

PRIVILEGES AND PROCEDURES COMMITTEE

(78th Meeting)

11th June 2008PART A

All members were present. Connétable K.A. Le Brun was not present for item No. A1.

Connétable D.F. Gray of St. Clement - Chairman
 Senator M.E. Vibert
 Connétable K.A. Le Brun of St. Mary
 Deputy G.C.L. Baudains
 Deputy S.C. Ferguson
 Deputy J. Gallichan
 Deputy I.J. Gorst

In attendance -

M.N. de la Haye, Greffier of the States
 Mrs. A.H. Harris, Deputy Greffier of the States
 N. Guillou, Clerk to the Privileges and Procedures Committee
 Mrs. K.M. Larbalestier, States Greffe

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

- Minutes. A1. The Minutes of the meeting held on 28th May 2008 (Part A and Part B), having been previously circulated, were taken as read and were confirmed.
- Code of Conduct for Elected Members. 1240/9/1(110) A2. The Committee noted that correspondence, dated 3rd June 2008, from Connétable K.P. Vibert of St. Ouen, concerning etiquette in the States Chamber, had been received by the Chairman. Subsequently, the Chairman had also received correspondence from Senator F.H. Walker, Chief Minister, in which the Committee had been invited to consider publishing an update on States members' record of attendance and voting in the States Assembly.

It was noted that some members walked in front of other members who were speaking and that members were sometimes very noisy at the end of a session or at the culmination of a controversial vote, the latter had made it difficult on occasion for members to hear the proceedings. Further concerns were voiced with regard to members who remained standing when addressed by the Bailiff, and one occasion a member had turned his back on the Bailiff when he had been making a ruling. It was noted that the Chairman had spoken to the member concerned about this. It was also noted some members were frequently present for the first roll call, but left the chamber thereafter. The Chairman advised that he had received a note from Deputy J.J. Huet objecting to the number of occasions when one particular member had done this. Deputy M.E. Vibert commented that on a number of occasions when the Bailiff has asked whether a Scrutiny Panel would wish to scrutinise a particular item there had been no Scrutiny members in the Chamber. He felt that this reflected badly on the Scrutiny function. The Committee recognised that Standing Orders required that members were present in the Chamber when the States were meeting. The Committee discussed the provisions within Standing Orders which allowed States members' who

were not present at a States sitting to be excused and it recalled that States meetings took precedence over all other business. The Committee also discussed the feasibility of having a second official roll call after the lunch time adjournment and reached no conclusion in relation to this matter.

In concluding its discussions in relation to the general conduct of members and etiquette in the Chamber, the Committee agreed that the Chairman should write to all members reminding them of their duties and the need to behave properly at all times. The Committee also suggested that the Greffier of the States might wish to discuss the issues raised with the Bailiff.

Senator Walker's correspondence, wherein he had proposed the publication of a regular update of members' attendance and voting in the States, was discussed. It was agreed that the Greffier of the States should investigate the possibility of providing an update on States members' record of attendance and voting in the Chamber.

Schedule of
Forthcoming
States Business.
1240/7/1(1)

A3. The Committee considered a report received from the Greffier of the States regarding the forthcoming schedule of States business and the possibility of setting aside additional meeting days.

It was noted that whilst it was likely that the business scheduled for the meeting of 17th June could be managed within the three days set aside, there could well be significant issues regarding the business scheduled for the meetings of 1st July 2008, and especially 15th July 2008.

The Greffier advised the Committee of the urgency of this matter, and that members would be very aggrieved if the summer recess were breached. The Committee agreed that this situation would be most undesirable and it wished to take steps to ensure that such an eventuality would not transpire.

It discussing proposed additional dates the Committee noted other scheduled commitments such as the annual Visite du Branchage in early July. However it was recalled that States sittings must take precedence over all other business.

