

**THE STATES assembled on Tuesday,
8th June 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 Corrie Stein - out of the Island
Senator Jeremy Laurence Dorey - ill
Margaret Anne Le Geyt, Deputy of St. Saviour - out of the Island
Evelyn Mabel Pullin, Deputy of St. Saviour - out of the Island
James Thomas Johns, Deputy of St. Helier - out of the Island
Alastair John Layzell, Deputy of St. Brelade - out of the Island
Ronald Winter Blampied, Deputy of St. Helier - ill
Alan Simon Crowcroft, Deputy of St. Helier - out of the Island

Prayers

H.R.H. The Prince Edward - forthcoming marriage

The Bailiff informed the Assembly that he proposed to request His Excellency the Lieutenant Governor to convey a message of good wishes on behalf of the States and people of Jersey to His Royal Highness The Prince Edward and Miss Sophie Rhys-Jones on the occasion of their marriage on 19th June 1999.

Interception of Communications (Jersey) Law 1993: fifth report of the Commissioner - R.C. 21/99

The Bailiff presented to the States the annual report of the Commissioner, Sir John Nutting, B.T., Q.C., made under the Interception of Communications (Jersey) Law 1993.

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

Matters presented

The following matters were presented to the States-

International Conventions and Agreements: progress report for the period 1st October 1998 to 31st March 1999 - R.C.22/99.

Presented by the Policy and Resources Committee.

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

States of Jersey Audit Commission: 1998 annual report.

Presented by the Finance and Economics Committee.

States of Jersey Fire Service: 1998 annual report.

Presented by the Defence Committee.

Matters noted- land transactions

THE STATES noted an Act of the Finance and Economics Committee dated 28th May 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 Public Services Committee, the renewal of the lease to Dunell's Limited of an area of land (measuring 465 square feet) to the north-east of the Beaumont Pumping Station, St. Peter, for a period of three years deemed to have commenced on 25th December 1998, at an initial annual rent of £550, to be reviewed annually in line with the Jersey Retail Prices Index, on the basis that all other terms and conditions were to remain the same as the existing lease, with each party to be responsible for its own legal costs arising from the transaction;
- (b) as recommended by the Public Services Committee, the sale to Antler Property C.I. Limited of the lane running along the southern boundary of the property known as Les Vaux, Mont Les Vaux, St. Brelade, measuring a total of 1,022 square feet, for the sum of £3,000, with the company to be responsible for both parties' legal costs, subject to the remaining terms and conditions shown in a letter, dated 6th April 1999, from the Director of Property Services.

Matters lodged

The following matters were lodged "au Greffe" -

Draft Criminal Hoaxes (Jersey) Law 199 - P.75/99.

Presented by the Defence Committee.

Draft Statutory Nuisances (Jersey) Law 199 (P.40/99): second amendment P.76/99.

Presented by Deputy G.C.L. Baudains of St. Clement.

Arrangement of public business for the present meeting

THE STATES acceded to the request of the President of the Agriculture and Fisheries Committee that consideration of the proposition regarding the Agricultural Loans and Guarantees Advisory Board: appointment of members (P.57/99 lodged "au Greffe" on 27th April 1999) be deferred from the present meeting to a later date.

Arrangement of public business for the next meeting on 22nd June 1999 -

THE STATES confirmed that the following matters lodged "au Greffe" would be considered at the next meeting on 22nd June 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 - (P40/98): amendment - P.36/99.

Lodged: 16th March 1999.

Health and Social Services Committee.

Draft Statutory Nuisances (Jersey) Law 199 - (P40/98): second amendment - P.76/99.

Lodged: 8th June 1999.

Deputy G.C.L. Baudains of St. Clement.

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): amendments- P.29/99.

Lodged: 2nd March 1999.

Planning and Environment Committee.

Draft Conservation of Wildlife (Jersey) Law 199 . (P.223/98): second amendments- P.49/99.

Lodged: 13th April 1999.

Deputy of Grouville.

Draft Conservation of Wildlife (Jersey) Law 199 . (P.223/98): third amendments- P.56/99.

Lodged: 27th April 1999.

Deputy G.C.L. Baudains of St. Clement.

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

Presented: 2nd March 1999.

Planning and Environment Committee.

Draft Regulation of Undertakings and Development (Amendment No. 10) (Jersey) Regulations 199 - P.69/99.

Lodged: 25th May 1999.

Finance and Economics Committee.

Marine leisure industry: lease of land to Channel Islands Marine Limited - P.70/99.

Lodged: 25th May 1999.

Harbours and Airport Committee.

Marine leisure industry: lease of land to GT Marine Limited - P.71/99.

Lodged: 25th May 1999.

Harbours and Airport Committee.

Mr. D.R. Manning: grant of a loan (Field 1007, St. John) - P.72/99.

Lodged: 25th May 1999.

