



**THE STATES assembled on Tuesday,
2nd March 1999 at 9.30 a.m. under
the Presidency of the Bailiff,
Sir Philip Bailhache**

All members were present with the exception of –

Senator Frank Harrison Walker – out of the Island
Enid Clare Quénault, Connétable of St. Brelade– out of the Island
Robert Lester Le Brocq, Connétable of St. Helier– out of the Island
Philip Roy Cabot, Connétable of Trinity – ill
Deputy of Grouville – ill.

Prayers read by the Bailiff

Visit – Conseil Général de la Manche

The Bailiff informed the Assembly of the visit on Friday, 18th June 1999 of the members of the Conseil Général de la Manche.

Subordinate legislation tabled

The following enactments were laid before the States, namely –

Island Planning (Tree Preservation) (Saint Lawrence) (Jersey) Order 1999. R & O 9363.

Telecommunications (Telephones) (Amendment No. 30) (Jersey) Order 1999. R & O 9364.

Civil Service Administration (General) (Jersey) Rules 1949 (Amendment No. 11) (Jersey) Order 1999. R & O 9365.

Matters presented

The following matters were presented to the States –

Public Lotteries: report for 1998 – R.C.6/99.

Presented by the Gambling Control Committee.

Draft Conservation of Wildlife (Jersey) Law 199 . (P.223/98): report– P.223/98 Rpt.

Presented by the Planning and Environment Committee.

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

Presented by the Policy and Resources Committee.

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

Matters noted – land transactions

THE STATES noted an Act of the Finance and Economics Committee, dated 22nd February 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 Housing Committee, the acquisition from the Parish of St. Saviour, of an area of land (measuring approximately 26,500 square feet), located at Le Geyt Road, St. Saviour, to be incorporated in the redevelopment of Le Geyt Flats, St. Saviour, following the extinguishment of the road linking Springfield Road, St. Helier, with Les Grands Vaux, St. Saviour, for a consideration of £10, with the Committee to be responsible for all reasonable legal costs involved in the transaction;
- (b) as recommended by the Public Services Committee, the acquisition from Mr. Roger John Mitchel and Mrs. Angela Helen Mitchell, née Thompson, of an area of land (measuring 98 square metres) in Field No. 1,095, near Belwood Farm, Trinity, for a consideration of £1,052, on the basis that the Committee would be responsible for the cost of all accommodation works, all reasonable legal costs involved in the transaction, and also the payment of an additional £125 for disturbance/inconvenience and as rent for a working area of 100 square metres for a construction period of 32 weeks;
- (c) as recommended by the Public Services Committee, in connection with the sale to G. de Z. Investments of a party wall between No. 25/27 Hill Street and Morier House, St. Helier, for consideration of £10 in order to clarify the boundaries between those two properties, each party to be responsible for its own legal costs arising from the transaction.

Matters noted – land transactions

THE STATES noted an Act of the Finance and Economics Committee, dated 22nd February 1999, showing that, in pursuance of Standing Orders relating to certain transactions in land, the Committee had approved –

- (a) as recommended by the Planning and Environment and Housing Committees, the purchase from the Trustees for Jersey Methodist Church Purposes of the property known as Aquila Youth Centre, Devonshire Place, St. Helier, for the purpose of redevelopment as social rented housing, in the sum of £625,000, on the basis that each party would be responsible for its own legal costs arising from the transaction;
- (b) as recommended by the Planning and Environment and Housing Committees, the purchase from Billion Holdings Limited of the property known as Mont St. Clair Hotel, Belvedere Hill, St. Saviour for the purpose of redevelopment as social rented housing, in the sum of £1,100,000, on the basis that each party would be responsible for its own legal costs arising from the transaction.

Matter noted – acceptance of tender

THE STATES noted an Act of the Finance and Economics Committee, dated 22nd February 1999, showing that, in pursuance of Rule 5 of the Public Finances (General) (Jersey) Rules 1967, as amended, the Committee had noted that the Health and Social Services Committee had accepted the lowest tender received for the installation of a M.R.I. scanner and the supply and installation of radiology equipment, namely that submitted by Phillips Medical Supply Systems, in a contract sum of £2,263,638.

Matters lodged

The following matters were lodged “au Greffe” –

Draft Conservation of Wildlife (Jersey) Law 199 (P.223/98): amendment– P.29/99.
Presented by the Planning and Environment Committee.

Draft Education (Jersey) Law 199 – P.30/99.
Presented by the Education Committee.

Social Security Registration Cards – P.31/99.
Presented by Deputy T.J. Le Main of St. Helier.

Draft Agriculture (Loans) (Amendment No. 11) (Jersey) Regulations 199 – P.32/99.
Presented by the Agriculture and Fisheries Committee.

Genetically Modified Organisms – P.33/99.
Presented by Deputy A.S. Crowcroft of St. Helier.

The following matter was lodged “au Greffe” on 23rd February 1999 –

Access to the draft Public Access to Official Information: Code of Practice – P.28/99.
Presented by Senator S. Syvret.

Arrangement of public business for the present meeting

THE STATES confirmed that the following matters lodged “au Greffe” would be considered at the present meeting –

Review of the machinery of government: terms of reference and membership – P.13/99.
Lodged: 19th January 1999.
Policy and Resources Committee.

Review of the machinery of government: terms of reference and membership. (P.13/99) – amendment – P.18/99 (Revised).
Lodged: 2nd February 1999.
Deputy J.L. Dorey of St. Helier.

