

**THE STATES assembled on Tuesday,  
16th March 2004 at 9.30 a.m. under  
the Presidency of the Bailiff,  
Sir Philip Bailhache.**

All members were present with the exception of –

Lyndon John Farnham, Deputy of St. Saviour– out of the Island  
James Gordon Reed, Deputy of St. Ouen– ill  
Collin Hedley Egré, Deputy of St. Peter– excused.

Prayers

**Meeting on 9th May 2004 – Liberation Day**

The Bailiff advised members that the States would convene on the morning of 9th May 2004, to mark Liberation Day, followed by a procession to Liberation Square.

**Subordinate legislation tabled**

The following enactments were laid before the States, namely –

|  |              |
|--|--------------|
| Shipping (Training, Certification and Manning) (Jersey) Order 2004.                  | R&O 17/2004. |
| Post Office (General Provisions) (Amendment No. 55) (Jersey) Order 2004.             | R&O 18/2004. |
| Post Office (Foreign Parcel Post Provisions) (Amendment No. 16) (Jersey) Order 2004. | R&O 19/2004. |

**Policy and Resources Committee – appointment of member**

THE STATES appointed Deputy Francis Gerald Voisin of St. Lawrence as a member of the Policy and Resources Committee.

**Matters presented**

The following matters were presented to the States –

|   |                       |
|---|-----------------------|
| Public Employees Contributory Retirement Scheme: pensions aspect of the Draft Postal Services (Jersey) Law 200-.<br><i>Presented by the Policy and Resources Committee.</i> | R.C.12/2004.          |
| Building a safer society (P.17/2004): comments.<br><i>Presented by the Policy and Resources Committee.</i>  | P.17/2004.<br>Com.(2) |

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

## Matters lodged

The following matters were lodged “au Greffe” –

|  |                    |
|--|--------------------|
| Draft Postal Services (Jersey) Law 200- (P.24/2004): amendments.<br><i>Presented by the Economic Development Committee.</i>  | P.24/2004.<br>Amd. |
| Draft Shipping (Local Small Ships Registration) Regulations 200-.<br><i>Presented by the Harbours and Airport Committee.</i> | P.42/2004.         |
| Draft Public Elections (Jersey) Law 2002 (Appointed Day) (No. 2) Act 200.<br><i>Presented by the Legislation Committee.</i>  | P.43/2004.         |
| Draft Public Elections (Amendment) (Jersey) Regulations 200-.<br><i>Presented by the Legislation Committee.</i>              | P.44/2004.         |

## Arrangement of public business for the next meeting on 30th March 2004

THE STATES confirmed that the following matters lodged “au Greffe” would be considered at the next meeting on 30th March 2004 –

|  |                       |
|--|-----------------------|
| Public right of access to information, financial and other records of the States of Jersey.<br>Lodged: 1st April 2003.<br><i>Deputy A. Breckon of St. Saviour.</i>                                 | P.34/2003.            |
| Public right of access to information, financial and other records of the States of Jersey (P.34/2003): comments.<br>Presented: 3rd June 2003.<br><i>Employment and Social Security Committee.</i> | P.34/2003.<br>Com.    |
| Public right of access to information, financial and other records of the States of Jersey (P.34/2003): comments.<br>Presented: 19th August 2003.<br><i>Privileges and Procedures Committee.</i>   | P.34/2003.<br>Com.(2) |
| Public right of access to information, financial and other records of the States of Jersey (P.34/2003): comments.<br>Presented: 14th October 2003.<br><i>Policy and Resources Committee.</i>       | P.34/2003.<br>Com.(3) |
| Public right of access to information, financial and other records of the States of Jersey (P.34/2003): comments.<br>Presented: 10th February 2004.<br><i>Finance and Economics Committee.</i>     | P.34/2003.<br>Com.(4) |
| Draft Postal Services (Jersey) Law 200-.<br>Lodged: 10th February 2004.<br><i>Economic Development Committee.</i>  | P.24/2004.            |
| Draft Postal Services (Jersey) Law 200- (P.24/2004): amendments.<br>Lodged: 16th March 2004.<br><i>Economic Development Committee.</i>   | P.24/2004. Amd.       |
| Draft Shipping (Tonnage) (Jersey) Regulations 200-.<br>Lodged: 17th February 2004.   | P.25/2004.            |

*Harbours and Airport Committee.*

Jersey Financial Services Commission: appointment of Commissioners. P.38/2004.  
Lodged: 9th March 2004.  
*Economic Development Committee.*

Draft Public Elections (Jersey) Law 2002 (Appointed Day) (No. 2) Act 200. P.43/2004.  
Lodged: 16th March 2004.  
*Legislation Committee.*

Draft Public Elections (Jersey) Law 2002 (Appointed Day) (No. 2) Act 200. P.44/2004.  
Lodged: 16th March 2004.  
*Legislation Committee.*

**Use of Haut de la Garenne – question and answer** (Tape No. 902)

Deputy Geoffrey Peter Southern of St. Helier asked Senator Philip Francis Cyril Ozouf, President of the Environment and Public Services Committee, the following question –

“Would the President advise members of the level of charges that apply to Haut de la Garenne for overnight use of the facilities, and, whether the Committee will be seeking to review them or to seek a subsidy from the Tourism Development Fund in order to attract more large visiting groups such as military bands?”

The President of the Environment and Public Services Committee replied as follows –

“I am advised that the previous Committee contracted with the Youth Hostels Association (YHA) of England and Wales to manage the Centre under a two-year management agreement on a self-financing basis. Charges for overnight accommodation and meals at the centre have been set by the YHA.

