

PRIVILEGES AND PROCEDURES COMMITTEE

(103rd Meeting)

31st March 2011

PART A

All members were present, with the exception of Senator B.I. Le Marquand, Deputy M.R. Higgins and Deputy T.M. Pitman, from whom apologies had been received.

Connétable J. Gallichan of St. Mary, Chairman
Connétable P.F.M. Hanning of St. Saviour
Deputy J.B. Fox
Deputy J.A. Martin

In attendance -

T.J. Le Cocq, Q.C., H.M. Attorney General (item No. B1 only)
M.N. de la Haye, Greffier of the States
Mrs. A.H. Harris, Deputy Greffier of the States
Miss A-C. Heuston, Clerk to the Privileges and Procedures Committee

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

Public Elections
(Expenditure and
Donations)
(Jersey)
Regulations 201-
424/3(3)

A1. The Committee, with reference to its Minute No. A3 of 8th February 2011, received the draft Public Elections (Expenditure and Donations) (Jersey) Regulations 201- and a report prepared by the Greffier of the States in this regard, dated 29th March 2011.

The Committee recalled that it had considered a draft of the Public Elections (Expenditure and Donations) (Jersey) Law 201- at its meeting on 8th February 2011, and had requested certain amendments. It was noted that there was now insufficient time available to pass primary legislation requiring approval by the Privy Council in this regard. Accordingly, the draft law had been converted back to draft triennial Regulations so as to enable the establishment of further Regulations in the light of the expiry of the current triennial regulations in July 2011. It was noted that the Regulations would ensure that appropriate controls would be in place in respect of campaign expenditure for the 2011 elections. If approved, the triennial Regulations would remain in force for 3 years, although it was considered appropriate that steps would continue to be taken by the Committee to convert the Regulations into permanent legislation following the autumn 2011 elections. It was noted the draft Regulations did not include the Regulation-making powers which had been included in the draft law to deal with matters such as up-rating for inflation; it was, however, considered that such a provision would not be required during the maximum 3-year life-span of the Regulations. Disqualification provisions for breach of the Regulations had also been removed as it was not possible to cover disqualification from office through triennial Regulations. It was noted that both of these matters would be covered by the permanent legislation, upon drafting.

The Committee noted that its concern in respect of the ancillary costs incurred by volunteers during an election campaign had been addressed by a change to paragraph 6(3) of the Schedule to the Regulations, which now excluded the volunteers' goods from the definition of election expenses. In respect of pre-existing material used in a campaign a new provision had been inserted at Regulation 3(8)

and paragraph 7 of the Schedule to specify that, where goods were re-used, they could be disregarded for the purpose of the calculation of election expenses. Concern had also previously been expressed regarding the ability to incur expenditure without the consent of the candidate. It was noted that, in accordance with Regulation 3(1)(a) a candidate would be responsible for expenses incurred by others if that expenditure had been undertaken with the candidate's express or implied consent. The Law Draftsman had confirmed that the Interpretation (Jersey) Law 1954 provided that the definition of "person" in the draft legislation included a body corporate or unincorporated. The Committee recalled that it had previously agreed that the monetary amounts in the 2008 Regulations should be increased in line with inflation, and the revised amounts contained within the Public Elections (Expenditure and Donations) (Jersey) Regulations 201- to take account of inflation were noted.

The Committee **agreed** that the legislation should be renewed and requested that the draft Public Elections (Expenditure and Donations) (Jersey) Regulations 201- be lodged *au Greffe* for debate by the States in early course.

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

Electoral
Commission.
1240/22/1(59)

A2. The Committee, with reference to its Minute No. A4 of 22nd March 2011, gave further consideration to the establishment of an Electoral Commission following the adoption by the States on 15th March 2011 of the proposition: 'Electoral commission: establishment,' as amended (P.15/2011 refers).

The Committee had particular regard to paragraph (c) of the proposition which stated that, after consultation, the Privileges and Procedures Committee should bring forward proposals for debate ahead of the debate on the Annual Business Plan 2012 detailing the proposed composition of the Electoral Commission, its anticipated costs, and how it was to be funded. The Committee recalled that it had asked for cost estimates to be compiled in respect of possible options for the composition of the Commission. The potential cost was estimated at £190,000, including the appointment of one executive officer; the Chairman's fee; travel expenses; accommodation; hearings; a public opinion survey; and advertising and printing costs. It was noted that, if other outside members were to be appointed and paid at a rate of £500 per day, the cost would increase by an estimated £55,000 per extra member. The Committee received a series of possible models for the Commission, as follows:

- Chairman and 2 outside members, 3 members from Jersey
- Chairman from outside Jersey, 3 or 4 members from Jersey
- 2 members from outside Jersey, 2 members from Jersey
- Chairman and members from Jersey
- Chairman and members from Jersey with advice from consultants outside Jersey

The Committee received correspondence addressed to the Greffier of the States and dated 23rd March 2011 from Mr. D. Robillard, Principal Officer, States Assembly and Constitution Committee, States of Guernsey, in connexion with a review carried out in Guernsey in respect of the possible introduction of full Island-wide voting. It was noted that the review had been carried out with the Electoral Reform Society and that the only expenses met by the States of Guernsey had been in respect of disbursements such as travel and accommodation. It was considered that a further option for Jersey would be for the review to be carried out by the Electoral Commission in the United Kingdom, or the Electoral Reform Society, for example. Alternatively, it might be appropriate for such a body to provide an opinion in respect of the terms of reference of the proposed Electoral Commission.

The Committee's preferred options were:

- (a) the appointment of a Chairman from outside Jersey and 3 or 4 members from Jersey;
- (b) the appointment of 2 members from outside Jersey and 2 members from Jersey; or
- (c) for the project to be carried out by the Electoral Commission in the United Kingdom.

It was **agreed** that a report should be prepared outlining the Committee's preferred options and their relative costs. It was agreed that the report should be presented to the States in the report series by the end of April 2011, and should therefore be circulated for approval prior to the Committee's next scheduled meeting on 10th May 2011.

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

Meeting with
Chairmen's
Committee.
1240/10(36)
465/1(156)
511/1(42)

A3. The Committee, with reference to its Minutes Nos. A8, A10 and A11 of 8th March 2011, received correspondence dated 29th March 2011 from the former president of the Chairmen's Committee, Senator B.E. Shenton.

The Committee recalled that it had invited representatives of the Chairmen's Committee to attend its meeting on 22nd March 2011. The Chairmen's Committee had been unable to attend, and had therefore extended an invitation for members of the Privileges and Procedures Committee to attend its meeting on 12th May 2011 at 1 p.m. to discuss: the transfer of members from non-executive to executive roles and the number of members serving on scrutiny; the media and the filming of scrutiny meetings; the debate of scrutiny reports; and the provision of business cards to States members. The Committee **agreed** that it would wish to attend the meeting and asked that the Chairmen's Committee be advised accordingly.

The Committee Clerk was requested to take the necessary action.