

PRIVILEGES AND PROCEDURES COMMITTEE

(100th Meeting)

22nd March 2011

PART A

All members were present, with the exception of Deputy T.M. Pitman, from whom apologies had been received.

Connétable J. Gallichan of St. Mary, Chairman
Senator B.I. Le Marquand
(not present for item Nos. A8 to A10 inclusive)
Connétable P.F.M. Hanning of St. Saviour
(not present for item Nos. A9 and A10)
Deputy J.B. Fox
Deputy J.A. Martin
Deputy M.R. Higgins
(not present for item No. A1)

In attendance -

Connétable J.M. Refault, Assistant Minister for Treasury and Resources
(item No. A2 only)
Ms. L. Rowley, Treasurer of the States
(item No. A2 only)
Ms. M. Washington, Corporate Financial Strategy Consultant
(item No. A2 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 meetings of 28th January 2011 (Part A only); 2nd March 2011 (Part A and Part B); 8th March 2011 (Part A and Part B) and 10th March 2011 (Part A only), having been previously circulated, were taken as read and were confirmed.

Article 18(2)(e) of the States of Jersey Law 2005. 450(12) A2. The Committee received a report dated 17th March 2011 and prepared by the Greffier of the States in connexion with the preparation of draft amendments to Article 18(2)(e) of the States of Jersey Law 2005.

The Chairman welcomed the Treasurer of the States, Ms. L. Rowley; Corporate Financial Strategy Consultant, Ms. M. Washington; and the Assistant Minister for Treasury and Resources, Connétable J.M. Refault in this regard. The Committee noted that the proposed amendments to Article 18(2)(e) of the States of Jersey Law 2005 were intended to introduce longer term financial planning, with a move away from the current annual financial planning cycle. The current requirement in the Law for a draft strategic plan to be lodged by the Council of Ministers within 4 months of their appointment and for subsequent debate was felt to be too prescriptive and it was proposed that this should be amended to introduce greater flexibility.

It was proposed that Article 18(2)(e) be amended on the following lines –

- (2) *The functions of the Council of Ministers shall be –*
(...)
(e) *agreeing and, within [4] months of their appointment under Article 19(7), publishing a statement of their common strategic [policy]/[vision];*

If adopted, it was noted that the Council of Ministers would be at liberty to ask the States to consider its strategic vision ‘in Committee,’ scrutiny would be welcome to scrutinise the content and the Council of Ministers would be able to lodge a proposition in the usual way for States’ approval. None of these options would be mandatory and the final decision on how to proceed would be left to the Council of Ministers.

The Committee received a presentation from the Treasurer of the States outlining the proposed 3-year cycle should the changes be adopted. In March of Year 1 it was proposed that the States would hold an ‘in Committee’ debate in respect of the strategic vision; this would be followed in September by a debate on the medium term financial plan; followed thereafter by a debate on the budget. In Years 2 and 3 it was proposed that the only States debate would be in respect of the budget. Concern was expressed that, under the revised system, the States would continue to plan spending prior to agreeing a budget and it was felt that it may be pertinent to consider debating the budget prior to the strategic plan. The view was expressed that further consideration should also be given to the ability of non-Ministers to influence decisions under the revised procedures. It was also considered advisable in Years 2 and 3 to involve States members in strategic planning, rather than solely in the debate in respect of the budget. It was agreed that States members’ briefings would be an essential element of the process. It was noted that scrutiny would continue to be involved in the process, as at present, but that this had not been written into the legislation. It was suggested that the role of scrutiny in respect of the revised process should be clarified in the Law.

It was intended that the revised procedures would be established prior to the appointment of the new Council of Ministers in November 2011 and it was noted that briefings for States members would take place in respect of the proposed amendments during the week beginning 8th April 2011. The Committee agreed to await the receipt of any further information from the Treasury and Resources Department in respect of the concerns raised by the Committee and any amendments considered following the States members’ briefings. The Treasurer, Ms. Washington and Connétable Refault, having been thanked by the Chairman for their attendance, accordingly withdrew from the meeting.

