

PRIVILEGES AND PROCEDURES COMMITTEE

(35th Meeting)

24th January 2005PART A

All members were present, with the exception of Deputy C.J. Scott Warren and Deputy J-A. Bridge, from whom apologies had been received.

Deputy R.G. Le Hérisier  
 Senator P.V.F. Le Claire  
 Connétable D.F. Gray  
 Deputy P.N. Troy  
 Deputy J.A. Bernstein

In attendance -

M.N. de la Haye, Greffier of the States  
 Mrs. A.H. Harris, Deputy Greffier of the States  
 I. Clarkson, Committee Clerk

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

Joint Working  
 Party on  
 Electoral  
 Reform.  
 424/2(13)

A1. The Committee, with reference to its Act No. A2 of 20th October 2004, recalled that it had requested the Joint Working Party on Electoral Reform to reconsider two of its recommendations, namely –

- (a) that polling station opening times should be revised to 10.00 a.m., and
- (b) that which concerned limitations on the matter of facilitating, interfering in or overseeing the postal or pre-poll vote of another person.

A.G.  
 Clerk  
 D.G.O.S.  
 Pub.Ed.  
 States (2)

The Committee received an oral report from Deputy P.N. Troy, who advised that the Joint Working Party had met on 12th January 2005 to reconsider its draft report.

On the matter of polling station opening times, statistical information concerning the Senatorial By-election held in March 2004 had been provided by the Judicial Greffe. The figures had indicated that less than 12 per cent of those voting had attended a polling station prior to 10.00 a.m. Having reviewed the said figures, the Working Party had concluded that they supported its belief that the level of interest in earlier opening times shown by the electorate was insufficient to justify the increased administrative burden which fell upon the Jurats and the parish authorities as a result. The Committee was therefore minded to agree that polling stations should open at 10.00 a.m. and not 8.00 a.m., as at present. This remained an improvement on the original position, whereby stations opened at 11.00 a.m.

With regard to the matter of postal or pre-poll voting, Deputy P.N. Troy advised that the Joint Working Party remained of the view that any person entitled to vote in an election should be entitled to apply to vote in this way and that candidates and their representatives should be prohibited from facilitating, interfering or overseeing in any way the postal or pre-poll vote of another person. The Committee noted that the latter proposal was not intended to prevent candidates or their representatives from providing voters with forms used to notify the Judicial Greffe of their request to be provided with a postal or pre-poll voting form. Furthermore, it was clarified that the

Working Party had decided to amend the wording of its draft report in order to clarify the nature of the conduct that would be prohibited under its proposals.

Accordingly the Committee received a revised draft report of the Joint Working Party on Electoral Reform, prepared by the Deputy Greffier of the States.

On a related matter, Senator P.V.F. Le Claire requested that the Committee consider the matter of whether permission might be given for the colours and logos of political parties to be printed on ballot papers. He explained that that he had raised the issue with the Joint Working Party on Electoral Reform and had been advised that it was open to any prospective member of a political party to write to the Privileges and Procedures Committee in connexion with proposals to amend the Public Elections (Jersey) Regulations 2002. However, it was not clear whether this could be achieved in time for the 2005 elections.

**The Committee agreed that the aforementioned report of the Joint Working Party should be amended to include a reference to the fact that the issue of political party colours and logos on ballot papers had been raised. Further to the foregoing, the Committee requested that advice on any legal issues arising from the proposal be sought from the Law Officers' Department. The Committee agreed that the amended report should then be presented to the States as an R.C. and that interested parties should be invited to comment upon the proposals, and any related matters, before the end of February 2005.**

The Deputy Greffier of the States was requested to take the necessary action.

Draft  
Amendment  
(No. 28) of the  
Standing Orders  
of the States of  
Jersey:  
comments.  
1240/4(170)

A2. The Committee received a report and proposition, lodged by Deputy G.P. Southern of St. Helier, entitled, 'Draft Amendment (No. 28) of the Standing Orders of the States of Jersey'.

The Committee noted that the purpose of the draft Amendment was to increase the number of oral questions that any member could submit for each meeting from 2 to 3 and also to increase the time allocated to oral questions from one hour to 1½ hours.

Clerk  
G.O.S.

Deputy P.N. Troy reported that the Working Party on the Arrangement of Public Business in the States Assembly had considered the proposed Amendment at its meeting on 11th January 2005. It noted that all oral questions submitted had been answered under the new rules. However, it considered that the Bailiff should be entitled to allow questions drawn at the lower end of the ballot to fall away if previous questions had proved to be of particular importance to the Assembly and required more time. The Working Party believed that the limiting of oral questions to 2 per Member had encouraged Members to be disciplined in submitting a high standard of important and topical question. Accordingly it had concluded that there were insufficient grounds to amend the current structure of question time.