I am advised that their scale of charges for overnight accommodation for the first year of operation is as follows –

Bed and Breakfast price per day –

|          |     |
|----------|-----|
| Under 18 | £13 |
| Adult    | £16 |

Full Board price per day –

|          |        |
|----------|--------|
| Under 18 | £22.40 |
| Adult    | £26.40 |

Half Board price per day –

|          |         |
|----------|---------|
| Under 18 | £18.65  |
| Adult    | £21.65. |

The YHA will offer a reduced rate, or free accommodation for one leader per 10 participants, for schools and other youth groups staying for one week or more.

Turning to the issue of support by the Tourism Development Fund (TDF), whilst the matter has not been discussed by the Committee, my own preliminary view is that applications for TDF funding to support activities of any visiting groups would not be a matter for the Environment and Public Services Committee, but rather for the Committees of organisations seeking funding.”

**Mulcaster Street/Hill Street paving works – question and answer** (Tape No. 902)

The Deputy of St. John asked Senator Philip Francis Cyril Ozouf, President of the Environment and Public Services Committee, the following question –

“Will the President explain to members why paving in Hill Street/Mulcaster Street is being lifted just several months after the road was resurfaced and would he explain the rationale in doing so given that some of the new asphalt is being cut away?”

The President of the Environment and Public Services Committee replied as follows –

“Hill Street/Mulcaster Street was in very poor condition and required attention. When a road is resurfaced it is desirable that the footpath level remains untouched to avoid the cost of relaying kerbs. In Mulcaster Street and Hill Street it was hoped that the old surfacing would be planed off to a sufficient depth and replaced with new surfacing. When the resurfacing work was underway it became apparent that to lay the new road surface to a good alignment, leaving an acceptable height on the kerb face would have involved substantial removal and reconstruction of the road base structure. This would have been costly and significantly more disruptive in terms of extending the time the road needed to be closed. It was therefore more economical to reinstate to, or in places slightly above, the existing kerb surface and to then lift and relay parts of the footpath where necessary.”

### **Migration policy – questions and answers (Tape No. 902)**

Senator Paul Vincent Francis Le Claire asked Senator Frank Harrison Walker, President of the Policy and Resources Committee, the following questions –

“1. Would the President –

- (a) inform members of the progress on developing the Migration Policy?
  - (b) inform members who is now responsible for this work for the Committee?
  - (c) give details of the proposals being developed at present?
  - (d) inform members when the Committee will be briefing States members and the public on this matter?
2. Would the President inform the Assembly what timetable is being proposed for the Migration Policy and how will this affect the Island’s position with people currently in Jersey once the 1st May 2004 deadline has passed?
3. Would the President inform members how changes to the Treaty of Rome that have been made, or are planned to be made, will affect the Island?”

The President of the Policy and Resources Committee replied as follows –

- “1. (a) Following the States debate on P.102/2003, as amended, on 7th October 2003, the Policy and Resources Committee established a Steering Group in order to develop proposals for a draft migration policy. The membership of the Group is drawn from a range of States’ Committees, and the members are: Senator L. Norman, Senator M.E. Vibert, the Deputy of Trinity, the Deputy of St. Ouen, Deputy G.P. Southern, Deputy P.N. Troy, Deputy J.B. Fox, Deputy M.A. Taylor and until recently, Deputy S.C. Ferguson who has now been replaced by Senator P.F. Routier.

The Steering Group is supported by an officer Working Group, chaired by Mr. Bill Ogley and consisting of senior officers representing the following States departments: Housing, Economic Development, Home Affairs, Policy and Resources, Employment and Social Security, and Education, Sport and Culture.

The Steering Group has been making good progress in developing outline proposals for a draft migration policy, within the terms set out in P.102/2003, as amended, and will shortly be reporting back to the Policy and Resources Committee.

- (b) The Steering Group is chaired by Senator P.F.C. Ozouf and, although he is no longer a member of the Policy and Resources Committee, I am pleased to say that he has agreed to continue to chair this important group.
- (c) The proposals being developed are innovative and could have far-reaching implications for the way we manage migration. They focus on developing a comprehensive population database, establishing a more integrated approach which brings together the current systems of housing and employment controls, and reducing bureaucracy for businesses and individuals living in Jersey.
- (d) The Working Group has prepared a draft report, which is to be considered by the Committee on 8th April 2004, and will be submitted to the States before the end of April. The purpose of the report, to be published as an 'R.C.' rather than as a proposition, will be to outline the principles of a migration policy and to enable a wider discussion on the approach being considered.

Given the important and wide-ranging implications of a migration policy, there is still a considerable amount of work to complete before a final report and proposition can be lodged, hopefully within the next few months.

- 2. In view of the answer I have given previously, it would be unreasonable for anyone to expect a new migration policy to be brought into effect before 1st May 2004.

But the date of 1st May is not a 'deadline' in any way. On that day, nationals of the 10 new Member States of the European Union will be entitled to enter the Island without work permits, but they will still be subject to the same migration controls that apply to all E.U. nationals in the Island, i.e. the Housing Regulations and Regulation of Undertakings and Developments Law, together with the residence criteria for entitlement to Social Security Benefits. In this regard, nothing will change.

- 3. The expression 'Treaty of Rome' refers to the United Kingdom's Act of Accession to the Common Market, as it was in 1972. As members are aware, the proposed new European Constitution would consolidate the existing Accession Treaties into one document, and also remove any obsolete or transitional provisions in the original Treaties.

In negotiating the proposed changes to Protocol 3, which defines the relationship of the Channel Islands and Isle of Man with the European Union, the primary objective was to ensure our existing relationship was preserved unchanged. I have already informed members of the successful outcome of our negotiations, and I have every expectation that if the new Constitution is agreed by the E.U. member states, Jersey's position will be preserved and fully protected by European law."

