

PRIVILEGES AND PROCEDURES COMMITTEE

(14th Meeting)

30th May 2003PART A

All members were present, with the exception of Deputy F.J. Hill, B.E.M. and Deputy J.A. Bernstein, from whom apologies had been received.

Senator C.G.P. Lakeman
 Connétable D.F. Gray
 Deputy C.J. Scott-Warren
 Deputy R.G. Le Hérisier
 Deputy J-A. Bridge

In attendance -

M.N. de la Haye, Greffier of the States
 P. Byrne, Executive Officer
 Mrs. J. Marshall, Executive Officer designate (for a time)
 R.W. Whitehead, Principal Legal Adviser, Law Officers' Department
 C. Pastural, Assistant Legal Adviser
 P. Monamy, Senior Committee Clerk.

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

Minutes.

A1. The Minutes of the Meetings held on 12th May (Part A) and 21st May 2003 (Part A), having been previously circulated, were taken as read and were confirmed.

Official Report of
 the States
 Assembly and its
 Committees
 ('Hansard') -
 report and
 proposition.
 1240/10/1(1)

A2. The Committee, with reference to its Act No. A3 of 4th April 2003, gave further consideration to its draft report and proposition (version 5) on the proposed Official Report of the States Assembly and its Committees ('Hansard').

The Committee noted responses to its invitation for comments on the draft report and proposition which had been received from Deputy J.L. Dorey and also from the Bailiff. The Committee decided that it would wish to maintain its stance in relation to 'minimal' editing of members' contributions in the States Assembly, as it felt that this should assist members in focussing upon the content of their utterances. The Committee agreed, however, to amend the reference in the report to States members providing the Official Report Editor with a copy of their "speeches" in favour of the term "speaking notes."

Ex.Off.
 T.O.S.
 C.I.Aud.
 F.E.C.C.
 States (2)
 Pub.Ed.

The Committee accordingly approved the report and proposition, subject to the abovementioned amendment, decided to lodge the proposition 'au Greffe' on 17th June 2003, and invited the comments thereon of the Finance and Economics Committee in due course.

The Greffier of the States was directed to send a copy of this Act to the Finance and Economics Committee.

Scrutiny Panels and Public Accounts Committee: Terms of Reference, powers, privileges and method of appointment - report and proposition.
502/1(7)

Ex.Off.
T.O.S.
C.I.Aud.
F.E.C.C.
States (2)
Pub.Ed.

A3. The Committee, with reference to its Act No. A3 of 21st May 2003, gave further consideration to its draft report and proposition regarding the proposed Scrutiny function (Scrutiny Panels and Public Accounts Committee: Terms of Reference, powers, privileges and method of appointment) within the new machinery of government.

Having noted that the draft had been amended so as to include most of the points which had been raised previously by H.M. Attorney General, the Committee considered members' views on a number of matters of principle and, where appropriate, agreed to amend the draft further. The Committee, however, maintained that it did not accept the Attorney General's view that it would not be appropriate for Scrutiny Panels to be conferred with all the powers of a Committee of Inquiry but without any limit on what such a Committee might consider at any given time, recognising that the Attorney General might wish to draw this matter to the attention of the States during their consideration of the proposition.

The Committee approved the report and proposition, subject to a number of further points of detail being resolved by members in conjunction with the Greffier of the States, with a view to the projet being lodged 'au Greffe' on 10th June 2003 and referred to the Finance and Economics Committee for comment in due course.

The Greffier of the States was directed to send a copy of this Act to the Finance and Economics Committee.

States members' remuneration: future direction - membership of States Members' Remuneration Sub-Committee.
1240/3(70)

Ex.Off.

A4. The Committee considered a report prepared by the Executive Officer concerning the future direction of States members' remuneration, following the adoption by the States on 20th May 2003 of the proposition of Senator E.P. Vibert (P.26/2003), as amended, whereby an independent States Members' Remuneration Review Body comprising persons who were not members of the States was to be established, with the Privileges and Procedures Committee having been charged to take the appropriate steps to give effect to the proposals.

Having noted the options available to progress the matter, the Committee further noted a summary of the responses arising from a recent consultation exercise which had been received from members of the States. The Committee, having agreed that it would be minded to present a proposition to the States to establish the terms of reference of the Remuneration Review Body, including the requirement for the body to review the existing means testing arrangements, decided that in the first instance it would be appropriate for a Sub-Committee to discuss the issues involved.

