

STATES OF JERSEY



OFFICIAL REPORT ('HANSARD'): RETROSPECTIVE REMOVAL OF NAMES

Lodged au Greffe on 10th November 2010
by the Privileges and Procedures Committee

STATES GREFFE

PROPOSITION

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

to refer to their Act dated 10th March 2009 in which they approved amendments to Standing Orders to provide that where a name is spoken in the Assembly by a member in breach of Standing Orders the presiding officer can, having made a determination that the use of the name was in breach of Standing Orders, direct that the name be omitted from the transcript of the meeting, with a note inserted in the transcript to indicate that the name has been omitted in accordance with this provision; and

to agree that the Bailiff should be empowered to direct that any names found in the transcript of States proceedings from the establishment of the Official Report in 2005 until the coming into force of the amendment to Standing Orders approved on 10th March 2009 should be removed from the transcript, providing that the presiding officer had, at the time the name was used, ruled that the use of the name had been in breach of Standing Orders; and to further agree that when any name is removed retrospectively from the transcript in accordance with the use of this power a note should be inserted in the revised transcript stating “name omitted in accordance with States decision of *[date this proposition is adopted]*”.

PRIVILEGES AND PROCEDURES COMMITTEE

REPORT

On 10th March 2009 the States agreed amendments to Standing Orders (P.179/20008) which introduced a new procedure in relation to the preparation of the written transcript or Official Report ('Hansard') of the States Assembly. Under the revised procedure the Presiding Officer was given a new power to direct that any name spoken in the Assembly that the Presiding Officer has determined is in breach of Standing Orders can be omitted from the transcript. If the Presiding Officer makes this determination, a note is inserted in the Official Report to indicate that the name has been omitted in accordance with the Standing Order provision. The new provisions are found in Standing Orders 109(7) and 160(3A).

The 2009 amendment was brought in response to concerns that the requirement to provide a complete transcript of States proceedings was somewhat inconsistent with the provisions of Standing Orders on the use of names. Standing Order 104(2)(i) states that a member of the States must not refer to any individual who is not a member of the States by name unless use of the individual's name is unavoidable and of direct relevance to the business being discussed. If a member contravenes this Standing Order, the Presiding Officer may determine that a breach has taken place and may even require the member concerned to withdraw the name. Nevertheless, because of the requirement for a complete transcript before the March 2009 amendment, the name appeared in the transcript and was subsequently published on the States Assembly website. In agreeing the amendment, the States recognised the anomaly between the requirement to publish a name in a transcript on a searchable website against the fact that Standing Orders prevented the name being used in an inappropriate manner in the first place. In its accompanying report to P.179/2008, PPC wrote –

“PPC considers that this is extremely unfair on individuals who have been named in this way in breach of Standing Orders. Many prospective employers and others may undertake an internet name search to find any background information about an individual and the current provisions mean that the individual named in breach of Standing Order 104(2)(i) can easily be traced. Furthermore the appearance of a name in the Official Report of a parliamentary assembly could give the publication additional credence in the eyes of anyone finding it through an internet search.”

Although the amendment to Standing Orders introduced a mechanism to address any further instances relating to names, it was not possible to make any retrospective changes to the transcripts that had been prepared from the date of the establishment of the Official Report in 2005 until the date of the coming into force of the amendment. On reflection, PPC believes that this was unfair on any persons whose name still appears inappropriately in the Official Report covering that period. PPC is therefore bringing forward this proposition to authorise the retrospective removal of names from the transcript.

The Committee considers that it is appropriate to mirror as closely as possible the mechanism agreed in March 2009. As a result, the proposition invites the States to agree that the Bailiff should be empowered to direct that names can be removed retrospectively. There are, of course, many occasions when names may be used to thank a particular officer or where use of the name is inadvertent and not considered inappropriate. The proposition therefore includes an important safeguard that the Bailiff will only be empowered to direct the removal of a name if the Presiding Officer had, at the time, specifically directed that the use of the name was in breach of

Standing Orders and should not have been used. It is believed that there are only 2 such occasions during the period 2005 – March 2009. If this proposition is adopted, PPC anticipates that the Greffier of the States would draw these 2 occasions to the Bailiff's attention as President of the States and invite him to exercise the power to direct the omission of the names. To mirror the amendment made to Standing Orders, the transcript, if amended, would be annotated to indicate that a name had been omitted so that the omission process is done in an open and transparent way.

PPC considers that this proposition is important in the interests of fairness because the March 2009 decision was not retrospective. Although it is important to defend and preserve the privilege of members to speak freely in the States Chamber, members themselves have imposed certain constraints on the contents of speeches through the rules agreed in Standing Orders and, as argued in March 2009, PPC believes it would be curious to suggest that the transcript of a States meeting must contain names that are spoken in breach of the very rules that members themselves have agreed. PPC therefore urges all members to support this proposition.

Financial and manpower implications

There are no financial or manpower implications arising from this proposition. The very small amount of work required to amend and re-load any transcripts to the website will be undertaken within existing resources.