

2019.01.15

**12 Senator S.Y. Mézec of the Chairman, Privileges and Procedures Committee regarding how questions from elected States Members are either approved or disallowed: [OQ.9/2019]**

Will the chairman explain what consideration, if any, his committee has given to the provisions of Standing Orders which govern how questions from elected States Members are either approved or disallowed? Will he undertake to consider an amendment to Standing Orders that would explicitly allow Members a right of appeal when they believe Standing Orders have been wrongfully enforced in disallowing a question?

**Deputy R. Labey (Chairman, Privileges and Procedures Committee):**

The short answer is none but I am happy to pursue this with P.P.C. if the Senator wishes. I would just say that it is overwhelmingly the norm in Parliaments throughout the world, especially those based on the Westminster system, that the Presiding Officer is the final arbiter of what goes on in the debating chamber and a spectacular example of which we saw last week with Speaker Bercow. It is difficult, is it not, to imagine who else might undertake that role? It would be wrong, would it not, to farm it out to an outside body? I do understand the Senator's frustration. I have been there myself but on those occasions I was invited by the Presiding Officer to go and talk to him and meet with him and discuss it; that is a form of appeal to be heard. On those occasions I have always found it very courteous and respectful and informative and educative, it was nothing like a visit to the headmaster's office, about which I have much experience.

**3.12.1 Senator S.Y. Mézec:**

Likewise, I have much experience of that too. It is, of course, the case that in Westminster Parliaments that the Presiding Officer has the final say but it is also the case that in Westminster Parliaments the Presiding Officer is elected by the membership of that Parliament and is also a judge. The question that I attempted to ask, which I am not asking the chairman to answer now but the question that I attempted to have lodged was this: "Following the announcement that the current Bailiff will retire at the end of this year, will the chairman state what involvement, if any, he has had in the appointment of a new Presiding Officer for the States Assembly and what involvement, if any, he will have in the appointment of a new Deputy Presiding Officer, once the current Deputy Bailiff has become Bailiff? Secondly, whether it is his assessment that the current appointment process is satisfactory and, if not, what changes will he be seeking to have implemented?" Would the chairman indicate whether he believes that it is appropriate for the Bailiff to be ruling on questions that are to do with his office, when there is no right of appeal, given that it is such a fundamentally important institution in this Island, both in this Parliament and in the courts?

**The Bailiff:**

If I may help you, Chairman, there is nobody else to rule on it; that is the system

**Deputy R. Labey:**

It is wonderful to be back living the dream in this Chamber. At the moment, as I said, the Presiding Officer is the ultimate arbiter of what happens in this Chamber, including approving questions. That is the situation at present. It will be that the States will be asked to consider proposals as regards the future role of the Bailiff and the dual role of the Bailiff. No doubt in those debates that will shortly be upon us, these sorts of questions will arise and be debated and discussed.

### **3.12.2 Deputy M.R. Higgins:**

Can I ask the chairman if he is going to look at the questions that are being put by Members, also look at propositions put forward, again, because similar problems have arisen in the past?

### **Deputy R. Labey:**

What P.P.C. does is respond as quickly as it possibly can to representations, usually in written form or an email, from Members. Just at the last December meeting we had 2 such communications: one we felt we just had to dismiss and it was about questions; and one you will know from the Bailiff's ruling this morning, we took swift and decisive action on. The P.P.C. is open to discussing any issue about the business of this House, which Members wish it to do.

### **3.12.3 Deputy M. Tadier:**

Lord Carswell said that the Speaker of any Assembly should be the servant of the Assembly and it follows from that that when there is a decision about which a Member may disagree, there might perceivably be some form or mechanism by which to contest that; an appeals process, if you like. What mechanisms do exist in the Jersey context where a Member feels aggrieved that a decision has not been the correct one? Is it anything other than a vote of no confidence or a vote of censure in the decision making?

### **Deputy R. Labey:**

As I said in my first answer, the Presiding Officer is always open and his door is open to Members who have an issue or a problem with one of his rulings. One is, as a matter of form, I believe, invited to attend upon the Bailiff and that is a form of appeal and a useful and interesting discussion will ensue, I am sure. I am not, I have to be honest, exactly sure of what is in the statute as regards appeals that the Deputy is chasing here.

### **3.12.4 Deputy M. Tadier:**

Is it not also the case that in the absence of the Bailiff or the Deputy Bailiff the Greffiers start to chair this Assembly and they do routinely on a day-to-day basis, effectively making the decisions about what questions are in order and what other items are in order? Obviously, in the absence of any Bailiff Chair, that it will be Greffier staff who are making those decisions. Why can it not be that, ultimately, the Greffier's decision on whether questions are in order or not should be taken and then can be appealed in that way?

### **Deputy R. Labey:**

That is a view and many of the questions and propositions will pass through the Greffier's office quite swiftly without reference to the Presiding Officer. But occasionally the Greffier will find something which he is grateful of the opportunity to clear with the Presiding Officer, if it is a contentious point.

### **3.12.5 Senator S.Y. Mézec:**

There were helpful comments made earlier in the Assembly about Members being protected from interference when carrying out their duties. Does the chairman consider it right that an elected Member can be prevented by an unelected Member in trying to fulfil their mandate, which is to challenge not just the people but the processes that affects the governance of this Island? Does he consider that to be a satisfactory or democratic state of affairs? Will he give further consideration to finding a mechanism where these decisions do not have to lie in the hands of people who are unelected?

**Deputy R. Labey:**

Can I just say that it is unfortunate and frustrating when a ruling by the Presiding Officer goes against one? But there are all sorts of rulings that Members might even not be aware of that happen that, directly or vicariously, is helpful to Members. There are things that happen, rulings made by the Presiding Officer, which can be in Members' favour and maybe the Members do not even know about it. There are 2 sides to the coin. The issues that the Member raises, I repeat, will be one that we will debate very shortly in this Assembly.

**The Bailiff:**

Can I say, for the benefit of all Members, that the process for the appointment of the next Deputy Bailiff has been uplifted to the Bailiff's website? It is available for the public to see. Also, that in the light of the questions that Senator Mézec has put to the chairman, I shall be publishing my ruling in full. That ruling was preceded by an invitation to Senator Mézec to come and see me and discuss how the question could be put in order but he declined to do so.