

PRIVILEGES AND PROCEDURES COMMITTEE

(78th Meeting)

5th October 2010PART A

All members were present, with the exception of Senator B.I. Le Marquand, from whom apologies had been received.

Connétable J. Gallichan of St. Mary, Chairman
 Connétable P.F.M. Hanning of St. Saviour (not present for item Nos. A1, A2, A14 and A15(2))
 Deputy J.B. Fox
 Deputy J.A. Martin
 Deputy C.H. Egré (not present for item Nos. A3 to A15(1) inclusive; the conclusion of item No. B1; and item Nos. B2 and B3)
 Deputy M.R. Higgins

In attendance -

M.N. de la Haye, Greffier of the States
 Miss A-C. Heuston, Clerk to the Privileges and Procedures Committee

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

Media Relations:
 Code of Conduct.
 P.100/2010
 1240/10(36)

A1. The Committee, with reference to its Minute No. A6 of 21st September 2010 welcomed the Deputy of St. Martin in connexion with the proposition: Media relations: Code of Conduct, lodged "*au Greffe*" on 15th July 2010 by the Privileges and Procedures Committee (P.100/2010 refers).

The Committee recalled that it had previously received correspondence, dated 13th September 2010, from the Deputy of St. Martin in this regard, and that the Deputy had been invited to attend the present meeting to discuss his proposed amendments to the proposition. The Deputy contended that the proposed Code of Conduct, which had been developed by the Media Working Party and was proposed by the Committee for adoption by the States, lacked innovation and would introduce a divisive media accreditation system. The Deputy informed the Committee of a series of amendments he intended to lodge to the proposition, which was scheduled for debate on 2nd November 2010. These included a definition of "accredited media"; provision to allow members of the media to enter the States Building with the consent of a States member; provision to allow members of the public to be filmed during proceedings with their consent; and inclusion of those who adhered to the "Google Blogger Terms of Service" as members of the media who operated in a regulated environment. The Committee, having discussed the matter with the Deputy, **agreed** that further work could be carried out in respect of the proposed Code of Conduct and the method through which a member of the media could achieve accreditation. It was accordingly **agreed** that the forthcoming debate on P.100/2010 should be deferred until 30th November 2010.

Having been thanked by the Chairman for his attendance, the Deputy of St. Martin withdrew from the meeting.

The Committee Clerk was requested to take the necessary action.

Review of

A2. The Committee, with reference to its Minute No. A7 of 13th April 2010

Standing Orders
155 to 158.
450/2/1(36)

received a report prepared by the Greffier of the States in connexion with a review of Standing Orders 155 to 158 of the Standing Orders of the States of Jersey in respect of the operation of the Code of Conduct for Elected Members.

The Committee recalled that it had agreed to undertake a review of the operation of the Code, and, in particular, the procedures used to investigate and adjudicate on any alleged breaches. The Committee noted that the report summarised some of the perceived difficulties with the current procedures; set out the procedures used at the House of Commons and the Scottish Parliament; and summarised the outcome of a recent review in Northern Ireland. The Committee **agreed** that it would be preferable if the views of members were to be obtained prior to consideration being given to possible changes to the procedures used in Jersey. It was accordingly **agreed** that the report should be revised for presentation to the States in the 'R' series of reports.

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

Public Elections
Working Party.
465/7(8)

A3. The Committee, with reference to its Minute No. A5 of 27th July 2010 received the recommendations of the Public Elections Working Party contained within its review of the operation of the Public Elections (Jersey) Law 2002 (R.94/2010 refers).

The Committee noted correspondence received from the Chairman of the Comité des Connétables, Connétable K.P. Vibert, dated 6th September 2010, correspondence dated 4th September 2010 from Jurat J.L. Le Breton on behalf of the Jurats of the Royal Court and e-mail correspondence dated 15th July 2010 from Deputy R.G. Le Hérissier. The Committee, having considered the content of the correspondence and the recommendations of the Working Party, **agreed** the following:

