

Review of the Machinery of Government in Guernsey
“The Harwood Report”

November 2000

Review of The Machinery of Government in Guernsey

ACKNOWLEDGMENTS

The panel wishes to place on record its appreciation to the Members of the States of Deliberation, who in December 1998 commissioned this Review and appointed the present members of this panel.

The members of the Panel have been honoured to have been given the opportunity of participating in a Review of such importance.

The Panel would like to take this opportunity to thank all those who found the time and enthusiasm to make written submissions to the Panel or to attend before the Panel to give evidence in person. A full list of such persons and the organisations they represented is included in part A and B of Appendix II of this Report.

The Panel also wishes to express its gratitude for the support it has received from Mr Bruce Mansell who has acted as Secretary to the Panel and to Mrs Sam. Maindonald and others in Advocate Harwood's office, who have borne the burden of typing this Report through its various drafts with great good humour and tolerance.

The other members of the Panel are indebted to their Chairman Advocate Peter Harwood who has proved to be a most efficient and enthusiastic Chairman and his professional knowledge and genuine interest in the well-being of Guernsey has been paramount throughout the whole of the process.

Advocate Peter Harwood
(Chairman)

Stuart Falla

Susie Farnon

John Guilbert

Jurat Edward Potter, ISO

Brian Walden

Sir Miles Walker, CBE

Guernsey,
November 2000.

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SECTION ONE

INTRODUCTION

In the Terms of Reference set by the States of Guernsey for the Panel, the Panel was required to identify options but not make recommendations. In approaching this review, the Panel has sought to stay within its terms of reference and in many of the Sections of this Report, the Panel sets out arguments for and against various options that have been identified by the Panel. In other instances however the only options are either to accept change, or to maintain the status quo. The Panel believes that the contents of this Report reflect the general concerns expressed by those who made representation to the Panel. As a result of those representations and further comments appearing in the media during the course of its review, the Panel senses that there is a general public acceptance of the need for changes in the machinery of government and in the manner of representation in the States. Whilst there will be scope for debate over the extent of change that is needed, the Panel considers that there is anticipation for change and that the status quo in all matters is not an option.

In approaching this review, the Panel considered it important to question and to identify what is the nature of government and what is meant by the expression "Government" in the context of the Island of Guernsey.

Surprisingly, the Panel has come to the conclusion that there is, as presently constituted, no identifiable "government" in the Island in the accepted sense.

It is certainly not possible to apply to Guernsey the conventional test of democratic government with separation of legislative and executive functions. The States of Guernsey is at the same time legislative in the form of the Assembly of the States of Deliberation and executive in the form of the Committees of that Assembly. Each and every Member of the States is therefore at the same time both legislator and executive. The Panel sought opinion from Her Majesty's Procureur in order to more fully understand the legal basis for the operation of the States and its Committees; details of that opinion are contained in Appendix IV to this Report.

Perhaps the most remarkable feature of the present machinery of government is the near absolute autonomy that each Committee possesses. That autonomy often leads to conflicts between Committees and the perhaps unedifying spectacle of such conflicts being aired in open debate. The other remarkable feature is the lack of collective responsibility at all political levels. The Panel has concluded that the combination of both features at political level is conducive to a lack of co-ordination of policy which must be potentially damaging to the Island and does not assist the development of a co-ordinated policy of a longer term or more strategic nature.

The Panel has noted the concern expressed by many who made representations that for the foreseeable future the Island faces greater external pressures than had previously been experienced. The Panel recognises that the Island will increasingly have to accept a more direct exposure to international bodies otherwise than perhaps through usual channels of communication within the UK government. The Panel feels that it is important that whatever changes in the machinery of "Government" and whatever levels and manner of representation the Island chooses, that resulting system must be sufficiently robust to be able to stand firm against such external pressures and to give cohesive strategic leadership to the Island.

SECTION TWO

MEMBERSHIP AND METHODOLOGY OF THE PANEL

Members of the Panel

1. The Panel was constituted by decision of the States on the 9th December 1998. A copy of its terms of reference as set out in the policy letter submitted to the States on that occasion is set out in Appendix I to this Report.
2. One of the major requirements of the States decision was that the Panel should be constituted in such manner as to give the community the confidence that the Review would be carried out in an impartial way. The States further believed that the Panel should include persons with an off-Island perspective, but that it was important that the majority of the members should be local residents of long standing who would appreciate the complex and sometimes conflicting attitudes of the local community. In its policy letter, the Advisory and Finance Committee sought to put forward persons who would represent as wide a cross section as possible of the local community including the man/woman in the street as well as business and commercial interests.
3. The following nominations were approved by the States for membership of the Panel:-

Stuart Falla was born and educated in Guernsey before going to university in Manchester where he gained a B.Sc. in Building Economics. He is a prominent local businessman chairing the family business and is and has been involved in a number of local business and charitable organisations. He sits on the States Strategic Policy Forum and States Recreation Committee. He was previously a Constable of the Parish of Castel.

Susie Farnon was born in Guernsey and was educated at St Martins School and the Ladies College. She is an audit partner with KPMG Channel Islands and is currently President of the Guernsey Society of Chartered and Certified Accountants and represents the Society on the Guernsey International Business Association Council.

John Guilbert has been a full time trade union official in Guernsey since 1976 and is currently the Regional Industrial Organiser for the Transport and General Workers Union. In the past he has served on several States Committees including the States Housing Authority and is currently a member of the Social Security Authority.

Advocate Peter Harwood was born in Guernsey and was educated at Elizabeth College and the University of Southampton. Admitted as an English Solicitor in 1972 he worked in the City of London until returning to Guernsey in 1981. He was called to the Guernsey Bar in 1982 and became a partner in the firm of Ozannes in 1983.

Jurat Edward Potter, ISO, was born and educated in England and moved to Jersey in 1949. He is a Barrister of the Middle Temple and was appointed

Greffier of the States of Jersey and Law Draftsman in 1971 retiring in 1990. He was appointed a Companion of the Imperial Service Order in 1991 and was elected a Jurat of the Royal Court of Jersey in 1994.

Brian Walden was educated at West Bromwich Grammar School and Queens College and Nuffield College, Oxford. He was also President of the Oxford Union. He was a Member of Parliament for Ladywood Birmingham from 1964 to 1977, including spells as Opposition Spokesman for Defence and then Treasury. He has been a columnist for the London Evening Standard and the Sunday Times and was presenter of Weekend World for ITV. He moved to Guernsey in 1986.

Sir Miles Walker, CBE, was educated in the Isle of Man and at the Shropshire College of Agriculture before returning to the farming and retail dairy trade. He was elected a member of the House of Keys in 1976 and was Chief Minister of the Isle of Man Government between 1986 and 1996. He represents the constituency of Rushen and is Chairman of the Standing Committee of Public Accounts and Expenditure. He is a member of the Isle of Man Treasury and sits on several other Government Committees.

4. Advocate Peter Harwood was elected Chairman of the Panel at its first meeting held on the 12 February 1999.
5. In order to ensure its independence, the Panel chose to appoint as Secretary a person who was not employed by the States. Bruce A. Mansell was appointed as Secretary to the Panel on the 12 March 1999.

Methodology

6. From the outset the States recognised the importance of the Review in that it ranked alongside the post war Review of the Island Government by the Committee of the Privy Council and the negotiations preceding the U.K.'s accession to the Treaty of Rome following which the Island's relationship was then enshrined in Protocol 3 to the U.K.'s Treaty of Accession.
7. For this reason the Panel recognised that to fulfil the requirements of the mandate of the States it would initially be required to carry out a wide ranging consultation process through a general invitation for submissions and through requests for oral and/or written submissions from appropriate individuals or bodies. This consultation process began at the first formal meeting of the Panel on the 12 March 1999 and essentially continued until the meeting held on the 13 July 2000.
8. The Panel recognised that the views of the Members of the States would be of particular importance to the Panel and all Members of the States were invited to make submissions to the Panel. In the period before the General Election in April 2000, some 24 then Conseillers, Deputies and Douzaine Representatives accepted the invitation to address the Panel, some also presenting written submissions. A further 4 Members of the States chose to make only written presentations.
9. H M Procureur, Mr G R Rowland, QC, was asked to clarify certain constitutional and legal matters and provided a substantial response. H. M. Greffier, Mr Ken

Tough, gave a detailed explanation of the day-to-day functions of the States. Mr David Robilliard gave the Panel a detailed historical analysis of the evolution of the present States. The Panel also received valuable assistance from the States Archivist, Dr Daryl Ogier.

10. The Panel was also anxious to obtain the views of the Civil Service and the Panel was grateful that a substantial number of senior Civil Servants accepted the invitation to address the Panel.
11. Opinions of past senior politicians were sought and received, as were those of recent Bailiffs.
12. The views of members of the public were of fundamental importance to the considerations of the Panel and by means of public advertisement, they were invited to make individual submissions to the Panel over three days in September 1999.
13. In total the Panel received oral evidence from 81 individuals or organisations.
14. The Panel received 122 written submissions with some, such as those of the Transport and General Workers Union, The Institute of Directors, the Chamber of Commerce and the Status Quo Group being made on behalf of the whole of their respective memberships.
15. The Panel were pleased to welcome Professor Stewart of the University of Birmingham to attend a two-day meeting in July 2000. Professor Stewart is the head of the School of Public Policy and Institute of Local Government Studies at the University of Birmingham and is a nationally respected commentator on local government matters. His input into the deliberations of the Panel was particularly appreciated.
16. As Alderney has specific representation within the States, full consultation with the Island was considered appropriate. Members of the Panel met with the President of the States of Alderney, several States Members and members of the public in Alderney on the 3 July 2000.
17. During the period of the Review, the Panel was aware that a similar review was being undertaken in Jersey. The two Panels met therefore on 17 February 2000 in order to discuss the progress that each were making and more importantly to assess the issues that each were addressing. Whilst at this time neither Panel had formulated firm proposals, it was evident that the issues being addressed by them were essentially the same and it was particularly noticeable that the representations that both Panels had received had been of similar character and that both Islands were identifying similar concerns within their respective Governments.
18. During the course of the Review, John Guilbert attended a seminar at Birmingham University entitled, „Designing New Political Structures“ and tabled a detailed paper for the consideration of the Panel.
19. In order to assist the Panel in their understanding of the workings of the States, the Panel attended a meeting of the States held on 27 January 2000.

20. The Panel believed that it was appropriate to consider how other jurisdictions conducted their governmental systems. The Panel obtained material from several sources, including the Commonwealth Parliamentary Association and considered the constitutions of some 15 other jurisdictions. Particular attention was addressed to the governmental systems of Jersey and the Isle of Man recognising the proximity, in constitutional terms, of both of those Islands to that of Guernsey.
21. Meetings of the Panel were held on regular bases and in all the Panel met on 27 full days between the 12 February 1999 and the 3 November 2000.

Decision regarding publishing submissions

22. In order to encourage submissions from members of the public, leading politicians and Civil Servants, the Panel decided at the outset of its consultation process to respect confidentiality. The Panel resolved therefore that it would not publish individual submissions. Those individuals or organisations that wish to publish their submissions are free to do so. A list of all those who gave evidence or made written submissions is contained in Appendix II to this Report.

SECTION THREE

THE ROLE OF THE BAILIFF IN THE MACHINERY OF GOVERNMENT

1. The Terms of Reference given to the Panel precluded the Panel from considering the external constitutional relationships between the States of Guernsey and the United Kingdom. To the extent that the relationship with the British Crown forms the core of that Constitutional Relationship the nature and the methods of appointments made by the Crown fell outside the scope of this Review. The appointments of the Bailiff, the Deputy Bailiff, H. M. Procureur, H. M. Comptroller and H. M. Greffier therefore fell outside the Panel's terms of reference.
2. In describing the scope of the Review to be undertaken by the Panel, the Advisory and Finance Committee of the States of Guernsey, in the policy letter submitted to the States, recognised that, if during the course of carrying out this Review, the Panel identified issues relating to the roles and responsibilities of the Crown appointees "which significantly impacted on the internal machinery of Government", then it would be appropriate for these issues to be considered in the Panel's Report, following consultations with the relevant Crown appointees.
3. The only issue concerning the roles and responsibilities of the Crown appointees upon which the Panel received any representation during the course of its review, concerned the role of the Bailiff as "President of the States of Deliberation". The Bailiff's role as President of the "States of Election" was never raised as an issue and given that the sole remaining function of the States of Election relates to the election of Jurats, the Panel considers that the States of Election no longer forms part of the machinery of Government.
4. The representations received by the Panel concerned the duality of the roles of the Bailiff and were no doubt influenced by the early report of the Commission to the European Court of Human Rights in the McGonnell case. The final judgment given by the European Court did not however follow the recommendations in the report of the Commission. In particular, the judgement affirmed that there is no legal basis for contending that there should be a separation of the judicial and parliamentary roles of the Bailiff.
5. The Panel has received no evidence to suggest that the duality of the roles performed by successive Bailiffs or their Deputies had in any way militated against good government, nor was there any criticism of the way in which they had exercised their roles.
6. The Bailiff's role when acting as President of the States of Deliberation encompasses the publication of the Billet D'Etat convening meetings of the States of Deliberation, presiding at meetings of the States of Deliberation and acting as a formal channel for communications between States Committees and the Lieutenant Governor's Office of the United Kingdom. Given the present Committee system within the States, it is suggested that there is no practical alternative to the use of the office of the Bailiff in that channel of communication.
7. The involvement of the Bailiff in the publication of the Billet D'Etat is in practice limited in that the Bailiff's office will include in the Billet D'Etat any matter that is

lodged with the Bailiff's office in proper form, before the agreed deadline required to ensure the timely printing and publication of that Billet D'Etat.

8. Once again, given the present Committee system within the States, there is no obvious alternative to the present system for the publication of the Billet D'Etat. As Presiding Officer at States Meetings, the Bailiff, as President of the States of Deliberation is required to ensure fair play between States Members, a task which requires a strong presence, impartiality and independence from political bias.
9. It has been pointed out to the Panel that, in the discharge of his role as President of the States of Deliberation, the Bailiff has very limited back up, other than that primarily available to support him in his judicial role.
10. The Panel does not consider that the Bailiff's role when acting as "President of the States of Deliberation" can be said to impact significantly on the internal machinery of Government in Guernsey.
11. Amongst those who gave evidence to the Panel, some questioned whether the title, "President of the States of Deliberation" was necessarily appropriate. The title, commonly shortened in the minds of many to "President of the States", could, it is argued, be potentially misleading, especially when used in an international context. If a different system of government were to evolve, the present title, "President of the States of Deliberation", could also potentially lead to confusion, since the title of "President" suggests a political rather than purely parliamentary role. In those circumstances, the Panel would suggest that it might be more appropriate to address the Bailiff as "Mr Bailiff", when presiding at meetings of the States of Deliberation and in conjunction with the publication of the Billet D'Etat.
12. Many of those who gave evidence to the Panel argued strongly that the Bailiff should not preside at meetings of the States of Deliberation. The role of President of the States in this context was likened to that of the Speaker in a Parliament, a role universally recognised. If, indeed, the States of Deliberation is to be equated to a parliamentary assembly, then the Panel recognises that role of Speaker would normally be perceived to be a political role. That having been said, in most if not all parliamentary assemblies presided over by a Speaker, there exists a system of party politics, with corresponding party discipline and an executive branch of government. It has been suggested that in the absence of party politics and an executive branch of government, the States of Deliberation is not the equivalent of a Parliamentary Assembly. Given the uniqueness of the present system of government, a politically appointed "Speaker" may not therefore be appropriate. The weight of evidence between those in favour of segregation of functions and those in favour of the status quo was however very finely balanced.
13. Arguments in favour of the retention of the status quo, with the Bailiff continuing to act as presiding officer of Meetings of the States of Deliberation, include the following:-
 - (i) the Bailiff will have detailed knowledge of the Island's machinery of government, the constitutional relationships within the United Kingdom and with the other Islands in the Bailiwick;

- (ii) as a non-elected appointment, the Bailiff is seen to be independent of local political bias and is able to act as a neutral umpire in a non-party political assembly;
 - (iii) through his judicial experience the Bailiff will have a suitable bearing and expertise to command the respect of States Members and to maintain order;
 - (iv) the available pool of States Members with adequate experience of proceedings of the States of Deliberation is likely to be comparatively small and there may be a lack of willingness amongst able States Members to accept such office as an alternative to active political involvement in the machinery of government;
 - (v) contested elections for the position of Speaker or Presiding Officer might be seen to undermine that person's authority;
 - (vi) the Bailiff, as a Crown Appointee, is able to enjoy the confidence of the other Islands within the Bailiwick;
 - (vii) in the absence of a party political system in the Island, there is no reason why the role of presiding officer should be a political appointment;
 - (viii) the Bailiff's tenure of office will invariably span more than one term of the States and will therefore provide continuity.
14. The principal justification used by those who would argue in favour of creating an independent Speaker or Presiding Officer would appear to be one of perception that the Members of the States should be master of their own procedures. The other justification would seem to be founded on a concern that the duality of roles might somehow be seen to compromise the Bailiff's judicial function. The Panel notes that following the judgment in the McGonnell case that concern is no longer an issue.
15. Those who argue in favour of the separation of the roles of Bailiff as President of the Royal Court and as President of the States of Deliberation differ in their views as to how the office of "Speaker" or "Presiding Officer" of the States of Deliberation might be chosen. Logically many argue that it should be a matter for the States to vote one of their number to the office. The choice would be whether such appointment is made by the retiring States before a General Election, with the person chosen then not having to seek re-election, or whether the appointment is made by and from amongst those who are elected at that next General Election. An alternative method of selection would be by means of an elected House Committee of the States itself selecting the Speaker or Presiding Officer. Whichever of those options were chosen, it would be necessary to ensure that the candidates for the office of Speaker were capable of commanding the respect of the States Members over whom he has been elected to preside and had sufficient experience of the rules of procedure of the States either as an elected Member of the States or, possibly, as a Crown Officer.

