

PRIVILEGES AND PROCEDURES COMMITTEE

(83rd Meeting)

23rd November 2010

PART A

All members were present, with the exception of Deputy C.H. Egré and Deputy M.R. Higgins, from whom apologies had been received.

Connétable J. Gallichan of St. Mary, Chairman
Senator B.I. Le Marquand (not present for the conclusion of item No. A9,
item Nos. A10 to A13 inclusive, and item Nos. B1 and B2)
Connétable P.F.M. Hanning of St. Saviour
Deputy J.B. Fox (not present for item No. A6)
Deputy J.A. Martin

In attendance -

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 meeting of 9th November 2010 (Part A and Part B), having been previously circulated, were taken as read and were confirmed.

Draft States of Jersey (Miscellaneous Provisions) Law 201-
201-
450/12(1) A2. The Committee received the draft report and proposition entitled 'States of Jersey (Miscellaneous Provisions) Law 201-', in connexion with the bringing into legal effect decisions taken by the States on 13th October 2010 in relation to the composition and election of the States (P.118/2010 refers).

The Committee noted that it was necessary for the draft Law to be approved as early as possible in 2011 so that the approval of the Privy Council could be sought and the Law brought into force in good time before the 2011 elections. The Committee, having agreed a minor amendment to the accompanying report, accordingly **approved** the same and **requested** that it be lodged 'au Greffe' in early course for debate on 18th January 2011. Advice had been received that the draft Law was considered to be human rights compliant, and the Chairman was **requested** sign a statement to that effect.

The Committee Clerk was requested to take the necessary action.

Draft Freedom of Information (Jersey) Law 201-
670/1(21) A3. The Committee, with reference to its Minute No. B2 of 9th November 2010, received a draft schedule of organisations in connexion with the application of the draft Freedom of Information (Jersey) Law 201- (P.101/2010 refers).

The Committee recalled that it had received advice that the definition of "public authority" provided in Article 1(f) of the draft Law appeared to include a diverse range of associations including La Moye Golf Club and the Boy Scouts Association, for example. It had therefore been agreed that a definitive list of organisations which would be deemed "public authorities" should be included as a schedule to the draft Law. The Committee received a list of appointments made by the States and discussed which of the bodies listed should be considered public authorities for the purposes of the draft legislation. After some discussion, it was **agreed** that, rather

than formulate a list at this stage, work should be carried out to further define “public authority” with a view to excluding any extraneous organisations. It was noted that assistance could be drawn from other legislation, including, for example, the Human Rights (Jersey) Law 2000. The Committee also considered that there should be a power to add by Regulation to a schedule listing the names of bodies covered by the Law. It was suggested that it may be appropriate for Article 19(3) of the draft legislation, which required public authorities to maintain an index of information held, to only apply to scheduled public authorities, as opposed to all public authorities as per the present draft.

The Deputy Greffier was **requested** to discuss the matter with the Law Draftsman, and to advise the Committee further at its next meeting.

Freedom of Information: implementation plan.
670/1(32)
File

A4. The Committee received the proposition ‘Freedom of Information: implementation plan,’ lodged ‘*au Greffe*’ on 13th October 2010 by Deputy R.G. Le Hérissier of St. Saviour (P.145/2010 refers).

The proposition asked the Assembly to request the Chief Minister to present to the States a plan for the implementation of the draft Freedom of Information (Jersey) Law 201- before 28th February 2011, in order to ensure the full implementation of the legislation by the end of 2015.

The Committee **agreed** to defer its consideration of P.145/2010 in the light of its ongoing discussions in respect of the draft Freedom of Information (Jersey) Law 201- (P.101/2010 and Minute No. A3 of the present meeting refer).

Shadow Boards and Ministerial Boards: approval by the States.
1444/1(53)

A5. The Committee received the proposition ‘Shadow Boards and Ministerial Boards: approval by the States,’ lodged ‘*au Greffe*’ on 11th November 2010 by Deputy P.V.F. Le Claire (P.170/2010 refers).