Review of the machinery of government: terms of reference and membership. (P.13/99) – second amendments – P.19/99.
Lodged: 2nd February 1999.
Senator S. Syvret.

Review of the machinery of government: terms of reference and membership. (P.13/99) – third amendments – P.20/99.
Lodged: 2nd February 1999.
Senator S. Syvret.

Arrangement of public business for the next meeting on 16th March 1999

THE STATES confirmed that the following matters lodged “au Greffe” would be considered at the next meeting on 16th March 1999 –

Draft Housing (Amendment No. 9) (Jersey) Law 199 – P.262/98.
Lodged: 8th December 1998.
Housing Committee.

Draft Customs and Excise (Jersey) Law 199 – P.21/99.
Lodged: 9th February 1999.

Finance and Economics Committee.

Draft Age of Majority (Jersey) Law 199 – P.23/99.
Lodged: 16th February 1999.
Legislation Committee.

Draft Stamp Duties and Fees (Jersey) Regulations 199 – P.24/99.
Lodged: 16th February 1999.
Finance and Economics Committee.

Draft Costs in Criminal Cases (Witnesses' Allowances) (Amendment No. 4) (Jersey) Regulations 199 – P.27/99.
Lodged: 16th February 1999.
Finance and Economics Committee.

Access to the draft Public Access to Official Information: Code of Practice – P.28/99.
Lodged: 23rd February 1999.
Senator S. Syvret.

Draft Agriculture (Loans) (Amendment No. 11) (Jersey) Regulations 199– P.32/99.
Lodged: 2nd March 1999.
Agriculture and Fisheries Committee.

THE STATES noted that in pursuance of Standing Order 17(6) the following matter, which was lodged “au Greffe” had been withdrawn –

Draft Education (Jersey) Law 199 – P.21/98.
Lodged: 17th February 1998.
Education Committee.

Extension of mains drains – question and answer (Tape No. 498)

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

“I noted that, in the recent consideration by the States of the proposition ‘Main drains – connection to all properties: petition (P.108/97)’ the majority of members of the Planning and Environment Committee voted against the proposition.

Would the President explain the Committee’s policy on extending mains drains into country areas, given that the Committee has strategic responsibility for environmental matters in the Island?”

The President of the Planning and Environment replied as follows –

“The Planning and Environment Committee did not adopt a Committee view on the proposition. The members of the Planning and Environment Committee were, therefore, free to vote on the proposition according to their assessment of the arguments for and against. The fact that the proposition was lost would suggest that the members of the Planning and Environment Committee took the same view as the majority of States members.

The proposition was lost, I believe, because it would have required ‘all properties’ to be connected to mains drains. This was unreasonable from environmental, financial and practical points of view as –

It would have damaged the balance of the capital programme and jeopardised other important projects

meeting social, health and environmental commitments.

It would have been physically impossible to carry the work out given the workforce and resources available.

It would have caused massive disruption along Island roads.

A cost-benefit analysis would not support the connection of all properties to mains. This would be a disproportionate response compared with the level of environmental risk presented by isolated properties which can be effectively served by alternative systems (if properly maintained) other than by a mains drains connection.

The Planning and Environment Committee's policy on the extension of mains drains is best summed up by paragraph 9.10 in the Island Plan: 'to have all buildings, other than relatively isolated farmsteads and similar groups, served by mains water and public sewers'. The Island Plan recognises the practical difficulties of connecting all properties and the recent States decision is consistent with the Island Plan.

To seek to avoid the aggravation of the situation, the Island Plan Policy SE4 states that 'permission will not normally be given for new development which relies on septic tanks and soakaways or private sewage treatment plants'. This policy has been applied consistently to all proposed developments. Those applications which seek to provide new residential development are normally refused and those which relate to the extension of existing developments are required to replace such drainage systems with sealed tanks. Given the speeches on both sides of the debate last time, the Planning and Environment Committee believes that every States member would wholeheartedly endorse this policy and the Committee's adherence to it.

The Planning and Environment Committee is also conscious of the many objections it receives to proposed new developments in the countryside. These often include the observation that the provision of mains drains in a rural area then leads to increased applications for new development. This argument was advanced during the recent meeting at St. Ouen's Parish Hall about the proposal to redevelop the Holiday Camp. Whilst the Island Plan and States strategic policies seek to avoid new development where mains drains are not available, the provision of mains drains is not in itself sufficient to negate the presumption against new development in the countryside."

La Frégate Café – questions and answers (Tape No. 498)

The Deputy of St. John asked Senator John Stephen Rothwell, President of the Tourism Committee, the following question –

"I understand that considerable work is being undertaken to sandblast and re-seal La Frégate Café. Would the President advise members of –

- (a) the cost of this work?
- (b) the reason why it has to be undertaken so soon after the construction of the building?
- (c) the life expectancy of the materials used?"

The President of the Tourism Committee replied as follows –

- "(a) The cost of the work to the States of Jersey is nil. It is a cost being borne under the contract by the contractor and the consultant.
- (b) The Waterfront Enterprise Board is not prepared to accept the standard of the external finish to the café. WEB has insisted the original specification be met.

The architect responsible for the design of La Frégate has stated –

‘The surface finish was found to be chemically incompatible with one of the pre-finish impregnated fire retardant applications, and as a consequence the surface finish reacted by blistering. For this reason, the surface finish has been removed and a material compatible with the fire retardant applied.’

- (c) The new material will last in the region of three to five years. This is the normal life expectancy for exterior decoration and thereafter normal periodic maintenance will be required.”

