

PRIVILEGES AND PROCEDURES COMMITTEE

(116th Meeting)

6th September 2011PART A

All members were present.

Connétable J. Gallichan of St. Mary, Chairman
 Senator B.I. Le Marquand
 Senator S.C. Ferguson
 Connétable P.F.M. Hanning of St. Saviour
 Deputy J.B. Fox
 Deputy J.A. Martin
 Deputy T.M. Pitman

In attendance -

M.N. de la Haye, Greffier of the States
 Mrs. A.H. Harris, Deputy Greffier of the States
 P. Monamy, Acting 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 12th July 2011 (Part A and Part B), having been previously circulated, were taken as read and were confirmed.

“Hand-held devices in the States: trial” (P.77/2011): withdrawal. 465/1(169)

A2. The Committee, having recalled that it had on 17th May 2011 lodged ‘au Greffe’ a report and proposition entitled “Hand-held devices in the States Chamber: trial” (P.77/2011) and that this item was set down under States’ “Public Business” for 12th September 2011, agreed to withdraw the proposition and to leave the issue to be considered by the successive Committee and the new Assembly after the forthcoming elections.

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

“Electoral Commission: possible options” (R.54/2011). 1240/22/1(59)

A3. The Committee, with reference to its Minute No. A2 of 14th June 2011, considered a report prepared by the Greffier of the States which set out the structure which the Committee had indicated it believed would be appropriate for the Electoral Commission to be established under the proposition, as amended, of the Deputy of St. Mary which the States had adopted on 15th March 2011.

The Committee recognised that the above-mentioned report would facilitate members’ assessment at the time of the Annual Business Plan debate how it was proposed to allocate the sum of £200,000 which had been set aside for this work. The Committee recalled that, on 13th May 2011, it had presented to the States a report (R.54/2011) which set out possible options on the composition of the proposed Commission, as well as its concerns about the proposals. Although the Committee had invited views in response to the document, only 2 responses had been received.

The Committee agreed that, whilst there would be a better chance of the

Commission being accepted and respected in the Island if a majority of its members were local residents, it would nevertheless be desirable for some external expertise to be available to the Commission and concluded that it would be more efficient and effective to bring this outside expertise into the Commission itself rather than to have a separate external advisory panel as suggested by the Deputy of St. Mary.

Having considered potential problems and issues, the possible cost of an Electoral Commission, and the likely timescale involved, the Committee - having noted that the Council of Ministers had withdrawn its proposition entitled "Machinery of Government: review" (P.76/2011) - approved its report and accordingly decided to present it to the States for their information.

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

"Standing Orders: answers to questions" (P.132/2011): Deputy G.P. Southern – comment. 450/2/1(62)

A4. The Committee considered a proposition entitled "Standing Orders: answers to questions" (P.132/2011) which had been lodged 'au Greffe' on 3rd August 2011 by Deputy G.P. Southern.

The Committee, having noted that the proposition sought amendments to Standing Orders to make new provisions in relation to the answering of oral questions, agreed that whilst it supported moves to improve question time in the States it was not supportive of the Deputy's proposition as it believed that the formal changes requested could, in practice, make question time less effective.

Whereas part (a)(i) of the proposition suggested that answers to oral questions could be accompanied by lists of data if necessary, the Committee considered that this would simply blur the distinction between written and oral questions. As it was intended that an oral question should be brief – with Standing Orders requiring the answer to be concise – the Committee considered that oral questions should not be used to ask for complicated information which could not be readily given in the short time allowed for an answer.

As regards part (a)(ii) of the proposition, whereas it was suggested that a new power should be granted to the Presiding Officer to direct a member answering a question to address the content more directly, the Committee shared Deputy Southern's concern that there could be occasions when answers given by Ministers and others did not address the question sufficiently and where the member answering could appear to be evasive, and decided to remind Ministers of the provisions of their own Ministerial Code. The Committee recognised that the Presiding Officer did already, on occasions, intervene when it was felt that a Minister was not answering a question directly, and whilst encouraging such an approach, the Committee did not support the approach suggested by Deputy Southern that Standing Orders should be formally amended in relation to this matter.

The Committee decided to present a comment on the proposition to the States and requested the Greffier of the States to take the necessary action.

"States of Jersey Law 2005: removal of restrictions on number of Ministers and Assistant Ministers"

A5. The Committee considered a proposition entitled "States of Jersey Law 2005: removal of restrictions on number of Ministers and Assistant Ministers" (P.145/2011) which had been lodged 'au Greffe' on 22nd August 2011 by Senator B.E. Shenton.