The Committee noted the views of the Working Party on the Arrangement of Public Business and agreed that increasing the number of questions per member would have a negative effect on the quality of question time and on the overall efficiency of proceedings in the States. However, it expressed some sympathy for the view that the 60 minute time limit had, on certain occasions, unduly restricted the length of time allocated to the asking of supplementary questions. It therefore agreed that question time would be improved by extending the time limit to 90 minutes.

**The Committee decided to present a comment to the States in the aforementioned terms.**

Connétable D.F. Gray and Deputy P.N. Troy requested that their dissent to the Committee decision to support the extension of question time to a period of 90 minutes be recorded in the Minutes.

The Greffier of the States was requested to take the necessary action.

Standing Orders  
of the States of  
Jersey: revision.  
CP/PPC/1/ 05  
1240/4(171)

Clerk  
G.O.S.  
L.D.

A3. The Committee, with reference to its Acts Nos. A8 of 4th November 2004 and A5 of 25th November 2004, recalled that, following the adoption of the States of Jersey Law 200- on 16th November 2004, work on the revised Standing Orders of the States of Jersey could continue.

Accordingly the Committee received a report, prepared by the Greffier of the States, entitled, 'Revised Standing Orders – Law Drafting Brief', designated Committee Paper CP/PPC/1/05, together with an additional report concerning proposals for change regarding the recording of absence of Members from Meetings of the States. The Committee made a number of decisions on key matters of policy.

### **Meetings of the States**

The Committee agreed that the States should not meet for a period of at least two weeks prior to the date of an election.

### **Procedure at Meetings of the States**

The Committee agreed that States sittings should continue to commence at 09.30 a.m., although it was of the view that lunch should be taken between 1 p.m. and 2.15 p.m. Although the Committee was content to specify a provisional adjournment time of 5.30 p.m., it concluded that States Members should be given the flexibility to determine when to adjourn. Consideration was given to the introduction of short mid-morning and mid-afternoon adjournments, so as to provide Members with specified periods in which to conduct business and take a refreshment break. However, the Committee concluded that they were unlikely to have a positive effect upon the efficiency of proceedings in the States.

On the matter of absence from the States Assembly, the Committee concluded that Members who were not present should be recorded in the Minutes as being either 'défaut' or 'excused'. A Member who was on holiday would be marked as 'défaut', while a Member on States business could be excused, as could a Member who was ill. Further to the foregoing, the Committee decided to propose that an individual Member's time of arrival should be recorded in the Minutes whenever the Member concerned arrived after the commencement of the sitting.

In the interests of saving time, the Committee decided to propose that the tabling of subordinate legislation and details of matters presented and lodged since the previous meeting be taken 'as read'.

With regard to the order of business, the Committee agreed that matters should be taken in the following order –

- (a) Formal entry of the Presiding Officer,
- (b) Roll call of Members,
- (c) Prayers,
- (d) Completion of roll call,
- (e) Communications by the Presiding Officer,
- (f) Tabling of subordinate legislation,
- (g) Presentation of matters to the States,
- (h) Notification of matters presented and lodged 'au Greffe' since the previous meeting,
- (i) Lodging 'au Greffe',

- (j) Appointments to Committees, Panels, etc.,
- (k) Petitions,
- (l) Questions,
- (m) Personal Explanations,
- (n) Ministerial and Committee Statements,
- (o) Public Business, and
- (p) Arrangement of Business for future meetings.

### **Lodging ‘au Greffe’ of propositions**

The Committee decided that a Member should be entitled to lodge a proposition ‘au Greffe’ on any day and that a list of propositions lodged during the previous week should be published on a Monday. On the matter of minimum lodging periods, the Committee determined that the following would be appropriate –

<b>Category</b>	<b>Proposition</b>	<b>Amendment</b>
Laws	6 weeks	2 weeks
Laws amending existing laws	4 weeks	2 weeks
Regulations	4 weeks	2 weeks
Third reading of legislation already adopted in 2nd reading	2 weeks	N/A
Appointed Day Acts	2 weeks	1 week
Other legislative Acts	2 weeks	1 week
Standing Orders	4 weeks	2 weeks
Strategic Policy of Council under Article 18(2) (e) of States of Jersey Law 200-	6 weeks	2 weeks
Private Member’s proposition of any type	2 weeks	1 week
Appointment of any person to a body or tribunal	2 weeks	1 week
Appointment of a person to a public office (e.g. Treasurer of the States)	2 weeks	1 week
Matters relating to the administration of property	4 weeks	2 weeks

Further to the foregoing, the Committee agreed that a Member who had lodged a private proposition should be entitled to secure a date for debate within 6 months of the date of lodging.