### **Work permits – question and answer (Tape No. 902)**

Senator Paul Vincent Francis Le Claire asked Her Majesty's Attorney General the following question –

"What is the Island's legal position, particularly in light of human rights considerations, in imposing immigration controls such as work permits on people already established in the Island?"

Her Majesty's Attorney General replied as follows –

- "1. It is not legally permissible to introduce a direct immigration control inconsistent with the provisions of the Immigration Acts 1971 and 1988 as extended to the Island by the Immigration (Jersey) Order 1993, unless the latter Order were withdrawn and repealed. Such a repeal would be likely to involve Jersey

withdrawing from the Common Travel Area, which it might be thought would have far reaching consequences.

2. Measures such as a work permit scheme may have an indirect effect on immigration. It is open to Jersey to introduce a new licensing scheme which would require all persons, including British citizens, who do not have recognised connections with the Island, to obtain a licence in order to take employment in the Island.
3. Although the European Convention on Human Rights does not confer a right to work, human rights considerations will be relevant to any scheme proposed. Generalisations should be made only with caution because the answer in any particular case will depend on the detail of the scheme in question. It is possible to design a work permit scheme which is Convention compliant and it is equally conceivable that some schemes would not be compliant. It is likely that any scheme would need to be forward looking rather than retrospective. However, the principle is that no controls could be introduced which interfered with the right to respect for private and family life or any other Convention rights, such as the right to property, (in contracts of employment for instance), unless the interference responds to a legitimate aim under one of the qualifications in the Articles of the Convention, and is proportionate. Once a scheme has been introduced, it may be that where a very short period of residence in the Island is involved or where the applicable criteria for employment have been clearly set out in advance of or on the person's arrival here, it might be possible, absent other human rights considerations, to argue that the person concerned cannot justify the application for a permit by reliance on such period of residence as he or she has.

It might be hard to justify an interference with the right to respect for family life of those resident in the Island before any scheme is introduced.”

#### **Review of the Emergency Measures Plan – question and answer (Tape No. 902)**

The Deputy of St. John asked Senator Frank Harrison Walker, President of the Policy and Resources Committee (in his capacity as Vice-Chairman of the Emergencies Council), the following question –

“Will the President inform members of the current position regarding the review of the Emergency Measures Plan he referred to in response to a question asked on 25th November 2003, and when a new Emergency Plan will be available in view of the concerns expressed about a possible extension to the Flamanville nuclear power plant?”

The President of the Policy and Resources Committee replied as follows –

“Yes, the existing Emergency Measures Plan was last updated in April 2003. The Plan is subject to a continuing process of review and reassessment, and is currently being revised with a view to issuing an updated Emergency Measures Plan Part 1 in May 2004.

As I noted in my response of 25th November 2003, the Emergency Measures Plan is a classified document, and there are no plans to make the updated version generally available. However, I can assure the Deputy of St. John that the Emergency Measures Plan does make provision for dealing with a possible nuclear incident on the Cotentin peninsula, and any decision by the French authorities to increase nuclear activities at Flamanville would be taken into account in future reviews of the Emergency Measures Plan.”

#### **Farming industry – question and answer (Tape No. 902)**

The Deputy of St. John asked Deputy Francis Gerald Voisin of St. Lawrence, President of the Economic Development Committee, the following question –

“Would the President inform members –

- (a) whether the Committee is aware of any disquiet within the farming community over the possible merger of five larger growers, and, if so, to what extent is the Committee involving itself with the industry in this matter?
- (b) whether the Committee will consider cutting all funding to the agriculture/horticulture industry and review how these funds could be otherwise spent, and, if not, the reasons why?
- (c) whether the Committee has agreed to provide financial support to a group of potato growers seeking to promote a vodka factory, and, if so, can the President identify the land involved?"

The President of the Economic Development Committee replied as follows –

- “(a) Yes, the Committee is aware of the concern felt by some potato growers over the possible merger of some of the larger growers. The Committee is being informed of developments by the President of the Jersey Farmers’ Union and the Chairman of the Jersey Potato Export Marketing Board. The position is that privately owned businesses and individuals have decided to merge to form one large farming and marketing organisation and have given notice to some of the other, usually smaller, growers that the new group will not want to market their potatoes next year. Those involved in the new venture are naturally free to organise their affairs as they wish and the Economic Development Committee is powerless to prevent this; furthermore, the Jersey Potato Export Marketing Scheme is under a stay of the Royal Court, withdrawing powers that the Board would have to become involved in the contractual arrangements between growers and the marketing organisations.
- (b) No, the Committee is not considering cutting funding to the Industry. However, a new agricultural strategy is about to be developed with the help of the Agricultural Advisory Board, when funding, along with other current policies, will be reviewed.
- (c) The Jersey Potato Export Marketing Board was granted a total of £90,000 in 2003 under the Marketing Support Scheme to enable the Board to carry out a full-scale feasibility investigation into all aspects of the production of vodka from Jersey Royal potatoes. The investigation covered availability of raw material, identification of the optimal manufacturing process, requirements for a site and building requirements for machinery and equipment. As far as I am aware no site has been identified.”

**Rental subsidies for tenants with savings – questions and answers** (Tape No. 902)

Deputy Geoffrey Peter Southern of St. Helier asked Deputy Terence John Le Main of St. Helier, President of the Housing Committee, the following questions –

- “1. Would the President inform members why the proposals in P.74/2003 relating to the cessation of rental subsidy for tenants with savings over £50,000 were not originally referred to the Law Officers in respect of the powers they gave to the Committee?
- 2. Given that this matter is currently awaiting a legal opinion from the Law Officers on vires, will the Committee agree –
  - (a) not to apply maximum rents to those affected until the ruling is delivered, or
  - (b) to invest the rental income of those affected so that interest can be paid in the event of a negative outcome?”

