

PRIVILEGES AND PROCEDURES COMMITTEE

(63rd Meeting)

23rd September 2005PART A

All members were present, with the exception of Senator P.V.F. Le Claire, Connétable D.F. Gray and Deputy P.N. Troy, from whom apologies had been received.

Deputy R.G. Le Hérisssier
Deputy C.J. Scott Warren
Deputy J-A. Bridge
Deputy J.A. Bernstein

In attendance -

M.N. de la Haye, Greffier of the States
I. Clarkson, Committee Clerk

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

Draft Standing
Orders of the
States of Jersey
(P.162/2005)
450/2(1))

A.G.
Clerk
G.O.S.
L.D.

A1. The Committee, with reference to its Act No. A1 of 8th September 2005, recalled that it had agreed further amendments to the report and proposition entitled 'Draft Standing Orders of the States of Jersey' (Projet No. P.162/2005 refers).

The Committee noted that 3 separate propositions to amend P.162/2005 had been lodged 'au Greffe' by Senator S. Syvret, Deputy J.L. Dorey and Deputy G.P. Southern, in addition to that which had been lodged by the Committee on 13th September 2005.

The Committee was advised that on 22nd September 2005 Deputy R.G. Le Hérisssier, Deputy C.J. Scott Warren and Deputy J.A. Bernstein had met with Senator S. Syvret to discuss Senator Syvret's proposals for amendments to P.162/2005. Senator S. Syvret had advised the Committee that he was broadly content with many of the proposals contained within the new draft Standing Orders. He nevertheless highlighted 30 instances, certain of which were consequential upon other amendments, where, in his view, the Standing Orders could be refined.

The Committee, having reviewed each of the suggested amendments and considered representations from Senator S. Syvret, made the following decisions –

1 PAGE 42, STANDING ORDER 10 –

The Committee accepted this amendment.

2 PAGE 43, STANDING ORDER 13 –

The Committee considered that the existing arrangements provided sufficient time for Ministers and their officers to prepare answers to oral questions. Accordingly it declined to accept the amendment.

3 PAGE 45, STANDING ORDER 16 –

The Committee, on reflection, considered that the restriction on statements proposed in P.162/2005 addressed a situation that was unlikely, in practice, to arise frequently. It therefore accepted this amendment.

4 PAGE 45, STANDING ORDER 17 –

The Committee accepted this amendment.

5 PAGE 46, STANDING ORDER 19 –

The Committee recalled that it had elected to include the words ‘Except as provided in any other enactment’ merely as an ‘aide memoire’ for members. Although it acknowledged the view expressed by Senator S. Syvret, the Committee concluded that the wording would not have a material effect on other items of legislation. It therefore declined to accept this amendment.

6 PAGE 47, STANDING ORDER 21 –

The Committee, having concluded that there was considerable merit in the amendment proposed, agreed that it would support Senator S. Syvret’s proposal.

7 PAGE 47, STANDING ORDER 21 –

The Committee expressed concern that this amendment would undermine the impartiality and independence of the Greffier of the States. It considered that Senator S. Syvret’s motivation for bringing such an amendment was linked to his widely reported reservations regarding the rôle of the Bailiff as Speaker of the Assembly. Having concluded that substituting an unelected member for an officer of the Assembly would fail to address the underlying issue, the Committee declined to support the amendment.

8 PAGES 66-67, STANDING ORDER 84 –

The Committee agreed that a notice period of 30 minutes in respect of a closure motion would strike a more democratic balance between the efficient management of public business in the States and the preservation of the right of members to represent their constituents. Accordingly it agreed to accept the amendment.

9 PAGE 74, STANDING ORDER 105 –

The Committee concurred with the views expressed by Senator S. Syvret and agreed that it would accept this amendment.

10 PAGE 75, STANDING ORDER 107 –

The Committee noted that the proposal concerned an issue which had been raised in the States Assembly on several recent occasions. Having reflected on the amendment at length, the Committee concluded that it was for individual members to assess, with the benefit of guidance if necessary, whether a conflict of interest existed. Furthermore, the Committee expressed concern that the mechanism proposed might allow an oppressive majority to exclude a particular member from speaking on matters that concerned that member and his or her constituents. On that basis the Committee declined to support the

amendment.

11 PAGE 77, STANDING ORDER 112 –

The Committee considered that there were clear arguments in favour of both its original proposal and that which had been put forward by Senator S. Syvret; however, it maintained the view that the procedures for election of the future Chairman of the Committee should reflect the undoubted importance of the rôle in the ministerial system of government. The Committee agreed that the Assembly should determine which proposal was most appropriate.

12 PAGES 80-83, STANDING ORDERS 117 AND 118 –

This was regarded as a consequential amendment.

13 PAGE 99, PART 8 –

The Committee considered that the Assembly should make a judgement on the proposed amendment, although it expressed the view that the most appropriate way of addressing this and other related issues would be for the States to sanction a wholesale review of the rôle of the unelected members.

14 PAGE 99, STANDING ORDER 151 –

The Committee's conclusions in respect of amendment 13 applied equally to this amendment.

