

**THE STATES assembled on Tuesday,  
27th April 2004 at 9.30 a.m. under the  
Presidency of Michael Nelson de la Haye Esquire,  
Greffier of the States.**

All members were present with the exception of –

Senator Jean Amy Le Maistre– out of the Island  
Kenneth Priaulx Vibert, Connétable of St. Ouen– out of the Island  
John Le Sueur Gallichan, Connétable of Trinity– out of the Island  
Geoffrey John Grime, Deputy of St. Mary– ill.

Prayers

**Subordinate legislation tabled**

The following enactments were laid before the States, namely –

|   |              |
|---|--------------|
| Motor Traffic (Cabs – Fares and Charges) (No. 2) (Jersey) Order 2004. | R&O 26/2004. |
| Consumer Protection (Protective Helmets) (Jersey) Order 2004.         | R&O 27/2004. |

**Matters presented**

The following matters were presented to the States –

|   |                             |
|---|-----------------------------|
| States of Jersey Law 1966, as amended: delegation of functions – Piercing and Tattooing (Jersey) Law 2002.<br><i>Presented by the Health and Social Services Committee.</i>                           | R.C.17/2004.                |
| Code of Practice on Public Access to Official Information: Annual Report for 2003.<br><i>Presented by the Privileges and Procedures Committee.</i>  | R.C.18/2004.                |
| Public Employees Contributory Retirement Scheme: Actuary's Valuation Report.<br><i>Presented by the Policy and Resources Committee.</i>   | R.C.19/2004.                |
| States Members' Remuneration: increases for 2004 – rescindment (P.11/2004) – second amendment (P.11/2004 Amd.(2))– comments.<br><i>Presented by the Privileges and Procedures Committee.</i>          | P.11/2004. Amd.<br>(2) Com. |
| States Abattoir, La Route du Veulle, La Collette, St. Helier: transfer of administration (P.67/2004) – comments.<br><i>Presented by the Environment and Public Services Committee.</i>                | P.67/2004.<br>Com.          |
| Animal Waste Products Site, La Rue Phillippe Durell, La Collette, St. Helier transfer of administration (P.68/2004) – comments.<br><i>Presented by the Environment and Public Services Committee.</i> | P.68/2004.<br>Com.          |

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

**Matters lodged**

The following matters were lodged “au Greffe” –

|  |                     |
|--|---------------------|
| Draft The Law Society of Jersey Law 200- (P.154/2003): amendments.<br><i>Presented by the Legislation Committee.</i>   | P.154/2003.<br>Amd. |
| Draft Extradition (Jersey) Law 200- (P.39/2004): amendments.<br><i>Presented by the Policy and Resources Committee.</i>  | P.39/2004.<br>Amd.  |
| Royal Court House/States Building: allocation of accommodation (P.69/2004) – amendment.<br><i>Presented by the Privileges and Procedures Committee.</i>        | P.69/2004. Amd.     |
| Le Squez Estate, St. Clement, Phase 1A: redevelopment approval of drawings.<br><i>Presented by the Housing Committee.</i>                                      | P.76/2004.          |
| Licensing Law: purchase of alcohol for persons under 18.<br><i>Presented by the Deputy of St. Martin, and referred to the Economic Development Committee.</i>  | P.77/2004.          |
| Waterfront Enterprise Board: appointment of member.<br><i>Presented by the Policy and Resources Committee.</i>   | P.78/2004.          |
| States Assembly: improving efficiency.<br><i>Presented by the Privileges and Procedures Committee.</i>   | P.79/2004.          |
| Code of Practice on Public Access to Official Information: measures to improve implementation.<br><i>Presented by the Privileges and Procedures Committee.</i> | P.80/2004.          |

**Code of Practice on Public Access to Official Information: measures to improve implementation – P.164/2003 – withdrawn**

THE STATES noted that, in accordance with Standing Order 22(3), the President of the Privileges and Procedures Committee had instructed the Greffier of the States to withdraw the proposition regarding the Code of Practice on Public Access to Official Information: measures to improve implementation, (P.164/2003 lodged “au Greffe” on 18th November 2003), the Committee having lodged a revised proposition at the present meeting.

**Arrangement of public business for the next meeting on 11th May 2004**

THE STATES confirmed that the following matter lodged “au Greffe” would be considered at the next meeting on 11th May 2004 –

|   |           |
|---|-----------|
| Waterfront Enterprise Board: appointment of member.<br>Lodged: 27th April 2004.<br><i>Policy and Resources Committee.</i> | P.78/2004 |
|---|-----------|

**Frequency of meetings of the States until the summer recess 2004 – statement**

The President of the Privileges and Procedures Committee made a statement in the following terms –

“During last week’s States meeting the Privileges and Procedures Committee was asked to make recommendations on the way in which the States should approach the significant workload likely to face the Assembly before the end of the session on 20th July 2004. The Committee discussed this matter at its meeting last Friday.

