



**THE STATES assembled on Tuesday,  
16th March 1999 at 9.30 a.m. under  
the Presidency of the Bailiff,  
Sir Philip Bailhache**

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All members were present with the exception of –

Senator Frank Harrison Walker – out of the Island  
Philip Roy Cabot, Connétable of Trinity – ill  
Michael Adam Wavell, deputy of St. Saviour – out of the Island  
Shirley Margaret Baudains, Deputy of St. Helier – out of the Island  
Evelyn Mabel Pullin, Deputy of St. Saviour – out of the Island

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Prayers

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#### **Acting Greffier of the States**

The Bailiff informed the Assembly that, in accordance with Article 5(2) of the Departments of the Judiciary and the Legislature (Jersey) Law 1965, as amended, he had appointed the Assistant Greffier of the States, Mr. Michael Nelson de la Haye, to discharge the functions of the Greffier of the States and the Deputy Greffier of the States in the event of their absence or incapacity and had administered the appropriate oath to Mr. de la Haye in accordance with the provisions of Article 7(2) of the said Law.

#### **Subordinate legislation tabled**

The following enactments were laid before the States, namely –

**Hospital Charges (Long-Stay Patients) (Jersey) Order 1999. R & O 9366.**

**Misuse of Drugs (General Provisions) (Amendment No. 4) (Jersey) Order 1999. R & O 9367.**

#### **Matters presented**

The following matters were presented to the States –

**States of Jersey Law 1966, as amended: delegation of functions – air navigation – R.C.7/99.**  
Presented by the Harbours and Airport Committee.

**Regulation of Undertakings and Development: quarterly manpower report as at 31st December 1998 – R.C.8/99.**

Presented by the Finance and Economics Committee.

**General Reserve: grant of additional funds to 31st December 1998 – R.C.9/99.**

Presented by the Finance and Economics Committee.

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

**States of Jersey Police: annual report 1998.**  
Presented by the Defence Committee.

**The Jersey Electricity Company Limited: group accounts and annual report for the period 29th September 1997 to 30th September 1998.**  
Presented by the Finance and Economics Committee.

### **Matters noted – land transactions**

THE STATES noted an Act of the Finance and Economics Committee, dated 8th March 1999, recording the following decisions of the Treasurer of the States under delegated powers, in pursuance of Standing Orders relating to certain transactions in land –

- (a) as recommended by the Health and Social Services Committee, the renewal of the lease from Mrs. Joan Annie Perrée, née Swift, of the basement flat known as Flat 1, Hazel Grove, 73 Rouge Bouillon, St. Helier, for a period of one year from 19th October 1998 at a revised rent of £7,272.36 (representing an increase of 4.3 per cent over the existing rent), with all terms and conditions remaining as in the existing lease with each party being responsible for its own legal costs arising from the transaction;
- (b) as recommended by the Harbours and Airport Committee, the lease to Airline Services C.I. Limited of 205 square feet of office accommodation in the Airport Passenger Pier (Airport Letting accommodation B129) from 1st July 1998 until 31st March 2006 (to coincide with the termination date in respect of an Executive Lounge – Airport Letting accommodation B21) at an annual rent of £1,640;
- (c) as recommended by the Harbours and Airport Committee, the lease to Jersey European Airways Limited of an additional 350 square feet of accommodation within Departure Gate 10, Jersey Airport, with effect from 1st May 1999 and terminating on 30th June 2005, at an annual rent of £6,300, increasing to £8,050 on 1st July 1999 and subject to annual reviews on 1st July throughout the term of the lease in line with the Jersey Retail Prices Index, on the basis that the airline would be responsible for all the construction and fitting-out costs and for making good at the end of the lease to the satisfaction of the Airport Director;
- (d) as recommended by the Public Services Committee, the entering into a Deed of Arrangement between Touzels, 32 Halkett Place, St. Helier, and the public as owner of the adjoining Centra Market, in respect of the following matters (the specific terms and conditions of which were set out in a letter, dated 11th November 1998, from the Acting Director of Property Services) –
  - (i) Boundary Line: to agree a new boundary line between the two properties whereby an area of land measuring approximately 112 square feet which was believed currently to belong to the public but which had been occupied by Touzels for approximately 100 years, would become part of Touzels' property, in consideration by Touzels to the public of the sum of £2,000;
  - (ii) Existing and Proposed Windows: to consent to three existing windows that Touzels had formed in its northern wall in breach of the terms of the property deeds and to the provision of three further windows in the same wall with the public to retain its right to build against the northern wall of Touzels on the basis that the windows would be treated as temporary, with Touzels to pay the public £500 in compensation for the consent;
  - (iii) Access Rights: to grant Touzels access rights onto the Market roof which adjoined the northern wall of the property in order to maintain the northern wall;
  - (iv) Right to Drain Rainwater: to grant Touzels the right to drain rainwater from its roofs onto the roof of the Market;
  - (v) Legal Expenses: Touzels to be responsible for the public's legal expenses in connexion with

the proposed Deed;

- (e) as recommended by the Policy and Resources Committee, the lease from Miss Josephine Dorothy Hamon of the j-category property known as Newlands (main part of house), Le Mont du Coin, La Haule, St. Brelade, for occupation by Mr. J.C. Imber, Head of Statistics, Policy and Resources Department, for a period of four years and 11 months from 1st February 1999, at an annual rent of £15,500 (£3,875 quarterly) subject to annual rent reviews in line with the Jersey Retail Prices Index.