- 1) candidates should be restricted from standing for more than one office at the same time (the dissent of Deputy M.R. Higgins in respect of this decision was noted);
- 2) legislation should be brought forward to provide that, in the event of a person already nominated as a candidate for Senator then being nominated for another office, any second nomination would invalidate the earlier nomination, with the consequence that at the end of the nomination process a person would only be nominated to stand for one office on the same day;
- 3) 3 ballot boxes should be installed at each polling station, one to contain the votes for Senators, one for Connétables and one for Deputies; and boxes should be colour-coded to match the colour of the relevant ballot paper;
- 4) different coloured ballot papers should be used for each of the elections in order to assist with the count and the ballot paper should contain an indication at the top of which election it related to;
- 5) voters should be asked which elections they wished to vote in and should be given the appropriate ballot papers;
- 6) every ballot paper should state how many candidates an elector could vote for in that particular election;
- 7) one electoral list should be produced, with three columns to be marked off to indicate which election papers each voter had received;
- 8) the opening of the poll, as specified under Article 30 of the Public

Elections (Jersey) Law 2002, should remain at 8 a.m.;

- 9) consideration should be given to the installation of additional polling booths at polling stations so that the additional time spent by voters to complete the ballot papers would not result in delay;
- 10) 3 counts should be made on the evening of election day in as many parishes as possible;
- 11) *Autorisés* should make arrangements with parishes for additional *Adjoints* to be appointed to cope with the additional workload that would arise in the counts following a single election day;
- 12) where counting all votes on election night was not possible, tally sheets should be used and the Deputies and Connétables elections should be counted and declared that evening. Any ballot boxes that were not counted should be kept securely until the following day, when the count would commence;
- 13) a trial Saturday election should be held at some stage after 2011 to assess whether turnout would be improved by a permanent change from Wednesday to Saturday for all elections;
- 14) Senators should continue to be nominated at the Town Hall and the Connétables and Deputies in their respective Parishes on the following evening. A review of this arrangement should then be carried out after the 2011 election. (The dissent of Deputy J.A. Martin in respect of this decision was noted.);
- 15) there should continue to be a cut-off date before the first nomination meeting for those registering to vote in an election in order for the parish to know who would be eligible to propose and second a candidate at the nomination meeting, and so that candidates could receive a list of electors who could be canvassed for a vote;
- 16) procedures for referendum should be simplified and administered by parish hall staff and volunteers. Voting slips should then be taken to one location, where a centralised count would be established;
- 17) any concerns about the suitability of any particular premises used for polling should be raised with the Connétable of the parish concerned;
- 18) the statutory requirements to advertise in the Jersey Gazette in respect of how an elector may obtain a postal vote or pre-poll at the Judicial Greffe should be amended so that the notices could be made more easily understandable to potential electors;
- 19) the system of pre-poll voting should be opened up to all electors and the current requirement that electors must have some form of commitment which prevented them from voting on polling day should be removed;
- 20) the pre-poll voting system should be simplified so that the process of placing envelopes in envelopes as though completing a postal vote would no longer be required. Instead voters would simply be asked to show their identity, complete the ballot paper and place it in the ballot paper envelope. It would then be kept in a secure place at the Judicial Greffe;
- 21) the system of postal voting should be restricted to those electors who

would be out of the Island on polling day;

- 22) the procedure for collecting votes from persons who were ill or disabled (the 'sick vote' procedure) should be expanded to a period encompassing several days before the poll. Electors themselves, or any other person on their behalf, could contact a specified person and request that an official call at their residence to enable them to vote;
- 23) known names should be included on the ballot paper in the following simple format: SMITH John Frederick (Fred);
- 24) if practical, a standardised poster should be produced centrally showing a recent photograph of each candidate to be displayed for reference in an appropriate location, outside the polling booths, at every polling station;
- 25) following the launch of the new gov.je website, and the monitoring of the use of initiatives such as "Have your say", consideration should be given to the introduction of e-voting in Jersey;
- 26) electors should be made aware in advance that they should bring some form of identity document to the polling station so that this could be shown if required;
- 27) the 6-month period within which an election could be challenged under Article 57 of the Law should be amended to 12 months from the date of the election;
- 28) if the system of postal voting were to be restricted to those electors who were out of the Island on polling day, the Public Elections (Jersey) Law 2002 should be amended to allow candidates or their representatives to transport electors to the Judicial Greffe to pre-poll or to deliver an application for a postal vote.

