

STATES OF JERSEY



MODERNISATION OF JERSEY'S GAMBLING LEGISLATION

**Lodged au Greffe on 20th April 2004
by the Economic Development Committee**

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

- (a) to agree that legislation be brought forward for approval by the States to allow casino gambling;
- (b) to agree that legislation be brought forward for approval by the States to allow on-line gambling;
- (c) to agree that legislation be brought forward for approval by the States to allow commercial bingo;
- (d) to agree, in principle, that a Gambling Commission should be established in the Island and that the purpose of the Commission should be licensing, regulation, harm reduction/social responsibility and ensuring that gambling issues do not harm the Island's international reputation, with the terms of reference of the Commission to be approved by the States;
- (e) to agree that the Economic Development Committee, in conjunction with the Policy and Resources and Finance and Economics Committees, be tasked with negotiating the introduction of a new public Lottery to be operated jointly for the benefit of the public and charitable institutions in the Island;
- (f) to charge the Economic Development and Finance and Economics Committees with identifying the source of the additional funding required to give effect to these proposals.

ECONOMIC DEVELOPMENT COMMITTEE

Note: The Finance and Economics Committee's comments are to follow.

REPORT

1 Introduction

- 1.1 Members will be well aware that the debate surrounding proposals to reform legal gambling in Jersey has been on-going for a number of years. While the States has previously rejected proposals (particularly regarding introduction of casino gambling), the Island's circumstances have changed sufficiently that the Committee believes it is appropriate to revisit this matter. If passed, these proposals will have a number of very real benefits. They will enhance the facilities and infrastructure of the Island and will act as an important boost to the tourism market and to the amenities available to the resident population. Modernisation of the Island's gambling legislation will also provide for greater freedom of choice and better reflect a sophisticated population that expects to make moral choices – such as if and when to gamble – for themselves.
- 1.2 The States can also expect to directly benefit through the provision of new revenue streams via licensing and duty payable on any new gaming business. This in turn will positively affect the projected deficit in the States' annual accounts. The potential for new jobs and additional capital investment also provides additional incentive to reform a Law that many in the Island regard as anachronistic and out of touch. Members should, therefore, be reassured that the Committee does not bring these proposals to the States lightly and earnestly believes the expected benefits accruing to the Island are significant enough to justify their adoption.
- 1.3 The Assembly will recall that the former Gambling Control Committee presented R.C.50/2002 entitled 'Modernising Jersey's Gambling Legislation' and asked that it 'better inform the Economic Development Committee should it choose to bring forward 'in principle' propositions to the States in the future'. The Committee is grateful for the work of the former Gambling Control Committee and has indeed used R.C.50/2002 as an important source. At that time, with the merger of diverse responsibilities into Economic Development, the Committee was minded to reflect upon R.C.50/2002 and to conduct its own research, not to verify or contradict what the Gambling Control Committee had produced, but to try and assess the economic benefit and social consequences that would impact on the Island as a whole.
- 1.4 To that end, the Committee endorsed the view of the former Gambling Control Committee that noted experts in the field of commercial gambling be commissioned to produce a report and agreed with the decision to select Professor Peter Collins and Mr. Anthony Jennens to undertake the work. Both Professor Collins^[1] and Mr. Jennens are world-renowned experts in their field. They are respectively the Chief Executive Officer and Deputy Chairman of GamCare^[2], the gambling neutral charity, as well as being experts in the field of Gambling and Public Policy; Ethics and Gambling; Problem Gambling and Online Gambling. Both Professor Collins and Mr Jennens have been heavily involved in the work of the Scrutiny Committee examining the current U.K. Gambling Bill.
- 1.5 Their 'Report on the Reform of Gambling Law in Jersey' has provided the States with, as they put it, 'a cogent account of the relevant numbers'. This understanding of the likely economic benefit has never been truly understood before, nor has it been subject to industry verification. It represents, in truth, the missing piece of the equation necessary to place the entire question in perspective. Individual States Members will have to judge for themselves the relative weight that they give to each part of the evidence produced by this report, but they may do so safe in the knowledge that unlike other debates, they are in possession of independently verified estimates of what passing this proposition would mean in economic terms.
- 1.6 In deciding what proposals would best serve the interests of the Island, the Committee has been guided by the following principles –
 - that any perceived benefits from changes to the law must be weighed against any adverse impact on the Island's good reputation;

- that proposals for liberalisation be balanced by policies and a regulatory framework to prevent criminality and protect those susceptible to gambling addiction; and
- that costs of negative social impact such as an increase in gambling addiction must be borne by the gambling industry and not the tax payer.

1.7 The Committee therefore strongly endorses the view set out by Professor Collins and Mr. Jennens in the conclusion to their report:^[3]

It is imperative that politicians do everything to discount both the blandishments and the alarms which will issue from particular interested parties. Instead they must focus single-mindedly on the over-arching communal interest.

2 Current Legislation

2.1 A Law that is not understood and not seen as relevant by the majority of society cannot be said to be good Law. The Committee is convinced that the current Gambling Law is outdated, unwieldy, unnecessarily complicated and restrictive. Members of the public, used to the more progressive regimes operated in other jurisdictions, are amazed that they often cannot hold raffles without government licensing, that commercial promotion of charity raffles is forbidden and that so-called ‘free prize draws’ (commercial prize competitions) are illegal.

2.2 The present Law dates from 1964 and starts with the supposition that all forms of gambling are unlawful, unless made lawful by Regulation. The Regulations allow for a limited choice of gambling that may be undertaken and proscribes licensing conditions and terms under which commercial and non-commercial gambling activities may be undertaken. While the Committee remains firmly committed to the view that gambling should be regulated, it does not believe that government has a role in limiting player choice, or that it should impose an artificial moral distinction between different types of gambling. The inference in the present legislation, that gambling is somehow morally questionable, does not reflect the feeling of the majority of society and is quite out of date.

2.3 Gambling in Jersey, as in other jurisdictions, is a leisure activity enjoyed by many. Like many other social activities, however, it can be and is abused by a minority. No-one should underestimate the harm that can be caused by problem gambling. The Committee recognises this and will, if the proposals in this report are accepted, work with interested parties to ensure that harm is limited and that counselling and treatment is made available. The Committee has taken the views and advice from many parties, both in favour of modernisation and against. Indeed, the Committee would like to publicly thank the many individuals and organisations that took the trouble to respond to the public consultation exercise undertaken for 4 months in 2003.

2.4 While recognising the sincere belief, held by some, that gambling is a social evil, the Committee cannot endorse this point of view. Gambling is presently lawful in Jersey. The protection of the young and vulnerable, together with help and treatment for the addict are issues that we already face today. Modernising the Law will not create a new problem. It will, however, offer an opportunity to provide a modern regulated environment where the legitimate expectations of society at large can be fulfilled, while providing new resources to create a structured caring response to the small minority of people who cannot adequately control their game play.

2.5 The current legislation is divided under the Law into 6 sets of Regulations (a complete set of current legislation is attached as Appendix 2 –

- [Gambling \(Jersey\) Law 1964](#) (as amended)
- [Gambling \(Betting\) \(Jersey\) Regulations, 1965](#) (as amended)
- [Gambling \(Licensing Provisions\) \(Jersey\) Regulations 1965](#) (as amended)
- [Gambling \(Pool Betting\) \(Jersey\) Regulations 1965](#) (as amended)

- [Gambling \(Gaming And Lotteries\) \(Jersey\) Regulations, 1965](#) (as amended)
- [Gambling \(Public Lotteries\) \(Jersey\) Regulations 1971](#) (as amended)
- [Gambling \(Channel Islands Lottery\) \(Jersey\) Regulations 1975](#) (as amended).

2.6 This equates to some 91 different pieces of current legislation under the principal law that need to be understood in order to ensure that gambling undertaken in Jersey is taking place legally. It is not too surprising, therefore, that the general public are often baffled as to what is permitted and that officers are placed under heavy demands to try and explain and assist.

3 A new Gambling (Jersey) Law (200-)

3.1 The Committee is firmly of the opinion that the Gambling (Jersey) Law 1964, as amended, is no longer a relevant and useful piece of legislation and supports its repeal. Instead, it should be replaced by a more appropriate and adaptive piece of legislation. Rather than 6 sets of Regulations, there should ideally be only one, covering the whole ambit of legal gambling. The new Law should be up to date, simple to understand and sufficiently flexible to meet changing circumstances without the need for frequent amendment.

3.2 The Committee believes that further debate and consultation regarding the proposed new Law should take place, but broadly speaking, is committed to enacting legislation that –

- protects the player;
- prevents crime, including money laundering;
- collects taxation;
- differentiates between commercial and non-commercial gambling; and
- ensures a viable long-term future for the gambling industry in Jersey.

3.3 The difference between so called ‘soft’ gambling as a means of fund-raising by charitable and sporting organisations and ‘hard’ gambling organised by commercial undertakings is something that the Committee believes should remain. It would not be fair for the Committee to propose a change in legislation that would either prevent local clubs from fund-raising, or cause them to lose valuable revenue merely because commercial undertakings could compete more efficiently, for example by offering bigger prizes. On the other hand, charities are not entitled to privileged protection and the public should ultimately have the right to choose. The Committee believe, therefore, that restricting provision of small-scale lotteries to sporting and charitable organisations satisfies this requirement.