Finance and Economics Committee.

Draft Criminal Hoaxes (Jersey) Law 199 - P.75/99.

Lodged: 8th June 1999.

Defence Committee.

Clarke Avenue, St. Helier: traffic calming P.61/99

THE STATES, acceded to the request of Deputy Terence John Le Main of St. Helier that the proposition regarding Clarke Avenue, St. Helier: traffic calming (P.61/99 lodged "au Greffe" on 11th May 1999) be withdrawn.

Draft Statutory Nuisances (Jersey) Law 199 . (P.40/99): second amendment P.73/99

THE STATES acceded to the request of Deputy Gerard Clifford Lemmens Baudains of St. Clement that the draft Statutory Nuisances (Jersey) Law 199 - (P.40/99): second amendment (P.73/99 lodged "au Greffe" on 25th May 1999) be withdrawn, a revised amendment having been lodged "au Greffe" at the present meeting (P.76/99).

Heroin addicts - question and answer (Tape No. 512)

The Deputy of St. John asked Senator Richard Joseph Shenton, President of the Health and Social Services Committee the following question -

"Would the President advise members -

- (a) how many heroin addicts are registered in Jersey?
- (b) how many addicts or other drug dependent persons have received implants of the heroin substitute naltrexone?
- (c) how many of those implants have become infected?
- (d) what is the financial implication to the taxpayer of each implant?"

The President of the Health and Social Services Committee replied as follows -

- "(a) as of the end of April 1999 there were 157 registered heroin addicts in Jersey. Not all the heroin addicts in the Island are registered;
- (b) five individuals have received implants of the heroin blocker naltrexone. (It is not a heroin substitute). One of these individuals has had three implants;
- (c) three of the total of eight implants became infected;
- (d) each implant costs approximately £180 for the implant and £20 to insert. The implants are effective for six to eight weeks. A course of oral naltrexone tablets costs approximately £80 a month."

‘j’ category housing consents - question and answer - (Tape No. 512)

The Deputy of St. John asked Deputy Shirley Margaret Baudains of St. Helier, President of the Housing Committee the following question -

“Would the President confirm that individuals in certain professional firms, such as chartered accountancy practices, can receive preferential treatment in obtaining housing qualifications if five year ‘j’ category consents are granted on the understanding that, if circumstances remain unchanged for three years, a further five year consent will be granted, thereby allowing the individual concerned to gain housing qualifications in his own name and, if so, does the Committee intend to take action to close this loophole?”

The President of the Housing Committee replied as follows -

“I do not agree that individuals in certain professional firms receive preferential treatment in obtaining housing qualifications.

The general policy of the Housing Committee, endorsed by the States, is to only grant short term consents to the majority of applicants under Housing Regulation 1(1)(j). However, on 12th March 1991, the States agreed to some relaxation of the policy pursued with regard to the length of period for which consents are granted by the Housing Committee under Regulation 1(1)(j), where an extended consent can be justified as being in the best interests of the community. The States approved, as an appendix to the Policy and Resources Committee Strategic Report for 1991, that the following requirements would need to be satisfied before an extended consent would be granted -

- (i) the employer engages in activities that have been, and continue to be, of significant benefit to the island, and the employee concerned makes a substantial contribution to the activities from which that benefit is derived;
- (ii) the refusal to grant the consent requested would have a significant and detrimental effect on the benefits derived by the activities of the employer;
- (iii) the employer has a satisfactory record, and is continuing to participate actively, in the training of persons with residential qualifications;
- (iv) the experience and/or qualifications required clearly suggest that there is no prospect in the foreseeable future of the post concerned being filled by a person with residential qualifications;
- (v) the employee concerned has already resided in the Island for at least three years with consent under Regulation 1(1)(j) and also has been with the applicant employer for that period.

The above criteria remain in force to this day, and are applied to all relevant applications.

Where an established and long-standing firm of chartered accountants, or indeed any other well established and substantial employer, meets the above criteria (i) to (iv) my Committee, where appropriate, can grant an initial consent for a period of no more than five years. When granting such consent the Committee may intimate that, provided that the business case made remains as valid three years after the time of the original application, an application for an extension of the original consent will be considered favourably.

In the specific case of well-established local partnerships, such consent would only be granted once the employee in question had become a full equity partner.

This overall policy has been developed in conjunction with the former Chief Adviser to the States and is applied consistently across the full range of occupations for which ‘j’ categories are sought.

I am aware that there is a popular misconception that the finance sector is given preferential treatment in the granting of 1(1)(j) category consents. The Deputy, in his question, refers specifically to chartered accountancy practices. The 'j' category policy is applied across the whole spectrum of employment and takes into account the economic interest of the Island as well as any social benefits. It should be noted that extended consents can be granted to doctors, dentists, teachers, nurses, lawyers and very senior employees in other areas. In fact there is no employer in this Island who cannot qualify for consideration under this policy.