### **Matter noted – acceptance of tender**

THE STATES noted an Act of the Finance and Economics Committee, dated 8th March 1999, showing that, in pursuance of Rule 5 of the Public Finances (General) (Jersey) Rules 1967, as amended, the Committee had noted that the Housing Committee had accepted a negotiated tender for Phase II of the refurbishment of the remaining two high-rise blocks (G and H) at Le Marais, St. Clement, namely that submitted by A.C. Maug and Son (Sunwin) Limited for the sum of £3,554,692.16, in a contract period of 49 weeks.

### **Matters lodged**

The following matters were lodged “au Greffe” –

**Draft Criminal Procedure (Prescription of Offences) (Jersey) Law 199 – P.34/99.**  
Presented by the Legislation Committee.

**Draft Statutory Nuisances (Jersey) Law 199 (P.40/98): amendment– P.36/99.**  
Presented by the Health and Social Services Committee.

**Jersey Green Room Club: grant of a loan – P.37/99.**  
Presented by the Finance and Economics Committee.

**Public access to official information: code of practice – P.38/99.**  
Presented by the Special Committee on Freedom of Information.

### **Arrangement of public business for the next meeting on 13th April 1999**

THE STATES granted leave to the President of the Special Committee on Freedom of Information to withdraw the proposition regarding Public access to official information: code of practice (P.183/96) (lodged ‘au Greffe’ on 22nd October 1996) having lodged a revised report and proposition at the present meeting (P.38/99).

THE STATES confirmed that the following matters lodged “au Greffe” would be considered at the next meeting on 13th April 1999 –

Draft Statutory Nuisances (Jersey) Law 199 – P.40/98.  
Lodged: 17th March 1998.  
*Health and Social Services Committee.*

Draft Statutory Nuisances (Jersey) Law 199 (P.40/98): amendment– P.36/99.  
Lodged: 16th March 1999.  
*Health and Social Services Committee.*

Draft Conservation of Wildlife (Jersey) Law 199 – P.223/98.  
Lodged: 2nd November 1998.  
*Planning and Environment Committee.*

Draft Conservation of Wildlife (Jersey) Law 199 (P.223/98): amendment– P.29/99.  
Lodged: 2nd March 1999.  
*Planning and Environment Committee.*

Draft Conservation of Wildlife (Jersey) Law 199 (P.223/98): report– P.223/98. Rpt.  
Presented: 2nd March 1999.  
*Planning and Environment Committee.*

Draft Criminal Procedure (Prescription of Offences) (Jersey) Law 199 – P.34/99.  
Lodged: 16th March 1999.  
*Legislation Committee.*

Jersey Green Room Club: grant of a loan – P. 37/99.  
Lodged: 16th March 1999.  
*Finance and Economics Committee.*

### **Genetically modified organisms – P.33/99.**

THE STATES acceded to the request of the President of the Agriculture and Fisheries Committee that the proposition of Deputy Alan Simon Crowcroft of St. Helier on genetically modified organisms (lodged “au Greffe” on 2nd March 1999) be referred to the Agriculture and Fisheries Committee.

### **Relocation of Kosangas – question and answer (Tape No. 502)**

The Deputy of St. John asked Senator Nigel Lewis Quérée, President of the Planning and Environment Committee, the following question –

“Given that, in 1990 the former Vice-President of the then Island Development Committee stated that it was intended to relocate the Kosangas business from its premises at St. John by the spring of 1993, would the President advise members what progress has been made to relocate Kosangas from St. John to the fuel farm?”

The President of the Planning and Environment replied as follows –

“The Deputy is wrong about the facts on which he bases his question. It is not given that the Island Development Committee of the day intended to relocate Kosangas to the fuel farm at La Collette by the spring of 1993.

The facts of the matter are that during consideration of the proposition of Deputy D.J. de la Haye in 1990, Deputy H.H. Baudains, acting as rapporteur for the Island Development Committee, undertook to have discussions with Kosangas Limited with a view to the company’s relocation to an unspecified location. Deputy de la Haye’s proposition sought to relocate Kosangas liquefied petroleum gas (LPG) storage and bottling plant from Les Ruettes, in the belief that this would remove the constraint on Mr. Manning developing a small housing estate on Field 1007 which adjoins the Kosangas premises. Deputy Baudains acted as rapporteur for the Committee because of the (then) President’s personal interest in the Les Ruettes site.

As a result of Deputy Baudains’ undertaking, a discussion took place shortly afterwards with the management of Kosangas, when it became immediately apparent that the only suitable area for relocation would be to La Collette, so that the bulk storage tanks could be supplied by fixed pipeline rather than road tanker. The only land then available was owned by the public but was held on a long lease by Channel Island Welding Limited. Discussions took place between the two companies regarding a potential assignment of the lease, but were unsuccessful. The site of course has since been developed. No further action was taken at that stage.

Not long afterwards, Guernseygas Limited, the owners of Kosangas, acquired the Jersey Gas Company. At that time Jersey Gas Company had a small bottling plant at its LPG storage and gas-making plant at La Collette. Following the effective merging of interest in the two companies, the Committee approached the (new) Jersey Gas Company to establish whether there was any prospect of relocating the Kosangas premises to La Collette. The Committee was advised that there was insufficient space available at La Collette, and that such space that was available would be used to increase the strategic storage of LPG in the Island. There is no land available at La Collette at the present time to relocate

Kosangas, and the Jersey Gas Company has no plans for such a relocation. In the longer term, it may be possible to consider relocation, once the reclamation of La Collette II is completed. However, neither the Committee, the company, nor WEB Limited who may take over the administration of the site, have any current plans for relocation.

