

PRIVILEGES AND PROCEDURES COMMITTEE

(1st Meeting)

5th March 2004PART A

All members were present. The President was present for items A1-A9 and B1 only.

Deputy R.G. Le Hérisssier (for a time)
 Senator P.V.F. Le Claire
 Connétable D.F. Gray
 Deputy P.N. Troy
 Deputy C.J. Scott-Warren
 Deputy J-A. Bridge
 Deputy J.A. Bernstein

In attendance -

M.N. de la Haye, Greffier of the States (for a time)
 Mrs. A.H. Harris, Deputy Greffier of the States
 Mrs. S. Stoten, Committee Clerk

Note: The Minutes of this meeting comprise Part A and Part B.

Minutes	A1. The minutes of the meeting held on 30th January 2004, having been previously circulated, were taken as read and were confirmed.
Appointment of Vice President	A2. The Committee, in pursuance of Article 31(1) of the States of Jersey Law 1966, as amended, appointed Deputy J-A Bridge as Vice President.
Appointment of Chairman and members to the Working Party for States Business.	A3. The Committee approved the appointment of Deputy P.N. Troy as the Chairman of the Working Party for States Business. The Committee further agreed that Constable D.F. Gray should remain a member of the Working Party and that the existing membership would also remain unchanged. The Chairman, mindful of the delays caused by recent changes to the Committee, agreed that a meeting should be convened at the earliest opportunity.
Appointment of members to the Remuneration Working Party	A4. The Committee approved the appointment of Deputy J.A. Bernstein as the Chairman of the Remuneration Working Party. The Committee further approved the nomination of Senator P.V.F. Le Claire as a member of the Working Party.
Appointment of members to the Freedom of Information Working Party	A5. The Committee approved the re-appointment of Deputy J-A. Bridge as the Chairperson of the Freedom of Information Working Party and also the appointment of Deputy P.N. Troy as a member. The newly appointed Chair person updated the Committee on the Working Party's position to date and its remit to investigate secrecy, Human Rights and Data Protection together with giving members of the public rights of access to official documents of the States. The Deputy Greffier of the States apprised the Committee on work to date and that law drafting instructions relating to a new Freedom of Information Law were in the process of being produced. Although initiated, the Deputy Greffier suggested the involvement of the Law Officers would be conducive and that whilst the adoption of a European model was being considered,

the Working Party's next meeting should concentrate on specific requirements and objectives of the draft Freedom of Information (Jersey) Law.

In view of his active proposition on the introduction of a central register of all reports, Deputy Troy informed the Committee that he would be considering his position on bringing the proposition forward to the States and how it might fit in with the Working Party's rationale now that he was be a member. The Committee anticipated it would be updated following the Working Party's next meeting.

Simultaneous
Electronic Voting
– draft
amendment to
Standing Orders
1240/22(8)

A6. The Committee welcomed the Bailiff to the meeting and with reference to Act No. A8 of 30th January 2004 of the Committee as previously constituted, gave further consideration to draft amendments to Standing Orders required to enable the introduction of simultaneous Electronic Voting.

Bailiff
Ex.Off.

The Committee recalled it had approved the draft Amendment (No. 26) of the Standing Orders of the States of Jersey and had anticipated a lodging date of 10th February 2004. Circumstances had led to a continued delay as equipment had been found to be faulty and had been returned to the suppliers. The Greffier was able to update the Committee on a demonstration of the equipment at which he believed the system was very impressive and would offer the States many benefits in terms of time saving and efficiency.

The Bailiff requested the Committee's consideration on the proposed amendment to Standing Order 31B(7). The Bailiff believed that the purpose of introducing an electronic voting system was to save time during the States sitting and that the initiative could ultimately be a 'slick' process. The Bailiff raised his concerns by suggesting some additional minor amendments, in order to prevent any members unnecessarily slowing down the process. As it currently stood, the draft did not give the Chair means to prevent any unacceptable requests such as reading out the names of all 48 members who voted "pour" in an appel as opposed to only the three members who voted "contre" when the result was clearly in favour and would inevitably be available in print format in the members lounge.