I do not, therefore, accept the Deputy's assertion that any part of the policy applied by the Committee represents a "loophole" but on the contrary the application of the Regulation is made on a firm but fair basis that meets the needs of the Island in allowing businesses to adapt and to develop, and in all cases any consent granted must comply with the words set out in this particular Regulation "that consent can, in the best interests of the community, be justified". Only a small number of applicants are granted 'j' category consents which are extended beyond five years and only those that complete ten years continuously as essential employees qualify under the Housing Law in their own right.

If the Deputy or, indeed, any other member, believes that any individual or company is being treated inconsistently by my Committee, I am always prepared to discuss, on a confidential basis, any specific applications that have been considered."

Official visit to the Minquiers - question and answer (Tape No. 512)

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

“Would the President advise members -

- (a) how many of the Committee’s officers went on the official visit to the Minquiers on 18th May 1999?
- (b) the reason for their attendance?
- (c) the cost of the visit in manpower time ?”

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

- “(a) The official visit to which the Deputy refers was organised by the Defence Committee’s Military Liaison Officer using Army Air Corps helicopters provided under the terms of the Military Service to the Community project. Three officers from the departments for which the Planning and Environment Committee is accountable were included in the party at the invitation of the Military Liaison Officer. Two of these were members of the Environmental Services team and one from Property Services. It is understood that a total of 24 people were invited by the Military Liaison Officer to join the trip.
- (b) There were three reasons for the attendance of Planning and Environment officers.

Firstly, the Director of Property Services, who is a very experienced Chartered Surveyor, was asked to inspect the States property on the reef and advise on remedial work. For example, the Customs department sought advice on the type of materials, weatherproofing and type of construction required for replacement of the roof, some of which is already missing. His advice was also sought on the constructional aspects of extending the helipad. This was the second reason for their inclusion in the trip.

Officers were asked to advise on the possible extension of the existing helicopter pad which has been considered by Harbours and Airports as desirable should the need arise for a large scale maritime rescue. The helicopters of today are apparently larger than in the past and officers were informed that an application under the Planning Law will be received from the Harbours Department to extend the helipad by three metres.

The Minquiers reef is extremely important from an environmental point of view, for marine and seabird populations in particular, and also because of its unique natural history, architecture and cultural significance.

The Committee’s officers are involved in such areas because the Committee has overall responsibility to the States for the environment, both marine and terrestrial. The offshore reefs are vitally important habitats in their own right and it is absolutely essential that our officers are fully familiar with the sites, the environmental issues and the potential threats. The same is also true of the architectural, cultural and archeological heritage of these areas.

As the planning authority, it is vital that any applications arising from these sites are given at the very least the same level of consideration as any other site on mainland Jersey. In practice, given the environmental sensitivity of the offshore reefs, it is certain that a higher level of environmental consideration will be given to any applications.

As an application is likely to be made to extend the helicopter pad at the Minquiers, it is extremely important that any such proposals fully consider potential environmental implications. The two members of the Environmental Services Unit, with expertise in marine and bird ecology respectively, accompanied the visit to ensure that the site meeting was provided with appropriate information.

The visit was, in effect, a pre-application site meeting as frequently occurs when potential applicants can receive impartial advice from officers. This approach helps to make the overall application process more efficient, effective and targeted upon the correct issues. When the application is received it will require the submission of an environmental impact assessment which will need to address the matters raised during the visit.

A third reason was, if possible, to take this free opportunity to update Property Services' aerial photographic library with some low level shots of key redevelopment areas - the Waterfront, Haute Vallée School, Belle Vue. The Deputy may like to know that this library is used frequently by planning officers and the media - free access is provided to the Jersey Evening Post. Unfortunately the flight plan and the haze levels on the day made photography difficult.

- (c) I estimate the cost of the time spent by the three Planning and Environment Committee's officers to be approximately £285. However, I regard this trip to be part of their normal professional duties and it did not result in any extra cost falling upon the Committee's budget. On the contrary this trip actually saved money as, without the free helicopter support, a trip such as this would have still been necessary, but would have involved sea transport and would have taken significantly longer and incurred significant extra cost.

Decision of a Board of Administrative Appeal - questions and answers (Tape No. 512)

Senator Jean Amy Le Maistre asked Senator Nigel Lewis Quérée, President of the Planning and Environment Committee the following question -

- “(a) Does the President agree that, following a report of the findings of a Board of Administrative Appeal under the Administrative Decisions (Review) (Jersey) Law 1982, as amended, upholding a complaint, a Committee should respond to the Board's recommendations without unreasonable delay?”
- (b) If the answer to (a) is affirmative, would the President explain why the Committee has taken over five months to respond to the report dated 29th December 1998 of the Board of Administrative Appeal held to examine the Committee's rejection of an application to construct two dwellings and a village green on Field 588, La Route de Vinchelez, St. Ouen, bearing in mind that the Board asked the Committee to reconsider its decision and reply to the Board within three months.”