Jersey’s contribution toward services provided by the United Kingdom government – questions and answers (Tape No. 498)

Deputy Terence John Le Main of St. Helier asked Senator Pierre François Horsfall, President of the Policy and Resources Committee, the following questions –

- “1. Would the President confirm that questions were asked in the House of Lords recently to seek to discover the contribution that Jersey pays to H.M. Government for services given to States Departments and Island residents seeking specialised social services etc. which are unavailable in Jersey?
2. (a) Would the President inform members of the involvement (if any) of the Committee’s public relations consultant, Shandwicks, in giving information to the Home Office to assist in the preparation of a suitable reply?
(b) If the answer to (a) is negative, would the President advise members whether the true facts of the Island’s contributions for services received from H.M. Government have been communicated to the appropriate United Kingdom authorities?
3. (a) Would the President inform members of the terms of reference given to Shandwicks in relation to protecting Jersey’s interests and reputation?
(b) Would the President inform members of the costs of employing Shandwicks on behalf of the Finance and Economics Committee and Jersey?
4. Would the President give members full details in monetary terms of the current benefits H.M. Government receives from Jersey’s role as an international finance centre situated in the sterling area? If Jersey ceased to be in the sterling area and the investments that Jersey received from all over the world were to move outside the sterling area, what would be the loss to the United Kingdom Exchequer?
5. (a) Would the President advise the total contribution that Jersey pays to H.M. Government for all the services that we receive and what departments benefit from such services? In other words, I would like members to be advised of all the payments, benefits, etc. made to H.M. Government.
(b) Would the President advise members if there are any areas where Jersey receives services for which we do not pay a contribution?
6. Would the President inform members if the Committee are satisfied with the manner in which Jersey is portrayed outside the Island and, if no, what the Committee are doing to rectify the situation?”

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

- “1. The actual question asked by Lord Wallace of Saltaire was what contribution (a) the Channel Islands

and (b) the Isle of Man make to the United Kingdom central budget in return for services they receive from the United Kingdom Government.

2. (a) Shandwicks have no role in providing information to the Home Office.

(b) The Home Office are fully aware of the true facts relating to the Island's contributions for services received from H.M. Government, for the arrangements made for those contributions (e.g. Education and Defence) have been covered in correspondence between the Insular Authorities and the Home Office.
3. (a) Shandwicks are engaged on a month by month basis by the Policy and Resources Committee to provide a monitoring and intelligence service on United Kingdom Parliamentary, EU and international public affairs.

(b) Shandwicks are not employed by the Finance and Economics Committee. They are employed by the Jersey Financial Services Commission in relation to the promotion of the Island as an international finance centre. They are employed by the Policy and Resources Committee as indicated in the answer given to the previous question. The cost to the Policy and Resources Committee for the service provided by Shandwicks is a maximum of £4,000 a month, with the actual amount within that maximum being determined by the fees for the services actually rendered.
4. There is no longer a sterling area as this term applied to the United Kingdom and its dependent territories when exchange controls were in force. The funds that Jersey attracts from all over the world are free to move wherever they please. However, because of the Island's close working relationship with the City of London, the majority of the much more than £200 billion worth of funds administered in Jersey are invested in or through the City of London. But because the Island is in monetary union with the United Kingdom the Island's foreign currency earnings go to benefit the United Kingdom balance of payments and invisible earnings. The United Kingdom would lose these benefits if Jersey were no longer to be an international finance centre.
5. (a) In the time available it has not been possible to obtain the answer to this question. Information is readily available on the payments made to the United Kingdom Prison Service and to United Kingdom Further Education establishments, but to ensure that a complete picture is presented to members information would need to be obtained from every Committee of the States.

(b) I cannot give a full answer at this time for the reason given in answering the previous question. However, Jersey receives support from a number of United Kingdom Government departments in the form of advice and guidance for which no charge is made. The Island is also dependent on the United Kingdom for international representation and diplomatic services for which again no payment is made.
6. The Committee is never satisfied that Jersey is being portrayed outside the Island as well as it should be. The Committee is engaged in a number of steps to ensure the wider understanding of Jersey. For example, we have requested, and Home Office and Foreign and Commonwealth Office officials have agreed, that the constitutional statement placed before the EU Tax Code of Conduct Group, which was included in a statement I made to members on 2nd December 1998, will be circulated to all the European negotiators and British embassies in Europe. Our strategy has been first and foremost to get our message across to the United Kingdom Government so as to have them "on side" at all the various talks at which we do not have a direct voice, such as those going on in the EU and OECD, and we have seen plenty of signs that we have been successful in our endeavours."

H.G.V. drivers in the public sector – questions and answers (Tape No. 498)

Deputy Gerard Clifford Lemmens Baudains of St. Clement, asked Deputy David Leon Crespel, President of the Establishment Committee, the following questions –

- “(a) As a matter of public interest, would the President advise whether States’ employed HGV drivers are compensated for their expenses in renewing their driving licences?
- (b) If the answer to (a) is yes, would the President advise the annual cost of such reimbursement, on a department by department basis?”

The President of the Establishment Committee replied as follows –

- “(a) Those States departments which employ drivers over the age of 45 to drive Heavy Goods Vehicles met the costs for the completion of the medical form associated with the renewal of their licence. The departments did not meet the costs of renewing the actual licence itself.