The Committee, having noted that the proposition sought amendments to the States of Jersey Law 2005 to remove (i) the current provision that restricted the permitted total number of Ministers and Assistant Ministers; and (ii) the current restriction

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(P.145/2011):
Senator B.E.
Shenton –
comment.
450/1(17)

that provided that each Minister might appoint no more than 2 Assistant Ministers, agreed that a review of the present structure of the machinery of government in Jersey would be desirable. However, the Committee considered that it would not be appropriate to support Senator Shenton's proposition as it did not believe that such a change should be contemplated before any in-depth work had been undertaken to consider the consequential impact might have on scrutiny or whether there was a need for an increased number of Assistant Ministers. The Committee was concerned that the simple abolition of the current requirement for a minority Executive (the so-called 'Troy' rule) could simply increase the power of the Council of Ministers at the expense of members who were not Ministers or Assistant Ministers as, if these members were to be in a minority, they would have less ability to hold the Executive to account through scrutiny and in their capacity as private members.

The Committee decided to present a comment on the proposition to the States and requested the Greffier of the States to take the necessary action.

"States
members'
remuneration:
expenses
allowance"
(P.148/2011):
Deputy S.
Pitman – no
comment.
1240/3(73)

A6. The Committee, with reference to its Minute No. A1 of 8th August 2011, considered a proposition entitled "States members' remuneration: expenses allowance" (P.148/2011) which had been lodged 'au Greffe' on 24th August 2011 by Deputy S. Pitman.

The Committee, having noted that the proposition sought (a) the non-implementation of the recommendation of the States' Members' Remuneration Review Body that there should be an increase for the year 2012 of £350 in the expenses allowance for States members; and (b) that the proposed terms of reference of the future Electoral Commission should be extended to enable it to investigate the equity of the current expenses system, considered that these were matters for the Remuneration Review Body to consider.

The Committee decided not to present a comment on the proposition to the States.

"Chief
Minister:
election by an
open ballot"
(P.126/2011):
Deputy T.M.
Pitman – no
comment.
450/2/1(60)

A7. The Committee considered a proposition entitled "Chief Minister: election by an open ballot" (P.126/2011) which had been lodged 'au Greffe' on 27th July 2011 by Deputy T.M. Pitman.

The Committee, having noted that the proposition sought amendments to the necessary Regulations so to provide that the election of Chief Minister should be undertaken by way of an open ballot and no longer by a secret ballot for States members, considered that it was a matter for individual members to vote according to their conscience.

The Committee decided not to present a comment on the proposition to the States.

Standing Order
168:
amendment re.
definition of
"residential
tenancy."
450/2/1(44)

A8. The Committee, with reference to its Minutes Nos. A3 of 26th January 2010 and A14 of 25th January 2011, considered a possible amendment to Standing Order 168 so as to bring it in line with provisions under the new Residential Tenancy (Jersey) Law 201-, which it was noted was presently before H.M. Privy Council.

It was recognised that Mr. P. Griffin, Principal Valuer, Property Holdings Department had suggested the inclusion of an additional paragraph so as to define a residential tenancy as "that which is terminable upon serving at least three months notice or such other time period as specified in the Law from time to time."

The Committee agreed in principle that the above-mentioned amendment should be made to Standing Order 168 at the appropriate time, and the Greffier of the

States was requested to arrange for the necessary amendment to be prepared for the Committee's consideration in due course.

Elections
2011:
Education,
Sport and
Culture
guidance note
re. "Meetings
on School and
Youth Services
Premises."
424/2(75)

A9. The Committee considered a file note of a meeting held on 12th August 2011 attended by the Chairman and the Connétable of St. Saviour with the Minister for Education, Sport and Culture regarding the Guidance Notes issued by the Minister to various groups within the Education Service in relation to the public elections to be held in 2011.

The Committee also received a copy of the Guidance Note entitled "Public Elections – Meetings on School and Youth Service Premises" which had been issued on 31st August 2011 by the Education, Sport and Culture Department from which it was concerned to note that whereas it was expected that invitations were to be issued to all candidates for Senator, Connétable or Deputy running for the same post in relation to their respective meetings with prospective voters on Youth Service premises, it was stated as being a requirement that such meetings on School premises must be attended by all the candidates for the relevant posts.

The Committee agreed that this apparent anomaly should be drawn to the attention of the Minister with a view to review and amendment in due course. The Greffier of the States was requested to take the necessary action.

2011 elections:
voter
registration
and turnout:
promotional
campaign.
424/2(72)

A10. The Committee, with reference to its Minute No. A6 of 10th May 2011, considered a report, dated 31st August 2011, prepared by the Deputy Greffier of the States concerning the status of the ongoing campaign to encourage voter registration and turnout in respect of the 2011 elections.

The Committee, having recalled that the deadline for voter registration was Noon on Monday, 6th September 2011, noted that promotional 'Don't forget to vote' banners were presently being printed and would include the "Hedley Le Maistre" characterisation theme. Furthermore, advertisements along the same lines were being prepared for insertion in the Jersey Evening Post, with the Judicial Greffe having accepted responsibility for the cost of those which were to appear in the 14th September and 6th October editions.

The Committee noted with interest the first draft of a "Candidates Booklet" which had just become available.