15 PAGE 99, STANDING ORDER 151 –

The Committee was prepared to accept this amendment; however, it considered that the additional wording merely served to clarify the effect of the Committee's own proposals. It had been intended that members would, at some future date, be supplied with additional explanatory notes clarifying the effect of certain of the more complex provisions within the new Register of Members' Interests.

16 PAGE 99, STANDING ORDER 151 –

The Committee noted that this amendment was merely consequential upon later amendments Nos. 23, 24, 26 and 27.

17 PAGES 99-100, STANDING ORDER 152 –

The Committee's conclusions in respect of amendment 13 applied equally to this amendment.

18 PAGE 100, STANDING ORDER 153 –

The Committee's conclusions in respect of amendment 13 applied equally to this amendment.

19 PAGES 108-110, SCHEDULE 2 –

The Committee's conclusions in respect of amendment 13 applied equally to this amendment.

20 PAGE 108, SCHEDULE 2, PARAGRAPH 1 –

The Committee noted that the Interpretation (Jersey) Law 1954 defined ‘person’ as including bodies of the type referred to in the amendment. It therefore questioned whether the provision was strictly necessary. The Committee nevertheless agreed that it was prepared to accept the amendment.

21 PAGE 108, SCHEDULE 2, PARAGRAPH 1 –

The Committee’s conclusions in respect of amendment 13 applied equally to this amendment.

22 PAGE 109, SCHEDULE 2, PARAGRAPH 3 –

The Committee considered that the amendment served to clarify the purpose of the paragraph concerning share ownership and that a similar explanation would have been included in guidance notes that the Committee intended to publish at the commencement of ministerial government. Accordingly the Committee agreed that it was prepared to accept the amendment.

23 PAGE 109, SCHEDULE 2, PARAGRAPH 4 –

The Committee noted that the proposed amendment would clarify and widen the scope of the provision concerning sponsorship. Although the Committee considered that it was minded to support this amendment, it noted that the amendment would introduce a requirement to declare the actual monetary value of the support received.

24 PAGE 109, SCHEDULE 2, PARAGRAPH 4 –

The Committee noted that the proposed amendment would widen the scope of the provision concerning sponsorship by requiring the member making an entry to reveal the monetary value of the assistance provided. Having recalled that it had previously rejected such a requirement as being unnecessary, the Committee agreed that the issue was a matter for the Assembly to determine.

25 PAGE 109, SCHEDULE 2, NEW PARAGRAPH –

The Committee noted the intention of Senator S. Syvret in bringing the amendment. It nevertheless formed the view that any beneficial interests of particular significance to the electorate would fall into the miscellaneous category of registrable interest as outlined in the existing Schedule 2, Paragraph 8. It further considered that it was difficult to determine how a member could be influenced by being the beneficiary of a trust. The Committee refrained from forming a collective view on this amendment.

26 PAGE 109, SCHEDULE 2, PARAGRAPH 5 –

The Committee agreed that it was prepared to accept this amendment although it noted that it would result in a requirement to declare actual or estimated monetary values.

27 PAGE 109, SCHEDULE 2, PARAGRAPH 6 –

The Committee accepted this amendment.

28 PAGE 109, SCHEDULE 2, PARAGRAPH 7 –

The Committee accepted this amendment.

29 PAGE 109, SCHEDULE 2, PARAGRAPH 7 –

The Committee questioned whether the inclusion of the miscellaneous category of interest at Paragraph 8 rendered the proposed sub-paragraph unnecessary. Although it concluded that the issue was a matter for the Assembly to decide, the Committee expressed reservations at the prospect of members being required to determine whether they were likely to inherit land.

30 PAGE 109, SCHEDULE 2, NEW PARAGRAPH –

Although the Committee acknowledged the intention of Senator S. Syvret in bringing the amendment and expressed support for the underlying principle, it expressed concern that the provision had been drafted too widely. If adopted in its current form, the Committee concluded that members might be required to register magazine subscriptions and small, unprompted donations to charitable organizations. Accordingly the Committee declined to support the amendment as drafted.

Senator S. Syvret, having been thanked by the Committee for his attendance, withdrew from the meeting.

The Committee, with reference to its Act No. A3 of 20th July 2005, subsequently considered the amendment, brought by Deputy J.L. Dorey, to the new Draft Standing Orders of the States of Jersey (P.162/2005Amd refers). It noted that Deputy J.L. Dorey remained of the view that Schedule 2, Paragraph 8, which concerned the miscellaneous category of registrable interest, constituted an unwarranted invasion of members' privacy and that of their families.

The Committee acknowledged the objections raised by Deputy J.L. Dorey. It nevertheless maintained the view that Paragraph 8 would simply require members to make an honest and straightforward assessment of any non-pecuniary interest and to consider whether other persons could reasonably think that the interest would influence their actions as a member. **It therefore agreed to oppose the amendment.**

Finally the Committee considered the amendment, brought by Deputy G.P. Southern, to the new Draft Standing Orders of the States of Jersey (P.162/2005Amd(2). refers). It noted that the amendment would, if adopted, extend the period of time allowed for oral questions to a maximum of 90 minutes. In addition, it would also allow the presiding officer to refuse a move for a closure motion if it appeared to him or her that the proposition was one that had been the subject of a scrutiny review.