It is clear that there will be a heavy workload for the Assembly in the coming weeks. The forward business list already shows some very significant items listed for May and June and members will be aware that there will be further major items, such as the Strategic Plan and the fiscal strategy, which the States will be asked to debate in the coming months although it will, of course, be a matter for members to decide whether these matters should be considered before the summer recess.

The Privileges and Procedures Committee agreed last Friday that the States will almost certainly need to meet every week throughout May, June and July and would therefore advise members to keep all Tuesdays free of other commitments. A schedule showing the possible additional dates is attached. The Committee nevertheless considers that the existing system, that allows business to be carried over from the scheduled meetings to the following week, should be followed without amendment. This system has the advantage, as pointed out last week, that the extra Tuesday is treated as a continuation meeting and this enables the States to move almost immediately to the consideration of the outstanding items of public business without time being spent on questions. In addition the Committee does not believe it would be helpful to change the present procedures on fixing business particularly as changes to the list already agreed for the next meeting can, of course, still be made during the additional day.

As it is impossible to be sure whether all the additional dates will be required the Committee's overall conclusion was that it was best for the matter to be decided by the States on a week by week basis. The Committee was also conscious that certain dates, for example 1st June (which is the day after a public holiday and during the school half term), may be less convenient than others and the flexibility to decide when to meet should be retained.

The Committee is aware that July is traditionally an extremely busy month for the Assembly with many additional meetings. Last year, for example, the Assembly met for 7 days in July although this was less than the 11 days of meetings in July 2002. It appears almost inevitable that a similar situation will occur this year but the Committee believes that there would be some merit in suggesting that the States should not meet in the week after the scheduled end of the First Session. Many members will have planned holidays in good faith and, if the business of the Assembly cannot be finished on Tuesday 20th July, the Committee believes that, as an exception to the 'next Tuesday' rule, the States should meet on Wednesday 21st and subsequent days as necessary, to complete the business.

Members will have noted that the Privileges and Procedures Committee has today lodged a proposition summarising the initial recommendations of the Working Party on Public Business and the Committee intends to ask for this to be debated on 25th May 2004. If adopted the measures will, of course, go some way towards alleviating the current pressure on States time by limiting the oral question period to a maximum of one hour."

#### TUESDAYS UNTIL 20th JULY 2004

|            | <b>States meetings scheduled</b>      | <b>Notes</b>                             |
|------------|---------------------------------------|--|
| 27th April | Continuation of meeting of 20th April |  |
| 4th May    |                                       | Tuesday after public holiday             |
| 11th May   | States                                |  |
| 18th May   |                                       |  |
| 25th May   | States                                |  |
| 1st June   |                                       | Tuesday after public holiday – half term |
| 8th June   | States                                |  |
| 15th June  |                                       |  |
|            |                                       |  |

|           |                                     |  |
|-----------|-------------------------------------|--|
| 22nd June | States                              |  |
| 29th June |                                     |  |
| 6th July  | States                              |  |
| 13th July |                                     |  |
| 20th July | States (last meeting before recess) |  |

#### **Draft Shipping (Tonnage) (Jersey) Regulations 200- P.25/2004**

THE STATES, in pursuance of Article 21 of the Shipping (Jersey) Law 2002, made Regulations entitled th Shipping (Tonnage) (Jersey) Regulations 2004.

#### **Public right of access to information, financial and other records of the States of Jersey – P.34/2003 Comments, Comments (2), (3) and (4)**

THE STATES commenced consideration of a proposition of Deputy Alan Breckon of St. Saviour concerning the public right of access to information, financial and other records of the States of Jersey, and Deputy Roy George Le Hérisser of St. Saviour sought leave to propose that the States move to the consideration of the nex item on the Order Paper. The President ruled, in accordance with Standing Order 27(1), that it appeared that the proposition was an infringement of the rights of a minority and it was, therefore, disallowed.

