

PRIVILEGES AND PROCEDURES COMMITTEE

(3rd Meeting)

24th January 2003PART A

All members were present, with the exception of Senator C.G.P. Lakeman, from whom apologies had been received.

Connétable D.F. Gray
 Deputy F.J. Hill, B.E.M.
 Deputy C.J. Scott-Warren
 Deputy R.G. Le Hérisssier (present for items A1 to A3 only)
 Deputy J-A. Bridge
 Deputy J.A. Bernstein

In attendance -

M.N. de la Haye, Greffier of the States (for a time)
 D.C.G. Filippini, Assistant Greffier of the States (for a time)
 R.W. Whitehead, Principal Legal Adviser, Law Officers Department
 S. Drew, Assistant Legal Adviser
 P. Byrne, Executive Officer
 M.P. Haden, Committee Clerk.

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

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| Minutes | A1. The Minutes of the meeting held on 10th January 2003, having been previously circulated, were taken as read and were confirmed. |
| States members' remuneration - comments 1240/3(68) | A2. The Committee, with reference to Act No. A2 of 9th December 2002, of the Committee as previously constituted, recalled that it had lodged 'au Greffe' a report and proposition (P.238/2002) seeking to replace the current system of means-tested income and expense allowance for States members with a new remuneration scheme available to all elected members. The Committee was pleased to note that lodging its proposals had provoked a response from a number of quarters and agreed to extend its consultation period to give ample opportunity for any further comments to be received and considered. The Committee agreed to request 4th March 2003 as a date for the States to debate its proposition. |
| Ex.Off. | |

The Committee received, in turn, Senator P.F.C. Ozouf, Deputy T.J. Le Main and the Bailiff in connexion with their comments on the Committee's proposals.

- (a) **Senator P.F.C. Ozouf** - Senator Ozouf indicated that, while he agreed with the principle of all States members being entitled to receive remuneration irrespective of income from other sources, thus removing the current means-tested element in the income allowance, he was opposed to a blanket payment for all members. He proposed, alternatively, a three way split consisting of
- (i) basic remuneration in recognition of States Assembly duties

(attendance at States sittings; 46 days in 2002) say £15,000;

- (ii) remuneration for Committee (Executive/Ministerial or scrutiny) responsibilities, based on three bands in order of importance/workload; say, Band A £10,000; Band B £7,500; Band C nominal. The President to receive double the Committee allowance (perhaps spread between President and Vice President; and
- (iii) Administrative support, say £10,000 - Senator Ozouf did not agree with the Committee's proposal that the total remuneration package, based on the equivalence of a grade 11 civil servant, should be taken to include administration expenses. He believed that this overstated the remuneration of members and ignored the fact that grade 11 civil servants, by virtue of their position, had administrative support.

Senator Ozouf maintained that his proposal recognised the different workloads of States members depending on the responsibilities they had assumed. He rejected the suggestion that States members would be reluctant to criticise Committee Presidents or the future Chief Minister for fear of losing a remunerated position.

Senator Ozouf did not believe that constituency work carried out by members should be separately recognised in the remuneration package. He felt that such work was akin to the honorary system and was undertaken on a voluntary basis. He did not agree that members without Committee responsibilities would necessarily become overburdened with constituency requests just because members with responsibility positions were unable to respond to such demands. In his experience, busy States members were just as likely to take on constituency requests as those with fewer responsibilities.

Senator Ozouf recognised the Committee's desire to encourage a broad range of the Island's population to stand for election to the States. However, he felt that the level currently proposed was unlikely to achieve that aim. He also thought that other financial matters needed consideration, including social security and pension payments, campaign costs, the ability for candidates to take time off work during election campaigns and severance arrangements for members leaving the States.

- (b) **Deputy T.J. Le Main** - Deputy T.J. Le Main explained the reasons behind his proposed amendment to P.238/2002 the effect of which would be to freeze States members' remuneration at the current level. He indicated that, while he agreed with the principle of removing the current means-tested element in the income allowance, he was opposed to States members receiving what was seen by the general public as a ten per cent pay rise. He accepted that the actual figure might be less than ten per cent but the public perception had seized hold of this amount. He had been advised that the Manual Workers Union considered that the proposed increase in States members had a significant bearing on their own pay negotiations. Deputy Le Main felt that any substantial increase in States members' remuneration should be linked to the reforms in the machinery of government and a reduction in the numbers of States members, just as other public sector pay

negotiations were often linked to modernisation proposals.