States Assembly
Annual Report
for 2010.
422/10/1(88)

A3. The Committee received the draft States Assembly Annual Report for 2010.

The Committee received and **approved** the draft section of the report in respect of the activities of the Privileges and Procedures Committee during 2010. Having considered the content of the draft report, the Committee accordingly **approved** the same and requested that any formatting be completed and the final version be presented to the States in the report series in early course.

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

Electoral
Commission.
1240/22/1(59)

A4. The Committee, with reference to its Minute No. A1 of 18th February 2011, considered the implications of the adoption by the States on 15th March 2011 of the proposition: ‘Electoral commission: establishment,’ as amended (P.15/2011 refers).

The Committee noted the scope of the consolidated proposition and amendments, with particular regard to the following paragraph:

“(c) that the Privileges and Procedures Committee, after consultation,

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 is to be funded;”

The view was expressed that due care should be taken to guard against bias in respect of those appointed to serve on the Commission. In this regard, it was noted that the panel which had been appointed to review of the roles of the Crown Officers (R.143/2010 refers) had not included any persons who had previously expressed a public view in respect of the matter and it was felt that this approach could be taken in respect of appointments to the Electoral Commission. The Committee noted that the cost of the Review of the Roles of the Crown Officers had been £158,000.

Various options were discussed in respect of the constitution of the proposed Electoral Commission and it was **agreed** that a matrix detailing the cost of each alternative should be drafted for consideration in early course, inclusive of some provision for the conduct of opinion polls and a referendum, for example. It was agreed that research should be carried out into possible organisations and bodies from which experts could be recruited. It was noted that the requirement under paragraph (c) for the Committee to undertake consultation prior to bringing forward proposals for debate on the composition, cost and funding of the Electoral Commission in advance of the debate on the Annual Business Plan 2012 necessitated some urgency in taking the matter forward. It was agreed that the Committee would consider the broad range of options available prior to undertaking consultation in respect of the preferred option(s). The Committee anticipated that it would not be feasible for the cost of funding the Commission to be met from within the States Assembly budget and it was minded to advise the Treasury and Resources Department to expect a growth bid in respect of the Annual Business Plan for 2012 of between £200,000 and £300,000 to fund the project.

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

Standing Orders
26(7) and 34 of
the Standing
Orders of the
States of Jersey.
450/2/1(50)

A5. The Committee, with reference to its Minute No. A5 of 25th January 2011, received a report dated 15th March 2011 and prepared by the Greffier of the States in connexion with possible amendments to Standing Order 26(7), ‘Minimum lodging period,’ and Standing Order 34, ‘Withdrawing a proposition before debate,’ of the Standing Orders of the States of Jersey.

Standing Order 26(7)

The Committee recalled that it had been approached by the Deputy of St. Martin in January 2011 in connexion with the possibility of amending Standing Order 26(7) so as to lower the strength of the test to be met in order to enable a reduction in the minimum lodging period. The Committee noted the current wording of Standing Order 26(7), as follows:

- (7) *The States may reduce a minimum lodging period in the case of a proposition to amend another proposition if they are of the opinion that the proposition relates to a matter of such urgency and importance that it would be prejudicial to Jersey to delay its debate.*

The Committee discussed whether the Standing Order could be amended to provide that a lodging period could be reduced if a matter was “strongly in the public interest and that it could fairly proceed;” or whether the words “prejudicial to Jersey to delay its debate” could be removed so that the test would simply be that the proposition related to a matter of urgency and importance. The Committee noted that the original intention of Standing Order 26(7) had been to ensure that the minimum lodging period would only be reduced for genuine emergency situations, and that a strict test had therefore been applied. No adjudication on the test was required by the presiding officer and it was simply necessary for the States, by a

majority, to be satisfied that the test had been met. The Committee was concerned that a lesser test could result in it becoming commonplace for the Standing Order to be used to reduce lodging periods. In addition, valuable time could be wasted if there were frequent requests and votes considered under the Standing Order. After some discussion, the Committee agreed that the current wording was adequate and should remain.