3.4 This proposal is similar to the current legislation in principle, but would be administered differently. Currently, clubs and societies must register every year and then apply for a permit for each and every type of gambling activity they wish to undertake. The Committee propose that the new Regulations make provision for registration only once and that the restrictions and administration of different types of lotteries be simplified. This will give charities and recognised clubs greater choice in fund-raising, however, the Committee also believes that more realistic charges should be imposed for registration and the associated administration undertaken by the department.

3.5 There is one significant alteration to the current system that the Committee believes is urgently needed and that is in relation to commercial prize competitions. The public is now used to receiving and replying to prize competitions promoted by commercial undertakings that are domiciled outside of the Island. Local businesses have also become more adept at these forms of promotion. These normally take the form of an inducement to purchase a particular product or service in return for the chance to win a prize. However, in Jersey most of these styles of promotions are illegal because commercial undertakings are strictly prohibited from running lotteries. This means that a commercial undertaking may legitimately offer customers a ‘free gift’, or an opportunity to compete in a game of pure skill, for example a tie-break question, but may not offer a game of chance and skill, e.g. a ‘draw’ element and they may not charge for the privilege of entering.

- 3.6 This prohibition is perplexing both to the majority of the public and to businesses more used to progressive regimes. From the States own perspective the law is ultimately fruitless, as it could not sensibly prevent the influx into the Island of overseas goods, many of which are plastered with (illegal) marketing promotions. This part of the Law must be changed to reflect both the change in popular acceptance of these types of trade promotion and also to save a waste of resources designed to ‘protect’ the public from an activity which is now generally considered to be benign. The time and effort spent explaining and enforcing this provision takes an undue amount of officer time and does not, in the Committee’s view, best serve the Public Interest.
- 3.7 The Committee would be keen, therefore, to see competitions defined more precisely and operated within tighter, but enforceable regulatory limits. The objective should be to remove the potential for operators to circumvent the principle that lotteries should not be run for commercial gain whilst, at the same time, ensuring that companies’ ability to undertake genuine and harmless sales promotions is not adversely affected.
- 3.8 That there is a compelling case to update and modernise the Island’s gambling legislation as described above is, hopefully, not a contentious suggestion in itself. At a time when resources are scarce, however, the chance of a new Gambling Law being drafted on these merits alone is extremely slim. The States quite rightly takes a view that legislation requires a system of prioritisation and the Committee would not expect the updating of the Gambling Law to rank particularly highly, unless it could be proven that it offered significant benefits for the Island. That is the reason why the Committee has lodged this wide-ranging and significant programme of reform for gambling in the Island.
- 3.9 The following sections of this Report demonstrate the considerable economic benefits to be derived from casino gambling and the potential offered by on-line gambling and commercial bingo. Collectively, they offer the Island some exciting opportunities, both in economic and social terms and taken together, provided the rationale to justify the rising profile of this issue on the States working agenda.

4 Regulations to allow Casino Gaming

- 4.1 The issue of casino gambling is an emotive one in Jersey and the Committee has been guided by the advice of the former Gambling Control Committee in its Report P.0/2002 that –
- if a cost/benefit analysis... shows that there are significant benefits which outweigh potential risks and costs;
 - if the international attention that a casino might attract was not considered to be detrimental to the Island’s good name and high reputation in the financial world; and
 - provided that there was proven to be an effective regulatory regime in operation;

then the Committee should bring forward an ‘in-principle’ proposition to allow a full debate by the States on the ‘Casino Issue’.

- 4.2 The Committee is convinced that the establishment of a single casino, properly regulated and with rigorous standards of compliance, player protection and ‘know your customer’ principles would bring a significant economic benefit to the Island. The Committee is also convinced that previous debates have not been guided by clear and reliable information either with regard to the positive economic benefits, nor the perceived negative social impact or perceived consequences to the Island’s international reputation. It is the Committee’s intention, therefore, to place the fullest possible amount of information before the States so that the decision taken will be informed, knowledgeable and robust.

Arguments against casino gambling

- 4.3 As is well known, there is a segment of our society that believes gambling is morally wrong. This is a

principled position that the Committee respects wholeheartedly. What the Committee does not accept, however, is that there is a principle difference between one type of gambling and another. There are five main reasons commonly used to argue against the establishment of a casino –

- casino gambling is morally wrong;
- casino gambling promotes social irresponsibility and addiction;
- casino gambling is a front for money laundering;
- casino gambling would harm the Island's international reputation;
- casino gambling would not produce an adequate economic benefit to justify the proposal.

Responses to the moral argument

- 4.4 The Committee has given great thought to the moral argument against gambling and has considered a wide cross-section of opinion on the matter. It has come to the conclusion, however, that the moral dilemma over gambling is one that must be borne by the individual and not by government. For many Islanders, the question of morality in relation to placing a bet on a horserace, or buying a lottery ticket does not even arise. For others, their belief that gambling is wrong stops them from entering modest raffles. This is as it should be and individuals should retain the right to make their own choices about the rights and wrongs of gambling for themselves.
- 4.5 The Committee does have a responsibility, however, as do government generally, to best serve the interests and legitimate aspirations of society while protecting minorities, the weak or vulnerable. This means, in effect, that if the overwhelming majority of the population have a desire to undertake a specific sort of activity, so long as this does not have a significant adverse impact, there is no compelling reason for Government to prevent them. Of course, gambling can have a significant adverse impact, which is why it must be regulated, but the impact is not compelling enough to require its prohibition.
- 4.6 This, however, is not strictly the view currently embodied in the current Law. The Law was drafted at a time when gambling was still viewed as something objectionable or shameful and thus actively seeks to prohibit as much gambling activity as possible. As the former Gambling Control Committee noted in R.C.50/2002, however, expectations and standards in society change over time and the general prohibition explicit in the Jersey Law may not now reflect a society where many people enjoy responsible social gambling. As has been previously stated, this is reflected in the miscomprehension regarding prize competitions, as well as sitting uncomfortably with the Committees' own duty to promote gambling through the Channel Islands Lottery.
- 4.7 The belief that government should set the moral tone for society is a concept which many accept as a generality, but which equally can be considered inappropriate when specifically applied. The Committee cannot, however, see any moral difference between buying a lottery ticket, placing a bet at a racetrack, playing a gaming machine in a bookmaker's office or visiting a casino. The Committee does not believe, therefore, that the law should any longer incorporate or reflect any assumption that gambling is an activity which is objectionable and which people should have no encouragement to pursue. It is considered an important industry in its own right, meeting the legitimate desires of many people in the Island and has the potential for creating many extra jobs.
- 4.8 This does not mean, however, that a 'free-for-all' is acceptable. It is recognised that gambling presents particular risks to children and the vulnerable, which other forms of leisure do not. So, whilst the Committee proposes a morally neutral stance to be taken in the law, nevertheless it recommends that proper controls and protections for those who may be or already have been damaged should be provided. The provisions made in this Report for enhancement of player protection, provision of support and assistance and a strong regulatory system are, we believe, a sufficiently caring and responsible response that adequately reflects the moral obligations that the States owes to all of society.

Responses to the addiction argument

- 4.9 It has been argued that casinos promote social irresponsibility and addiction. It is difficult to see why casinos promote addiction or social irresponsibility when bookmakers or ‘turf accountants’ do not. Worse still, would be to suggest that they all do. The truth is that none of these activities ‘promote’ addiction. Indeed commercial operators would be self-defeating if they purposefully created an environment of addiction and social deprivation, as they would be causing irreparable harm to their own business. Like any other business, casino operators want to see their customers enjoy using their product and to keep returning regularly in order that cash flows are kept regular and that payments and planning can be done with a reasonable degree of certainty. The last thing that a casino – or any other business – can afford to do is ‘fleece’ their customers or reduce them to a position of dependency, because by doing so they would destroy any chance of long-term viability.
- 4.10 The question is one thus of proportionality. Does gambling result in a small number of individuals losing control and making damaging decisions that impact on their families, their children and their jobs? Sadly, the answer is yes. Does gambling however, cause the vast majority of the playing public to act in such a manner? Clearly, no.
- 4.11 If all gambling were illegal and the vulnerable or addicted had no legitimate opportunities to gamble would they be safe from harm? In fact, they would not. Gambling for money is closely akin to risk-taking and is for many an intrinsic part of life to the extent that like the taking of alcohol, it is not prevented by legislation alone. Many will have family or friends who can remember the illegal gambling dens that operated prior to the passing of the 1964 Law. People were gambling without a regulatory safety net, and without the protection offered by the law because in truth, many people like to gamble, and can do so responsibly within their own means. Providing opportunities for people to gamble safely and responsibly is thus far better than the forlorn hope offered by restricting such opportunities.
- 4.12 The other side of the argument would state that as there are already plenty of legitimate opportunities for people to gamble, the Island does not need any more. This argument centres on the proposition that government should seek to restrict legitimate business opportunities and public choice on the grounds that ‘it knows better’. This sits at odds with the Committee’s mandate to encourage enterprise, innovation and diversity – particularly in high value-added sectors and to seek particularly to exploit every opportunity to diversify the economy through the development of new industries and companies with high value-added potential. Of course, a casino complex should not just be thought of as a place to gamble. It will be a new amenity and leisure attraction and will add value both to the Island’s tourism product and offer opportunities for public recreation, particularly in the evening, in much the same way as the cinema, restaurants and other venues. It is public demand and market forces which should have the determining effect on the viability of a legitimate business and not government.
- 4.13 The Committee remains unconvinced, therefore, that the provision of a casino will, of itself, create addictions that would otherwise not occur. Indeed, the needs of those who develop a gambling problem might be better served by casino gaming than other types of gambling business. It would be a requirement that all players in the casino were identified using a verified form of photo identification. This would prevent the entry of minors. The level of player play would also be monitored and any unusual levels of play could be acted upon. The casino would be mandated to provide literature explaining such concepts as the ‘house edge’ and explaining what help was available to deal with gambling addiction.
- 4.14 The casino, along with the commercial gambling industry in general, would also be expected to contribute to a treatment fund so that any increase in dependency was not to the detriment of the tax payer. The Committee would wish to see the creation of a three-fold strategy involving education and prevention, counselling, and research. By passing this proposal, the States would be creating the basis for an addiction programme and anchoring it firmly to the industry that unfortunately helps to create it. This would provide for financial certainty in the treatment of addiction – a certainty that does not presently exist.
- 4.15 Most countries now have a government-sponsored gambling addiction programme of some sort. Jersey presently does not. This is indeed one of the areas where the Island should look for international best practice and consider what is relevant and appropriate for the Island to adopt. The United Kingdom, for example, has made provision for the gambling industry to voluntarily contribute to third-party research

