

PRIVILEGES AND PROCEDURES COMMITTEE

(13th Meeting)

2nd October 2002PART A

All members were present, with the exception of Senators C.G.P. Lakeman and W. Kinnard and Deputy JA Bridge, from whom apologies had been received.

In attendance -

M.N. de la Haye, Deputy Greffier of the States
P. Byrne, Executive Officer Designate
M.P. Haden, Committee Clerk.

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

A1. The Committee, in the absence of the President and the Vice-President and in accordance with Article 36(2) of the States of Jersey Law 1966, as amended, approved Senator C. Stein to preside at the meeting.

Minutes

A2. The Minutes of the Meeting held on 8th August and 17th September 2002, having been previously circulated, were taken as read and were confirmed.

Matters arising.

A3. The Committee, with reference to its Act No. A2 of 17th September 2002, noted that further comment had been received in respect of the requirement for a public declaration of any previous offences by candidates for election as Senator or Deputy.

The Committee agreed to give further consideration to this matter at a subsequent meeting. One suggestion was that such offences might be publicised in a register rather than be the subject for a public declaration at the nomination meeting.

Matters for information.

A4. The Committee noted the following matters for information -

- (a) Notes of Meetings of Members of the Privileges and Procedures Committee held on 13th and 16th August 2002.

The Committee noted that in item A1(1) Process issues it was stated that the budget allocation for the States' Greffe and members' pay and allowances would possibly come under the political responsibility of the Privileges and Procedures Committee. It was clarified, however, that no decision had yet been made in this respect. The Committee agreed that it would be more appropriate for oversight of members' pay and allowances to stay with the Finance and Economics Committee;

- (b) Arrangements for a visit to Birmingham City Council on 10th October 2002 to view scrutiny arrangements to include the President, Vice-President, Deputy R.G. Le Hérissier and Executive Officer Designate;
- (c) Letter, dated 26th August 2002, from Mr. J.A. Le Fondré regarding the Committee's proposals for States members' remuneration;

- (d) Letter, dated 24th July 2002, from the Editor of the Jersey Evening Post in connexion with Freedom of Information;
- (e) Letter, dated 29th August 2002, from Mr. J. Henwood regarding the advertising in the Jersey Gazette of meetings of the Special Committee on the Composition and Election of the States Assembly; and
- (f) Minutes, dated 14th August 2002, of the Jersey 1204-2004 Sub-Committee of the Policy and Resources Committee.

Financial Report
as at 30.09.02/
budget allocation
2003.
1240/22/1/6/2
(4)

A5. The Committee received a financial report for the period ending 30th September 2002.

It noted a balance of £10,802.11. An additional £45,000 agreed by the Finance and Economics Committee had not yet been included in this amount.

Ex.Off.

The Committee also noted correspondence, dated 9th September 2002, from the President of the Policy and Resources Committee confirming that the sum of £410,000 from the funds allocated to support the machinery of government reforms had been allocated to support the work of the Privileges and Procedures Committee in 2003. This was made up of £80,000 to cover staff costs and a further non-staff budget of £80,000. In addition, a sum of £250,000 had been allocated to enable arrangements for scrutiny, subject to prior receipt of States approval of those arrangements, to be trialled during the latter half of 2003. These funds for scrutiny trials included provision for up to three full time equivalent secondment posts, though any increase in posts would need to be confirmed by the Human Resources Committee.

2003 Budget
Report narrative.
1240/22/1/6/2
(4)

A6. The Committee received and approved the 2003 budget submission for inclusion in the States Budget Book for 2003.

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

Ex.Off.
C.I.Aud.
F.E.C.C.
T.O.S.

Proposed Shadow
Scrutiny: Jersey
Airport.
1080(907)

A7. The Committee, with reference to its Act No. A2(a) of 8th August 2002, received a proposal from the College of Aeronautics, Cranfield University for a Review of Studies relating to Jersey Airport.

Ex.Off.

The Committee, having considered the proposal, agreed that it would be premature at this stage to engage consultants in a scrutiny exercise in advance of the establishment of a framework for scrutiny approved by the States. It was suggested that a Sub-Committee be created in the meantime to start to look at Airport issues.

Tax Exchange
Agreement with
the United States
of America -
P.172/2002 -
Scrutiny of major
inter-
governmental
agreements.
603(19)

A8. The Committee noted an exchange of correspondence between the President and the President of the Policy and Resources Committee with regard to the scrutiny of major international agreements and in particular the Tax Exchange Agreement with the United States of America (P.172/2002).