The Committee accordingly approved Deputy J-A. Bridge (Vice-President) and Senator E.P. Vibert as members of the States Members' Remuneration Sub-Committee, to be assisted by the Greffier of the States.

The Executive Officer was directed to take the necessary action.

Reports presented to the States: distribution arrangements for States members, Chief Officers and others - review.
465/1(36)

A5. The Committee considered a report prepared by the Executive Officer concerning a review of the current arrangements for the distribution of reports to members of the States, departmental officers and others.

The Committee recalled that the President had recently requested the views of States members and Chief Officers regarding the current distribution arrangements and that, of the options given, there had been an overwhelming preference for the establishment of a system whereby a list of reports would be circulated from which the requisite copies could be ordered.

Ex.Off.

The Committee noted that the undermentioned reports had recently been published to date in 2003 -

The Dairy Industry in Jersey - A Strategic Review (February 2003)
Jersey Electricity Company Limited - Annual Report and Accounts 2002
Review of the Relationship Between the Parishes and the Executive - Phase 2
Recommendations for change (April 2003)
Proposed Translation Policy - Policy and resources Committee (April 2003)
Nanny Accreditation Scheme - Jersey Child Care Trust
St. Helier Waterfront - The Waterfront Enterprise Board Limited
Jersey Competition Regulatory Authority - Annual Report 2002
Jersey Post - Annual Report and Accounts 2002
Jersey Business Venture - Annual Report (28 February 2003)
The Jersey New Waterworks Company Limited - Annual Report and Financial
Statements for 2002
Family Nursing and Home Care (Jersey) Incorporated - Annual Accounts;

with some of these having been produced in a high quality 'glossy' format.

The Committee considered the possibility that, in the longer-term, substantial savings could be made by means of a reduction in print-runs by reference to firm orders for specific publications. It was considered that, ideally, the documents could be made available to States members, departmental officers and others in electronic format, facilitating their reading on-screen and reproduction as required, possibly with arrangements being made for on-demand colour-printing at the States Bookshop.

Having recognised that a 'communications strategy' was shortly to be developed for the States, the Committee decided to defer further consideration of this matter pending the outcome of that review, which it considered would need to take into account differentiation as between reports formally presented to the States and other documents sent to States members for their information.

The Executive Officer was directed to take the necessary action.

Freedom of
Information
Working Party:
Terms of
Reference and
development of
existing Code of
Practice.
955(30)

A6. The Committee received the minutes of the first meeting of the joint Privileges and Procedures and Legislation Committees Freedom of Information Working Party which had been held on 14th May 2003.

Having noted that the Working Party had agreed the undermentioned terms of reference, the Committee formally approved them accordingly -

"To review the Code of Practice on Public Access to Official Information, the existing and proposed Official Secrets and Data Protection legislation, the Public Records (Jersey) Law 2002, and the existing arrangements for access to official information by members of the States and to make such recommendations for change including legislative change to any of the foregoing as the Working Party may think fit."

Ex.Off.

Although it was recognised that it was unlikely that the decision of the States on 26th July 1999 that the provisions of the Code of Practice, amended as appropriate in the light of practical experience, could be implemented prior to the introduction of the machinery of government reforms, the Committee expressed the hope that the existing Code could at least be improved in the interim period. The Committee asked for the Working Party to be provided with such relevant papers from when consideration had been given to the development of the original Code of Practice as might be appropriate in order to assist it in its deliberations.

The Executive Officer was directed to take the necessary action.

Tribunals
Working Group:
report -
methodology and
recommend-
ations.
1423/2(2)

A7. The Committee received a copy of the report, dated 23rd April 2003, to the Policy and Resources Committee which had been presented by the Tribunals Working Group.

The Committee noted that the Working Party's task had been to examine disputes and appeals procedures in Jersey, with particular reference to the court and tribunal systems. It was further noted that, having regard to the proposals to establish two new tribunals (namely an Employment Tribunal and a Copyright Tribunal), the Working Group had been asked to complete its work by 6th April 2003.

Ex.Off.
C.E., P&R
P.R.E.O.
P.R.C.C.

The Committee expressed concern that the limited time available to the Working Group might have resulted in it having undertaken only a superficial look at the situation. This was evidenced by a number of its recommendations having been overtaken by events and also through the "List of Tribunals in Jersey" appended to the report appearing to contain a number of errors and some duplication (i.e. references to both the "Jersey Police Complaints Authority" and also to "Police Disciplinary Tribunals - States of Jersey Police and Honorary Police."). Additionally, the Committee recalled that it had not been consulted during the course of the Working Party's review, even though it currently had responsibility for the Administrative Appeals Panel which was referred to in the report. Having recognised that H.M. Attorney General had been consulted by means of his attendance at a workshop held on 31st March 2003, organised by the Working Party, the Committee suggested that it would be appropriate to ascertain the Attorney General's views on the final report.