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

- “(a) I agree that a Committee should respond with the minimum of delay to a Board of Administrative Appeal and the Committee is aware that the period normally set for this is three months from the date of publication of the report.
- (b) The Board of Administrative Appeal which was held to examine the Committee's rejection of an application to construct two dwellings on Field 588, La Route de Vinchelez, St. Ouen, required a period of three months in which to respond to the report dated 29th December 1998. I should like to point out before supplying details of the Committee's consideration of the Board's findings that the application was for two houses and not two houses and a village green as set out in the question.

The Planning and Environment Committee considered the contents of the report at its first available meeting which was on 21st January 1999. The Committee raised concerns over matters raised in the report, particularly the emphasis the Board placed on discussions prior to the preparation of the Island Plan and the recommendations made by the Board which the Committee considered were “ultra vires” the Planning Law. The Committee felt that it could not reach a decision on the report until these concerns had been replied to by the Board.

The Committee instructed its officers to write to the Greffier of the States setting out in detail the concerns it had over the report's recommendation and findings and requested that the Board explain more fully how it envisaged its recommendation would be achieved. A letter to this effect was sent on 3rd February 1999.

Also at its meeting on 21st January 1999 the Committee had discussed the findings of Boards of Administrative Appeal into other cases and the manner in which they were conducted. The Committee considered that a meeting between the Greffier, the Special Committee, and the Chairman and Vice-Chairman of the Panel to discuss the legal responsibilities and statutory context within which the Committee has to work would be helpful. I wrote to the Greffier on 4th February 1999 requesting that he arrange a meeting as soon as possible.

A reply to the letter of 3rd February 1999 was not received until 8th April 1999 (nine weeks). In it the Greffier pointed out that it is not the role of the Greffier to conduct correspondence on behalf of Boards of Administrative Appeal and his responsibilities cease with the convening of the Board. While the Committee did not appreciate this fact when it directed the letter to be sent to the Greffier, it considers that the response could have been swifter and the letter passed onto the Chairman. The Greffier in his letter also pointed out that he had no recollection of a Board reviewing its processes as requested by the Committee and it was up to the Committee to make a decision. The matter was placed on the Committee's agenda for consideration on 29th April 1999 (after the vote of no confidence). Unfortunately, due to the pressure of accumulated business on the agenda, which included delegations from States' members and a presentation on the Waterfront, it was not possible to take this item and it had to be deferred to 13th May 1999.

At its meeting of 13th May the Committee reconsidered the report and findings of the Board and the contents of the letter from the Greffier. A letter setting out why the Committee can not accept the Board's findings has been forwarded to the Chairman.

In response to my letter to the Greffier dated 4th February 1999 I received a reply from the Greffier dated 1st April 1999 setting out the role of the Greffier in relation to Boards of Administrative Appeal. The request to meet with the Special Committee was delayed following the death of the former President, Senator Tomes. In discussion with the Chairman of the Panel, Mr Jeune, it was agreed that a meeting should take place between Mr Jeune and his Vice Chairman, myself and the Vice-President without the involvement of the Special Committee. That meeting was arranged but then deferred pending the outcome of the vote of no confidence but has now been scheduled for next week.

The delay has not been intentional and is due to the Committee's wish to resolve important matters of principle which could impact upon other Committees dealings with the administrative appeal process. In all its correspondence the Committee has confirmed its support for that process, however, it is vital that the Panel's decisions are made within the same legal and policy framework as the Committee, to do otherwise would be to destroy both the planning process and the appeal procedures."

Procedure under the Board of Administrative Decisions (Review) (Jersey) Law 1982, as amended - questions and answers (Tape No. 512)

Senator Jean Amy Le Maistre asked Senator Nigel Lewis Qu  r  e, President of the Planning and Environment Committee the following question -

- “(a) Would the President explain why it has taken four months for the Committee to respond to the Greffier of the States' request under the Administrative Decisions (Review) (Jersey) Law 1982, as amended, for a report on the reasons for refusing an application for change of use of shed from agricultural use to dry storage use?

- (b) Does the President consider this an acceptable delay in responding to a complaint by a member of the public who feels aggrieved by a Committee decision?"

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

- “(a) The request for an Administrative Appeal Board hearing was received by the department on 1st February 1999 in a letter dated 28th January 1999.

The Committee has adopted a procedure that requires requests for Board of Administrative Appeal hearings to be placed before it in order that it might consider if the arguments being put forward would result in the Committee reaching a different decision. The first available meeting for this to take place was 4th March 1999. This date was notified to the Deputy Greffier.

Unfortunately, due to the Committee’s workload on 4th March, there was insufficient time to discuss the matter and the item had to be deferred to 18th March 1999. The Deputy Greffier was informed of the delay.