The Committee noted the concern expressed by the President regarding paragraph (b) of P.172/2002, namely whether the States should delegate authority to the Policy and Resources Committee to enter into similar agreements in the future. The President had requested that paragraph (b) be held over pending further consideration by the Privileges and Procedures Committee and others.

1009/2/9(57)

Ex.Off.

The Committee noted that this suggestion had been accepted by the President of the Policy and Resources Committee.

The Committee expressed a general concern that States members were currently not well briefed on international matters.

States members' parking arrangements - summary of responses.

1060/181(10)

Ex.Off.

P.S.C.(2)

Encl.

A9. The Committee received a summary of responses received to date from States members in connexion with proposals put forward by the Public Services Committee in its Act No B12 of 27th May 2002 with regard to States members' car parking arrangements.

The Committee noted that a number of members had expressed very strong opinions against the proposal for members to be charged for parking on the site behind the Tourism Department. The Committee Clerk was requested to check whether a commitment had been made by a previous President of the Public Services Committee that an alternative parking arrangement would be provided for States members before the current site was cleared for development. The Clerk was also requested to check whether any further comments had been by other States members.

The Committee agreed to send a copy of the above summary, attached as an enclosure to this Act, to the Public Services Committee.

Code of Conduct for States members - relationship with the Civil Service. 1240/9/1(110) 792/4(20)

A10. The Committee noted correspondence, dated 29th August 2002, from the Bailiff regarding the draft Code of Conduct for States Members.

The Committee noted the suggestion made by the Bailiff that the Code should contain some guidance with regard to the relationship between States Members and the Civil Service. It was advised that the draft Code had been amended to take account of this matter.

Ex.Off.

The Committee also noted that the President had sent the President of the States Human Resources Committee an extract from Hansard in respect of the duties and responsibilities of civil servants in relation to Ministers for possible inclusion in Civil Service Guidance as necessary.

Public Accounts Committee/ General Auditor/ new Public Finances (Jersey) Law/ States members' propositions with financial implications. 1038(52) 1240/4(152) 1240/22/1(8)

A11. The Committee, with reference to its Act No. A11 of 8th August 2002, noted an exchange of correspondence between the President and the Treasurer of the States, together with associated papers regarding a meeting held on 13th August 2002 in which the following matters were discussed -

- (a) **States members' propositions with financial implications** - The Committee noted the information paper, prepared by Mr. R.E. Harris, in this respect. This paper maintained that general practice elsewhere was not to allow members' propositions involving public expenditure between budgets. The alternatives were 'adjournment debates', as used in Westminster, or 'in principle debates' as previously suggested. The Committee recalled a monetary limit of £50,000 had been suggested by the Treasurer of the States. However, the Treasurer of the States had now indicated that he was no longer minded to recommend such a limit. The Committee itself favoured a limit of £250,000. The Committee expressed concern at the increasing power of the Executive and the limitations being proposed on the rights of backbenchers to bring propositions to the States affecting public expenditure;

Ex.Off.

- (c) **Public Accounts Committee** - The Committee received and noted a record of a meeting of the Public Accounts Committee (PAC) and Auditor General Working Party, held on 20th September 2002, attended by Deputy R.G. Le Hérisier. The Committee recalled that it had requested further clarification regarding the respective roles of scrutiny and PAC, particularly in respect of best value/value for money reviews. The above Working Party had formed strong views on the function of PAC which was to look at whether policies had been administered efficiently, economically and effectively, while scrutiny focussed on whether policies had been effective. The PAC would concentrate on the work of civil servants; scrutiny would question ministers. The Working Party was keen to avoid duplication of effort and to create a lean, efficient system. It was of the view that Scrutiny Committees would have a heavy workload with regard to the policy and legislation aspects of their responsibilities. However, the Committee felt that there was a danger of setting up artificial boundaries between the two roles of PAC and scrutiny. The Committee wished to reserve its position on this issue pending further consideration;

- (c) **Auditor General (or General Auditor of the States)** - The Committee noted that the Working Group -
 - (i) questioned whether the Committee's preferred title of General Auditor was appropriate. The title Auditor General for Jersey (AGJ) had been suggested to avoid possible confusion with the title of Attorney General (H.M. Attorney General);
 - (ii) agreed with the proposal that the budget for the General Auditor should be voted by the States Assembly;
 - (iii) stressed the independence of the General Auditor. He/she would decide his/her own programme of work and prepare reports for PAC. Scrutiny Committees would prepare their own reports. The General Auditor was not a resource which would be made available to Scrutiny Committees; and
 - (iv) agreed that the States of Jersey Law should mention the General Auditor but that the detailed responsibilities for this individual should be included in the Finance Law. The terms of reference for PAC should be contained in the States of Jersey Law although the Public Finance Law should acknowledge the existence of that Committee.

