



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

**His Excellency the Lieutenant Governor,
General Sir Michael Wilkes, K.C.B., C.B.E.,
was present.**

All members were present with the exception of –

Senator Wendy Kinnard – out of the Island
Harry Hallewell Baudains, Deputy of St. Clement – out of the Island
Derek Ryder Maltwood, Deputy of St. Mary – out of the Island
Margaret Anne Le Geyt, Deputy of St. Saviour – out of the Island

Prayers

Subordinate legislation tabled

The following enactments were laid before the States, namely –

Investment Business (Registration) (Jersey) Order 1999. R & O 9358.

Investment Business (Accounts, Audits and Reports) (Jersey) Order 1999. R & O 9359.

Airport Dues (Tariff) (Jersey) Order 1999. R & O 9360.

Special Committee to consider the relationship between Committees and the States – appointment of members

The President of the Special Committee to consider the relationship between Committees and the States nominated for appointment as members of the Committee –

Senator Pierre François Horsfall
Senator John Stephen Rothwell
Senator Corrie Stein
Senator Frank Harrison Walker
Deputy Derek Ryder Maltwood of St. Mary.

Deputy Alastair John Layzell of St. Brelade nominated Senator Stuart Syvret.

THE STATES appointed members of the Special Committee to consider the relationship between Committees of

the States as follows –

Senator Pierre Francois Horsfall
Senator John Stephen Rothwell
Senator Corrie Stein
Senator Stuart Syvret
Senator Frank Harrison Walker
Deputy Derek Ryder Maltwood of St. Mary.

Overseas Aid Committee – resignation of member

THE STATES noted the resignation of Deputy Maurice François Dubras of St. Lawrence from the Overseas Aid Committee.

Overseas Aid Committee – appointment of member

THE STATES appointed Deputy James Thomas Johns of St. Helier as a member of the Overseas Aid Committee.

Matter presented

The following matter was presented to the States –

Births, Marriages and Deaths in 1998: statement – R.C.5/99.
Presented by the Etat Civil Committee.

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

Matters noted – acceptance of tenders

THE STATES noted Acts of the Finance and Economics Committee, dated 8th February 1999, showing that, in pursuance of Rule 5 of the Public Finances (General) (Jersey) Rules 1967, as amended, the Committee had noted that –

- (a) the Education Committee had accepted the lowest of three tenders, namely that submitted by J.F. Marett and Son Limited in the revised sum of £1,397,442 for the development of St. Lawrence School in a contract period of 65 weeks;
- (b) the Education Committee had accepted the lowest of four tenders, namely that submitted by Camerons Limited in the revised sum of £1,100,142 for the extension and refurbishment (Phase 1) of Grouville School in a contract period of 46 weeks.

Matters lodged

The following matters were lodged “au Greffe” –

Traffic calming within Jersey (P.32/98): second amendment – P.22/99.
Presented by Deputy G.C.L. Baudains of St. Clement.

Draft Age of Majority (Jersey) Law 199 – P.23/99.
Presented by the Legislation Committee.

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

Presented by the Finance and Economics Committee.

Minimum Wage legislation (P.227/98): amendments – P.25/99.

Presented by the Policy and Resources Committee.

Minimum Wage legislation (P.227/98): second amendment – P.26/99.

Presented by Deputy M.E. Vibert of St. Brelade.

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

Presented by the Finance and Economics Committee.

The following matter was lodged "au Greffe" on 9th February 1999 –

Draft Customs and Excise (Jersey) Law 199 – P.21/99.

Presented by the Finance and Economics Committee.

Review of the Machinery of Government: Terms of Reference and Membership – P.13/99

THE STATES acceded to a request of the President of the Policy and Resources Committee and agreed to defer consideration of the proposition concerning the review of the machinery of government (P.13/99) from this meeting to a later date.

Arrangement of public business for the meeting on 2nd March 1999

THE STATES confirmed that the following matters lodged "au Greffe" would be considered at the meeting on 2nd March 1999 –

Minimum wage legislation – P.227/98.