Standing Order 34(1)

The Committee also considered the Deputy of St. Martin's suggestion that the leave of the Assembly should be required prior to a proposition being withdrawn in accordance with Standing Order 34(1). The Committee had regard for the content of Standing Order 34(1), as well as for the provisions of Standing Order 69(4), which stated that, once the debate on a proposition had been opened, the proposer could only withdraw it with the agreement of the States. The Committee noted that the Deputy of St. Martin's suggestion appeared to have arisen from concerns relating to the withdrawal of an amendment during a debate. The Committee considered that it would be difficult to suggest that Standing Order 34(1) should be amended to prevent any member from withdrawing a proposition before debate, as it would be counterproductive to oblige a member to propose something that he or she did not wish to propose. The Committee also considered whether an amendment to Standing Orders should be brought to provide that no amendments to propositions could be withdrawn once the debate on the proposition itself had begun. The basic underlying difficulty would remain if this happened, namely that the proposer of the amendment who wished to withdraw would be obligated to propose his or her amendment. It was suggested that the circumstances which had given rise to the Deputy's concerns could be avoided if members were able to lodge an amendment in the same terms as an amendment previously lodged by another member. It was therefore **agreed** that the Greffier of the States should consult the Bailiff with regard to the possibility of allowing more than one amendment to be lodged in the same terms so that, should one such amendment be withdrawn, it would remain possible for the matter to be debated. Upon the proposal on the floor of the Assembly of such an amendment it was agreed that all other amendments in the same terms should fall away. The Greffier of the States was requested to take the necessary action with a view to the matter being discussed further at a future meeting.

The Chairman was requested to write to the Deputy of St. Martin with regard to the Committee's decisions not to propose amendments to Standing Orders 26(7) or 34(1) at the present time. The Committee Clerk was requested to take the necessary action.

Public elections:
voting on Sunday
16th October
2011.
P.40/2011
424/2(73)

A6. The Committee received the proposition 'Public elections: voting on Sunday 16th October 2011,' lodged *au Greffe* on 15th March 2011 by Deputy T.M. Pitman of St. Helier (P.40/2011 refers).

The proposition asked the States to agree that the elections for Senators, Connétables and Deputies should be held on Sunday 16th October 2011 instead of Wednesday 19th October 2011; and that the Privileges and Procedures Committee should be requested to bring forward for approval the necessary Regulations under Article 17(2)(a) of the Public Elections (Jersey) Law 2002 to give effect to the decision.

The Committee recalled the comments of the Public Elections Working Party in respect of the possibility of moving to a weekend election (R.94/2010 refers) and **agreed** that this section of the Working Party's report should be circulated in the form of a comment for members' consideration. The Committee recalled that the States had recently approved a series of amendments to the Public Elections (Jersey) Law 2002 (P.14/2011 refers), which were likely to have an impact on voter turn-out, as well as the number of postal and pre-poll votes received during the forthcoming elections in October 2011. The Committee was of the view that it

would be easier to measure the impact of those agreed changes if they were brought about in isolation, with the move to a weekend election being trialled at a later date so that an effective comparison could be drawn. It was **agreed** that a comment should be drafted in respect of the proposition 'Public elections: voting on Sunday 16th October 2011' and circulated for the Committee's approval.

The Committee Clerk was requested to take the necessary action.

Freedom of
information:
implementa-tion
plan.
P.41/2011
670/1(32)

A7. The Committee received the proposition: 'Freedom of information: implementation plan,' lodged *au Greffe* on 16th March 2011 by Deputy R.G. Le Hérissier of St. Saviour (P.41/2011 refers).