The President of the Housing Committee replied as follows –

- “1. The rent subsidy schemes are not enshrined in law but operate under States’ and Housing Committee policy. As it is States’ policy which was changed by approval of P.74/2003 in July last year, the Committee saw no reason to refer the matter to the Law Officers.

The Committee has not referred to the Law Officers for an opinion on whether cessation of rent subsidy for tenants with savings over £50,000 is ultra vires. The Committee has recently sought the opinion of the Law Officers on a different matter relating to the rights of tenants who have assets of over £50,000, but who then dispose of a sufficient amount to bring those assets below that level, thus enabling themselves to claim eligibility for rental subsidy.

2. No.”

### **Bellozanne incinerator and road works at St. Clement– questions and answers (Tape No. 902)**

Deputy Gerard Clifford Lemmens Baudains of St. Clement asked Senator Philip Francis Cyril Ozouf, President of the Environment and Public Services Committee, the following questions –

- “1. Given the high potential cost and many possible alternatives for replacing the Bellozanne incinerator, will the President –
  - (a) give an undertaking that he will bring the matter for debate in the States before any commitments are made?
  - (b) advise what point the Committee has reached in the decision-making process?
2. Several weeks ago as part of the rising main relining at Le Bourg, St. Clement, road openings were made, traffic lights installed and initial activity took place. Will the President –
  - (a) account for the continuing disruption to traffic and pedestrians caused by these road works, when for the last two or three weeks there has been no perceptible activity?
  - (b) advise when the works are due for completion?
3. Will the President advise members which, if any, parts of either the Environment or Public Services Departments have been relocated to the Howard Davis Farm at Trinity within the last year?”

The President of the Environment and Public Services Committee replied as follows –

- “1. (a) Yes.
  - (b) The previous Committee formed a Waste Strategy Steering Group (WSSG), and the first stage in the procurement programme was for the WSSG to initiate the formal process of inviting Expressions of Interest (EOIs) from companies with the relevant experience and ability to design and build a facility, or facilities, to deal with Jersey’s non-inert, (i.e. putrescible and combustible) waste. Of the original eleven EOIs received, there are now 6 companies remaining that are being given further detailed consideration, to establish whether they will be able to tender for the design and building of the plant, when a decision has been made to proceed.
2. (a) I am advised that the traffic controls at Le Bourg have had to remain in place for longer than anticipated, due to an installation problem that the contractor has encountered with the relining works to the Le Bourg pumping station rising main.

Due to the length of the rising main, installation of the liner had to be undertaken in 2 operations with half the rising main length being relined during each operation. The first operation was carried out on Thursday 5th February 2004, and was entirely satisfactory.

The second, and final, relining operation was carried out 2 days later on Saturday 7th February 2004. Subsequent inspection of the second relined length, clearly showed an unacceptable finish

to the relined pipe, and the length in question would not pass the specified pressure test.

The Contractor was subsequently informed that the work in this section of pipe was not acceptable, and was asked for proposals to remedy the problem.

Public Services Officers are currently in discussion with the Contractor to agree a solution to the problem, and until this can be done, the temporary rising main installed at the side of the road will have to remain in place, as will the traffic signals set up around the excavation that was used for the relining works.

- (b) The original contract completion date for the scheme was 7th February 2004, and but for the problems encountered, the contractor would have completed shortly after this date. At the present time, it is not possible to give a revised completion date for these works, as the Contractor has only recently submitted a number of proposals for consideration, and it has yet to be determined which of these will be most suitable.
3. I can advise that 18 staff have been relocated to the Howard Davis Farm. These are Environment staff who were formerly housed at South Hill, Bellozanne and the Frances Le Sueur Centre, and who comprised the ecology, water resources and countryside teams.”

**Jersey Electricity Company Limited and the Jersey New Waterworks Company Limited – question and answer (Tape No. 902)**

The Deputy of St. John asked Senator Terence Augustine Le Sueur, President of the Finance and Economic Committee, the following question –

“It has been reported that the Jersey Electricity Company wishes to purchase the Jersey New Waterworks Company. Would the President inform members what involvement, if any, the Committee has had in this respect to date, or is intending to have in the future?”

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

“I refer members to the press release of the Finance and Economics Committee issued to States members on 13th January 2004, attached below.

The Committee, on behalf of the States as the majority shareholder of both companies, has been in contact with representatives of both Boards of Directors in connection with the proposed purchase and will maintain that contact.

I am not at liberty to disclose the nature or details of any proposal, at this stage, due to commercial confidentiality and the strict rules of conduct governing the proposed transaction.

The Committee will continue to take professional and legal advice to ensure that it acts in the best interests of the shareholding which it represents, whilst not prejudicing the interests of the minority shareholders of either company.

I assure members that I shall keep the States fully informed of all developments as and when I am able to do so, and confirm that it is the Committee's view that should an acceptable offer be made by the Board of Jersey Electricity Company Limited for the shares in Jersey New Waterworks Company Limited owned by the States, this would be brought to the Assembly for debate.”

Press release – 13th January 2004:

The Board of Directors of Jersey Electricity Co. Ltd. has advised the Finance and Economics Committee of its interest in acquiring the issued share capital of Jersey New Waterworks Co. Ltd.

The Finance and Economics Committee will be taking independent legal and professional advice to ensure that it acts at all times in a responsible and ethical manner, recognising also the obligations owed to the public as consumers of water and electricity.