Again, due to the pressure of business the Committee could not consider the item and it was deferred to the meeting of 25th March 1999. At this meeting it was agreed to contest the request for a review and the Department was instructed to make a detailed response.

The detailed response was prepared and sent to the Deputy Greffier on 28th May 1999.

The delays in replying have been twofold. Firstly, due to the pressures of Committee business the request was not considered as quickly as we would have liked and, secondly, due to the workload of officers in the department the preparation of the report had to be fitted in with other priorities which give preference to the processing of current applications.

- (b) The Committee is aware of the need to provide a response in a reasonable time and as a general rule is able to do so even if an extension of time has to be requested. The Committee’s procedures do allow for the Committee to reconsider the application and, possibly, change its decision as a result of the further information provided by the applicant which would save the need for an administrative appeal hearing. In this case, the Committee’s and the department’s excessive workload has caused the delay.”

Use of New Street and New Cut by cabs and pedal cycles - questions and answers (Tape No. 512)

Deputy Paul Vincent Francis Le Claire of St. Helier asked the Connétable of St. John, President of the Public Services Committee the following questions -

- “1. Would the President inform members whether the current use of New Street and New Cut by cabs and pedal cycles between 7.00 p.m. and 10.00 a.m. is working successfully and, if so, does the Committee intend to provide 24 hour access to public service vehicles and pedal cycles?”
2. Given the Committee’s policy of encouraging cycling, would the President explain why cyclists are only allowed to travel along New Street and New Cut in a southerly direction and not able to exit town in a northerly direction to access Union Street and Burrard Street from King Street?”

The President of the Public Services Committee replied as follows -

- “1. While the original New Street pedestrianisation scheme was introduced in March 1996 the current arrangements were only brought into force in October last year. Now all of New Street from New Cut up to Burrard Street is designated a pedestrian road. Deliveries, taxis, cabs and bicycles have been allowed through between 7 p.m. and 10 a.m. the following day since October 1998.

The Department has insufficient resources to permit adequate monitoring that would provide a rigorous assessment of the success or otherwise of the restricted access. However few, if any, complaints have been received from members of the public in respect of this use.

Unfortunately New Street cannot be as traffic free as the other pedestrian precinct areas in town because of the number of private parking spaces along New Street, which have to be allowed access. Disabled parking is also provided. Preventing through traffic is an important step in reducing traffic levels generally in the town centre and not just in New Street. Broad Street and Library Place, for example, have also benefited from reduced traffic levels because of the scheme.

The Committee, as previously constituted, had concerns that it might not be safe to allow cyclists across the busy King Street junction throughout the day. I understand this concern is shared by the Roads Committee and the Connétable of St. Helier.

I am aware that some vehicles ignore the restrictions and the parking control officers do their best to control this. When a paving and landscaping scheme has been carried out, it will be clearer to the public that they are entering a pedestrian priority area. These works will be postponed until a major drainage scheme in New Street, scheduled for early next winter, has been completed. Until such time as the pedestrian area is more prominent and its abuse minimised, my Committee would not recommend expanding legitimate use by delivery vehicles, taxis and cyclists.

An exception that has been approved as part of the Centre Ville experiment is the Town Hoppa bus. The Hoppa bus is allowed to use New Street southbound during its hours of operation which are Monday to Saturday between approximately 9.30 a.m. and 4.30 p.m. Centre Ville intends to carry out extensive surveys of the effects of the Hoppa service. I would expect that some feedback on the acceptability of using New Cut as part of the route will form part of these surveys.

2. As I have already mentioned in answer to Question 1, the Committee, as previously constituted, and the Connétable of St. Helier had concerns regarding the use of the road by cyclists particularly across King Street. As certain traffic was allowed to use New Street southbound at quieter times it obviously made sense to also allow cyclists. A number of cycle stands were installed at New Cut for those cyclists with a destination nearby, and they have proved extremely popular. More will be installed. Cyclists, however, wishing to travel from Conway Street to Burrard Street for example are required to dismount at New Cut and walk to safeguard the high levels of pedestrian use. I would point out that, although this may be seen as an inconvenience to cyclists, it is a quicker and more convenient option than for those wishing to make that journey by car.

My new Committee will carry out the wishes of the States and I know that the transport policy, if approved, aims to improve cycling facilities but it is important not to do this at the expense of pedestrian safety.”

Development of a local Agenda 21 - question and answer (Tape No. 512)

Deputy Paul Vincent Francis Le Claire of St. Helier asked Senator Pierre François Horsfall, President of the Policy and Resources Committee the following question -

“Is Jersey committed to the principle of sustainability as agreed at the Earth Summit held in Rio de Janeiro in 1992? If so, would the President explain what steps the Committee is taking to inform Islanders of their powers and democratic rights to help decide policy and make decisions in relation to the development of a local Agenda 21?”