The Committee agreed to propose that the 8th, 9th and 10th July 2008 should be available as continuation days for the sitting commencing on 1st July 2008, and that 18th July 2008 should be made available as a continuation day for the sitting commencing on the 15th July 2008. In addition the Committee agreed that the Minister for Planning and Environment should be asked if he would consider debating the propositions entitled 'Jersey Homebuy Housing: amendment to Island Plan Policy H1' (P.74/2008 refers) and 'Provision of land for lifelong dwellings (for people over 55) and first-time buyers - amendment to Island Plan (2002)' (p.75/2008 refers) on 8th July 2008 as opposed to 15th July 2008 as currently scheduled. It was also noted that certain items of business that were not urgent and could be debated after the summer recess if necessary.

The Greffier was requested to circulate a note to all members regarding this decision.

Machinery of
Government
review: proposed
amendments to
States of Jersey
Law.

A4. The Committee, with reference to its Minute No. A5 of 7th May 2008 considered the revised draft States of Jersey (Amendment No. 5) Law 200-.

The Committee considered the procedures following suspension of a Minister pending a proposition for dismissal detailed in Article 21A. The Committee recalled that if the Chief Minister decided that a Minister should be suspended, a meeting of

the Council of Ministers would have to be convened, and the suspension agreed by a majority therein. A proposition for dismissal would then be lodged "au Greffe". The Committee voiced concerns over the length of the resultant interim period between the Chief Minister's decision to suspend a Minister and the Council's approval, but agreed that it was inevitable that some delay would exist.

It was noted that in a report on this matter, the Law Draftsman had raised concerns that there was no provision to prevent a Chief Minister from suspending a Minister and then delaying the lodging of a dismissal proposition. Consequently, the Committee was advised that it should probably take no more than 2 or 3 working days for a proposition to be lodged, and that the amendment should provide that any suspension would cease if no dismissal were lodged within 3 working days of the suspension. The Committee discussed this proposal. It was agreed that if the Chief Minister sought the dismissal of a Minister, the proposition should be lodged for debate as soon as possible. However, it was agreed that 3 days was too short a period. A proposition to dismiss a Minister would have to be carefully and accurately prepared, and it was opined that that this could be a very time consuming process. Whilst it was acknowledged that preparatory work could be done in this regard prior to the approval of the Council of Ministers, it was felt probable that this would be insufficient to satisfactorily complete the proposition within three working days of this approval. It was decided that the amendment should allow a proposition to be lodged within 5 working days. The Committee concluded that this would give the Chief Minister more time to ensure that an accurate and detailed proposition could be lodged, and that it would also give the suspended Minister a longer period in which a defence could be prepared.

Machinery of
Government
review: proposed
amendments to
States of Jersey
Law.
465/1(91)

A5. The Committee, with reference to its Minute No. A6 of 7th May 2008, gave further consideration to the proposed Amendment No. 8 of the Standing Orders of the States of Jersey. In this regard, the Committee received a report, detailing the amendments which had been prepared by the Law Draftsman in accordance with the Committee's decisions at the meeting of 7th May 2008.

The Committee discussed the revised amendments as follows -

Amendment No. 2 - would restrict the number of written questions that a member could produce for a single sitting of the States to 5. It would also provide that each question could not exceed 200 words in length.

Amendment Nos. 3 and 4 - would give a questioner the right to insist that a Minister, and not an Assistant Minister, should answer a question. Both written and urgent oral questions were covered by these amendments. The Greffier of the States advised the Committee that when a question was tabled, it would be made clear that a response from a specific Minister was required. It was further noted that it would be accepted that if a Minister were conflicted, he or she would not be required to answer. The Committee agreed that the explanatory note should make this clear.

Amendment No. 5 - had been drafted to allow a member who had lodged "au Greffe" an amendment and was unavoidably absent to ask a colleague to present the amendment on his or her behalf. The Committee noted that this would only refer to the presentation of amendments, as with a substantive proposition, it would be possible for the matter to be deferred until the member concerned had returned to the States.

Amendment No. 6 - had been discussed with the Bailiff at the Committee's meeting on 7th May 2008, where it was agreed that if a member were required to withdraw from the Assembly by the Presiding Officer, any member could then propose that the

offending member be suspended, and that this would be immediately put to the vote, without any debate. The Committee agreed that it would wish to ensure that the amendment was human rights compliant.