This medical certification would normally have been undertaken by the States of Jersey’s occupational health service, provided in respect of all public sector employees. However, because of the numbers involved on this particular occasion, it was necessary to ask employees to arrange the appropriate medical clearance with their own medical practitioners. As a consequence, the departments reimbursed the employees for the expenses that they had incurred.

The Deputy might be interested to note that this approach was in line with a number of private sector employers. In addition, it reflects the duty of care that the States owes both to its employees and to members of the public.

- (b) The costs associated with the reimbursement of employees, which have been notified to the States Personnel Department, were as follows –

Public Services Department	£1,600
States Fire Service	£1,000
Jersey Airport	£265
Jersey Harbours	£234
Agriculture and Fisheries	£35
TOTAL	£3,134

The above costs were incurred in respect of 84 drivers.

The Deputy will appreciate that the HGV licence will be valid for a period of five years and, therefore, the costs associated with the renewal of the licences for all these drivers will not need to be incurred again until the year 2004.

Payment of compensation by the Planning and Environment Committee – question and answer – (Tape No. 498)

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

“Would the President inform members of the number of applications considered by his Committee since

December 1996 which have involved the payment of compensation by the Committee and of the amounts paid?”

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

“Since taking office the Planning and Environment Committee has had the duty to pay costs in a number of legal actions which were pending when it took office late in December 1996.

Shortly before taking office, in November 1996, one of these legal actions which commenced in the early 1990s, had already been decided by the Royal Court. Subsequently costs were awarded against the Committee (£29,614) who with the agreement of the Agriculture and Fisheries and Finance and Economics Committees have also made an extra gratia payment (£50,000) towards legal costs which were excluded from the taxing order.

The Committee has on legal advice withdrawn four other of the pending actions from the Royal Court and had to settle costs (total £95,423).

It has also reached a negotiated settlement with an applicant who 13 years ago had a consent modified by the Committee of the day, an action which carries with it a statutory right of compensation (total £90,000).

It has also has settled three small claims on an ex-gratia basis for amounts of compensation concerning developments in the Island where it was alleged, but not accepted, that some action or inaction of the Committee or its department gave rise to loss. Two of these relate to defective drainage systems (£3,445) and concern events which took place many years ago, before responsibility was transferred to the department. The Committee was able to recover a contribution from the builder in one case.

I can advise the Deputy that none of these ten payments (total £268,482) relate to applications considered by the present Committee.”

Service reviews of States Departments – questions and answers (Tape No. 498)

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

- “1. Will the President inform the Assembly of the number of service reviews of States Departments completed to-date, and whether any remain to be completed?”
2. Will the President inform the Assembly of the total cost to-date, and the projected final cost, of the service review exercise?”

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

- “1. The States, when considering the 1996 Strategic Policy Review and Action Plan, approved the recommendation of the Establishment Committee that –

‘States departments will be subject to an independent service review over the next three years, co-ordinated, monitored and supported by the corporate strategy unit, with priority being given to those departments which are affected by the restructuring of States Committees.’

The number of service reviews which have been completed to date is 12.

Another eight reviews are in progress, with some nearing completion, and five have yet to commence.

2. Total cost to date has been **£1,149,000**

This is made up of –

(i)	The costs of the 12 completed reviews	£865,000
(ii)	Payments already made in respect of reviews which have commenced but have yet to be completed	<u>£284,000</u> £1,149,000
	The remaining costs for completing the service review programme are estimated to be	£551,000
	Therefore the projected final cost of the reviews is	£1.7 million

A full review of the service reviews is being undertaken by the Policy and Resources Department now that the Corporate Strategy Officer is in post and should be presented to the Policy and Resources Committee by June 1999. The Policy and Resources Committee will report the findings of this review to the States.”

International conventions and agreements – questions and answers (Tape No. 498)

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

“The International Conventions and Agreements Progress report for the period 1st April to 30th September 1998 (R.C.2/99) informs us of a variety of agreements and conventions dealt with by the Policy and Resources Committee.

1. Will the President inform the Assembly how many of the agreements referred to in R.C.2/99 have received a full and detailed consideration of their text by the Committee?
2. Will the President explain the scope and scale of professional advice received in respect of these conventions, and will he in particular inform the Assembly of how frequently, if ever, second opinions are sought?
3. Does the President accept that some of these international conventions and agreements may have significant implications for the Island?
4. Will the President give an undertaking to the Assembly that in future any introduction of, agreement to, or variation in, any international convention will be brought to the States for approval?”

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

- “1. Contrary to the statement made in the preamble to the question all the agreements and conventions referred to in the progress report are not dealt with by the Policy and Resources Committee. The Committee has overall policy responsibility for international matters concerning the Island and it is in this context that it presents the six monthly progress report to the States. A number of the agreements and conventions referred to in the report will have been dealt with by the Law Officers or by the committee that is responsible for the matters covered by the agreements and conventions concerned.

The Policy and Resources Committee, to the extent that it is involved with individual agreements and conventions, relies on its officers, the Law Officers and the other Departments of the States involved in the matters concerned for advice on those aspects of the agreements and conventions that require

the Committee's attention. Where it is considered appropriate to do so the Committee will consider the text in full. Examples from R.C.2/99 where this was the case are the British/Irish Agreement on Northern Ireland in respect of the formation of the British-Irish Council, and the Energy Charter Treaty.