16. If the role of Speaker or Presiding Officer is to be created independently to that of Bailiff, the functions attaching to that new office would need to be established. In the opinion of the Panel, those duties would include the following:-
 - (i) presiding at and maintaining order at meetings of the States;
 - (ii) enforcing disciplinary matters amongst Members of the States;
 - (iii) resolving points of order and procedure;
 - (iv) authorising publication of the agenda for Meetings of the States;
 - (v) protecting the rights of backbenchers against the powers of the executive (if such a style of government were to be adopted).
17. Almost certainly the post of "Speaker" or "Presiding Officer" would require a support staff. If, as suggested in Section Ten of this Report, a separate post of "States Greffier" were to be created, then the office and staff of that States Greffier would be able to provide the support staff and facilities needed by the "Speaker" or "Presiding Officer". In those circumstances, the States Greffier could also be nominated as the Deputy to the Speaker or Presiding Officer. The cost of establishing the office of "Speaker" or "Presiding Officer" and providing such support would however need to be borne in mind. If a person who was not legally qualified was to be chosen as "Speaker" or "Presiding Officer", the States Greffier would need to be legally qualified. The Panel recognises that there would be not insignificant cost and resource issues with such an appointment.
18. Even amongst those who advocated the separation of the roles of Bailiff and Speaker or Presiding Officer concerns were expressed at the efficacy of the States electing such an officer from amongst its own number. In particular it was recognised that any sitting or recent States Member selected for such office may be perceived as bearing his or her own preconceived political bias.
19. Some argued that it may be difficult to find persons of sufficient calibre or qualifications able to command the respect of the Members of the States. As an alternative process, some suggested that the office of Speaker or Presiding Officer might best be selected by Crown Appointment. The Panel would question however whether such an appointment would necessarily offer a satisfactory career alternative.
20. The Panel recognises however that a further solution might be sought by accepting that the Bailiff "ex officio" continues as at present as the Presiding Officer of the States, but without the title of "President". A further alternative would be that the Bailiff remain formally ex officio as presiding officer but only in attendance at formal sessions of the States, e.g., swearing in of States Members and the opening of each Meeting of the States but he would withdraw for all debates and take no part in the publication of the agenda for States Meetings. The States Greffier could act as the Presiding Officer in his absence for debates and be responsible for publishing the agenda for Meetings.
21. The Panel recognises that, in the absence of clearly established political leadership in the Island, the Bailiff has of necessity tended to act as the principal

ambassador for the Island. To that extent, there has been no other person who could claim to be the Island's chief citizen and representative and no one else to whom fell the title of head of the administration. Since the Panel first met, certain of the administrative functions that previously attached "ex officio" to the Bailiff have been abolished. The presidencies of the Legislation Committee, the former Rules of Procedure Committee (whose functions are now merged into the States Procedure and Constitution Committee) and the Appointments Board (which is soon to be abolished by Order in Council) no longer attach to the office of the Bailiff. Elsewhere in this Review the Panel considers the issue of political leadership for the Island. If such a leader was to emerge as a result of the options put forward by the Panel, certain of the ambassadorial functions described at the beginning of this paragraph might naturally fall upon that political leader.

SECTION THREE

SUMMARY OF ISSUES IDENTIFIED BY THE PANEL

- A. There is no evidence that the roles and responsibilities of any of the Crown appointees significantly impact on the internal machinery of Government. . There is no evidence to suggest any malfunction in the machinery of government caused by the duality of the Bailiff's functions.
- B. Consideration might be given to using a title other than "President of the States of Deliberation" for the person presiding at Meetings of the States.
- C. That if it is considered appropriate to have some person independent of the Bailiff to chair meetings of the States then a person selected as Speaker of the States independent of the office of Bailiff might be selected either:-
 - (i) by election of the Members of the States before a General Election, and not therefore needing to seek re-election if elected from amongst the sitting Members; or
 - (ii) by election of the Members of the States immediately after a General Election; or
 - (iii) by selection by a special committee representing elected Members of the States.
- D. The qualification for selection as Speaker of the States might be either:-
 - (i) that the person must be a sitting Member of the States or someone who has previously served in the States for at least one full term; or
 - (ii) that the person need not have previously have been an elected Member of the States, but must have had experience of States Proceedings, possibly having attended as a Crown Officer.
- E. Any attempt to separate the present dual roles of the Bailiff by creating the separate office of Speaker or Presiding Officer is likely to have material cost and resource implications.

SECTION FOUR

THE FUNCTIONS OF GOVERNMENT

1. One of the matters included in the terms of reference of this Panel was the extent to which any of those activities presently carried out by the States ought to be continued to be provided by Government.
2. At the outset of its deliberations, the Panel was surprised to discover that there were 52 Committees of the States. Whilst some of those Committees meet infrequently nevertheless it would appear that there are over 30 active Committees each involving at least three States Members and requiring secretarial and other support resources from the Civil Service.
3. There was a general feeling amongst those who gave evidence to the Panel that there were probably too many Committees and that Guernsey had the appearance of being over-governed. This was apparent not only from those individuals who gave evidence (including many States Members), but also from the Audit Commission and the various representative bodies, including the combined representation from the Chamber of Commerce and Institute of Directors and the separate representation from the Transport and General Workers Union.
4. The Panel considers that there is a general consensus of support for a reduction in the number of Committees of the States of Guernsey primarily by the merging of existing Committees and secondly by a reduction in the scope of the States involvement. This will become essential should the number of States Members be reduced, as suggested in Section Six of this Report.
5. In assessing the manner in which Committees might be merged the point was made that whilst a merger of Committees might have some attractions nevertheless the necessity for Sub-Committees may still remain even after such mergers. A reduction in number of Committees may not in itself therefore reduce the burden upon the States Members and upon the Civil Service.
6. Allied with the criticism of the number of Committees is the criticism often heard by the Panel that Members of the States sitting on Committees are too often concerned with the detail of administration and not enough with the formulation of policy.
7. The Panel would suggest that it is only by reducing the number of activities of the States that a meaningful reduction can be achieved in the ever increasing workload of States Members.

8. During the period of this review the States has resolved to proceed with a process of commercialisation that will, if implemented, reduce the number of States Committees by, at least, three. The Panel is of the opinion that further activities presently carried out by Committees of the States could usefully be undertaken under the control of non-political bodies e.g. by boards of directors on a corporate basis or on a statutory agency basis using the model of the Financial Services Commission. A further consideration of these alternatives is contained in Section Twelve of this Report.

9. The Panel has however reviewed the present activities undertaken by the States and has identified broadly six principal categories, as follows:-

(i) **Essential services funded by the States of Guernsey:-**

Representational leadership;
Treasury;
The judicial process;
The legislative process;
Educational policy and provision;
Health education, treatment, and caring;
Social Services provision;
Law Enforcement;
Prison and Probation Services provision;
Fire Fighting and prevention;
Customs enforcement;
Roads, Drains, Sea Defence development and maintenance;

(ii) **Regulatory activities:-**

Industry and Commerce;
Population Growth;
Land Use Planning and Building Control;
Driving tests;
Transport operators to and from the island;
Public Transport;
Broadcasting;
Gambling Control;
Public and Environmental Health;
Environmental Pollution;
Listing of Heritage sites or properties;

(iii) **Revenue gathering activities:-**

Income Tax;
Social Insurance;
Vehicle Registration/Licensing;
Cadastre (Rates);
Customs Duty.

(iv) **Promotion of Economic Activity:-**

Financial Services;
Tourism;
Light Industry/Commerce;
Agriculture and Horticulture;
Sea Fisheries.

(v) Promotion of Social and Cultural Activity:-

Sport and Recreation;
Arts; Land Husbandry and Management;
Parks, Gardens and Plantations;
Island Heritage;
Museums and Libraries.

(vi) Activities in whole or in part funded by consumers:-

Dairy;
Beau Sejour Leisure Centre;
Harbour Services;
Airport Services;
Water Collection, Treatment and Distribution;
Sewage Collection and Disposal;
Waste Collection and Disposal;
States Housing and Homes for the elderly.

10. It is recognised that certain of the activities listed above may overlap between two or more categories. Within the category of essential services it has been suggested that there should be a re-definition of the role of the politicians with a more conscious separation between the creation of strategic policy and/or funding of those activities and the management of those activities, e.g. the management of the Hospital, the management of the Police Force, the management of the Prison and Probation Services, the management of the Education Services. The Panel discerns a general feeling amongst those who made representation, that the management of such services ought properly to be undertaken by professionals and not by politicians on a part-time basis. The politicians should however assume clearer responsibility for the development and direction of strategic policy.
11. There clearly is an argument that regulatory responsibilities ought to be divorced from political influence, particularly where licenses or consents have to be issued or granted. The Guernsey Financial Services Commission serves as an example of the use of regulatory agency. Certain of these regulatory activities could be financed to some extent by fees attaching to licenses, consents or applications.
12. It would seem logical to assimilate as many of the revenue gathering activities under common control. The functions inevitably overlap to some greater or lesser extent and putting those activities under a single dedicated function (e.g. States Treasury) ought to aid accountability and potentially offer efficiencies.

13. The States has a role to play in the promotion and financial assistance of the economic, social and cultural activity in the Islands. However, the greater use of agencies, enterprise boards, private public partnerships or the public purchase of private sector services in the discharge of such promotional activities ought perhaps to be considered. (Further consideration of these options is included in Section Twelve of this Report). Greater use of the skills available within the parish system could be employed in the areas of land husbandry and management.

14. In respect of those activities that are in whole or in part funded by consumers, it could well be argued that they ought to be run on a commercial basis as any other service. Further consideration ought perhaps be given to the merging of certain of the „trading“ activities of the States to achieve a greater critical mass and efficiencies through shared support services. Whilst retaining ownership of such activities by the States on behalf of the people of Guernsey and ensuring adequate accountability, there seems to be little justification for such activities being carried out as a political activity by Committees of the States.

SECTION FOUR

SUMMARY OF ISSUES IDENTIFIED BY THE PANEL

- A. The functions presently undertaken by the various committees of the States of Guernsey ought to be analysed as a precursor to reducing the number of Committees or Departments of government by combining similar functions that may be common to several of the present Committees.

- B. Such analysis ought to identify those functions that need not be undertaken by the body politic, but which could be undertaken independently of the States by autonomous agencies or commissions or in partnership with the private sector, in particular those activities identified as being activities funded in whole or in part by the consumer and certain of those activities involving promotion.

SECTION FIVE

REDUCTION IN NUMBERS OF COMMITTEES

1. Many of those who made representation to the Panel put forward their own blueprints for reducing the numbers of Committees. The resulting numbers varied from eight to approximately twenty. The Panel recognises that a reduction in number to twenty by merger of existing Committees should be achievable even within the existing Committee System. The Panel took note of the recent experience in Alderney, where a major reform had recently been implemented. Evidence from politicians and others in Alderney suggested that the reforms that had been introduced were too drastic and had not worked well in practice. Already the number of Committees had been increased from two to three and the Panel understands that the matter is still under discussion.
2. Quite clearly there is a danger that by simply merging Committees one will create unmanageably large agendas for the resulting Committees or perpetuate the status quo by encouraging the creation of Sub-Committees.
3. If such mergers created or encouraged the establishment of Sub-Committees, the result might still be beneficial in that it would at least aid greater co-ordination within those groupings. The establishment of Civil Service teams responsible for a group of Sub-Committees and the fact of the principal Committee providing political co-ordination between the competing interests of the Sub-Committees, could avoid some of the confrontational issues that presently exist between individual autonomous Committees.
4. The Panel is of the view that the States should be prepared to allow many of its present activities particularly those that are wholly or partly funded by consumers, (see paragraph 9(vi) of Section Four of this Report) to be discharged by way of agencies rather than political committees. The Panel also considers that scrutiny of government should be manifested through the establishment of Scrutiny Committees appointed by the States rather than left to the use of local media, questions in the house, or requêtes.
5. Based on the premises set out above, the Panel has identified twelve principal Committees of Government that could form the nucleus for the future government of the Island, two important non-government Committees which may encompass a number of less important Sub-Committees.. How these Committees might be constituted in terms of political membership, political leadership and direction and arranged into a structure of government is discussed in Section Eight of this Report. The twelve principal Committees could be developed into departments of Government, if a departmental rather than Committee based system of government was adopted. The proposals set out below are however given by way of illustration and are not intended to be prescriptive.

THE TWELVE PRINCIPAL GOVERNMENT COMMITTEES

(i) Policy and Resources Committee

To represent the Elected Government of the States of Guernsey through the Chairman of this Committee.

To formulate the Strategic and Corporate objectives for the economic, social and environmental development of the Island and devise policy to achieve these objectives. To monitor progress in the achievement of these objectives on a regular basis.

To co-ordinate the work of the States in achieving those objectives.

To allocate the duties of government to the respective States Committees.

To protect the Bailiwick's constitutional position and conduct its international relationships.

To prioritise the drafting of all legislation.

To liaise with the authorities in Alderney and Sark in respect of legislation.

To carry out the duties of the Emergency Council.

To carry out the duties of the Transport Board in respect of the maintenance of air and sea connections.

To carry out the duties of the Civil Service Board in conducting professional staff appraisal of senior executive officers and reserving an ability to move Civil Servants from post to post.

(ii) Treasury and Finance Committee

To regulate and control States financial affairs.

To establish tight budgetary control to ensure that demand for services is balanced with the ability to raise revenue through taxation and other sources. Devise appropriate revenue procedures to cope with the ever-changing economic environment.

To raise States income and control the investment of financial resources.

To provide States Committees with advice and corporate services in the areas of:-

Accounting;
Financial; and
Treasury functions.

To co-ordinate and manage risk through assessment and insurances.

To be the shareholder to commercialised States trading boards. Receiving licensing fees and shareholder dividends. Commenting and advising on annual and longer-term business plans.

To be the reporting conduit to the States of Guernsey for the Guernsey Financial Services Commission.

To conduct wage and salary negotiations with States employees on behalf of the government.

To be responsible for the investment of the Guernsey Insurance Fund and the Guernsey Health Service Fund.

To be responsible for the investment of States Employees Pension Funds.

To collect both indirect and direct tax and administer the Income Tax Law through the Administrator of Income Tax.

To be responsible for the collection of impot and customs duties.

To carry out duties of Receiver of Wreck.

(iii) Population and Housing Committee

To promote the appropriate level of Housing Stock of the Island, taking into account levels of population and demographic trends.

To initiate the provision of Social Housing and Sheltered Housing through Housing Trusts, the Private sector and, as a last resort, the States themselves.

To give assistance for house purchase and repair of housing through loans.

To establish controls on housing occupation through the issue of Housing Licenses and Right to Work documentation and through the control of the open and local markets for housing

To establish controls of population growth (by limiting the effects of uncontrolled immigration).

To provide population and migration statistics.

To carry out the duties of the Cadastre in respect of rating properties and rent control. Rates to be collected through Treasury and Finance.

To supervise the provision of long-term care of the elderly and accommodation through other agencies or the private sector.

(iv) Industry and Commerce Committee

To promote the Islands' Economic Activities: - Financial Services;
- Tourism;
- Light Industry;
- Horticulture;
- Service Industries;
- Sea Fisheries;
- Farming and Agriculture.

To provide consumer protection and trading standards.

To conduct employment and industrial relations.

To promote Health and Safety and good working practices in the work place.

To be the reporting conduit to the States for the Regulators of States Trading Boards.

To provide support services for: - Hotel inspection and licensing;
- Tourist attractions licensing;
- Horticultural premises licensing;
- Sea Fisheries protection and inspection;
- Farm inspection and licensing.

(v) Education Committee

To carry out the duties of the existing Education Council with removal of responsibilities for Youth Organisations and Libraries.

(vi) Committee for the Environment (in conjunction with Parish Douzaines)

To manage the road, green lane, and cliff path networks.

To operate waste water management and sewage treatment contractors.

To manage the surface water system.

To manage solid waste disposal and incineration.

To manage solid waste recycling.

To administer landfill sites and land reclamation sites.

To manage the sea defences of the Island.

To manage the foreshore and beaches.

To manage headlands and other common areas.

To manage sites of nature conservation importance.

To manage oil pollution and Island emergencies generally.

To establish and promote energy management policies.

To establish and promote environmental pollution policies

To manage the States Works Department.

To promote environmental enhancement policies.

To develop an Island-wide tree planting scheme.

To manage and develop a countryside protection scheme.

To establish a public transport policy.

To develop traffic management schemes and parking policies.

To administer a scheme for temporary work for the unemployed.

(vii) Home Affairs Committee

To assume responsibility for:-

The Island Police Force.
The Fire Brigade and Airport Brigade.
The Prison Service.
The Attendance Centre for young offenders.
The Probation service.
Traffic Wardens.
Driving Tests and Driving Licenses and Road Safety.
Vehicle Registration and Licensing.
Civil Defence (Civil Protection and Nuclear issues).
Customs and Immigration.

To undertake responsibility for gambling control.

To control and license public transport and taxis.

To control liquor licenses.

To control and license cinemas, theatres, and other entertainment.

To provide resources for the offices of the Crown Officers and for the Courts.

(viii) Board of Health

To procure services for the mental, physical and social well being of the people of Guernsey and Alderney, including:-

Health Education.
Promoting, protecting and improving environment and public health.
Preventing or diagnosing and treating illness, disease and disability.
Caring for the sick, old and infirm and those with disabilities.

(ix) Island Development Committee

The duties of the existing Island Development Committee with the addition of the inscription of heritage sites or properties.

(x) Property Services Committee

To administer States Properties not in the direct control of other States committees.

To administer and manage:

- Alderney Breakwater;
- Foulon Cemetery and Crematorium;
- Public Conveniences;
- States Markets;
- Herm.

To liaise with the agencies administering and managing the Harbours and Airports.

To carry out land, property and rent transactions for most other committees.

To give property advice to all other States Committees:-

- Strategic;
- Architectural;
- Engineering;
- Cost in Use;
- Energy utilisation;
- Value for money.

(xi) Social Services

To administer the Social Insurance Scheme.

To administer the Guernsey Health Service Scheme.

To administer duties of the Public Assistance Authority.

To administer the Guernsey Health Service Fund.

To undertake the functions of the Probation Cases Committee (by Sub-Committee).

To undertake the duties of the Children Board (by Sub-Committee).

(xii) Art, Sports and Leisure Committee

To promote Arts and Crafts.

To promote Sports.

To promote Leisure pursuits.

To liaise with Museum and Galleries agencies.

To manage Historical and Archaeological sites.

To manage Islands Archive Service.

To manage States owned sports and leisure facilities (Beau Sejour to be an agency).

To manage Parks, Gardens and Plantations.

To licence Broadcasting services.

To liaise with and promote Youth Organisations through the Youth Service.

To liaise with and promote Public Libraries.