Lodged: 10th November 1998.

Employment and Social Security Committee.

Minimum Wage legislation (P.227/98): amendments – P.25/99.

Lodged: 16th February 1999.

Policy and Resources Committee.

Minimum Wage legislation (P.227/98): second amendment – P.26/99.

Lodged: 16th February 1999.

Deputy M.E. Vibert of St. Brelade.

Traffic calming within Jersey – P.32/98.

Lodged: 24th February 1998.

Senator R.J. Shenton, O.B.E.

Traffic calming within Jersey (P.32/98): amendment – P.73/98.

Lodged: 21st April 1998.

Deputy P.J. Rondel of St. John.

Field 413 (part of), La Longue Rue, St. Martin: rezoning for residential development– P.15/99.

Lodged: 2nd February 1999.
Planning and Environment Committee.

Construction costs of Haute Vallée Secondary School and Jersey College for girls – questions and answers
(Tape No. 496)

The Deputy of St. John asked Senator Leonard Norman, President of the Education Committee, the following questions –

- “1. Now that Haute Vallée Secondary School is fully operational, would the President inform members whether this school was built within the original contract price. If the answer is negative, would he inform members of the final cost involved?”
2. The new Girls College is well on its way to completion. Would the President inform members whether or not the work is on schedule and within budget?”

The President of the Education Committee replied as follows –

- “1. Although Haute Vallée School is indeed operational, certain building and landscaping works are not yet complete and thus detailed work on completing and agreeing final accounts is still being carried out. As such it is not possible for me to advise members of the final costs for this project at this stage. However, I am not anticipating any unpleasant surprises and will provide the Deputy with the information he requires as soon as it may be made available.
2. At present both contracts for the new Jersey College for Girls, the main campus and the joint Art, Design and Technology Block, are reporting delays to contract completions of approximately four to five weeks. However, both contractors are doing all that they reasonably can to try to reduce these delays and it is still planned to move the College during the autumn term, commencing in September.

The overall costs for this project are reported as being within the allocated budget.”

Change in Presidency

The Bailiff retired from the Chamber and the Greffier of the States, Geoffrey Henry Charles Coppock, Esquire, took over the Presidency.

Extension to Jersey of Multilateral Agreement on Investment – questions and answers (Tape No. 496)

Senator Stuart Syvret asked Senator Pierre François Horsfall, President of the Policy and Resources Committee the following questions –

“We are informed by the International Conventions and Agreements Progress Report for the Period 1st April to 30th September 1998 (R.C.2/99) that ‘the insular authorities have indicated on a number of occasions their wish to have the Multilateral Agreement on Investment extended to Jersey through the extension of the United Kingdom’s ratification of the Treaty.’ It is understood that certain aspects of the Multilateral Agreement on Investment are still under negotiation so that the following questions must, of necessity, be based upon the most recent draft –

- (a) would the President inform members when the Policy and Resources Committee first considered the Multilateral Agreement on Investment (M.A.I.)?
- (b) has the Policy and Resources Committee given full and detailed consideration to the text of the M.A.I.?
- (c) has the Policy and Resources Committee considered whether the present Regulation of Undertakings and Development Law is fully compatible with the M.A.I.?
- (d) is the President able to guarantee that the Island's present right of full self-determination in all internal matters will not be weakened by an extension of the M.A.I. to Jersey?
- (e) is the President able to guarantee that the rights of islanders will carry equal weight with the rights of investors under the M.A.I.?
- (f) would the President inform members of the extent to which the States would retain the power to withdraw from the M.A.I. and the procedures involved in so doing?"

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

“(a) At a meeting held at the Home Office on 17th November 1995 between United Kingdom Government officials and Island representatives to discuss international matters as they affect the Channel Islands and the Isle of Man, the Department of Trade and Industry representative offered the Islands a briefing meeting on the Multilateral Agreement on Investment. This took place in March 1996.