and support of gambling problems. The Republic of South Africa has its 'Responsible Gaming Programme'. By passing this Proposition, the States will allow Jersey to sit squarely within the international community as a jurisdiction that deals effectively with addiction and has a responsible gambling programme in place.

Responses to the Money Laundering Argument

- 4.16 Any decision to allow casino gambling in Jersey would have to be done on the basis that it remains crime-free. The Committee accepts the view put forward by operators, both in the United Kingdom and elsewhere, that casinos are an unlikely source of financial crime. The issue in Jersey, however, is more complex, not least because of the disproportionate interest that it might attract internationally and the possible adverse affects that this could have. As such, the Committee has taken its responsibility to weigh the perceived negative effects of reform with great diligence.
- 4.17 The main defences in preventing financial irregularities within a casino are much the same as any other large cash-flow business and focuses on financial auditing, 'Know Your Customer' (KYC) principles and licensing. In addition, the government usually insists on certification of owners, managers and staff. The first defence in preventing money laundering is to only allow reputable operators a licence to trade. A company would be considered only after thorough background checks had been completed including detailed examination of its ultimate beneficiaries, its Directors and Managers, its accounts and its operations in other jurisdictions. The highest level of commitment to compliance operations would be required and probity enquiries would be made to the respective Regulators in their home jurisdictions. The nature of a monopoly licence is such that the level of scrutiny a prospective company might expect to be put through would be very high indeed and penalties for non-compliance would have to be severe.
- 4.18 Choosing an operator with interests in other jurisdictions is beneficial insofar as they would already have a proven track record to examine. Not only this, but a link to another licence increases the pressure on a company to act with the highest integrity as any revocation in one jurisdiction would impact upon its business interests in another. The risk of institutional money laundering by a casino operator is thus very low. Turning to the risk of casino staff being involved in financial irregularities, the Island's reputation would be protected by the need for all gaming staff to be in possession of a Gaming Certificate. Such a Certificate would only be issued to individuals who had proven themselves to be 'fit and proper' persons, i.e. that they had no criminal record of any kind. A Gaming Certificate could be revoked at any time. The link between the casino operator's licence and those of its staff is thus very close, for without a Gaming Licence the casino cannot operate and without a Certificate the person cannot work in a casino. These issues mean that casino operators and employees are always very conscious of keeping within the law.
- 4.19 The greatest risk of money laundering is accepted to lie not with the casino or its staff, however, but with its clientele. To minimise this risk, a number of measures would be taken. All individuals wishing to visit the casino would have to produce and agree to the recording of their personal details, including an image. This would have to be verified through the use of photographic identification, i.e. a passport or driving licence. All individuals entering and leaving the casino would have to sign in and out and thus both the operator and the regulator could be confident that it knew the true identity of every person on the premises.
- 4.20 Having established and controlled all persons entering the casino, it is also necessary to monitor their activities once within it. This is actually in the interests of all involved, be it the regulator, the operator or the playing public. For that reason, the casino would be fully equipped with CCTV and audio for surveillance purposes, especially in the vicinity of the reception, gaming tables and cash desk. Further monitoring would be done at the gaming tables whenever cash or cheques are exchanged for chips, together with the level of play, i.e. what money was risked and what the end result was. These records would be kept^[4] and archived.
- 4.21 The player exchanging cash, cheques or chips at the Cash Desk would also expect to have every single exchange recorded, no matter how small. This would take place both when cashing in (getting chips) and cashing out winnings. It is important to recall that the amount is not only electronically recorded; it is recorded on CCTV and audio as well as against a player's data file and electronic image. There would

thus be control in the form of paper records (signing in), electronic records (personal details / photo identification), visual and audio records. Any questions regarding the validity of any stakes or winnings could thus be independently verified. This level of protection is far and above what is currently in place within the Island's gambling industry today and would ensure protection not only against simple error, but also the threat of money laundering, tax evasion and importantly, underage gambling.

4.22 The risk to a casino operation posed by illegal activities – of whatever nature – is such that they all seek to comply with legal obligations and ensure that staff training, necessary to counter these, is undertaken. Casinos in Great Britain require that all reception, gaming and cash desk staff are trained in respect of money laundering issues and have to pass an examination with refresher training given annually. Similarly, every casino company has a Money Laundering Reporting Officer (MLRO) who will assess possibly suspicious transactions reported by the gaming staff and forward them to the National Criminal Intelligence Service (NCIS). A similar system would have to be in place in Jersey to equal – at the very least – that in place within the financial services sector and would involve, most probably, a duty to report transactions both to the designated Jersey Regulator and, where appropriate, the Jersey Financial Services Commission. Compliance^[5] with the EU Directive on Money Laundering and the Financial Action Task Force's '40 Recommendations to prevent money laundering and terrorist financing' would be mandatory as would the implementation of new or revised provisions in keeping with international best practice.

4.23 In reality, therefore, it is not at all easy to launder money through a casino operating the strict compliance procedures already described. Consider an example – a drug dealer in Jersey wants to launder money. Notwithstanding the fact that organised criminals are generally known to the States of Jersey Police, this imaginary person goes to the casino. They are photographed and their personal details are recorded. Any cash or cheques that they exchange for chips are recorded. If they attempt to exchange their chips back for cash after little or no game play they receive exactly the same bills back that they deposited and the event is reported as a suspicious transaction to the MLRO and forwarded to the States of Jersey Police and NCIS. Regardless of the outcome of play the transactions are recorded. The States Police may then request details from the Regulator as part of their intelligence gathering capability.

4.24 It is important to note that there have been no prosecutions in Great Britain in respect of persons being involved in money laundering in a casino, or of a casino operator being involved in money laundering. There is certainly no reason to believe that a Jersey casino, operating to the same very high standards would fair any differently. The view of NCIS itself is quite revealing. They state on their website (www.ncis.co.uk) that –

in 2002, purchasing property in the U.K. was the most popular method (of laundering) identified, involving roughly one in three serious and organised crime groups... Investment in front companies or high cash businesses came next, followed by simply spending the criminal proceeds to fund a lifestyle, and by transferring cash overseas using bureaux de change and money transmission agencies. Roughly one in 10 groups was known to use bank accounts in the U.K., and similar proportions used accounts overseas or transmitted cash through couriers. Fewer groups invested in property overseas, or in financial products, and a small percentage used gambling or alternative remittance systems.

4.25 There would seem to be a case, albeit very small, linking gambling with money laundering. However, the link stems primarily from the ability of criminals to operate betting scams in bookmakers, not in casinos and the Committee intends to review the regulation of betting shops in Jersey to ensure that suspicious activity is reported. NCIS rightly states that –

all banks and financial service providers are at risk of being used to facilitate money laundering. Large banks and financial service providers which provide a wide range of financial products and services and which also have operations in both high and low risk jurisdictions may be particularly at risk. Although the money launderer faces the challenge of due diligence checks carried by these larger institutions, they are attractive to money launderers because their size and reputation mean that receiving institutions in other countries are likely to ask fewer questions about transfers of money.

4.26 The risk posed by money laundering through a casino operating under the guidelines already outlined is thus far less (according to NCIS) than that faced by the Island's own domestic finance industry. To recap, all players entering a casino are recorded and their personal details retained. They are tracked on video and audio. All monetary and gaming transactions are monitored and recorded. Any suspicious activity is reported. Human nature being what it is, it is difficult to conceive that a criminal would wish to leave so much evidence of their activity when there are far easier methods – as outlined by NCIS – to launder money. Accordingly, the Committee rejects the notion that casinos, properly operated and regulated, are an easy source of money laundering.

