

PRIVILEGES AND PROCEDURES COMMITTEE

(70th Meeting)

20th February 2008PART A

All members were present, with the exception of Deputy J. Gallichan, from whom apologies had been received.

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 I.J. Gorst

In attendance -

M.N. de la Haye, Greffier of the States  
 Mrs. A.H. Harris, Deputy Greffier of the States  
 Mrs. D. Abbot-McGuire, Finance and Administration Manager (for a time)  
 Miss P. Staley, Law Draftsman (for a time)  
 Miss P. Horton, 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 meetings held on 10th January 2008 (Part A only), 23rd January 2008 (Part A and Part B) and 30th January 2008 (Part A and Part B), having been previously circulated, were taken as read and were confirmed.
- Matters arising. A2. The Committee noted the following matters arising from its previous Minutes -
- (a) **Minute No. A5 of 23rd January 2008 - Appointments made by the States Assembly** - The Committee agreed that, as well as writing to the Chairman of the States Employment Board, Ministers with responsibility for proposing appointments to certain tribunals or boards etcetera should also be asked for their views on the issue; and
  - (b) **Minute No. A1 of 30th January 2008 - Draft Freedom of Information (Jersey) Law 200-**. - The Committee was advised that a letter had been sent to the Chief Minister regarding the Code of Practice on Public Access to Information and to date no response had been received.
- Budget - States Assembly Narrative and Service Analysis 2007. 422/10/1(81) **Encl.** A3. The Committee received and considered a corporate report dated 14th February 2008, prepared by the Finance and Administration Manager detailing the service analysis for the States' Assembly for 2007 together with the draft narrative to be included in the forthcoming Accounts Book.
- The Committee was advised that the corporate report was an analysis of expenditure between the service areas in the States Assembly and included overheads such as rents, electricity, salaries and telephones. It was noted that the report showed an

under-spend of £340,175 which was largely attributed to the Scrutiny panels that were showing expenditure levels below budget.

The Committee noted the report and approved the narrative to be included in the forthcoming Accounts Book. The Finance and Administration Manager was directed to take the necessary action.

Pre-polling for  
the Senatorial and  
Deputies  
elections.  
424/2(49)  
**Encl.**

A4. The Committee received and considered a report dated 13th February 2008, prepared by the Greffier of the States in connexion with the arrangements for pre-polling in this autumn's elections.

The Committee noted that at present pre-poll voting took place on one of the upper floors of the States Building. Voters were required to firstly access the reception area of the Judicial Greffe through security doors before being invited to go into the lift to the relevant office. Advocate Paul Matthews, Deputy Judicial Greffier, had contacted the Greffier of the States concerning these arrangements as the Judicial Greffe was keen to find a more accessible facility to use this autumn.

The Committee was advised that, in conjunction with the ushers, officers of the Judicial Greffe had examined a number of possible options in the States Building and they had concluded that the most suitable room would be the front interview room in the Members' facilities area. This small room was directly accessible from the Royal Square through the outside door on the left of the main Members' entrance into the building. An officer from the Judicial Greffe would be in the room at all times during working hours and would be responsible for security as the outside door would be left open. It was proposed that a screen would be placed across the corridor to block any access beyond the entrance to the room. This would enable States members to have access from the Lunch Room to the middle 'locker' room and the rear interview room which would be behind the screen. The Committee agreed that the screen would need to be sufficiently robust to ensure a secure separation between the front interview room and the remainder of the Members' facilities.

The Judicial Greffe believed that the room was particularly suitable for pre-poll voting not only because of the outside direct access but also because it could be locked and all necessary ballot papers could be kept securely in the room when it was not in use. Although there was no wheelchair access from the outside into the meeting room officers of the Judicial Greffe were willing to address any issues with disabled voters on a case by case basis, it was felt that the most appropriate solution would be to direct wheelchair voters to the main reception desk, which was accessible, and the officer of the Judicial Greffe could attend at that point. The Committee was advised that as all blank ballot books and completed ballot papers would be stored in the room the Judicial Greffe would require exclusive use of it from 15th September to 27th November 2008. It was noted that there would still be one interview room available for States members use at all times during this period and it would be possible for members to access the Blampied and Le Capelain Rooms if an additional meeting room was required.

The Committee, having considered the above mentioned, agreed that it would be willing to permit the use of this room for pre-poll voting during the election period provided the use of a screen was compatible with fire safety measures.

Scrutiny of  
possible  
violations of the  
Human Rights  
(Jersey) Law

A5. The Committee welcomed Deputy F.J. Hill, B.E.M. to the meeting in connexion with his report regarding the scrutiny of possible violations of and other matters relating to the Human Rights (Jersey) Law 2000.

