agreeing to make a settlement of preliminary costs. This includes an amount paid in respect of an appeal by the previous owner referred to in my answer to question 1. In all cases the amount settled by the Committee was substantially less than that claimed, and the Committee had been advised of the risk of extra costs had these particular actions proceeded to Court.

(d) Ex gratia £ 2,831

During the past three years payment was made in one only case. The Committee accepted responsibility in this case because it had requested an applicant to revise application drawings and withdrew the request after receiving representations.”

#### **Employment of people on work permits - questions and answers (Tape No. 791)**

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

“1. The Island currently allows certain sectors of the community to employ people on work permits.

Would the President advise members -

- (a) whether any medical examination is required prior to granting workers a permit and who meets the cost?
  - (b) whether a Police check is undertaken, how this is initiated and who meets the cost of the check?
  - (c) what criteria did the Committee consider in deciding which sectors of the community can have access to workers holding work permits, and what is the Committee’s policy in this regard?
2. Would the President advise members whether it is lawful that the Home Affairs Committee may operate a policy of permitting the employment of staff from outside the Island under work permit conditions for certain sections of the economy, whereas other employers are unable to employ staff to meet their staffing requirements in this way, and would he indicate whether this policy complies with the proposed Human Rights Law?”

The President of the Home Affairs Committee replied as follows -

- “1. (a) No, therefore there are no costs to be met.
- (b) No, therefore, again, there are no costs to be met.
- (c) In respect of skilled labour, the policy of the Home Affairs Committee allows for the issue of work

permits in any sector of industry and this has been the case for well over 10 years. Permits in this category are generally confined to skilled professional persons, to those with specialist skills not available in the Island, or to those with individual non-transferable skills such as artistes. Around 185 permits are issued each year in the skilled category, more than half of which are very short term permits for entertainers.

In respect of unskilled labour the policy of the Committee is to restrict the issue of permits to the hospitality, agriculture and fishing industries. Since the 1997 States debate on the use of the Regulations of Undertakings and Development (Jersey) Law 1979, as amended, the Committee has treated these three industries as special cases.

There have been approaches from other industries to be allowed work permits but the Committee took a decision in September 2001 pending the outcome of the States' debate on population. The debate remains unresolved but the Home Affairs Committee has undertaken to review its policy again early in the New Year.

2. The legal view obtained by the Committee says, inter alia: ‘...that the Committee would not be exceeding its powers by continuing to make a distinction between sectors of the economy. However, were the present distinction between those sectors where there was a pronounced need to import labour (agriculture/tourism) and those where there was not (all other sectors) to be invalid, we would advise that the policy be reviewed as a matter of urgency and that it be amended accordingly should the present needs prove to be at odds with the historical position.’ The advice continued: ‘... it is entirely appropriate that the present regime remains in place until consultation and discussion has been completed in a timely manner.’ As I explained in answer to the previous question, the Committee anticipated that the population debate would be part of the discussion process.

Advice has also confirmed that the actions of the Committee comply with the European Convention on Human Rights.”

#### **Supply of wood chippings/mulch - question and answer (Tape No. 791)**

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

- “(a) Recently wood chippings/mulch were supplied to a property at Mont Mado, St. John for use on a riding area. This woodchip/mulch is claimed to have caused leachate pollution to nearby bore holes. Would the President give details of the tests carried out on this material prior to it being passed for use either on land or as a safety base in a riding school?
- (b) Would the President give details of where else this material has been used in the Island or supplied for use and the quantities?
- (c) As boreholes are alleged to have been contaminated what action is being taken by the Department to rectify the problem and in the meantime will a potable water supply be put in place?”

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

- “(a) The tests/analyses carried out during the composting process are -

- % dry matter
- Acidity/alkalinity
- Conductivity
- Ammonium nitrogen
- Nitrate nitrogen
- Total nitrogen

Potassium  
 Phosphorus  
 Magnesium  
 Lead  
 Nickel  
 Zinc  
 Cadmium  
 Chromium  
 Copper  
 Mercury  
 E. Coli  
 Salmonella  
 Various Moulds  
 Thermophilic actinomycetes  
 Yeasts  
 Potato Cyst Nematode  
 Bio-assay.

This spectrum of analyses is based on information and advice received by the Department from the Soil Association, the Composting Association, the Henry Doubleday Research Association, and ADAS.

- (b) This material has been used for a variety of purposes and therefore at a large number of locations. Records are available of the locations to which relatively large quantities have been moved. Some of the material, however, has been taken by garden contractors and individual members of the public and in these cases the precise locations are not known.