Responses to the reputational risk argument

4.27 It has been put to the Committee that there is a possibility that a decision to set up a casino would damage the Island's international reputation. Converse views were also received through the public consultation exercise. Unfortunately, no concrete evidence was offered to validate either point of view. The Committee takes any issue of reputational risk extremely seriously, but will not be swayed by either opinion in the absence of validation. In deciding what effect a States decision to establish a casino might have, the Committee was minded to consider whether there have been any past precedents or examples which might serve to guide it in its deliberations. The examples of the Isle of Man and Guernsey make for a useful and valid comparison for reasons that all will recognise.

4.28 The Isle of Man has had a casino for over 30 years and has subjected its gambling industry to an anti-money laundering regime since 1986. The robustness of their regime mirrors that existing in Great Britain and every licence holder must have a Money Laundering Reporting Officer, keep adequate records and have effective staff training in this area. The definition of businesses that must comply with the regulations goes much wider than financial services, however, and includes Estate Agents, Bookmakers, Casinos and Local Authorities amongst others.

4.29 There is no evidence to suggest that the operation of a casino has had any negative impact upon the Isle of Man's international reputation, or on the conduct or productivity of its financial services industry. The officials of the Isle of Man Gambling Control Commissioners^[6] informed the Committee that:

the original casino enabling legislation in the Isle of Man predated the establishment of the 'contemporary' finance industry by more than twenty years. The Isle of Man casino industry continues to operate under a tightly regulated and controlled environment with no obvious detrimental effects to the Island.

4.30 The role and remit of the Isle of Man Financial Supervision Commission^[7] reflects this position, stating that –

- The Isle of Man has nothing to gain from permitting activities or institutions which provide shelter for or facilitate the activities of criminals; and
- Institutions established on the Isle of Man and their customers will benefit from standards of licensing and supervision which reflect best practice and are acceptable to supervisory authorities in other jurisdictions.

4.31 Of course there are those who would state that the Isle of Man Government and its regulators would be the last to actually admit that there was a problem to address, but the Isle of Man has also received significant clean 'bills of health' from external organisations, not least of which is the Financial Action Task Force^[8] –

The Isle of Man has a robust arsenal of legislation, regulations and administrative practices to counter money laundering. Perhaps more importantly, the authorities clearly demonstrate the political will to ensure that their off-shore financial institutions and the

associated professionals maximise their defences against money laundering, and co-operate effectively in international investigations into criminal funds. The standards set in the Isle of Man are close to complete adherence with the FATF's 40 Recommendations.

- 4.32 The key points which allow a robust and crime-free gambling industry to co-exist with a finance industry are outlined above. The authorities must 'clearly demonstrate the political will to ensure that their off-shore financial institutions and the associated professionals maximise their defences against money laundering, and co-operate effectively in international investigations into criminal funds'. This is exactly what occurs in relation to Jersey's own financial services sector and we would propose that the States impose similar obligations upon the gambling industry.
- 4.33 The situation in Guernsey is more akin to Jersey, insofar as the development of a more sophisticated gambling industry has come after and not before establishment of off-shore finance. It provides, therefore, an excellent contrast to the experience of the Isle of Man where casino gambling is now an established and non-contentious part of the overall economy. Working on the assumption that the level of reputational risk to Guernsey would be the same as Jersey, it is useful to consider their experience. The Committee is not aware of any significant adverse reaction in the media, be it local, national or international and there is no apparent impact upon the present viability of the Guernsey financial services sector. Indeed, it was difficult to find any information concerning the impact of Guernsey having a casino, detrimental or otherwise.
- 4.34 Professor Collins and Mr. Jennens made enquiries as part of their investigations asking a cross-section of companies in both Islands if the decision to open a casino would be reason for financial businesses to reconsider their position or to avoid doing business in either Bailiwick. Businesses were also asked if their confidence in the insular authorities or system of financial regulation had been or would be in any way reduced because of an announcement to open a casino. No evidence suggesting any lack of confidence or reputational damage has been received. They concluded that in their very experienced opinion:^[9]

Licensing casino...gambling...would not damage Jersey's reputation for probity as a financial services centre, any more than it has damaged the reputation for probity of other jurisdictions which have casinos...We have also interviewed a considerable number of bankers and finance houses who have operations on Jersey all of whom have assured us that in no way would their opinion of Jersey as a safe and prudent place to do business be in any way diminished if they heard of plans to install a casino. Indeed some went so far as to say, they would fully expect it...The truth is, in our view, that whether or not Jersey establishes additional commercial gambling opportunities on the island is largely irrelevant to the future health of its financial services industry.

Based on a full assessment of the facts at hand and in the absence of any evidence to the contrary, the Committee is of the opinion that there would be little, if any, reputational risk involved for Jersey by legalising casino gambling.

Responses to the 'no economic benefit' argument

- 4.35 Lack of knowledge about the economic benefit of allowing casino gambling was undoubtedly the strongest reason for caution in the past and this was accepted by the former Gambling Control Committee in P.50/2002. The Committee duly commissioned consultants to provide this data based on their own expert knowledge and experience. In describing economic benefit, the consultants outlined three main areas where a population can benefit from the introduction of licensed casino gambling. These are the provision of additional local amenities; the enhancement of tourism revenues and the generation of relatively unresented taxes.
- 4.36 It should also be clearly understood that the Committee is recommending a monopoly licence and that it is not seeking, nor would it wish to see further casino development. A single casino licence would maximise its value both in terms of the amount that it would generate in turnover and taxation, and with

regard to the amount of capital that an operator would be prepared to invest. While this runs contrary to the Committee's general philosophy that favours competition, gambling we believe, is a special case.

- 4.37 Should the States agree to the establishment of a single licensed casino, it would be put out to tender. Companies would be invited to send representatives to Jersey to join in a bidder's conference for which they would pay a non-returnable fee. This fee would be expected to recoup the investment in time, manpower and administration that the Committee would have to initially expend. Potential bidders would learn more about the Island and be briefed on what sorts of developments would be considered beneficial and which the casino project would be expected to deliver. The Committee, in keeping with its mandate, would expect tender bids to include provision for entertainment and business facilities, but would not seek to proscribe or fetter the creativity of the private sector.
- 4.38 It is not difficult to imagine that a modern casino, including or in the vicinity of charming restaurants, evening entertainment and the like would be an attractive proposition to both local residents and tourists. The Committee is not suggesting that it would be a panacea for the tourism industry, or that it would necessarily generate significant extra tourist numbers in itself. What it would be, however, is a valuable addition to the amenities currently on offer and, importantly, an attractive evening venue. As such it would very likely create additional tourism spend and may also create added incentive for the short-stay business traveller to extend a trip by one night.
- 4.39 For this to happen, however, the States must be realistic about what it would be accepting. A casino generally operates to capacity between the hours of 10 p.m. and 4 a.m. Accepting the principle of casino, but then later offering licensing and operating conditions that would make it uneconomic would mean the waste of considerable resource, both on the part of the States and from the potential bidders. This would not do Jersey's reputation as a modern and efficient place to do business any good at all. It would also, if bidders could be found (which would be unlikely), produce a sub-optimal return in terms of provision of extra amenities and tourism benefit and would severely jeopardise the potential tax return to the States.
- 4.40 It should also be recognised that, if handled badly, the introduction of a casino could have a detrimental effect upon other businesses, particularly in the hospitality sector. The main threat occurs when casinos are allowed to offer services such as hotel beds and food and beverages at rates which unfairly disadvantage the competitors because the casino subsidises these other services out of gambling revenues. The Committee, therefore, rejects the notion that the casino should be allowed to offer accommodation or that it should form part of an existing or future hotel. Insofar as the provision of other facilities are concerned, the Committee would not wish to proscribe bidders unduly, but sees merit in franchising luxury shopping, restaurants and bars located on the casino campus to existing or new businesses under circumstances which conform to the requirement of fair competition, while preventing cross-subsidisation.
- 4.41 While the provision of new amenities, new business opportunities and further diversification of the economy are all substantial benefits and in tune with the mandate of the Economic Development Committee, it is the potential tax revenue that offers the greatest incentive to bring casino gambling to the Island. This on its own would have been reason enough to bring a Report and Proposition to the States, but in the light of the current projected deficit and the perceived necessity to raise taxes, any suggestion that would minimise the negative impact on the public is worthy of consideration.
- 4.42 States Members have already had access to the figures produced by the Collins/Jennens report, but to summarise, the quantum of benefits to be secured is in the region of £3 million per annum in gambling taxes and an investment in tourism enhancing amenities of some £30 million. The 2 sets of figures which need to be understood are those relating to the distribution of the money which the casino wins from its customers (the gross gambling revenues, or GGR) and the distribution of capex on a casino build assuming a 20% tax on GGR). These were estimated by Professor Collins^[10] as follows –

1. Income distribution

£

Gross gambling revenues	=	15	million p.a.
Tax at 20%	=	3	million p.a.
Operating costs at 40%	=	6	million p.a.
Costs of capital ^[11] for casino	=	3	million p.a.
Costs of capital for “add-ons”	=	3	million p.a.