The Committee noted that the European Convention on Human Rights had been

2000.  
511/1(25)  
617/3(5)  
**Encl.**

ratified by the United Kingdom on behalf of the Island in 1951. Since that time Islanders had been able to bring cases before the European Court of Human Rights in Strasbourg to claim that their rights under the Convention had been infringed. The Human Rights (Jersey) Law 2000 was adopted by the States on 8th February 2000 although the Law was not brought into force until 10th December 2006. This meant that cases concerning the rights given under the Convention could now be addressed through the Royal Court in Jersey. Another consequence of the Law was that Article 16 now required that a Minister, when lodging *au Greffe a projet de loi* must, before the second reading, make a statement to the effect that in his/her view the provisions of the projet were compatible with the Convention rights; or make a statement to the effect that although he/she was unable to make a statement of compatibility, he/she nevertheless wished the States to proceed with the projet. This statement had to be made in writing and published.

Deputy Hill advised the Committee that he was concerned that Article 16 did not require the Minister to explain what Convention rights might be affected by the Law being proposed and why in the Minister's view there was no significant risk that Convention rights might be violated. Another concern of the Deputy was that, at present, there was not a provision for any States body to scrutinise the Minister's statement for possible violations of the Human Rights Law.

Deputy Hill informed the Committee that the United Kingdom Parliament had a Joint Committee on Human Rights that consisted of twelve members appointed from both the House of Commons and the House of Lords. This Joint Committee was charged with considering human rights issues in the United Kingdom but could not take up individual cases. The Joint Committee undertook inquiries on human rights issues and reported its findings and recommendations to the House. It scrutinised all Government Bills and picked out those with significant human rights implications for further examination. The Joint Committee also looked at Government action to deal with judgments of the UK courts and the European Court of Human Rights where breaches of human rights had been found. As part of this work, the Joint Committee looked at Remedial Orders, the legislative mechanism that allowed legislation to be amended in response to these judgments.

Deputy Hill was of the opinion that as Jersey now had its own Human Rights Law the States should consider whether there was a need to establish a formal body to investigate human rights issues in the Island. Deputy Hill suggested that either a Panel, Board or Committee could be established for this purpose or each Scrutiny Panel could assume responsibility for any human rights issues of propositions within its remit.

Whilst the Committee recognised that the Human Rights statement did not include any information explaining why the Minister had concluded that the legislation being proposed was compatible with the Convention Rights the Committee was advised that Ministers only signed the Human Rights statement on the advice of the Law Officers. Consequently any Body, Panel or Member scrutinising the statement would need to receive independent legal advice to question the advice received from the Law Officers' Department. The Committee was of the opinion that it might be preferable to extend the requirements under Article 16 of the Human Rights (Jersey) Law 2000 in order that the Statement would include more information pertaining to the reasons why the Minister had concluded that the legislation was compatible with Convention rights and, if the Minister was unable to make a Statement of compatibility, to explain which Convention rights might be affected.

The Committee, having been advised that Deputy Hill would be meeting with the

Chairmen's Committee to discuss the matter further agreed that it would like to be informed of that Committee's views on the issue particularly with regard to the level of involvement Scrutiny would have.

Deputy Hill, having been thanked by the Chairman for his attendance, withdrew from the meeting.

Public Elections  
(Jersey) Law  
2002 - proposed  
amendments.  
424(7)  
**Encl.**

A6. The Committee, with reference to its Minute No. A2 of 12th December 2007, resumed consideration of the proposed changes to the Public Elections (Jersey) Law 2002.

The Committee recalled that it had discussed in detail the proposed amendments to the above named Law and, having made various recommendations, had agreed that the outstanding issues raised should be referred to the Jurats for further consideration.

The Committee received a report in response to the above which had been prepared by Deputy J. Gallichan, in her capacity as Chairman of the working group. The Committee discussed the contents of the report and focussed on the following -

Item No. 2 - the Committee agreed that the current criteria for people who would be entitled to pre-poll vote should not be changed;

Item No. 3 - the Committee agreed that candidates could be permitted to hand out application forms for postal or pre-poll votes but candidates and their supporters should be prohibited from completing or assisting with the completion of the forms or taking any other part in the postal voting procedure;

Item No. 4 - the Committee agreed that persons who had received a postal vote but who had not returned it should be allowed to vote at the polling station by handing the postal ballot paperwork to an official at the relevant polling station;

Item No. 5 - the Committee agreed that Jurats should be permitted to open the ballot paper envelope if it was believed that the Declaration form was enclosed. It was further agreed that it should be made a legal requirement for witness names and addresses to be printed under the signature;

Item No. 8 - the Committee agreed that the requirement for a person to have been resident in the island for a period of six months up to the date of application and a total of 5 years previously should not be removed;