The proposition asked that the Minister for Economic Development be requested to bring to the States for approval the proposal for the formation of a Shadow Board to oversee the harbours and airport; to agree that no similar bodies should be established by Ministers until the proposal had been agreed by the States; and to agree that Ministers should consult with the Public Accounts Committee, the Privileges and Procedures Committee and the relevant Scrutiny Panel before finalising any proposals in this regard. The Deputy also sought agreement that any proposals by Ministers to establish Ministerial Boards of elected members to advise them should be subject to prior States approval of the proposed membership and terms of reference of the Board; the financial and manpower implications and the scope of the policies to be considered by the Board.

With regard to paragraphs (a) and (b) of Deputy P.V.F. Le Claire’s proposition concerning the formation of Shadow Boards, the Committee agreed that it was not its role to comment on how a Minister should carry out his or her functions. With regard to paragraph (c) of the proposition, the Committee noted that the Deputy had not included a definition of ‘Ministerial Boards’. The Committee understood Deputy Le Claire to be referring to Ministerial Boards as defined in the proposition of Senator A. Breckon entitled ‘Machinery of Government: establishment of Ministerial Boards and revised system of scrutiny’ (P.120/2010 refers), which had proposed the introduction of Ministerial Boards and had been rejected by the Assembly on 20th October 2010. The Committee **agreed** that it was inappropriate to ask the Assembly to agree that States’ approval should be sought for the membership and terms of reference of Ministerial Boards without first obtaining the agreement of the States to the overarching concept. The introduction of Ministerial Boards would alter Jersey’s machinery of government and the Committee **agreed** that such boards should not be formed until the States had agreed to their establishment and identified their function. It was therefore **agreed** that the final part of Deputy Le Claire’s proposition should be rejected. It was **agreed** that a draft comment to this effect should be prepared and circulated to members for approval in

early course. The Committee noted the dissent of Deputy J.A. Martin.

The Committee Clerk was requested to take the necessary action.

Ministerial
Offices:
reduction.
450/2/1(41)

A6. The Committee received the proposition entitled 'Ministerial Offices: reduction,' lodged '*au Greffe*' on 12th November 2010 by Deputy P.V.F. Le Claire of St. Helier (P.171/2010 refers).

It was proposed that the States agree to abolish the ministerial offices of Social Security and Housing within a period of no more than 5 and 3 years respectively and that the functions of each office be transferred to the relevant Ministers as deemed appropriate. The Privileges and Procedures Committee would then be requested, in consultation with the Chairmen's Committee, to bring forward for approval the necessary amendments to Standing Orders to establish a revised structure of scrutiny panels to reflect the revised ministerial structure.

The Committee **noted** the content of the proposition and **agreed** that it did not wish to present a comment to the States in this respect.

Standing Order
21(2).re: resource
implications of
Propositions
450/2/1(43)

A7. The Committee received correspondence dated 10th November 2010 from Deputy T. Vallois in connexion with the possible amendment of Standing Order 21 (2) of the Standing Orders of the States of Jersey.

Deputy Vallois invited the Committee to consider whether to propose an amendment to Standing Order 21(2) in order to incorporate a requirement for reports accompanying propositions to include impact statements on economic, environmental and social factors. The Deputy stated that she did not wish to hinder members' ability to bring propositions to the States; however, she felt that this approach would enable members to strengthen their position by outlining how their proposition sat within States policies.

The Committee discussed the proposal and agreed that the economic, environmental and social impact of propositions should be taken into account by members wherever possible. However, the Committee was concerned that placing a *requirement* upon members to include economic, environmental and social impact statements in all propositions could result in difficulties for individual members. The Committee recognised the Deputy's concern that, at present, reports primarily focused upon the financial implications of a proposition. However, it was not considered feasible for members to provide fully considered and accurate economic, environmental and social impact statements with every proposition lodged due to the level of research required. It was noted that Standing Order 21 presently required members to set out their *estimate* of the financial and manpower implications of a proposition and to explain how 'in the proposer's opinion' they could be sourced. The Committee did not consider that an extension of this requirement would lead to valuable additional information being made available.