2. Capex

Total capex	=	35	million
Costs of casino facilities	=	17.5	million
Available for “add-ons” such as a conference centre, transport infrastructure, licence fee, etc.	=	17.5	million

- 4.43 A casino company would expect to invest between 2 and 3 times its GGR in capital expenditure. Of this, about £5 million will go to the cost of equipment, including surveillance equipment. The other capital cost is the cost of land, building and furnishings. Obviously the lower the cost of building the more an operator can afford to spend on the construction and subsidisation of “add-ons” which benefit the wider community and/or on bidding for the licence.
- 4.44 The key issue, therefore, is whether the States believe that it can turn down in the region of £3 million per annum additional tax revenue at a time when the public will be asked to pay more to bridge the forecast deficit. The very nature of a gambling tax is that those people who have a moral objection to gambling would not be compelled to pay it and because it is generally felt to be equitable, it is a largely unresented form of taxation. Such is the level of confidence in the robustness of these figures, that the consultants felt secure in stating within their report^[12] that –

Combining all these considerations we think it reasonable for the government of Jersey to make plans on the assumption that the potential gross gambling revenues (money staked less money paid out in winnings) for casino gambling in Jersey would be in the region of £15m p.a. This number is within the ballpark of such commercial estimates as have been carried out and either published or privately communicated to us.

- 4.45 Notwithstanding this confidence, the Committee undertook to validate these claims and asked a number of different international casino operators to evaluate the potential return on investment they would expect if they were allowed to operate a casino on the Island. Some of the data returned has been given on the understanding that it is ‘commercial in confidence’ and for this reason does not form part of the public copy of this report. States Members may be assured however, that they have full details, attached as appendices, in their personal copy. Four casino operators returned estimates to the Committee and these vary in depth from full projections of profit and loss accounts to more general statements based on predicted outcomes. It should be noted that other operators have subsequently expressed interest in the project, should it be passed.
- 4.46 These operators have international experience, including within small and island based jurisdictions and all operate groups of casinos. This experience makes their estimates particularly relevant. As has been noted, the estimates provided by these companies varies in their level of detail, but they fall within the ambit of the figures outlined in the Collins report –
- Tax estimated at £2.16 million, rising to £3.91 million per year after 4 years with a Cape investment of £23.64 million for a new build, or £15.11 million for a conversion.
 - Gross Gaming Yield of £5.1 million, rising to £9.05 million over 4 years. However, it is thought that a conservative range would be 20% less and an optimistic range would be 20% more. (This would deliver a tax return of between £1.02 million and £1.81 million.)
 - Tax estimated at £2.6 million per year. This operator also made the following comment–

The gross gaming yield will be circa £13.1 million. The above is not radically different to Peter Collins' £15 million given that I have not factored into account the affluence of the population or tourist numbers and it would be prudent to think in the range of £12 million to £20 million dependent on tourist numbers and the framing of the legislation.

- Tax estimated at £1.8 million in the first year rising to £2.3 million after 4 years.

4.47 Based on the estimates put forward by Professor Collins and Mr. Jennens and having independently verified them with 4 different casino operators as noted above, the Committee is confident that tax revenues in the order of £1.5 million to £3 million per annum are achievable and realistic. This ignores other add-on social and economic benefits which would result from additional job creation and the potential extra income that would circulate through the local economy. This is not to say that it would all be additional revenue. Some would be generated through substitution (from existing types of gambling spend) and perhaps a larger amount through displacement from within the local economy. Even so, additional income streams would be delivered by these proposals that certainly will not occur if the Proposition is not passed.

4.48 The benefit of asking the industry to judge the potential value of a Jersey casino operation is that they base their projections on real knowledge of running casinos in other jurisdictions. It is, after all, the casino operators that would be asked to pay a bidding fee and a chosen operator that would have to be prepared to put up their money to get the business off the ground. To that end the real risk is carried, not by the States, but by the operator. There will, of course, be those who do not believe that the figures presented in this report are realistic. To this, the Committee can only ask this rhetorical question: what company would be prepared to invest millions of pounds of capital and other investment, the time of their senior executives together with the risk to their brand name on a project that wasn't realistic? Casino operators are not charities and like any other business they need a return on their investment. It seems highly unlikely that they would risk millions of pounds and their brand name on a project that really didn't add-up.

4.49 Likewise, there are those who might argue that the Committee should be very prescriptive about the type of casino that it wants to see. However, Members need to recall that this is an 'in-principle' report. The Committee has deliberately decided not to consider comprehensive questions of type, size and location at this time. There would be little merit in undertaking detailed work prior to receiving the agreement of the States to proceed. This does not mean, of course, that the Committee has not considered these issues or that it does not have any opinion. In very broad terms, to create the kind of return on investment to the operator and the States will necessitate what would likely be described as a medium sized resort-style casino involving a mix of gaming activities together with restaurants, bars and other entertainment. However, notwithstanding that this is an 'in-principle' Proposition; the Committee believes it would be wrong to artificially constrain the creativity of the operators. It is they, after all, who will put together potential packages and they will be judged, not only on the potential viability of a casino in isolation, but what they offer as an added attraction to the tourism market, as well as for the add-ons (like funding for a conference centre for example) that they might offer.

4.50 The interest that this Report and Proposition has generated, both within the Island and further afield, entirely validates the Committee's earlier confidence that a review of the Island's gambling legislation would result in significant benefits; economic benefits by way of increased revenues, taxes and jobs; enhanced player protection; greater consumer choice; and, it will make Jersey's legislation both modern and relevant to the local population. On the basis of the evidence presented, therefore, the Committee rejects the notion that a casino would not bring significant economic benefit to the Island.

5 Regulations to allow On-Line Gaming

5.1 The issue of on-line gambling is one that needs careful attention. As with the other proposals covered by this Report, the Committee has taken the views of the former Gambling Control Committee as its starting

point. In P.50/2002, that Committee made the following points:^[13]

- The continued prohibition of on-line gambling by Jersey consumers is an entirely unrealistic objective;
- considerable support (for legalisation) has been noted... not only from those who would be seeking to take advantage of the commercial opportunities that would be created, but also from those who are concerned about the rapid proliferation of potentially under-regulated, non-EU gambling sites.

5.2 Ultimately, however, the Gambling Control Committee decided to maintain 'a neutral stance' and felt 'unable to make a positive recommendation in this regard until the results of a cost/benefit analysis... are made available'. The Committee agrees that it is unrealistic to think that it could, even if it wanted to, prevent Jersey residents from gambling on the internet. Of course on-line gambling can be accessed a number of ways, such as through interactive television and, increasingly overseas, via the medium of mobile telephones. From that perspective, it seems entirely logical that providing the opportunity for residents to gamble using a locally registered and regulated site would be better than having no such choice. That having been said, however, unless such a site was then able to advertise itself quite extensively, there is no reason to suppose that local residents would be able to pick it out from the many thousands of internet gaming sites that appear and then disappear from the web with great alacrity.

5.3 From an economic perspective, internet gambling would appear to be a very seductive proposition. There are wildly exaggerated claims being bounded about, but Professor Collins and Mr. Jennens were able to identify^[14] about 50 internet gaming sites that earn gross gaming revenues (money staked less money won or net player losses) of between \$50,000-500,000 per month; 5-6 that earn revenues of \$68 million per month and one (casino.net) which earns \$10-15 million per month. Perhaps more enticing than the actual present-day size of the market is its potential. Neither the United States, which presently aggressively prevents incursions into its domestic market nor Asia, has been adequately targeted. The possibility of tapping this Asian market in particular, because of the cultural propensity to gamble, makes it a highly desirable prospect.

5.4 The Committee is also mindful that if it were to bring forward regulations allowing for the provision of on-line gambling, it would only do so if they mirrored the type of regulatory framework that is expected from a 'bricks and mortar' establishment. An on-line gambling operator based in Jersey would face the highest possible standards – and costs – in order to be licensed. This is the view that seems to have been taken by the Isle of Man Government when they decided to allow on-line gambling. The difference between an internet site, however, and its land based competitors is that a physical presence normally involves a certain degree of investment which, in effect, ties the operation to the jurisdiction for some time. The same is not true of an on-line operation. Having negotiated conditions to operate out of one jurisdiction, it can uproot and move to a more favourable one with great speed and at little cost. This would seem to reflect the experience of the Isle of Man which has recently seen the migration of major operators from its fledgling industry.

5.5 In the absence of a level playing field, it is perhaps not surprising that operators choose to move to less regulated jurisdictions rather than the highly regulated ones. As such, the Committee accepts the recommendation of Professor Collins and Mr. Jennens that Jersey does not 'seek to compete with these and other jurisdictions for regulatory business in the global internet gambling market. The main reason is that the rewards are likely to be meagre in relation to the effort required'^[15]. This is not, however, an argument to delay provision of a legal basis for internet gambling, but should at least serve to deflate exaggerated claims of what this sort of business could generate. The Committee believe that provision must be made in the new law for on-line gambling to be established. There will come a time when it is better regulated worldwide and that will be the time when Jersey should seek to actively enter the market. The legal framework must first exist, however, to take advantage of the opportunities when they take place.

- 5.6 There is another reason to seek legalisation. Although the Committee does not believe that Jersey – as a highly regulated market – would prove attractive to the majority of on-line gambling providers, 2 real opportunities do exist. The first is, as Professor Collins outlined in his report, as an added inducement to a medium to large operator of total integrity who, in bidding for the casino licence, would view an internet licence as a valuable add-on. This has potential, of itself, to pay for the additional administrative costs that expanding the gambling market in Jersey would necessitate. As Professor Collins explained:^[16]

In addition a company will place a value on the internet licence though this will vary substantially depending on the company's general business strategy and its estimate of the potential of the internet gambling market. Nevertheless, the internet component alone should cover the cost of administration, of additional policing and of funding an addiction prevention and treatment service.