The States of Jersey is the majority shareholder of the Jersey Electricity Co. Ltd. and Jersey New Waterworks Co. Ltd., and the day-to-day policy in respect of these investments is in the hands of the Finance and Economics Committee. On behalf of the major shareholder, the Finance and Economics Committee is anxious to act in a way which will not prejudice the interests of the minority shareholders of either Jersey Electricity Co. Ltd. or Jersey New Waterworks Co. Ltd. It is also bound by the strict rules of conduct of the London Stock Exchange, and those relating to mergers and takeovers. The Finance and Economics Committee is therefore taking a neutral position at this time, pending further investigation work being carried out by Jersey Electricity Co Ltd. on Jersey New Waterworks Co Ltd.

**Implications arising from the adoption of measures outlined in the Code of Conduct group findings – question and answer (Tape No. 902)**

Senator Paul Vincent Francis Le Claire asked Senator Terence Augustine Le Sueur, President of the Finance and Economics Committee, the following question –

“Given the proposals to introduce a new fiscal policy which relate to the possible implications arising from the adoption of measures outlined in the Code of Conduct group findings which examined potentially harmful tax measures in E.U. member States, would the President inform members –

- (a) how many exempt companies there are in Jersey, how their taxes are calculated and on the basis of income from which sources (e.g. Jersey source income), and the tax collected last year in total from these companies?
- (b) the amount of monies held on deposit in Jersey by exempt companies, and, if unknown, the reasons why?
- (c) how many international treasury operations there are in Jersey, how their taxes are calculated and on the basis of income from which sources, and the tax collected last year in total from these companies?
- (d) the amount of monies held on deposit in Jersey by international treasury operations, and, if unknown, the reasons why?
- (e) how many international business companies there are in Jersey, how their taxes are calculated and on the basis of income from which sources, and the tax collected last year in total from these companies?
- (f) the amount of monies held on deposit in Jersey by international business companies, and, if unknown, the reasons why?
- (g) how many captive insurance companies there are in Jersey, how their taxes are calculated and on the basis of income from which sources, and the tax collected last year in total from these companies?
- (h) the amount of monies held on deposit in Jersey by captive insurance companies, and, if unknown, the reasons why? and,
- (i) an approximation of the numbers of people employed in Jersey directly with the previously mentioned companies and financial services?”

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

“I shall reply to the questions in the order that they have been asked, as follows –

- (a) there are approximately 17,700 exempt companies in Jersey. An exempt company pays a charge of £600 per annum. It does not pay income tax on profits or income arising outside Jersey. In the case of income arising in Jersey, apart from bank interest which is exempt in accordance with the usual concession, the exempt company is liable to income tax at the standard rate of 20%, as are the profits of a trade carried on through an established place of business in Jersey. In 2003, the sum of £10.6 million was collected from exempt companies. Exempt companies are at the heart of Jersey's finance industry and are instrumental in providing many of the products and services within that industry;
- (b) this information is not available and would be impossible to collect as it is a private matter between the beneficial owner of the exempt company and its bankers and advisers;
- (c) unlike exempt companies and international business companies, which have their own specific and generic data base on the Income Tax Office computer system, international treasury operations do not, so providing an accurate answer to this question is not possible. In general terms, international treasury operations book inter-company and other loans through Jersey, an activity which can, of course, quite easily be shifted to other competing jurisdictions. In the past, before the introduction of the international business company facility, some specific treasury operations benefited from the treatment of certain allowable costs but this is no longer the case;
- (d) this information is not available for the same reason as given at (b);
- (e) there are currently 184 international business companies in Jersey. International business profits are taxed as follows –
  - first £3 million at 2%
  - next £1.5 million at 1.5%
  - next £5.5 million at 1%
  - remainder at 0.5%.

It is also possible for an international business company to agree a rate of tax on international profits with the Comptroller of Income Tax at a higher rate than 2%. Income or profits other than those arising from international activities are taxed at the rate of 30%. The total tax collected last year from international business companies amounted to £52 million;

- (f) this information is not available for the same reasons as given at (b);
- (g) a captive insurance company is able to take advantage of either exempt company status or international business company status and there are currently 9 captive insurance companies in Jersey. In 2003, the sum of £154,000 was collected from these companies;
- (h) this information is not available for the same reasons as given at (b);
- (i) some 12,900 people, which is approximately 28% of the total workforce, were employed in financial and legal services in 2002. It is not possible to give an approximation of the numbers of people employed in Jersey directly with the previously mentioned companies. Furthermore, not all international business companies are involved in the provision of financial services.”

#### **Tax reforms – questions and answers (Tape No. 902)**

Deputy Geoffrey Peter Southern of St. Helier asked Senator Terence Augustine Le Sueur, President of the Finance and Economics Committee, the following questions –

- “1. In response to a question on 2nd March 2004, on the phasing out of allowances for households with high earnings, the President stated that the level of proportional reductions in allowances for single-person

households had not been decided. Would the President inform members –

- (a) why, in the Committee’s paper ‘Facing the Future’, the table on page 6 indicates clearly that extra income tax for a single person would start at £40,000 p.a., producing an additional £345 of tax payable on an income of £50,000?
  - (b) whether these reductions in allowances will totally remove all mortgage interest relief on those single person households with income over £75,000 and couples with joint incomes of £150,000?
  - (c) whether he considers these measures on mortgage interest relief will effectively negate the measures adopted by the Assembly in the Budget 2004 on capping mortgage interest relief at £300,000.
2. Will the President produce for members a table showing for gross household income over the range £40,000 to £150,000, in £10,000 intervals, the additional tax that would be paid by a single person, a couple with no children and a couple with two children with, in each case –
- no mortgage;
  - a mortgage of £120,000;
  - a mortgage of £200,000; and,
  - a mortgage of £300,000.
3. Would the President give an estimate of what proportion of mortgage interest relief will be affected by these measures at the levels suggested by the Committee?”