Amendment No. 7 - would allow a representative of the Chairmen's Committee to be appointed to the Privileges and Procedures Committee after the complete membership of the Chairmen's Committee had been appointed.

Amendment No. 8 - would require that the Chief Minister designate provide an advance notice of his or her proposed nominations for Ministers and that this list would be circulated to members before any selections were made. This list would be published on the States Assembly website. The amendment would also compel Ministers who were appointed without competition to provide a statement of proposed policies to the Greffier of the States who would ensure this was circulated to all members of the States.

Amendment No. 9 - focussed on a recommendation of the Machinery of Government Review, and would allow a brief adjournment after the selection of Ministers, and before the appointment of the Chairmen of the Privileges and Procedures Committee, the Public Accounts Committee, and the Scrutiny Panels.

Amendment Nos. 10 and 11 - would simply allow the final member of the Privileges and Procedures Committee to be appointed later than the other members and would facilitate the implementation of amendment No. 7.

Amendment Nos. 12 and 13 - were also concerned with the membership of the Privileges and Procedures Committee, and specified that one member of the Privileges and Procedures Committee would be a member of the Chairmen's Committee, and should that individual cease to be a member of the Chairmen's Committee, they would also cease to be a member of the Privileges and Procedures Committee.

Amendment No. 14 - detailed the effects of a member's suspension from the States. The Committee noted that any member suspended would be prevented from using any of the members' facilities, and that all remuneration would cease during the suspension. It was also noted that a first suspension would last for one meeting of the States, but that this did not include the original meeting from which the member was initially suspended. The Committee agreed that further clarification was needed as regards the point in time at which any remuneration would be stopped, and when it would recommence. The issue of the length of the suspension was also discussed. It was opined that perhaps a 28 day minimum could be set, as if there were many meetings in a short period of time, the suspension might end rather quickly, which would not provide a stringent sanction. The Greffier agreed that this possibility would be investigated. The Committee also stated that it would wish to ensure that the amendment was human rights compliant.

The Deputy Greffier of the States drew the Committee's attention to a proposed amendment to Standing Order 27 (which had been omitted from the report prepared for the Committee). The Committee recalled that it had agreed the amendment which provided that the Greffier of the States should refer a proposition lodged "au Greffe" by a private member to the relevant Minister or Ministers so that they could consider whether or not to report to the States on the matter.

The Committee, subject to the minor alterations detailed above, approved the proposed amendments and requested that an accompanying report be produced.

A6. The Committee, with reference to its Minute No. A1 of 30th January 2008, gave further consideration to the Draft Freedom of Information Law 200-. At the meeting of 30th January 2008, the Committee had concluded that it was not prepared to take a Freedom of Information law to the States until it was in possession of substantive information that the current Code of Practice on Public Access to Information was failing the public and preventing their access to information that they were entitled to access.

The Deputy Greffier informed the Committee that questions had been asked of the Chief Minister's Department, regarding both the Code of Practice on Public Access to Information, to which a response had been received, and the Public Records Law, to which only the Head of Archives and Collections of Jersey Heritage, Mrs. L. Romeril had responded. It was noted that the Chief Minister's Department had been required to seek responses from various States' Departments. It was noted that in the main, responses to requests for information were dealt with by Departments without reference to the Code of Practice, and there had been very few recorded instances where individuals had felt aggrieved at how their requests had been dealt with. From the response received from the Head of Archives, the Committee noted that the Jersey Archive had been inspected on 12th May 2008 against the National Archives' Standard for Record Repositories by Mr. N. James, The National Archives' Principal for Archives Advisory Services. Whilst it was recognised that a report to Jersey Heritage was still in progress, Mr. James had made it clear that the Island had invested in an excellent archive facility and professionally trained staff, but that a lack of resources has meant that the full benefit of the service has not been felt by either the States of Jersey, nor the general public.