- 5.7 The second is in the area of on-line support. While the Committee does not believe that much business would be generated by 'live' operators, it does consider it possible that Jersey based web-hosting companies and other types of locally established business could benefit by providing such functions as back-up hosting and disaster recovery services. These operations do deserve to be considered on their merits and would involve a change in the law. Vigorous standards would have to be obligatory and a company forced to rely on its Jersey based back-up would be time limited in how long it could do so, but the principle deserves to be explored in greater depth.
- 5.8 In recommending that provision be made for this type of activity, the Committee is also minded to consider the greater ease by which minors may potentially become engaged in internet gambling as opposed to trying to enter the controlled environment of a 'bricks and mortar' establishment. The issue of child gambling, however, is not addressed by the present prohibition – it is simply ignored. Children seem to be particularly adept at managing technology and it is not beyond the realm of possibility that local children already use internet gambling sites by adopting the identity of their parents and running up large bills. Obviously, maintaining the status quo will not provide any solution to this potential state of affairs. The Committee would recommend to the States, therefore, that it be permitted to prepare Regulations allowing for provision of on-line gambling, but would admit that considerable care needs to be taken when doing so.

6 Regulations to allow Commercial Bingo

- 6.1 The Committee recommends that, if 'in principle' consent is given to casino and on-line gambling, that the States should also agree to the legalisation of commercial bingo. Bingo is often thought of as 'soft gambling' and many consider that it is a fairly harmless activity. Indeed, it is a principle mainstay of many local charities and clubs fundraising. There is a marked difference, however, between the limited prize, small stake activities of local clubs and the large halls operated in Great Britain, for example, which offer linked prizes up to and beyond the million pound mark, as well as having gaming machines, bars and so on.
- 6.2 The Committee has, of course, considered the view of the former Gambling Control Committee as expressed in P.50/2002. That Committee recommended that consideration be given 'to the potential negative impact on current charitable fundraising activities by the enactment of this legislation' and recommended that the Economic Development Committee 'explores ways in which that might be off-set'.
- 6.3 Professor Collins and Mr. Jennens were also tasked to consider bingo within their report and concluded that commercial bingo be permitted only at the casino. They justified their opinion by noting that it would increase the value of the casino licence, but also because it would ensure that all forms of commercial gambling (other than bookmakers) would be located under one roof:^[17]

We believe that considerations of both increasing benefits and minimising costs make it undesirable to have a number of different bingo outlets on the Island...In particular, we believe that bingo operations outside the casino would exert strong pressure to be allowed to have limited payout machine gambling – which would be undesirable.

- 6.4 The Committee is very strongly of the view that gambling opportunities, while being made freely available, should be subject to rigorous control. There should be, for example, no relaxation in the policy of restricting gaming machines to controlled environments, that is, in bookmaker's shops as now or in a future casino. But certainly not in pubs or restaurants and not as a general rule, in areas accessible by children. This should rule out, in our opinion, any possibility of allowing bingo alongside machine gaming other than within a future casino.
- 6.5 The important question of fund-raising by sporting clubs and charities has caused the Committee to reflect on which of its policy objectives should be given priority. The Committee accepts that players ought to be given more choice, hence the decision to argue in favour of more opportunities through a casino, or on-line. The Committee also believes in competition, although it has already noted that competition should not be promoted above social responsibility. Ultimately, therefore, the Committee believes that it should seek to grow and diversify the economy as a primary objective, promote regulation in order to protect the reputation and good character of the Island and lastly promote player choice and competition.
- 6.6 In relation to commercial bingo, therefore, the Committee does not believe that allowing a plethora of bingo halls would be in the best interests of the Island. Player choice would be enhanced by making the game available on a commercial basis and competition will be given expression through the proposed casino bidding arrangements. By allowing commercial bingo only at the casino, the Committee believes that it is ultimately promoting its primary responsibilities: to grow the economy by allowing the establishment of a new high-worth business, but limiting it to one controlled environment in order to protect the Island's good name, the vulnerable and the young.
- 6.7 This would also allow for the continuation of bingo as a social activity linked to charitable fundraising. The Committee believes that the existing regulations should thus be significantly simplified, but that the principle of restricting opportunities – other than within a casino – to small stake, small prize endeavours for the benefit of charitable and club fundraising should be preserved.

7 Creation of a Gambling Commission

- 7.1 If the States agrees that casino gambling, on-line gambling and commercial bingo should be allowed, then the Committee believes that a Jersey Gambling Commission should be established and that it should become responsible for advising the Committee with regard to the Gambling Law as well as licensing, regulation, harm reduction/social responsibility and ensuring that gambling issues do not harm the Island's international reputation. This would be across the whole industry in Jersey, be it bookmakers or a casino. The Committee, therefore, endorses both the views of the former Gambling Control Committee and Professor Collins and Mr. Jennens. [For the benefit of readers, relevant recommendations of P50/2002 are reproduced as part of Appendix 1.]
- 7.2 Regulation in Jersey is currently achieved through the Committee's officers, in co-operation with the police, the Law Officers' Department and, ultimately the courts. This system has served Jersey well, but suffers from a number of flaws. The complexity of the gambling legislation means that it is only the Committee's officers who have day to day experience of them. However, these officers do not have the authority to initiate prosecutions, which remains the preserve of the Attorney-General. Neither do they have the authority to exchange information with other regulatory bodies.
- 7.3 In these times of competing pressure on scarce resources it would not be too difficult to imagine that enforcement of the myriad of Regulations and Orders that make up Jersey's gambling legislation is not the most pressing objective of either the States Police or the Attorney-General. This is not a criticism; it is merely a reflection of reality. If the States are to modernise and allow greater scope for commercial gambling, however, this state of affairs cannot be left to continue. As has been found in ever increasing numbers of jurisdictions, from Australia to South Africa and Great Britain, the move towards deregulation has been accompanied by moves to strengthen the regulatory bodies responsible for overseeing them.

- 7.4 A Jersey Gambling Commission, in carrying out its functions, would be expected to work closely with the States of Jersey Police and Customs and Excise. The Committee is of the opinion, however, that the Commission should be seen as being a law enforcement body in its own right and not merely an administrative organisation. Many overseas law enforcement agencies will only meet and exchange information and intelligence with other law enforcement bodies and it would not be in the best interests of the States to limit a Jersey Gambling Commission in this way.
- 7.5 The Committee also believes that in taking these steps, Jersey will be able to fully participate in what is slowly becoming a world-wide effort to co-ordinate regulatory practices^[18]. A modern approach to gambling in the Island should be based on best practice elsewhere and Jersey cannot afford to be out of step with what is happening throughout the developed world. Of course, the proposed Commission would have to be appropriately resourced to be effective and it is anticipated that it operate on a net running costs basis, funded by licence fee income. The Committee would, however, take steps to ensure that it retained policy oversight of the Commission and that it continued to operate at a scale and level appropriate to the size of the industry in Jersey.
- 7.6 This could be done in a number of ways and the Committee is open to appropriate suggestions, should the States take the decision to continue. In line with best practice, the States would be asked to appoint independent Commissioners to serve the Island for a proscribed period. There is no compulsion, however, for the Commission to have its own separate staff, offices and so on. The Committee believes that serious consideration should be given to maintaining the professional service offered by its own officers who currently work in this area. This would have a number of benefits, not least of which would be a lower staff cost and the retention of valuable experience that would otherwise have to be replaced.

8 Consideration of a new Public Lottery

- 8.1 As nearly all will be aware, the Committee presently has responsibility for maintaining Jersey's responsibilities within the Channel Islands Lottery^[19]. Historically the policy objective for operating the lottery was to generate funds for public projects, but of late the States has awarded these funds to the Association of Jersey Charities for the assistance of good causes. Although it has presently stabilised, the performance of the C.I. Lottery has been one of almost continual decline since it came under pressure from the U.K. National Lottery some ten years ago.
- 8.2 Although it is hard to quantify, anecdotal evidence suggests that local syndicates have taken to buying U.K. National Lottery tickets instead of the C.I. Lottery and that this is overwhelmingly due to the magnitude of the prizes on offer. In order to redress this imbalance – insofar as none of the proceeds return to Jersey – the Committee believes that the States should continue the work of the former Gambling Control Committee in seeking a new lottery partner capable of improving tickets sales and maximising the return to the States.
- 8.3 As reported in P.50/2002, there have been quite detailed discussions at official level regarding extension of the U.K. National Lottery to the Channel Islands. In considering this question, however, Professor Collins and Mr. Jennens believed that the opening U.K. position was patently inequitable, as it deprived the Island of any contribution to good causes. In essence, the U.K. position was that the States would collect the relevant duty which would have to remain in line with that charged in the U.K., but would not receive its proportional share of the 'good causes' revenues so generated. The Committee agrees with their assessment and recommends that although negotiations continue, it should be with the intention of recouping both the 12% duty and the 28% contribution to good causes. If this proves impossible, which would be disappointing considering the small scale of sums involved (in U.K. terms), then the Committee would wish to find an alternative lottery partnership.
- 8.4 This is not beyond the realms of possibility and clearly Jersey might well find that another lottery in Europe or elsewhere would offer the Island better terms for what would effectively be its ability to deliver some £6 million worth of ticket sales. In any event, the Committee would not be living up to its obligations by doing nothing. Consideration will continue to be given to consulting with the Guernsey

authorities on the best way forward, but time, if present trends continue, is beginning to run out.