The Deputy Greffier reported that, from the limited statistical information presently available, it appeared that the voter registration campaign had indeed resulted in some increase in the number of registered voters. The Committee accordingly expressed its appreciation of the work on the campaign over a prolonged period which had been undertaken by the Deputy Greffier and staff of the States Greffe.

Forthcoming
States Public
Business.
1240/7/1(1)

A11. The Committee, having noted schedules showing those items of public business which had been set down for consideration by the States on 12th September 2011, and that which was to be proposed for 20th September and 8th November 2011, considered a proposal of the Council of Ministers that, subject to prior consultation with the Chief Minister, "given that reaching a decision on the draft Annual Business Plan 2012 (P.123/2011) and the various amendments to the same was thought likely to take the States more than 2 days, and having concluded that it would be less than desirable for the States to continue meeting during an active period of election campaigning, the Chairman of the Privileges and Procedures Committee (PPC) should be invited to consider proposing –

(a) that the meeting of the States commencing on Monday, 12th

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September should not continue beyond Friday 16th September under any circumstances;

- (b) that any propositions not considered by Friday 16th September should be deferred to the meeting commencing on 8th November 2011; and
- (c) that the meeting commencing on 20th September 2011 should be extinguished.”

It was further understood that the Council and Ministers had agreed to withdraw all propositions in the name of the Council and/or individual Ministers set down for consideration on 20th September in order to reduce the likelihood of there being a need for the States to meet during that week. Having concurred with the views of the Chairman, the Committee agreed that the suggested cancellation of the meeting of the States scheduled for 20th September was not a matter for the Committee to propose but rather that it was a matter which should be determined by the States taking into consideration the views of all States members, particularly those not within the Executive who had propositions awaiting consideration by the States.

The Chairman undertook to write to the Chief Minister in order to convey the Committee’s views on the matter.

Church Service
to be held on
14th
November
2011.
465/1(172)

A12. The Committee noted a letter, dated 9th August 2011, from the Bailiff confirming that he had approached the Dean regarding the suggestion that a church service for States members should be held on 14th November 2011 rather than in January 2012, and that he would make the necessary arrangements to proceed accordingly.

Work
programme.

A13. The Committee, with reference to its Minute No. A7 of 14th June 2011, received a copy of its ongoing work programme and noted its contents.

States of
Jersey
Complaints
Board:
findings.
1386/2/1/2
(311)

A14. The Committee received a report prepared by the States of Jersey Complaints Board in connexion with its findings in respect of a complaint against a decision of the Minister for Planning and Environment.

It was noted that, in accordance with Article 9(9) of the Administrative Decisions (Review) (Jersey) Law 1982, the Committee was required to present the report entitled “States of Jersey Complaints Board Findings – Complaint against a decision of the Minister for Planning and Environment regarding the property known as ‘Transvaal’, La Rue de Fauvic, Grouville” to the States in the Report series.

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

Standing Order
112:
amendment re.
date of first
meeting of the
new States
after elections.
450/2(17)

A15. The Committee was apprised by the Greffier of the States of the urgent need to amend Standing Order 112 in order to address a provision which had been overlooked when necessary legislative changes were made to implement the single election day in 2011.

The Committee noted that Standing Order 112 currently required the first meeting of the new States to be held within 14 days of the election for Deputies and that this clearly was not possible with the timetable that was in place for 2011, with the election to be held on 19th October and the first meeting of the new States already arranged for 14th November. It was recognised that now the Royal Court had fixed the swearing-in day, and in view of the fact that the Budget needed to be debated on 8th November in order to meet the requirements of the Public Finances (Jersey) Law 2005, there was no realistic scope to change the agreed timetable.

Following consultation with the Deputy Bailiff, it had been agreed that the only sensible option was to ask the States to amend Standing Orders so as to change the 14-day requirement to a 28-day one (given that 26 days were actually required). It was hoped that States members would see the proposal as a very simple legal 'technicality.' It was further noted that the amendment could not now be lodged 'au Greffe' for long enough to meet the normal 4-week lodging period required and the Committee recognised that it would be necessary for it to ask the States to agree to reduce the lodging period.

The Committee accordingly approved the draft Amendment (No. 16) of the Standing Orders of the States of Jersey, together with the accompanying explanatory report, and decided to lodge it 'au Greffe' with immediate effect and requested the Chairman to seek the leave of the States for the matter to be taken into consideration during September 2011.

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

Amending or
repealing the
so-called
'Troy' rule:
report for
information.
450/2/1(63)

A16. The Committee noted that, as a consequence of a meeting on 19th July 2011 between the Council of Ministers and the Chairmen's Committee, the Greffier of the States had been requested to prepare a paper on the implications of amending or repealing the so-called 'Troy' rule, which name was generally used to describe the present statutory requirement that under the Ministerial system in Jersey the number of States members who were not Ministers or Assistant Ministers should always be greater than the number who were.

The Committee received for its information a copy of the report which had been prepared by the Greffier.