In the Progress Report to the States on International Conventions and Agreements for the period ended 30th September 1996 (R.C.38/96) the Policy and Resources Committee stated –

‘the Insular Authorities have indicated their wish to be party to the agreement through inclusion in the United Kingdom’s ratification, and have prepared a list of measures affecting direct investment by non-residents in the Island and have submitted this list to Her Majesty’s Government’.

This statement regarding the wish of the Insular Authorities to be party to the agreement has been repeated in successive progress reports. The reference to the MAI in the Progress Report for the period 1st April to 30th September 1998 (R.C.2/99) should have again been included in the section headed ‘those referred to in earlier reports where there has been no action since the previous report’. I apologise if the positioning of the reference to the MAI in the progress report gave rise to some confusion. No decision has been made by the Insular Authorities other than that communicated to the States in previous progress reports.

- (b) The Committee has not yet given full and detailed consideration to the text of the MAI because it has been awaiting the conclusion of the negotiations before doing so. The initial view that the Insular Authorities would wish to be a party to the agreement was taken on the understanding that the MAI would provide a broad multi-lateral framework for international investment with high standards for the liberalisation of investment regimes and investment protection and with effective dispute

settlement procedures, and that in effect it was an extension to a number of agreements on investment promotion and protection that the Insular Authorities was already a party to.

The Insular Authorities –

- (i) are a party to the OECD Convention and through the latter are a party to the OECD Codes of Liberalisation on capital movements, foreign direct investment and services transactions;
- (ii) are a party to the OECD National Treatment Instrument which provides that OECD members should treat foreign control enterprises operating in their territories no less favourably than domestic enterprises in like situations;
- (iii) are a party to a whole host of Investment Promotion and Protection agreements which agreements generally provide for national treatment in the post-establishment phase and deal with expropriation, compensation and the free transfer of capital and returns;
- (iv) have requested the extension of the Energy Charter Treaty which creates an international legal framework which provides safeguards for companies to invest and trade in energy.

As far as the overall objectives of the MAI are concerned the Insular Authorities therefore considered that they were being entirely consistent with previous decisions in expressing the wish to be a party to the MAI subject to the outcome of the negotiations.

However, no inescapable commitment has been made and the Insular Authorities have reserved to themselves, as is the case with international agreements generally, the right to decline to formally request extension of the United Kingdom's ratification of the MAI if agreement should be in a form that is considered to be contrary to the Island's best interests. The MAI, if ratified by the United Kingdom Government, would not have needed to be extended to the Island at the same time. The agreement provides that the United Kingdom Government may at any time make a declaration that the agreement shall apply to one of the territories for the international relations of which it is responsible.

We have been aware for some time of the concern being expressed about the MAI by environment, consumer and labour protection groups and the Committee would have wanted to be satisfied on these issues before recommending a formal request for the extension of the United Kingdom's ratification, if that had occurred. However, in January of this year the Insular Authorities were informed by the Home Office that, following the French withdrawal from the MAI negotiations, the MAI is no longer being negotiated. Furthermore in a memorandum to the United Kingdom Parliament by the Department of Trade and Industry submitted on 8th January 1999 it is stated –

‘It is now clearly acknowledged by all negotiating partners that it will not be possible to agree an MAI. It is also clear that there is no prospect of the United Kingdom participating in any further negotiations aimed at concluding an MAI for the foreseeable future’.

- (c) Yes. The Policy and Resources Committee has been advised that, if the MAI had been adopted, the present Regulation of Undertakings and Development Law was compatible with the agreement. The Law does not discriminate between resident and non-resident investors.