The estimated quantities (cubic metres) supplied for the various purposes, in 2001 and 2002, are as follows -

|  | <b>2001</b> | <b>2002</b> |
|--|-------------|-------------|
| Garden contractors,<br>general public etc.         | 751         | 812         |
| Other States departments<br>(e.g. PSD and Housing) | 405         | 922         |
| Tracks and pathways                                | 217         | 1,218       |
| Cattle bedding                                     | 28          | 564         |
| Sand schools<br>(horse exercise areas)             | 858         | 474         |

- (c) Referring to the particular pollution incident, officers of the Department acted promptly by visiting the site to assess the situation and to check that the necessary immediate remedial action had been taken or was in hand. It was found that the owner of the site had already acted to prevent the risk of further pollution of the borehole and had already obtained an alternative supply of drinking water. Other States Departments are performing their roles in relation to the pollution incident.

The Department has suspended movements of similar materials from Crabbé and of some materials into Crabbé.

Because the incident raised questions about the risk of other similar incidents the Department immediately initiated a meeting of officers from the States Departments with relevant responsibilities or interests - Agriculture and Fisheries, Public Services (in particular Water Resources), Health and Social Services (Environmental Health), Employment and Social Security (Health and Safety) and Planning and Environment (Environmental Services). The meeting reviewed the incident, began to plan a thorough investigation and established that the group of people present would take the investigation forward.

This investigation is being given high priority by all the Departments involved. The Deputy Medical

Officer of Health issued a Press Briefing yesterday.”

**Naming of property at the Waterfront, and work being undertaken at Mont Orgueil Castle - questions and answers** (Tape No. 791)

Deputy Gerard Clifford Lemmens Baudains of St. Clement asked Senator Nigel Lewis Quérée, President of the Planning and Environment Committee, the following questions -

- “1. The Committee, commenting on a Housing Committee Act dated 13th September 2002 where the latter agreed to retain the names proposed for the Waterfront housing, namely Albert Place, Victoria Place, Maison Jubilee and Jubilee Promenade, stated that these names ‘relate more to the past rather than reflect a forward-looking, modern development such as the Waterfront development’ and consequently considered them ‘to be ill-conceived and inappropriate’.

Would the President -

- (a) confirm that it was the Planning and Environment Committee that named the nearby new Housing Department office ‘Jubilee Wharf’ or, if not, who did?
  - (b) explain how the name ‘Jubilee Wharf’ came to be chosen, given that it is not an area where a wharf existed?
2. In relation to Mont Orgueil Castle, will the President confirm that the Committee is aware of, and has approved, the work currently going on in the Medieval Hall and will he explain why a large hole of approximately 5ft. x 3ft. has been broken through the floor and the vault of the undercroft below?”

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

- “1. (a) I can confirm that the name of ‘Jubilee Wharf’ given to the newly constructed offices for the Housing Department was chosen by the Planning and Environment Committee following consideration of proposals put forward by the design team. It was approved by the Committee on 26th April 2001, and acknowledged unconditionally by the Housing Committee in an Act of that Committee dated 8th June 2001.
- (b) The name of ‘Jubilee Wharf’ was proposed to the Planning and Environment Committee following research into the history of buildings and former activity in the area. Commercial Street, which adjoins the rear of the Housing Department's offices was once known as ‘New Wharf Street’ and most of the original buildings within that area of what is now ‘Commercial Street’ and the eastern end of ‘The Esplanade’ were warehouses or merchant's business houses associated with the original harbour and what was once the first actual wharf where ships cargoes were stored, sorted and dispatched to their various destinations.

The actual site of the new Housing offices, 24 Esplanade/42 Commercial Street, appeared to have little recorded history itself other than being described in legal documents in 1799 as consisting of buildings or stores for wine (celliers) with the land or sanded (sablon) area to the south being beach. The words ‘Cellier’ and ‘Sablon’ were considered in naming the new building but ‘Wharf’ was thought to better describe the activity which had taken place in that area during part of the 19th century. It would also record the fact, which many of today's and future generations would not perhaps know, that this was once the important wharf area of Jersey's first purpose-built harbour.

The ‘Jubilee’ part of the name was to commemorate the 50th anniversary of Her Majesty the Queen's accession to the throne in February of this year, when it was planned to have the official opening ceremony for the offices (which former Deputy and Housing President H.A. Vandervliet had been asked to perform). It was considered by the Committee, at the time that it chose the name, that this would most probably be the only opportunity (leading up to what was to be a very special

event) of commemorating the 'Jubilee' on a public building.

The name of 'Jubilee Wharf' (the deliberate use of English was felt to be more appropriate to the Queen's anniversary) brought together two important periods of history, linking the past with the present, and was thought to provide a name which would be more likely to be easily remembered, pronounced, correctly spelt and used by the public. It was also thought to provide a welcome change from the more traditional 'House' and 'Chambers' titles which have been used in the Island in more recent years.