2. The Committee receives professional advice from the Law Officers who on occasion will obtain a second opinion. The Law Officers or the officers of the Committee also will exchange views with their counterparts in Guernsey and the Isle of Man to ensure that there is consistency of response, where it is appropriate for this to be done. Where technical matters are concerned (e.g. conventions and agreements dealing with environmental issues) the Committee has the benefit of professional advice from its officers (e.g. the Environmental Adviser) and these officers will frequently obtain views and/or information from non-States individuals or bodies. In some cases, where it is appropriate to do so, the Committee will also consult with individuals and organisations in the Island.
3. Yes. The Committee and its advisers are keenly aware that individual international conventions and agreements can have significant implications for the Island. Where such significant issues arise the matter is always referred to the Committee, or to another Committee of the States where the matter falls within that Committee's area of responsibility, for a political view on whether the international convention or agreement concerned should be extended to the Island.
4. I am not prepared to give such an undertaking for there are a large number of agreements or conventions, on which a view is sought from the Insular Authorities, which are in accord with declared States policy, and which involve technical adjustments to existing agreements or conventions. There are other occasions where the Insular Authorities are called upon to make decisions in a time frame that does not provide for a report and proposition to be brought to the States for debate, where it is clear to the Committee and/or its advisers what that decision should be, often because the Insular Authorities are committed to join with the United Kingdom (e.g. sanctions against Serbia). There are however international conventions that have a greater significance where it is considered that the matters call for a States debate. In such cases the Committee will have no hesitation in bringing the matter before the States for approval. For the most part, however, the decision called for is whether in principle the United Kingdom's ratification of an international agreement or convention should be extended to the Island, and for this decision to be made effective in due course necessary insular legislation would need to be enacted. That legislation would be subject to States approval.

The States have given the Policy and Resources Committee overall responsibility for dealing with international matters. What the Committee has done for the past few years is to present the States six monthly reports on international conventions and agreements which are in the course of being considered, so that if there is any convention or agreement so identified that individual States members are concerned about they can raise questions with the Committee. Over the years the Committee has received very few requests for information on the matters being considered.

The Committee has also presented to the States copies of the reports that the Insular Authorities are required to prepare from time to time in accordance with the terms of particular conventions and agreements.

Finally the Committee has arranged for the production of a catalogue of conventions to which the Island is a party so that interested States members can raise questions about any of the matters included in the catalogue which is available at the States Bookshop and the Public Library."

Constitution of the Jersey Arts Trust – question and answer (Tape No. 489)

Senator Stuart Syvret asked Senator Patricia Ann Bailhache, Vice-Chairman of the Jersey Arts Trust the following question –

“Will the Senator provide for the Assembly a detailed explanation as to why the Jersey Arts Trust chose recently to proceed with controversial changes to its constitution notwithstanding the apparent prior agreement of all concerned parties to accept an independent review of the administration of the arts in Jersey?”

The Vice-Chairman of the Jersey Arts Trust replied as follows –

“I assume that Senator Syvret’s reference to ‘controversial changes’ refers to public comments made by the Jersey Arts Centre who found one change questionable. The Jersey Arts Centre was given the opportunity of presenting their objections at a meeting at Education (4th December 1998). I would point out that the changes were not considered to be controversial by the Education Committee, nor on the whole by the members of this Assembly. All members received a copy of the new constitution and six members made varying comments before the Education Committee approved it. The Law Officers’ Department also found the changes acceptable.

The Education Committee considered the constitution at three meetings on 25th November 1998, 9th December 1998 and 13th January 1999 and examined it on the grounds of reasonability. The Jersey Arts Trust was created to further all arts and crafts on the Island and, as such, it is best that the Jersey Arts Trust is perceived to be independent and fair, without giving preference to the single interest of any one body. It did not seem fair, reasonable or logical to have a major recipient of funds acting as both payer and payee. Nor did it seem fair or reasonable for that recipient to have three members out of nine on the Jersey Arts Trust as this indeed was numerically disproportionate.

A member of the Jersey Arts Trust must act as a Trust member and in the experience of the Jersey Arts Trust some members have had difficulty with the concept of distinguishing the objectives of the Trust from the interests of the organisation from which they are appointed. Until a conflict of interest arises, even the appointee may not identify or understand this difficulty. It has been clear that this causes problems elsewhere as shown by the quotation from the Review of Jersey Heritage Trust Constitution and Structure report and proposals approved by the Jersey Heritage Trust last year (pages 9 and 10) –

‘Although it is an independent body, the (Heritage) Trust is not in control of its own board membership...’

‘Appointed representative trustees may not always put the interests of the Trust first. Their primary consideration may be to the concerns of the Committee which appointed them.’

One must make it clear that considerable changes have taken place within the arts world with St. James and the Opera House coming on line within the next 18 months. It is illogical to have representatives from one venue-based organisation voting on the funding to be made available to another venue-based organisation.

As far as the Senator’s comment that the changes were proceeded with notwithstanding the apparent ‘prior’ agreement of all concerned parties to an independent review, this is not true. The Jersey Arts Trust identified that its constitution needed to be amended in light of developments since its creation in January 1993 and a sub-committee made up of interested parties, Arts Centre and Education as well as Trust representation, was set up on 1st April 1998. The sub-committee reached its conclusion and produced its recommendations on 21st October 1998. The Jersey Arts Trust then fully debated the recommendations in a specially convened meeting on 10th November 1998 and amendments were agreed. The proposed new constitution was then referred both to the Education Committee, as required, and the Law Officers’ Department on 20th November 1998. Further amendments were made at the recommendation of both the Education Committee and the Law Officers’ Department and, as previously mentioned, the document was circulated to all States members for comments. The final form of the document was ready in January 1999 and indeed the Education Committee, having considered the comments made by the six States members who replied and those of the Jersey Arts Centre, approved the new constitution on 13th January 1999, leaving the mere formality of registering the document in the Royal Court. The new Jersey Arts Trust constitution was therefore approved before the proposal for an independent review of the arts and

crafts as put forward by the Finance and Economics Committee in a letter to the Trust dated 26th January 1999.