This answer would not be complete without reminding members of the true nature of the risks associated with LPG storage and gas bottling. In 1981, the Defence Committee retained the services of the Major Hazards Assessment Unit of the United Kingdom Health and Safety

Executive (HSE) to undertake an assessment of the LPG installation at La Collette. The HSE recommended, and the Island Development Committee of the day adopted, a safeguard zone policy (based on 600 metre radius) around the Jersey Gas Company's premises at La Collette.

Subsequently, in 1982, the Island Development Committee commissioned HSE to undertake similar assessments of the Gas Works at Tunnell Street and Kosangas at St. John, the former tragically coinciding with the fire at the Gas Works in March of that year. In the light of that event, which graphically illustrated the potentially catastrophic results of a fire involving Liquefied Petroleum Gas, the Island Development Committee were particularly sensitive to issues of public safety. Indeed the Committee commissioned a risk assessment of the transportation of LPG from St. Helier to Les Ruettes, which, while concluding that there was a very small risk, did not consider it sufficient for the States to take any action in the matter.

HSE advised specifically that within 300 metres of the LPG storage plant at Les Ruettes, a category of development that included housing estates, primary schools and hospitals, should not be granted planning permission.

Accordingly, in the light of the HSE's report for the Kosangas site, from which I quote –

'HSE consider that the risks to the public from the site are low, however we would advise the States of Jersey that it would be prudent not to increase the number of people exposed to this low risk',..

on 3rd December 1982, the Island Development Committee decided that 'the 300 metre zone should be established immediately'. That zone remains effective to this day.

The storage of LPG at both Les Ruettes and La Collette, while increased in capacity, has now been contained within earth mounds, which is an inherently safer means of storage and removes the potential for the 'worst case' incidents on which the HSE advice had been given. Accordingly, the Planning and Environment Committee is not involved in any present discussions regarding the relocation of Kosangas, nor sees any need to do so."

### **Development of a bus station on the Island site – questions and answers (Tape No. 502)**

The Deputy of St. Mary asked Senator Nigel Lewis Quérée, President of the Planning and Environment Committee, the following questions –

"In a statement to the Assembly on 1st December 1998, the President informed members that his Committee had taken the appropriate steps to designate the Weighbridge Island site as a site of special interest. He also said that the Public Services Committee had submitted fresh information which challenged the Planning and Environment Committee's brief in relation to the bus station and that more work was therefore needed to establish an objective statement of requirements.

As nearly four months have now elapsed since that statement was made, would the President inform members –

- (a) when he expects to receive the objective statement of requirements from the Public Services Committee?
- (b) why it has taken so long to obtain the statement?

- (c) what he is going to do with the information when he receives it?
- (d) what is his estimate of the increase in costs of constructing this facility since it was first decided upon by the States in December 1995?"

The President of the Planning and Environment replied as follows –

- “(a) A joint working group of members of the Public Services Committee and the Planning and Environment Committee was established to assist the formulation of an objective statement of requirements for the transport centre. The group consists of the Connétable of St. Helier and Deputy A.S. Crowcroft for Public Services and Deputy R.C. Duhamel and myself for the Planning and Environment Committee; together with officers from both departments.

The group has met on three occasions, the first on 6th January 1999, and has been assisted by the Public Services Committee’s consultants for this project: Steer, Davies and Gleave. It is hoped that the document will be finalised by the end of this month, when it will be submitted to the Public Services Committee. The Planning and Environment Committee would hope to receive the statement shortly thereafter.

- (b) What has emerged from the work of this group is that, until now, there has never been an objective statement of requirements for the transport centre. The group has, therefore, had to start with a relatively blank sheet of paper.

In 1997, the Planning and Environment Committee asked a number of people to meet to discuss the requirements. It was not possible, at that time, for agreement to be reached.

When the Public Services Committee’s views became known to the Planning and Environment Committee late last year, we immediately set about defining the requirements of the transport centre. In those discussions it has become abundantly clear that there is, as yet, no satisfactory design for a transport centre on the Island site.

- (c) My expectation is that the two Committees would wish to present the information to the States so that a decision may be made, as soon as is practicable, on the form of a transport centre for the Island.

It remains the view of the Planning and Environment Committee that the future of the Island site should be decided this year and we believe this to be the final piece in the jigsaw.

- (d) The Deputy will know that the Planning and Environment Committee were asked last year by the Policy and Resources Committee to demonstrate that, based on the planning brief we had set including the SSI designation which now has legal effect, redevelopment of the Island site could be completed at NIL cost to the public. Since then the seven developers who had made submissions have been advised that their proposals are on hold.

Those proposals all included a public transportation centre being provided to the public FREE OF CHARGE. I would therefore expect the increased cost to be NIL, provided those same developers are still prepared to go ahead nine months later than envisaged.

I am aware that since the decision in December 1995 building costs have increased, but I am also aware that over that time there have been significant changes in States transport policies and public expectation with regard to public transport and its associated facilities. As a member of the Finance and Economics Committee, the Deputy will not need to be reminded that achieving a value for money project depends upon being very clear about the requirements of the project at the very start. Good planning requires good information and until we have that we could waste a considerable amount of money building someone’s pet scheme.