To run a States Lottery and distribute the surplus funds within an appropriate mandate.

To provide political representation for non-States associated organisations:

- The Arts Council;
- St James Concert and Assembly Hall;
- Priaux Library;
- Guille Alles Library;
- The Association of Guernsey Charities;
- The Sports Council; etc.

In addition to the principal government Committees certain other minor Committees may need to be retained as separate Committees but reporting to the States either through one of the principal government Committees or, possibly, through the House Committee, as suggested below. These include:-

- (i) the Overseas Aid Committee;
- (ii) the Liberation Day Committee;
- (iii) the Ecclesiastical Committee; and
- (iv) the Liberation Religious Service Committee.

The Two Non-Government Committees

House Committee

To be chaired by a States Member independent of any other Committee.

To publish the States Agenda for meetings and setting the meeting dates.

To carry out the duties of the Procedure and Constitution Committee.

To carry out the duties of the Island Reception Committee.

To be the reporting conduit to the States for other non-government Committees.

To introduce induction and training programmes for States Members and maintaining continuous contact and discipline.

To promote the value of States Members, the value of well supported public elections and the importance of a fully representative electoral role.

To promote the value of service to the community of non-States Members serving on a variety of committees, sub-committees, standing committees, and commissions and to keep appropriate registers of those interested in serving. Train non-States Members for their respective roles and keep a database of information and secretarial service backup.

To provide office and secretarial services to those States Members without other recourse to these services and provide research facilities to all States Members through a library.

To act as initial co-ordinator and convenor of the Review of Administrative Decisions Panels.

Scrutiny Committee(s)

As more fully described in Section Eleven of this Report:-

To scrutinise the actions of government to ensure that they conform to the approved Strategic and Corporate plan and other policies approved by the States.

To act as a Public Accounts Committee.

To appoint and liaise with the States Auditors.

To liaise with the States Internal Audit and States Audit Commission.

SECTION FIVE

SUMMARY OF ISSUES IDENTIFIED BY THE PANEL

- A. There is a broad consensus in favour of reducing the number of Committees or Departments of government. Such reduction can best be achieved either:-
- (i) by merging existing Committees without further rationalisation on a functional basis; or
 - (ii) by restructuring existing Committees on a functional basis as described in Section Four.
- B. The number of resulting Committees or Departments could most probably be reduced to:-
- (i) twelve principal Departments in line with the suggested structure for creating an executive style of government (as described in Section Eight of this Report); or
 - (ii) not more than twenty principal Committees if a Committee style of government is to be retained.

SECTION SIX

NUMBER OF STATES MEMBERS

1. One of the first issues identified by the Panel concerned the appropriate size of membership of the States. That issue was subsequently raised with virtually every representation that was made to the Panel. The view that was commonly expressed was that the Island had too many States Members.
2. By any reasonable standard of measure, it must be acknowledged that the population of the Bailiwick of Guernsey has democratic over-representation. A comparison with other jurisdictions (see Appendix III to this Report) shows that Guernsey has one of the greatest number of elected representatives per head of population at approximately one for every eleven hundred of population.
3. The majority of the submissions made to the Panel canvassed a reduction in the number of elected representatives. The preferred numbers ranged from 30 up to 50. A simplistic approach favoured by many was to reduce the present number by 10 by abolishing the Douzaine representatives.
4. In most cases the only justification given for reducing the number of States Members was a feeling that the Island was over-governed, that the large number of States Members encouraged wastage of time in States Debates because of repetition and that such a large number encouraged too great an attention towards the minutiae of administration, rather than a focus on matters of policy and strategy. It was argued by some that the larger the number of elected representatives, the weaker the level of calibre amongst those representatives. A minority of those who made submissions to the Panel suggested the retention of the present number of elected representatives was necessary in order to support the number of States Committees presently in existence. If the present Committee system were to be retained, with the present number of Committees it was suggested that a reduction in the number of elected representatives could impose an intolerable burden of Committee representation on those remaining States Members.
5. It is the view of the Panel that the question of the number of elected representatives cannot be viewed in isolation. The issue must be considered in the context of the style of government that is to be chosen.
6. Before considering the number of elected representatives appropriate for the Island, the Island needs to have a clear view as to the objective of that elected chamber. This in turn raises once again the fundamental question - what type of government does the Island need?.
7. The key issues to be considered, in the opinion of the Panel, is whether the role of the elected chamber should be that of approval of policy, control of budget, approval of legislation and scrutiny of government action as in the conventional parliamentary model, or should the elected chamber act as at present, as both legislature and as the executive arm of government? Should all Members of the

States be directly (as at present) concerned in the administration of government? This issue is considered further in Section Eight of this Report.

8. If the primary objective of the elected chamber is to act as the executive and administrative arm of government, then the Panel would agree with the view that there may be little merit in making any substantial reduction in the number of elected representatives. It would be argued that it is better to spread the administrative load over as many people as possible.
9. If however it is accepted that the function of the elected assembly ought more properly to be that of approval of policy, control of budget, approval of legislation and scrutiny of government action and an acceptance that there should be a more recognisable form of executive government, then the Panel accepts that there would be justification for a reduction in numbers.
10. In the circumstances described in paragraph 9., the Panel has identified three key determinants in arriving at the optimum size of elected assembly. Those determinants are:-
 - (i) the numbers required to form the executive government;
 - (ii) the minimum number of elected representatives that would be required to provide effective scrutiny of the executive government; and
 - (iii) the choice of constituency bases for elections to the States.
11. The numbers required to form a version of executive government will depend upon the view that is taken as to the realistic minimum number of Committees or Departments required for effective government. In Section Five, the Panel has attempted to suggest certain groupings of activities presently undertaken by individual Committees and has put forward twelve principal governmental Committees or Departments.
12. In order to create the necessary and appropriate levels of scrutiny as a check and balance to an executive government, the Panel is of the opinion that there should at all times be a majority of elected Members who are independent of and not included in that executive body of executive government.
13. If the position of Douzaine Representative (or an alternative form of representative elected on an individual parish basis) is to be retained, the number of such representatives ought not in the view of the Panel to exceed in number 25 per cent of the total number of members of the States.
14. Were the percentage of parish representatives to exceed that number, the inequality of representation per head of population would, in the opinion of the Panel, be too great. The Panel does not believe that such inequality would be acceptable nor democratic.

15. The arguments in favour of and against the retention of Douzaine Representatives in the States have been rehearsed in Section Seven in this Report. If the Panel were asked to put forward proposals for the constitution of a new States Assembly without any regard to history, it would be difficult for the Panel to justify the retention of the Douzaine Representatives in that Assembly. It would be difficult objectively to justify the retention of any system that gave one seat per parish selected by electoral colleges in each parish.
16. Before any decision can be made as to the choice of constituency and numbers of States Members to be elected, the Island must first determine whether or not to retain parish representation on a basis of equality for each parish irrespective of the relative sizes of population. The Island must further consider that if some form of parish representation is to be retained whether that representation should be elected by the parishioners or selected by the Douzaine.
17. If there is to be any measurable reduction in the number of States Members to, say, 30/32 (as recommended by many of those who gave evidence) the Panel is of the opinion that this could only be achieved by abolishing parish representation and relying solely upon elections using non-parish constituencies. To retain parish representation on a basis of equality per parish (within such an overall reduction in numbers) would most certainly create an unacceptable level of weighting in favour of the smaller parishes.
18. If however it is considered necessary to retain parish representation, then it is the view of the Panel that the number of States Members ought probably not to be reduced below 40/42.
19. It should be noted that the differences between 30/32 and 40/42 respectively would be made up by the Alderney Representatives. As discussed in Section Seven of this Report, it is recognised that the States of Alderney has a statutory right to nominate two representatives to the States. Given the present constitutional relationship between Guernsey and Alderney, the Panel can see no real alternative but to retain that level of representation for Alderney.
20. The Panel believe that a reduction in number to 30/32 would not be practicable as it would create an imbalance between numbers forming part of government and those able to provide scrutiny. A reduction in number to 30/32 would imply an executive government of less than 16 in number. Based on its own analyses of the essential activities of government for the Island, the Panel considers that it is unlikely that an executive body of less than 20 would be tenable.

SECTION SIX

SUMMARY OF ISSUES IDENTIFIED BY THE PANEL

- A. There is a broad consensus in favour of reducing the number of States Members.
- B. The question of the appropriate number of States Members must be considered in the context of the following factors :-
 - (i) what style of government does the Island want?
 - (ii) what should be the role of the elected chamber?
 - (iii) what importance should be attached to parish representatives?
- C. If the Island wishes to continue with the present style of Committee government, then unless a significant reduction in the number of Committees is achieved (as to which see Section Five), the Committee workload probably justifies the present number of States Members.
- D. If the Island wishes to adopt an executive style of government or a Committee system operating with a reduced number (as described in Section Five), then the number of States Members could be reduced to a minimum of 42. This number would be the minimum required to ensure adequate scrutiny of an executive government or to man the appropriate number of Committees.

SECTION SEVEN

SYSTEM OF ELECTION

Existing Parish Constituencies

1. From the outset of our enquiries and amongst the earliest of representations made to the Panel, one common complaint came to the fore - namely that the present methods of election operated unfairly and the present systems often operated as a denial of democracy.
2. The basis of complaints were broadly as follows:-
 - (i) The democratic process demands an equality of votes.
 - (ii) The parish basis of election produces an unequal number of votes per person; electors in St Peter Port currently have twelve votes, electors in the Forest and Torteval have but one vote per person.
 - (iii) In the past many electors consider that they have been denied a vote when no one has been willing to oppose a sitting Deputy in a single seat parish.
 - (iv) The interim method of election of Conseillers on a Bailiwick-wide mandate at least ensured that all electors within the Bailiwick had an opportunity of exercising their equal democratic right irrespective of the situation within each individual parish.
 - (v) With the abolition of the Bailiwick-wide mandate for Conseillers, electors in Alderney are denied the opportunity of exercising a vote for election to the States.
3. During the period of the Panel's review, the elections in April 2000 served to emphasise the inequalities of which people had earlier complained, with the electors of two parishes being denied the chance to vote. The electors of a third parish were only enfranchised as a result of a retiring Deputy putting his name forward so as to ensure an election.
4. Amongst the representations received by the Panel, there was a significant rejection of the present parish basis of election, because of inequality of voting between different parishes.
5. In its submission to the Panel, The Status Quo Group argued strongly in favour of an Island-wide electoral franchise. That Group strongly supported the basis of election that had been used in the interim elections for Conseillers in 1994 and 1997. The Status Quo Group and others argued that a Bailiwick-wide mandate would encourage those elected to consider that they owed their allegiance to the Island as a whole, rather than to individual parishes.
6. Not altogether surprisingly representations from the Island of Alderney, supported the retention of a Bailiwick-wide mandate as without it they were offered no opportunity to vote for representation in the States. It must be remembered

however that the people of Alderney enjoyed no such right before 1994. It was only the reforms made to the Conseiller system that made it possible for Alderney to vote in an election for the States.

7. The Panel noted the experience in Jersey where the election of Senators has, since 1948, been conducted on an Island-wide basis. The Panel acknowledges the submissions made by The Status Quo Group and their attempt to overcome the difficulties associated with an Island-wide franchise. The Panel does however still question the viability or practicability of conducting elections for the whole of the assembly of the States by a single Bailiwick-wide vote.
8. The Panel is however persuaded of the arguments against relying solely on a parish based electoral system. There can be no possible justification for a system that gives one elector twelve or even six times more votes than another, purely by accident of the size of the population of individual parishes.
9. The Panel is also persuaded of the arguments against an electoral system that relies solely upon a system with the Island divided into single seat constituencies. History shows that too often the reluctance to be seen to oppose a single incumbent denies contested elections.
10. Reliance upon parish boundaries as the basis for electoral constituencies, is comparatively recent and does not owe its origin to any great historical tradition. Electoral districts rather than parishes were the basis for the election of people's deputies before changes introduced in 1948.
11. The continued emphasis upon the parish as the basis for electoral constituencies may also be seen to create a potential duplication with the role of Douzaine Representatives. The Panel is also persuaded of the need to encourage amongst those elected an approach to Island politics that is not biased by parochial considerations. It is recognised that creating wider constituencies could assist this approach.
12. In looking to create new constituencies, the Panel is mindful of the need to ensure, so far as is practicable, that each constituency should so far as possible contain an equal number of population. Whilst such a consideration ought to be borne in mind, the Panel does not believe that it should necessarily be the overriding consideration as long as any alternative does not create manifest inequality. The Panel, having taken external advice, considers that the maximum percentage variance between numbers of electorate to each constituency should not exceed twenty per cent and ideally ought to be kept to a variance of not more than ten per cent.
13. The Panel recognises the need to take into consideration the matter of the number of seats to be voted for each constituency. The Panel believes that there is an optimum number of seats that should be chosen for each constituency. An election for eight, ten or twelve seats for a constituency is, in the opinion of the Panel, likely to create impracticalities with many of the constituents feeling genuinely unable to exercise all their votes. There is evidence of this tendency already within certain parishes. It might therefore be argued that in those circumstances votes are being wasted or not used at all. The Panel believes that such a situation would not be in the interests of achieving greater democracy.

The Panel considers that the number of seats per constituency should be not more than six.

14. The number of constituencies that will be required will depend upon the preferred number of elected Members of the States.
15. The matter of Alderney representation must also be taken into account. The right of Alderney to nominate two Members of the States of Alderney as representatives to the States is enshrined in legislation. Whilst in theory it could be a matter for the States to pass legislation to change that situation nevertheless the reality is that no such change could be introduced without the support of the States of Alderney. For a short period the people of Alderney were also given eligibility to vote in the election of Conseillers. That participation ceased with the final abolition of the role of Conseiller. We refer elsewhere to representations that have been made to the Panel from a number of residents of Alderney in support of being included in a Bailiwick-wide electoral franchise. The Panel is not however convinced that it is either necessary or appropriate for Alderney to be given any further representation in the States whilst it still retains its own legislative body, unless the Island of Alderney wished to be subsumed into the Island of Guernsey as another parish of the Island and assuming that the people of Guernsey would be willing to allow that to happen.
16. It is a matter for the people of Alderney to determine whether they wish to continue the present system of representation by nomination from the States of Alderney or whether such representation should be chosen by universal suffrage. Representations made to the Panel indicate a considerable divergence of views on this matter.
17. The replacement of the present parish based constituencies with wider district constituencies might, it is argued, seriously erode the link between the parishes and the States. Those who advocate reliance solely upon district constituencies, suggest that the Island is sufficiently small to enable the elected representatives to maintain connection with the parishes. It is also argued that the important linkage between parish and the States should be at the level of administration with individual executive bodies (whether they be committees as at present or whatever alternative may be chosen for the future) involving the parish Douzaines on a more formalised basis in decisions affecting the parishes.

Douzaine Representatives

18. The role of the Douzaine Representative has perhaps been the most emotive issue upon which the Panel has received representation. The Douzaines themselves in particular have argued strongly for the retention of the Douzaine Representative.
19. The arguments in favour of the retention of the Douzaine Representative may be summarised as follows:-
 - (i) tradition;
 - (ii) the wealth of grass roots experience on the Douzaines;

- (iii) the involvement of the Douzaines in certain key areas of administration;
- (iv) the stabilising influence provided by Douzaine Representatives;
- (v) the fact that the Douzaine Representatives between them can relieve the burden of Committee work that would otherwise fall solely upon the elected Deputies;
- (iv) the Douzaine and the role of Douzaine Representative can provide a useful training ground for States Members;
- (vii) the Douzaine Representative will always be resident within the parish and will be able to represent the interests of the parishioners without any particular political agenda.

The arguments presently in favour of the retention of the Douzaine Representatives are largely an echo of those arguments put in evidence to the Committee of the Privy Council (the Chuter-Ede Committee) in 1946 and also echo to some extent the arguments that were put in favour of the retention of Conseillers in the early 1990s and in favour of retaining Jurats as Members of the States in 1946.

20. The arguments against the retention of the Douzaine Representative may be summarised as follows:-

- (i) non democratic method of selection - selection by electoral college and not by universal suffrage;
- (ii) there is little public interest in the election of Douzainers they can not necessarily claim to represent public opinion;
- (iii) the Douzaine Representative has a split role - on the one hand to represent the views of his Douzaine whilst on the other having the right to vote as he chooses;
- (iv) the fact that each Parish Douzaine nominates one Douzaine Representative who each have an equal vote in the States means that certain parishes (i.e. the rural parishes) are over represented in the States in terms of votes per head of population in the parish;
- (v) that Douzaine Representatives once selected tend to become permanent fixtures and therefore operate as a disincentive for others to offer themselves as Douzaine Representatives thereby denying the opportunity of using the position as a useful training ground for aspiring politicians;
- (vi) the Douzaine Representatives are seen to form a particular grouping in the States thereby perpetuating the continuation of a two class Assembly;
- (vii) that present day States Members are as able to sound out the views of the parishes and of their Douzaines as would a Douzaine Representative;

- (viii) that election as a member of a Parish Douzaine to deal with administration of a particular parish does not necessarily qualify that member to vote on matters affecting the whole of the Island;
 - (ix) the retention of the present number of Douzaine Representatives seriously limits the possibility of reducing the number of States Members without increasing the influence attaching to the Douzaine Representatives.
21. Historically the present system of Douzaine Representative only dates from the 1948 reforms when it was considered appropriate that each Douzaine ought to select one of its number for a fixed term as its representative to attend all States Meetings. Before the last war, it was customary for each Douzaine to nominate a different representative to attend each separate Meeting of the States. It was argued that this gave the opportunity for different Members of the Douzaine to attend and speak on matters within their own personal sphere of expertise. In 1946 there was a concern expressed to the Chuter-Ede Committee that there might not be enough people prepared to put their names forward for election as Deputy. It was argued that a representative for each Douzaine would at least ensure some degree of popular participation in the affairs of the States.
22. In the Report of the Chuter-Ede Committee published in 1947, that Committee, in supporting the retention of Douzaine Representative at that time, commented as follows:-

“We think that Douzaine Representatives would bring a useful practical knowledge and experience of parochial administration to the States, which is as much in the nature of a municipal body as a central legislature, and that the limited number of representatives proposed would exercise a stabilising influence in the new assembly.”

The Report also contained the following observation:-

“The retention of ten Douzainers will thus result in a slight preponderance of rural over urban areas; and we think that in view of the importance of horticulture to the life of the Island it is desirable that there should be a slight preponderance of this order in the new States.”