The Committee decided to invite Senator W. Kinnard, Chairman of the Working Party, to discuss the methodology which had been adopted by the Working Party and for further explanation and/or clarification of some of the Group's findings and recommendations.

The Executive Officer was directed to take the necessary action, and the Greffier of the States was directed to send a copy of this Act to the Policy and Resources Committee for information.

Directorship
payments to
States members.
140/7(1)
140/6(21)
1240/9/1(118)

A8. The Committee considered correspondence, and also Acts and papers from the Finance and Economics Committee, concerning the Directorships of public utility companies held by members of the States.

The Committee noted that the Finance and Economics Committee, having considered the matter, was of the view that the selection of an individual should be based on merit, the process of selection transparent and that a Committee should be prepared to defend its selection if called upon to do so. The Committee recognised that in appointing representatives to the public utilities, the Finance and Economics Committee acted as representative of the major shareholder (i.e. the public). In this regard, members of the States were not appointed as States members but as persons of merit who possessed the relevant experience or expertise.

Ex.Off.

The Committee, having recognised that the methodology for appointing such Directors was somewhat outside of its remit, nevertheless concluded that it would be preferable for members of the States not to be appointed for this purpose.

The President was requested to write to the President of the Finance and Economics Committee setting out the Committee's views, and the Executive Officer was

directed to take the necessary action.

Carry Forward
Balances: 2002 to
2003.
465/2(4)

A9. The Committee considered correspondence, dated 25th April 2003, from the Treasurer of the States concerning the Carry Forward Balances for the Privileges and Procedures Committee and former Special Committee to consider the relationship between Committees and the States (which latter body had now been subsumed into the former).

Ex.Off.
T.O.S.
C.I.Aud.
F.E.C.C.

The Committee noted that the Finance and Economics Committee had agreed that the Privileges and Procedures Committee could carry forward a positive balance of £15,080 from 2002 to 2003 in order to fund ongoing expenditure relating to the Code of Practice on Public Access to Official Information. Similarly, it was noted that approval had been given to carry forward a positive balance of £9,379 from the Special Committee to the specific service areas requested.

The Committee accordingly confirmed both carry forward amounts for the purposes stated and directed the Executive Officer to take the necessary action.

The Greffier of the States was directed to send a copy of this Act to the Finance and Economics Committee.

Cash limit for
2004: for
inclusion in
Resource Plan
2004.
465/2(5)

A10. The Committee considered a letter, dated 16th May 2003, from the Treasurer of the States concerning the proposed Committee Cash Limits for 2004 for inclusion in the Resource Plan 2004.

Ex.Off.
T.O.S.
C.I.Aud.
F.E.C.C.

The Committee noted that its proposed Cash Limit for 2004 was £429,300, which figure included the impact in 2004 of the June 2002 and June 2003 pay awards. It was recognised that further adjustments had been included where transfers had been agreed between Committees, generally as part of the transitional arrangements for the Machinery of Government Reforms. Similarly, it was noted that all cash limits had been allocated on the basis of the transitional Committee structure, which would also be followed in the Resource Plan and 2004 Budget.

The Committee accordingly confirmed its cash limit for 2004 and directed the Executive Officer to take the necessary action.

The Greffier of the States was directed to send a copy of this Act to the Finance and Economics Committee.

Budget 2004:
transfer of items
from the Finance
and Economics
Committee.
465/2(5)

A11. The Committee considered a report, dated 28th May 2003, prepared by the Greffier of the States concerning proposals to transfer with effect from 1st January 2004 certain budgets from the Finance and Economics Committee to the Privileges and Procedures Committee.

Ex.Off.
T.O.S.
C.I.Aud.
F.E.C.C.

The Committee recognised that the amounts to be transferred would be those which had been identified in the proposed 2004 cash limits following the Fundamental Spending Review (FSR) process. It was agreed that, whilst the transfers would represent a logical way forward towards establishing a specific budget for the States Assembly, with a separate budget-setting mechanism in the future, there were a number of issues to be raised with the Finance and Economics Committee prior to agreement in connexion with the undermentioned areas -

States Greffe - adequacy of budget provision;
States members' income support and expenses;
Commonwealth Parliamentary Association annual grant;

Assemblée Parlementaire de la Francophonie annual grant.