What matters most of all is that we get a quality development and this requires co-operation and constructive dialogue between all parties. The Planning and Environment Committee is fully committed to doing this despite the difficulties.”

**Duty on marine petrol – question and answer** (Tape No. 502)

Senator Jeremy Laurence Dorey asked the Deputy of St. Mary, Vice-President of the Finance and Economics Committee the following question –

“Would the Vice-President explain the basis of his Committee’s recent decision to remove the duty exemption on marine petrol?”

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

“During 1998 the Finance and Economics Committee referred the subject of fuel taxation to the Fiscal Review Working Group for consideration.

On 28th October 1998, the Group considered the overall situation in relation to impôts duty charged on petrol. The petrol duty exemption for marine use was also considered.

In November 1998, the Finance and Economics Committee was informed that, in the opinion of the Fiscal Review Group, the petrol duty exemption for marine use not only disadvantaged some sectors of the marine industry, but also discriminated against other non-road using vehicles and machinery such as lawnmowers, chainsaws and other garden contractors machinery used extensively by commercial landscape gardeners, as well as for domestic use. Other categories of non-road using vehicles to which the exemption does not apply include go-karts, motor scramble bikes, sand racing vehicles etc.

The Group found this situation to be inequitable. It appreciated that to extend the exemption to all non-road using vehicles and machinery would create an impossible situation to police, with the real possibility of duty-free petrol being diverted to road use. The Fiscal Review Group therefore reached the unanimous conclusion that there should be no facility for any category of user to obtain duty-free petrol.

The Finance and Economics Committee considered the recommendation and discussed the issues involved, including the fact that until 1986, there were no duty exemptions at all for petrol use. The situation in the United Kingdom and Guernsey was also considered. In Guernsey there is no duty-free petrol available at all. However, it was noted that petrol duty is charged at a lower rate than in Jersey. In the United Kingdom, where petrol duty is significantly higher than in Jersey, there is no duty-free petrol available at all for private pleasure craft. However, there is a duty refund system for a restricted category of commercial sea-going vessels.

The Finance and Economics Committee noted that the rationale for the introduction of a petrol duty exemption for marine use, in 1986, was unclear. It appeared to be an administrative decision and the Committee were of the view that there was no basis for its continuation.

The Committee noted that, should the petrol duty exemptions be extended to all non-road using vehicles and machinery, there would be a significant risk of duty-free petrol being diverted to road use. Especially so as it would not be possible to carry out roadside checks on the large number of petrol vehicles in the Island. Apart from the disruption caused and manpower required, the Fire Service health and safety advice is that, unlike checks on diesel vehicles, roadside checks should not be carried out on petrol vehicles. Petrol vapour is extremely flammable in normal temperatures and would pose unacceptable risks to the general public and to the Customs officers carrying out the checks. This health and safety advice is consistent with United Kingdom advice on the subject.

In the interests of overall equity, the Finance and Economics Committee decided to support the recommendation of the Fiscal Review Working Group and remove the petrol duty exemption for

marine use. However, after meeting with the representatives of a variety of marine organisations, the Finance and Economics Committee has decided to phase in the introduction of the full rate of petrol duty between now and the end of next year.

Discussions are also taking place with the Department of Agriculture and Fisheries to develop a duty refund for bona-fide professional fishermen who earn their living wholly or mainly by fishing.

Finally, I should add, that the 1940 Oils and Spirits Law empowers the Finance and Economics Committee to make exemptions or grant reliefs by an Act of the Committee. The new Customs and Excise Law, which will be considered later during this meeting, requires provisions of this nature to be made by Order.”

#### **Gyratory system on the ring road – questions and answers (Tape No. 502)**

Deputy Robert Charles Duhamel of St. Saviour gave notice that the questions of the President of Public Services Committee about the gyratory system on the ring road put down for reply at this meeting would be answered at the next meeting.

#### **Service review of the Department of Agriculture and Fisheries and the establishment of an Agricultural Management Board – questions and answers (Tape No. 502)**

Senator Stuart Syvret asked Deputy Harry Hallelwell Baudains of St. Clement, President of the Agriculture and Fisheries Committee the following questions –

“1. Would the President inform members –

- (a) whether the service review of the Department of Agriculture and Fisheries has been completed – if the answer is in the affirmative, when was it finalised; if the answer is negative, at what stage is the review and when does he expect it to be completed?
- (b) whether the Agriculture and Fisheries Audit Committee has been kept fully informed of the progress of the service review and, in particular, has it been provided with drafts of the review document?
- (c) whether the Committee intends to publish the completed service review document?

2. Would the President inform members –

- (a) to what extent his Committee is co-operating with attempts by the industry to establish an Agricultural Management Board; and
- (b) whether his Committee accepts, in principle, the creation of such a board?

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

- “1. (a) The service review is not completed. The second draft of the review report has been completed and will be presented to the Steering Group and the Agriculture and Fisheries Committee in the very near future. I have to say, from what I have seen, that the report presents a very satisfactory picture of the Department’s activities and how they are managed. Nevertheless it will, I am sure, give points to the Committee on ways in which services can be made even more efficient. I also know the report looks closely at areas of overlap between States Departments.

I anticipate the report will be presented to the Policy and Resources Committee by the end of April.