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

- “1. (a) The level of proportional reductions in allowances for single-person households has not been formally decided. This is an indicative proposal. Indeed, even the £150,000 proposed for a two person household is still only a suggestion put out for consultation. The ‘Facing the Future’ paper gave an indication of the additional tax that would be paid by single-person households should this proposal be formally adopted and agreed by the States Assembly. I appreciate that there are potential anomalies and if the Deputy, or anybody else, has proposals for a more appropriate level at which the allowances for single-person households should be phased out, without creating the anomaly and inequity of an unmarried couple living together having a higher level of phase out for allowances than a married couple, I should be happy to receive them.
- (b) Yes.
- (c) No. Relief, on up to £300,000, remains wholly or partly available for those households with incomes below £150,000.
2. On the basis of the Committee’s current draft proposals the additional tax payable would be as follows –

a single person with –

no mortgage

|         |       |
|---------|-------|
| 40,000  | nil   |
| 50,000  | 343   |
| 60,000  | 686   |
| 70,000  | 1,029 |
| 80,000+ | 1,200 |

a mortgage of £120,000

|         |       |
|---------|-------|
| 40,000  | nil   |
| 50,000  | 686   |
| 60,000  | 1,373 |
| 70,000  | 2,059 |
| 80,000+ | 2,400 |

a mortgage of £200,000

|         |       |
|---------|-------|
| 40,000  | nil   |
| 50,000  | 915   |
| 60,000  | 1,830 |
| 70,000  | 2,745 |
| 80,000+ | 3,200 |

a mortgage of £300,000

|         |       |
|---------|-------|
| 40,000  | nil   |
| 50,000  | 1,201 |
| 60,000  | 2,402 |
| 70,000  | 3,603 |
| 80,000+ | 4,200 |

a couple with no children –

no mortgage

|              |       |
|--------------|-------|
| up to 80,000 | nil   |
| 90,000       | 246   |
| 100,000      | 492   |
| 110,000      | 738   |
| 120,000      | 984   |
| 130,000      | 1,230 |
| 140,000      | 1,476 |
| 150,000      | 1,720 |

mortgage of £120,000

|              |       |
|--------------|-------|
| up to 80,000 | nil   |
| 90,000       | 418   |
| 100,000      | 836   |
| 110,000      | 1,254 |
| 120,000      | 1,672 |
| 130,000      | 2,090 |
| 140,000      | 2,508 |
| 150,000      | 2,920 |

mortgage of £200,000

|              |       |
|--------------|-------|
| up to 80,000 | nil   |
| 90,000       | 532   |
| 100,000      | 1,064 |
| 110,000      | 1,596 |
| 120,000      | 2,128 |
| 130,000      | 2,660 |
| 140,000      | 3,192 |
| 150,000      | 3,720 |

mortgage of £300,000

|              |       |
|--------------|-------|
| up to 80,000 | nil   |
| 90,000       | 675   |
| 100,000      | 1,350 |
| 110,000      | 2,025 |
| 120,000      | 2,700 |
| 130,000      | 3,375 |
| 140,000      | 4,050 |
| 150,000      | 4,720 |

a couple with 2 children –

no mortgage

|              |       |
|--------------|-------|
| up to 80,000 | nil   |
| 90,000       | 389   |
| 100,000      | 778   |
| 110,000      | 1,167 |
| 120,000      | 1,556 |
| 130,000      | 1,945 |
| 140,000      | 2,334 |
| 150,000      | 2,770 |

a mortgage of £120,000

|              |       |
|--------------|-------|
| up to 80,000 | nil   |
| 90,000       | 561   |
| 100,000      | 1,122 |
| 110,000      | 1,683 |
| 120,000      | 2,244 |
| 130,000      | 2,805 |
| 140,000      | 3,366 |
| 150,000      | 3,920 |

a mortgage of £200,000

|              |       |
|--------------|-------|
| up to 80,000 | nil   |
| 90,000       | 675   |
| 100,000      | 1,350 |
| 110,000      | 2,025 |
| 120,000      | 2,700 |
| 130,000      | 3,375 |
| 140,000      | 4,050 |
| 150,000      | 4,720 |

a mortgage of £300,000

|              |       |
|--------------|-------|
| up to 80,000 | nil   |
| 90,000       | 818   |
| 100,000      | 1,636 |
| 110,000      | 2,454 |
| 120,000      | 3,272 |
| 130,000      | 4,090 |
| 140,000      | 4,908 |

150,000

5,720

These answers assume that the wife is not working and that the 2 children are not in further education. It also assumes an interest rate of 5% on the mortgages.

3. It is not possible to give an accurate answer to this question because the Comptroller of Income Tax only collates and produces statistics which fall naturally out of the tax assessing and tax collection processes. It would require very significant research and an analysis of every single personal and corporate tax file at the Income Tax Office to give an accurate answer to this question. The time and resources that would be required are not available.

My personal view, which I must stress is not backed by any statistical evidence, is that on the basis that most mortgages over £300,000 are taken out by married couples, and that the household income survey shows an income profile predominately below £80,000 per annum, only a small proportion of the total figure of mortgage interest tax relief will be affected.”