- (d) The Policy and Resources Committee has received no advice that would suggest that, if the MAI had been extended to Jersey, it would have weakened in any way the Island's present right of full self-determination in all internal matters, subject to recognising the principle of non-discrimination between resident and non-resident investors which has already been reflected in other international agreements to which the Island is a party.
- (e) The Committee has been advised that the main purpose of the MAI, if it had been adopted, was to limit the extent to which individual countries discriminated against non-resident investors in favour of resident investors. There is no question in the view of the Committee that the MAI would give non-resident investors greater weight than the residents of the Island. If there was any suggestion that this was to be the outcome then it can be assumed that the Committee would not have recommended the extension of the United Kingdom's ratification of the agreement to the Island.
- (f) If the United Kingdom had ratified the MAI and if the Insular Authorities had decided that it was in the Island's best interests to have that ratification extended to the Island, the text of the MAI in its latest form included the following paragraph –

‘A party may at any time declare in writing to the Depositary that this agreement shall cease to apply to all or to one or more of the territories for the international relations of which it is responsible. Such declaration shall take effect upon the expiry of one year from the date of receipt of the declaration by the Depositary, with the same effect regarding existing investment as withdrawal of a Party’.

The Committee would have wished to see that paragraph retained in any agreement before any formal request was made for the extension of the United Kingdom's ratification.”

Tax liabilities and the rate of growth of the Island's gross domestic product – questions and answers (Tape No. 496)

Senator Stuart Syvret asked Senator Frank Harrison Walker, President of the Finance and Economics Committee the following questions –

- “(a) would the President provide members with details of the tax liabilities that arose in the years 1992, 1993, 1994, 1995, 1996 and 1997 broken down by standard industrial classification?
- (b) would the President provide members with details of the rate of growth of the Island's gross domestic product over the last ten years after allowing for both inflation and fluctuations in the size of the Island's workforce?”

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

- “(a) When providing the answer to a similar question from Senator Syvret in May, 1998 I promised, in answer to a supplementary question, to publish future years' figures on an annual basis. I have not lost sight of this and did intend to publish the 1996 and 1997 results round about May this year.

As at 31st December, 1998 the charge to income tax for those years of assessment was –

1992	£205.47 million
1993	£202.75 million
1994	£216.44 million
1995	£221.83 million
1996	£240.83 million
1997	£282.28 million

This excludes tax charged on those involved in the supply of gas, water and electricity and on those few people running private schools in order to preserve their confidentiality.

These figures break down on the standard industrial classification basis as follows –

A. BY INDUSTRY		1992	1993	1994	1995	1996	1997
(all figures in £ million)							
1.	Agriculture	1.45	1.07	1.36	1.96	2.59	3.03
2.	Fishing	0.15	0.19	0.19	0.18	0.28	0.32
3.	Quarrying	Included in construction					
4.	Manufacturing	0.94	1.03	1.16	1.38	1.56	1.54
5.	Electricity, gas and water	Not supplied					
6.	Construction and quarrying	4.30	4.86	4.03	4.16	4.07	4.54
7.	Wholesale and retail	9.77	8.66	7.82	7.88	8.50	9.62
8.	Hotels and restaurants	3.90	3.68	3.59	4.07	3.82	4.49
9.	Transport and communication	1.14	1.07	0.98	1.15	1.52	2.27
10.	Financial intermediation	102.54	101.30	114.03	109.73	116.28	138.55
11.	Real estate (fee income)	0.16	0.12	0.14	0.15	0.17	0.19
14.	Health and social work	1.24	1.40	1.53	1.60	1.62	1.59
15.	(i) other business services	7.36	7.24	6.68	6.62	6.20	7.51
	(ii) other community social and personal services	5.65	4.83	4.86	5.20	5.75	6.17
16.	Private households with employees	No records kept					

Standard individual classification 12 (Public Administration and Defence) and 13 (Education) have been excluded because no direct tax revenue arises from these activities carried on by the States. Similarly, the figures given under 14 (Health and Social Work) and 15(ii) (other community social and personal services) reflect only the profits of private providers.

B. BY INDIVIDUALS		1992	1993	1994	1995	1996	1997
(i)	Employees	44.16	47.12	50.61	55.03	62.54	72.53

(ii)	Rentiers and the retired	18.08	15.16	14.35	16.36	18.16	20.62
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C. BY INVESTMENT HOLDING COMPANIES

(Corporate bodies set up to own

investments and properties)	4.62	5.04	5.12	6.37	7.77	9.32
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The general conclusion to be drawn from these results is one of a strong economy continuing to grow at a healthy rate. Over the years 1992 – 1997 the figures show an increase of 37 per cent or an average of 7½ per cent a year. These results would be the envy of many countries around the world.