The Bailiff offered two alternative additional statements for the Committee's approval as follows –

- (a) at the beginning of 31B(7) a comment be added to the effect, "with the leave of the Bailiff or presiding Officer and at their discretion, if deemed sensible,"
- (b) at the end of 31B(7) an alternative comment such as, "and the Bailiff, unless it appears to him that such a request is an abuse of the procedure of the States, shall direct the Greffier accordingly."

The Committee agreed that the second option would cover a wider range of issues such as the over use of roll calls and that it was the most appropriate.

The Committee further agreed that electronic voting would secure a secret vote and prevent members occasionally being swayed towards a majority as was presently the case when members consecutively announced their vote.

The Greffier was directed to defer lodging the Amendment until the new system was installed and in working order and subsequently determine a suitable coming into force date.

Machinery of
Government:
Votes of No
Confidence in

A7. The Committee, with reference to Act No. A3 dated 30th January 2004 of the Committee as previously constituted, re-considered its response to the Report and Proposition 'Machinery of Government: Votes of No Confidence in Individual Ministers' (P6/2004), lodged 'au Greffe' by Senator S. Syvret on 20th January

Individual
Ministers
P.6/2004
1240/22/1(34)

2004.

The committee noted the draft comment and recalled the collective agreement reached with the Presidents of the Policy and Resources and the Finance and Economics Committees to allow for Votes of No Confidences in individual Ministers in the new Standing Orders and that, consequently, the draft article in the draft States of Jersey Law relating to Votes of No Confidence in the Chief Minister or individual Ministers had been withdrawn. The Committee still maintained that Senator Syvret's proposition appeared to have been settled.

Ex.Off.
C.E., P&R
P.R.E.O.
P.R.C.C.

The Committee agreed that it would support the Senator's proposition and that a draft comment on Senator Syvret's proposition should be finalised as soon as possible. The Committee requested that the Greffier of the States make the necessary amendments to the comment on its behalf and that its decision be conveyed to Senator Syvret offering its formal undertaking that it would not seek to amend the article in the draft States of Jersey Law relating to Votes of No Confidence.

The Committee expressed its concern that the proposition would prompt an unnecessarily lengthy debate despite its assurances that the matter would be resolved when the new Standing Orders came into force. The Greffier of the States was directed to send a copy of this Act to the Policy and Resources Committee.

Draft Public
Finances
Administration
(Jersey) Law
2204 – Future
funding for the
States Assembly
and Private
Members
Propositions
447(1)

A8. The Committee, with reference to Act No. A4 dated 22nd August 2003, of the Committee as previously constituted, considered the Draft Public Finances Administration (Jersey) Law 2004 and a request from the Finance and Economics Committee for its comments.

The Committee recalled that two matters could not be resolved between the Committee as previously constituted and the Finance and Economics Committee during consultation on the draft Public Finances Administration (Jersey) Law 2004 during 2003.

C.E., P&R
P.R.E.O.
P.R.C.C
F.E.C.C.
Scrutiny Off.
Ex.Off.

Future Funding for the States Assembly – Those members of the Committee who had served on the Committee as previously constituted, recalled that the Committee had been asked to consider the matter of future budgetary arrangements for the States Assembly after the introduction of the ministerial system. The Committee maintained that it was essential to find an acceptable mechanism to establish some form of budgetary independence for the Assembly, this budget would include budgets for Scrutiny Panels, the Public Accounts Committee, the Comptroller and Auditor General, the States Greffe, members' remuneration and expenses and any actual running costs of the States Chamber and members' facilities. The Committee recognised that such areas might need protecting from undue interference from the Executive and were concerned that the Scrutiny function might be potentially stifled by restrictions being placed on available resources. The proposals in the Draft Public Finances Administration (Jersey) Law would ultimately result in the Council of Ministers being able to amend budget estimates of "Non-Executive" budgets such as the Assembly, before they could be included in the Annual Business Plan (Resource Plan).

Whilst the Committee endorsed the need for adequate budgetary control, particularly in light of the current economic climate, it wished to present an amendment to the proposed procedure as follows –

- (a) the Privileges and Procedures Committee would prepare the estimates for the States Assembly for the coming year and submit them to the Comptroller and Auditor General for comment;

- (b) the estimates, together with the Comptroller and Auditor General's comments, would be submitted to the Council of Ministers; and
- (c) the Council of Ministers would be required to place the estimates in the Annual Business Plan unamended, although it could lodge an amendment if it did not believe the estimates were appropriate – this would enable the States to take the final decision.