- (d) **Public Finances Law** - The Committee received and noted a paper prepared by Mr. R.E. Harris detailing summary proposals for the new Law, and dealing with matters of major change.

The Committee requested that the above Record of the meeting of the PAC and Auditor General Working Party be tabled at a subsequent meeting in order for the matters raised to be given further consideration.

Role of H.M. Attorney General in the Council of Ministers/ legal advice to

A12. The Committee, with reference to its Act No. A2 of 25th July 2002, noted an exchange of correspondence between the President and H.M. Attorney General in respect of the position of the Attorney General vis-à-vis the Council of Ministers and legal advice to be provided to Scrutiny Committees.

Scrutiny
Committees.
1240/22/1/6/1
(12)
Ex.Off.

The Committee noted that other jurisdictions commonly had resources available to Scrutiny Committees to obtain separate legal advice, when necessary, although it was recognised that this need did not arise frequently. The Committee agreed that it was important to establish the principle that independent advice should be available to Scrutiny Committees. On occasions when a difference of opinion might arise between the advice provided by the Attorney General and the advice obtained by the Scrutiny Committees this, should be clearly presented to the States as such.

The Committee agreed to invite H.M. Attorney General to attend a subsequent meeting to continue further discussion of the issue. It requested that a copy of H.M. Attorney General's letter of 1st August 2002 be tabled together with a resumé of the key points of difference between the Committee and H.M. Attorney General.

On a related matter, the Committee noted a further exchange of correspondence between the President and H.M. Attorney General regarding assistance received by the Committee from Mr. R. Whitehead, Principal Legal Adviser, and Mr. S. Drew, Assistant Legal Adviser, Law Officers' Department. The Committee noted that the Attorney General was pleased to be able to offer assistance to the Committee through them on general research matters. H.M. Attorney General requested the opportunity of considering the Committee's proposals on internal and external constitutional questions at some convenient time.

Machinery of
Government:
Freedom of
Representation.
(P.173/2002)
1240/22/1(12)
Ex.Off.

A13. The Committee, with reference to its Act No. A9 of 30th July 2002, gave initial consideration to the report and proposition lodged au Greffe on 24th September 2002 by Senator S. Syvret on the Machinery of Government: Freedom of Representation (P.173/2002).

The Committee recalled that it had made its position clear on the question of collective responsibility, which it felt should not be prescribed by the States at this stage. It recognised that individual members had differing views on the issue and decided to defer making a comment on the projet until all members of the Committee had had the opportunity to consider the matter.

Jersey Post:
distribution of
election leaflets.
424/2(5)
Ex.Off.

A14. The Committee noted a letter, dated 20th August 2002, from Mr. R. Brett, Retail Development Manager, Jersey Post, regarding the distribution of electoral leaflets.

The Committee expressed concern at the high cost of the service offered by Jersey Post to election candidates. Deputy R.G. Le Hérisser said that he had raised the matter with the Chief Executive of Jersey Post.

On a related matter, the Committee recalled that the House Committee had previously bought space in the Jersey Evening Post to give all election candidates an amount of free publicity. In reviewing this trial, however, that Committee had formed the view that the exercise was unnecessary as individual candidates continued to purchase their own space in addition to that purchased by the House Committee. The Committee agreed that the matter merited further consideration.

Acts of other
Committees.

A15. The Committee noted the following Acts of other Committees -

- (a) Act No.B4, dated 4th September 2002, of the Education Committee in connexion with the proposed future financing of the BMI Occupational Health Scheme;
- (b) Act No.B15, dated 15th September 2002, of the Finance and Economics Committee in connexion with the Public Finances (Administration) (Jersey) Law 1967 - preparation for a brief for a new law; and

- (c) Act No.B2, dated 12th September 2002, of the Policy and Resources Committee in connexion with the Public Finances (Administration) (Jersey) Law 1967, as amended.

Date of next Meeting

A16. The Committee proposed a tentative date of 23rd October 2002 commencing at 3 p.m. for its next meeting. The Committee felt strongly that it should attempt to establish a schedule of regular fortnightly meetings. It was suggested that Wednesday afternoons appeared to be generally acceptable to members.