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

“The answer to the first part of this question is yes. The Insular Authorities are committed to the

principles of sustainability as agreed at the Earth Summit in 1992. This commitment is clearly stated in the 1995 Strategic Policy Review "2000 and beyond" which was adopted by the States in September 1995. This commitment embraces Agenda 21 which is the practical programme for achieving the principles of sustainability. A local Agenda 21 is intended to provide the means of implementing the action to be taken globally in every area in which human activity impacts on the environment.

The Environmental Advisor, Dr. Romeril, on behalf of the Policy and Resources Committee, is currently engaged on a programme of workshops involving Islanders drawn from all sections of the Island community and the outcome of the workshops will be considered by an Island Forum early next year. Following this, the Policy and Resources Committee, in consultation with all relevant Committees of the States, will be presenting a Sustainable Development Strategy report to the States for approval. The preparation of this strategy embraces a local Agenda 21 approach in line with that adopted by local authorities in the United Kingdom."

Independence for Jersey - questions and answers (Tape No. 512)

Deputy Paul Vincent Francis Le Claire of St. Helier asked Senator Pierre François Horsfall, President of the Policy and Resources Committee the following questions -

- "1(a) Would the President inform members whether Jersey has the right to independence?
- (b) Does the Committee have any plan to secure such independence?"

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

- (a) Independence is an option open to the Island if the circumstances should justify this. This is apparent from the text of the report presented to the States in 1971 entitled "The Common Market - The Decision of the States of Jersey". In the report of the Constitution and Common Market Committee lodged au Greffe on the 23rd November 1971 there is a section on independence as an alternative and that section includes the following -

"The Committee was informed at a meeting with the Chancellor of the Duchy of Lancaster in October, 1970 that Her Majesty's Government would not impose entry into the Community if the Island believe that the terms of entry finally negotiated were not satisfactory (.....) The Committee is advised that in the opinion of Her Majesty's Government, because of the strict terms of Article 227(4) of the Treaty of Rome, the only alternative to accepting the terms is for the Island to assume complete independence, and that Her Majesty's Government would be prepared to cooperate with the Island in the implementation of an independent status if it was satisfied that such was the wish of the Island."

- (b) No. The Policy and Resources Committee does not believe independence is appropriate in the present circumstances and does not see the circumstances arising in the foreseeable future when it would be appropriate. However, this is something that should be, and is being, examined, so that should circumstances ever change we will have all the information at our fingertips to allow the Island to discuss fully the important issues involved."

The Island's autonomy in taxation matters - questions and answers (Tape No. 512)

Deputy Paul Vincent Francis Le Claire of St. Helier asked Senator Pierre François Horsfall, President of the Policy and Resources Committee the following questions -

- “(a) Would the President inform members if the Committee has taken steps to clarify whether H.M. Government or the European Union have the power to impose tax measures on the Channel Islands?
- (b) If H.M. Government or the European Union were to seek to impose tax measures on the Island, would the President inform members whether there is any international body to whom the States of Jersey could appeal?”

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

- “(a) Yes. Following pressure from the Insular Authorities the United Kingdom Government tabled the following statement on the Island's constitutional relationship with the United Kingdom at a meeting of the European Union Tax Code of Conduct Group which is chaired by the United Kingdom Financial Secretary to the Treasury -

“The United Kingdom Government is responsible for the defence and international relations of Jersey and the Crown is ultimately responsible for its good government. However, the people of Jersey cannot vote in elections for the United Kingdom Parliament and it would be unprecedented for the United Kingdom to legislate on taxation and other domestic matters without the agreement of the Jersey authorities. Legislation on taxation matters has always taken the form of laws of the Island legislature.”

This statement, which was published in the States Minutes of 2nd December 1998, has been repeated on several occasions and has been referred to in responses to questions raised in the House of Commons and the House of Lords. The Home Office has also recently confirmed that the statement has been sent to the British Embassies in all Member States of the European Union and they have been asked to pass the statement on to their hosts' foreign ministries.

The position as far as the European Union is concerned is that the Island is not in the European Union, and European tax harmonisation measures do not apply. The relationship between the Island and the European Union is set out in Protocol No. 3 attached to the Treaty of Accession of the United Kingdom to the European Community whereby the European Union's fiscal policies do not extend to the Island. This position was made very clear by the Rt. Hon. Geoffrey Rippon MP in November 1971 when he spoke in this Chamber on behalf of H.M. Government, about the outcome of the negotiations for the entry of the United Kingdom into the European Community. He stated that -

“Under the proposals your fiscal autonomy has been guaranteed - I say that deliberately and slowly. There is no doubt whatever about that and I can say categorically that there will be no question of your having to apply a value added tax or any part of Community policy on taxation.”