The Committee concurred with previous decisions and agreed that the States Assembly budget should be independent. The Committee directed the Greffier of the States to send a copy of this Act to the Finance and Economics Committee and the Policy and Resources Committee for its information.

Private Members' Propositions - The Committee recalled that the Committee as previously constituted had suggested that there should be a provision that would allow private members to bring spending proposals up to a fixed limit (£250,000 was considered). Although the Committee maintained the previous decision, it agreed to give further consideration to the matter at a subsequent meeting when more information would be at hand.

On a related matter, the Committee had very strong thoughts about the Fundamental Spending Review and the annual budgetary process, two areas, deemed appropriate for the Shadow Scrutiny Panels to investigate. **The Committee agreed that the whole process undermined the supremacy of the States Assembly and its decisions. The Committee directed the Executive Officer accordingly in order that its suggestion be conveyed to the Scrutiny Officers.**

Progress Report -
Shadow Scrutiny
Panels and Public
Accounts
Committee
502/1(15)

A9. The Committee received and considered a report prepared by Mr. M. Haden, Scrutiny Officer, dated 25th February 2004, in connexion with shadow scrutiny progress and an update on forthcoming events.

The Scrutiny Officer was able to update the Committee on the recent Scrutiny training for States members. The Committee noted that the end of States members training marked a ground breaking step towards members continuous professional development. Feedback had been received from certain States members who felt they had learnt a great deal at the training sessions. The Committee noted that the Civil Service College had carried out and designed some of the training programme for Senior Officers with great success for which they were commended.

The Committee awaited the publication of the procedures and work programmes of the Scrutiny and Public Accounts Committee panels in due course but noted the progress made to date. The Committee noted that a forthcoming visit to the Scottish Parliament and its scrutiny function would involve the Deputy Greffier of the States, Senator E. P. Vibert, Deputy G. P. Southern and Deputy R. C. Duhamel. **The Committee agreed that a meeting should be scheduled between the President, Vice President and the Scrutiny and Public Account Committee Shadow Chairmen for to receive an update.**

The Committee expressed its thanks to the Senior Executive Officer for all her efforts in respect of organising the Scrutiny Training and ensuring the long term development of training in this area.

Machinery of
Government
Reform:
Ministerial
Decisions –
recording and
promulgation

A10. The Committee, with reference to Act No. A3 of the Committee as previously constituted of its meeting held on 12th December 2003, received a report from the Senior Executive Officer, dated 17th February 2004, in connexion with proposals for the recording and promulgation of Ministerial decisions under the new system of Government, attached as an appendix to this Act.

The Committee was informed that the document had been published following an

1240/22/1(35)

C.E., P&R

P.R.E.O.

P.R.C.C.

Encl

investigatory visit by the Senior Executive Officer and the Manager, Machinery of Government Reforms, to examine the way decisions were recorded and promulgated in the United Kingdom Central Government. The Committee noted that the matter was the primary responsibility of the Policy and Resources Committee but that its own interest had strengthened through its responsibilities for Scrutiny and Freedom of Information and having assumed budgetary responsibilities for the States Greffe.

The Committee recognised the importance of recording 'key' decisions, the definition of which had yet to be determined. The Committee noted that the report was not intended to consider the capture of day to day decisions or those of the States but those 'major' decisions resulting from the equivalent of Committee meetings today. The Committee agreed that the speed at which Minutes could be published was paramount and envisaged that an intranet medium might be utilised.

The Committee were apprised that although the States had agreed that Ministerial decisions would be officially recorded, agreement needed to be reached on the following matters;

- (a) which decisions would be promulgated and to whom;
- (b) what format the record would take;
- (c) how decisions would be recorded and where the record would be kept; and finally,
- (d) how decisions would be promulgated and to whom.

The Committee eagerly anticipated similar investigative reports in the future and hoped that it would be involved in further discussions in due course.