### **Questions**

It was acknowledged by the Committee that the outcome of the forthcoming debate on Draft Amendment (No.28) of the Standing Orders of the States of Jersey (Projet No. P.5/2005 refers) would give an indication of Members’ views in connexion with the future development of question time.

### **Petitions**

The Committee considered that a person wishing to petition the States should be entitled to present their petition in either English or French. It was further agreed that any Minister to whom a petition had been referred should be obliged to produce a report within 8 weeks. In the event that a petition was referred to a Scrutiny Panel, the Committee concluded that it would be appropriate to require the said Panel to produce a report within 6 months.

On the matter of public petitions, the Committee expressed the view that a Petitions Committee system of the type operated in Scotland and within the United Kingdom local government system might prove useful in Jersey. The Committee Clerk was instructed to produce a report on the matter.

### **Behaviour of Members Not Speaking**

The Committee supported the retention of rules to prohibit the consumption of food and drink in the Chamber (with the exception of the provision of water for a Member making a speech) and the reading of books and newspapers whenever the content was not directly relevant to the business of the States.

### **Manner of Debating Propositions**

The Committee was of the view that rules prohibiting the consumption of food and drink in the Chamber (with the exception of the provision of water for a Member making a speech), and the reading of books and newspapers whenever the content was not directly relevant to the business of the States, should be retained. It further agreed that the new Standing Orders should continue to stipulate that Members were not permitted to converse noisily or generally act in a way which disturbed proceedings, but that the reading of typed speeches should be permitted.

### **Procedural Propositions**

The Committee, with reference to its Act No. A4 of 13th January 2005, acknowledged that the States Assembly had recently voted to incorporate the closure motion within the existing Standing Orders on a permanent basis. It therefore considered that it would be appropriate to incorporate similar rules within the new Standing Orders.

### **Appointment of Chief Minister**

The Committee agreed that it was not necessary to define a process for managing a tied vote between two remaining candidates for the office of Chief Minister in the event that neither obtained more than half of the votes cast.

**The Committee requested the Greffier of the States to produce revised drafting instructions, incorporating the aforementioned policy decisions, for consideration at a future meeting.**

Senator P.V.F. Le Claire requested that his dissent to the Committee decision to include the closure motion within the draft Standing Orders be recorded in the Minutes.

A People's  
Advocate:  
comments.  
1240(175)

A4. The Committee, with reference to its Act No. A7 of 13th January 2005, recalled that it was due to consider a comment to the report and proposition brought by Senator S. Syvret entitled, 'A People's Advocate' (Projet No. P.202/2004 refers).

A.G.  
Clerk  
G.O.S.

The Committee agreed that the proposition highlighted the need for a full review of the rôle and functions of the unelected members of the States Assembly. It considered that such a review would need to address the following matters -

- (a) the breadth of the present rôle of the Attorney General and Solicitor General;
- (b) the present rules on the absolute right of speech on any issue presently available to the Law Officers as members of the States;
- (c) the manner in which legal advice given to the 'executive' could be

made available to Scrutiny Panels and individual members (linked possibly to new rules on confidentiality requirements as part of the code of conduct); and,

- (d) whether it remained appropriate for the Crown to be responsible for making the appointments.

As such a review fell outside its own terms of reference, the Committee considered that it would be appropriate for either the Policy and Resources Committee or a new Special Committee to take the matter forward.

Notwithstanding the foregoing, the Committee expressed reservations in connexion with the proposition brought by Senator Syvret. It noted that the financial implications of the proposal were likely to be significant and that, as the alternative legal adviser would be employed by those to whom he or she would be required to advise, the objectivity of the post holder could be called into question.

The Committee noted the reference in the aforementioned proposition to the requirement for Scrutiny Panels to receive independent legal advice. However, it recalled that it had previously addressed the matter in the report accompanying P.79/2003 (Machinery of Government: establishment of Scrutiny Panels and Public Accounts Committee) which had been approved by the States on 24th July 2003.

The Greffier of the States was requested to arrange for a draft comment to Projet P.202/2004 in the aforementioned terms to be prepared for the Committee's consideration.

Shadow Scrutiny  
Panels:  
vacancies.  
502/1(12)

A5. The Committee, with reference to its Act No. A8 of 6th December 2004, agreed to propose that Deputy J.A. Bernstein be made a member of Shadow Scrutiny.

D.G.O.S.  
Clerk  
Scrutiny

**The Greffier of the States was requested to take the necessary steps for a proposition on this matter to be presented to the States for consideration on 1st February 2005. The Committee approved a report and proposition giving effect to this decision and agreed to seek debate at the earliest opportunity.**

The Greffier of the States was requested to take the necessary action.