THE STATES, following further discussion, rejected the proposition of Deputy Alan Breckon of St. Saviou requesting them to refer to their Act dated 15th March 1994, in which they appointed a Special Committee to investigate the issues involved in establishing by law a general right of access to official information for members of the public and to report back to the States with recommendations; and to their Act dated 26th July 1999, in which they approved, with amendments, the Code of Practice on Public Access to Official Information and agreed that the provisions of the Code, amended as appropriate in the light of practical experience, should be incorporated into legislation which would establish a general right of access to official information for members of the public, and –

- (a) to agree that a general right of the public to access official information should be established by law as soon as practicable, and that, subject to any exemptions that may be included in the legislation –
  - (i) all records and documents relating to the expenditure of public monies, including all account books, contracts, invoices, vouchers, receipts and other financial records should, on an annual basis, be made available by each Committee and Department of the States for public inspection, during a period of 20 working days, by any person whose name was on an electoral register kept for the purposes of public elections to the States, on condition that any such person wishing to access the records should be obliged to give at least one clear working day's notice to the Committee or Department concerned of his or her intention to exercise the right of access,
  - (ii) there shall be a general right to attend all meetings of Committees of the States (including any Joint and Sub-Committee meetings) and that, after the introduction of a ministerial system, this right should extend to meetings of the Council of Ministers, any sub-committees of the Council, Scrutiny Committees and the Public Accounts Committee,
  - (iii) there should be a general right of access to all minutes, agendas, and accompanying papers of the bodies mentioned in sub-paragraph (a)(ii) above;
- (b) to request the Privileges and Procedures Committee, in consultation with the Policy and Resources Committee, the Finance and Economics Committee, and any other Committees as appropriate, to bring forward for approval by the States at the earliest possible opportunity the necessary legislation, compliant with all relevant provisions relating to human rights and data protection, to give effect to the proposals, based on a presumption that all official information should be freely available unless

there was justifiable reason for withholding it in accordance with exemptions to be set out in the legislation.

Members present voted as follows –

**“Pour” (15)**

**Senators**

Syvret, Kinnard, Le Claire, E. Vibert, Shenton.

**Connétables**

St. Mary. St. John.

**Deputies**

Duhamel(S), Breckon(S), St. Martin, Baudains(C), Martin(H), Southern(H), Grouville, De Faye(H).

**“Contre” (28)**

**Senators**

Norman, Le Sueur, Routier, M. Vibert.

**Connétables**

St. Saviour, St. Brelade, St. Peter, St. Clement, St. Lawrence, Grouville.

**Deputies**

Trinity, Huet(H), St. John, Le Main(H), Dubras(L), Troy(B), Scott Warren(S), Farnham(S), Le Hérisier(S), Fox(H), Bridge(H), Bernstein(B), Ferguson(B), St. Ouen, Ryan(H), Taylor(C), St. Peter, Hilton(H).

**Youth Custody for persons aged 12 and over – P.2/2004**

**Comments and Comments (2)**

THE STATES rejected a proposition of the Deputy of St. Martin requesting them–

- (a) to agree, in principle, that the Criminal Justice (Young Offenders) (Jersey) Law 1994 and other legislation as appropriate should be amended to provide that, where a young person, who was aged not less than 12 but was under the school leaving age, was convicted of an offence which was, in the case of a person aged 21 or over, punishable with imprisonment, and the relevant Court was of the opinion that the young person was a persistent offender, the Court should be able pass a sentence of detention in a secure accommodation and learning centre, provided that the Court should not be able to pass such a sentence of detention until it had received appropriate background reports, including a report from a probation officer, and unless it considered that no other method of dealing with the offender was appropriate because it appeared that –
  - (i) the offender had a history of failure to respond to non-custodial penalties and was unable or unwilling to respond to them; or
  - (ii) only a sentence of detention in a secure accommodation and learning centre would be adequate to protect the public from serious harm from the offender; or
  - (iii) the offence or the totality of the offending was so serious that a sentence other than detention in a secure accommodation and learning centre could not be justified;

and the court should be required to state in open court its reasons for imposing a sentence of detention in a secure accommodation and learning centre;

- (b) to charge the Home Affairs, the Education, Sport and Culture and the Health and Social Services Committees to take the necessary steps to bring forward for approval the necessary legislation to give

effect to the proposals within six months.

Members present voted as follows –

**“Pour” (19)**

**Senators**

Le Maistre, Norman, Le Claire, Shenton.

**Connétables**

St. Martin, St. Brelade, St. Peter, St. Lawrence, Grouville, St. John.

**Deputies**

Trinity, Duhamel(S), Huet(H), St. Martin, Le Main(H), Troy(B), Taylor(C), Hilton(H), De Faye(H).

**“Contre” (27)**

**Senators**

Syvret, Kinnard, Le Sueur, Routier, M. Vibert, Ozouf.

**Connétables**

St. Saviour, St. Mary, St. Clement, St. Helier.

