

KS/MH/325

PRIVILEGES AND PROCEDURES COMMITTEE

(80th Meeting)

10th November 2017**PART A (Non-exempt)**

All members were present, with the exception of Deputy S.M. Brée of St. Clement, from whom apologies had been received.

Connétable L. Norman of St. Clement, Chairman
 Connétable D.W. Mezbourian of St. Lawrence
 Deputy J.A. Martin of St. Helier
 Deputy K.C. Lewis of St. Saviour
 Deputy S.Y. Mézec of St. Helier
 Deputy S.M. Wickenden of St. Helier

In attendance -

K.L. Slack, Clerk to the Privileges and Procedures Committee

Note: The Minutes of this meeting comprise Part A only.

Elected
 Speaker and
 Deputy
 Speaker of the
 States
 Assembly:
 selection and
 appointment
 (P.84/2017) -
 third
 amendment
 (P.84/2017
 Amd (3)) –
 amendment –
 comments.
 465/1(213)

A1. The Committee, with reference to its Minute No. A2 of 9th November 2017, recalled that it had expressed the wish to present comments on Senator P.F.C. Ozouf's amendment to Senator Sir P.M. Bailhache's third amendment to the Chief Minister's Proposition 'Elected Speaker and Deputy Speaker of the States Assembly: selection and appointment' (P.84/2017).

The Committee was mindful that, if adopted, Senator Bailhache's third amendment to P.84/2017 would render the original Proposition void and of no effect unless the majority of the people voting in a referendum on the question of whether the Bailiff should remain the President of the States had voted against the same. Senator Ozouf's amendment to the amendment retained the requirement for a referendum, but proposed that the Proposition should not be implemented unless the majority of the electorate – rather than the majority of those voting – had supported the retention of the *status quo*.

The Committee expressed a number of concerns in connexion with Senator Ozouf's amendment to the third amendment. It was of the view that the amendment contravened Council of Europe's Venice Commission code of good practice on referendums, which stated *inter alia* that it was advisable not to provide for approval by a minimum percentage of registered voters, as it risked involving a difficult political situation if the draft was adopted by a simple majority lower than the necessary threshold. If the change to an elected Speaker were to proceed because of the level of abstention, this could reduce public confidence in the States and further undermine the use of referendums to decide constitutional issues in Jersey.

The second concern of the Committee was that Senator Ozouf's amendment had been lodged at a late stage, apparently without consideration of whether or not it was advisable to have a threshold and what the implications of such a threshold might be.

Lastly, the Committee recalled that the States Assembly had recently adopted the Referendum (Jersey) Law 2017, which provided for the establishment of a Referendum Commission ('the Commission') to advise on the wording of proposed referendum questions and to designate lead campaign groups in relation thereto. The members of the Commission were currently being appointed and the Committee was hopeful that the Commission would be established in the near future. The Committee felt that the integrity of referendums in the Island would be improved by using the Commission to provide advice thereon.

Accordingly, the Committee was of the view that if the States Assembly wished to set conditions on the requirements for a referendum on the elected Speaker to be successful, this could be considered by the Commission in advance of the relevant Referendum Act being put to the States Assembly for a decision. The Committee felt that this would be preferable to a decision being made at this juncture.

The Committee approved draft Comments which reflected the foregoing views and requested the Committee Clerk to arrange for them to be presented to the States.

Elected
Speaker and
Deputy
Speaker of the
States
Assembly:
selection and
appointment
(P.84/2017) -
fourth
amendment
(P.84/2017
Amd (4)) –
comments.
465/1(213)

A2. The Committee, with reference to its Minute No. A2 of 9th November 2017, recalled that it had expressed the wish to present comments on Senator P.F.C. Ozouf's fourth amendment to the Chief Minister's Proposition 'Elected Speaker and Deputy Speaker of the States Assembly: selection and appointment' (P.84/2017).

The Committee noted that Senator Ozouf's fourth amendment to P.84/2017 requested it to bring forward the necessary changes to the Standing Orders of the States of Jersey to enable the specially constituted review panel, which was established to scrutinise the recommendations from the Independent Jersey Care Inquiry ('IJCI'), to be mandated to scrutinise draft legislation arising from the Proposition and for that panel to be the relevant scrutiny panel for the purposes of calling in such legislation for scrutiny under Standing Order 72.

The Committee felt that there were procedural complexities, arising from this amendment, which it wished to bring to the attention of the States Assembly *inter alia* the fact that the panel, which had been established to scrutinise the IJCI recommendations, was a review panel, established by the Chairmen's Committee under Standing Order 145A and not a scrutiny panel. Accordingly, it would not be able to call in legislation under Standing Order 72, without an amendment to that particular Standing Order. Further, Senator Ozouf's amendment would have the effect of adding to the work of the review panel, without reference to the Chairmen's Committee.

The Committee was also mindful that the Chairmen's Committee could take the decision at any time to disband a review panel and, at the time of the election in May 2018, the current review panel would fall.

Consequently, the Committee was of the view that Senator Ozouf's amendment would prove difficult to implement and approved draft Comments which set out its views thereon. It requested the Committee Clerk to arrange for the same to be presented to the States.