The Jersey Arts Trust and the Education Committee all agreed that the new Jersey Arts Trust constitution was desirable and this fact has not changed in light of the proposal for an independent review. The Jersey Arts Trust has wholeheartedly welcomed and supported the proposal for the independent review but it has a duty to the States and ultimately the taxpayer to undertake the work it has been given. It would not be to the advantage of the arts and crafts in the Island if the Jersey Arts Trust were to put its work on hold until this review has been completed. Indeed it would not be beneficial to the arts if the Jersey Arts Centre were to put its work on hold either. The terms of reference of the review have not been confirmed and we wait to hear who will be carrying out this review. Members are aware that reviews do take many months to complete and therefore work both at the Jersey Arts Trust and Jersey Arts Centre must continue as normal during this time.

As I am sure members must be aware, no constitution is set in stone. Should the review find reason for the new Jersey Arts Trust constitution to be changed, then this can be undertaken.

Finally, as I have mentioned earlier, the terms of reference for the independent review are not finalised and it appears the Senator has assumed that the review is to concentrate on the 'administration' of the arts. My understanding is that the review will be far wider than this. It will be a complete review of all the arts and crafts needs and resources on the Island, and whilst this will obviously include the administration of the arts, it will not be limited to such a narrow topic."

Sale of fuel at Elizabeth Marina and the bookmaking operation at the Airport – questions and answers (Tape No. 489)

Senator Stuart Syvret asked the Deputy of St. Mary, President of the Harbours and Airport Committee, the following questions –

- “1. Will the President inform the Assembly whether any recent changes have been introduced to the agreement between the Committee and the Jersey Electricity Company Limited in respect of the concession for the sale of fuel at the Elizabeth Marina and, if so, what those changes are?”
2. Will the President inform the Assembly whether the Committee has agreed to reduce the rent paid by Stanley Leisure Limited in respect of their bookmaking operation at the Airport and, if so, the reasons for this decision?”

The President of the Harbours and Airport Committee replied as follows –

- “1. Before replying to the Senator’s specific questions, I would like to address a generic point concerning all Trading Committees and their commercial relationships.

The States have created the Trading Committees of Harbours and Airport, Telecommunications and Postal and changed their status in order that they should act commercially. The extension of this first step is to turn them into limited liability companies, albeit wholly owned by the States. There is a direct contradiction between telling the Trading Committees to act commercially and then requiring them to disclose publicly the details of transactions that they have entered into in good faith with third parties. To do so would jeopardise the whole basis of commercial confidentiality as between the parties.

If the States do not have faith in those that they have chosen to run these commercial enterprises, then the remedy is in the hands of members. However, I can assure members that every transaction negotiated and entered into by my Committee will be based on sound commercial principles that are in the best interests of all concerned.

To return to the specific question asked by the Senator, there have been no changes to the agreement entered into between the Harbours and Airport Committee and the Jersey Electricity Company Limited in respect of the fuel concession at the Elizabeth Marina.

I would like to add that, whilst I remain as President of the Harbours and Airport Committee and Chairman of the Jersey Electricity Company Limited, I will take no part whatsoever in any discussions or negotiations that involve both parties.

2. There are a significant number of concessionaires at Jersey Airport and I am not prepared to disclose publicly the details of the commercial arrangements entered into with any one of them. But I repeat that every transaction entered into by my Committee will be based on sound commercial principles.”

Racial discrimination – questions and answers (Tape No. 498)

Deputy Alan Simon Crowcroft of St. Helier, asked Senator Pierre François Horsfall, President of the Policy and Resources Committee, the following questions –

- “1. Would the President inform the Assembly what progress has been made by his Committee in implementing the recommendation in its Report on Racial Discrimination (P.213/96), namely –
‘to encourage more enlightened attitudes through education and a promotional campaign’?
2. Would the President explain how his Committee is fulfilling its co-ordinating role with regard to reviewing progress towards the elimination of racism and racial discrimination in the various areas of Island life, including education, housing, policing and employment?
3. The Report on Racial Discrimination (P.213/96) states that ‘The Insular Authorities are required to report to the Home Office at regular intervals concerning action to meet the United Kingdom’s State Party’s obligations under the terms of that Convention’ (ICERD). A report was made in August 1996. Would the President inform the Assembly whether a further report is in preparation?”

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

- “1. The Committee at its meeting on 31st July 1997 recalled that the States, in approving the Committee’s report and proposition on the preparation of legislation to combat racial discrimination, also had agreed that encouragement should be given to more enlightened attitudes through education and a promotional campaign.

The Committee at that meeting received information regarding the objectives behind the One World Week due to be held in October 1997, entitled ‘Racism in Jersey – The Way Forward’ and agreed to support the event.

At the same time, the Committee also recalled the action already being taken by the Education Committee which was set out in detail in the Policy and Resources Committees report (P.213/96) ‘Racial Discrimination – Report and Recommendations’.