**Deputies**

Breckon(S), St. John, Dubras(L), Dorey(H), Scott Warren(S), Farnham(S), Le Hérissier(S), Fox(H), Bridge(H), Martin(H), Southern(H), Bernstein(B), Ferguson(B), St. Ouen, Ryan(H), Grouville, St. Peter.

**Changes in Presidency**

The Bailiff assumed the Presidency during consideration of the proposition of the Deputy of St. Martin concerning youth custody for persons aged 12 and over, and the meeting continued under his presidency.

**Senator Jean Amy Le Maistre– attendance**

Senator Jean Amy Le Maistre arrived in the Chamber following the lunch adjournment during the consideration of the proposition of the Deputy of St. Martin concerning youth custody for persons aged 12 and over, (P. 2/2004 lodged “au Greffe” on 20th January 2004), and was present for the remainder of the meeting.

**Fields 519 , 520, 524, 527 and 528 Trinity – statement**

The President of the Environment and Public Services Committee made a statement in the following terms –

“Since the appointment of the new Environment and Public Services Committee, members will be aware of a number of representations concerning an approved Planning Consent which was described as ‘*Infill fields 520, 521, 528 and 527. Create new natural filling reservoir in fields 519 and 524 to irrigate adjacent fields*’ This was approved in principle by the former Committee’s Sub-Committee on 25th September 2003. The detailed Planning Application was later described as ‘*Form temporary access to field 527, culvert stream, form new natural filling reservoir and fill valley to raise fields 519, 520, 521, 524 & 528 to upgrade soil quality and manageability*’.

The concerns raised were how the applications were advertised, why department recommendations to refuse consent to the in-principle application were not accepted by the Sub-Committee, the way in which the second (Planning detail) application was dealt with under delegated powers, the role of the Parish of Trinity together with questions concerning other States members representation’s on behalf of the

applicant.

On Friday 16th April 2004, I reviewed the files on the matter at the Planning office and then visited the site with the Chief Executive Officer. Following this, I requested the department to prepare for the Committee an initial report on the two applications and the circumstances leading up to the granting of consent.

On Saturday 17th April 2004, I met a group of residents privately with Committee member Senator E.P. Vibert. Senator P.V.F. Le Claire was also present.

On Sunday 18th April 2004, a member of the previous Sub-Committee was reported in the media as raising further concerns about the applications.

On Monday 19th April 2004, I issued a media statement clarifying that the Planning Consent does not allow the applicant to commence work until the Committee is satisfied that all the detailed conditions are fully met.

On Tuesday 20th April 2004, without notice, Senator P.V.F. Le Claire lodged a proposition, P.74/2004 entitled "*Fields 519, 520, 521, 524, 527 and 528, Trinity – rescindment of planning permit*". That proposition includes, amongst other things, a request for the Committee to rescind the consent. This proposition has been referred to the Committee for a report.

On Thursday 22nd April 2004, its scheduled meeting, the committee discussed the initial report I had requested including a draft chronology of events from the Planning Department files. The Committee discussed how it should best proceed.

After discussion, the Committee decided that it should only consider this matter when it has all the relevant facts placed before it. The Committee agreed that a suitably qualified person, not previously connected with the applications, should be requested to review the whole matter and prepare a comprehensive report.

I am in the process of identifying a suitably qualified individual to produce this report, which I expect to take a number of weeks to produce.

Members will be aware that the legal authority for making decisions on applications rests with the Committee and not the States. In addition, all decisions are appealable to the Royal Court or can become subject to legal proceedings. Legal opinion, backed by case-law, is that the Committee should not substitute the States decision for its own.

Until the Committee's independent report has been completed, and unless absolutely necessary, I do not propose to make any further public comment on the matter. I have requested members of the Committee to do the same."

#### **Draft Shipping (Local Small Ships Registration) (Jersey) Regulations 200- P.42/2004**

THE STATES, in pursuance of Article 13 of the Shipping (Jersey) Law 2002, made Regulations entitled the Shipping (Local Small Ships Registration) (Jersey) Regulations 2004.

#### **Draft Shipping (Registration) (Jersey) Regulations 200- P.46/2004**

THE STATES, in pursuance of Article 13 of the Shipping (Jersey) Law 2002 made Regulations entitled the Shipping (Registration) (Jersey) Regulations 2004.

#### **Draft Milk (Sale to Special Classes) (Jersey) Regulations 200- P.50/2004**

THE STATES, by virtue and in exercise of the powers conferred upon them by the Order in Council of the fourteenth day of April 1884, made Regulations entitled the Milk (Sale to Special Classes) (Jersey) Regulations 2004.

THE STATES rose at 5.15 p.m.

**A.H. HARRIS**

*Deputy Greffier of the States.*