2. 'Site of Special Interest', (SSI), consent for these works was approved at officer level on 9th August 2002, and formed part of a wider programme of repairs and investigative works at Mont Orgueil approved by the Committee on 23rd May 2002. The works involved lifting a 20th century cobbled floor in the Medieval Great Hall in order to investigate the underlying archaeological evidence, to inform the repair of the undercroft vault and the reinstatement of an historically authentic floor surface.

According to current archaeological knowledge, a spiral stair in the NE corner of the hall was demolished towards the end of the 18th Century, fracturing one of the groins and causing a minor collapse in the undercroft vault. To prevent further collapse, an L-shaped wall was built in this corner of the undercroft, probably at the same time. The stairwell was then filled with rubble and soil. A supporting arch was also inserted in recent times by the Public Services Department. The rubble filling was removed as part of archaeological investigations in 1997 when the nature of the structural damage to the vault was defined.

When the cobbled floor was recently lifted from the NE corner of the hall, all that was left was a thin bed of modern cement and stones. This modern material was removed for safety reasons to prevent anyone standing on it and falling through into the undercroft. This is the hole to which the Deputy refers.

The nature of future repair works and the type of flooring to be re-instated has yet to be defined and will form part of a future planning application to be made to the Committee."

#### **Proposed vehicle registration duty as included in the 2003 budget - question and answer (Tape No. 791)**

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

"In the Budget 2003, page xxii, paragraph 12.7 the Committee proposes that the following vehicles will be exempt from vehicle Registration Duty -

Vehicles used or driven by the physically disabled;  
Vehicles brought to the Island following a genuine change of residence;  
Vehicles kept in stock up to a year by a motor dealer; and  
Electrically powered vehicles.

Would the President indicate whether the Committee has also considered exempting agricultural vehicles, and advise members of any conclusion reached, and if not, would the Committee be prepared to consider such an exemption in time for 2003?"

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

"The Committee has given careful consideration to the application of Vehicle Registration Duty on agricultural vehicles. The Committee has decided that agricultural vehicles should remain liable to the proposed duty. In arriving at this opinion the Committee took into account a number of issues.

Exemptions of classes of vehicles have been deliberately kept to the minimum in order to ensure administrative arrangements are as simple and cost effective as possible. The Committee believes that there should be compelling reasons to extend the exemptions beyond those already proposed. The Committee

reminds members that the reason that this duty has been proposed is to raise revenue to help meet the forecast deficits, only in extremely compelling cases should any exemptions or rebates be considered.

There are 40 or so tractors registered each year. Tractors would be charged at the higher rates of duty because they have large engines and the rates of duty increase with engine size. The total expected duty collected would be in the region of 100,000.

It is important to note that the cost of agricultural machinery, inclusive of the duty, can be offset against income tax. All those in a trade, business or profession who use plant and machinery, such as tractors, vans, cars, etc, can claim 25 per cent capital allowances on the cost of that plant and machinery and be able to set off that allowance against the profits they make from their trade, business or profession. This will of course apply to farmers as to everybody else in a trade, business or profession.

Vehicle Registration Duty was first announced in August this year, during the consultation period for the third Tax and Spending paper. The Committee received no representations from the Agriculture and Fisheries Committee or any industry group during the extensive consultation period. Representations have in the last few days now been received from the Jersey Farmers' Union and the Royal Jersey Agricultural and Horticultural Society, but neither is in the form of a detailed case giving a clear analysis of the financial impact on their industry.

The Committee believes that the correct course of action now would be for any case to be presented by the industry to the Agriculture and Fisheries Committee. That Committee is best placed to assess the merits or otherwise of the case.

If there is a compelling case, my Committee would consider the possibility of an appropriate rebate, payable through the Agriculture and Fisheries Committee's budget for next year. The Committee was of the firm view that this was the preferred method for easing any hardship, if it could be demonstrated.

The question asks about 'agricultural vehicles' and the Committee notes that tractors which are only one form of 'agricultural vehicle' are also used by non-agricultural users. The Committee would not wish to unwittingly absolve non-farmers from the duty even if there was a compelling case for farmers.

The Committee looks to the Agriculture and Fisheries Committee working with industry representatives to bring forward a report for its consideration as soon as possible and maintains the duty system as proposed."

#### **Provision of school milk - question and answer (Tape No. 791)**

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

- “(a) Would the President explain the background of the allocation to his budget of funds for the provision of school milk? Specifically would he confirm that an additional amount of money was allocated in order to fund the provision of school milk?
- (b) When did the Committee decide that school milk would no longer be provided?
- (c) Would the President confirm whether the Committee will be bringing forward a proposition to the States to approve the discontinuation of States milk?”

