

PRIVILEGES AND PROCEDURES COMMITTEE

(50th Meeting)

9th June 2005PART A

All members were present, with the exception of Senator P.V.F. Le Claire and Deputy J-A. Bridge, from whom apologies had been received.

Deputy R.G. Le Hérisier
 Connétable D.F. Gray
 Deputy P.N. Troy
 Deputy C.J. Scott Warren
 Deputy J.A. Bernstein

In attendance -

M.N. de la Haye, Greffier of the States
 Mrs. A.H. Harris, Deputy Greffier of the States
 P. Monamy, Senior Committee Clerk

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

Minutes.

A1. The Minutes of the meeting held on 6th May 2005 (Part B only), having been previously circulated, were taken as read and were confirmed.

Public elections:
 forthcoming
 elections - postal
 voting integrity,
 voter registration
 and turnout.
 1148(41)

A2. The Committee, with reference to its Act No. A4 of 19th May 2005, considered possible approaches on various issues in connexion with forthcoming elections, including postal voting integrity and voter registration and turnout.

The Committee welcomed to the meeting Jurats J.L. Le Breton and G.C. Allo, together with the Mr. K.P. Vibert, Connétable of St. Ouen; Mrs. S.R. De Gruchy, Secretary to the Comité des Connétables; Advocate P. Matthews, Deputy Judicial Greffier; and Mrs. K. Le Quesne, Communications Consultant.

Clerk
 G.O.S.

The President outlined the Committee's responsibility for the Public Elections (Jersey) Law 2002 and subordinate Regulations and indicated that the matters presently under consideration would ultimately require amendments to the primary Law as well as to the Regulations. The Committee confirmed that it was prepared to co-ordinate the ongoing review activities.

Jurat Le Breton expressed appreciation on behalf of the Jurats for having been afforded the opportunity to participate in the ongoing work, as they wanted to be able to ensure that all necessary preparatory work for each election had been carried out satisfactorily. For their part, it was confirmed that the Jurats welcomed the agreement which had been reached on various matters, very much in line with the Working Group's recommendations, although it was emphasised that Article 12 of the Law ("Electoral register in force for an election") remained of concern, as did the absence of a requirement for stating a reason for an individual applying for a Postal or Pre-Poll Vote. It was recognised that a balance needed to be struck in relation to the

apparent contradictions between traditional voting methods and the acceptance of Pre-Poll Voting for any reason. It was agreed that some cut-off point for registration on to the Supplementary List was needed, especially in respect of individuals who might have moved from one Parish to another. Jurat Allo commented that a Central Registry would have been preferable and suggested that some of the administrative tasks supporting the election needed to be 'fine-tuned.'

The Deputy Judicial Greffier, having outlined his department's responsibilities in respect of Postal and Pre-Poll Voting, indicated that he considered the present safeguards for Postal Voting to be satisfactory. The Judicial Greffe was content that the Connétables did a good job in handling their administrative roles in respect of polling stations. For its part, the department did not send applications for Postal Voting to the address of any political headquarters or to any employer.

The Connétable of St. Ouen confirmed that the proposed computer programme to assist in the electoral process had yet to be developed as a relevant computer system was still to be identified by the Consultants commissioned for the purpose by the Comité. Consequently, the Parishes proposed to utilise the existing system, which meant that registration forms would be sent to all known households in the Island, although there was a possibility that currently registered households might be able to be identified through the States' Computer Services Department. It was emphasised that, whilst the Parishes were content to accommodate late entries for registration, some cut-off for the acceptance of forms would be required. It was suggested that it might be possible to set different cut-off dates for Postal and/or Pre-Poll registration. The Secretary to the Comité des Connétables asked whether the meeting's discussion centred on the arrangements for the forthcoming elections in the autumn of 2005 or for the future. Under existing arrangements, some 40,000 electoral registration forms were due to be sent out by the Parishes by the end of June 2005 in conformity with the current Law. There was some concern amongst the Parishes regarding the incidence of duplication which would occur whereby many of the recipients of the registration forms would already have been registered, although there was an element of 'rolling registration.' Despite the potential for confusion, the Parishes considered that it would be preferable to ask people to register again rather than run the risk of their not being registered to vote at all.