### **Matters involving the Jersey Financial Services Committee – question and answer (Tape No. 902)**

Senator Edward Philip Vibert asked Deputy Francis Gerald Voisin of St. Lawrence, President of the Economic Development Committee, the following question –

“Would the President inform members –

- (a) whether the Committee is aware of any disquiet amongst senior executives working in many of the smaller local Trust companies regarding the way in which the Jersey Financial Services Commission (JFSC) is handling the administration of the legislation under which Trusts operate?
- (b) how many smaller Jersey based Trust companies have relocated out of Jersey in the last 2 years and how many jobs have been lost in this area in the same period? and,
- (c) whether the Committee has confirmed that the Financial Services (Jersey) Law 1998, and the Trusts (Jersey) Law 1984, which are administered by the JFSC are human rights compliant?”

The President of the Economic Development Committee replied as follows –

- “(a) The Committee’s attention has not been drawn to any general disquiet amongst senior executives working in the Island’s smaller Trust companies. The Committee is kept in touch with the industry through the Jersey Financial Services Commission and various representative industry associations such as Jersey Finance Limited incorporating the Jersey Finance Industry Association and the Jersey Association of Trust Companies. The Commission, last month, held a seminar on regulation and business development and managing compliance which was attended by well over two hundred representatives of the finance industry. In the interactive sessions, those attending were asked to indicate where they thought the Commission could do better and useful comments were received that are being acted upon. However, there was nothing said that would indicate the level of concern to which the Senator refers and this is consistent with the views received by the Committee from the representative bodies.
- (b) Of the 230 applications received for registration under the Financial Services (Jersey) Law 1998, 174 have been accepted, 15 have decided to consolidate with other companies, 32 are withdrawing or have withdrawn from business, 3 have been refused, and 6 companies remain in the transitional stage and are seeking a licence. Of the firms who withdrew their applications or had been refused, just 4 have decided to relocate outside Jersey. To the extent that there have been job losses in respect of individual firms these would appear to have been more than offset by the growth in the number of jobs in the trust and company service providers sector overall.

- (c) The Financial Services Commission has completed a full review of all the laws for which it has responsibility, to assess these for human rights compliance. The Commission has confirmed that it believes the Financial Services (Jersey) Law 1998, to be compliant in all key areas. The Trusts (Jersey) Law 1984, sets the general legal framework under which trusts operate, but is not a law for which the Commission has responsibility for administration and was therefore not covered in the review. In drafting a response to this question, I have been advised informally that no substantive issues of concern have been identified in respect of the 1984 Law. For the sake of completeness, I have yesterday written to the Law Officers' Department to seek a formal opinion on behalf of the Committee in respect of the 1984 Law."

### **Public holidays in 2004 – statement**

The Connétable of St. Clement, President of the Legislation Committee, made a statement in the following terms –

"As members may be aware, the 9th May, Liberation Day, falls this year on a Sunday and, in accordance with the provisions of the Public Holidays and Bank Holidays (Jersey) Act 1952, is not therefore defined as a Public or Bank Holiday. I am making this statement to inform members and the public that the Legislation Committee, which has responsibility for bringing forward proposals on the fixing of dates for public holidays, does not intend to propose that Monday 10th May 2004, should be made a public holiday in lieu of 9th May.

The Bailiff's Consultative Panel considered this matter some time ago and the Legislation Committee as previously constituted concurred with the views of that Panel. The 9th May is, of course, an extremely significant date in the Island's calendar and one that evokes many memories, particularly for those Islanders who were in Jersey on Liberation Day in 1945. It is, therefore, considered that the commemoration and celebration of our liberation should take place on 9th May and not on any other day. Members will be pleased to know that detailed planning is already taking place for the commemoration of Liberation Day in the manner that has become traditional in recent years. I would point out that the Committee's decision not to propose any additional public holiday is consistent with the decision of the then Legislation Committee in 1999 when Liberation Day last fell on a Sunday.

On a different but related matter I would like to take this opportunity to inform members that, as Christmas Day and Boxing Day fall on a Saturday and Sunday, the Committee is proposing to take steps, once official confirmation of the U.K. position is received, to ensure that Monday 27th and Tuesday 28th December 2004, are given as Public Holidays in lieu. In a similar way we will be proposing that Monday 3rd January 2005 should be a Public Holiday in lieu of New Year's Day 2005."

### **Work of the Special Committee on the Composition and Election of the States Assembly – statement**

Deputy Roy George Le Hérisier of St. Saviour, President of the Special Committee on the Composition and Election of the States Assembly, made a statement in the following terms –

"The newly constituted Special Committee on the Composition and Election of the States Assembly will be meeting between 12 noon and 2 p.m. on Monday 29th March 2004, in the Halkett Room, Morier House, to discuss how to take forward the work of the Committee and to draw up a timetable for its work.

In accordance with the decision of the States when establishing the Committee, the meeting will be open to the public although it is not anticipated that those attending this meeting will be invited to participate as this meeting is being held to plan the future work programme and not to take firm decisions on which recommendations to take forward.

I would like to stress to members that, despite recent media reports on comments that have been made about options for change in the electoral system, the Committee, as newly-constituted, has not yet met and no

decisions have been taken on the appropriate way forward.”

**Building a Safer Society – P.17/2004  
Comments – P.17/2004 Com.**

THE STATES, adopting a proposition of the Home Affairs Committee, referred to their Acts dated 18th November 1999, regarding the Crime and Community Safety Strategy 1999-2009 and the Substance Misuse Strategy 1999-2004, in which they agreed policies for the reduction of crime, anti-social behaviour and substance misuse, and –

- (a) approved the Strategy aimed at minimising the harm caused by crime, anti-social behaviour and substance misuse detailed in the report of the Home Affairs Committee entitled “Building a Safer Society 2005-2009” as set out in the Appendix to the report of the Home Affairs Committee dated 3rd December 2003;
- (b) requested the Finance and Economics Committee and the Policy and Resources Committee to take all necessary steps, in accordance with overall States policies and priorities, to provide sufficient funding and staff to enable the strategy to be implemented; and,
- (c) charged the Home Affairs Committee, in consultation with the Education, Sport and Culture, Health and Social Services, Housing, Employment and Social Security Committees, Probation and Aftercare Service Board and the Comité des Connétables, to report back within a period of three years on the progress of the implementation of the Strategy.