- (b) No, only the Chairman who is a member of the Steering Group. However the service review team has had at its disposal the most useful reports which were prepared by the Audit Committee.
  - (c) The report was commissioned by the Policy and Resources Committee. If that Committee follows the policy adopted throughout the reviews the report will not be published.
2. (a) The industry, as a whole, is not attempting to establish an Agricultural Management Board. The dairy industry has decided it wishes to support the Committee through the Joint Dairy Industry Group and the growers via the Economics Committee of the Jersey Farmers' Union which has been enlarged by the inclusion of myself and the Chief Officer and, importantly, representatives of the marketing groups.

The Committee is most anxious at this stage to see a much greater level of co-operation between the marketing groups' activities and the farming community, with the farming community having a greater involvement in decisions.

The fishing industry continues to be represented by the Sea Fisheries Advisory Panel.

- (b) The Committee does not accept that a single board is necessarily the best way forward in the short-term. The industry covers a wide range of businesses and it may well be better that the three elements, that is the outdoor crops, indoor crops and dairy industry, work separately but with direct access to the Committee. The Committee would then retain the ability to consult with all three bodies either separately or jointly.”

### **Application of Dandara Island Homes Limited to build properties on the Grouville Bay Hotel site – statement**

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

- “1. On 19th January 1999 the States approved the proposition of the Connétable of Grouville (P.2/99) and requested the Planning and Environment Committee, when considering the application by Dandara Island Homes Limited, under Article 6 of the Island Planning (Jersey) Law 1964, as amended, for development permission in respect of the Grouville Bay Hotel site to ensure that –

best use is made of the site area; and

the new building is constructed no higher than the present hotel building on the north and south-east sides and no higher than two storeys elsewhere on the site.

2. As a result of that decision the Committee has –

reviewed the information with which the States was provided;

sought independent professional advice on the accuracy of the photo-montages presented to the States by the Connétable on the day of the debate (which, as the Committee advised the States during the debate, had not previously been verified) and the accuracy of the physical model provided by Dandara Island Homes and displayed in the States on the day of the debate;

sought the written advice of the Solicitor General on the legal consequences of the Planning

and Environment Committee acting in accord with the States decision.

3. As set out in the report of the Committee in response to proposition P.2/99 –

planning permission for the construction of a complex of buildings comprising 32 apartments was approved on 14th July 1998, subject to a condition requiring the redesign of the proposed apartments at the north-west corner of the site;

on 3rd December 1998 a further planning permit was issued on the basis of amended proposals which effectively discharged the condition of the 14th July 1998 permission;

on 4th December 1998 Dandara Island Homes Limited submitted a development application in accordance with that permission. This application remains to be determined;

on 15th December 1998 Dandara submitted an application for development permission for the construction of the same building complex as was approved on 3rd December but comprising 40 apartments;

there are thus pending before the Committee two applications for development permission for the construction of the building complex. Externally the building in each is of the same dimensions as that for which planning permission was given. They differ only in the internal layout.

4. In this context it is important to clarify the distinction between planning permission and development permission –

development permission is provided for in the Law. The powers available to the Committee to revoke or modify a consent only apply to development permission. There is also a statutory right of appeal against the refusal of development permission on the grounds 'that the refusal is unreasonable in all the circumstances of the case.';

planning permission is an informal procedure which has been adopted by successive Committees and approved by the courts as a matter of practice. It is not provided for in the Island Planning (Jersey) Law 1964, as amended. Because it is not provided for in the Law –

it does not entitle the person to whom it has been granted to carry out the development;

the Committee cannot exercise its statutory power to revoke or modify it;

the significance of a planning permission in practice is that if development permission is refused for an application in respect of which planning permission has been granted, and the applicant appeals, the previous grant of planning permission is one of the factors which the court will take into account when deciding whether the refusal is unreasonable. For that reason the Committee is constrained as a matter of law to make its subsequent decisions on *development* applications consistent with any previous planning permission, unless there is some new factor relevant to planning considerations.

5. The Committee, in previously considering the application for planning permission, responded to the substantial number of representations of residents. It –

visited the site

had profiles erected

attended two public meetings

insisted on modifications to the plans to protect those living closest to the site.

It was only when the Committee was satisfied that the amended plans were in accordance with the modifications required that it granted planning permission.

6. The planning permission is consistent with the first part of the States decision of 19th January, that is *'that best use is made of the site'*.
7. With regard to the limitations on height sought by the States the hotel buildings (now demolished) were single-storey on the south-east side and on the north they were three storey in a small part and two-storey generally. The heights shown in the approved plans are one-and-a-half storey for the south-east and three-and-a-half storeys for the north. A half storey provides accommodation in the roof space.
8. The Committee has been advised that the photo montages presented by the Connétable of Grouville were generally accurate. However they are open to misinterpretation because they focus on the ridge height of the new buildings whereas the eaves height is the normal observational viewpoint. In addition, one of the images was distorted because of the foreshortened viewpoint.

The model was also shown to be accurate as concerns the new buildings. However, the ridge heights of surrounding buildings were overstated, making comparison unreliable. Nevertheless, the eaves height comparison of the closest buildings, Maroa Court, was correct.