The Communications Consultant outlined proposals to establish temporary centres in St. Helier at which potential voters would be able to check their registration on the electoral roll. It was noted that the Connétables were empowered to determine whether and under what circumstances the register could be made available for inspection. The Connétable of St. Ouen commented that it was evident that not all registered voters wished their details to appear on the electoral register. It was suggested that, rather than send out blank forms for completion, it would be preferable to send out such information to individuals as might be held on computer for verification or updating by the recipient.

It was recognised that in the lead-up to the forthcoming elections it was intended that the existing electoral arrangements would be complemented and built upon, with an awareness campaign designed to raise the profile of the electorate's right to vote through encouragement of a sense of citizenship. The Committee agreed that to support these aims, a Working Group should be established to assist the work of the Communications Consultant. Deputy Troy reported that feed-back to date from his ongoing work had been generally positive, with the main points raised having been in relation either to the maintenance of the 8 a.m. opening of polling stations; or else its replacement with more readily accessible Postal and/or Pre-Poll Voting. **The Committee decided that the terms of reference for the Working Party should be, as a priority, to examine the issues pertinent to the autumn 2005 elections in**

order to determine what changes could be achieved in time for the forthcoming elections; and also to consider what might be appropriate for the longer-term.

The Committee accordingly appointed Deputy Troy as Chairman of the Working Party and Deputy Bernstein as a member, together with Jurat Le Breton, Advocate Matthews, the Secretary of the Comité des Connétables and a Connétable representative of the Comité.

Recognising that it would not be possible to implement in time for the autumn 2005 elections all the reforms likely to be identified through the ongoing process, the meeting considered what action could be taken (either formally or informally) in order to assist the overall electoral process. Having discussed a number of possibilities, the Jurats and the Deputy Judicial Greffier agreed to do what they could to encourage participation and to improve the situation within the constraints of the existing Law. In relation to the desirability for electoral forms in the Portuguese and Polish languages also being sent out by the Parishes, it was recognised that it was very late in the process to include additional material in the imminent mail shot package.

Public elections:
voter turnout.
1148(40)

A3. The Committee noted a letter, dated 26th May 2005, from Mr. R. Boleat, President of the Jersey Association of Trust Companies (together with the President's reply dated 1st June 2005), concerning suggestions as to how the number of people who voted could be increased.

Clerk
G.O.S.

The Committee noted that Mr. Boleat had been thanked for his suggestions and had been informed that one of the first issues to be addressed by the Committee was to be the complex electoral structure. In addition, the President had indicated that, given the limited time to the elections, the Committee would aim initially to increase voter registration and, concurrently, would set up a reform group to consider overall reforms.

Consulting the
public: Policy
and Resources
Committee
discussion and
draft consultation
papers.
465/1(37)

A4. The Committee considered an Act dated 7th April 2005 of the Policy and Resources Committee concerning the way in which discussion and draft consultation documents would be presented under the ministerial system.

Having also noted a letter, dated 19th May 2005, from the President of the Policy and Resources Committee inviting the views of the Privileges and Procedures Committee on the draft document entitled "Consultation with the people of Jersey - discussion and draft consultation papers", the Committee considered its response.

Clerk
G.O.S.
C.E., P&R
P.R.E.O.
P.R.C.C.

It was agreed that there might be some confusion caused by moving away from the United Kingdom system of 'green papers' and 'white papers', although the individuality of the Island in such matters was recognised. It was emphasised that adequate time between the production of the two consultative papers would be required and noted that Scrutiny might wish to consider some matters at both stages. It was felt that the involvement of Scrutiny at an early (but not too early) stage should obviate the need for any significant delay later on. Above all, the referral of a matter to Scrutiny was an important feature of the overall process and it was considered that the views of Scrutiny should not be ignored but taken fully into account.