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

- “(a) In October 1998 the States considered a report and proposition lodged by Senator J.S. Rothwell, (P.128/1998), following the decision of the Education Committee to cease funding milk for primary school children. The President of the Finance and Economics Committee at the time assured the Assembly that his Committee would continue to meet the cost until the end of that year, after which the

States agreed that appropriate funds would be inscribed in the Health and Social Services Committee's budget.

In supporting the allocation of additional funds, the Finance and Economics Committee had proposed that the Health and Social Services Committee should regularly review the provision of school milk in the light of developments in health care.

In November 1998, the Health and Social Services Committee accepted a revised 1999 revenue cash limit which had been increased by £173,000 following the transfer of administration of school milk from the Education Committee.

- (b) The Committee has not decided that school milk will no longer be provided. The Committee decided, in response to the Finance and Economics Committee's request for savings to be identified, to submit a number of indicative packages to the decision conferencing process of 15th and 16th April 2002. The sum of £180,000 for the funding of school milk was proposed as a saving. This was accepted by the decision conference. It was decided that the participating committees be given the flexibility to re-order their priorities regardless of the content and ranking of the actual packages submitted. The Health and Social Services Committee therefore retained the ability to continue the provision of school milk from within its revised budget for 2003, but in order to do so it would need to be persuaded that funding the provision of school milk should be given priority over a range of other areas of pressing health and social need. The Committee has considered the amendment of Deputy Southern, which seeks to maintain the provision of school milk with responsibility for this service being placed with the Agriculture and Fisheries Committee, or its successors. The Committee supports this amendment.
- (c) On 3rd and 4th December 2002, the States are due to debate the budget, which includes the removal of the funding of school milk from the Health and Social Services Committee budget. In addition to that proposal, an amendment has been lodged in the name of Deputy Southern, and a further amendment has been lodged in the name of the Connétable of St. Helier. The Assembly will have had, at the conclusion of the budget process, at least three options upon which to express a view upon the discontinuation or otherwise of school milk. It therefore follows that there would be little point in my Committee bringing forward such a proposition."

#### **Firearms (Jersey) Law 2000 - question and answer (Tape No. 791)**

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

- “(a) Recently much publicity has been given to some six hundred plus firearms being unlicensed within the Island. Will the President give details as to whether the Firearms (Jersey) Law 2000, as amended, is deficient in any area, and if so, when amendments will be brought to the States to rectify the problems?
- (b) If amendments are required to the law, will the various firearms user groups be consulted before any amendment is brought forward?”

The President of the Home Affairs Committee replied as follows -

- “(a) There is at present no reason to believe that the law is deficient in achieving its intended purpose. The current situation appears to be a consequence of the administrative problem in administering the law through 12 separate parish authorities. I understand that the parishes are currently reviewing their arrangements in an effort to ensure that future difficulties of this kind can be avoided.
- (b) Not relevant in view of (a).”

#### **Proposed increases in the duty on fuel as related to the rate of inflation, as included in the 2003 budget - question and answer (Tape No. 791)**

Deputy Geoffrey Peter Southern of St. Helier asked Senator Frank Harrison Walker, President of the Finance and Economics Committee, the following question -

“The Committee proposes an 18.6 per cent increase in the duty on fuel, designed to produce an additional £2.6 million in revenue.

Will the President reveal to members what effect this increase will have on the rate of inflation in the Island -

- (a) as a direct impact on the costs of travel for an individual?
- (b) indirectly as a result of additional costs of transport on goods and services?”

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

- “(a) It is estimated that the direct effect of the proposed 5p per litre increase in impôt duty for motor fuel would be an increase of 1.44 per cent in the average household’s motoring costs, which amount to about 10 per cent of their total spending. The effect on their total spending, therefore would be an increase of 0.14 per cent.
- (b) Indirect effects are more difficult to estimate, but the increase would bear primarily on the road transport activities of Island businesses, and motor fuel is estimated to account on average for about 0.1 per cent of their total costs. A 7.5 per cent increase in the cost of motor fuel, which is what the proposal amounts to, could thus be expected to increase businesses’ costs by less than 0.01 per cent. Passing this on to the consumer through increased prices would raise consumer prices by a similar proportion.

These duty increases would have the effect of increasing RPI by some 0.15 per cent, the same as last year. This means the actual rate of increase of inflation would not go up. In other words, they would have a neutral effect on the rate at which inflation is increasing. This is because the duty increases are the same as last year’s and the effect on the rate of inflation will also be the same.”