9. The decision to grant planning permission was taken after careful consideration, not of the model but of plans and elevations. These were of a standard of accuracy normally associated with planning applications.
10. The Committee is conscious on the one hand of the importance of having regard to the wishes of the States, and on the other hand of the need to act within the constraints of the law. During the debate on 19th January 1999 the Solicitor General answered general questions on the issue of compensation. After the debate, the Committee asked the Solicitor General for more comprehensive advice on the implications of acting in accordance with the decision of the States in this particular case. The advice which it received is set out in the following italicised paragraphs.
11. *The Committee has been informed that Dandara have stated that if the Committee refuses the development application in its present form, they will appeal to the Royal Court under Article 21 of the Planning Law. Their grounds will be that such a decision is unreasonable as the Committee had already granted planning permission and that, in reliance on that permission, Dandara purchased the hotel for £3 million and incurred costs in preparing the development application. The Committee has been advised that these are factors which the Court will take into account when deciding whether the refusal is unreasonable. To refute such an argument the Committee would need to show that there was some new planning factor which had not been before it when it made its previous decision.*
12. *The only new factor is the decision of the States, and, although the Committee is entitled to have regard to the views of the States on planning matters, it is not entitled simply to substitute the views of the States for its own if all that has happened is that the States have come to a different conclusion on a particular application from that which the Committee has reached after a full consideration of all material planning considerations. In the present case the proposition upon which the request of the States was based raised no new planning factors and therefore is not of itself a sufficient new consideration.*

13. *While the outcome would not be certain, it is virtually inevitable that the appeal would be allowed and the refusal quashed. In such a case the costs of the appeal would be awarded against the Committee.*
14. *Once Dandara had received a development permission following a successful appeal, it would be open to the Committee to modify this development permission in accordance with the provisions of Article 7 of the Law. This in turn is, however, subject (a) to a statutory right of appeal, again on the grounds that the modification is unreasonable in all the circumstances of the case, and (b) if there is no appeal, or if any appeal is unsuccessful, to a statutory right to compensation for expenditure incurred in carrying out work rendered abortive by the modification and any other loss or damage directly attributable to the modification.*
15. *It is impossible to predict with certainty the outcome of any appeal. It would undoubtedly be argued on Dandara's behalf that it was unreasonable for the Committee to modify a permission which the Court had held should be granted. All that can be said with confidence is that any such appeal would be very costly and might well end in the Court quashing the modification and ordering the Committee to pay costs.*
16. It is possible that Dandara might not appeal or that an appeal might be unsuccessful, in which case the modification would stand and Dandara would be entitled to the statutory compensation. It is certain that a very substantial claim would be made.
17. The Committee does not believe that this should be contemplated. It considers the development for which it has already given planning approval is consistent not only with planning policies but also with that part of the States decision which required the best use to be made of the site. It has also already significantly reduced the effect of the development on the properties in the area, and has achieved an acceptable scheme. There is no new planning factor.
18. If, in accordance with the States decision, the Committee refuses development permission for the development in respect of which planning permission has already been given, the refusal will inevitably be followed by long and expensive legal proceedings which will probably end in one of two ways.
19. The first is that Dandara will successfully appeal against both (a) the refusal of development permission, and (b) any subsequent attempt to modify the development permission. The final result in that case would be that Dandara would be able to construct the development for which they already have planning consent and the Committee would be liable for the costs of the appeals. There would be no change to the development but there would have been a significant expenditure of public money.
20. The second is that Dandara would not appeal or they appeal but the Royal Court upholds the modification. The final result in that case would be that Dandara would build a reduced scheme which did not make best use of the site and the public would be liable to pay compensation which, it is believed, would be very substantial.
21. In this statement I have set out for members the careful and reasoned analysis which has taken place since the debate in January. It is clear to the Committee that the proposed development will be built; either by the granting of a development permit – which will cost the States nothing but go against a request of this Assembly – or after a long court case which will surely follow our refusal to issue a permit and will involve the payment of compensation. The development company has assured us that it will take the matter to court if it is denied a development permit. The cost of compensation could be in excess of £2 million, which would be in addition to both sides legal costs.

Although it has been requested to do so by the States, the Committee feels it would be reckless and irresponsible to take an action which will almost certainly result in the payment of substantial compensation and more than likely fail to achieve the second aim of the Connétable's proposition.

Taking all these factors into account, the Committee has concluded that the only legitimate course of action is to grant a development permit."

### **General reserve – statement**

The Vice-President of the Finance and Economics Committee made a statement in the following terms –

"I would like to draw members' attention to the report of the Finance and Economics Committee which was presented earlier during this meeting relating to grants made out of the general reserve in 1998.

Members will note that the £35.7 million of funds granted in 1998 far exceeded the allocation of £27 million made to the general reserve in 1998 and was only possible due to a balance of funds being carried forward from 1997. This is a position which cannot be sustained, especially as members will see that only just in excess of £1,000 was remaining on the reserve at the end of 1998 to carry forward to 1999. Indeed it is only due to the continuing monitoring of the reserve and the strongmindedness of the Finance and Economics Committee that there is any balance at all to carry forward.

The Finance and Economics Committee continues to be extremely concerned at the level of requests for funds from the general reserve in 1998 and those predicted for 1999, especially in the light of statements issued by the Committee, as well as correspondence from the President urging Committees to look to other options rather than requesting funds from the general reserve. Any requests that are submitted for funds in 1999 will, as always, be subject to considerable scrutiny by the Treasury and the Finance and Economics Committee.

The Finance and Economics Committee has already indicated that its target for the annual allocation to this reserve in 2001 is £13 million, which is a 50 per cent reduction from the 1998 level. This is a target which the Finance and Economics Committee will strive to meet but will only be achievable with the support of all States Committees.

