

IC/SC/134

PRIVILEGES AND PROCEDURES COMMITTEE

(28th Meeting)

25th April 2013**PART A**

All members were present, with the exception of Deputy K.L. Moore, from whom apologies were received.

Connétable A.S. Crowcroft, Chairman
 Senator S.C. Ferguson
 Senator Sir P.M. Bailhache (except for items A1 and A2)
 Connétable L. Norman
 Deputy J.A. Martin
 Deputy M. Tadier

In attendance -

Senator I.J. Gorst, Chief Minister (for item A7 and B2)
 J.D. Richardson, Chief Executive, States of Jersey (for item A7 and B2)
 T. Walker, Director of International Affairs (for item A7)
 M.N. de la Haye, Greffier of the States
 A.H. Harris, Deputy Greffier of the States
 I. Clarkson, 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 14th February (Part A only) and 14th March 2013 (Parts A and B), having been circulated previously, were taken as read and were confirmed.

Senator P.M. Bailhache was not present for this item.

Matters arising. A2. The Committee noted the following matters arising from the Part A Minutes of its meetings held on 14th February and 14th March 2013 –

- (a) Minute No. A1 of 14th February 2013 – the Committee noted that the notice period in Standing Order 168(4) had now been extended to 3 months, thereby ensuring that the States would not need to be notified of Housing Department tenancies, and
- (b) Minute No A2 of 14th March 2013 – the Committee thanked the States Greffe for having orchestrated a high profile voter registration and turnout campaign concerning the referendum on reform of the States Assembly.

Senator P.M. Bailhache was not present for this item.

Referendum (Reform of States Assembly) (Jersey) Act 2013: A3. The Committee, with reference to its Minute No. A2 of 14th March 2013, received an oral report from the Greffier of the States regarding the outcome of the referendum on reform of the States Assembly held on 24th April 2013.

The Committee was advised that the first round of voting had not produced a clear winner. Second preference votes had therefore been counted and the following

referendum
outcome.
1240/22/1/10
(10)

result had been confirmed –

Option A – 6,707 votes (45.02 per cent)
Option B – 8,190 votes (54.98 per cent)

1,727 of those who voted for Option C had declined to select a second preference. Overall turnout had been 26.2 per cent.

It was clarified that a report evaluating the referendum process would be prepared in early course. In the intervening period, the Committee was invited to clarify its thoughts on next steps.

The Committee considered whether, given the percentage turnout and the narrow margin of victory for Option B in the first round of voting, independent statistical interpretation of the result was warranted. This proposal was ultimately rejected. Although several of the Committee members cited concerns regarding the adequacy of the 3 specific options put to the electorate, the Committee accepted that the referendum had delivered a definitive outcome and **agreed** that the process of implementation should commence in early course with preparation of the law drafting instructions. In reaching its decision, the Committee acknowledged that individual Members might seek to amend the resulting proposition and that an extended debate in the Assembly regarding the validity of the referendum outcome could not be ruled out.

Deputies J.A. Martin and M. Tadier requested that their dissent to the Committee's decision be recorded in the Minutes. Both considered that further consideration of the referendum outcome was warranted given the potential for Option B to give disproportionate weight to votes cast in the less densely populated parishes.

The implications for the so-called 'Troy rule,' under which the number of non-executive States Members was required to exceed the number of Members in the executive by a minimum of 10 per cent, was discussed. It was noted that, in the absence of a proposal to amend or repeal the Troy rule, implementation of Option B would require an executive of no more than 18 Ministers and Assistant Ministers and it was agreed that the law drafting instructions should be prepared on this basis.

Consideration was also given to the matter of boundary regulation in future years. It was clarified that the Electoral Commission had considered the matter and had concluded that a discrepancy of between 500 and 1,000 voters could be tolerated without unduly compromising voter equity for Deputies.

The Committee resolved to evaluate the referendum process at a subsequent meeting.

Senator P.M. Bailhache was not present for this item.

Carswell
Review Sub-
Committee:
terms of
reference.
499/3(22)

A4. The Committee, with reference to its Minute No. A4 of 7th February 2013, recalled that it had established the Carswell Review Sub-Committee.

The Committee considered a project document entitled: 'Carswell Review Sub-Committee: Terms of Reference.'

It was explained that the Carswell Review Sub-Committee had met for the first time on 18th April 2013 and, having revisited R.143/2010 ('Review of the Roles of the Crown Officers'), had agreed to propose to the Committee that it be charged with fulfilling the following terms of reference -

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- “(a) To review the recommendations of the Carswell Report (R.143/2010) in relation to the creation of an elected President of the States, with specific consideration of –
- (i) the role of the current Bailiff as both civic head and Presiding Officer of the States Assembly;
 - (ii) the role of the Speaker in other jurisdictions based on the Westminster model; and,
 - (iii) the practical and financial implications of replacing the Bailiff with an elected Speaker.
- (b) To deliver a report and recommendations to PPC.”

The Sub-Committee was expected to take several months to complete its work.

The Committee **endorsed** the terms of reference for the Carswell Review Sub-Committee and recommended that the Chairman inform the Bailiff accordingly.

Senator P.M. Bailhache was not present for this item.

Machinery of
Government
Review Sub-
Committee:
interim report.
465/1(182)

A5. The Committee, with reference to its Minute No. A3 of 14th March 2013, gave further consideration to the draft interim report of the machinery of Government Review Sub-Committee.

It was noted that an executive summary had been added to the draft in accordance with the Committee’s request and that certain other minor and inconsequential amendments to the report had been made. An additional recommendation had been added proposing that the Council of Ministers be required to publish, and keep updated, a collated list of all advisory and oversight groups formed to progress the development or revision of policy.