In conclusion, the Committee **agreed** that it was not minded to propose an amendment to Standing Order 21(2) at this time. The Chairman was **requested** to write to Deputy Vallois to advise her accordingly.

The Committee Clerk was requested to take the necessary action.

Media relations.
1240/10(36)

A8. The Committee, with reference to its Minute No. A7 of 9th November 2010, received a draft White Paper in connexion with media relations.

The Committee recalled that it had agreed at its meeting on 9th November 2010 to withdraw its proposition 'Media Relations: Code of Conduct,' lodged '*au Greffe*' on 15th July 2010 (P.100/2010 refers), and to issue a White Paper in its place. It had also been agreed that further research should be carried out to identify media accreditation agencies. Having considered the draft White Paper the Committee

agreed that it wished to establish whether there was an international accreditation agency for members of the media. It was not considered appropriate for the States Greffe to determine media accreditation applications and, with this in mind, the Committee **agreed** certain amendments to the “accreditation” section of the draft Code of Conduct so as to require members of the media to produce proof of recognised accreditation to the States Greffe prior to permission being granted to record meetings. It was proposed that a meeting be held with the Senator B.E. Shenton and Deputy A.E. Jeune, as members of the former Media Working Party, in order to apprise them of the amendments to the draft Code, once these had been finalised. The Committee would then proceed with a view to bringing a revised proposition in respect of media relations to the States for debate in due course.

The Committee Clerk was requested to take the necessary action.

Standing Orders:
additional
signatories on
propositions.
P.174/2010
450/2/1(42)

A9. The Committee received the proposition entitled ‘Standing Orders: additional signatories on propositions,’ lodged ‘*au Greffe*’ on 19th November 2010 by Senator P.F. Routier (P.174/2010 refers).

The proposition asked the States agree to request the Privileges and Procedures Committee to bring forward an amendment to Standing Orders to require propositions lodged by a member of the States in his or her own right to be endorsed and countersigned by 7 other members. The Committee did not believe that the proposal would be a barrier to individual members bringing propositions; rather, it was felt that it could serve to strengthen propositions as members would be unlikely to countersign a proposition without first giving sufficient consideration to its content. It was noted that, at present, in accordance with Standing Order 102 of the Standing Orders of the States of Jersey, propositions were required to be seconded by a member of the States in order for the debate to proceed. The Committee considered that a member may be willing to second a proposition simply because they considered that the proposer should possess the right to have their proposition debated. Such members may not be willing, however, to endorse a proposition in the manner proposed by Senator Routier. Having discussed the proposal, the Committee **agreed** that it was in support of Senator Routier’s proposition.

Having regard to Senator Routier’s proposals, the Committee also discussed the signatory requirements under Standing Orders 22 and 23, in respect of no confidence propositions and propositions to rescind an earlier decision. Should Senator Routier’s proposition be adopted, the Committee considered that it may wish to undertake a review of the number of signatories required under various Standing Orders with a view to their possible standardisation.

It was **agreed** that a comment should be drafted in respect of P.174/2010, to be circulated to the Committee for approval and subsequent presentation to the States.

The Committee Clerk was requested to take the necessary action.

Review of
Jersey’s system
of government.
465/1(160)

A10. The Committee received e-mail correspondence from the Deputy of St. John dated 11th November 2010 which asked the Committee to consider inviting an outside body to review Jersey’s system of government.