- (c) **Bailiff** - The Bailiff expressed his view that the Committee's proposals represented an important stage in the development of political thinking about the status of States members and might be seen as the final abandoning of the honorary principle as regards elected representatives in the States. He felt that this turning point deserved proper recognition in the Committee's report on remuneration particularly in view of possible repercussions on the wider honorary tradition in the Island.

The Bailiff, having recognised that the matter of remuneration was in the hands of the States members themselves to decide, offered the view that the work of States members was still not generally regarded as a full-time occupation. Some members maintained other professional responsibilities, while others chose to devote all their working time to political activity. Much depended on the individual and the time and energy he/she was prepared to into their work as a States member. On the whole, he favoured differential payment according to responsibilities rather than a single blanket payment for all. He felt that it was demeaning to members to suggest that they would be over-influenced in their decisions by thoughts of keeping a well-remunerated post. Furthermore, it was not yet clear what the responsibilities and workload of non-Executive members would be in the new ministerial system of government. Consequently, it might be premature to introduce a new system of remuneration at this stage. He suggested that the reform of States members' remuneration would be more acceptable to the general public when it could be seen in the context of the overall reforms to the composition of the Assembly and to the machinery of government.

The Committee, having thanked each of the above for their comments, agreed that it would take into account all the comments received and would consider at its next meeting whether or not to revise its report and proposition. It agreed that it should press ahead with trying to achieve the removal of the current means-tested element in members' income allowance. There appeared to be general agreement amongst those who had commented on its proposals that the time had come to change this principle. However, the issues in respect of the actual level of remuneration, differential pay, administration expenses and pensions needed further consideration.

Deputy F.J. Hill, B.E.M., undertook to contact the Comptroller of Income Tax to clarify the position with regard to tax allowances on administration expenses.

States of Jersey
Law - drafting
proposals.
450/1(1)

A3. The Committee, with reference to Act No. A3, dated 9th December 2002, of the Committee as previously constituted, received Mr. M. Entwistle, Principal Legal Instruction Officer, Machinery of Government Reforms, in connexion with his Discussion Paper, dated 13th January 2003, on the drafting proposals for a new States of Jersey Law.

Ex.Off.

The Committee noted that the drafting instructions had been formulated on the following assumptions -

- (a) that decisions that had previously been adopted by the States should be incorporated into drafting instructions without further debate on these policies;
- (b) that options described in the First report of the Privileges and Procedures Committee on the scrutiny function were, in the absence of alternative

proposals, taken generally to be policy proposals. The Committee recalled that number of issues, such as the 'call-in' mechanism and the powers of Scrutiny Panels remained to be decided;

- (c) that, in the absence of a States decision on P.186/2002 regarding the composition and election of the States Assembly, and in respect of constitutional issues that had not been raised in the Clothier report or debated by the States, the status quo should prevail. The Committee recalled that, in its form as the Special Committee on the Composition and Election of the States Assembly, it had agreed to review the recommendations contained in P.186/2002 at an early opportunity; and
- (d) that, as far as possible, the new States of Jersey Law would be high-level enabling legislation, with much of the detailed provisions contained in Standing Orders. Work on Standing Orders would commence once the drafting instructions for the principal Law had been approved by the Committee.

The Committee considered the issue of whether or not certain powers of the Bailiff should be retained in the new Law, namely his casting vote, his power of dissent and his powers to issue orders for the regulation of admission of strangers. The Committee was advised that the Bailiff had indicated that he did not wish to retain the aforementioned powers. The Committee requested the Principal Legal Adviser to research the historical background to these powers and the possible constitutional effects of removing them from the new Law. Similarly, the Committee requested that the position regarding the powers of the Lieutenant-Governor to veto be researched.

The Committee noted that it was proposed that the new Law should contain a statement outlining the general functions of the States Assembly. The Committee, however, questioned whether this was necessary. Such a statement was not contained in the current Law. It was felt that, in stating the functions of the Assembly, there was a possibility of missing out some element. It was agreed that it would be better not to state the functions.