The Committee **noted** the revised report and resolved -

- (a) to present the report to the States Assembly on 30th April 2013, and
- (b) to forward the report to the Council of Ministers and the Chairmen’s Committee for comment.

The Committee Clerk was authorised to take the necessary action.

Pensions for
States
Members.
1240/3(85)

A6. The Committee, with reference to its Minute No A2 of 20th June 2012, recalled having agreed to give further consideration to the possible introduction of a pension scheme for States Members and the related recommendation of the States Members’ Remuneration Review Body (SMRRB) made in 2009 (R.132/2009 refers) once the outcome of the referendum on reform of the States Assembly was known.

The Committee considered a report dated 25th April 2013 and which was entitled: ‘Pension Provision for States Members.’

It was felt that the case for providing a modest pension scheme for Members remained strong given that politics had all but become a career and that the conclusions of the SMRRB regarding the case for pension provision were plain. Option 3 as outlined in R.132/2009 remained the provisional choice of the Committee, although it acknowledged that the economic climate remained challenging and, therefore, that Members would probably be reluctant to support

the establishment of a pension scheme unless it could be done without increasing the budget for the States Assembly.

Consideration was given to the outcome of the referendum on reform of the States Assembly and the interim report of the Machinery of Government Review Sub-Committee (R.39/2013 refers). The Committee observed that a smaller Assembly would have budgetary implications. It was further noted that proposals for reform of the Public Employees Contributory Retirement Scheme (PECRS) had been published in March 2013. The Committee discussed whether a suitably reformed PECRS might provide an appropriate vehicle for providing States Members with a modest pension following the reconstitution of the States in November 2014. It was agreed that establishing the cost to the public of any scheme would be a prerequisite to any further consideration of the matter, irrespective of whether the PECRS might be capable of serving as the appropriate vehicle.

The Committee reaffirmed that it was provisionally minded to pursue the introduction of a pension scheme in accordance with option 3 as outlined in R.132/2009, on condition that introduction of such a scheme could be achieved without increasing the budget of the States Assembly. It nevertheless **agreed** that it should make a final decision on the matter once the Chairman had made contact with the Treasury and Resources Department and had established whether a reformed PECRS might be capable of providing a pension scheme for States Members broadly in accordance with option 1 of R.132/2009.

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

Minister for
External
Relations.
450/1(19)

A7. The Committee, with reference to its Minute No. A4 of 14th March 2013, recalled that the Council of Ministers was minded to propose the establishment of the office of Minister for External Relations and that the Chief Minister wished to meet with the Committee discuss the proposal. It further recalled that the Corporate Services Scrutiny Panel had begun its review of the proposal and expected to report to the States in May 2013.

The Committee welcomed: Senator I.J. Gorst, Chief Minister; the Chief Executive, States of Jersey and the Director of International Affairs.

The Chief Minister explained that he had made the case for having a Minister for External Relations during the course of a Corporate Services Scrutiny Panel public hearing held on 9th April. It was envisaged that an Assistant Ministerial post would be extinguished following the Minister's appointment, thereby ensuring that compliance with Article 25(3) of the States of Jersey Law was maintained. The appointment process for the Minister for External Relations would be executed by the States Assembly in the normal way.

The Committee confirmed that its interest in the proposal stemmed from Standing Order 128 (a), which charged the Committee with keeping under review the composition, the practices and the procedures of the States as Jersey's legislature and bringing forward for approval by the States amendments to the Law and standing orders as considered appropriate. In that regard, the Committee had no observations to make on that case, save to note that in recent years strong arguments had been made in favour of the establishment of other ministerial roles, including a Minister for Children and a Minister for Justice.

There followed a discussion regarding the so called 'Troy rule' (which stipulated that the number of non-Executive States Members should exceed the total number of Ministers and Assistant Ministers by a margin of 10 per cent) and the outcome of the referendum on reform of the States Assembly. It was noted that an

Assembly of 42, constituted in accordance with the Troy rule, would have room for only 18 ministers and assistant ministers. Some thought would therefore need to be given to which ministerial portfolios were truly necessary in future years, irrespective of whether a Minister for External Relations was to be approved. Thought would also need to be given to the corresponding scrutiny structure.

On the matter of whether the Troy rule should remain, the Committee noted the conclusion of its Machinery of Government Review Sub-Committee; that a majority of Members were thought to favour the retention of minority government scrutinised by a majority of Members, as envisaged by the Clothier Panel. It had nevertheless implied that the Troy rule might not be required in its present form. The Chief Minister advised the Committee that he had been considering the same issue and would reveal his conclusions in due course.

Consideration was given to the question of whether the existing rules and methodology for appointing the Council of Ministers remained appropriate. Ministerial portfolios were defined by Standing Order 117(1), while the number of Ministers was prescribed in Article 18 of the States of Jersey Law 2005. Under the existing rules the Chief Minister had not been empowered to align ministerial portfolios to fit the strategic priorities identified at the commencement of his term of office. Although the Committee had not yet formed a view on this matter, it anticipated that an argument could be constructed in favour of giving the Chief Minister significantly greater flexibility in this regard.

In summary, the Committee concluded that the question of whether the office of Minister for External Relations should be created had, to an extent, been overtaken by the issue of how the machinery of government should be adapted to fit a smaller States Assembly.

The Committee **agreed** that the Chairman should write to the Chairman of the Corporate Services Scrutiny Panel outlining the Committee's views as recorded above.

The Committee Clerk was authorised to take the necessary action.