

PRIVILEGES AND PROCEDURES COMMITTEE

(2nd Meeting)

6th February 2009PART A

All members were present.

Connétable J Gallichan of St Mary, Chairman
 Senator B.I. Le Marquand
 Deputy C.H. Egré
 Deputy J.B. Fox
 Deputy M.R. Higgins
 Deputy J.A. Martin
 Deputy M. Tadier

In attendance -

Deputy P.J. Rondel of St. John (Item A5 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.

Minutes.

A1. The Minutes of the meeting held on 23rd January 2009, having been previously circulated, were taken as read and were confirmed.

Composition and
 election of the
 States of Jersey.
 465/1 (75)

A2. The Committee considered a report dated 6th February 2009, which outlined the work carried out by the Privileges and Procedures Committee, as previously constituted, in connexion with the composition and election of the States of Jersey. The Committee was being invited to consider whether it might to re-visit the issue of the reform of the composition and election of the States of Jersey.

In connexion with the above subject, the Committee had been provided with all previous relevant documentation.

The Committee recalled that on 5th June 2007, the Privileges and Procedures Committee had lodged "au Greffe" a report and proposition entitled: 'Composition of the States: Revised Structure and Referendum' (P.75/2007), the purpose of which had been to amend the composition of the States with effect from 2011. Had that proposition been adopted the States would have comprised 12 Parish Connétables and 36 other elected members, to be known as Deputies, elected in 6 electoral districts. Further, with effect from 2011 all 48 members of the States would have been elected on a single general election day and for a common term of office of 4 years. The proposition had been rejected by 5 votes on 18th July 2007. Had it been adopted, the matters set out above would have been submitted to the electorate in a referendum, and would not have been pursued unless supported by a majority of those voting. Prior to the rejection of the above proposition, the States had considered proposals for a general election put forward by Senator B.E. Shenton in a report and proposition entitled 'Composition and Election of the States: Proposed Reform,' which had been lodged "au Greffe" on 3rd November 2006 (P.145/2006). On 2nd May 2007, the States had rejected this proposition by 14 votes to 37. If adopted by the States, the proposition would have seen the introduction of legislation to provide that a general election be held in 2008, with

all elected members being elected on the same day; a reduction in the number of Senators to 8 and a change in the term of office of all elected members to 4 years from the 2008 election. The States had also rejected, by 15 votes to 35, the amendments of the Privileges and Procedures Committee to Senator Shenton's proposition, which proposed that a general election 'period' be held in 2008, with elections for 8 Senators, and Connétables being held on the date fixed for the senatorial elections and an election for 29 Deputies being held shortly thereafter, with all successful candidates elected for a period of approximately 3½ years until the spring of 2012.

The Committee's attention was drawn to a report which had been presented to the States of Guernsey by the States Assembly and Constitution Committee. The report reviewed methods of introducing Island-wide voting for the office of People's Deputy in Guernsey, and considered a number of issues which would be addressed prior to Guernsey's next General Election in 2012. The Committee noted the possible options for electoral reform which would be considered.

The Committee discussed government reform and considered matters such as the number of members; mandate of members; length of term of office; multiple elections, including the ability of a member who is unsuccessful in the Senatorial election to then stand in the Deputies elections, and the impact this has on election expenses; hustings; voter turnout; and voting methods. It was considered that the issue could be broken down into a number of points, for example –

1. whether a one-day general election should be introduced;
2. whether Senators should have the same term of office as other members;
3. whether Senators should continue in the States; and
4. whether large electoral districts should be introduced.

Members agreed that the matter needed to be considered in a timely manner in order to ensure that any changes would be in place in advance of the next elections. One option considered was to re-lodge the proposition entitled: 'Composition of the States: Revised Structure and Referendum' (P.75/2007).

The Committee concluded that another meeting was required at which composition and election matters could be considered in-depth. It was agreed that an additional meeting of the Committee would be held at 2 pm on 20th February 2009 for that purpose. It was noted that, due to prior commitments, Deputy Ben Fox would be unable to attend.

Election of
Ministers.
465/1 (111)

A3. The Committee considered the contents of various electronic mail exchanges between the Greffier of the States and Deputy P.V.F. Le Claire in connexion with the recent election of Ministers and, in particular, the voting process.