The Committee, given that many members had only recently received the Discussion Paper and had not had the opportunity to fully study its proposals, agreed to defer further consideration until its next meeting. In the meantime, in view of the need to pursue this matter in a timely fashion, given its relevance to other aspects of the reform of the machinery of government, a group consisting of the Acting President, Acting Vice President, the Greffier of the States, the Principal Legal Adviser, the Executive Officer and the Committee Clerk would scrutinise the drafting proposals in detail.

Special
Committee to
consider the
relationship
between
Committees and
the States.
1240/1/2(18)
955(28)

A4. The Committee, with reference to its Act No. A7(c) of 10th January 2003, Committee received a paper, prepared by the Greffier of the States, dated 23rd January 2003, setting out the functions of the Special Committee and the actions that the Privileges and Procedures Committee needed to take in relation to the appointment of the Administrative Appeals Panel.

Ex.Off.

The Committee noted that the term of office of the current Panel was due to expire on 31st March 2003 and that it was necessary, therefore, to take a proposition to the States to reconstitute the Panel. The Committee was advised that the current Chairman, Mr. R.R. Jeune, C.B.E., had indicated that he would be prepared to serve for one more year, but for reasons of his age, did not feel able to offer himself for another three year term. The Committee, having been advised that Mrs C.E. Canavan, currently one of the two Deputy Chairmen, had indicated an interest in this position,

agreed that she should be formally invited to become the new Chairman. The Committee noted that Mr. Jeune had been involved with the Administrative Appeals system for some 40 years and agreed to give further consideration to marking his retirement at a subsequent meeting.

The Committee, having noted that it was customary for the Panel to present an annual report to the States, agreed to receive representatives of the Panel at a subsequent meeting to receive their report.

The Committee noted the minutes of the Special Committee, dated 19th March and 16th August 2002, which had previously been circulated and, having noted that they had been approved by the outgoing President, authorised the acting President to sign the said Minutes.

The Committee agreed to defer further consideration of the Greffier's report to the next meeting.

Freedom of
Information.
1240/22/1/6/1
(1)

A5. The Committee, with reference to Act No. A3 of 24th October 2002, of the Committee as previously constituted, considered a draft consultation paper, prepared by the Department, on Freedom of Information.

Ex.Off.

The Committee requested that the consultation paper be revised to further clarify the following issues -

- (a) access to Information for States members - The Committee requested the Principal Legal Adviser to assist in clarifying the implications of the 'Birt Ruling'. It also requested that further information be included on the current practice and control with regard to States members' access Committee minutes and papers in the custody of the Greffier of the States;
- (b) the implications of Human Rights legislation in setting certain limits on access to information and its relationship with Data protection; and
- (c) New Zealand Official Information Act, 1982 - The Committee recalled that it had been advised that the New Zealand legislation provided a suitable model for Freedom of Information legislation in Jersey. It was advised that, as yet, requests to gain access to the law drafting brief for the New Zealand legislation had not been successful and requested that efforts in this respect be renewed.

The Committee agreed that the above paper should be issued in the form of a *Rapport et Correspondence* at an early opportunity so that feedback might be obtained from States members and other interested parties. It requested that a brief introductory page be added to the consultation highlighting the key questions that needed to be addressed in developing Freedom of information legislation in Jersey.

The Committee recalled that H.M. Attorney General had been invited to attend a meeting with the Committee on 14th February 2002 to discuss its proposals for Freedom of Information. Mindful that the provisions of the New Zealand legislation went beyond those incorporated in the recent United Kingdom legislation, the Committee agreed that the implications of possible differing legislation should be raised with H.M. Attorney General at that meeting. It also requested members to consider any further questions they would like to put to H.M. Attorney General on this matter.

On a related matter, the Committee noted that the Policy and Resources Committee had decided to discontinue the practice of circulating full Minutes of its meetings to all States members on the grounds that it was not appropriate to divulge in this way sensitive or confidential matters which might appear on the Part B Minutes of that Committee. A regular session in the States providing an opportunity for States members to question the President of the Policy and Resources Committee on topical matters had been proposed as an alternative. The Committee expressed some concern that this change of policy might be regarded as contrary to its own proposals for developing States members' Access to Official Information. The Acting President reported that she had requested that the Committee papers which had helped to guide the Policy and Resources Committee in reaching its decision be made available in order that the background to this decision might be more fully understood.