District Constituencies

23. The division of the Island into new constituencies could, in the opinion of the Panel, be achieved either by:-
- (i) creating groupings of parishes, or;
 - (ii) creating new electoral districts by division on a population basis.
24. The numbers of new constituencies to be created will depend upon the numbers of States Members to be elected. In Section Six of this Report, the Panel has given consideration to the appropriate number of elected States Members. Based upon a suggested number in the range of 36 to 44 the Panel has considered a number of different permutations for the establishment of new district constituencies. Some of the options have included using groupings of different parishes, whilst others have used a population census basis. A summary of the

range of options is set out at the end of this Section of the Report. Even if the present number of States Representatives were to be retained, elections along revised district constituencies would still be practicable.

25. The Panel recognises that it may be necessary to introduce an element of overlay of constituencies if, for example, parish representation in some form or another is to be retained; thus one elector may on the same day be required to vote in a district constituency and in his or her own parish. In those circumstances the establishment of constituencies by parish groupings might be regarded as being the simplest and least confusing of the two options.
26. The use of groupings of parishes to achieve new electoral constituencies will not however necessarily achieve an equal division on a population basis. The Panel has considered many permutations involving different groupings of parishes, but considers that none of them would satisfy the criteria for the maximum permissible variances described in paragraph 12. of this Section of the Report. The Panel recognises that the creation of electoral districts by means of artificial boundaries drawn on a division by population basis whilst potentially diminishing that inequality may give rise to greater opportunity for confusion amongst the electorate and may require more frequent adjustment and change.
27. The Panel has also considered the use of non-geographical bases for establishing constituencies, for example, the division of the electorate into alphabetical divisions or election by economic or employment sector. The Panel has however come to the conclusion that in the true spirit of achieving a democratic process of election, meeting the criteria laid down in paragraph 12. of this Section, that there can be no alternative to either:-
 - (i) election by geographic constituency, by district; or;
 - (ii) Island wide franchise.

The Panel has commented earlier on the difficulties associated with holding elections on an Island-wide franchise. Based on the representations made to the Panel there does not appear to be majority support for Island-wide elections.

Electoral Roll

28. Another feature of the present system of election, thought by many to operate against the principles of democracy, was the requirement for eligible electors to put their names on the electoral roll. Many of those giving evidence to the Panel suggested that the necessity for a conscious “opting in” by the electorate onto each Roll accounted for the low numbers of people included on the electoral rolls.
29. The Panel also took note of the number of representations that the establishment of the electoral roll should be the responsibility of the States or possibly of the Douzaines. It has also been suggested that the States or the Douzaines should ensure initially that the names of all eligible voters in all households are included on the Roll and that the States or the Douzaines should thereafter be responsible for updating the electoral roll at regular intervals. Such is the practice commonly adopted in other democratic systems..

30. The Panel does however suggest that consideration be given to the establishment of an electoral roll that is not dependent upon individual households choosing whether or not to be included. The Panel also considers that the electoral roll once established should thereafter be maintained by the States or the Douzaines and regularly updated every twelve months.

Promotion of Elections

31. In the absence of the publicity generated by party politics it was suggested that the States itself should be seen to be more pro-active in the promotion of the election process. The establishment and updating of the electoral roll would be one aspect of this process. Circulation of election information to all persons on the electoral roll and promotion of the importance of voting would be another possible approach.
32. It is suggested that the States or the Douzaines should at the time of a General Election be required to circulate within each constituency a formal notification of the election for that constituency, the names of the candidates, the addresses of the polling stations and the times when each polling station will be open.
33. The Panel received representations from a few who suggested that compulsory voting might be introduced. This would require every eligible voter whose name appears on the electoral roll to vote, under penalty for failure to do so. The Panel sees no justification for such a proposal.

Proportional Representation

34. The matter of proportional representation or a system of transferable votes was raised by some of those who made representation to the Panel. Support for such an argument is perhaps strongest in opposition to the present parish constituency basis where there are single seat constituencies.
35. The Panel however found no overwhelming demand or support for such systems. The Panel believes that the electorate of Guernsey would prefer simplicity rather than the complexities that any such other systems would produce.
36. Any justification for proportional representation or transferable votes would in the view of the Panel diminish if constituencies are redefined so as to ensure multi-seat constituencies.

Parish Representation

37. The present electoral system based solely on a parish constituency basis creates, in the opinion of many who gave evidence to the Panel, too great a weighting in favour of the smaller parishes. It has been represented to the Panel that the existence of Parish Deputies and Douzaine Representatives involves an unnecessary duplication of representation at parish level. The Panel believes that replacement of parish constituencies with electoral districts will help to alleviate the element of over-representation at parish level. In paragraph 25. of this Section of the Report, the Panel has suggested that it might be appropriate to consider

introducing an overlay involving two different constituency bases. It would be possible to devise a system involving a number of district constituencies as well as retaining individual parish constituencies. The issue to be resolved is the relative weighting between the numbers representing the different constituencies. In particular it would be necessary to consider whether each parish constituency should select one, two or no members to the States.

38. Amongst those who made representation to the Panel on the subject of the present system of Douzaine Representatives the manner of their selection was of overriding concern. To the extent that the States has in the past turned its back upon the system of an electoral college for the selection of Conseillers, then at least for the sake of consistency, it is possible to argue that the selection of Douzaine Representative ought to be taken out of the hands of the Douzaine itself.
39. If it is considered necessary or desirable to retain a parish representative within the States then the Panel considers that in the interests of the democratic process such a representative should be elected by the people of the parish and not merely by the Members of the Douzaine of that parish.
40. In order to avoid the problems noted elsewhere with single seat constituencies consideration might be given to the proposal that a parish representative ought only to be eligible to serve for two terms. A parish representative who wished to participate in the States for a further term should only be permitted to do so as a member of one of the district constituencies. This would ensure a rotation of people wishing to serve as parish representative and avoid the inherent awkwardness of standing against a sitting parish representative. The person elected as the parish representative ought, in the opinion of the Panel, to represent the views of the whole parish and not merely act as the spokesmen of the parish Douzaine.

Electoral Commission

41. The Panel was made aware of concerns from a small number of witnesses as to the manner in which the General Election in the year 2000 was conducted and the difficulty of identifying the precise rules that apply in relation to the election process and the process for dealing with complaints. If the States are minded to consider any substantial changes to the election process in terms of the re-definition of electoral constituencies, then it might also be opportune to consider the introduction of more formalised election rules possibly using the English model of The Representation of the People Acts and the establishment of an Electoral Commission possibly comprising a number of the Jurats to adjudicate upon complaints.

Summary of Options for Electoral Districts

42. In looking to create new electoral districts, the Panel is mindful of the need to ensure that, so far as is practicable, each electoral district should, as far as possible, contain an equal number of population. The Panel has been advised that the variance of population between each electoral district, that being the percentage difference between the highest and lowest populations, should not exceed 20% and should preferably be somewhat lower than this. The Panel has

looked at many different permutations and considered a range of as many as twenty-seven different options.

All options assume a total States membership in the region of 40 and with two representatives from Alderney.

The options are based on either all representatives being elected by the electoral district or each parish electing one representative with the remainder being elected by electoral district.

I. Electoral Districts Based On Parish Boundaries

The two options described below are those that are available in producing electoral districts as described above utilising existing parish boundaries however neither meets the permitted variance criteria.

Option 1

Four districts with a variance of 37%.

Alternative is: Four districts electing 7 Deputies - 28, plus 10 parish representatives, plus 2 Alderney representatives = 40 States Members.

Option 2

Seven districts with a variance of 23%.

Alternatives are: Seven districts electing 4 Deputies - 28, plus 10 parish representatives, plus 2 Alderney representatives = 40 States Members; or

Seven districts electing 5 Deputies - 35, plus 2 Alderney representatives = 37 States Members; or

Seven districts electing 6 Deputies - 42, plus 2 Alderney representatives = 44 States Members.

II. Electoral Districts Drawn By Reference to Population Census

Option 1

Four electoral districts with a variance of 17%.

Alternative is: Four districts electing 7 Deputies - 28, plus 10 parish representatives, plus 2 Alderney representatives = 40 States Members.

Option 2

Five electoral districts with a variance of 4%.

Alternatives are: Five districts electing 5 Deputies - 25, plus 10 parish representatives, plus 2 Alderney representatives = 37 States Members; or

Five districts electing 6 Deputies - 30, plus 10 parish representatives, plus 2 Alderney representatives = 42 States Members; or

Five districts electing 7 Deputies - 35, plus 2 Alderney representatives = 37 States Members.

Option 3

Six electoral districts with a variance of 5%.

Alternatives are: Six districts electing 5 Deputies - 30, plus 10 parish representatives, plus 2 Alderney representatives = 42 States Members; or

Six districts electing 7 Deputies - 42, plus 2 Alderney representatives = 44 States Members.

Option 4

Seven electoral districts with a variance of 9%.

Alternatives are: Seven districts electing 4 Deputies - 28, plus 10 parish representatives, plus 2 Alderney representatives = 40 States Members; or

Seven districts electing 5 Deputies - 35, plus 2 Alderney representatives = 37 States Members.

Option 5

Eight electoral districts with a spread of 9%.

Alternatives are: Eight districts electing 4 Deputies - 32, plus 10 parish representatives, plus 2 Alderney representatives = 44 States Members; or

Eight districts electing 5 Deputies - 40, plus 2 Alderney representatives = 42 States Members.

43. Of the range of options described above, the Panel considers that the options based on Parish Boundaries are not viable, given the wide variances. Of the range of options using a Population Census as their base, the Panel considers that options 3 and 5 are likely to be the most practicable. The choice of alternatives within either option depends upon the decision whether or not to retain parish representatives.

SECTION SEVEN

SUMMARY OF ISSUES IDENTIFIED BY THE PANEL

- A. One common complaint made to the Panel was that the present parish based system of election operated unfairly and that election should be based on newly defined districts or by Island-wide franchise..
- B. The Panel has reviewed the possible alternative of creating new electoral districts by grouping different parishes, but the resulting discrepancy in size of electorate is considered by the Panel to be too great.
- C. In order to achieve a fair basis of election the Panel identified the following options :-
- (i) non-parish based constituencies drawn by reference to population census with equal numbers of seats and approximately equal numbers of population; with no individual parish representation;
 - (ii) non-parish based constituencies drawn by reference to population census with equal numbers of seats and approximately equal numbers of population; with in addition each individual parish retaining one elected parish representative. The retention of an elected parish representative does however further distort the ratios of representation per head of population.
- D. In all cases it is assumed that Alderney continues to nominate two representatives to the States of Deliberation.
- E. From the range of options identified by the Panel in paragraph 42. of this Section of the Report as meeting the variance criteria described in paragraph 12. of this Section, the Panel has identified two practicable options, either:-
- (i) 8 district constituencies each electing 5 candidates with no further parish representation; or
 - (ii) 6 district constituencies each electing 5 candidates with one further representative elected by each parish.
- Diagrams showing these alternative constituencies follow immediately after this summary.
- F. The present method of establishing the electoral roll should be reviewed so as to avoid the necessity for the electorate to opt onto the electoral roll and that either the States or the Douzaines should be responsible for maintaining that all persons over the age of eighteen are included on the roll.
- G. In the absence of the publicity generated by political parties, the States should be obliged to circulate to all households formal notification of elections, list of candidates and details of polling stations and be required to promote the value and importance of elections and voting through the media.

- H. That consideration be given to the establishment of more formalised rules for the conduct of elections and to the establishment of an Electoral Commission to adjudicate on complaints.

SECTION EIGHT

ATTRIBUTION OF RESPONSIBILITY FOR GOVERNMENT

The Present System

1. The Panel recognises that one of, if not the most fundamental issue, to be addressed by this Report is the extent to which the Island wishes to attribute primary responsibility for leadership of the government of the Island to an identifiable number of, say, twelve or thirteen States Members to create a more focused system of government, but with effective methods of scrutiny in place or to allow that primary responsibility to be diffused as at present amongst all the Members of the States. The Panel will revert to this issue in paragraph 23. of this Section.
2. During the period of this Review the Panel has sought to identify the nature of the Island's method of government and the role of the States in the process of that government. In this context, the Panel sought to identify who exercised the power of government in the Island and what levers of power were available to assist in the process of government.
3. Almost uniquely the Bailiwick of Guernsey along with its sister Bailiwick of Jersey, has evolved a system of administration that does not depend upon a body that can be identified as "government".
4. In his evidence to the Chuter-Ede Committee in 1945, Sir John Leale, speaking on behalf of the States made this statement descriptive of the nature of government in the Island at that time:-

"The ninth question is Government by Committees of the States, its operation in Guernsey. I do not think I would agree that we are governed by Committees of the States. This seems to me to assume that Committees have greater power than is the actual case. The governing body of the Island is the States itself. It is in that Assembly that major decisions are taken, and that policy is laid down. The States do not take kindly to Committees which exceed their mandate. Suggestions for policy from the Committees may be modified in the States, or referred back, or they may just be defeated. If a Committee is defeated it can, of course, resign if it regards the issue as one of sufficient importance; it would presumably then resign because it would feel unable to take responsibility for carrying on the policy with which it disagreed. Actually resignations of Committees are the rarest of events among us, but the defeat of a Committee must not in any way be confused with the defeat of a government. The government in this Island indeed cannot be defeated, for the government is the States, which cannot defeat itself."

From the evidence submitted to it, the Panel considers that the statement made by Sir John Leale in 1946 applies equally to the situation that exists in the year 2000.

5. It is perhaps interesting to note that Sir John Leale made that statement little more than one year after the Controlling Committee of which he had been chairman, was disbanded upon the liberation of the Island. It should perhaps be

noted that during the period of the Occupation, the Controlling Committee operated as a form of executive government with Departments.

6. During the course of its investigations the Panel identified certain key criticisms of the present system of government:-
 - (i) Lack of an identifiable political leader from an external perspective. No one person can be said to have authority to speak for Guernsey. Different people have apparent responsibility for different issues each with equal authority.
 - (ii) Lack of political leadership in terms of ownership of the ability to drive strategic policy.
 - (iii) Lack of co-ordination and cohesion in the administration of policy.
 - (iv) Reluctance on the part of many politicians to engage in the establishment of strategic policy - and those who do find the present system uncondusive to the establishment of policy.
 - (v) An apparent tendency of many of our politicians through the Committee system to become too closely involved in the administration of government. In the words of several witnesses, many politicians prefer to busy themselves in the detail of administration - matters that ought perhaps to be left to the full time Civil Service.
 - (vi) The present system makes change difficult to achieve. The system has an in-built tendency to encourage the status quo.
7. It is difficult to ascertain where, currently, lies political responsibility for government in the Island. Does responsibility lie with the individual Committees and the members of those Committees or does political responsibility lie with the body of the Membership of the States? The Panel has been advised that in legal terms, the expression "States of Guernsey" includes the whole undertaking and Committee structure administered by what is commonly referred to as the States. "The States of Guernsey" is a legal person able to enter into contracts, leases and conveyances and is thus distinct from any individual members and Committees. Committees themselves generally have no separate legal personae. Each Committee is simply an agent of the States exercising functions conferred upon it by resolution of or legislation approved by the States. To the extent that Committees act as agents of the States it could be argued that all Members of the States share political responsibility for all decisions of government, whether they be decisions taken in the Chamber of the States or through the agency of individual Committees.
8. Allied with the diffusion of responsibility arise the further issues of accountability and scrutiny. If, as suggested above, all States Members are politically responsible for decisions of government once taken, it is appropriate then to ask who is responsible for scrutiny of the implementation of such decisions and who is politically accountable for such decisions?

9. It is suggested by some that the present diffused method of government is highly democratic and should therefore be nurtured. Others have argued that, on the contrary, the present system affords little effective scrutiny or accountability.

10. In the Billet d'Etat for July 1945, a Committee appointed by the then Bailiff in 1943 reported as follows:-

"We then examined the former Committee system and considered how far it would be capable of dealing with post-war requirements. It seemed to us that the Committee system was the best suited to the Island, particularly as it has the great advantage of spreading the administrative work of the States over a number of its members instead of concentrating it in the hands of a few.

The chief criticism levelled against it has been the lack of co-ordination. This defect was becoming more and more apparent of recent years and unless remedied it seemed to us that it is likely to prove a grave handicap in post-war recovery. When it is realised that the number of Executive Committees of the States increased from 15 in 1900 to 40 in 1940 (including the four trading departments) in addition to 19 other Committees which are either non-executive or on which the States are merely represented compared with 8 of these in 1900, it is hardly surprising that a lack of co-ordination has been the result.

It has also been apparent that the large number of Committees imposed a severe tax on the time of many members of the States who were called to sit on several Committees. It seemed to us that this could be remedied to some extent by reducing both the number of the Committees and their members. This would enable specialisation and result in greater efficiency. There is also the probability that smaller Committees would expedite business by shortening the discussions."

It is perhaps not surprising that after the ordeals of the period of occupation that the States naturally wished to revert to the pre-war system of administration. It is perhaps unfortunate that at that time there appears to have been no real consideration of any alternative form of administration..

11. That same Report in July 1945 did however propose the establishment of a "Special Advisory Council" (what is now the Advisory & Finance Committee). The Report recognised that whilst the proposals for the re-establishment of simplified and reduced numbers of Committees "would improve the working of the Committee system, they fail to deal with what is probably the root of the trouble". The root of the trouble as described in that report was the growth in the number of Committees over the previous forty years, each of which was responsible for formulating the policy and advising the States in respect of their individual mandates.

"With the growth of administration in volume and complexity it had become almost impossible for the ordinary member of the States to visualise unaided the complete picture of its activities."

The Report proposed the establishment of the "Special Advisory Committee" with a mandate to advise the States on general policy and the co-ordination of effort in the various spheres of administration. The Report also suggested that:

“there seems no question that the years of recovery will produce problems far more complicated than in the past, which if they are to be overcome successfully will need to be dealt with on a long term policy and with the close co-ordination of all efforts”.