Increases are seen in almost every area of our economy with the finance sector turning in a particularly strong performance: of the £42 million increase 1997 over 1996 no less than £22 million was contributed by finance.

- (b) Between 1986 and 1996 the Island’s gross domestic product is estimated to have increased by 28 per cent after allowing for inflation and by 22 per cent after allowing for the increase in the workforce.”

Mains drains – connection to all properties: petition – P.108/97, P.179/97 and P.103/98.

THE STATES rejected a proposition of Deputy Frederick John Hill of St. Martin–

- (a) to recognise the hardship and risk to health caused by properties not being connected to mains drains;
- (b) to request the Finance and Economics Committee to make sufficient funds available to the Public Services Committee to enable work to proceed with the minimum delay to connect all properties to main drains.

Members present voted as follows –

“Pour” (21)

Senators

Shenton, Stein.

Connétables

St. Mary, Grouville, St. Helier, St. Martin, St. Ouen, St. John, Trinity, St. Saviour.

Deputies

Wavell(S), S. Baudains(H), Trinity, St. Martin, St. John, Le Main(H), Rabet(H), de la Haye(B), St. Pete St. Ouen, G. Baudains(C).

“Contre” (27)

Senators

Horsfall, Rothwell, Le Maistre, Quérée, Bailhache, Syvret, Norman, Walker.

Connétables

St. Lawrence, St. Brelade, St. Peter, St. Clement.

Deputies

Le Sueur(H), Coutanche(L), Pullin(S), Johns(H), Duhamel(S), Routier(H), Dorey(H), Layzell(B), Breckor (S), Grouville, Huet(H), Blampied(H), Crowcroft(H), Vibert(B), Dubras(L).

Agricultural Marketing (Amendment No. 6) (Jersey) Law 199 – P.253/98

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, adopted a Law entitled the Agricultural Marketing (Amendment No. 6) (Jersey) Law 199 – P.253/98.

European Communities (Treaty of Amsterdam) (Jersey) Regulations 199 – P.263/98

THE STATES, in pursuance of Article 1 of the European Communities (Jersey) Law 1973, as amended, made Regulations entitled the European Communities (Treaty of Amsterdam) (Jersey) Regulations 1999.

Lease of land at Five Oaks to Telecommunications Board – P.264/98

THE STATES, adopting a proposition of the Health and Social Services Committee –

- (a) approved the lease to the Telecommunications Board of approximately 5,232 square feet of accommodation at the Health and Social Services Department store at Five Oaks, St. Saviour, for a period of nine years, with effect from a date to be agreed, at an annual rental of £40,000, subject to a rent review every three years at open market values;
- (b) authorised the Greffier of the States to sign the necessary lease.

Health Insurance (Medical Benefit) (Amendment No. 49) (Jersey) Regulations, 199 – P.14/99

THE STATES, in pursuance of Articles 18 and 46 of the Health Insurance (Jersey) Law 1967, as amended, made Regulations entitled the Health Insurance (Medical Benefit) (Amendment No. 49) (Jersey) Regulations, 1999.

Tourism Investment Fund: grant of funds for construction of Les Creux Bowls Clubhouse – P.16/99

THE STATES, adopting a proposition of the Finance and Economics Committee –

- (a) authorised a grant of £125,000 to the Sport, Leisure and Recreation Committee as a contribution towards the construction cost of the new clubhouse at the Les Creux Bowls facility, Les Creux, St. Brelade;
- (b) agreed that the Finance and Economics Committee should meet the necessary expenditure from the Tourism Investment Fund.

Deputy James Thomas Johns of St. Helier, having declared an interest in the matter, withdrew from the Chamber before consideration of this item.

THE STATES rose at 12.55 p.m.

C.M. NEWCOMBE

Deputy Greffier of the States.