#### **States personnel employed on short term contracts - question and answer (Tape No. 791)**

The Deputy of St. John asked Deputy Jeremy Laurence Dorey of St. Helier, President of the Human Resource Committee, the following question -

- “(a) The Committee presented its report on the Public Sector Manpower and Absence Report for the period 1st January 2002 to 30th June 2002, which showed on page 3 that as at 30th June 2002 there were 80.16 personnel employed by non-trading Committees of the States on short-term contracts. Of these numbers how many have served for more than three contract periods, six contract periods and ten contract periods?
- (b) Where personnel have served multiple contracts why have these positions not been changed into full-time posts? Would the President explain the policy which enables the renewal of short term contracts and the merits of any such mechanism?
- (c) Would the President give details of the number of people employed on short-term contracts by the various trading committees, excluding Christmas part-time postal workers?”

The President of the Human Resources Committee replied as follows -

- “(a) As at 30th June 2002 there were 80.16 full-time equivalent (F.T.E.) contract posts reported for the non trading Committees of which 13.75 F.T.E. were vacant. The 66.41 F.T.E. contract posts were filled by a total of 79 employees.

There is a distinction to be drawn between the number of times when a contract post has been extended or renewed, and the number of times when an individual has had his/her contract renewed. The Human Resources Department does not currently maintain records in the format which would be required for this question to be accurately answered without disproportionate expenditure of resources, although employing Committees/Departments will have similar information available if the Deputy should wish to make enquiries with them. However, the Human Resources Committee does consider, in determining applications for contract extensions, the past history of the post. In this respect, the Deputy may find the answer to question (b) helpful. It might assist the Deputy to be reminded that there are also a number of people working on a recurrent seasonal basis, particularly for the Trading Committees.

- (b) The vast majority of short-term contract posts approved are in recognition of specific, temporary requirements, and therefore terminate when the requirement terminates. Every extension of a contract post is considered by the Human Resources Committee on its own merits, thus ensuring that the requesting Committee puts forward the best possible business case in support of its application. Where the Committee is satisfied that a series of contract extensions is disguising a need for a permanent post, it has been pro-active in urging that the contract post should be converted to permanent status.
- (c) The Human Resources Committee does not record manpower information for the Trading Committees. This question should properly be directed to the Trading Committee Presidents.”

### **Tax Information Exchange Agreement with the United States of America - statement**

Senator Pierre François Horsfall, O.B.E., President of the Policy and Resources Committee, made a statement in the following terms -

“I should like to make a statement about the Jersey-USA Tax Information Exchange Agreement which the Assembly endorsed unanimously on 22nd October 2002.

I wish to report that, following that endorsement and the authorisation given to me to sign the Agreement on Jersey’s behalf, I duly signed the Agreement in Washington DC on 4th November 2002, at the United States Department of the Treasury. For the Government of the United States, the signatory was Treasury Secretary Paul O’Neill.

I was received by Secretary O’Neill with the utmost cordiality and in my remarks to the media at the ceremony I was pleased to be able to say what an important milestone for Jersey the signing of this agreement was. It marked the first time that the Island of Jersey had entered into legal obligations directly with a foreign country. I went on to confirm Jersey’s strong intent to work towards greater cooperation internationally on tax matters, pursuant to its commitment to the OECD earlier this year, and to emphasise how far Jersey and the USA already cooperated on criminal investigations as related to all matters including tax.

Above all, it was an honour to be the representative of the Island on this occasion and thus to be able to signal the start of a formal legal relationship between ourselves and the Government of the most powerful country in the world.

The Policy and Resources Committee will be taking steps shortly, together with the US Treasury, to bring into force that part of the Agreement relating to criminal investigations which requires no legislative amendments on our part.

I should like to record my appreciation, I am sure on behalf of the whole Assembly, of the excellent and complex work undertaken by Jersey officials in negotiating the Agreement. All that I have seen of the process confirms that developing an effective relationship with the US Treasury on sensitive policy issues is not a light or easy undertaking. Apart from Mr. John Mills, I must include the Chairman of the Financial Services Commission, Mr. Colin Powell, for his wise counsel on a range of matters concerned with the Agreement, and the Attorney General, for his trenchant oversight of the whole process from the legal and

constitutional perspective. We have a quality team dealing with these important matters and Jersey, and especially this Assembly, is very well served by them.

I have with me Jersey's counterpart of the Agreement, signed first by me and secondly by Secretary O'Neill. The other counterpart, signed first by Secretary O'Neill and secondly by me, has I understand, been deposited in the archives of the U.S. Department of State as a U.S. Treaty. This copy I have here is Jersey's first Treaty and, with your permission, I should like to pass it to the Greffier of the States to be placed on the table of the Assembly for inspection by members. Therefore, may I please ask you, Sir, to ensure that it is kept safely in perpetuity, as the first, but by no means the last, document in Jersey's own, new Treaty series."

