

9. Statement by the Chairman of the Privileges and Procedures Committee regarding the absence of Senator Stuart Syvret

9.1 The Connétable of St. Mary (Chairman of the Privileges and Procedures Committee):

On 23rd February 2010 I made a statement to the Assembly on a number of matters relating to Senator Syvret, including his absence from the Island since October 2009. In my last statement I pointed out that Article 8(2) of the States of Jersey Law 2005 provides that a Member is automatically disqualified if he or she is resident outside Jersey for a period of at least 6 months. Then under that privilege Senator Syvret would become automatically disqualified and a by-election would be ordered if he did not return to take up residence again in Jersey by mid-April. I am making this statement today to inform Members that Senator Syvret has now been automatically disqualified from the Assembly as more than 6 months have passed since he left Jersey on 19th October 2009 and became a resident outside the Island. This disqualification will have come as no surprise to him as even if he was not aware of the last statement I made, P.P.C. (Privileges and Procedures Committee) wrote to him last week reminding him of the statutory provisions and the disqualification procedure. Article 13 of the States of Jersey Law 2005 provides that the Bailiff shall inform the Attorney General of any casual vacancy so that the Attorney General can notify the court which shall then order a by-election. I am therefore making this statement so that you are aware of this matter and can make the necessary approach to the Attorney General. Notwithstanding the very exceptional circumstances that have led to Senator Syvret losing his membership of this Assembly I think it would be remiss of me not to place on record today that he served as a Member of the States for nearly 20 years and during that time he served on many committees and held a number of different positions of official responsibility. I think it is only right that this record of service to the States of Jersey since 1990 should be noted at this time. Thank you. **[Approbation]**

The Bailiff:

Then Members have 10 minutes for questions. Deputy Southern.

9.1.1 Deputy G.P. Southern:

Has the Chairman sought clarification of the Attorney General over the difference in wording between the disqualification from office in Article 8 of the States of Jersey Law of not being resident in Jersey for a period of more than 6 months and the wording of Article 7, qualification for election as Senator or Deputy, which says: "A person shall be qualified if they are ordinarily resident in Jersey for a period of 6 months, up to and including the day of election as well as an additional period of at least 5 years"? If not, will she seek to do so now?

The Connétable of St. Mary:

As Members are aware, it is not normal practice to disclose whether legal advice has been sought, but in the circumstances I am authorised by the Attorney General to mention to Members that legal advice was sought in this matter. The very clear and unambiguous advice received was that resident in this context means actual residence in Jersey. The term is not qualified as in other legislation such as tax legislation by words such as "ordinarily resident" or "permanently resident". It is therefore to be interpreted in its simplest sense; as the place where a person is living at any time. Mr. Syvret was not resident in Jersey after he left the Island by his own admission on 19th October 2009 and was therefore not resident for 6 months.

Deputy G.P. Southern:

That does not quite answer the question because that refers to Article 8 and there is very clear ... **[Interruption]** thank you, and I thank the Chairman for that. On Article 7 it does say: "Your qualification depends upon you being ordinarily resident in Jersey." Is there a difference between ordinarily resident, in this particular case, so that he can stand for a new election? Apparently, if he is ordinarily resident but be disqualified because he has not been physically resident will the Chairman seek advice on Article 7?

The Connétable of St. Mary:

Sorry, I thought it was implicit from my answer, but just to specify. The term of residence is dealt with in different laws in different ways and it is qualified in different ways. As regards the ordinarily resident in the States of Jersey Law for the purpose of being qualified to stand, any person who stands for election needs to satisfy themselves that they meet the requirements and are able to make the declaration as is required under that law. Therefore, it would be up for any candidate in the election to be able to say whether they met the ordinary residence test. It is not a matter for P.P.C.

The Deputy of St. Martin:

Would it be in order maybe to ask the Attorney General to have a ruling?

The Bailiff:

No. Under Standing Orders it is question time to the Chairman of P.P.C. at the moment.

The Deputy of St. Martin:

Only on the point if the Chairman is unable to answer the question maybe we could ask the Attorney General to answer for her.

9.1.2 The Deputy of St. John:

Does the Privileges and Procedures Chairman and Committee consider their statement somewhat disingenuous to the former Member, the former Senator Syvret, given that he has given 20 years service to the Island? All right, we may not all agree with some of the actions he has taken over the years and he has done his politics in his way, but does the committee - P.P.C. - not consider that they could have in fact in the statement laid out some of the things he has done for the Island? I think that would have been useful.

The Connétable of St. Mary:

I did, in my statement, say that I thought it would be remiss of me not to record his service to the Island in 20 years. I did also promise that it would be a short statement.

9.1.3 Deputy G.P. Southern:

I will try again, if I may, and I hope you will not rule it out of order. Will the Chair seek the advice of the Attorney General as to the definition of "ordinary resident" in Jersey for a period of 6 months under Article 7 of the States of Jersey Law 2005? Will she do that now? If not, will she state when she will do so and return to the House with a clear statement of who is and is not eligible to stand in any forthcoming by-election?

Connétable D.J. Murphy of Grouville:

Point of order.

The Bailiff:

Point of order?

The Connétable of Grouville:

A point of order, yes. This statement by the P.P.C. Chairman refers to Senator Stuart Syvret's disqualification; it does not refer anything to do whatsoever with anybody wishing to stand in a future election.

The Bailiff:

I think it is a matter for the Chairman to the extent to which she deals with these questions.

The Connétable of St. Mary:

I accept what the Constable has just said, but I think it might be helpful to say this is not a matter for P.P.C. Elections are overseen by the court and it is up for the Royal Court to rule on whether a candidate is eligible or not, not for P.P.C. **[Approbation]**

9.1.4 Deputy T.M. Pitman:

Could the Chairman advise, if she is able - and I appreciate she is doing her best to explain the situation - if there is likely to be a legal challenge to whatever decision is made, what kind of impact is that likely to have on when a by-election would take place? Technically, it could go on for months and months. Could this be dragged-on?

The Connétable of St. Mary:

I am not clear. Was the Deputy asking whether there would be a challenge to the automatic removal from office of Senator Syvret or to anything else?

Deputy T.M. Pitman:

Whether the former Senator can stand again. If that aspect is challenged - I do not know if it will but it could - what would the likely knock-on effect be?

The Connétable of St. Mary:

As I have said, the holding of a by-election, supervision of an election is a matter for the courts, not for P.P.C.

9.1.5 Senator P.F.C. Ozouf:

For clarification, and I do not know the arrangements for this, I understand that when a Member loses their seat because of an election they are paid one additional salary, a month's salary, or remuneration. Does this apply for anybody losing their seat in relation to an automatic disclosure, an automatic disqualification? Just for complete transparency purposes.

The Connétable of St. Mary:

Under the rules governing States Members remuneration, Mr. Syvret is entitled to receive one month's remuneration from the date of leaving office, so he will now be paid until 19th May 2010.

The Bailiff:

Any other questions? Very well then. We will move on to another matter where the Minister for Economic Development wishes to make a statement, so I call upon the Minister to make it.