

PRIVILEGES AND PROCEDURES COMMITTEE

(21st Meeting)

9th December 2002PART A

All members were present.

In attendance -

M.N. de la Haye, Greffier of the States
 Mrs A. Harris, Deputy Greffier of the States
 P. Byrne, Executive Officer
 S. Drew, Assistant Legal Adviser
 M. Entwistle, Principal Legal Instruction Officer, Machinery of Government Reforms
 M.P. Haden, Committee Clerk.

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

Minutes.

A1. The Minutes of the Meeting held on 29th November 2002, having been previously circulated, were taken as read and were confirmed.

States members' remuneration - report and proposition. 1240/3(68)

A2. The Committee, with reference to its Act No. A7 of 29th November 2002, received a draft report and proposition requesting the States to agree to replace the current arrangements regarding the provision of a means tested income and expenses allowance to elected members of the States with a new remuneration scheme available to all elected members.

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The Committee recalled that the Bailiff had expressed concern that the Committee's proposals were in effect making fundamental changes to the traditional honorary system and thus had an important bearing on the constitution of the States. The Committee agreed that, while it was prepared to listen to the views of the Bailiff in this respect, it would proceed with lodging the above report and proposition. It was mindful that it had consulted widely on the issue and believed that its proposals were modest and reasonable. They were designed to bring the position in Jersey into line with all modern jurisdictions. The Committee had found no other example of a modern jurisdiction which applied a means test to remuneration for elected members. The Committee did not consider that it was unduly tying the hands of any future Committee in lodging its proposals at this time. Rather it felt that it was justified in bringing forward proposals based on long-term consideration of the issues.

The President undertook to write to the Bailiff to explain the Committee's position.

The Committee approved the above report and proposition and requested that it be lodged 'au Greffe' on 10th December 2002 to consideration by the States at a suitable date in 2003.

Drafting new States of Jersey Law and Standing orders of the States of Jersey - progress report.

A3. The Committee, with reference to its Act No. A10 (d) of the 6th November 2002, received a progress report from Mr. M. Entwistle, Principal Legal Instruction Officer, Machinery of Government Reforms, regarding the drafting of the new States of Jersey Law and Standing Orders of the States of Jersey.

The Committee was advised that, now that the States had made fundamental decisions on the substantive issues relating to the new machinery of government, it was possible

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to put forward outline drafting instructions for the States to consider. However, there remained currently two important areas of uncertainty, namely the outcome of the recommendations of the Special Committee on the Composition and Election of the States Assembly and final proposals for the structure of the scrutiny function following the Committee's consultation exercise on its First Report. The Committee noted that the former issue would shortly be debated by the States and agreed to progress the latter issue early in 2003 by means of a seminar for States members.

The Committee agreed that, as the main elements of the new Law had already received extensive debates in the States, a further consultation paper on the new States of Jersey Law was unnecessary at this stage. It would be appropriate to have an 'in principle' debate on the outline draft instructions with further detailed scrutiny once the Law was presented to the States.

The Committee noted that there were three issues in the new Law which required further consideration, namely the 'call-in' mechanism, data protection and the powers of Scrutiny Panels. The Assistant Legal Adviser advised that the research he had carried out on the first two issues was currently being considered by H.M. Attorney General. He was requested to advise H.M. Attorney General that his advice on these matters was urgently required by the Committee.

With regard to the 'call-in' mechanism, the Committee agreed that some form of guidelines was necessary to prevent Scrutiny Panel being overloaded with relatively trivial matters. Experience elsewhere suggested that Scrutiny Panels were more effective when they focussed on a small number of substantial issues rather than being swamped by too many minor concerns. A materiality test, for example, might be applied which might rule out issues under, say, £250,000 in value. However, it was also important to accept that initial boundaries should not be drawn too tightly. Again, experience in other jurisdictions appeared to indicate that it was natural for an influx of issues to be brought forward for Scrutiny in the early stages. However, matters generally settled down within a short period of time as members began to learn how to use the Scrutiny function more effectively. It was also recognised that some ostensibly minor issues might have much wider strategic implications. An example given in this respect was the issue of agricultural sheds in the context of a declining agricultural industry.

The Committee, with reference to its Act No. A8(a)(iv) of 29th November 2002 recalled its discussion with Senator S. Syvret on the question of powers of Scrutiny Panels. The President undertook to liaise with Deputy R.G. Le Hérisier, the Greffier of the States and the Principal Legal Instruction Officer in preparing a paper on the powers of Scrutiny Panels.

The Principal Legal Instruction Officer was requested to prepare a draft timetable for presenting and debating in the States the draft outline proposals for the States of Jersey Law and Standing Orders of the States.

Matters for information.

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A4. The Committee requested the Executive Officer

- (a) to clarify with the Public Services Committee the latest position with regard to the completion of Phase II of the States Building refurbishment project;
- (b) to prepare an information pack relating to current progress on issues in its Second Report to the States for the benefit of any new Committee members in the new States Assembly.

Election of Committee Presidents - report and proposition (P.215/2002).

A5. The Committee, with reference to its Act No. A1 of 15th November 2002, noted that its report and proposition on the Election of Committee Presidents (P.215/2002) was to be debated in the States on 10th December 2002.

The Committee noted that certain criticism of the Committee's proposals had been voiced in respect of the possibility of the question time being taken up by planted

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questions or over-long answers from the candidates. The Committee was advised that the Bailiff was prepared to intervene in order to ensure that the question period was used openly and fairly.

Appreciation.

A6. The President expressed his appreciation for the contribution to the work of the Committee made by both Senator C. Stein and Deputy H.H. Baudains, who were about to retire from the States at the end of the current session. He also thanked the officers for their support of the Committee's work.