The Committee recalled that it had been impressed by the thoroughness of the system of consultation operated by the Scottish Parliament. The Committee agreed that there would be merit in ensuring that a complete list of those consulted and/or those who had responded to the general invitation to submit their views was included at each successive stage. It was further agreed that the consultative papers should be written in clearly understood language, supported by such explanatory information as might

be required at any public meetings. It was recognised that such public meetings were viewed by some with cynicism, although it was considered that these could be crucially important to the overall process, particularly as access should be granted to all available relevant details.

The Committee recognised that a somewhat different situation would pertain from 2006 onwards whereby there would be as many as 30 members of the States not involved in the Executive. Whilst the Chairman's Panel would undoubtedly produce an updated programme of potential scrutiny reviews for the future, the Committee emphasised that this would need to be in broad outline so as to take account of the views of those members who would be appointed to Scrutiny in the new Assembly.

The Greffier of the States was directed to send a copy of this Act to the Policy and Resources Committee.

Shadow Scrutiny
process:
operation.
502/1(46)

Clerk
G.O.S.

A5. The Committee considered a letter dated 24th May 2005 from Deputy R.C. Duhamel, Chairman of the Scrutiny Chairmen's Committee, concerning the requirement, as stated in the proposition entitled 'Shadow Scrutiny: Arrangements and Approval of Chairmen and Members' (Projet No. P.186/2003 refers), for the Privileges and Procedures Committee to report to the States on the operation of the Shadow Scrutiny process.

The Committee recalled that it was required to report, after consultation with the Chairman and members of the Shadow Scrutiny Panels, at not less than 5 months before the introduction of ministerial government. In the view of the Chairmen's Committee, however, the above-mentioned deadline was not achievable. Instead, the end of September 2005 was proposed as a realistic target for presentation of a suitable report to the States.

The Committee agreed that it should support the proposal of the Chairmen's Committee to extend the deadline on the basis that it would allow for a full evaluation of the process and the production of a thorough report. The Committee further agreed that it would helpful for a statement to be made in the States and requested the President to take the necessary action.

Shadow Scrutiny:
Panel review of
Goods and
Services Tax
(GST).
502/5/14(1)

Clerk
G.O.S.
C.E., P&R
P.R.E.O.
P.R.C.C.
T.O.S.
C.I.Aud.
F.E.C.C.

A6. The Committee, with reference to its Act No. A5 of 12th April 2005, recalled that the Shadow Scrutiny Panel chaired by Deputy R.C. Duhamel had decided to conduct a review of the proposed introduction of a goods and services tax in Jersey.

The Committee considered a letter dated 25th May 2005 from Senator F.H. Walker, President of the Policy and Resources Committee, outlining his concerns regarding the behaviour of the Scrutiny Panel on the Goods and Services Tax (GST) in appointing Mr. R. Murphy as an adviser. It was contended by the President of the Policy and Resources Committee that the adviser in question was recognised as a holder of extreme views on the subject of offshore finance centres which, it was suggested, would fundamentally undermine the concept of independent and impartial scrutiny. Furthermore, it was suggested that the appointment ran the risk of damaging the Island's international reputation and standing.

The Committee agreed that the Shadow Scrutiny Panel should be permitted to proceed with its appointment on the basis that it was understood that a further adviser was to be appointed who would balance any 'extreme' views which might be expressed. In any event, it was recognised that such appointments would be required to be made in accordance with States Treasury Code of Direction No. 27 ('Engagement and Use of Consultants') and that Scrutiny Panels were entitled to choose whatever expertise they considered to be

appropriate. It was noted that once the Island's system of Scrutiny had been in operation for a period of time, a list of relevant consultants would emerge from which successive Scrutiny Panels would more easily be able to select. From the Committee's perspective, it was aware of the need for there to be a robust selection process and it urged the Scrutiny Panels to ensure that such a process was adopted.

The President was requested to write to Senator Walker, and the Greffier of the States was directed to send a copy of this Act to the Policy and Resources and Finance and Economics Committees.