In the press release, issued after the One World Week conference on 20th October 1997, reference

was made to the fact that 'it was agreed that as a first step the States should carry out a survey to establish the present situation with regard to racial intolerance in Jersey.' It was suggested that this information would kick start and guide the debate which has to take place on how best to move forward.

The call for a survey, and the call for the States to face the issue, arose from a wide-ranging and open discussion at the seminar which looked at the issues from many perspectives. Points which emerged were –

- (a) racial intolerance has to be an issue here in Jersey, as it is everywhere else;
- (b) Jersey is unique and so requires its own analysis, leading to its own solutions;
- (c) there was no agreement on how widespread or how serious racial intolerance is in Jersey, although there were indications that the problem was already serious;
- (d) the demographic facts show that we have to address this issue whether we like it or not;
- (e) the costs of failure are very high indeed whilst success would usher in a better future for all the population.

The Committee asked the organisers of the One World Week conference for details on similar surveys carried out elsewhere. As a result of ongoing discussions, the One World Week co-ordinator, Daniel Wimberley, wrote to the then Chief Adviser in September 1998, enclosing summaries of various studies and projects of the National Council for Voluntary Organisations. Of particular interest was the report entitled 'Staring at Invisible Women', a research report from the National Alliance of Women's Organisations into the problems faced by black and minority ethnic women in rural areas. This set out a methodology which included the collection of information from three main sources – desk research, an extensive survey of voluntary and statutory service providers, and face to face and telephone interviews with key organisations, community groups and individuals.

It is intended to give consideration to the carrying out of similar such surveys in the Island, and this is now more practical as far as the Policy and Resources Committee is concerned, with the extra resources that the States approved last year.

2. In the Committee's report (P.213/96), the work of the Education Committee and the position on housing, policing and employment were clearly set out. The Committee has seen little evidence of racism and racial discrimination in the areas of Island life to which the question refers, but it is because of the need to ensure that any such discrimination is eliminated that the Committee brought forward its proposition regarding the enacting of legislation –
 - (a) to render racial discrimination unlawful;
 - (b) to prevent the dissemination of ideas and propaganda based on racial superiority;
 - (c) to prevent activities inciting racial discrimination or hatred which fall short of constituting a breach of the peace or other contravention of existing Jersey law;
 - (d) to proscribe organisations promoting or inciting racial discrimination, and participation in the membership of such organisations.

The Committee included the legislation on racial discrimination in the legislation programme approved by the States as part of the 1998 Resource Plan. The Committee has also given support to the Legislation Committee, which is the Committee that will be bringing this legislation to the States, in its obtaining the necessary staff to prepare a brief for the Law Draftsman. The Committee is confident that the excellent work being undertaken in the schools will also bear fruit and that in respect of this work and that of other Committees, such as the Employment and Social Security

Committee, there is no need for the Committee otherwise than to have continued confidence in those Committees to satisfy the objectives inherent in the Island's international obligations.

3. The Insular Authorities prepare a report to meet the United Kingdom's State Party's obligations under the terms of that Convention when the United Kingdom request such a report. No request has been received since the request that gave rise to the report that was made in August 1996. However, the Home Office do regularly request an update on progress in the drafting of the necessary supporting legislation. The most recent request was a letter from the Home Office dated 14th January 1999 and by way of reply on 22nd February 1999 the Insular Authorities stated that 'An officer has been seconded with the specific task of drawing up a brief for the Law Draftsman. In the meantime the Insular Authorities remain committed to the principles of the Convention and will continue to take whatever action is deemed necessary to ensure that those principles are observed.' There has been no suggestion from the Home Office that the action that presently is being undertaken by Departments of the States, as set out in the report to the States (P.213/96), is other than acceptable at the present time."

Review of the machinery of government: terms of reference and membership – P.13/99, P.18/99 (Revised), P.19/99, P.20/99

THE STATES commenced consideration of a proposition of the Policy and Resources Committee which referred the States to their Act, dated 1st September 1998, in which they approved in principle the appointment of a body to undertake a review of all aspects of the machinery of government in Jersey and, having accepted an amendment of Senator Stuart Syvret that after the word "process" there should be deleted the word "and", and that after the word "Bailiff" there should be inserted the words –

"the transparency, accountability and democratic responsiveness of the States Assembly and Committees of the States; and

whether the machinery of government is presently subject to checks and balances sufficient to safeguard the public good and the rights of individuals;"

adopted sub-paragraph (a).

THE STATES commenced consideration of clause (i) of subparagraph (b) of the proposition and rejected an amendment of Deputy Jeremy Laurence Dorey of St. Helier (now Senator) that for the word "four" there should be substituted the word "five".

THE STATES rejected an amendment of Senator Stuart Syvret that for the word "five" there should be substituted the word "six".

The President of the Policy and Resources Committee nominated for appointment as Chairman and non-local members of the Review Body –

Sir Cecil Clothier – Chairman
Sir Kenneth Percy Bloomfield
Professor Sir Maurice Shock
Professor Michael Gilbert Clarke.

Ms. Genette Malet de Carteret was proposed by Senator Jeremy Laurence Dorey.

THE STATES, after discussion, accepted a proposition of Deputy Alastair John Layzell of St. Brelade that the number of votes cast for each candidate should be announced by the Bailiff following the ballot.

The Bailiff ruled that, as the States had formally resolved that the review body would comprise four non-local and five local members, the vote of any member who voted for less than the approved number of members of either

category would be disregarded.