## **E.U. Tax Package - statement**

Senator Pierre François Horsfall, O.B.E., President of the Policy and Resources Committee, made a statement in the following terms -

"I should like to make a statement about the E.U. Tax Package and the recent good progress we have achieved in respect of it. I should also like to cover the related, and vital, issue of the competitiveness of the Island's financial services industry.

The Tax Package consists of two main elements: first, a draft Directive on the Taxation of Savings Income, which seeks automatic exchange of tax information in respect of E.U. residents, and secondly, a Code of Conduct on Business Taxation which seeks voluntarily to roll back so-called 'harmful' tax measures that, in the E.U.'s view, significantly affect, or may affect, the location of business activity in the E.U. In this context, the Code, although applying directly only to E.U. Member States, also targets four Jersey tax measures. These include our exempt company regime, which is a very important building block of the core wealth management structuring expertise of our finance industry, as well as International Business Companies (IBCs) which permit managed tax structures for key service providers in our economy.

I announced to the Assembly on 14th May 2002, that we had reached agreement with the United Kingdom on a way forward on exchange of information and I am pleased that this agreement has been accepted by our finance industry as the right response in all the circumstances. Today I wish to concentrate on the Code of Conduct. As members will recall, I made a statement about this on 17th April 2002, when I also circulated a background note by the Policy and Resources Department on the Tax Package which set out how, for economic and political reasons, the Code of Conduct impacted in practice upon Jersey even though we are not within the E.U.'s fiscal territory.

Although the Code represents a big challenge for many jurisdictions, including Jersey, the Assembly will recall that six months ago, our differences with the United Kingdom over it were, to say the least, causing some difficulties.

I should like to reassure members that the position has now changed for the better. First, we have made a significant and successful diplomatic effort to establish a more effective working relationship with the United Kingdom Treasury and achieve better mutual understanding. Secondly, and in my view most importantly, I was able last June to speak directly with Prime Minister Tony Blair about the Tax Package and to underline to him how crucial all these issues were for the well-being of our economy. And thirdly, in September I held a further meeting with Paymaster General Dawn Primarolo at Downing Street, which was constructive and cordial. In both these recent meetings I reiterated Jersey's understanding of the reasons for the United Kingdom's position on the Tax Package and our willingness to find mutually acceptable solutions, subject to safeguarding Jersey's essential economic interests and a clear level playing field.

At my meeting with Ms. Primarolo, I recalled the commitment we had given earlier this year, which I announced to the Assembly on 17th April 2002, that, subject to the caveats I have just mentioned, we would take the Code of Conduct principles into account in our fiscal strategy review. Work on that had now progressed to a point where I was able to give her a firmer indication of how this could be achieved.

After the most careful analysis, the Policy and Resources Committee, working with the Finance and Economics Committee, has concluded that we can accommodate the Code principles in the form of a move - over time - towards a zero rate of tax for companies generally with a different, higher rate applying to financial services companies and certain other special groups such as public utilities. We would thus be able to continue to ensure that exempt companies are 'exempt' or tax neutral but in a non-discriminatory manner. At the same time we would manage the eventual transition of those service providers with IBC status into line with this general regime.

These would be fundamental changes and obviously could not be achieved overnight. For a start, they would be subject to the agreement of this Assembly, a point I have made clear to both Mr. Blair and the Paymaster General. Such reforms would impact upon the very core of our economy. There can be no rushed changes. I am pleased that the U.K. has fully accepted our view that any new tax structures along these lines would require five or more years to be implemented, even though the E.U.'s own timetable for rollback under the Code of Conduct extends over only the next three years.

The Policy and Resources Committee is very confident that what I have outlined is an entirely sufficient response by Jersey to the serious economic and political pressure we have lately faced concerning the Tax Package. The notion that E.U. Member States could ever justify taking unilateral 'defensive measures' against the Island for supposedly failing to respond to the Tax Package agenda can no longer be regarded as a credible possibility.

I believe that these are welcome developments. Although I do not want in any way to underestimate the challenges arising from changing our tax structures in the manner I have indicated, in particular the need to ensure that we can raise the revenue we need by alternative means, I believe they can give us continuing confidence in our economic future.

As I have already indicated, but it bears repetition, I have all along made clear to United Kingdom Ministers that any changes to be made to our tax laws are subject to introducing necessary legislation at the appropriate time for consideration and ultimate decision by this Assembly.