Item No. 9 - the Committee agreed that the Electoral Register should become a true rolling register and in future an annual registration form should be sent to each household but no reminders would be sent out. If the form was not received from a property for 3 years then a letter would be sent to the last persons registered at the address to advise them that if they did not respond within a set period their names would be removed from the Electoral Register. The Committee further agreed that Connétables should be given formal powers to remove from the Electoral Register persons known to be deceased;

Item No. 17 - the Committee discussed Article 30 of the Public Elections (Jersey) Law 2002 regarding the time when the poll opens. The Committee was advised that although the time when the poll opened had been brought forward from 11 am to 8 am it had not resulted in an increase in voters but it had added a further burden on staff who were required to begin work much earlier. The Chairman, Senator Vibert and Deputy Gorst were all of the

opinion that changing the time when the poll opened to 10 am would only serve to send out the wrong message to voters particularly as one of the Committee's priorities was to encourage an increase in voter turn out. Connétable Le Brun, Deputy Baudains and Deputy Ferguson disagreed with the views expressed by the Chairman, Senator Vibert and Deputy Gorst as they were all of the opinion that the poll should be opened at 10 am. The Committee, having noted that Standing Orders stipulated that if a vote was tied it would be taken to have been lost, agreed that Deputy Gallichan should be asked for her opinion on the matter;

Item No. 21 - the Committee considered whether the number of times the Judicial Greffier was required to advertise the duty to be registered should be reduced. The Committee, having considered a possible reduction, agreed that this form of advertising was not effective and decided that the requirement to advertise should be abolished;

Item No. 23 - the Committee agreed that polling cards should be sent out for each election by each Parish.

On a related matter the Committee was advised that as there would now be 24 hours between the nomination day for Connétables and the nomination day for Senators consideration was being given to the appropriate time for the electoral register to be in force as currently it was the day before the nomination meeting. The Committee agreed that its preference was for the electoral register for both elections to be closed at noon on the day of the second nomination day.

British-Irish  
Inter-  
parliamentary  
Body.  
956/1(14)  
**Encl.**

A7. The Committee, with reference to its Minute No. A1 of 22nd March 2006, received and considered a report, prepared by the Greffier of the States, in connexion with the British-Irish Inter-Parliamentary Body.

The Committee recalled that members of the States were invited to choose a Representative and an Associate member to represent Jersey on the abovementioned Body. On 4th April 2006 Deputy A. Breckon was elected as Jersey's Representative and the Connétable of Grouville as Associate. The Committee was advised that the Rules allowed a jurisdiction to send an Associate if the Representative could not attend. The Connétable had attended one plenary meeting but Deputy Breckon had attended all of the others. In addition Deputy Breckon attended meetings of the Steering Committee in 2007 as Jersey, Guernsey and the Isle of Man shared one place on the Steering Committee on a rotational basis, for a year at a time over a 3 year period, and it was Jersey's 'turn' in 2007.

The Committee agreed that it would invite Deputy Breckon to attend a future meeting to discuss the matter with him and also to consider whether the member representing Jersey at the meetings should be required to present a report on the outcome of the meetings to the States.

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

Ministerial  
Government:  
review of the

A8. The Committee, with reference to its Minute No A3 of 23rd January 2008, resumed consideration of the Machinery of Government Review (R.105/2007 refers).

first 12 months:  
implementation  
465/1(91)

The Committee received and considered a report concerning the consultation undertaken on the above which had been prepared by the Deputy Greffier of the States. The Committee was advised that a formal response was still awaited from the

**Encl.**

Council of Ministers and that only 35 questionnaires had been returned by States Members. The Committee discussed the content of the report and focussed on the following -

Item No. 4 - the Committee agreed that in cases when the Ministerial Code had been breached but the Minister would not be dismissed, the Chief Minister should issue a formal written reprimand to the Minister concerned and present this to the States Assembly for information;

Item No. 6 - the Committee noted that the recommendation that more use should be made of Assistant Ministers who had been appointed to more than one Department and that the current limit of 2 Assistant Ministers should be removed had received little support from Members. The Committee agreed that it would not pursue this proposal;

Item No. 7 - the Committee agreed that Standing Orders should be amended to provide that a Minister, if present in the Assembly, should only delegate the answering of an oral question with notice to an Assistant Minister with the prior consent of the questioner. It was further agreed that the questioner could indicate whether the Minister or the Assistant Minister was required to answer at the time the question was submitted to the States Greffe;

Item No. 10 and 11 - the Committee felt that these should be looked at in more detail.

The Committee agreed that it would continue with its consideration of this matter at its next meeting.

Matter for  
information.

A9. The Committee noted correspondence dated 8th February 2008, sent to Senator F.H. Walker, Chief Minister, regarding the Code of Practice on Public Access to Official Information.