The Committee also gave consideration to a number of additional matters raised in correspondence from Deputy Le Hérisier, and in the Annex of Deputy M. Tadier to the Working Party's report. In respect of hustings meetings, it was **agreed** that an individual other than the Connétable should be selected to chair hustings meetings, unless the Connétable concerned was not a candidate in the election. It was **agreed** that consideration should be given to the possible introduction of a centralised electoral roll for lunchtime voting away from a voter's place of residence. The Committee **agreed** that it was content with the current process in respect of the rolling electoral register. Deputy Le Hérisier had suggested that consideration should be given to the possible introduction of criminal record checks, and the Committee noted that this matter was already under consideration. The Deputy also invited the Committee to consider whether it was necessary for all modifications to the electoral process to be made through primary legislation. The Committee **agreed** that it was content with the present approach, but that it would be willing to carry out a future review in this respect.

The Greffier of the States was requested to consult with the Law Draftsman to request that the necessary amendments to the Public Elections (Jersey) Law 2002 be drafted for future consideration by the Committee.

Deposits for
election
candidates.
424/2(70)

A4. The Committee, with reference to its Minute No. A10 of 21st September 2010 and Minute No. A3 of the present meeting, gave further consideration to the possible introduction of deposits for election candidates and revised procedures for senatorial candidates.

The Committee recalled that, on 13th July 2010, it had agreed that a draft

proposition should be prepared in relation to the introduction of deposits for candidates, and the introduction of new procedures which would require senatorial candidates to obtain signatures from 2 electors in each parish on his or her nomination form. The Committee **agreed** that the matter should be progressed alongside the other amendments to the Public Elections (Jersey) Law 2002. Further research could then be conducted and a decision taken at a later date in respect of whether or not to pursue appropriate amendments to the legislation in respect of deposits for election candidates and senatorial nomination procedures.

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

Composition of the States: spring election and move to 4 year term of office: Amendment. P.118/2010 Amd. 1240/22/1(54)

A5. The Committee, with reference to its Minute No. A1 of 19th August 2010 received the amendment of Deputy T.M. Pitman of St. Helier to the proposition: Composition of the States: spring election and move to 4 year term of office, lodged "*au Greffe*" on 23rd September 2010 (P.118/2010 Amd. refers).

The Committee noted that the amendment proposed a further reduction in the number of Senators in the States Assembly. The Committee welcomed Deputy Pitman's general support of its proposals to move to a spring election and a 4 year term of office for States members and agreed that it did not wish to comment on the further reduction in the number of Senators proposed by the Deputy, as this was primarily a political decision and a matter for individual members. The Committee **agreed** to present a comment to the States in these terms.

The Committee Clerk was requested to take the necessary action.

Composition of the States: spring election and move to 4 year term of office. P118/2010 Amd (2) (re-issue) 1240/22/1(54)

A6. The Committee, with reference to its Minute No. A1 of 19th August 2010 and Minute No. A5 of the present meeting, received the amendment of the Deputy of St. Mary to the proposition: Composition of the States: spring election and move to 4 year term of office, lodged "*au Greffe*" on 28th September 2010 (P.118/2010 Amd. (2) (re-issue) refers).

The Committee noted that the Deputy's amendment proposed a series of changes to the electoral system in order to retain the same number of Senators. The Committee agreed that, although the Deputy was seeking to retain the importance of the island-wide mandate, it would, in practice, have the opposite effect. The Committee also agreed that, as a result of the proposal to hold annual elections, with "major" elections for Connétables and Deputies and "minor" elections for Senators, there would be a likely detrimental impact upon voter turn-out as result of 'voter fatigue'. The Committee agreed that one of the most effective ways to enhance voter turn-out was through the introduction of the single election day, the introduction of which had been approved by the States in September 2009 (P.109/2009 refers). With packages of complete reform having previously been rejected by the States, the Committee considered that it had developed a way forward which sought to address the aims and requirements of the States and the public as effectively as possible. The Committee also agreed that the financial and manpower implications of the Deputy of St. Mary's approach were likely to be greater than the £15,000 per annum stated, due to the need for a voter registration campaign and a newspaper insert to be published in advance of every election.

The Committee **agreed** that a comment in these terms should be drafted for presentation to the States.

The Committee Clerk was directed to take the necessary action.

Machinery of Government: establishment of Ministerial Boards and

A7. The Committee, with reference to its Minute No. A3 of 21st September 2010 received the amendment of the Deputy of St. Peter to the proposition: Machinery of Government: establishment of Ministerial Boards and revised system of scrutiny, lodged "*au Greffe*" on 28th September 2010 (P.120/2010 Amd. (2) refers).

revised system of scrutiny.
P.120/2010 Amd.
(2)
1240/22/1(55)

The Committee noted that the Deputy proposed that Ministerial Board meetings should be recorded by officers from the States Greffe. The Committee, having considered the amendment, agreed that it supported the proposal. The Committee recognised that if the system of Ministerial Boards was to work in a transparent and effective way it would be beneficial for records of meetings to be drawn up by staff working in the States Greffe who were independent of any ministerial department.