Following the acceptance of cash limits Committees should not commit additional funds without the approval of the Finance and Economics Committee or the States, and I would therefore urge all members to consider very carefully all the funding options available before submitting a request for funds from the general reserve. It is essential that prudence is adopted in order that there will be funds available within the general reserve to meet genuine requests for unforeseen or urgent requests in the future."

### **Snow Hill car park – statement**

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

"Members will be aware that Snow Hill car park was re-opened for parking on Saturday, 28th November 1998 when 50 spaces were made available with access to and from Green Street roundabout. The 50 spaces are subject to a maximum time limit of three hours and the standard charge of 35 pence an hour applies.

The main proposals for the proposed long-term use of Snow Hill car park are as follows –

- (1) Snow Hill car park is to be designated as primarily a short-stay shoppers' car park;
- (2) until such time as the Urban Renewal Sub-Committee commences work on developing the park at Snow Hill, 40 motorcycle parking spaces will be provided at the Snow Hill end of the car park;
- (3) there will be a total number of 72 car parking spaces available out of which about 15 reserved parking spaces will be provided by the Public Services Committee to the following persons –

- (a) Jurats on official business. These will be in addition to the spaces in Vine Street;
- (b) operational spaces for the States Messenger, the Viscount and the Police;
- (c) some States members – parking for disabled States members will be provided closer to the States Building in the Churchyard, Church Street, etc.;
- (4) cyclists will be encouraged to use the car park as a through route and new cycle parking will be provided.

Currently States members can park at the Island site. When this is no longer available, those States members who require parking facilities will need to apply to the Public Services Department and appropriate arrangements will be made. Designated spaces in public car parks could be made available in the short term, if appropriate.

In the longer term it is anticipated that a block of reserved parking could be provided in the Parish of St. Helier development, adjacent to the new Magistrate's Court."

### **Draft Health Insurance (Amendment No. 12) (Jersey) Law 1997 (Appointed Day) Act 199**

THE STATES, in pursuance of Article 3 of the Health Insurance (Amendment No. 12) (Jersey) Law 1997, made an Act entitled the Health Insurance (Amendment No. 12) (Jersey) Law 1997 (Appointed Day) Act 199

### **Minimum wage legislation – P.227/98 and P.25/99**

THE STATES resumed consideration of a proposition of the Employment and Social Security Committee on minimum wage Regulations and adopted sub-paragraph (a).

Members present voted as follows –

#### **“Pour” (40)**

##### **Senators**

Shenton, Horsfall, Rothwell, Le Maistre, Stein, Bailhache, Kinnard, Dorey.

##### **Connétables**

St. Lawrence, St. Mary, St. Brelade, St. Peter, St. Helier, St. Martin, St. John, St. Saviour.

##### **Deputies**

H. Baudains(C), Le Sueur(H), Coutanche(L), St. Mary, Le Geyt(S), Trinity, Johns(H), Duhamel(G), Routier(H), Layzell(B), Breckon(S), Grouville, Huet(H), St. Martin, St. John, Le Main(H), Blampic(H), Rabet(H), Crowcroft(H), Vibert(B), de la Haye(B), St. Peter, Dubras(L), G. Baudains(C).

#### **“Contre”(3)**

##### **Senator**

Norman.

##### **Connétables**

Grouville, St. Clement.

THE STATES accepted an amendment of the Policy and Resources Committee that for sub-paragraph (b) of the proposition there should be substituted the following paragraph –

“(b) to agree that the minimum wage will be introduced as soon as the necessary financial and manpower resources, as detailed in the said report, can be made available in accordance with States’ prioritisation processes;”

and that sub-paragraph (d) should be deleted.

Members present voted on the amendment as follows –

**“Pour” (26)**

**Senators**

Horsfall, Rothwell, Le Maistre, Norman, Dorey.

**Connétables**

St. Lawrence, St. Mary, St. Peter, Grouville, St. Martin, St. Ouen, St. John, St. Saviour, St. Clemen

**Deputies**

H. Baudains(C), Coutanche(L), St. Mary, Trinity, Duhamel(S), Huet(H), Blampied(H), Vibert(B de la Haye(B), Dubras(L), St. Ouen, G. Baudains(C).

**“Contre” (18)**

**Senators**

Shenton, Stein, Quérée, Bailhache, Syvret, Kinnard.

**Connétable**

St. Brelade.

**Deputies**

Le Sueur(H), Le Geyt(S), Johns(H), Routier(H), Layzell(B), Grouville, St. Martin, St. John, Le M (H), Crowcroft(H), St. Peter.

THE STATES, adopting a proposition of the Employment and Social Security Committee, as amended –

- (a) received the report of the Employment and Social Security Committee dated 1st October 1998 and approved the introduction of legislation to provide for –
  - (i) a minimum wage at such single hourly rate as the States may from time to time prescribe by Regulations;
  - (ii) a trainee wage, at such rate as the States may from time to time prescribe by Regulations, to be paid to individuals who are undergoing a training programme approved by the Employment and Social Security Committee after consultation with relevant parties;
  - (iii) individuals to have the opportunity to ensure compliance with the minimum wage through a Jersey Advisory and Conciliation Service and an Employment Tribunal established under a new Employment Law;
  - (iv) the establishment of an independent body to advise the Committee on matters relating to the provision of a minimum wage, including the provision of a mechanism for uprating the amount of the wage;
- (b) agreed that the minimum wage would be introduced as soon as the necessary financial and manpower resources, as detailed in the said report, could be made available in accordance with States' prioritisation processes;
- (c) requested the Policy and Resources Committee to assess the proposed legislation for inclusion in the States Legislation Programme 1999 to 2001 in the manner described in Part 6 of the States Resource Plan 1998.