The proposition asked the States to agree to request the Chief Minister to present an implementation plan to the States before 30th June 2011 so as to ensure that the draft Freedom of Information (Jersey) Law 201- (P.39/2011 refers) would be fully implemented by the end of 2015. The Committee recalled that the Deputy had presented a similar proposition to the States in October 2010 (P.145/2010 refers) in response to the lodging of the previous version of the Freedom of Information (Jersey) Law 201- (P.101/2010 refers). Both propositions had subsequently been withdrawn in anticipation of certain amendments being made to the draft legislation. It was noted that the Committee had not presented a comment to the States in respect of P.145/2010, and it was **agreed** that it did not wish to present a comment to the States in respect of the current proposition: 'Freedom of information: implementation plan' (P.41/2011).

States sittings:
continuation
days.
1240/2(79)

A8. The Committee received electronic correspondence dated 9th March 2011 and addressed to the Chairman of the Committee from the Deputy of St. Martin in connexion with States continuation days.

The Committee noted the Deputy's concern that problems could arise when all the business on the Order Paper was not completed within a 3-day sitting. The Deputy was accordingly minded to bring an amendment to include certain Fridays as continuation days, and had referred the Chairman to an amendment which he had brought on 20th September 2005 to the proposition 'Meetings of the States in 2006' (P.199/2005 refers), which amendment had added a series of Thursdays to the proposed continuation days for States sittings that year. The Chairman advised the Committee that she had spoken to the Deputy in this regard, and had agreed to advise members that they may be required to set aside some Fridays as continuation days during the forthcoming months.

The position was **noted**.

Political
Education -
Education, Home
Affairs Scrutiny
Panel.
S.R.14/2010
516/23(6)

A9. The Committee, with reference to its Minute No. A9 of 8th March 2011, received 2 further recommendations arising from the report of the Education and Home Affairs Scrutiny Panel entitled 'Political Education' (S.R.14/2010 refers).

Following the receipt of responses from the Minister for Education, Sport and Culture, the sub-panel had referred recommendations 3 and 7 to the Committee for consideration.

Recommendation 3

This recommendation proposed that the Committee should be involved in the provision of information packs to those registering for work or income support, including details on the political system, culture and history of the island. In addition, it was suggested that familiarisation programmes should be encouraged for those new to the island, as well as any other residents. The Committee noted that, in accordance with Standing Order 128, it was responsible for the provision of information to the public about the work of the States. Information leaflets covering a range of areas including the history of the States and its procedures were presently produced by the States Greffe, being made available to all teaching staff and for

collection by members of the public. The Committee did not consider that it was within its terms of reference to be responsible for running familiarisation programmes for those who were new to the Island.

Recommendation 7

This recommendation suggested that a formal mechanism should be developed for schools to register students and forward details onto parish halls in advance of their 16th birthdays. The panel had also requested that consideration be given to amending the registration procedures so as to allow those who turned 16 years of age after the voting registration cut off, but before election day, to vote. It was noted that the cut-off date in respect of the forthcoming 2011 elections was noon on 5th September 2011, in accordance with the provisions of Article 12(1A) of the Public Elections (Jersey) Law 2002. A cut-off date was necessary in order to allow for the preparation of the register to be published and made available to the Judicial Greffier, the Autorisés, Adjoints and candidates in accordance with Article 12(2) of the Law. The Committee discussed whether it would be feasible to move the cut-off date for registration closer to the election. It was noted, however, that there would always be individuals who would fall on the wrong side of the cut-off date, however close it fell to the elections. It was considered that it would be necessary for any such change to be applied to all individuals qualified to register in accordance with the Law, for example those completing their 2 years residence, and not just in respect of those turning 16 years of age. The Committee considered that it would be preferable instead to consider the introduction of a supplementary cut-off date which would enable young people to pre-register in advance of turning 16 years of age. The Committee **agreed** to give further consideration to this option at a future meeting. Due to time constraints it would not, however, be possible to make any changes to legislation to affect the 2011 elections.

The Chairman was requested to write to the Chairman of the Education, Home Affairs Scrutiny Panel in the above terms. The Committee Clerk was requested to take the necessary action.