The Committee requested that a copy of this Act be forwarded to the Policy and Resources Committee in order that the importance of moving forward on this issue be impressed upon it and that the format of the minute pro forma in Appendix 2 of the report be officially endorsed and adopted. The Committee further requested that the Policy and Resources Committee kept the Committee updated on the progress by way of a comment in the first instance.

On a related matter, the Committee was mindful that the role of the States Greffe in relation to decision record keeping in the new system had not been recently considered and that this document would provide an opportunity for that discussion to take place.

States Building –
Use of Members
Lounge / “Jurat’s
Room”
1060/5/1(27)

A11. The Committee, with reference to Act No.A4 of 30th January 2004, of the Committee as previously constituted, received a report prepared by the Senior Executive Officer, dated 27th February 2004, summarising the position regarding the request from the Bailiff to relinquish a room within the States Building to accommodate the Jurat’s needs.

Bailiff
E.P.S.C.(2)
Ex.Off.

The Committee was apprised of the difficult and sensitive nature of the request. The Committee was concerned that the development of the three new scrutiny functions would make extra demands on the States Building facilities and that existing resources would be stretched.

The Committee was of the opinion that it should re-inforce the previously constituted Committee’s request for a Members’ Quiet Room and it re-confirmed the earlier view that a trial period of at least six months from 1st April 2004 should pass before it could consider the use of the rooms. The Committee recalled that the Environment and Public Services Committee was due to present a report and proposition regarding the allocation of States Building facilities and that in the

event that that Committee wished to release the Members' Quiet Room for the use of the Jurats at this stage then an amendment should be proposed in line with this decision.

The Committee agreed that the newly elected President of the Environment and Public Services Committee should be informed of the history and current viewpoint of the Committee on this matter and agreed that the Vice-President should write to that Committee setting out the position.

The Greffier of the States was requested to send a copy of the Act to the Environment and Public Services committee for its information and invite its comments where appropriate.

States members' remuneration: Establishment of an independent review board. 1240/3(73)

A12. The Committee, with reference to Act No. A1 of its meeting held on 20th October 2003 considered a report prepared by the Senior Executive Officer, dated 27th February 2004, detailing further applicants for the vacant members positions on the newly established Remuneration Review Board.

The Committee noted the applicants and that it had a number of options with regard to its next steps as follows –

- (a) to interview each of the applicants to assess suitability;
- (b) invite all / suitable applicants to be members of the Review Board;
- (c) consider other options for recruitment; or
- (d) involve the Remuneration Working Party in the deliberations.

The Committee delegated the matter to the Remuneration Working Party to consider preparing a shortlist for the Committee's consideration at a subsequent meeting.

Amalgamation of Special Committee on the Composition and Election of the States and the Privileges and Procedures Committee Meetings 465/1(54)

A13. The Committee discussed the options available to amalgamate both the Privileges and Procedures Committee meetings with those of the newly constituted Special Committee on the Composition and Election of the States. The Committee, whilst aware of the decision of the States when establishing the Committee that all meetings should be open to the public, was of the opinion that it would be practical to hold consecutive meetings.

The Committee agreed that the first session of its normal meeting could be open to the public to conduct business of the Special Committee whilst the latter would involve the agenda of the Privileges and Procedures Committee. The Committee concurred that it had always adopted an open door policy and would be happy to invite members of the public to observe and in the case of the special Committee, partake in discussions however, the Committee recognised that it might be difficult to effectively manage agenda items for both Committees and arrange for all meetings to be publicly announced.

Having considered the options thoroughly, the Committee was of the opinion that it would be impractical to hold joint meetings with the Special Committee on the Composition and Election of the States and agreed to proceed with separate meetings.

The Committee further agreed that the President should make a formal statement in the States notifying members of the next meeting of the Special Committee on the Composition and Election of the States. The Executive Officer was directed to arrange a suitable date and venue.

Items of

A14. The Committee noted the following matters for information –

Information

- (a) Act No. A4 of the Finance and Economics Committee dated 30th January 2004, commenting on the introduction of a central register for reports prepared for States departments as proposed by Deputy P.N. Troy of St. Brelade; and
- (b) Act No. A5 of the Finance and Economics Committee dated 30th January 2004, commenting on the proposition of Deputy A. Breckon of St. Saviour in connexion with public rights of access to financial and other records.