8.5 To that end, the Committee requests the endorsement of the States that in conjunction with the Policy and Resources Committee and the Finance and Economics Committee, that the Economic Development Committee be tasked with negotiating a new public Lottery to be operated jointly for the benefit of the public and charitable institutions in the Island.

9 Conclusion

9.1 The Committee believes that it has made a compelling case for Gambling reform in Jersey. Not only does it believe that reform of the existing law is overdue, it is clear that the proposals outlined in this Proposition will bring significant economic benefit to the Island. As Jersey faces an ever-closer crisis in its public finances, all Committees have a duty to bring forward proposals as quickly as possible that will help to reduce that threat. The Economic Development Committee takes its responsibility in this area very seriously indeed. While increasing efficiency and making savings will help, it is the Committee's belief that only real economic growth will provide the solution to the Island's problems.

9.2 The passing of this Proposition alone of course will not solve the Island's problems, but it does have the potential to make a real difference. There is prospective to reduce the projected deficit by between 1% and 3% and this will mean fewer taxes having to be raised or fewer services having to be cut. That alone will make a real difference to every man, woman and child in this Island. The public will also be faced with a choice. No-one will force them to go to the casino. If they have a principled position against gambling, they will retain that position after a casino is built and will choose not to go there in much the same fashion as they choose not to go to a bookmakers or to the racetrack.

9.3 But many people will go. At first some will visit only out of curiosity to see something new and exciting that they were never allowed to visit before. Others who already indulge in leisure gambling will be tempted to try their luck on the tables at roulette or blackjack. Many will go simply to have dinner or watch a show. It is this total package of entertainment that offers to make a casino complex such a value-added attraction for the Island. It will provide many boosts: to the economy; to the workforce; to tourism and the local leisure market. The investment that the winning bidder will have to make represents a belief that the Jersey brand and the Jersey market is still high-worth and prestigious.

9.4 This is not to gloss over the potential downside. Some people inevitably gamble too much. This is undoubtedly already true. Part of the funding derived by the States should, therefore, be put towards the development of a strategy designed to deliver a problem gambling service. This would fill an existing gap [\[20\]](#) and make for provision of dedicated services to enhance and assist the self-help groups that currently exist. Such a strategy should deliver a threefold programme of –

- **Education and prevention** – knowledge should be aimed at the prevention of gambling problems; as well as on the identification and management of problem gambling;
- **Treatment and Counselling** – this should be free and confidential to everyone requiring help with gambling problems, not just to gamblers at casinos;
- **Research** – Jersey should learn from and contribute to best practice being developed overseas as well as establishing what level of problem gambling that it has.

9.5 The Committee believes that, on balance, the case for change is overwhelming and the benefits significant enough to justify the expenditure necessary to deliver it. This is not just a simple guess or un-thought-through point of view. A number of casino operators have been sufficiently interested in the possibility to have provided estimates of likely turn-over based on their operations in other jurisdictions. They would not have gone to the trouble of collating this information if they did not think that a casino in Jersey would be a viable, high net worth operation. Similarly, after the costs of producing advanced drafts of legislation, the real risk would be borne not by the States, but by the perspective operators and paid for

through bidding and licence fees.

9.6 The opportunities offered by this venture should be measured, therefore, by reference to the need to create an increasingly diversified, high value-added commercial base in Jersey. In putting this forward the Committee is delivering on its mandate, not only to business, but to the Island as a whole. As such, we commend this Proposition to the States.

10 Financial and Manpower Implications

10.1 There will be resource implications in relation to the preparation of law drafting instructions, the setting up of a Gambling Commission and the tender process leading to the licensing of a casino operator. However, it is anticipated that the economic benefits to be derived from these proposals will far outweigh initial investment costs.

RECOMMENDATIONS OF THE REPORT ON THE REFORM OF GAMBLING LAW IN JERSEY

- Jersey should extend the provision of commercial gambling services in such a way as to generate tax revenues, enhance the tourism industry and provide popular amenities for residents.
- Jersey should licence a monopoly casino licence at the Fort.
- Jersey should issue a request for proposals to develop a casino entertainment complex at the Fort making clear that the minimum qualifying conditions include passing a probity investigation as to the personal suitability, financial reliability and technical competence of the company and its senior employees.
- A Jersey casino should be subject to the regulations concerning money-laundering agreed by the European Union and the United Nations.
- Jersey should require all providers of gambling services to demonstrate that they are socially responsible and that they are seriously committed to minimising the harm caused by problem gambling.
- Jersey should set the tax rate for casino gambling at 20% of gross gambling revenues.
- Jersey should award the licence after a tendering process in which the licence is awarded to whichever project offers the greatest benefits to the people of Jersey.
- Jersey should not license internet gambling companies; instead it should include a single licence to offer internet gambling services as part of the licence held by the successful applicant for the casino licence.
- The process of awarding the licence should be transparent, equitable and demonstrably based on the public interest.
- The costs of administering the licence awarding process should be covered by a bidding fee.
- The government of Jersey should seek to negotiate arrangements to allow its residents to buy U.K. lottery tickets which will secure for Jersey-based good causes 28% of the purchase price of tickets bought in Jersey as well as 12% in tax.
- If the Jersey government fails in these negotiations it should seek another big prize lottery partner.
- To administer the implementation of these proposals Jersey should accept recommendations 2-6 of the Report “Modernising Jersey’s Gambling Legislation” and should expect to have to spend not more than £250 000 p.a. on the costs of additional administrative work and policing.

Recommendations 2-6 of the Report: 'Modernising Jersey's Gambling Legislation', P.50/2002

Recommendation 2

The Gambling Control Committee considers that Jersey should consolidate all gambling legislation into a single Law covering all categories of gambling activity^[21]. The Law should be up to date, simple to understand and sufficiently flexible to meet changing circumstances without the need for frequent amendment. It should provide a more flexible framework within which appropriate adjustments can be made by subordinate legislation. The processes must be transparent and fair and the legitimate interests of all parties must be taken fully into account.

Recommendation 3

The Committee recommends creating a single body, known as the Jersey Gambling Commission, to take over all regulatory functions, including licensing and regulating bookmakers and all other suppliers of commercial gambling.

Recommendation 4

The Committee recommends that there are standard procedures for making and processing applications and that applicants have a clear understanding of how and when decisions are taken. There should be statutory rules covering –

- the form of application;
- notice of hearings;
- conduct of hearings;
- the right to hear and comment on objections in good time;
- notification of decisions and reasons for refusal;
- time limit for decisions;
- the right of appeal.

Recommendation 5

The Gambling Control Committee considers that the Jersey Gambling Commission as independent regulator would have powers and responsibilities similar to those proposed for the U.K. Commission and in existence elsewhere. The regulator would have to be appropriately resourced to be effective. It could therefore operate on a net running costs basis, funded by licence fee income. The Committee recommend that the new Economic Development Committee should explore the possibility of using the expertise and resources already to be found within other jurisdictions.

Recommendation 6

The Gambling Control Committee considers that a professional and properly resourced Jersey Gambling Commission should become responsible for advising the Economic Development Committee regarding amendment to the Gambling Law as well as working in partnership with the industry to create standards on advertising, harm reduction and other issues.

JERSEY GAMBLING LEGISLATION CURRENTLY IN FORCE

[Gambling \(Jersey\) Law 1964](#)
[Gambling \(Jersey\) Law 1964 \(Commencement\) Act 1965](#)
[Gambling \(Amendment\) \(Jersey\) Law 1974](#)
[Gambling \(Amendment No. 2\) \(Jersey\) Law 1985](#)
[Gambling \(Amendment No. 3\) \(Jersey\) Law 1995](#)
[Gambling \(Amendment No. 4\) \(Jersey\) Law 1996](#)
[Gambling \(Amendment No. 5\) \(Jersey\) Law 2002](#)

[Gambling \(Betting\) \(Jersey\) Regulations 1965](#)
[Gambling \(Betting\) \(Amendment No. 3\) \(Jersey\) Regulations 1979](#)
[Gambling \(Betting\) \(Amendment No. 4\) \(Jersey\) Regulations 1981](#)
[Gambling \(Betting\) \(Jersey\) Order 1970](#)
[Gambling \(Betting\) \(Amendment No. 5\) \(Jersey\) Regulations 1988](#)
[Gambling \(Betting\) \(Amendment No. 6\) \(Jersey\) Regulations 1991](#)
[Gambling \(Betting\) \(Amendment No. 7\) \(Jersey\) Regulations 1994](#)
[Gambling \(Betting\) \(Amendment No. 8\) \(Jersey\) Regulations 1995](#)
[Gambling \(Betting\) \(Amendment No. 9\) \(Jersey\) Regulations 1995](#)
[Gambling \(Betting\) \(Amendment No. 10\) \(Jersey\) Regulations 1997](#)
[Gambling \(Betting\) \(Amendment No. 11\) \(Jersey\) Regulations 2000](#)
[Gambling \(Betting\) \(Amendment No.12\) \(Jersey\) Regulations 2001](#)
[Gambling \(Betting\) \(Amendment No. 13\) \(Jersey\) Regulations 2002](#)