I should now like to turn to the additional subject matter of this statement, which as I have said is the important question of the general competitiveness of the Island for financial services business in world markets. Notwithstanding the difficulties that it has itself created for us, we must recognise that the Tax Package has also been the driver of a general move among non-E.U. jurisdictions towards the contemplation of zero business tax structures together with special higher rates for the financial services industry. Gibraltar and the Isle of Man are examples, both having recently announced their intention to move in this direction by 2006 with an aim to achieve an effective rate of tax on the profits of financial services of around 10 per cent. Moreover, other significant jurisdictions with which we compete for global business, such as Cayman, the Bahamas and Bermuda, already have zero tax regimes on all business including that of financial services providers. In setting our future strategy, we simply cannot afford to ignore such competition if we are to retain the service providers who currently do business in Jersey and which provide such a large proportion of our tax revenues. No doubt the same can be said for Guernsey.

These service providers are looking to us, the States, for assurance on three things. First, tax neutral structures for their key customers, which is why we need to be able to preserve the effect of exempt companies in the way which I have already outlined; secondly, a competitive rate of tax on their own profits, which we must always remember derive from activities that, in general, are highly mobile; and thirdly, a competitive economy generally.

For these reasons, it is important to signal now - subject to all the safeguards, and of course the ultimate decision of this Assembly - that our intention is not only to move towards new fiscal structures that address the Code of Conduct, but also to do so in a way which keeps Jersey competitive. The Policy and Resources Committee is determined that we do not sit back and allow rival jurisdictions to steal a march on us on tax competition, because our vital economic interests would be at stake were we to do so.

A crucial success factor in tax reform is getting the detail right. At this juncture, particularly ahead of the

final outcome of the E.U. Tax Package, it would be a mistake, even if it were possible, to be specific about detail. Such detail needs further careful study - one main reason why we need long transition times for any eventual changes. But I do appreciate how important it is for the finance industry to know sooner rather than later what the special rate which will apply to its business is likely to be, when it will come into effect, and how it will compare, for example, with the 10 per cent rate objective that the Isle of Man has set itself by 2006. Our recommendations to the States on this must fit in with the ongoing general tax and spending strategy on which the President of Finance and Economics and his Committee have been working. But it goes without saying that our eventual special rate must be competitive, taking all relevant factors into account including the overall burden of taxation in our economy and the globally mobile nature of financial services business.

Our strategy is to sustain Jersey as a pre-eminent international finance centre and, as I have consistently said to this Assembly, to do so we must recognise the wider political and economic forces at work to which we have no option but to respond. I believe the progress I have now been able to report in respect of the E.U., based on our policy of constructive engagement and carefully developed in line with our fiscal strategy review, means that the position as we draw to the end of this Session is much better than I dared hope only six or seven months ago. There remains much to do but we have held our nerve under pressure and moved the debate along. We are now in all respects positioning ourselves to safeguard Jersey's competitive position, through the well-being of our financial services industry which is the motor of our economy and the prime source of our tax revenues.

Taking forward this demanding agenda over the next period will be a key task for the new Policy and Resources, and Finance and Economics Committees. I believe we now have a strong foundation for this and I am very confident about the prospects for eventual success."

#### **Assisted House Purchase Scheme - statement**

Deputy Terence John Le Main of St. Helier, President of the Housing Committee, made a statement in the following terms -

"As a result of the misleading article which appeared in the Jersey Evening Post on Saturday, 16th November 2002, I wish to clarify the position in regard to the Assisted House Purchase Scheme.

The Scheme was set up in 1977 as a result of the difficulty experienced by certain States Departments in recruiting the best people from outside the Island for specialised, senior posts which could not be filled locally. Initially the scheme was run by the Establishment Committee but in 1985 responsibility was transferred to the Housing Committee.

Clearly housing is a very important factor for people who the States are asking to move to the Island to take up essential employment. Expense is a factor but also the freedom to participate in the housing market will influence decisions on whether or not to accept a job offer. For the limited number of people appointed on permanent contracts they will naturally wish to be able to enjoy the benefits of home ownership, particularly if they own their own home outside the Island at the time of the offer of employment.

When the Scheme was first operating, employees above a certain level of seniority were permitted to purchase properties in their own name. Unfortunately this resulted in several incidents of the essential employee terminating his employment with the States but continuing to occupy the property that had been acquired, thus effectively 'by-passing' the Housing Law and Regulations. In order to close this loophole it was decided over 12 years ago that the States would purchase all properties on behalf of essential employees only transferring the property once the employee had completed 10 years in post. If the employment contract is not completed the employee is required to vacate and the property is sold back into the market.