Simultaneous
Electronic Voting
- draft report and
proposition.
1240/22(8)

A6. The Committee received and considered a draft report and proposition requesting the States to agree to the introduction of a simultaneous electronic voting system to replace the 'appel nominal'.

Ex.Off.
Pub.Ed.
States (2)

The Committee was firmly supportive of the view that a simultaneous electronic voting system would remove any possibility and perception that members' direction of voting was influenced in any way by those voting before them. The proposed system would be more efficient and save time in the States Assembly. It was advised that funding had been included in Phase II of the refurbishment work to the States Building, based on costings received by the Environment and Public Services Department from the Department of Electronics who had researched appropriate systems.

The Committee considered the practicality of erecting a large plasma screen in the States Chamber so that the results of a ballot might be displayed immediately to members. The Committee, however, agreed that such a screen would be out of place in the historic setting of the Chamber. Furthermore, the benefits of displaying the results on screen did not warrant the expense which would be in the region of £9,000. The Committee was mindful that it was occasionally in the interest of the public or the media to announce the details of the appel. It was proposed that, in those cases, the Greffier of the States should, if requested to do so by any elected member of the States, announce the details of each member's vote immediately after the result of the vote was declared.

The Committee approved the draft report and proposition, subject to minor revisions to be finalised and agreed by the Acting President. It requested that the report and proposition be lodged 'au Greffe' on 4th February 2003 with a view to a debate in the States on 4th March 2003. Deputy F.J. Hill, B.E.M., agreed to act as rapporteur for the debate.

Scrutiny Seminar
1240/22/1(9)
465/1(28)

A7. The Committee, with reference to its Act No. A2(f) of 17th March 2003, gave further consideration to the planned Scrutiny Seminar for States members and Chief Officers, to be held on 21st February 2003 at the Headquarters of the Royal Jersey Agricultural and Horticultural Society (RJA&HS).

Ex.Off.

The Committee noted that Mr. S. Sanghera, Head of Scrutiny, Lambeth Council, had agreed to address the Seminar. The Committee noted that the current Mayor of Lambeth, a personal friend of Deputy F.J. Hill, B.E.M., was also willing to come to Jersey for the agreed to attend the Seminar.

The Committee agreed an outline programme for the half-day Seminar. It agreed that politicians and Chief Officers should form separate focus groups following the keynote address in order that both groups should feel comfortable in addressing the

issues in ways most relevant to their respective positions.

The Committee requested that invitations be sent out to all States members and Chief Officers.

States Members' lunches.

A8. The Committee received catering quotations from five different suppliers in respect of the provision of States Members' lunches.

Ex.Off.

The Committee approved the lowest quotation, in the sum of £4.40 per person, received from Simple Simons, on a probationary basis.

Policy and Resources Committee: Machinery of Government Sub-Committee. 1240/22/1(5)

A9. The Committee received correspondence, dated 23rd January 2003, from the President of the Policy and Resources Committee, requesting the Privileges and Procedures Committee to nominate a member to serve as a member of the Machinery of Government Sub-Committee.

Connétable D.F. Gray agreed to join the above Sub-Committee as the representative of the Privileges and Procedures Committee.

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

The Greffier of the States was directed to send a copy of this Act to the Policy and Resources Committee for information.

Acts of other Committees.

A10. The Committee noted the following Acts of other Committees -

- (a) Act No. A7, dated 15th January 2003, of the Finance and Economics Committee in connexion with the report and proposition of the Environment and Public Services Committee on Phase II works for the refurbishment of the States Building; and
- (b) Act No. B5, dated 10th January 2003, of the of the Environment and Public Services Committee in connexion with its report and proposition on Phase II works for the refurbishment of the States Building.

Date of next meeting

A11. The Committee confirmed the date of its next meeting, scheduled for Friday 7th February 2003, commencing at 12 noon in the Halkett Room, Morier House.