- (b) Following the answer I have given to (a) there is no question of H.M. Government or the European Union seeking to impose tax measures on the Island, and therefore the second part of this question does not arise. I would point out, however, that under the constitutional relationship between the Island and the United Kingdom, the Insular Authorities have no direct access to international bodies.”

Elizabeth Marina - question and answer (Tape No. 512)

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

“Would the President inform members of the key findings of the post-construction evaluation report carried out by WSP International on the Elizabeth Marina?”

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

“On 12th February 1999 the Harbours and Airport Committee received a Preliminary Report on the Post Construction Evaluation of the Elizabeth Marina.

There are four areas of concern that WSP International have identified and are addressing, namely -

1. Strong tidal current through the marina entrance;
2. Tidal lag, this is the difference in water levels between the marina and the sea outside.
3. The effectiveness of the tidal slots.
4. The performance of the gates.

I will describe each of these in turn -

1. Tidal current through the entrance. The velocities measured are higher and last for longer than was anticipated at the design stage. This presents difficulties for boats entering and leaving the marina on spring tides within one hour of the gates opening.
- 2 & 3 The tidal lag and the effectiveness of the tidal slots are inter-related. The difference in the height of the water in the marina and the sea outside with the storm gate raised are a measured fact. The tidal slots are holes in the wall of the marina through which the sea is expected to flow to reduce the velocity of the water entering or leaving through the marina gates. These slots do not have a clear access to the outside of the marina wall, but are designed like a filter bed with a certain size of stone that allows the water to percolate through, rather than to rush straight through. It appears that the water is not passing through quickly enough and this could be caused by the size of stone being too small, or possibly because the layer was compacted too tightly.
4. The performance of the gates. They have proved to be somewhat unreliable in operation. In particular, the flaps that are designed to keep rubbish out of the section into which the tidal gate is lowered, have an unfortunate habit of staying upright after the gate has been lowered. Unfortunately these are not visible in this position because the sea is covering them at this time.

What the Harbours and Airport Committee is seeking to do is to find the right solution to these problems. Not just a solution, but the right solution, so that the marina is working properly and boats do not have the current problems in navigating the entrance. We are firmly of the opinion that we must get it right when any remedial work is done. To this end we have employed WSP International, who are the descendants of Coode & Partners who have designed Jersey's marine structures for the last 100 years.

The Elizabeth Marina was designed by the Public Services Department and they have retained three firms of professionals, Hyder, Amplus Limited and Delft Geotechnics to assist them on specific aspects of the project.

All of the parties are working together to find the definitive solution to the marina problems. There is no point in the Harbours and Airport Committee saying one thing and the Public Services Committee saying

something different, only to end with an argument as to who is right and possibly an unsatisfactory resolution of the problems. I would suggest that we only have one opportunity to get it right and that is what we are seeking to achieve by all of the various parties working together to find the right answers.

There are three questions that I am asked frequently - when will the answers be known, how much is it going to cost and who is going to foot the bill? It will come as little surprise to members that the answer to all three questions is, at the moment - I do not know.

I do not want to force the pace of the determination of the problems, at the risk of not getting it right. I imagine that the cost of remedial works will be significant as we are dealing with problems underwater and of major proportions. The incidence of these costs will depend upon who is found to be at fault.

When I am in a position to make a full statement on the outcome, I will do so. But I am not prepared to speculate on matters that have not yet been resolved.”

Review of Financial Regulation in the Crown Dependencies (the “Edwards” Review) - statement

Senator Pierre François Horsfall, President of the Policy and Resources Committee made a statement in the following terms -

“On Friday, 21st May 1999 Lord Williams of Mostyn, the Minister at the Home Office with responsibility for relations with the Channel Islands and the Isle of Man, visited Jersey to meet with representatives of the Insular Authorities to review the current status of the conclusions of the Edwards report on financial regulation in the Channel Islands and the Isle of Man. This was the second such meeting, and a further meeting is scheduled to be held in September.

Lord Williams welcomed the open and constructive spirit with which all concerned - and this includes the United Kingdom as well as the Islands - are taking the Edwards report conclusions forward. The general view, endorsed by Lord Williams, is that the Island has made good progress in considering the conclusions of the Edwards report. A significant number of the conclusions have now been accepted in principle and their implementation is already, or will shortly be, in progress. Certain other conclusions, however, raise important points of principle which are by no means unique to Jersey. These are the subject of international debate to which Jersey intends to contribute fully.

I have had put on Members desks a letter in which I have set out more fully the current status of the conclusions of the Edwards report, and I would ask that this be printed, published as an R.C. and distributed so that it can be entered into the official record.”

Housing Strategy 1998-2003 (P.201/98) - statement

Deputy Shirley Margaret Baudains of St. Helier, President of the Housing Committee, made a statement in the following terms -

“At the last meeting of the States I requested that my Committee’s Strategy Report, with amendments, be considered on 8th June. Members at that meeting clearly felt that the proposition as lodged “au Greffe” had become somewhat confusing because of the subsequent amendments to the original projet.