## **Change in Presidency**

The Bailiff retired from the Chamber during consideration of sub-paragraph (a) of the proposition of the Employment and Social Security Committee on minimum wage legislation and the Greffier of the States, Geoffrey Henry Charles Coppock Esquire took over the Presidency. The Bailiff returned to the Chamber during consideration of sub-paragraphs (b), (c) and (d) of the proposition and the sitting continued under his Presidency.

## **Traffic calming within Jersey – P.32/98, P.73/98, P.22/99**

THE STATES commenced consideration of a proposition of Senator Richard Joseph Shenton O.B.E. on traffic calming and accepted an amendment of Deputy Gerard Clifford Lemmens Baudains of St. Clement that for the figure “20” there should be substituted the figure “30”.

THE STATES accepted an amendment of the Deputy of St. John that after the word “appropriate” there should be inserted the words “including the restriction to 20 miles an hour of heavy goods vehicles in built up areas and villages”.

THE STATES, adopting a proposition of Senator Richard Joseph Shenton O.B.E. as amended requested the Public Services Committee to introduce a 30 mile an hour speed limit on all by-roads recommended by the parish authorities, and introduce additional traffic calming measures where appropriate including the restriction to 20 miles an hour of heavy goods vehicles in built up areas and villages.

Members present voted as follows –

### **“Pour” (37)**

#### **Senators**

Shenton, Horsfall, Rothwell, Le Maistre, Stein, Bailhache, Syvret, Kinnard.

#### **Connétables**

St. Lawrence, St. Mary, St. Brelade, St. Peter, Grouville, St. Helier, St. Martin, St. Ouen, St. Sav  
St. Clement.

#### **Deputies**

H. Baudains(C), Le Sueur(H), Coutanche(L), St. Mary, Le Geyt(S), Trinity, Duhamel(S), Routier(I  
Breckon(S), Grouville, St. Martin, St. John, Le Main(H), Blampied(H), Rabet(H), Crowcroft(H  
de la Haye(B), St. Peter, G. Baudains(C).

### **“Contre” (8)**

#### **Senator**

Dorey.

#### **Connétable**

St. John.

#### **Deputies**

Johns(H), Layzell(B), Huet(H), Vibert(B), Dubras(L), St. Ouen.

## **Draft Housing (Amendment No. 9) (Jersey) Law 199 – P.262/98**

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, adopted a Law entitled the Housing (Amendment No. 9) (Jersey) Law 199 .

### **Draft Age of Majority (Jersey) Law 199 – P.23/99**

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, adopted a Law entitled the Age of Majority (Jersey) Law 199 .

### **Draft Stamp Duties and Fees (Jersey) Regulations 199 – P.24/99**

THE STATES, in pursuance of Article 3 of the Stamp Duties and Fees (Jersey) Law 1998, made Regulations entitled the Stamp Duties and Fees (Jersey) Regulations 1999.

### **Draft Costs in Criminal Cases (Witnesses' Allowances) (Amendment No. 4) (Jersey) Regulations 199 – P.27/99**

THE STATES, in pursuance of Article 6 of the Costs in Criminal Cases (Jersey) Law 1961, made Regulations entitled the Costs in Criminal Cases (Witnesses' Allowances) (Amendment No. 4) (Jersey) Regulations 1999.

### **Access to the draft Public Access to Official Information: Code of Practice – P.28/99**

Senator Stuart Syvret withdrew the proposition on access to the draft Code of Practice on Public Access to Official Information (lodged ``au Greffe'' on 23rd February 1999), the Special Committee on Freedom of Information having lodged a proposition on public access to official information at the present meeting (P.38/99).

### **Draft Agriculture (Loans) (Amendment No. 11) (Jersey) Regulations 199 – P.32/99**

THE STATES commenced consideration of the draft Agriculture (Loans) (Amendment No. 11) (Jersey) Regulations 199 and adopted the Preamble.

Members present voted as follows –

#### **“Pour” (33)**

##### **Senators**

Shenton, Horsfall, Le Maistre, Bailhache, Syvret, Kinnard.

##### **Connétables**

St. Lawrence, St. Mary, St. Brelade, Grouville, St. Helier, St. Ouen, St. John, St. Saviour, St. Clem

##### **Deputies**

H. Baudains(C), Coutanche(L), St. Mary, Le Geyt(S), Trinity, Johns(H), Duhamel(S), Routier(H), Layzell(B), Breckon(S), St. Martin, Blampied(H), Vibert(B), de la Haye(B), St. Peter, Dubras(I), St. Ouen, G. Baudains(C).

#### **“Contre” (4)**

##### **Deputies**

Grouville, Huet(H), St. John, Le Main(H).

Articles 1, 2, 3 and 4 were adopted.

THE STATES, in pursuance of Article 2 of the Agriculture (Loans and Guarantees) (Jersey) Law 1974, made Regulations entitled the Agriculture (Loans) (Amendment No. 11) (Jersey) Regulations 1999.

## **Adjournment**

THE STATES then adjourned, having agreed to defer consideration of the draft Customs and Excise (Jersey) Law 199 (P.21/99) until the next meeting when it would be taken as the first item of matters lodged "at Greffe" listed under Public Business.

THE STATES rose at 5.44 p.m.

**G.H.C. COPPOCK**

*Greffier of the States.*