The Committee recalled that during the above elections Deputy Le Claire had felt uncomfortable with the fact that individuals seated in the public gallery might be able to identify who members had voted for. The Committee recalled that the Deputy Bailiff had suggested that it was possible for members to shield their ballot papers. Deputy Le Claire felt that this was an unsatisfactory solution and was of the opinion that members should complete ballot papers outside of the chamber or that instructions should be given to members of the public regarding etiquette.

The Committee discussed the matter, and considered that another difficulty may arise due to the fact that members might be sitting beside a candidate during the voting process, and that the candidate might see their vote. Possible solutions were

considered, including the removal of the public from the gallery during secret ballots, and the use of the electronic voting system to vote for candidates.

Having considered the matter, the Committee agreed that the present system should remain. It was agreed that the Chair should advise those seated in the gallery that they should not observe members casting their vote, and should also advise members to shield their vote from others.

The Committee agreed to write to Deputy Le Claire to inform him of its decision. The Committee Clerk was directed to take the necessary action.

Members' speeches: time limits.
450/2/1 (9)

A4. The Committee considered correspondence dated 8th November 2008, from Mr. E. Trevor, a former Councillor for the London Borough of Sutton and a Jersey resident, in connexion with, among other things, imposing restrictions on members in respect of the amount of time they were permitted to speak during debates.

The Committee noted that Mr. Trevor had attended an event held at Fort Regent in 2008, which had been organised by the Scrutiny Office. Following this event Mr. Trevor had written to the Scrutiny Office requesting that consideration be given to scrutinising certain topics, the above being one of those. Mr. Trevor felt that time limits should be imposed on speakers and he had detailed the practice adhered to at London Borough Council meetings.

The Committee discussed the above matter and agreed that, while such time limits may be appropriate at Council level, it was not considered appropriate to limit debating time in a Parliamentary Assembly. It was also considered that amendments should not be made to Standing Orders which would be likely to result in Standing Orders being more frequently suspended in order to enable extended debating time. There was also a perceived risk that, should a limit be placed on speeches, members would be encouraged to extend shorter speeches to take advantage of all the time available to them.

The Committee agreed to write to Mr. Trevor to say that, while it was grateful for his comments and had discussed the matter in depth, it had taken the view that time limits should not be placed on members' speeches during debates.

Ministerial Government: review (P.181/08).
465/1 (77)

A5. The Committee, with reference to its Minute No. A7 of 23rd January 2009, received Deputy P.J. Rondel of St. John in connexion with his report and proposition entitled 'Ministerial Government: review' (P.181/08).

The Committee noted that the proposition had been lodged "au Greffe" on 10th December 2008, and requested the States to authorise a review of the current system of government by the Privileges and Procedures Committee. The proposition required that a report containing recommendations in connexion with the aforementioned be presented to the States within 9 months with a report and proposition being lodged "au Greffe" subsequently which detailed proposed improvements.

Deputy Rondel addressed the Committee advising members that recent events had led him to believe that such a review was necessary. The Committee noted a list prepared by Deputy Rondel which detailed a number of areas he would wish to see investigated as part of the proposed review, including: the effectiveness of question time; the role of the Bailiff of Jersey; the level of power afforded to Ministers; the length of members' terms of office; Government transparency; the election of Ministers, Assistant Ministers and Scrutiny Panel chairmen; the attendance of the Chairman of the Constables' Committee at meetings of the Council of Ministers; the possibility of an ombudsman for finance; and the introduction of a police authority.

The Committee discussed the issues arising with Deputy Rondel, and referred him

to the Machinery of Government Review carried out by the previous Committee (R.105/2007 refers), along with the Committee's report: Machinery of Government Review: summary of action arising' (R.6/2009), which had been presented to the States on 29th January 2009. Deputy Rondel considered that, as three years had passed since the introduction of ministerial government, a full term had now been completed and needed to be reviewed.

The Committee agreed that there were areas which could be reviewed, but considered that not all of these had arisen as a result of ministerial government. The Committee considered that, in its present form, the proposed review would not be viable.

Both Deputy Higgins and Deputy Fox agreed that they would be willing to discuss the matter further with Deputy Rondel, and it was suggested that further consultation could be carried out with the Chairmen's Committee.

The Committee thanked Deputy Rondel for his attendance and he withdrew from the meeting.

Scrutiny Panels:
proposed change
of name to Select
Committees.
465/1 (114)

A6. The Committee, with reference to its Minute No. A9 of 23rd January 2009, considered a report from the Chairmen's Committee in connexion with a proposal to change the name of Scrutiny Panels to Select Committees.