Contrary to media comment the Scheme more than pays its way and operates at no cost to the taxpayer. The interest rate is not subsidised and the rate charged is based on the prevailing market mortgage rate. Currently the Assisted House Purchase Scheme Fund has loans outstanding which total just over £11 million.

The Housing Committee is looking closely at an alternative means of allowing public sector essential employees to purchase while ensuring that occupation of an acquired property remains dependent on continued employment for 10 years. If an alternative such as this is approved it would mean the States could cease to operate the current scheme. It would also be helpful to those States employees who feel that they are unduly restricted by the current arrangements and unable to benefit from the more flexible and competitive offers available in the private market.”

**Jersey Airport: future funding - P.198/2002**

**Comments - P.198/2002 Com., Com.(2), Com.(3), Com.(4).**

THE STATES commenced consideration of a proposition of the Harbours and Airport Committee concerning Jersey Airport: future funding and, after discussion, rejected a proposition of Senator Frank Harrison Walker to move to consideration of the next item on the Order Paper.

Members present voted as follows -

**“Pour” (17)**

**Senators**

Horsfall, Walker, Lakeman.

**Connétables**

St. Lawrence, St. Peter, St. Helier.

**Deputies**

Routier(H), Breckon(S), Grouville, St. Martin, Vibert(B), Dubras(L), Troy(B), Voisin(L), Farnham(S)  
Ozouf(H), Martin(H).

**“Contre” (25)**

**Senators**

Le Maistre, Syvret, Norman, Kinnard, Le Claire.

**Connétables**

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

**Deputies**

H. Baudains(C), St. Mary, Duhamel(S), Layzell(B), Huet(H), St. John, Le Main(H), St. Ou  
G. Baudains(C), Dorey(H), Scott Warren(S), Le Hérissier(S), Fox(H).

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

- (a) agreed that Jersey Airport should be viewed as a strategic asset for the Island and that -
  - (i) future capital expenditure comprising the replacement or resurfacing of the runway, taxiways, concrete aprons, the fireground and associated works should be met from general revenues;
  - (ii) the Airport should otherwise be funded in the manner set out in the report of the Harbours and Airport Committee dated 5th November 2002 and that the Committee should operate Jersey Airport in a profitable manner as described in the said report by charging all users of its facilities and services the full costs to the Airport;

- (b) requested the Harbours and Airport Committee to operate the Channel Islands Control Zone for so long as the full costs were met from the United Kingdom and French Governments by way of the Memorandum of Understanding dated 16th February 2000, but to review the operation of the Zone where the cost-recovery no longer met the costs of its operation and its associated capital expenditure;
- (c) agreed that from 1st January 2004 the cost of providing the non-aeronautical meteorological service should be met from public funds, and charged the Finance and Economics Committee to make available the required funds and to take the necessary steps to seek an appropriate contribution from the States of Guernsey and the States of Alderney;
- (d) agreed, in principle, that the cost of providing those community services presently funded from Airport dues where the public of the Island, or the States of Jersey, was identified by the appropriate Committees as the true user should be met from public funds, and agreed that the Harbours and Airport Committee should identify any services it provided at present for which no paying user could be identified and to take steps to discontinue those services;
- (e) agreed, in principle, that additional funds from general revenues should be made available for use in encouraging the provision of new air services and/or the offer of low fares on existing and/or new air services, and requested the proposed Economic Development Committee, together with the Harbours and Airport Committee, to bring forward for approval by the States proposals for implementation in 2004;
- (f) charged the Human Resources Committee with facilitating any manpower transfers and reductions, and agreed that any costs relating to manpower reductions should be met from general revenues; and
- (g) rescinded paragraph 3 of their Act dated 3rd November 1998 in which they approved, in principle, the incorporation by 2002 of Jersey Airport Limited, as a company wholly owned by the States.

Members present voted as follows -

**“Pour” (27)**

**Senators**

Le Maistre, Norman, Kinnard.

**Connétables**

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

**Deputies**

H. Baudains(C), St. Mary, Layzell(B), Grouville, Huet(H), St. John, Le Main(H), Dubras(L), St. Ou G. Baudains(C), Dorey(H), Scott Warren(S), Farnham(S), Le Hérissier(S), Fox(H), Martin(H).

**“Contre” (13)**

**Senators**

Horsfall, Syvret, Walker, Le Claire.

**Connétables**

St. Peter, St. Clement.

**Deputies**

Duhamel(S), Routier(H), Breckon(S), St. Martin, Vibert(B), Troy(B), Ozouf(H).

One member abstained from voting.

The Deputy of Trinity declared an interest and withdrew from the Chamber prior to the consideration of this item.

THE STATES rose at 5.30 p.m.

**M.N. DE LA HAYE**

*Greffier of the States.*