12. Many of those who submitted representations to the Panel cited the lack of co-ordination and cohesion in the machinery of government in the Island as being of paramount concern. This view was particularly strongly expressed by some of the senior Civil Servants who gave evidence. The Panel gained the impression that whilst at senior Civil Service level there was an awareness of the need for co-ordination between different Committees and there was an attempt within some of the Civil Service to achieve such co-ordination (particularly through the establishment of Civil Service working parties in areas of policy that transcend individual Committee mandates), that initiative taken by the Civil Service was not always appreciated by the Presidents of individual Committees or the politicians who sat on those Committees.
13. Certain of the individual politicians who gave evidence to the Panel recognised a lack of co-ordination between Committees, but resented apparent interference by the Advisory and Finance Committee.
14. Notwithstanding the awareness in 1945 of the importance of achieving co-ordination between Committees, it is a matter of concern that such co-ordination is still perceived to be lacking at a political level. It is not altogether surprising that such co-ordination is lacking when one considers that the Advisory and Finance Committee has no authority over other Committees but merely an advisory role and that the Presidents of many of the major Committees are not themselves necessarily represented on the Advisory and Finance Committee.
15. It is interesting to note that in evidence to the Panel many of the politicians and members of the public were of the opinion that the Advisory and Finance Committee is the senior political Committee of the States and assumed that that Committee had some inherent authority over other Committees. A perception and assumption that is not borne out in the terms of the Mandate of the Advisory and Finance Committee.
16. Lack of co-ordination is perhaps not always the fault of the individual Committee Presidents or those who sit on the Committees. Individual States Members may contribute to a general lack of co-ordination in the way in which they debate and amend policy letters in a manner that is sometimes contradictory to policies already adopted by other Committees. The ability of States Members independently to derail Committee policy and to direct Committees to implement certain amended policies can equally lead to confusion between Committees and contribute to the general lack of co-ordination.
17. Allied with the apparent lack of co-ordination that would appear to be inherent with the present Committee system, is the concern over an apparent lack of cohesion in the system of government in Guernsey. That lack of cohesion, it is argued, is manifest in the inability to promote strategic policy effectively within the States. Whilst the Advisory and Finance Committee has in recent years endeavoured to promote an annual debate on strategic policy, it is considered by

many who gave evidence that individual Committees pay little more than lip service to that process and that the debate itself lacks focus.

18. It is far from clear who, if anyone, can pull the strings and compel individual Committees to implement a cohesive strategic policy that might in certain circumstances require Committees to co-operate with each other and subsume their individual autonomy in the interests of the Island.
19. In this context it is argued that the autonomy and sovereignty of each Committee creates an insurmountable barrier to the development and delivery of cohesive strategic policy.
20. The Panel recognises that the inability within the present system to provide strategic policy leadership has in turn tended to create a policy vacuum that can only be filled by the initiative of the Civil Service. Many of the senior Civil Servants who gave evidence were very conscious of this situation and admitted that it ought not to be the role of the Civil Service to initiate policy.
21. It is a fact that many of those who gave evidence to the Panel argued the very fact that there was no means of imposing leadership in strategic policy matters from above, was a positive feature of the Island's system of government and should not be viewed as evidence of weakness. The diffusion of power inherent in the Island's system, it is argued, precludes a concentration of power in the hands of a few politicians. It is that diffusion to which Sir John Leale alluded in his earlier statements made to the Chuter-Ede Committee when he said that he did not agree that the Island is governed by Committees of the States. In his view the governing body of the Island is the States itself i.e. power is in the hands of each individual Member of the States.
22. Notwithstanding that supposed diffusion, evidence given to the Panel suggested that, even within the present system, the reality is that significant power is concentrated into the hands of a small number of politicians. It was argued that there exist a series of "baronial" factions sometimes overlapping. The attention of the Panel was drawn especially to the incidents of multiple presidencies, to the coincidence of a small number of persons sitting on many of the major Committees, and to the longevity of tenure of office of many of the Committee Presidents. It was suggested that the merit of diffusion inherent in the present Committee system is more apparent than real.

The Critical Choice

23. As stated in the first paragraph of this Section, before considering any further options it is for the Island to determine whether, it wishes to attribute primary responsibility for the leadership of the government of the Island to an identifiable number of, say, twelve or thirteen States Members to create a more focused system of government, but with effective methods of scrutiny in place or, alternatively, to allow that primary responsibility to be diffused as at present amongst all the Members of the States through the present Committee system (albeit subject to certain modifications).
24. If the decision is in favour of the first proposition, then the Panel considers that a form of executive government would be the appropriate option. If however the

answer is in favour of the second proposition then the Panel would consider that a revised Committee structure would be the appropriate option.

25. Irrespective of whichever of the two alternatives mentioned above is adopted, the Panel recognises that the matter of selecting a political leader should be addressed as a separate issue. That issue is dealt with in Section Nine of this Report.

Arguments for and against Executive Government

26. The Panel has concluded that a decision in favour of creating an executive form of government need not necessarily imply the adoption of a full cabinet system of government. Whilst many of those who gave evidence to the Panel favoured a cabinet style system, there were a significant number who violently opposed such a system. It was not possible to discern an overwhelming majority in favour of such a cabinet system.
27. The principal objections to the introduction of any form of executive government as expressed by those who made representations to the Panel would appear to be as follows:-
- (i) the creation of an executive government would inevitably lead to party politics;
 - (ii) the creation of an executive government would concentrate too much power in the hands of too few people;
 - (iii) the States would not have the ability to control or monitor the activities of an executive government;
 - (iv) the creation of an executive government would lead to the establishment of an opposition that would destroy the consensus basis that has been a feature of politics within the Island over many years;
 - (v) the establishment of an executive government would not create a meaningful role for all Members of the States;
 - (vi) the creation of an executive system would not provide an easy training ground for bringing on new members of government.
28. The principal advantages of executive government as expressed by those who made representation would appear to be as follows:-
- (i) an executive government would clarify and assist accountability;
 - (ii) an executive government would give political leadership to the Island, without the confusion of competing and often conflicting Committees;
 - (iii) an executive government would give a focus to the development and implementation of strategic policy and identify responsibility for recommending strategic policy to the States;

- (iv) the introduction of an executive government would enable proper co-ordination of government activity and identify responsibility for the execution of agreed policy;
 - (v) executive government would be able to make good and cover any gaps or lacunae in the mandates of individual Committees;
 - (vi) executive government would enable collective responsibility to be more easily established and may thereby assist in reducing the number of Members speaking during debates;
 - (vii) executive government would provide the Island with an easily identifiable senior elected politician with clear political authority to represent the Island internationally, especially with the Home Office;
 - (viii) the identification of executive functions and executive responsibility and separation of those from the States would enable the States Members to more easily concentrate on providing a more effective monitoring and scrutiny of States activities and legislation.
29. Experience in the Isle of Man, which introduced an executive style of government in 1986, suggests that it is not inevitable that party politics will ensue from such a system.
30. If an executive government is to be introduced, it is vital that, at the same time, adequate systems and procedures are put in place to ensure the proper checks and balances against the power of the executive. Such checks and balances could be established by:-
- (i) ensuring that annual budgetary approval remains within the States itself;
 - (ii) the establishment of Scrutiny Committees with power to call members of the executive to give evidence;
 - (iii) a proper question and answer procedure for members of the States to question the executive within the States;
 - (iv) the ability of back-benchers to table propositions for debate;
 - (v) annual policy debates for each of the major areas of government;
 - (vi) a more detailed review of legislation by process of formal reading debates.

Modification to Present Committee System

31. If the answer to the questions posed in paragraphs 1. and 23. of this Section favours the retention of a Committee System of government certain modifications to the present Committee structure would, in the opinion of the Panel, be desirable.
32. The Panel recognises that some of the criticism and concerns expressed with regard to the present operation of the Committee system could most probably be

addressed by such modifications. The modifications suggested by the Panel are as follows:-

- (i) a revision of the mandate of the Advisory and Finance Committee by conferring upon it stronger and more focused powers of leadership and control of strategic policy;
- (ii) a reduction in the number of States Committees to a more manageable number of a maximum of no more than, say, 20 divided into Strategic and Non-strategic Committees, by merging existing Committees;
- (iii) a reduction in the number of presidencies that any one States Member may hold to no more than one strategic and one non-strategic Committee;
- (iv) a reduction in the length of time that any one States Member may serve as President of the same Committee to no more than two terms;
- (v) a limit to the number of Committees upon which any one Member can serve to no more than three;
- (vi) by empowering Presidents of Committees to vote on all matters within Committee;
- (vii) by requiring each of the Strategic States Committees to submit for debate within a stated period of time after each general election, a statement of policy which must first be endorsed by the Advisory and Finance Committee and which, once adopted, must be adhered to for the term of that States. Once adopted that statement of policy would then form part of the Island's Strategic Plan;
- (viii) that the membership of each Committee be subject to election after each General Election;
- (ix) that persons seeking election as President of a Committee should speak in support of his candidature; and
- (x) that one or more Scrutiny Committees be established as described in paragraph 54 of this Section.

Such modifications, whilst representing an improvement on the present system, would not however in the opinion of the Panel, fully meet the primary concerns over the lack of cohesion in government (as each Committee would still retain individual autonomy) or the absence of leadership of strategic policy. Further cohesion could possibly be obtained by reconstituting the membership of the Advisory & Finance Committee by including the Presidents of the principal Committees ex officio.

Alternative Forms of Executive Government

33. If however the answers to the questions posed in paragraphs 1. and 23.. of this Section favours the introduction of an executive style of government, then from the representations made to it, the Panel has identified and puts forward for

consideration three alternative styles of government that would to a greater or lesser extent have the characteristics of „executive“ government. The alternative systems are:-

- (i) Ministerial Council - with a Chief Minister and an Executive Council of twelve members who are chosen by the Chief Minister. The Government would be run on a Departmental system.
- (ii) Co-Ordinating Executive Council - with Members of a Co-Ordinating Council nominated by the States and a leader then selected by the Members of that Council; each Member of the Executive Council would head a Department of Government. The Government would be run on a Departmental basis.
- (iii) President's Council with Committees - with certain core Members of the Council selected by the President and other members selected by the States. All Council Members would be Presidents of individual Committees. The Government would be run on a Committee basis.

The use of titles for the different styles of executive government is purely to serve as a means of differentiation. Other titles could be substituted if preferred.

Ministerial Council

34. The Panel was recommended by many of those who gave evidence to consider the style of executive government that had been introduced in the Isle of Man. The Panel was fortunate to include amongst its members Sir Miles Walker, a leading Isle of Man politician, who had been instrumental in introducing the concept of executive government into the Isle of Man. The Panel was therefore able to consider in some detail the Manx model. During the course of the Panel's review, the Panel also received a copy of a paper presented by Professor St John Bates (Clerk of Tynwald in the Isle of Man) at a conference held in Guernsey, in which he identified certain problems that he perceived to be associated with the Manx model. It is interesting to note however that, although critical of certain aspects of the Manx system, Professor St John Bates did not recommend reverting to the previous committee style of government.
35. The original Manx model as adopted in 1986, if adapted to Guernsey, presupposes that the departments of government have been reduced to not more than twelve as described in Section Five of this Report. The system would entail the following:-
 - (i) the selection of a political leader as Chief Minister, by one of the methods described in Section Nine of this Report. The Chief Minister, once elected, would then be required, within a given period of time, to present to the States for approval a panel of names for appointment to his Ministerial Council (one Member for each Department of government). Those names would be drawn from sitting States Members. The States would be required to approve that panel in its entirety. If the States were to reject that panel then the Chief Minister would be required to go away and to reformulate a panel of names for presentation and approval by the States.

If at that stage the States still rejected the panel, then the Chief Minister would present names on any individual basis for individual approval.

- (ii) Once approved, the Ministerial Council would constitute the government of the Island under the leadership of the Chief Minister. The existing Committee system would be abolished and replaced with Departments of government corresponding to the reduced numbers of Committees described in Section Five of this Report. The Minister of each Department and his junior Minister would be responsible for the political decisions affecting that Department; each Department would be headed by a Member of the Ministerial Council, assisted by one or more junior Ministers appointed by the Ministerial Council. No further politicians would form part of a Department.
 - (iii) All Members of the Ministerial Council would be bound by a collective responsibility. Junior Ministers under a head of Department would only be bound by collective responsibility in relation to departmental matters pertaining to the Department of which they are appointed a deputy.
 - (iv) The Chief Minister would be entitled to recommend the removal of Members of the Ministerial Council, if he was unable to work with them and would then be expected to submit the name of a replacement for approval at the next Meeting of the States.
36. The Panel has been advised that the Manx system was changed in 1991 to allow the Chief Minister to appoint his team of Ministers without ratification by Members of the Island's parliament. The Panel is aware of the continuing debate about the present Manx system.
37. Whilst such a system would meet the principal objectives listed in paragraph 28. of this Section nevertheless it is recognised that there may be certain apparent defects. The principal defects are as follows:-
- (i) the Chief Minister may not have an unfettered choice in the selection of Members of the Ministerial Council insofar as the States can always block his nominations;
 - (ii) the process of appointing and approving Members of the Ministerial Council may be unduly protracted.

The present system used in the Isle of Man whereby the Chief Minister does not require to have his choice of Ministers ratified by Parliament would avoid these problems. It should be noted however that a recent review of the Manx system has recommended reverting to a system of selection of Members of the Ministerial Council along the lines suggested in paragraph 35. (1) above.

38. The apparent defects noted above, may however be argued conversely as being positive benefits in as much as the elected Members of the States would still retain control over the Executive.
39. It should also be noted that the matter of collective responsibility is the subject of further debate within the Isle of Man. If any form of executive government is

introduced, it is, in the opinion of the Panel, necessary to recognise the principle of collective responsibility; at least within the Ministerial Council itself. The extent to which collective responsibility should extend to junior Ministers or other persons brought in to assist the executive is more questionable. The Panel believes however that in respect of departmental matters, collective responsibility should extend to junior Ministers within that Department.

40. In conjunction with the introduction of any form of executive government it would be essential that Scrutiny Committees be established. The nature of such Committees is described in paragraph 51 of this Section.

Co-Ordinating Council

41. The Panel was invited to consider as an alternative style of executive government a system whereby the States itself nominated Members to a Co-Ordinating Council. This system again presupposes that the Departments of government have been reduced in the manner described in Section Five.

42. The method of establishing such a system would involve the following:-

- (i) The newly elected States would select from amongst its Members sufficient number to head each of the Departments of government. Every person putting himself forward for selection would be required to address the States in support of his or her nomination. The persons so selected will then form the Co-Ordinating Council and carry out the functions attributed to the Policy and Resources Committee (under the revised Committee structure described in Section Five of this Report)..
- (ii) Each person nominated for such selection would be required to produce a brief policy statement which would be published and reviewed as part of that selection process. The number thus selected would then select one of their number to be the President of the Co-Ordinating Council. It would be incompatible with this style of government for the President of the Co-Ordinating Council to be selected otherwise than by the Members of the Co-Ordinating Council, as the integrity of this system depends upon that leader having the support of those Members.
- (iii) The person selected as President of the Co-Ordinating Council would then be entitled to appoint a person of his choice to join the Co-Ordinating Council, effectively as his replacement to head the Department for which he was originally selected.
- (iv) The members of the Co-Ordinating Council would be bound by collective responsibility. Each member of the Co-Ordinating Council would be entitled to appoint one Member of the States as his junior Minister.
- (v) The policy of each Department of government must be approved by the Co-Ordinating Council and the Members of the Co-Ordinating Council would be bound by collective responsibility for that policy, as would the junior Minister to that particular Department. Any changes to the policy of a Department would require the approval of the Co-Ordinating Council.

Government would be carried out on a departmental basis rather than by Committee.

- (vi) The only politicians serving a Department would be the person elected by the States to head the Department and his junior Minister. However each Department would be required to establish at least one working party to meet quarterly, comprising an equal number of States and non-States Members to advise and assist in the formulation of policy but not to be involved in the administration of a Department.
 - (vii) The President of the Co-Ordinating Council would have no other departmental responsibilities except that, as President of the Co-Ordinating Council, he, together with his Chief Officer, would be responsible for senior Civil Service appointments in conjunction with the heads of the individual Departments.
 - (viii) This system would share in the same defects as those that would apply to the system of Ministerial Council as described in paragraph 35 of this Section. In addition however this system, if adopted, would lack the authority of political leadership inasmuch as the President of the Co-Ordinating Council would not have the ability to select his or her own team. Instead he would have to work with the team selected by the States.
 - (ix) The Membership of the Co-Ordinating Council should itself have the power, by majority, to request the States to replace any one of the Members of the Co-Ordinating Council. Alternatively it may be considered appropriate to allow the President of the Co-Ordinating Council himself to bring such a proposal before the States.
43. In conjunction with the introduction of any form of executive government it would be essential that Scrutiny Committees be established. The nature of such Committees is described in paragraph 51 of this Section.

President's Council with Committees

44. A third option that was presented for consideration by the Panel was a system that still retains a reliance upon a Committee system as at present but with an overlay of a President's Council made up of the Presidents of the twelve principal government Committees described in Section Five of this Report. This option could be capable of operating irrespective of the number of Committees set up providing that the senior and most important Committees are represented on the Council.
45. The method of establishing such a system would involve the following:-
- (i) Firstly the selection of a Member of the States to be the President of the States. The different options for selection are dealt with in Section Nine of this Report.

- (ii) The President, however chosen, would be entitled to select a given number of the elected Members of the new States to form the core of his administration. The Members so chosen would form the Policy and Resources Committee (as suggested in Section Five of this Report). They would also be approved by him as Presidents over certain designated Committees and such other Committees that he considered to be the key to the achievement of his policy objectives. Members of the States would then be asked to elect the Presidents of the remaining Committees from amongst their number. The President of each principal Committee, whether chosen by the President or by the States, would form the President's Council under the leadership of the President. Each Member of that Council would be the President of a Committee of the States on which would sit other Members of the States appointed to Committees by the States on the nomination of that President. Non-States Members would be appointed by the States on the nomination of that Committee's President.
 - (iii) Collective responsibility on all issues would be imposed upon those Members selected by the President to be the core of this administration who would form the membership of the Policy and Resources Committee as outlined in Section Five of this Report. The other Members of the President's Council would have collective responsibility imposed only in relation to issues concerning their own particular Committees. Collective Responsibility would be imposed within each individual Committee in respect of that Committee's policy. The President would be empowered to deselect Committee Presidents on providing adequate reasons for such de-selection to the President's Council. Likewise any Committee President could deselect their own Committee Members after discussion with the President.
 - (iv) The size of the President's Council ideally ought not to exceed twelve in number, excluding the President himself, although it could operate in practice with up to as many as, say, twenty Members. Out of that number it is suggested that the President would have selected five, the remainder having been selected by the States. Presidents of the various non-government Committees would be outside the President's Council and outside the sphere of governmental collective responsibility.
 - (v) Members wishing to be elected by the States to become Presidents of any Committee of the States would be required to speak in support of their own candidature outlining a brief policy statement of intent.
46. The method of government would still be by means of Committee and not by a central executive, although the overlay of the President's Council would help to create a cohesion in the system of government and the existence of a clearly selected leader with a close knit administrative core would give an element of political leadership. The President's Council would be charged especially with the

co-ordination of the work of the States in achieving the strategic objectives developed by the Policy and Resources Committee and approved by the States.