Shadow Scrutiny:
Conflict of
Interest Report -
interpretation of
Chairmen's
Committee.
502/5/3(1)

A7. The Committee, with reference to its Act No. A6 of 3rd May 2005, considered a letter dated 23rd May 2005 from Deputy R.C. Duhamel, Chairman of the Chairmen's Committee, responding to the President's letter concerning the Conflict of Interest Report which had arisen from the Review into the Agri-Environment Scheme.

Clerk
G.O.S.

The Committee noted that the Chairmen's Committee had interpreted the President's letter as indicating that, in the event that a person were to make a declaration of conflict interest, the Scrutiny Panel would decide whether to continue seeking evidence from that person. In addition, the Panel would also make a statement in its final report that a conflict of interest had been declared.

The Committee also noted that the Chairmen's Committee believed that it would be inappropriate for there to be a third party assessment of a declared conflict of interest.

Draft Data
Protection
(Elected
Representatives)
(Jersey)
Regulations 200-
939/1(61)
939/22(1)

A8. The Committee, with reference to its Acts Nos. A4 of 28th April 2005 and A11 (e) of 19th May 2005, recalled that it had discussed with the Data Protection Registrar the possibility of adding detailed advice on the obligations of Members in connexion with data protection to the Members' Handbook. During the course of those discussions the Committee had become aware of the existence of the draft Data Protection (Elected Representatives) (Jersey) Regulations 200-.

The Committee welcomed Deputy J.L. Dorey of St. Helier.

Clerk
G.O.S.
D.P.R.
T.O.S.
C.I.Aud.
F.E.C.C.

The Committee discussed with Deputy J.L. Dorey the draft Data Protection (Elected Representatives) (Jersey) Regulations 200-, which would prescribe 4 sets of different circumstances that concerned elected representatives and in which the tenth condition set out in Schedule 3 (relating to sensitive personal data) of the Data Protection (Jersey) Law 2005 might be satisfied. It was noted that the Regulations were of assistance to Members in that they served to describe the circumstances applicable to the processing of sensitive personal information by elected representatives.

Deputy Dorey acknowledged that certain Members were comparatively wary of the complexity of Data Protection matters generally. He nevertheless believed that the Data Protection Registrar had done her best to provide for all members of the States an outline of the rationale and workings of the proposed new legislation. Although there had apparently been some confusion as to whether all States members had received the relevant information, it was now evident that this had indeed been sent to them.

The Committee agreed that the production of a 'layman's guide' to accompany the draft legislation would be helpful, particularly when it came to be lodged 'au Greffe' in due course by the Finance and Economics Committee, following the ongoing period of consultation. In view of the Deputy's interest in the matter, the Committee was pleased to note that he had prepared a suggested draft

report to accompany the projet and had sent it to the Data Protection Registrar for her information.

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

States members' responsibilities: discussion with Data Protection Registrar.
939/1(61)

A9. The Committee, with reference to its Acts Nos. A4 of 28th April 2005 and A11 (e) of 19th May 2005, discussed with Deputy J.L. Dorey a letter, dated 23rd May 2005, from the Data Protection Registrar which responded to a letter from the President dated 12th May 2005.

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

The Committee noted clarification by the Data Protection Registrar of a number of points in relation to members' appreciation and understanding of their rights and responsibilities under the Data Protection (Jersey) Law 2005. The Committee noted that the Data Protection Registrar was very happy to assist and advise wherever she was able to so do but that, ultimately, it was for those who were subject to the Law to comply with it.

The Committee considered that, in relation to the draft Data Protection (Elected Representatives) (Jersey) Regulations 200-, it would have been helpful to States members for the Finance and Economics Committee to have been somewhat more proactive in its approach towards bring the proposals to the attention of members.

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

Electoral expenses: reporting and regulation.
424/2(13)

A10. The Committee, with reference to its Act No. A2 of 12th April 2005, recalled that Deputy J.L. Dorey of St. Helier had submitted his response to the consultation undertaken by the Committee in relation to electoral expenses.

Clerk
G.O.S.