The Deputy stated that various propositions to amend the Island’s system of government had been brought to the Assembly over recent years, but few had been adopted. The Deputy considered that the previous review of the Island’s government had been flawed, having been based upon local government in the United Kingdom. The Committee was therefore invited to request a Royal Commission to review the Island’s system of government, or, alternatively, to request that a review be carried out by the Commonwealth Parliamentary Association. The Committee noted that the States of Jersey would not be bound to accept the advice of a Royal Commission, and it did not consider that it was the role of the Commonwealth Parliamentary Association to conduct such a review. The

Committee recalled that a number of proposals for the reform of the Island's system of government had been rejected by the present Assembly, and **agreed** that any decision to invite an external body to review the Island's government system should be made by the newly elected Assembly. The Chairman was **requested** to write to the Deputy of St. John to advise him accordingly.

The Committee Clerk was requested to take the necessary action.

Standing Order
168: investment
properties.
450/2/1(44)

A11. The Committee received a report prepared by the Treasury and Resources Department entitled 'Investment properties and Standing Order 168'. The Chairman welcomed Deputy E.J. Noel, Assistant Minister for Treasury and Resources, and Mr. J. Turner, Deputy Treasurer, Treasury and Resources Department.

The Deputy Treasurer advised the meeting that an amendment to Standing Order 168 of the Standing Orders of the States of Jersey was being sought in order to facilitate the effective implementation of the Minister for Treasury and Resources' investment strategy. The Committee noted that the strategy sought to invest in a mix of United Kingdom commercial properties. In accordance with Standing Order 168, all proposed investment transactions required either the approval of the States, or the presentation of the transaction to the States 15 days before entering into a binding agreement. It was considered that the notification procedures set out in Standing Order 168 had not been intended for investment transactions outside Jersey of the type which would be undertaken under the investment strategy. These transactions would require prompt action and confidentiality and the Minister therefore considered it appropriate to ask the States to agree an amendment to Standing Order 168, the effect being to exclude transactions related to investment in property outside Jersey in accordance with the investment strategy.

The Committee discussed the matter and **agreed** to sponsor the proposed amendment to Standing Order 168. Having noted that, in accordance with Standing Order 128(a), the Committee was responsible for the bringing forward of amendments to Standing Orders, it was agreed that, following receipt of the draft amendment, consideration would be given as to whether the Minister or the Committee would be best placed to lodge the proposition '*au Greffe*' for debate by the States.

On a related matter, the Committee, with reference to its Minute No. A3 of 26th January 2010, recalled that employees from Treasury and Resources' Property Holdings department had attended its meeting in January 2010 to discuss further possible amendments to Standing Order 168. At that time, Property Holdings had been invited give further consideration to the matter and to report back to the Committee at a future date. The Committee had yet to hear from Property Holdings in this respect, and Deputy Noel was **requested** to ascertain the current status of the proposals to further amend the Standing Order.

Having been thanked by the Chairman for their attendance, Deputy Noel and the Deputy Treasurer withdrew from the meeting.

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

Correspon-dence.

A12. The Committee noted correspondence sent by the Chairman following its meeting on 11th November 2010, as follows:

- (i) to Deputy P.J. Rondel, dated 12th November 2010, in connexion with the use of electronic devices during voting;
- (ii) to Deputy M. Tadier dated 12th November 2010, in connexion with questions and answers during States sittings;
- (iii) to Deputy E.J. Noel dated 12th November 2010, in connexion with the

possible reduction of the 30-minute notice period to bring a debate to a close in accordance with Standing Order 84;

(iv) to Senator B.E. Shenton, President, Chairmen's Committee, dated 12th November 2010, in connexion with the formation of 'informal' Boards and the debate of scrutiny reports;

(v) to Mr. P. Le Claire, dated 15th November 2010, and to Deputy T.M. Pitman, dated 16th November 2010, regarding wording used during the States sitting on 2nd November 2010.

Work
programme.

A13. The Committee noted its ongoing work programme, with particular regard to the drafting of proposed amendments to the Public Elections (Jersey) Law 2002. It was **agreed** that the Greffier of the States should be requested to furnish the Committee with an update in this regard in early course.