47. The fact that the President can only himself select five out of twelve Members of the President's Council should avoid excessive "cronyism".
48. Collective responsibility within the inner core of the President's Council would ensure an element of discipline within government, whilst not fettering the other Members of the Council from speaking on non-departmental matters.
49. The States itself would still retain control over the selection of the majority of the Members of the Council and would still retain majority membership of individual States Committees;
50. States Committees and the President's Council would be subject to under the scrutiny of the Scrutiny Committees, as described below.

Scrutiny Committees

51. The introduction of any style of executive government will require the establishment of an adequate system of checks and balances within the States. Perhaps the foremost of these would be the introduction of a system of Scrutiny Committees made up of Members of the States who are independent of the executive body. The Panel attaches great importance to the introduction of effective scrutiny and would suggest that at least two such Committees be established, a Public Accounts Committee and a Scrutiny Management Committee. The former would be entitled to examine matter pertaining to expenditure, audit and accounts. The latter would be empowered to establish ad hoc Scrutiny Committees to review particular policy issues as and when they arose at the request of a specified number of States Members. The Scrutiny Committees would have authority to call for departmental ministers, senior Civil Servants and expert witnesses to attend and give evidence. The budget for such Committees should be determined independently of the executive government and secretarial support should be provided also independently of the executive government. Further consideration of Scrutiny Committees appears in Section Eleven of this Report.

SECTION EIGHT

SUMMARY OF ISSUES IDENTIFIED BY THE PANEL

- A. The Island needs to identify whether it wishes to attribute responsibility for leadership of the Government of the Island to a group of twelve or thirteen States Members, or to continue with that responsibility diffused amongst the majority of the Members of the States.
- B. The principal criticisms of the present committee system of government are :-
- (i) lack of leadership;
 - (ii) lack of co-ordination between committees;
 - (iii) lack of cohesion in the system of government.
- C. These issues could be addressed, to a greater or lesser extent, either :-
- (i) by adopting an executive style of government; or
 - (ii) by modifying the present committee system.
- D. If the present Committee system were to be retained the following modifications should be considered:-
- (i) the mandate of the Advisory and Finance Committee should be strengthened;
 - (ii) the number of Committees should be reduced to not more than twenty;
 - (iii) there should be a reduction in the number of Presidencies that any one States Member may hold (one major and one minor Committee);
 - (iv) there should be a reduction in the length of time that any one person may serve as President of the same Committee (no more than two terms consecutively);
 - (v) there should be a limit to the number of Committees upon which any one person may serve (no more than three);
 - (vi) Presidents of Committees should have the right to vote on all matters within the Committee;
 - (vii) each of the major Committees should be required to submit for debate within a specified period after each general election, a statement of policy that must first be endorsed by the Advisory and Finance Committee;
 - (viii) the membership of each Committee should be subject to election after each General Election;

- (ix) persons seeking election as President of a Committee should speak in support of his own candidature;
- (x) that a proper system of scrutiny be established.

E. Alternative styles of executive government (requiring a measure of collective responsibility) would be:-

- (i) Ministerial Council - with an elected Chief Minister and an Executive Council chosen by the Chief Minister (but approved by the States) to head each Department of Government having collective responsibility;
- (ii) Co-Ordinating Executive Council - with Members of a Co-Ordinating Council nominated by the States to head each Department of Government having collective responsibility and the leader then selected by the Members of that Council;
- (iii) President's Council with Committees - with a Core Council selected by an elected President having collective responsibility and other Members selected by the States. This system would continue to operate with Committees.

These styles of government would require that each Department or Committee would be reconstituted after each General Election.

F. If any form of executive government is adopted there must be at least one if not two Standing Scrutiny Committees established and chaired by persons not involved with the government. Such Committees would have the power to call Members of the government and senior Civil Servants to give evidence.

SECTION NINE

POLITICAL LEADERSHIP

1. All the options for Executive Government put forward in Section Eight of this Report require the selection of an individual who would be recognised as having the authority of political leadership in the Island.
2. During the course of its review, the Panel became aware of several different methods by which that "Leader" might be selected and puts forward the following for consideration.

Selection by the Newly-Elected States of Guernsey

3. This would require that at the first meeting of the States after a General Election, the Members after having been sworn in, would be required to select one amongst their number to be their Political Leader.
4. Those offering themselves for selection would be required to publish a form of manifesto setting out his/her principal policies for the term of the States at least, say, 10 days before the date of the selection meeting. Selection would require nomination by, say, five Members. Each person nominated would be required to address the States for an allotted period of time in support of his/her own candidature. No other speeches would be required in support of a candidate.
5. Election amongst the Members would be carried out on a reducing number basis, i.e., after the first round any candidate polling less than, say, 20 per cent of the States Members, or, if none poll more than 20 per cent, all but the three highest polling candidates, drop out. At the second round the candidate polling least votes drops out leaving two remaining when on the third round the winning candidate is elected leader.
6. All Members of the States (excluding the candidates and others by special leave of the Presiding Officer in the case of illness) would be required to vote and not abstain at each round of the election process.
7. The person who finally emerged through this selection process ought reasonably to have been assured of the support of the majority of the Members of the States.
8. The process might however be open to criticism of being non-democratic inasmuch as the States is itself being asked to act as an Electoral College, a role that, in relation to the former Conseiller system, it had previously rejected.
9. This method of selection could be applied to any of the styles of government described in Section Eight of this Report with the exception of the Co-Ordinating Council.

Selection by those Elected to Head the Principal Committees or Departments

10. This process would entail those who had been selected by the States as chairs of the principal Committees or Departments selecting from amongst themselves the person that they would accept as Political Leader.
11. The process would not be conducted in public. Candidates for Political Leader would not be required to publish individual manifestos.
12. No one should be selected unless he commands a majority of those involved in that selection process. This may entail a selection process involving several rounds of election before a clear leader emerged.
13. This process would be required for the Co-Ordinating Committee system of government described in Section Eight, but is unlikely to be appropriate to the styles of government described in Section Eight as the Ministerial Council and the President's Council with Committees.
14. This system of selection could be regarded as being undemocratic in that selection is in the hands of a very few acting as an exclusive Electoral College. Such a system might also give rise to an unacceptable degree of political manoeuvring amongst that same number. The resultant choice might not always emerge as the strongest amongst the possible contenders but as a compromise choice.
15. The Political Leader selected by this process might not enjoy the confidence of a majority by the States.

Selection by Island Wide Election

16. This process would see the emergence of a Presidential style election. In the absence of a party political system producing a leader, it has been suggested that such a method of election would be the most practicable method of allowing the Islanders themselves to participate directly in the selection of a Political Leader for a term of office of four years. With the possibility of seeking re-election for one further term of four years. The Panel recognises that such a high profile election might be considered to have a de-stabilising effect from an external perspective.
17. The manner of election of such a Political Leader has been considered at length by the Panel, particularly in the light of concerns expressed in England over the "populist" element in the new mayoral election process. In the absence of nomination by political parties, it is recommended that candidates offering themselves for election as the Political Leader of the Island, should either (i) be nominated by the retiring assembly of the States immediately before a General Election or (ii) be nominated by at least twelve registered voters; in either case a candidate for nomination must have served at least one or possibly two terms in the States.

18. If nomination is restricted to the retiring States, the number of candidates to be nominated should be restricted to, say, three and the selection of candidates to be nominated should be by open vote in the retiring States.
19. This manner of pre-selection of candidates would ensure that at least all candidates shall have served at least one term in the States and should command the respect of the retiring States.
20. The election of the Political Leader from amongst candidates however nominated would be by way of an Island wide election. Each candidate would be required to publish his own manifesto of key policy initiatives for the next political term.
21. The election should not proceed unless there are at least two candidates. If the election does not proceed then the Political Leader should be elected unopposed by the newly elected States.
22. The elected Political Leader would automatically take a seat in the new States.
23. Such a process of election must by necessity take place some 21 days before the date of the next General Election to enable the defeated candidates (if thought appropriate) to seek re-election to the States.
24. The principal arguments in favour of such a method of selection by those of its proponents would appear to the Panel to be:-
 - (i) (i) the election process gives the opportunity for an Island wide election. Consideration could be given to making the election on a Bailiwick-wide basis;
 - (ii) (ii) such an election process would give clear democratic political leadership to the Island;
 - (iii) (iii) the fact that the qualification of candidates for leadership would require that they have served at least one term in the States should ensure that only those who are recognised as being of sufficient calibre for that office would be proposed;
 - (iv) (iv) the process of nomination of candidates and the election itself should ensure that the candidates will have put forward and debated constructive and meaningful statements of political priorities, knowing that if they are elected they will have the expectation of being able and required to deliver such priorities.
25. Such a process might however be considered by those of its opponents to create an element of political confrontation that would represent a significant departure from the consensus style of politics to which the Island is accustomed. It could also be argued that such a process might ultimately lead to the evolution of a party political system if that were the wish of the Community.

SECTION NINE

SUMMARY OF ISSUES IDENTIFIED BY THE PANEL

- A. In order to establish strategic leadership within the Island and to avoid the confusion that presently exists as to who has the political authority to speak for the Island in international matters it is appropriate that consideration be given to the election of a Political Leader of the Island.
- B. The adoption of an executive style of government as described in Section Eight of this Report would require that Political Leader be selected.
- C. Alternative methods of selection identified by the Panel would be:-
 - (i) Election by the States immediately following a General Election from amongst those returned at that General Election; or
 - (ii) Selection by and from amongst those elected by the States to head the principal Committees or Departments of government. This is the method of selection that would be consistent with the style described as “Co-Ordinating Council” in Section Eight of this Report; or
 - (iii) Island-wide election with a maximum of three candidates (who might have been elected to the States for at least one full term) nominated by the retiring States before a General Election with the election held on the same day as that General Election with the defeated candidates having the right to sit in the States for that new term; or
 - (iv) Island-wide election with candidates nominated by the general public (at least twelve registered electors to nominate each candidate). Only those who have been elected to the States for at least one full term would be qualified to stand. Such election to take place some 21 days before the date of the General Election. Defeated candidates would have no automatic right to sit in the States unless they had been elected at the General Election.

SECTION TEN

SUPPORT FOR STATES MEMBERS

Accommodation and Support Services

1. It became quite apparent to the Panel during the course of this Review that Members of the States are poorly supported when compared with the support given to parliamentarians in other similar sized jurisdictions.
2. This lack of support manifests itself in two key areas (a) physical accommodation and support services and (b) salary.
3. There can be no doubt that if the Island wishes its politicians to function efficiently then greater thought must be given as to the physical conditions under which they are expected to operate and as to the level of support services that as a minimum they ought reasonably to expect.
4. The absence of a dedicated chamber in which States Meetings are held should no longer be acceptable. Sharing facilities with the Royal Court, whilst providing a stop gap solution, is not to be recommended for the future. The Panel is of the view that a purpose built chamber should be created for Meetings of the States. The Panel also recognises that such a chamber need not be in the centre of St Peter Port. A States Chamber should have adequate seating and desk facilities for each Member and should incorporate modern technological features including hearing loops for the hard of hearing, microphone and recording equipment and facilities for simultaneous voting. The layout of the chamber ought most probably to follow the conventional semicircular pattern.
5. The Panel would also suggest that conveniently adjacent to the States Chamber there should be:-
 - (i) a Members' library/incorporating a pool of secretaries/research assistants for Members.
 - (ii) Individual meeting rooms for use by Members when meeting with members of the public or for use when preparing for States Meetings.
 - (iii) Sufficient space allocated for each Member to keep a filing cabinet/locker for States papers and personal effects.
 - (iv) At least two Committee rooms accessible to the Public for meetings of Scrutiny Committees.
 - (v) A suite of offices for the Political Leader of the Island and his senior Civil Service Officer with appropriate secretarial services.
 - (vi) Each Member of the States should be provided with the necessary technical support for the role. This must at present include adequate computer/email/internet facilities.

6. The Panel believes that allied with the physical separation of the chambers for the Royal Court and the States, consideration ought to be given to separating the functions of the Greffier between those of a judicial nature and those of a parliamentary nature. A separate appropriately qualified States Greffier solely responsible to the Presiding Officer of the States and to the Members of the States would give further support to the Members of the States in the execution of their functions.
7. The Panel received representation from many who suggested that, the drafting of legislation should be separated from the Crown Officers as in Jersey. However following discussion with the Crown Officers, the Panel is persuaded of the opinion that little would be gained either in terms of efficiency or cost, at least in the short term by creating a legislative department separate from the Crown Officers. The Panel understands that within the Crown Officers' Chambers one of the Crown Advocates has been nominated as the Head of Legislative Services. The Panel understands the issue of prioritisation of legislation is one that in practice can create difficulties for the Crown Officers, with no one Committee of the States having any overriding authority to determine such priority.
8. The role of the States Greffier would be to act as a public officer answerable to the States (possibly through a House Committee of the States) for the administration of the States Chamber and the Members Secretariat, the publication of the Agendas for Meetings of the States and Resolutions of the States. The Panel would also suggest that it is important that adequate transcripts are maintained of all States business and that those transcripts should be available to States Members as part of the Members' library facilities.
9. It has also been suggested to the Panel that if the Committee system of government is maintained, Agendas and minutes of meetings of those Committees ought, as a matter of course, to be made available for all States Members. This suggestion is given further consideration in Section Eleven of this Report.

Salary

10. Not altogether surprisingly the issue of payment of States Members proved to be highly emotive and divisive amongst those who gave evidence to the Panel.
11. Views varied enormously from those (mostly non-politicians) who felt that the role of a States Member should be honorific, through those (primarily States Members) who felt that they should be paid a fair rate for the job, to the extreme view that fewer States Members in number should justify salaries comparable to those available for senior executives in the finance industry or commerce. The view at this extreme was predicated from the argument that it was necessary to attract persons of the right calibre into the States.
12. The Panel has found no evidence to support the extremist view that high salaries would be needed in order to attract persons of calibre. Persons of calibre have been willing to serve in the States even at lower levels of salary than presently available.

13. The Panel is however mindful of the change that has occurred in the character of Membership of the States over the past fifty years. There are perhaps fewer Members drawn from the business community, particularly, from the wealth generating sectors, than was previously the case. Undoubtedly this is a reflection of the fact that most of the companies within the principal wealth generating sector, the finance sector, are not locally owned and the senior executives of those companies being employees are, generally, not able to participate in local politics. This contrasts with the situation that prevailed as recently as thirty years ago when the principal economic contributors were locally owned companies or self employed local entrepreneurs who were able to devote their own time to membership of the States without having to account to off Island employers.
14. The Panel considers that it is necessary to find a level of remuneration payable to States Members that might be sufficient to compensate Members of the States for their involvement particularly those who are in employment and who by force of circumstance may be obliged to give up employment to concentrate on Membership of the States.
15. The Panel heard evidence from many States Members and former States Members who felt particularly aggrieved with the fact that the level of their present remuneration can be influenced by the amount of income generated by their spouse. The Panel can see no justification for the continued use of such a means test and would suggest that it be abolished. The Panel is firmly of the opinion that each Member should be entitled to the same rate of remuneration as compensation for the time spent as a Member of the States irrespective of the income or wealth of his or her spouse or partner.
16. The Panel also heard evidence from those who opposed the present system of payment by attendance allowance. Evidence given to the Panel suggested that this basis of remuneration encouraged unnecessary meetings and the prolonging of meetings. The Panel finds itself in sympathy with this view and would strongly urge that consideration be given to the establishment of a flat fee per Member with no additional fees dependent upon number of memberships of Committees or attendance at meetings. The Panel would however agree that the Heads of Committees (including Scrutiny Committees) or Departments should be entitled to an additional fee and that the Political Leader should be entitled to a further additional fee.
17. The basic fee ought in the opinion of the Panel to be determined independently and thereafter should be subject to annual increase by reference to the average percentage increase in salary of senior Civil Servants. Based on comparisons with Jersey and the Isle of Man, the Panel would consider a basic fee in the range of £25 -30,000 might be considered as appropriate.
18. The Panel heard no evidence against the present pension arrangements for States Members. If however the basis of remuneration is changed as suggested above the pension arrangements should be reviewed by actuarial advisers.

Title

19. The Panel notes that members of many other parliaments and legislatures are entitled to carry certain initials after their name as a mark of recognition. The

Panel can see no reason why such recognition should not be afforded to Members of the States of Guernsey. In addition to the title, "Deputy", Members of the States should perhaps be entitled to add the initials, "M.S.D" after their name, in recognition of their status as "Member of the States of Deliberation."

SECTION TEN

SUMMARY OF ISSUES IDENTIFIED BY THE PANEL

- A. That States Members lack support when compared with support given to parliamentarians in other similar sized jurisdictions.
- B. In particular, States Members properly require:-
 - (i) a dedicated chamber for States Meetings;
 - (ii) library and research facilities;
 - (iii) access to secretarial support; and
 - (iv) dedicated space adjacent to the States Chamber for meeting rooms, lockers and storage facilities.
- C. That consideration should be given to separating the functions of the Greffier between those of a judicial nature and those of a parliamentary nature.
- D. That the level of remuneration payable to States Members should be sufficient to compensate Members for their involvement in the States and should be on a flat fee basis and not on an attendance allowance basis. The income of the spouse or partner of the States Member should have no influence upon the level of remuneration.
- E. That States Members should be allowed the initials, "MSD", after their names in recognition of their status.