The Committee discussed the uploading of Departmental reports to the States website, and noted that only 3 reports had been made available to the public via this method in 2008. The Committee agreed that this was disappointing, but noted the view of Senator M.E. Vibert that efficiency savings had led to a shortage in the number of administrative staff available to carry out the necessary work.

In response to a question from Deputy I.J. Gorst, Senator Vibert advised that the Council of Ministers had not discussed the issue of introducing Freedom of Information legislation.

Senator Vibert suggested that Freedom of Information legislation would be difficult to introduce until archives and records were brought completely up to date, and that this would be a very time consuming process. Mrs. Romeril had also advised the Deputy Greffier that it would take a great deal of time, perhaps 6 months, to look through all records and classify whether or not they could be considered exempt. The Deputy Greffier suggested that requests could be dealt with on a case-by-case basis in order to avoid the aforementioned. The Deputy Greffier went on to advised that, if the Committee decided to proceed with the legislation and the States approved the same the Committee might not wish the legislation to come into force until some time later in order that Departments would have enough time to organise their records.

The Committee recognised that the issue of introducing Freedom of Information legislation had become a reputation issue. It considered further the need to introduce such legislation. It agreed that there were issues with the draft law, such as whether or not to respond to requests for information from applicants resident outside the Island, and the length of time needed to allow Departments to comply with the legislation. The Deputy Greffier undertook to incorporate amendments to meet the concerns of respondents and bring back an amended draft Law for consideration in

early course. The Committee would then consider whether to invite Scrutiny to review the draft legislation or to proceed directly to lodging.

Facilities in the
States Building.
1060/5(245)

A7. The Committee discussed a report received from the Greffier of the States, which provided an update on the completion of work in the members' facilities as previously agreed by the Committee. The Committee noted the following -

- a) The shower room in the former kitchen was now operational and available for use.
- b) PCs had been installed in both interview rooms, together with a printer in the rear interview room. Instillation of a printer was planned for the front interview room.
- c) A wireless network, shared with users of the Royal Court, had been set up and would be available for use in the members' rooms of the States Building.

The Committee also discussed the possibility of a live audio feed in the downstairs computer room in the States Building and notes that this was in hand, as was the development of a feed for the main communications room.

Regulation of
election
expenses.
1148/1(12)

A8. The Committee, with reference to its Minute No. B3 of 28th May 2008, considered the possibility of discussing the forthcoming elections with the media, as regards their procedures for the lead up to elections. The Committee was concerned that under Article 14, letters and editorials could be printed in the Jersey Evening Post during the two days leading up to polling day, this might leave candidates standing unable to respond to allegations or comments made in any letters or editorials printed.

The Committee agreed that this might undermine part of the intention of the new regulations. It was agreed that Mr. C. Bright, Editor of the Jersey Evening Post, should be invited to attend the Committee's next meeting, in order to explain what the Committee had hoped to achieve with these regulations, and what procedures the Jersey Evening Post employed in the lead up to elections.

Matters for
information.

A9. The Committee noted the following matters for information -

- (a) the Greffier of the States informed the Committee that the Jersey Appointments Commission had been invited to become involved in appointing future members of the States Members' Remuneration Review Body.
- (b) that H.M. Attorney was attending a meeting at the Ministry of Justice, for July 2008, and would request that the Public Elections (Jersey) Law 2002 as amended would gain Royal Assent in sufficient time to allow for the amendments to be in place for the upcoming elections in November 2008. In connexion with this matter the Committee thanked Deputy J. Gallichan for acting as rapporteur during the States debate.
- (c) that unwanted publications, in the form of Thompson Estates magazines, had been placed in members' pigeon holes within the States Building. The Committee agreed that this was unacceptable, and the Greffier of the States was requested to look into the matter.

It was noted that Deputy R.G. Le Hérisier had raised concerns regarding the advertisements produced by the Judicial Greffe which informed the public of forthcoming elections and associated procedures. Deputy Le Hérisier favoured a much more simplistic approach and the Committee agreed to invite the Deputy to submit an example of an alternative. The Committee recognised that certain statutory information had to be included within the aforesaid advertisements.