The Committee noted that the Chairmen's Committee had considered the above proposal at its meeting on 22nd January 2009. As the Committee with responsibility for reviewing the practices and procedures of the States, the matter had been referred to members of Privileges and Procedures for consideration.

The Committee was advised that the rationale behind the proposal was that it would result in greater public awareness of the role of Scrutiny and improve both the public perception of Scrutiny and public engagement in the Scrutiny process. It was intended that the title of Scrutiny would remain in the context of the function.

The Committee heard from Deputy M.R. Higgins, Chairman of the Economic Affairs Scrutiny Panel, who stated that all members of the Chairmen's Committee who were present had been in favour of the name change, except Senator S.C. Ferguson. It had been considered that the name Select Committee would equate the work of the panels more with that carried out by Select Committees under the Westminster model.

The Committee discussed the matter, and considered that it could cause confusion if Scrutiny Panels differed in any way to Select Committees, and yet shared the same name. The Committee also considered that the term Scrutiny was now well-established in the Island.

All members except Deputy Higgins and Deputy M. Tadier stated that they would not be minded to support the proposal to change the name of Scrutiny Panels to Select Committees. It was agreed that the Chairmen's Committee could take the matter to the States, should they wish to do so.

Draft
Amendment No.
10 of the
Standing Orders
of the States of
Jersey.
450/2(11)

A7. The Committee, with reference to Minute No. A1 of 4th December 2008, of the Committee as previously constituted, considered the proposition entitled: 'Draft Amendment (No. 10) of the Standing Orders of the States of Jersey,' lodged 'au Greffe' on 5th December by the Privileges and Procedures Committee, as previously constituted (P.179/2008 refers).

The Committee noted that the draft amendment would authorise the Presiding Officer of the States to direct that words spoken in breach of Standing Order 104(2) (i) be omitted from the Official Report ('Hansard'). It also noted that the amendment would only allow the omission of names, meaning that other

objectionable or offensive language would still be transcribed even if it breached Standing Orders.

Deputy M.R. Higgins informed the Committee that he had raised the matter with officials at Westminster and had concerns regarding the proposals. The Committee discussed the history of the proposition, and noted that it had come about following the naming of individuals who were not members of the States during States sittings. It was agreed that the proposition had been brought in order to enable protection to such individuals, should this occur.

Deputy Higgins requested that he be provided with a copy of the Official Report of the States sitting which gave rise to the proposition being drafted by the previous Committee. The Committee Clerk was directed to take the necessary action.

The Committee endorsed the decision of the previous Committee to lodge the proposition entitled, 'Draft Amendment (No. 10) of the Standing Orders of the States of Jersey,' and noted that it was due for debate on 24th February 2009.

Facilities for
States Members.
1240/9/1 (70)

A8. The Committee considered the provision of facilities for States Members, and whether a library facility should be made available in the States Building.

The Committee considered that it may be useful for Members to have access to reference books in order to enable them to undertake research. Concerns were raised regarding the cost of such a provision, along with the likelihood of the books going out of date. It was noted that some volumes were loose-leaf and could therefore be updated regularly. Consideration was also given to the provision of such texts electronically. It was considered that this might reduce the cost and enable more frequent updates.

The Committee Clerk was directed to investigate the options available and report back to the Committee.

Rôle of unelected
Members of the
States: review.
1240/6(56)

A9. The Committee, with reference to its Minute No. A8 of 23rd January 2009, noted that the States had agreed at its sitting on 4th February 2009 to carry out a review of the rôle of unelected members of the States (P.5/2009 refers).

The Committee noted that the review would be carried out into the rôle of the Bailiff of Jersey and the 2 Law Officers, and that, following the adoption by the States of the Committee's amendment to the proposition (P.5/2009 – Second Amendment) His Excellency the Lieutenant-Governor and the Dean would be excluded from the review.

Consideration was given to whether the Committee felt the review could be carried out locally. The Committee discussed one option as being that the review could be carried out in 2 stages, with the ground work being completed in the Island, before being referred to an expert in the United Kingdom. It was agreed that a U.K. influence was necessary. It was agreed that enquiries should be made of Deputy R.G. Le Hérisier, who had indicated during the debate that he was aware of people in the Island who would be able to carry out such a review.

The Committee Clerk was directed to take the necessary action.

Date of next
meeting.

A10. The Committee noted that the next meeting would be held on 20th February 2009, at 2.00 pm in the Blampied Room, States Building.