States members' training.
P.34/2011.
465/1(165)

A10. The Committee received the proposition: 'States members' training,' lodged *au Greffe* on 8th March 2011 by Deputy M. Tadier of St. Brelade (P.34/2011 refers).

The proposition asked the States to request the Privileges and Procedures Committee to establish a training programme which would be available to all States members to provide ongoing skills training in relation to delivering speeches and general debating skills. According to the report accompanying the proposition, the main incentive behind the proposition had been the decision of the States to adopt the proposition of Senator P.F. Routier to introduce maximum time limits for speeches (P.1/2011 and Minute No. A16 of the Committee's meeting of 8th March 2011 refer).

The Committee recalled that induction training was provided to all States members and covered a wide range of areas including debating procedures, questions, propositions and etiquette and behaviour in the States Chamber. Specific question training was also provided to scrutiny members. It was thought to be a reasonable assumption that, upon election to the States Assembly, a person should have a reasonable expectation that they would be required to make speeches as part of their rôle as a States member. The Committee therefore **agreed** that, while it was content to investigate possible training options and programmes for States members, it did not consider that the cost of this training should be met from the Committee's budget. Rather, it was agreed that any training costs should be met by individual members. The Committee recalled that the States had taken the *in principle* decision on 3rd March 2011 to introduce maximum time limits for speeches (P.1/2011 refers); that this matter was currently under consideration by the Committee; and that it had no comment to make in this regard. It was **agreed** that a comment should be drafted in the above terms, for approval and presentation to the

States in early course.

The Committee Clerk was requested to take the necessary action.

Review of the
Role of the
Crown Officers
“Carswell
Review”: in
Committee
debate.
R.28/2011
499/3(22)

A11. The Committee, with reference to its Minute No. A1 of 14th March 2011, received draft correspondence addressed to all States members from the Chairman in connexion with the ‘in Committee’ debate scheduled to take place on 29th March 2011 in respect of the report presented to the States by the Committee on 14th March 2011 entitled: ‘Review of the Role of the Crown Officers “Carswell Review”: in Committee debate’ (R.28/2011 refers).

The Committee recalled that it had requested the Chairman to draft a document outlining the arguments for and against the various options arising from the recommendations made by the review panel in its report R.143/2010. The draft correspondence advised members that the debate was intended to represent the first stage in the process of considering the recommendations of the Carswell review. The correspondence also advised of the intention to focus upon the recommendation in relation to the role of the Bailiff, which suggested that the Bailiff should no longer be President of the States but should remain as civic head of the Island, a recommendation which the Committee and the Council of Ministers considered to be unworkable. It was noted that the correspondence established a series of 3 questions upon which to base the debate on 29th March 2011. The Committee, having noted the content of the draft correspondence, accordingly **approved** the same, and requested that it be sent to all States members in early course.

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

Public elections:
extension of pre-
poll voting
arrangements.
P.42/2011
424/2(74)

A12. The Committee received the proposition: ‘Public elections: extension of pre-poll voting arrangements,’ lodged *au Greffe* on 22nd March 2011 by Deputy J.M. Maçon of St. Saviour (P.42/2011 refers).

The Committee noted that the proposition asked the States to agree to extend the provisions under the Public Elections (Jersey) Law 2002 so as to allow the Judicial Greffier to take pre-poll votes from the spouse or carer of ill, disabled or illiterate voters at the same time as taking the vote of the ill or disabled voter who had requested the pre-poll vote. The Committee **agreed** that it was not minded to make a comment in respect of the proposition.

Work
programme.

A13. The Committee received its ongoing work programme, with particular regard to the following:

Election Expenses

It was noted that draft triennial Public Elections (Expenditure and Donations) (Jersey) Regulations 201- would shortly be available for the Committee’s consideration. It was **agreed** that an additional meeting should be held on Thursday 31st March 2011 at 1 pm to discuss the draft Regulations, as well as to give further consideration to the establishment of an Electoral Commission (Minute No. A4 of the present meeting refers) and any other matters arising.