SECTION ELEVEN

PROCEEDINGS IN THE STATES

Manner of Debate

1. The Panel received comments from States Members (past and present) and from members of the public critical of the manner in which the proceedings of the Meetings of the States are conducted.
2. The Panel also reviewed certain of the procedures of the States against the experience in both Jersey and the Isle of Man.
3. Members of the public were particularly critical of the general level of debates in the States Chamber. Criticism was principally directed towards the length of debates, the repetitious nature of the debates and the confusion caused by the manner in which amendments are often debated.
4. There can be little doubt that the introduction of live broadcasting of States Meetings has considerably increased the awareness of the public with the nature of the debates within the States Chamber. Many of the representations received from the public instanced the introduction of live broadcasting as a cause of decline of standards of debate. Whilst there may be some anecdotal evidence to suggest that States Members feel obliged to speak in each debate in the knowledge that the debate is being broadcast there is no factual evidence to support this contention. There is however evidence that the length of time devoted to proceedings within the States has increased over the recent years.
5. The style of delivery in the States Chamber with Members tending to speak with a prepared script or lists of points does unfortunately tend towards repetition and prevents genuine debate emerging on the floor of the Chamber as does the reluctance of Members to allow intervention from other Members during the course of their individual speeches.
6. The Panel recognises however that it would not be realistic to impose strict rules that would oblige Members to speak otherwise than from prepared scripts or preclude repetition. Such matters must best be left to the person presiding over the debate. The Panel does however recognise that there may be merit to include in formal rules of procedure stricter time limits on speeches with possibly a stated time limit given to the first person seeking to speak against a motion (possibly drawn by lot from amongst those who have given notice that they wish to speak against the motion) and thereafter shorter lengths of time allowed for further persons seeking to support or oppose the motion with the person chairing the debate having the right to rule against repetition. The Panel considers that a genuine spirit of debate might be further nurtured by the greater use of the procedure of the States sitting in Committee. Where the sitting is chaired by the President of the Committee promoting the debate and where the normal rules that preclude members from speaking more than once or challenging a speaker are not applied. This method of debate could be of particular use when debating matters of a consultative nature or of a general strategic nature.

Agenda, Timetable and Amendments

7. The Panel heard evidence from many politicians and retired politicians concerning the manner in which the Agenda for States Meetings is published and the comparative short period of time within which States Members are expected to prepare themselves for debates the content of which may often be of a significantly technical nature. Members also complained of the lack of resource they have to assist them in that preparation. The Panel is also mindful of the fact, as suggested by many witnesses, that the lack of time afforded to States Members between the publication of the Billet D'Etat and the date of the Meetings, offers many Members little alternative but to put forward late in the day formal amendments to the policy letter or other matters that are the subject of debate. A greater use of consultation papers in the weeks or months before a proposed debate would no doubt assist States Members to be better prepared.
8. Having reviewed the evidence, the Panel has some sympathy with the views expressed and believes that certain changes might be considered in the manner in which the Agenda for States Meetings is produced and the timetable for bringing matters for debate before the States. The Panel recognises that whilst it might be possible to consider establishing a stricter timetable for tabling amendments it would not be consistent with democratic principles to deny a States Member the opportunity of introducing an amendment at a later stage in proceedings.
9. The Panel is concerned that often the first intimation that States Members will receive of a major policy issue for debate is when each Member receives the Billet D'Etat for the forthcoming Meeting of the States. In some instances individual Committees may have issued draft proposals for public consultation but the practice is by no means universal. The Panel recognises that the period between receipt of the Billet D'Etat and the date of the States Meeting (in practice little more than two weeks) gives insufficient time for adequate preparation, research and/or consultation. The Panel has looked at the experience in Jersey and the Isle of Man by way of comparison.
10. In order to overcome this problem, the Panel has looked at several options. Of those, the Panel has identified the following as being worthy of further consideration:-
 - (i) That within a stated period before each States Meeting (say 5 days) notice is given by way of summary of matters which each Committee or Department wishes to bring before the States in the near future. At the States Meeting following that notice each matter will be called. The President or Minister concerned will request that the matter be listed for one of the regular meetings of the States nominated by that President or Minister which must be not earlier than, say, 28 days after the date on which the request is put to the States. Any Member of the States who considers that a greater period of time should be allowed for consultation may require that a vote be taken on a proposal that the matter be deferred to a later date.
 - (ii) That at each States Meeting (assuming that the States continues to meet once a month) any policy letters or other matters to be brought before the

next States Meeting should be formally tabled and published in draft. The Billet D'Etat would be published and circulated with the final versions of the policy letters as at present.

- (iii) That if an executive system of government is adopted the Political Leader of the government should be required at least once a year to present a statement setting out a proposed timetable for the presentation of legislation for debate by the States and that save for emergencies authorised by the Presiding Officer no policy issue or legislation ought to be brought before the States that was not included in the statement. Thereafter the Agenda for each Meeting of the States could be published in the form of the Billet D'Etat at least 21 days before the date of the Meeting.

Scrutiny

- 11. Elsewhere in this Report the Panel has spoken of the importance of establishing an adequate system of scrutiny particularly if greater authority is to be conferred upon a smaller number of politicians.
- 12. Even in the absence of an executive system of government, the Panel considers that there may be merit in establishing a more focused system of scrutiny of government actions and legislation than presently appears to exist. The Panel was conscious of the frustration voiced by many of the politicians who gave evidence at the lack of effective scrutiny within the present machinery of government and the inability of a back-bencher who does not sit on a particular Committee to initiate a debate or to question in an effective manner the workings of a particular Committee. The Panel believes that scrutiny by means of standing committees with authority to call evidence from politicians and senior Civil Servants should be considered, even in the context of the present Committee system. The Panel accepts that it would be neither desirable nor practical to establish a Scrutiny Committee alongside each Committee or Department of the States, but would invite the States to consider the following options:-
 - (i) A single Public Accounts Committee - with two joint chairpersons elected by the States. Any person who is a President or Vice President of a major Committee of the States would be excluded from chairing the Public Accounts Committee. Ten States Members would be elected by the States to form the Public Accounts Committee of which five together with one of the chairpersons would form a quorum. No person would sit on the Public Accounts Committee when it is considering a matter relating to a Committee of which he is a Member. Meetings of the Public Accounts Committee should be open to the Public.
 - (ii) Two Scrutiny Committees be appointed, a Public Accounts Committee as described above with a narrow remit only to review the financial affairs of Committees or departments and a Scrutiny Management Committee comprising the two chairpersons of the Public Accounts Committee and a third person elected by the States from amongst its Members. This Scrutiny Management Committee would have authority to establish ad hoc Scrutiny Committees with terms of reference established by the Scrutiny Management Committee (subject to the general terms of reference of the

Scrutiny Management Committee itself) to investigate particular policy issues in response to a request from, at least, five Members of the States who are not themselves Members of the Committee whose policy is to be reviewed. The ad hoc Scrutiny Committee would be made up of one of the chairpersons of the Public Accounts Committee, plus two other Members selected from the Public Accounts Committee by that Chairperson and three others appointed by the States, none of whom should be a Member of the Committee or Department whose policy is being scrutinised. Each ad hoc Committee would be disbanded after it had reported on the particular issue. Meetings of each ad hoc Committee would be open to the Public.

13. The Panel was also invited to consider changes to the system whereby draft legislation is reviewed. In most parliamentary systems the scrutiny of legislation forms an essential function of parliament, usually involving a series of formal reading debates. Such a process is of particular importance in the context of an executive system of Government. The practice in Guernsey has been for the States to delegate its legislative scrutiny function to a Legislation Committee whose terms of reference are primarily to “review and revise” every *Projet de Loi* “for the purpose of ensuring that the same is in accordance with and will effectually carry into effect any Resolution of the States designed to be implemented thereby”. It seems to the Panel that at no stage prior to that review will Members of the States other than those possibly who are Members of the Committee sponsoring the *Projet*, have had the opportunity to consider the *Projet* and practice shows that there is little debate when the individual *Projets* thereafter come before the States for approval. Whilst the Panel would not wish to encourage unnecessary debate on detailed legislation nevertheless the Panel is minded to suggest that consideration be given to the following alternatives.
 - (i) a formal series of reading debates be established involving a first reading debate when the draft legislation is tabled, a second reading debate when the draft legislation is scrutinised and debated by the whole of the States possibly sitting in Committee and a third reading debate when the draft legislation as amended following the second reading debate is then formally tabled for approval; or
 - (ii) a variation of the above whereby the Legislation Committee is authorised to carry out the second reading process; or
 - (iii) that a *Projet de Loi* be tabled in draft at least 28 days before the Meeting at which it is due to be submitted for approval. That copies be given to all Members and Members should then be given opportunity to make representation and to attend at the Meeting of the Legislation Committee when the *Projet* is considered.

Private Members Motions and Question Time

14. A further point of frustration highlighted by many of the politicians who gave evidence was the difficulty for Members of the States to initiate a debate on any issue otherwise than by way of *Requête*.

15. The Panel understand that the Requête procedure whereby Members of the States can petition for a matter to be debated is the only method whereby Members of the States can initiate a policy debate. There was no evidence brought before the Panel to suggest there was anything fundamentally wrong with that process; save that the number of States Members required to support a Requête was seen by many as a particular obstacle. If the States were minded to accept any proposal whereby the number of States Members was to be reduced, then the Panel would suggest that the States should at the same time consider reducing the number of Members required to support a Requête.
16. The method of tabling a Requête and of placing it on the Agenda for a Meeting of the States ought to mirror whichever of the alternatives for Agenda and timetable set out in paragraph 10 of this Section of this Report were to be chosen.
17. A further and/or alternative method of enfranchising the Members of the States as suggested to the Panel would be to introduce into the timetable for every Meeting of the States a period of probably no more than thirty minutes during which any one Member of the States (chosen if necessary by ballot) can bring forward a motion of his own choosing and to speak on that motion for no more than ten minutes. A further period of up to 20 minutes would be allowed for debate at the end of which period the motion would automatically be put to the vote. The motion could be of general nature that requires no further action on the part of any Committee or Department or be of a specific nature that requires a particular Committee or Department to consider and report on a particular matter. If the latter, the President or Minister should have a right to reply to the debate before the vote is taken.
18. The Panel was also invited to consider the development of a more formalised Question Time when Presidents of Committees or Ministers or Departments would be required to attend at States Meeting for a given period of time to answer questions from Members of the States. To a certain extent this represents a development of the system of questioning that already occurs within the States. Given that the States officially only meets once a month, it is difficult to see how the Question Time process could be developed in any meaningful manner without inevitably encroaching on time that is required for general debate. If the States were as a matter of course to meet on a more frequent basis then a more formalised Question Time procedure might be possible with questions relating to specific Committees or Departments allotted to particular days.

Timing and Frequency of States Meetings

19. The Panel was made aware of a suggestion that Meetings of the States ought to be held in the evening rather than during day time. It was thought by those who propounded this suggestion that evening Meetings would make it easier for persons who were in employment to stand for the States. The Panel is aware that in the United Kingdom it is common for meetings of local councils to be held in the evening for that reason. The Panel also understands that the Presidents of certain of the States Committees have chosen to hold Committee Meetings in the evening so as not to encroach upon the working day of its Members.
20. The Panel recognises the logistical and practical difficulties in holding evening meetings and the cost in terms of overtime or other allowances that would need

to be paid to States Employees and Civil Servants required to attend such meetings or to provide support services for such meetings. The Panel is not aware of any firm evidence that evening meetings would necessarily attract a wider cross-section of candidates for the States.

21. The Panel does however believe that the States ought to consider changes to the frequency of its Meetings and would suggest that consideration be given to holding States Meetings at least fortnightly if not weekly so as to ensure greater continuity of its business and better management of its Agenda. The Panel recognises that whilst the States continues to share the Royal Court Chamber that meetings held at such frequency may not be practicable. In Section Ten of this Report, the Panel has already identified the need for a separate Chamber for States Meetings.
22. The Panel has noted that in the Isle of Man, the Manx Parliament continues to sit into the evening to complete its agenda rather than break at 5 p.m. as appears to be the normal practice in Guernsey necessitating a further sitting on another day to complete the Agenda. The Panel sees merit in the approach of the Manx Parliament in that Meetings should continue on the date allocated until the Agenda is completed in order to avoid unnecessary breaks in the continuity of its business.

Simultaneous Voting

23. The issue of Simultaneous Voting was raised with the Panel by a significant number of witnesses.
24. Whilst the Panel recognises that the matter has been debated and rejected by the States on a number of occasions in recent years, the Panel is not aware of any logical reason other than tradition why a system of Simultaneous Voting ought not to be acceptable at least in principle.
25. The Panel understands that there may be practical difficulties in introducing such a system in the present Chamber of the Royal Court. If however as suggested elsewhere in this Report, the States is minded to accept the proposal that the States should be housed in its own purpose built chamber then in the planning of the chamber it should be possible to plan to introduce the necessary technology to enable Simultaneous Voting to occur. Any system of Simultaneous Voting should be capable of identifying and recording electronically the votes of individual Members.
26. The only justification given to the Panel against the introduction of Simultaneous Voting was that it is in some way non-democratic. This view was succinctly put by one retired politician when he told the Panel that he preferred the present system because he could see the way that other people were voting before he himself was called upon to vote. It was also suggested to the Panel that the present system enabled the Douzaine Representatives to control the way in which they all voted. The Panel has however seen no evidence to suggest this to be the case.

27. The Panel accepts the views of many of its witnesses that a system of Simultaneous Voting may help to speed up the voting process and would enable an accurate voting record to be maintained on every vote taken.

Privilege for States Proceedings

28. During the course of its review the Panel became aware that the extent of legal privilege for States Proceedings was open to debate and interpretation. The Panel noted with some surprise that there was an absence of local legislation dealing with this issue. The Panel was aware that legislation had been enacted in Jersey, conferring unqualified privilege.
29. The Panel has consulted with Her Majesty's Procureur, Mr G R Rowland, QC, and a summary of his advice on this issue is included amongst the summary of advice he has given on other matters set out in Appendix IV to this Report.
30. For the obvious reason, inter alia, that the States of Guernsey has the discharge of primary legislative functions, the Panel believes that the States should be accorded the same status as a national assembly in other parliamentary jurisdictions and should not be regarded as being equivalent to a local authority in the United Kingdom. The Panel would support a claim for Absolute Privilege.
31. For clarification and for the avoidance of doubt the Panel would concur with the view that the States should enact legislation recognising the principle of Absolute Privilege for Proceedings of the States in debate and in documents or reports published by the States. It would be a matter for the Presiding Officer and standing rules of procedure to ensure that this immunity was not abused by States Members during the course of debate. The Panel also recognises that in such circumstances the Members of the States would wish to create a Standing Committee of Privileges to review any alleged breach or abuse of Privilege by its Members.

Open Government

32. The Panel received many representations urging support for "Open Government". The phrase, "Open Government" appears to be used indiscriminately to cover a number of different issues, amongst those identified by the Panel were the following:-
- (i) Committee Meetings to be held in public;
 - (iii) Agenda and Minutes of Committee Meetings to be published;
 - iii) Register of Members' interests to be made compulsory;
 - (iv) Attendance records of meetings should be available for public inspection.

The Panel recognises that some of the concerns expressed by those who advocated "Open Government" might be addressed by the establishment of a more effective scrutiny process, as described in Section Eleven of this Report.

33. The Panel is aware that in the United Kingdom meetings of Committees of Local Authorities are increasingly open to the public. The Panel has heard many arguments in favour of a similar proposition for Guernsey. The Panel considers, however, that it is inappropriate to regard the States and its Committees as being analogous to a local authority in the United Kingdom. Committees of the States carry out functions that in the United Kingdom would be carried out by central government. The Panel is not aware of any suggestion that Cabinet Meetings or Departmental Meetings of the Government in the United Kingdom should be open to the public.
34. The Panel is also aware that even in the United Kingdom where Committee meetings are open to the public the practice has grown up of holding private “pre-meeting” or “closet” meetings which leave the meeting held in public to adopt a series of bland resolutions. In other instances cited to the Panel the agenda for such meetings is often split between those items that are open to the public and those held in camera; the latter being primarily issues relating to private individuals or other sensitive issues
35. In a community as small as Guernsey the Panel recognises that many issues that are considered by States Committees would most probably fall to be dealt with “in camera” as being particularly sensitive for identifiable individuals.
36. If meetings of the Committees of the States were to be open to the public, then the matter of legal privilege for such proceedings would need to be addressed. The question of privilege is considered generally in paragraphs 28 to 31 of this Section of this Report. The danger of abuse of privilege is potentially greater in the context of meetings of Committees held in public.
37. The Panel remains unconvinced that opening up Committee meetings to the Public will significantly assist the process of “Open Government”. The Panel considers that the use of Scrutiny Committees held in public may provide a more effective means of ensuring Open Government.
38. The Panel has considered the arguments in favour of the publication of agendas and minutes of Committee Meetings. It seems to the Panel that the same arguments apply against this proposition as apply against holding meetings open to the Public. The Panel has also considered whether or not States Members should be allowed access to minutes of Committees on which they do not sit. The Panel recognises perhaps greater justification for this proposal and understands that such a procedure already operates in Jersey where States Members can examine, but may not take away, copies of the minutes of Committees. Matters pertaining to named individuals would however be excluded from the set of minutes made so available.
39. It has been suggested to the Panel that such a procedure may tend to stultify the freedom of debate within Committees and the amount of detail that would be included in such minutes. It was also suggested that access to minutes could lead to the premature publication of the early stages in policy formulation before such policy had been fully and adequately researched. Publicity given to leaks of material from Ministerial Departments in the United Kingdom would tend to underline this concern.

40. The third of the issues identified in paragraph 32. of this Section relating to Open Government relate to making compulsory the completion of entries in a Register of Member's Interests.
41. The Panel believes that the most important element of disclosure is that required of any Member when participating in a debate in which he has an interest. The existence of a Register of Interests should not in the view of the Panel, ever override that fundamental principle of disclosure.
42. The Panel is persuaded from the evidence given to it that Declaration of Member's Interests should be made compulsory in the interests of Open Government and that the States should establish a mechanism whereby any Member who is proved to have failed to make disclosure is subject to a suitable sanction. It would be necessary for the States Members themselves to constitute an ad hoc Privileges Committee to investigate any complaint made against a Member. That Committee ought to comprise at least three long-standing Members of the States. The sanctions that could be applied might include any or all of the following:-
- (i) Naming and shaming by the Presiding Officer accompanied by a public apology; or
 - (ii) Suspending the Member from sitting in the States for a specified period of time; or
 - (iii) Requiring the resignation of the Member concerned.
42. Whilst the Panel is fully supportive of the need to make disclosure of Member's Interests compulsory and of introducing sanctions for breach, it is mindful of the need to identify clearly what should and what should not constitute declarable interests. The Panel would suggest the following criteria:-
- (i) details of a Member's employment;
 - (ii) details of a Member's or his/her spouse or partner's directorships or trusteeships or similar;
 - (iii) details of shareholdings of all companies in which the Member or his/her spouse or partner or children under the age of 21, has an interest in more than 10 per cent of the issued share capital; or in the case of a public quoted company where the interest has a monetary value in excess of £50,000; and
 - (iv) details of all other activities or assets in which the Member or his/her spouse or partner has a direct personal pecuniary interest.
43. The Panel would also suggest that each Member should be required to update his entries on such a Register at least once every six months.