Members present voted as follows –

**“Pour” (43)**

**Senators**

Le Maistre, Syvret, Norman, Kinnard, Le Sueur, Le Claire, Routier, M. Vibert, E. Vibert.

**Connétables**

St. Martin, St. Ouen, St. Saviour, St. Brelade, St. Mary, St. Peter, St. Clement, St. Helier, Tri Grouville, St. John.

**Deputies**

Trinity, Duhamel(S), Huet(H), St. Martin, St. John, Le Main(H), Dubras(L), Troy(B), Voisin(L Scott Warren(S), Le Hérissier(S), Fox(H), Bridge(H), Martin(H), Southern(H), Bernstein(B), Ferguso (B), St. Mary, Ryan(H), Taylor(C), Grouville, Hilton(H), De Faye(H).

**“Contre” (2)**

**Deputies**

Dorey(H), St. Ouen.

**Change in Presidency**

The Bailiff retired from the Chair during the consideration of the proposition of the Home Affairs Committee concerning ‘Building a Safer Society’, (P.17/2004 lodged “au Greffe” on 3rd February 2004), and the meeting continued under the Presidency of Michael Nelson de la Haye Esquire, Greffier of the States.

**Deputy of St. Ouen– attendance**

The Deputy of St. Ouen arrived in the Chamber during the consideration of the proposition of the Home Affairs Committee concerning 'Building a Safer Society' (P.17/2004 lodged "au Greffe" on 3rd February 2004) and was present for the remainder of the meeting.

**Draft Police Force (Amendment No. 10) (Jersey) Law 200 P.9/2004  
Amendment – P.9/2004 amendment**

THE STATES commenced consideration of the Draft Police Force (Amendment No. 10) (Jersey) Law 200, and adopted the preamble.

Articles 1 and 2 were adopted, the States having accepted an amendment by the Deputy of St. Martin that in Article 1, in the substituted Form 1, for the words "you will serve the Queen and will carry out your duties as a member of the States of Jersey Police Force", there be substituted the words "well and faithfully you will exercise the office of a Member of the States of Jersey Police Force, that you will faithfully serve Her Majesty Queen Elizabeth the Second, her heirs and successors according to law, and that you will carry out your duties".

Members present voted as follows on Articles 1 and 2 as amended –

**"Pour" (28)**

**Senators**

Le Maistre, Norman, Kinnard, M. Vibert, E. Vibert.

**Connétables**

St. Martin, St. Ouen, St. Saviour, St. Brelade, St. Peter, St. Clement, St. Helier, Trinity, Grouville.

**Deputies**

Trinity, St. Martin, Le Main(H), Dubras(L), Dorey(H), Troy(B), Scott Warren(S), Le Hérisssier(S), F(H), Bridge(H), Southern(H), Bernstein(B), St. Mary, Ryan(H).

**"Contre" (12)**

**Senators**

Le Claire, Routier, Ozouf.

**Connétables**

St. Mary, St. John.

**Deputies**

Duhamel(S), Huet(H), St. John, Ferguson(B), St. Ouen, Hilton(H), De Faye(H).

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, adopted a Law entitled the Police Force (Amendment No. 10) (Jersey) Law 200.

**Draft Terms of Employment (Jersey) Regulations 200- P.36/2004**

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 Terms of Employment (Jersey) Regulations 2004.

**Adjournment**

THE STATES then adjourned, having agreed that the following items of public business should be deferred until the next meeting on 30th March 2004 –

|  |                            |
|--|----------------------------|
| Draft Animal Welfare (Jersey) Law 200-.<br>Lodged: 19th August 2003.<br><i>Economic Development Committee.</i>   | P.126/2003.                |
| Draft Animal Welfare (Jersey) Law 200- (P.126/2003): comments.<br>Presented: 10th February 2004.<br><i>Finance and Economics Committee.</i>                              | P.126/2003.<br>Com.        |
| Draft Animal Welfare (Jersey) Law 200- (P.126/2003): amendments.<br>Lodged: 3rd February 2004.<br><i>Deputy of St. Martin.</i>   | P.126/2003.<br>Amd.        |
| Draft Animal Welfare (Jersey) Law 200- (P.126/2003): amendments<br>(P.126/2003 Amd.)– comments.<br>Presented: 2nd March 2004.<br><i>Finance and Economics Committee.</i> | P.126/2003.<br>Amd.Com.    |
| Draft Animal Welfare (Jersey) Law 200- (P.126/2003): amendments<br>(P.126/2003 Amd.)– comments.<br>Presented: 9th March 2004.<br><i>Economic Development Committee.</i>  | P.126/2003.<br>Amd.Com.(2) |
| Projet de Loi (200-) (Amendement No. 10) réglant la procédure criminelle.<br>Lodged: 3rd February 2004.<br><i>Comité de Législation.</i>                                 | P.13/2004                  |
| Draft Housing (Amendment No. 11) (Jersey) Law 200.<br>Lodged: 24th February 2004.<br><i>Housing Committee.</i>   | P.34/2004                  |

THE STATES agreed that the Greffier of the States should be authorised to consult with the proposers of items of public business set down for 30th March 2004 and to list them in the most appropriate order.

THE STATES rose at 5.51 p.m.

**A.H. HARRIS**

*Deputy Greffier of the States.*