Also for consideration were the issues surrounding the suggestion that the Privileges and Procedures Committee should take-on responsibility for the areas of the States Building, Royal Square, St. Helier used by States members, involving an initial annual rent of approximately £83,000, subject to annual increase. It was recalled that no amounts had been identified within the FSR process to fund this item.

The Committee agreed that it would be logical for the management of the overall Privileges and Procedures Committee budget to be undertaken by the States Greffe, including the preparation of quarterly and end-of-year financial reports for the Committee, which it was noted could be managed within existing staff resources.

The President was requested to write to the President of the Finance and Economics Committee and the Greffier of the States was directed to take the necessary action.

Legal advice to
Committees:
disclosure .
499/3(17)

A12. The Committee considered issues in connexion with the conveyance of legal advice from Committee Presidents to members of the States.

Ex.Off.

Having noted the circumstances which had given rise to e-mail correspondence from Senator P.V.F.. Le Claire to the President, the Committee was advised that H.M. Attorney General currently had under consideration the issue of guidance to all Committees indicating that legal advice should not be divulged by Committees without prior reference to the Law Officers' Department.

The President was requested to write to Senator Le Claire indicating that the Committee was currently awaiting guidance from the Attorney General on the matter of disclosing legal advice but that, for its part, the Committee considered that, in general, full advice should be disclosed rather than only part of such advice.

The Executive Officer was directed to take the necessary action.

Draft Corruption
(Jersey) Law
200-: provisions
welcomed.
428(1)

A13. The Committee considered a letter, dated 22nd April 2003, from the President of the Legislation Committee, together with a copy of the draft Corruption (Jersey) Law 200- and associated background report.

Ex.Off.
Leg.C.(2)

The Committee confirmed that it welcomed the provisions outlined in the proposals, particularly as it recognised that the exact scope of the existing customary law offence was uncertain, with the single statutory offence of bribery of States members in Article 50 of the States of Jersey Law 1966 being the only statutory offence of its kind in the Island.

The Greffier of the States was directed to send a copy of this Act to the Legislation Committee.

Home Affairs
Committee:
scrutiny not to
impinge upon
statutory bodies.
465/1(31)

A14. The Committee, having considered an Act dated 27th March 2003 of the Home Affairs Committee, decided to apprise that Committee that, in relation to the intention to trial shadow-scrutiny in the latter half of 2003, 'scrutiny' would not impinge upon bodies which had statutory duties.

Ex.Off.
H.Aff.C.(2)

As regards details of the terms of reference and proposed working practice of shadow-scrutiny, the Committee recalled that its report and proposition regarding 'Scrutiny Panels' was to be lodged 'au Greffe' in the near future and that it would become clearer in due course how such Panels might operate.

The Greffier of the States was directed to send a copy of this Act to the Home Affairs

Committee.

Acts of other
Committees:
noted.

A15. The Committee noted the undermentioned Acts of other Committees -

- (a) **Policy and Resources Committee** - Act No. A12, dated 3rd April 2003, concerning a review of current procedures relating to the arrangement of public business in the States Assembly;
- (b) **Policy and Resources Committee** - Act No. A14, dated 3rd April 2003, concerning a summary of the expenditure on machinery of Government reforms (MOGR) to date;
- (c) **Policy and Resources Committee** - Act No. A1, dated 16th April 2003, concerning that Committee's response to the draft 'Code of Conduct for Elected Members of the States;'
- (d) **Legislation Committee** - Act No. A7, dated 11th April 2003, instituting wide consultation for a three-month period in relation to the draft Corruption (Jersey) Law 200-;
- (e) **Legislation Committee** - Act No. A9, dated 11th April 2003, concerning a matter to be incorporated in to the wider examination of electoral reform;
- (f) **Legislation Committee** - Act No. A16, dated 11th April 2003, delegating to Deputy J-A. Bridge authority to approve the proposed terms of reference for the Freedom of Information Working Party;
- (g) **Finance and Economics Committee** - Act No. A7, dated 14th May 2003, concerning budgetary arrangements for the States Assembly and other non-executive departments.

Ex.Off.

Next meeting.

A16. The Committee confirmed that its next meeting would be held on Friday, 13th June 2003, commencing at 9.30 a.m. in the Halkett Room, Morier House, Halkett Place, St. Helier,