THE STATES, having proceeded to a secret ballot, the Bailiff declared the following results –

Sir Cecil Clothier	44 votes
Sir Kenneth Percy Bloomfield	44 votes
Professor Sir Maurice Shock	36 votes
Professor Michael Gilbert Clarke	43 votes
Ms. Genette Malet de Carteret	17 votes

The President of the Policy and Resources Committee nominated for appointment as local members of the Review Body –

Mr. John Henwood, M.B.E.
Mr. David Oswald Moon
Mrs. Anne Elizabeth Perchard
Mr. Geoffrey Colin Powell, O.B.E.
Mr. Jack Roche.

Advocate John Daniel Kelleher was nominated by Senator Stuart Syvret.

Dr. Roy George Le Hérissier was nominated by the Deputy of St. Martin.

Advocate David Fisher Le Quesne was nominated by Senator Richard Joseph Shenton.

Mr. Leslie May was nominated by Deputy Michael Adam Wavell of St. Saviour.

Mrs. Toni Roberts was nominated by Senator Corrie Stein.

THE STATES, having proceeded to a secret ballot, the Bailiff declared the following results –

Mr. John Henwood, M.B.E.	28 votes
Mr. David Oswald Moon	20 votes
Mrs. Anne Elizabeth Perchard	36 votes
Mr. Geoffrey Colin Powell, O.B.E.	38 votes
Mr. Jack Roche	17 votes
Advocate John Daniel Kelleher	33 votes
Dr. Roy George Le Hérissier	12 votes
Advocate David Fisher Le Quesne	22 votes
Mr. Leslie May	11 votes
Mrs. Toni Roberts	18 votes

The Bailiff declared that the following persons had been appointed as members of the Review Body –

Non-local

Sir Cecil Clothier – Chairman
Sir Kenneth Percy Bloomfield
Professor Sir Maurice Shock
Professor Michael Gilbert Clarke

Local

Mr. Geoffrey Colin Powell, O.B.E.
Mrs. Anne Elizabeth Perchard
Advocate John Daniel Kelleher

Mr. John Henwood, M.B.E.
Advocate David Fisher Le Quesne.

THE STATES, adopted the proposition of the Policy and Resources Committee, as amended, and –

(a) approved the terms of reference of the review as follows –

to consider whether the present machinery of government in Jersey is appropriate to the task of determining, co-ordinating, effecting and monitoring all States policies and the delivery of all public services;

including –

the composition, operation and effectiveness of the States Assembly;

the composition, operation and effectiveness of the Committees of the States;

the role and respective responsibilities of the States, the Committees and the Departments in achieving an efficient and effective strategic and business planning and resource allocation process;

the role of the Bailiff;

the transparency, accountability and democratic responsiveness of the States Assembly and Committees of the States; and

whether the machinery of government is presently subject to checks and balances sufficient to safeguard the public good and the rights of individuals;

but excluding –

the constitutional relationship between the Bailiwick and the United Kingdom; and

the constitutional relationship between the Bailiwick and the European Union;

and to make recommendations to the Committee on how the present machinery of government could be improved;

(b) (i) agreed that the membership of the Review Body should comprise five local residents and four persons resident outside the Island, with an independent chairman.

(ii) appointed the following as chairman and members of the Review Body –

Non-local

Sir Cecil Clothier, Chairman
Sir Kenneth Percy Bloomfield
Professor Sir Maurice Shock
Professor Michael Gilbert Clarke

Local

Mr. Geoffrey Colin Powell, O.B.E.
Mrs. Anne Elizabeth Perchard
Advocate John Daniel Kelleher
Mr. John Henwood, M.B.E.
Advocate David Fisher Le Quesne.

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

THE STATES, adopting a proposition of the Planning and Environment Committee approved the rezoning of the remainder of Field 413, St. Martin, measuring approximately 31/4 vergées, from the Agricultural Priority Zone 1 use for parish sheltered housing, as shown on Map 552/1.

Minimum wage legislation – P.227/98, P.25/99, P.26/99

THE STATES, commenced consideration of a proposition of the Employment and Social Security Committee concerning minimum wage legislation and rejected an amendment of Deputy Michael Edward Vibert of St. Brelade that for sub-paragraph (i) of paragraph (a) of the proposition there should be substituted the following sub-paragraph –

“(i) a minimum wage at an initial hourly rate of not less than £4 and subsequently at such single hourly rate as the States may from time to time prescribe by Regulations;”

Members present voted as follows –

“Pour” (20)

Senators

Shenton, Stein, Quérée, Syvret, Kinnard, Dorey.

Connétables

St. Lawrence, St. Peter, St. Ouen.

Deputies

S. Baudains(H), Duhamel(S), Layzell(B), Breckon(S), Huet(H), Le Main(H), Blampied(H), Crowcroft(H), Vibert(B), Dubras(L), St. Ouen.

“Contre” (23)

Senators

Horsfall, Rothwell, Le Maistre, Bailhache, Norman.

Connétables

St. Mary, Grouville, St. John, St. Saviour, St. Clement.

Deputies

H. Baudains(C), Le Sueur(H), Coutanche(L), St. Mary, Trinity, Pullin(S), Johns(H), Routier(H), St. John Rabet(H), de la Haye(B), St. Peter, G. Baudains(C).

Adjournment

THE STATES then adjourned having agreed to continue consideration of the proposition of the Employment and Social Security Committee concerning minimum wage legislation and the remaining items of public business as the first items of matters lodged “au Greffe” listed under Public Business at the next meeting.

THE STATES rose at 5.56 p.m.

G.H.C. COPPOCK

Greffier of the States.