Corruption

44. The Panel recognises that the standards of probity within the Membership of the States of Guernsey has over the years been high and that there have been few if any cases where accusations of corruption against States Members have proved to be well founded. The Panel believes that the same also holds true in the case of the Civil Service.
45. The introduction of compulsory disclosure of interests by Members of the States should in the opinion of the Panel act as a check against possible corruption. A similar process for the Senior Members of the Civil Service might also be considered appropriate. Nevertheless the Panel accepts that it is not possible to ignore the possibility of instances of corruption arising in the future.
46. In his submissions to the Panel, Her Majesty's Procureur, Mr G R Rowland, QC, drew attention to the absence in the Island's legislation of an offence of corrupting or attempting to corrupt a public official. Corruption offences in Guernsey are offences at Common Law, whereas in most other jurisdictions (including Alderney) corruption is dealt with by statute. The Panel understands that the Crown Officers are monitoring the progress of proposals put forward by the Home Office in the United Kingdom. The Panel considers that the introduction of similar legislation in Guernsey is a matter that ought to be encouraged particularly if the States choose to adopt an Executive style of government where power and authority can be seen to be concentrated in a smaller number of States Members.

SECTION ELEVEN

SUMMARY OF ISSUES IDENTIFIED BY THE PANEL

A. Manner of Debate

- (i) That consideration be given to creating stricter time limits for debate; and/or
- (ii) That one Member be chosen from amongst those seeking to speak against a motion who would have a given length of time within which to speak thereafter all other speakers restricted; and
- (iii) The Presiding Officer be encouraged to impose stronger rulings against repetition in subsequent speeches; and
- (iv) That greater use might be made of the procedure for the States sitting in Committee to encourage genuine debate.

B. Agenda, Timetable and Amendments

- (i) That notice is given before a States Meeting of matters to be debated in the near future. At that States Meeting the proposer or sponsor of the matter nominates a date on which the matter will be debated. Any Member may propose that the matter be deferred to a later date and that proposal would then be voted upon; or
- (ii) That policy letters and other matters to be debated at a subsequent meeting of the States be tabled in draft at least thirty days before the date of the Meeting at which such matters are to be debated. Billet D'Etat including the final versions of the policy letters and other matters be published as at present and simultaneously on a website; or
- (iii) If an Executive system of Government is adopted the political leader of the Government would be required at least once a year to present a statement setting out a proposed timetable for the presentation of policy issues or legislation for debate; thereafter the agenda for each Meeting of the States is published 21 days before the date of the Meeting.

C. Scrutiny

That irrespective of any decision whether or not to adopt an executive style of government that a more focused process of scrutiny of Committees or Departments and legislation should be introduced.

- (1) Of Committees or Departments of Government
 - (i) A single Public Accounts Committee with two chairpersons elected by the States and ten other States Members appointed to the Committee; or

- (ii) Two Scrutiny Committees be created; one, the Public Accounts Committee established as above and the second, a Scrutiny Management Committee on which will sit the two chairpersons of the Public Accounts Committee and a third person elected by the States, having authority to establish ad hoc Scrutiny Committees to investigate particular policy issues in response to a request from at least five Members of the States. Each ad hoc Scrutiny Committee is disbanded after it has reported.

(2) Of Legislation

- (i) A formal series of reading debates each stage taken by the whole of the States; or
- (ii) A formal series of reading debates with the second stage taken in Committee by the Legislation Committee; or
- (iii) A process is introduced whereby a draft of the Projet de Loi is published at least 28 days before the Meeting at which it is to be approved and any Member of the States may make representation to and attend before the Legislation Committee when the Projet is considered.

D. Private Members Motions and Question Time

- (i) Retention of system of Requête but with fewer numbers of Members required to support the Requête; and/or
- (ii) A fixed period allocated at each States Meeting for a Member of the States (chosen by ballot) to bring forward a motion of his or her own choosing.

E. Timing and Frequency of States Meetings

- (i) Whether or not Meetings should be held in the evenings.
- (ii) Whether or not States Meetings should be held more frequently either once a week or once a fortnight.
- (iii) That the States should continue to sit until the business fixed for that day has been concluded rather than adjourn to another day.
- (iv) That in order to accommodate Meetings of the States a dedicated Chamber should be created.

F. Simultaneous Voting

That consideration be given to the introduction of Simultaneous Voting if the States is allocated a dedicated Chamber for its Meetings.

G. Privilege for States Meetings

That consideration be given to the introduction of legislation establishing the principle of Absolute Privilege for the proceedings of the States.

H. Open Government

That any or all of the following matters should be considered:-

- (i) Whether or not Committee Meetings should be presumed to be open to the public unless otherwise specified.
- (ii) Whether or not the Agenda and Minutes of all Committee Meetings should be made available either to the public in general or restricted to Members of the States.
- (iii) That the Register of Member's Interests be made compulsory and sanctions introduced in cases of breach. That a list be drawn up identifying those interests the declaration of which is to be made compulsory.
- (iv) That each Member be required to update the Register of his interests at least once every six months.

I. Corruption

The Panel concurs with the advice of Her Majesty's Procureur that the States should give consideration to the introduction of legislation creating statutory offences for corruption of public officials.

SECTION TWELVE

IMPLICATIONS FOR THE CIVIL SERVICE

1. The Panel recognises that the keystone in any machinery of government must be the role of the Civil Service. It is the Civil Service that provides not only the keystone but also the mortar that holds the structure of government together.
2. Nowhere is this more apparent than in the context of the machinery of government in Guernsey. In the absence in Guernsey of the apparatus of political parties, including research organisations, political advisers and policy units the Panel recognises that the senior Members of the Civil Service play an important role in advising States Committees on developing policy and guiding the politicians in the development of such policy. From the outset of its review the Panel was anxious to receive evidence from as many Members of the Civil Service as possible. The Panel therefore issued a general invitation and received representations from individual Civil Servants as well as from the Civil Service Association. In the interests of obtaining full and frank disclosure, the Panel agreed at the outset that all submissions would be non-attributable.
3. During the course of its review, the Panel received evidence from many present day Civil Servants and from many retired Civil Servants. Almost without exception, they appreciated the significance of the role the senior Civil Servants had to play and were aware of the difference this created in comparison with many of their equivalents in other jurisdictions. Many felt uncomfortable with this role and were therefore supportive of an alternative style of government that at a political level would be capable of delivering a more focused approach to the development of strategic policy.
4. The Panel also detected quite a marked contrast between those senior Civil Servants who viewed their role to be akin to that of managing a business, by viewing their department as a business unit; and those who viewed their role, in the more conventional sense, being one of service and ensuring an efficient administration for the delivery of the services of their particular departments. Those who adopted the former approach were not confined to those in the “trading departments” of the States. In giving evidence those of a “managerial” approach were often critical of the manner in which key members of their teams were recruited as they felt that they often had little influence in such appointments. This was particularly strongly felt by those seeking to recruit persons with specialist or technical skills. The Panel was led to the view that the process of appointment ought to be reviewed. In particular the necessity or otherwise of having senior appointments within Committees carried out centrally (as at present) rather than at departmental level.
5. The Panel sensed from amongst those who gave evidence a certain frustration and potential conflict between these two styles. The scope for potential conflict is likely perhaps to increase rather than diminish as increasingly specialist expertise in a wide range of disciplines will have to be recruited from outside the conventional Civil Service structure in particular for regulatory functions and expertise in the areas of health, human rights and other technical areas of government.

6. The Panel was reminded by the presentation from the Civil Service Association of the vast range of activities covered by and the skills required by the Civil Service in the discharge of the great number of functions undertaken by the States of Guernsey. There was a clear implication that certain areas were under-resourced and that the rigidity of the Committee structure did not always allow sufficient flexibility for reallocation of resources. The Panel was also aware of the overall manpower cap on public services imposed as a matter of policy by the States.
7. The Panel recognises that the evolution of government may require recruitment or re-deployment of resources into functions and areas of government that may not have existed as recently as ten or even five years ago. The application of Human Rights Legislation and compliance with international regulatory standards in a number of different areas including pollution and protection of the environment, will of necessity require additional skills that, in many cases might only be found from outside the Island. The need to maintain a balance between the desire to retain an overall limit on the numbers employed in the public services and the recognition of resources required for those emerging essential functions of Government leads the Panel to suggest an overall review of the existing functions of Government along the lines suggested in Section Four of this Report.
8. The Panel is of the view that the only way in which the two competing interests can be satisfied will be for the States to recognise and to agree to withdraw from those functions that are not essential to the good governance of this Island. The only alternative would be to remove the manpower cap and allow for further growth in the number of employees in the public services. A suggestion that in the view of the Panel is unlikely to be welcomed by the majority of the population of the Island.
9. In the context of the delivery of those functions that may not be regarded as essential to the good governance of the Island, the Panel recognises that a number of alternative models might be considered, these include:-
 - (i) Non-Governmental Agencies - possibly using the Guernsey Financial Services Commission as an example.
 - (ii) Enterprise Boards - charged with delivering a particular service or venture but having the flexibility to use external sources of employment.
 - (iii) Private Public Partnerships - with services contracted out to the Private Sector - the Medical Specialist Service might be regarded as an example of such a partnership.
 - (iv) By outsourcing activities to the Private Sector by tender.

In all such cases, a number of Civil Servants and public service employees presently engaged in such functions could be released to be reallocated to the other „core“ functions within the machinery of government. Whilst such changes might not diminish the numbers of persons required to be employed in the Island to service such functions, nonetheless the ability to refocus the attention of key Civil Servants and public service employees to other „core“ functions of government might be considered to be of significant benefit.

10. One effect of the present Committee system of government that became apparent to the Panel was the manner in which many of the Chief Officers of Committees viewed their overriding loyalty as being to the Committee that they served rather than to the government of the whole Island. This once again perhaps strengthens the initial view of the Panel as stated in the preface to this Report that Guernsey does not have a “government” in the conventional sense.
11. The Panel understands from the evidence that it has received that significant steps have been taken in recent years to establish a greater “collegiate” approach amongst the Chief Officers of Committees. The initiatives of establishing working groups across a number of different Committees and of having regular meetings of Chief Officers of Committees can only be applauded and should in the view of the Panel be encouraged. The Panel was however aware that not all Presidents of Committees welcomed such initiatives and that they still preferred “their” Chief Officer of Committee to be working primarily for his Committee irrespective of the common good.
12. The Panel recognises that the structure of the Civil Service should mirror that of whichever political system is selected. In this regard the Panel considers that it is essential that the position of the most senior Civil Servant ought formally to be recognised and that the person holding that post should have authority over the whole of the Civil Service.
13. The Panel was surprised to detect an uncertainty amongst both Politicians and senior Civil Servants as to who (if anyone) within the present structure was the “boss” of the Civil Service. Whilst the Panel understands that an informal process exists whereby conflicts might be resolved nevertheless in the evidence given to the Panel, it was by no means certain to whom would a Chief Officer of Committee turn in the event of a conflict between himself and the President of his particular Committee or who would be the arbiter in the event of dispute between the Chief Officers of different Committees. There appeared to be no consistent answer to these questions. Whilst many thought that the States Supervisor should fulfil the role, it was not at all apparent that he had the formal authority or the time to undertake that role.
14. The Panel received several suggestions for the title of the Head of the Civil Service. On balance the Panel would suggest the title of “Chief Secretary” or “States Supervisor” might be used for that purpose.
15. In order to discharge the functions of Head of Civil Service the title holder should in the view of the Panel be free of other direct executive functions. In an executive system of government the Head of the Civil Service would report directly to the Political Leader of the government. Each Committee or Department should have its own Chief Officer each of whom should recognise the authority of the Head of the Civil Service, whilst still reporting directly to the leader of the Committee or Department to which he is attached. The Head of the Civil Service would have a co-ordinating role within the Civil Service amongst the Chief Officers of the different Committees or Departments and would be entitled to receive minutes of all Committee or Departments Meetings.
16. Each Committee or Department should have as part of its permanent staff a Departmental Finance Officer as at present responsible for the financial records

of the Committee or Department and assisting in the preparation of and monitoring of Committee or Departmental Budgets. It is essential that such Finance Officers must meet common professional standards imposed by a Chief Finance Officer who would be attached to whichever Committee or Department becomes responsible for the Treasury function of the States. Each Departmental Finance Officer would provide financial reporting both to the Chief Officer of his Committee or Department and to the Chief Finance Officer. He would also be entitled to report directly to the Head of the Civil Service and/or the chairperson of the Audit Commission if he was concerned with any financial irregularity within his Department.

17. The Panel has considered in general terms the implications for the Civil Service if the States were to implement any of the options identified in Section Eight of this Report. The Panel is of the view that the implementation of such options could adequately be reflected within the structure of the Civil Service with the minimum of disruption. The Panel recognises however that such changes would entail a comprehensive review of gradings and terms of appointment within the Civil Service.

SECTION TWELVE

SUMMARY OF ISSUES IDENTIFIED BY THE PANEL

- A. The process of recruitment of senior Civil Servants especially those with specialist or technical skills ought perhaps to be focused more at a departmental level rather than centrally.
- B. The Civil Service is required to carry out a greater range of functions than would be found in many other jurisdictions yet has to operate within an overall manpower cap and within a rigid Committee structure that does not always allow sufficient flexibility for reallocation of resources.
- C. The States may need to review those functions presently undertaken by the States as suggested in Section Four of this Report with a view to withdrawing from those that are not essential to the good governance of the Island; or alternatively to allow for further growth in the numbers employed in the public services to cater for all existing and potential new functions.
- D. Options for delivery of non-essential functions include:-
 - (i) Non-Government Agencies;
 - (ii) Enterprise Boards;
 - (iii) Private Public Relationships;
 - (iv) Outsourcing.
- E. The present Committee style of government tends to encourage Chief Officers of Committees to have an overriding loyalty to the Committee to which they are attached rather than to the government of the whole Island.
- F. The structure of the Civil Service should mirror the structure of whichever political system is selected.
- G. The post and the authority of the most senior Civil Servant should be formally established. The title of "Chief Secretary" or "States Supervisor" could be retained for this post.
- H. The Head of the Civil Service should be free of other direct executive functions and should report to the political leader of the government. He should have authority over the Chief Officers attached to each Committee or Department and have a co-ordinating role between them. The Head of Civil Service should be entitled to receive minutes of all Committee or Department Meetings.
- I. Each Committee or Department should have a Finance Officer who should meet professional standards imposed by a Senior Finance Officer and who would provide financial reporting both to the Chief Officer of that Committee or Department and to the Chief Finance Officer. Each Finance Officer would be entitled to report directly

to the Head of the Civil Service and/or to the Chair of the Audit Commission in the event of any financial irregularity.

SECTION THIRTEEN

CONCLUSION

1. The Panel recognises that this Report serves as the first stage in a consultation process that will lead through proper democratic process to consideration of and the possible adoption of changes to the Machinery of Government to ensure that the Island has in place a system of government that will enable the Island and its people to prosper during the twenty-first century under the leadership of confident, competent and efficient government.
2. It is inevitable therefore that there will be a range of reactions to the contents of this Report. The Panel does not expect the Report in its entirety to be welcomed with unanimous approval. The Panel does however hope that a detailed consideration of the contents of the Report and of the options reviewed in it, will mean that different groups of readers will have an understanding and appreciation of the issues raised by this Report.
3. In the Introduction to this Report, the Panel indicated that it sensed a general public acceptance of the need for changes in the Machinery of Government in the Island. The Panel acknowledges that such general public acceptance may not apply universally to all the areas of changes identified in this Report, but nonetheless believes that with respect to many of such areas that acceptance will apply.
4. If after further consultation change is promoted, the management of that process of change will be of critical importance. It would be unwise and certainly inadvisable to contemplate all necessary changes occurring simultaneously. The Island has benefited enormously from its reputation for political stability. The process of change should not be allowed to damage that reputation.
5. The process of change to the Machinery of Government should therefore be viewed as being phased over a period of time. Certain changes may require as long as eight years (i.e. two full terms of the States of Guernsey) before they can be implemented.
6. The Panel is precluded by its terms of reference from identifying any favoured options from among those that it has considered. For that reason, it is difficult for the Panel to produce a convenient "Executive Summary" of this Report. Whilst a compilation of the summaries set out at the end of each of Sections Three to Twelve of this Report might be used as the basis for an overall summary, the Panel would urge readers not to take such summaries out of the context of the arguments and reasons set out in the main text of those Sections.
7. Sections Four to Nine of this Report inclusive, represent the principal areas that the Panel has identified where change is necessary. Sections Ten, Eleven and Twelve reflect issues that may require consequential change depending upon the outcome of decisions affecting those earlier issues. Section Three has been included in response to those who expressed a wish to see someone other than the Bailiff act as speaker of the States of Deliberation. The Panel has attempted to identify the consequences of such a decision. The Panel does not however consider that to be an issue where change is necessary and given the possibility

of changes consequent upon other issues raised in this Report, the Panel believes that there would be merit in retaining the Bailiff's present role certainly during that period of transition.

8. It is difficult to look at the separate issues identified in this Report in isolation. Many of the issues are intrinsically linked and it may prove difficult to introduce changes in response to one of those issues without, at the same time, addressing others of those issues. Nevertheless, for the purposes of phasing changes consequent upon resolution of the issues identified in Sections Four to Nine of this Report, the Panel would suggest the following sequence:-
 - (i) consolidation/reduction of Committees;
 - (ii) redefinition of electoral constituencies;
 - (v) reduction in number of States Members;
 - (iv) selection of style of government.

9. The publication of this Report concludes the role of the Panel under its original terms of reference. All the Members of the Panel do however offer themselves to assist the States of Guernsey and the people of the Island in whatever way is deemed appropriate, in the further process of consultation that will necessarily follow over the ensuing months.