Having reviewed the documents lodged in the light of the comments made, my Committee has agreed that we will re-present a completely new strategy document encompassing all the outstanding proposals in a clear and concise manner and at that time withdraw the existing outstanding projet and amendments. I hope to have this report, and a new projet, ready to be lodged “au Greffe” by the end of July 1999, and intend proposing a date for debate sometime in September.

I am conscious of the impact that this further delay may have on persons who might be affected by specific proposals outstanding, but I do accept that it is important that members are in possession of clear statements and proposals of the way forward that my Committee intends to pursue to provide a fair and sustainable strategy for housing for the years ahead.

However, in view of the recent purchase by the Planning and Environment Committee of several sites for social rented housing, it is most important that the States have an early opportunity to debate the proposition regarding the funding of social rented and first-time buyer housing (P.74/99). I intend to ask for the projet to be considered by the Assembly on 6th July, as without agreement on funding the development programme for social housing will come to a standstill.”

Housing modifications for disabled people - P.259/98

Housing modifications for disabled people (P.259/98): comments - P.259/98. Com.

THE STATES, adopting a proposition of the Housing Committee, received the report of the Working Party on housing modifications for disabled people and -

- (1) agreed to make the sum of £100,000 available to the Employment and Social Security Committee in 1999, to assist by way of a loan or grant in meeting the cost of home adaptations for disabled people when they did not have sufficient financial means to undertake the necessary alterations;
- (2) established a Grant Assessment Panel which would report to the Employment and Social Security Committee, with a membership from relevant States Departments, to advise on the personal, technical and financial aspects of home adaptations for disabled people.

Members present voted as follows -

“Pour” (43)

Senators

Shenton, Horsfall, Rothwell, Le Maistre, Quérée, Bailhache, Syvret, Norman, Walker, Kinnard

Connétables

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

Deputies

Wavell(S), H. Baudains(C), Le Sueur(H), Coutanche(L), St. Mary, S. Baudains(H), Trinity, Duhamel(S),

Routier(H), Grouville, Huet(H), St. Martin, St. John, Le Main(H), Rabet(H), Vibert(B), de la Haye(B), St. Peter, Dubras(L), St. Ouen, G. Baudains(C), Le Claire(H).

“Contre” (0)

Draft Proceeds of Crime (Jersey) Law 1999 (Appointed Day) Act 199 - P.68/99

THE STATES, in pursuance of Article 45 of the Proceeds of Crime (Jersey) Law 1999, made an Act entitled the Proceeds of Crime (Jersey) Law 1999 (Appointed Day) Act 1999.

Outsourcing policy - P.59/99

THE STATES commenced consideration of a proposition of the Policy and Resources Committee concerning outsourcing policy and, adopting paragraphs (a) and (b) -

- (a) agreed in principle to adopt, subject to the safeguards listed in paragraphs 17 and 20 of the report dated 4th May 1999 of the Policy and Resources Committee, the policy of outsourcing as one of the means to be used to help to achieve the States Population policy, as set out in the Strategic Policy Review and Action Plan 1997 and adopted by the States on 5th November 1997;
- (b) charged the Policy and Resources Committee, in consultation with the Establishment Committee (and employee representatives), to establish a common framework within which all departments would determine their outsourcing arrangements.

Members present voted as follows -

“Pour” (25)

Senators

Horsfall, Le Maistre, Bailhache, Norman, Walker.

Connétables

St. Lawrence, St. Mary, St. John, Trinity, St. Saviour.

Deputies

Wavell(S), H. Baudains(C), Le Sueur(H), Coutanche(L), St. Mary, S. Baudains(H), Trinity, Routier(H), Huet(H), St. Martin, Vibert(B), de la Haye(B), St. Peter, Dubras(L), G. Baudains(C).

“Contre” (14)

Senators

Shenton, Rothwell, Syvret, Kinnard.

Connétables

St. Brelade, Grouville, St. Clement.

Deputies

Duhamel(S), Breckon(S), St. John, Le Main(H), Rabet(H),. St. Ouen, Le Claire(H).

Change in Presidency

The Bailiff retired from the Chamber during the consideration of the proposition of the Policy and Resources Committee on outsourcing policy and the Greffier of the States, Geoffrey Henry Charles Coppock, Esquire, took over the Presidency.

Adjournment

THE STATES then adjourned having agreed to continue consideration of the proposition of the Policy and Resources Committee on outsourcing policy (P.59/99) and to consider the proposition of the Establishment Committee on the regulation of public sector employment (P.67/99) as the first items of matters lodged “au Greffe” under Public Business at the next meeting.

THE STATES rose at 6.02 p.m.

G.H.C. COPPOCK

Greffier of the States.