The Committee welcomed Deputy J.L. Dorey. It noted the Deputy's further comments that -

- (a) the amount of money spent by a candidate on an election would inevitably have an effect on the result; and
- (b) no last minute (within 48 hours of polling) expenditure should be allowed, with a candidate's expectations regarding expenditure to be stated in advance (as after the election had been held was considered to be too late).

The Committee recalled that it had previously decided, in the interests of striking an appropriate balance between transparency and administrative cost, to require successful candidates to file, for publication, a declaration of expenses incurred (or a reasonable estimate of the value of benefits in kind received) in connection with their electoral campaign. This was to be achieved by including such information in the "Register of Interests of Elected members". The proposal was to be incorporated in the draft amendments to the Standing Orders of the States of Jersey presently under consideration.

Matters for information.

A11. The Committee noted the following matters for information -

- (a) a list of Committee actions and matters arising from previous meetings;
- (b) a letter, dated 31st May 2005, sent by the President to the President of the Economic Development Committee seeking information as to the

status of a proposal to establish a financial services ombudsman;

- (c) a letter, dated 31st May 2005, sent by the Vice-President to all Committee Presidents and Chief Executive Officers inviting an urgent response indicating whether they had resource concerns in relation to the proposal to introduce a 'Freedom of Information' law to replace the present Code of Practice on Public Access to Official Information; and,
- (d) an Act, dated 3rd May 2005, of the Finance and Economics Committee indicating its agreement that any additional funding required for "Liberation 60" and Royal Visit celebrations should be a first call against the Policy and Resources Committee's 2005 carry forward balance.

States Building:
security.
1060/5(176)

A12. The Committee, with reference to its Act No. A6 of 19th May 2005, noted with concern that issues relating to security arising from potentially unauthorised use of the States Building, Royal Square, St. Helier had been raised in the States on 7th June 2005.

Clerk
G.O.S.
States (2)

It was becoming increasingly clear to the Committee that members of the States were allowing research assistants, friends, associates and members of the public to gain access to the States Building and to use the facilities which had been installed for the convenience of members. While the Committee accepted that Members should feel free to utilize the available meeting rooms for the purposes of meeting with constituents, it had expected that any guests would be accompanied by that Member at all times. The President had indicated to the States that the Committee would examine this matter and that he intended to recommend very strongly that guidelines be issued.

The Committee decided to establish a Working Party to consider the issues involved (including the security of the States Building and adjacent areas, use of the premises by non-States members, confidentiality and unaccompanied visitors) and appointed Deputy J.A. Bernstein as Chairman of the Working Party. It was agreed that an approach should be made to Deputies J.B. Fox and C.H. Egré inviting their membership on the Working Party, on the basis that the investigation should be concluded as swiftly as possible.

The Committee requested the President to make a statement to the States on 21st June 2005, which would include the terms of reference for the Working Party's task.

Dean of Jersey:
Comments of
Catholic Church.
450/1(8)

A13. The Committee noted a letter, dated 11th May 2005, addressed to the President from Canon N.J. France and the Reverend David Coote of the Catholic Church in Jersey, Diocese of Portsmouth.

Clerk
G.O.S.

The Committee noted that a number of questions had been raised with regard to the role of the Anglican Dean in Jersey, involving the Island's Liberation Day celebrations and also the patronage claimed for the appointment of the Chaplain to the Prison and to the Hospital.

Having noted that it was being suggested that it would be helpful to the church leaders in the Island for clarification to be provided in respect of the position of the Dean in these matters (preferably prior to the forthcoming appointment of a new Dean), the Committee requested the President to respond to the Catholic Church indicating that the Committee was aware of the concerns raised in relation to the Liberation Day celebrations but that it considered that such

matters should more appropriately be referred to the Bailiff.

With regard to the other aspects of the correspondence, the Committee recognised that a report and proposition entitled “Dean of Jersey: cessation of membership of the States” (P.49/2005) had been presented to the States in March 2005 but withdrawn shortly afterwards. In the circumstances, the Committee did not consider that this was a matter which it would be appropriate for it to engage.

The President was requested to take the necessary action.