[Channel Islands Lottery Committee \(Constitution\) Act 1975](#)
[Gambling \(Channel Islands Lottery\) \(Jersey\) Regulations 1975](#)
[Gambling \(Channel Islands Lottery\) \(Jersey\) Order 1975](#)
[Gambling \(Channel Islands Lottery\) \(Temporary Provisions\) \(Jersey\) Order 1976](#)
[Gambling \(Channel Islands Lottery\) \(Temporary Provisions\) \(No. 2\) \(Jersey\) Order 1976](#)
[Gambling \(Channel Islands Lottery\) \(Amendment\) \(Jersey\) Order 1977](#)
[Gambling \(Channel Islands Lottery\) \(Draws By Computer\) \(Jersey\) Order 1980](#)
[Gambling \(Channel Islands Lottery\) \(Amendment\) \(Jersey\) Regulations 1980](#)
[Gambling \(Channel Islands Lottery\) \(Draws By Computer\) \(Amendment\) \(Jersey\) Order 1985](#)
[Gambling \(Channel Islands Lottery\) \(Amendment No. 2\) \(Jersey\) Regulations 1994](#)
[Gambling \(Channel Islands Lottery\) \(Amendment No. 3\) \(Jersey\) Regulations 1997](#)
[Gambling \(Channel Islands Lottery\) \(Jersey\) Order 1997](#)
[Gambling \(Channel Islands Lottery\) \(Amendment\) \(Jersey\) Order 1997](#)
[Gambling \(Channel Islands Lottery\) \(Amendment No.2\) \(Jersey\) Order 2001](#)
[Gambling \(Channel Islands Lottery\) \(Amendment No.4\) \(Jersey\) Regulations 2001](#)

[Gambling \(Licensing Provisions\) \(Jersey\) Regulations 1965](#)
[Gambling \(Licensing Provisions\) \(Prescribed Conditions\) \(Jersey\) Order 1966](#)
[Gambling \(Licensing Provisions\) \(Amendment No. 3\) \(Jersey\) Regulations, 1972](#)
[Gambling \(Licensing Provisions\) \(Amendment No.5\) \(Jersey\) Regulations, 1981](#)
[Gambling \(Licensing Provisions\) \(Amendment No. 6\) \(Jersey\) Regulations, 1983](#)
[Gambling \(Licensing Provisions\) \(Amendment No. 7\) \(Jersey\) Regulations 1984](#)
[Gambling \(Licensing Provisions\) \(Amendment No. 8\) \(Jersey\) Regulations 1991](#)
[Gambling \(Licensing Provisions\) \(Amendment No. 9\) \(Jersey\) Regulations 1994](#)
[Gambling \(Licensing Provisions\) \(Amendment No. 10\) \(Jersey\) Regulations 1997](#)
[Gambling \(Licensing Provisions\) \(Amendment No. 11\) \(Jersey\) Regulations 1999](#)
[Gambling \(Licensing Provisions\) \(Amendment No. 12\) \(Jersey\) Regulations 2000](#)
[Gambling \(Licensing Provisions\) \(Amendment No. 13\) \(Jersey\) Regulations 2002](#)

[Gambling \(Public Lotteries\) \(No. 6\) \(Temporary Provisions\) \(Jersey\) Order 1972](#)

[Gambling \(Public Lotteries\) \(No. 6\) \(Amendment\) \(Jersey\) Order 1974](#)
[Gambling \(Public Lotteries\) \(No.6\) \(Amendment No.2\) \(Jersey\) Order 1974](#)
[Gambling \(Public Lotteries\) \(No. 6\) \(Transitional Provisions\) \(Jersey\) Order 1975](#)

[Gambling \(Pool Betting\) \(Jersey\) Regulations 1965](#)
[Gambling \(Pool Betting\) \(Amendment\) \(Jersey\) Regulations 1978](#)
[Gambling \(Pool Betting\) \(Amendment No. 2\) \(Jersey\) Regulations 2002](#)

[Gambling \(Gaming And Lotteries\) \(Jersey\) Regulations 1965](#)
[Gambling \(Gaming And Lotteries\) \(Amendment No. 2\) \(Jersey\) Regulations 1971](#)
[Gambling \(Gaming And Lotteries\) \(Amendment No. 3\) \(Jersey\) Regulations 1971](#)
[Gambling \(Gaming And Lotteries\) \(Amendment No. 4\) \(Jersey\) Regulations 1978](#)
[Gambling \(Gaming And Lotteries\) \(Amendment No. 5\) \(Jersey\) Regulations 1978](#)
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[Gambling \(Gaming And Lotteries\) \(Amendment No. 8\) \(Jersey\) Regulations 1991](#)
[Gambling \(Gaming And Lotteries\) \(Amendment No. 9\) \(Jersey\) Regulations 1993](#)
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[Gambling \(Gaming And Lotteries\) \(Amendment No. 11\) \(Jersey\) Regulations 1997](#)
[Gambling \(Gaming And Lotteries\) \(Amendment No. 12\) \(Jersey\) Regulations 1997](#)
[Gambling \(Gaming And Lotteries\) \(Amendment No. 13\) \(Jersey\) Regulations 1998](#)
[Gambling \(Gaming And Lotteries\) \(Amendment No.14\) \(Jersey\) Regulations 2002](#)
[Gambling \(Gaming And Lotteries\) \(Gaming Machines\) \(Jersey\) Order 2003](#)

Re-issue Note

This project has been re-issued because the version originally issued for publication contained material submitted by the Committee that should not have been included.

[1] *Professor Collins is Director of the Centre for the Study of Gambling and Commercial Gaming, University of Salford as well as Associate Professor in Management, University of Cape Town and Executive Director of the National South African Responsible Gaming Programme.*

[2] *GamCare describe themselves on their website (<http://www.gamcare.org.uk>) as taking ‘a non-judgemental approach on gambling’.*

“We do not wish to restrict the choices or opportunities for anyone to operate or engage in gambling opportunities that are available legally and operated responsibly. GamCare, a registered charity, has become the leading authority on the provision of information, advice and practical help in addressing the social impact of gambling. We strive to develop strategies that will:

- Improve the understanding of the social impact of gambling*
- Promote a responsible approach to gambling*
- Address the needs of those adversely affected by a gambling dependency”.*

[3] *Collins, P & Jennens, A. ‘Report on the Reform of Gambling Law in Jersey’. Economic Development Committee, 2003. p.33.*

Full lists of recommendations from this report, together with relevant recommendations of P50/2002 are attached as an Appendix.

[4] *In Great Britain these records are kept for 7 years.*

[5] *In the case of the EU Directive not being directly applicable, the criteria contained therein would be expected to be applied.*

[6] *Derek P Cannon, Gaming Inspector, Isle of Man Gambling Control Commissioners.*

[7] *See www.gov.im/fsc*

[8] Extract from the [FATF 2000-2001 Annual Report](#), pp. 47-48.

[9] Collins, P & Jennens, A. 'Report on the Reform of Gambling Law in Jersey'. Economic Development Committee, 2003. pp18-19.

[10] Collins, P & Jennens, A. 'Report on the Reform of Gambling Law in Jersey'. Economic Development Committee, 2003. p29.

[11] Profits for share-holders are built into the costs of capital along with whatever interest charges there may be. The return on investment in % terms should be broadly inline with the norms for raising capital in this sector and should be sufficient to compensate investors for their risk.

[12] Collins, P & Jennens, A. 'Report on the Reform of Gambling Law in Jersey'. Economic Development Committee, 2003. p17.

[13] Gambling Control Committee. 'Modernising Jersey's Gambling Legislation', P50/2002. States Greffe. pp17-18.

[14] Collins, P & Jennens, A. 'Report on the Reform of Gambling Law in Jersey'. Economic Development Committee, 2003. p22.

[15] Collins, P & Jennens, A. 'Report on the Reform of Gambling Law in Jersey'. Economic Development Committee, 2003. p24.

[16] Collins, P & Jennens, A. 'Report on the Reform of Gambling Law in Jersey'. Economic Development Committee, 2003. p.29.

[17] Collins, P & Jennens, A. 'Report on the Reform of Gambling Law in Jersey'. Economic Development Committee, 2003. p25.

[18] Committee officers already participate in the Gambling Regulators European Forum, as well as the International Association of Gaming Regulators. Their ability to contribute to policy-making in these organisations, however, is restricted by the current form of Jersey's gambling legislation.

[19] In order for clarity, this section does not refer to the existing Gaming and Lottery Regulations as they relate to private and society lotteries. These are, like bingo, usually small scale events with limited prizes and solely for club use and not for commercial or private gain. The Committee does not propose radical change to these types of small-scale events.

[20] It is significant to note that a harm reduction service for gamblers is not currently offered by the States, and the Health and Social Services Strategy 2001 – 2005 does not make any reference to gambling addiction.

[21] Excluding the Channel Islands Lottery.