

PRIVILEGES AND PROCEDURES COMMITTEE

(12th Meeting)

30th September 2002PART A

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

In attendance -

M.N. de la Haye, Deputy Greffier of the States
 R.W. Whitehead, Principal Legal Adviser, Law Officers' Department
 S. Drew, Assistant Legal Adviser
 P. Byrne, Executive Officer Designate
 M.P. Haden, Committee Clerk.

Note: The Minutes of this meeting comprise Part A only.

Amendment (No. 23) to the Standing Orders of the States of Jersey.
 1240/22/1(17)

A1. The Committee, with reference to its Act No. A8 of 8th August 2002, recalled that it had agreed to lodge the draft Amendment (No. 23) to the Standing Orders of the States of Jersey, which was intended principally to give effect in Standing Orders to the new Committee structure to be put in place after December 2002. The lodging, however, had been delayed in order to give the Committee time to consider a suggestion of the Bailiff that the order of appointment of Presidents in the draft might be amended.

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 States (2)

The Committee considered a report, dated 25th September 2002, from the Deputy Greffier of the States in this connexion. It was noted that the Standing Order proposed following the current order of appointment, taking into account the amalgamations of Committees as agreed by the States in adopting P.70/2002 on departmental structure and transitional arrangements. The Committee, having considered the matter, agreed to maintain the order of appointment as originally drafted.

The Committee also noted a suggestion from Deputy H.H. Baudains that the following addition should be made to the proposed paragraph (2C) of Standing Order 42: *'except when the matter being considered is a matter in which the member has declared an interest or in which he has a personal interest.'* The Committee, however, agreed that this issue could be adequately covered in the Code of Conduct for members.

The Committee approved the draft Amendment accordingly and requested that it be lodged 'au Greffe' at the earliest opportunity for consideration by the States. The Greffier of the States was requested to take the necessary action.

Machinery of Government: Freedom of Representation (P.173/2002) - comments.
 1240/22/1(13)

A2. The Committee, with reference to its Act No. A9 of 30th July 2002, requested that a draft comment in relation to the Report and Proposition of Senator S. Syvret 'Machinery of Government: Freedom of Representation' be prepared for its consideration, based on the Committee's previous Minutes.

The Committee recognised that members held differing views on the issue of collective responsibility. However, its general view was that it was unhelpful at this

- Ex.Off. stage in the machinery of government reform process to hold a debate about an issue which it felt was properly the domain of the Council of Ministers itself when this was finally established. The Chief Minister and the Council should devise and approve its own Code of Conduct for Ministers at that time. It was not a matter which needed to be determined by a parliamentary body.
- Draft Report to the States.
1240/22/1/6/1
(2) A3. The Committee, with reference to its Act No. A4 of 17th September 2002, gave further detailed consideration to the scrutiny section in the latest draft of the report it was to present to the States in accordance with the Act of the States of 26th March 2002 (P.23/2002).
- Ex.Off. The Committee made a number of minor revisions and considered the following points in particular -
- (a) that the use of the term Scrutiny 'Panel' as opposed to Scrutiny 'Committee' should be recommended in order to emphasise the break from the current States Committee culture (paragraph 2.8 of the draft report);
 - (b) that it was important that the proposed pilot Scrutiny Panel to be set up early in 2003 be well resourced and well planned to ensure that the system of scrutiny gains a good foundation. Membership of such a pilot Scrutiny Panel could be drawn from any members of the States except those from a Committee whose policies were actually under scrutiny by the Panel (2.9);
 - (c) that the lessons learnt from observation of the Scottish Parliament should be highlighted in the report. The terms of reference of Scrutiny Committees there were particularly relevant to Jersey and should be included in the appendix to the Report. It was agreed that the nature of the work carried out by the Scottish Parliament, as a devolved parliament, was more directly comparable to the work of the States of Jersey than that of local government in the United Kingdom (2.14) (2.30);
 - (d) that the Scrutiny Panels should exercise discretion in the use of the 'Call-in' mechanism. There was a risk of overloading the work of the Panels with a massive bureaucracy. Scrutiny could become too 'reactive' rather than 'proactive'. Scrutiny Panels should not be obliged to examine every piece of legislation but should be able to choose where to focus their attention. The delegation visiting Birmingham City Council would be looking at this issue in practice (2.18);
 - (e) the Committee requested the Assistant Legal Adviser to research the position in the United Kingdom with regard to the powers of Select Committees in respect of access to information, parliamentary privilege and questioning of witnesses (2.26) and Data Protection (2.27). The Committee recognised that it would be preferable to obtain information on a co-operative basis. However, it was agreed that Scrutiny Panels should have the strong unequivocal powers from the outset in order to establish the importance of Scrutiny in the new system of government;
 - (f) that further consideration was needed to clarify the respective roles of the Public Accounts Committee (PAC), Audit and Scrutiny Panels. Deputy R.G. Le Hérisier had recently attended a meeting of the Public Accounts Committee and Auditor General Working Party. It appeared that that Working Party had already developed firm ideas on the respective functions together with alternative proposals on the membership of the PAC. The Committee was concerned that there would be considerable

overlap between the three functions and agreed that further consultation with the Working Party on these issues was required. The Committee also requested that further information be obtained on the operation of the United Kingdom Audit Office (2.34);

- (g) that Scrutiny would also be concerned with certain non-governmental bodies who nevertheless received a significant degree of public funding and delivered public services. Examples included Housing trusts, ACET, as well as Family Nursing and Home Care (Jersey) Inc. (2.56);
- (h) that an element of flexibility and choice should be retained in any system of cyclical review of policy areas. Departments should not be reviewed unnecessarily accordingly to a rigid programme (2.63);
- (i) that all States members, including members of the Council of Ministers, should participate in the election of members to Scrutiny Panels (2.69);
- (j) that a paragraph should be inserted reflecting the Committee's view that resources should be made available to enable Scrutiny Panels to obtain separate legal advice where necessary.

The Committee agreed to delegate the final re-drafting of the Scrutiny Section of the Report to the President, Deputy Le Hérissier and the Deputy Greffier of the States.

Deputy J-A Bridge undertook to check the latest draft versions of the sections on Facilities and Remuneration.

Guidance to
States members
on fair
representation of
candidates during
election period.
1240/9/1(113)

A4. The Committee, with reference to its Act No. A3 of 17th September 2002, endorsed a draft letter, prepared by the President to be sent to all States members and Chief Officers regarding fair representation of all candidates during the election period.

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Date of next
meeting

A5. The Committee confirmed the date of its next meeting to take place on Wednesday, 2nd October 2002, commencing at 3 p.m. in the Halkett Room, Morier House. The agenda would focus on general business items.