Having acknowledged that there had been a number of recent instances where members had either been unable to put topical oral questions or had been unable to probe Committee Presidents effectively during the time available, the Committee agreed that it was prepared to accept the amendment to extend the period of time set aside for oral questions to 90 minutes.

With regard to the matter of closure motions, the Committee considered that the amendment would create a requirement for the presiding officer to exercise a judgement on whether the subject matter of the proposition under consideration had actually been reviewed by Scrutiny Panel directly. **Notwithstanding the foregoing, the Committee agreed that it was prepared to support the amendment.**

The Greffier of the States was requested to prepare draft comments for Committee approval by way of telephone meeting.

Public elections:
Electoral
Registration
Steering Group.
465/1(64)

A2. The Committee, with reference to its Act No. A8 of 1st September 2005, recalled that it had approved a programme of expenditure in connexion with the ongoing electoral registration campaign.

The Committee welcomed Mrs. K. Le Quesne, Communications Consultant, Policy and Resources Department.

Clerk
G.O.S.
T.O.S.
C.I.Aud.

Mrs. K. Le Quesne briefed the Committee on the progress of the electoral registration campaign. It was reported that the campaign had been successful in that the number of registered voters by approximately 8,000 persons; however, feedback received by campaign volunteers had indicated that significant numbers of potential voters were unaware of how or where to vote. Consideration had been given at officer level to methods of addressing this issue and possible solutions identified had included Island-wide mail drops, the inclusion of an insert or a centre-spread advertisement in the Jersey Evening Post newspaper and production of leaflets for distribution by various means. Cost estimates for each option were presented, although it was clarified that take up of the mailing and advertising facilities offered by Jersey Post and the Jersey Evening Post was currently such that spare capacity was limited.

The Committee, having been advised that sufficient funds were available to provide for a limited continuation of the voter registration campaign, concluded that it was prepared to sanction further expenditure up to a maximum of £9,000 in order to facilitate the production of approximately 10,000 leaflets for distribution by various means and also to allow for the production and placement of a double page spread in the Jersey Evening Post prior to both the Senatorial and Deputies elections providing information on how and where to vote.

The Communications Consultant was authorized to take the necessary action.

Draft States of
Jersey
(Amendment No.
4) Law 200-
(P.193/2005).
450(6)

A3. The Committee, with reference to its Act No. A5 of 28th April 2005, recalled that its plans to bring forward reform of the Public Elections (Jersey) Law 2002 had been affected by media coverage of electoral fraud issues in the United Kingdom, the complexities of the electoral system in Jersey and the availability of law drafting time. In addition, and with reference to its Act No. A1 of 27th June 2005, the Committee recalled that it had previously elected to overturn an earlier decision, taken on 3rd May 2005, that electoral expenses incurred by members should be recorded in the Register of Members' Interests.

The Committee considered the Draft States of Jersey (Amendment No. 4) Law 200-(P.193/2005 refers), as lodged 'au Greffe' on 6th September 2005 by Senator S. Syvret.

The Committee welcomed Senator S. Syvret.

Senator S. Syvret advised the Committee that he remained concerned by the absence of electoral expense regulation in Jersey. He contended that other respected democracies had conceded that there was a positive link between campaign expenditure and a candidates chance of being elected to serve as a political representative. He further suggested that the imminent change to a ministerial system of government meant that the need for monitoring and, at a later stage, regulation of election expenses had never been greater, hence his decision to lodge the proposition. Notwithstanding the foregoing, Senator S. Syvret advised that he had considered an

amendment to his proposition brought by Deputy J.L. Dorey of St. Helier (P.193/2005/Amd.) and that he might indicate his acceptance of that amendment.

The Committee was pleased to note that the system proposed by Senator S. Syvret would require minimal administrative support. It nevertheless questioned whether the proposition brought by Senator S. Syvret would address expenditure incurred by political parties and whether the proposal would prove effective in the absence of an enforceable limit on electoral expenditure. The Committee suggested that it might be more appropriate to progress the matter as part of a wholesale review of the electoral system, with particular emphasis on the number of bodies involved in the process. Senator S. Syvret pointed out that expenditure by political parties was effectively unregulated in jurisdictions such as the United Kingdom and the United States of America; however, he observed that expenditure incurred at an individual level by United Kingdom Members of Parliament was regulated. Further concerns were expressed regarding the retrospective effect of P.193/2005 on those candidates standing in the 2005 Senatorial election. Members noted that the related amendment brought by Deputy J.L. Dorey would remove the retrospective effect of Senator Syvret's proposals.

The Committee noted the views expressed by Senator S. Syvret and requested the Greffier of the States to prepare draft comments for Committee approval by way of telephone meeting.

Christmas lunch.

A4. The Committee agreed that it should invite the members and officers of the Legislation Committee to a joint Christmas lunch on Friday 2nd December 2005.

Leg.C.(2)

The Committee Clerk was instructed to make the necessary arrangements.

The Greffier of the States was requested to send a copy of this Act to the Legislation Committee.