The Committee **agreed** that a comment should be drafted in these terms, for presentation to the States.

The Committee Clerk was directed to take the necessary action.

Machinery of Government: establishment of Ministerial Boards and revised system of scrutiny.
P.120/2010 Amd.
1240/22/1(55)

A8. The Committee, with reference to its Minute No. A3 of 21st September 2010 and Minute No. A7 of the present meeting, received the amendment of Deputy P.V.F. Le Claire of St. Helier to the proposition: Machinery of Government: Establishment of Ministerial Boards and revised system of scrutiny, lodged "*au Greffe*" on 23rd September 2010 (P.120/2010 Amd. refers).

The Committee noted that the amendment proposed that members with delegated responsibility for specific functions "shall be referred to as 'Members with special responsibility for X'". The Committee welcomed the way in which the Deputy's amendment drew attention to the importance of the power of delegation to future members of Boards under the revised system of government proposed by Senator A. Breckon in P.120/2010. However, the Committee noted that, as drafted, the Deputy's amendment made it mandatory that Board members with delegated responsibilities "shall" be referred to as the "Member with special responsibility for X". The Committee considered that this lengthy title may not be appropriate in all cases, and agreed that there should be flexibility during the implementation stage so that, if an alternative title was identified, the States would not be formally bound by the decision taken in the amendment. The Committee **agreed** that an amendment should be drafted to Deputy Le Claire's amendment to P.120/2010 to provide that Board members with delegated responsibilities "may" be referred to as the "Member with special responsibility for X".

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

Machinery of Government: establishment of Ministerial Boards and revised system of scrutiny.
P.120/2010 Amd. (3).
1240/22/1(55)

A9. The Committee, with reference to its Minute No. A3 of 21st September 2010 and Minute Nos. A7 and A8 of the present meeting, received the amendment of the Deputy of St. John to the proposition: Machinery of Government: establishment of Ministerial Boards and revised system of scrutiny (p.120/2010) – Third amendment, lodged "*au Greffe*" on 29th September 2010 by the Deputy of St. John (P.120/2010 Amd. (3) refers).

The Committee noted that the financial and manpower implications detailed within P.120/2010 suggested that 5 posts could be redeployed from the current scrutiny team to provide support for the proposed Ministerial Boards. The Deputy of St. Peter's amendment to the proposition suggested that these 5 posts should be retained within the States Greffe to service the Boards (P.120/2010 Amd.(2) refers). The amendment of the Deputy of St. John proposed that the posts should be transferred out of the scrutiny section to provide research assistance for States members. The Committee noted that, if the Deputy of St. Peter's amendment and the Deputy of St. John's amendment were both to be adopted, additional resources would be required to fill the new research assistant posts. Should the amendment of the Deputy of St. John be adopted in isolation, resource implications would be associated with the creation of the new rôle of research assistant. The Committee agreed that, subject to the adoption of the amendment of the Deputy of St. Peter to P.120/2010, the Committee was opposed to paragraph 1 of the amendment of the Deputy of St. John.

The Committee **agreed** that a comment should be drafted in these terms which

would also note that the Committee had no comment to make in respect of paragraph 2 of the amendment, which proposed that Scrutiny Panels should be renamed "Select Committees".

The Committee Clerk was directed to take the necessary action.

States members' remuneration: reconsideration of 2011 increase and repeal of Article 44 of the States of Jersey Law 2005. P.127/2010 450/1(14)

A10. The Committee received the proposition: States members' remuneration: reconsideration of 2011 increase and repeal of Article 44 of the States of Jersey Law 2005, lodged "*au Greffe*" on 27th September 2010 by Senator B.E. Shenton (P.127/2010 refers).

The Committee noted that the proposition invited members to agree that the States Members' Remuneration Review Body should be requested to review its recommendation for an £800 increase in remuneration for elected members from 1st January 2011, and that Article 44 of the States of Jersey Law 2005, which prevented the payment of different amounts of remuneration to different elected members, should be repealed, with the Review Body being requested to bring forward a scheme of differential remuneration for 2012 and beyond.

The Committee expressed frustration that Senator Shenton had not followed the procedures agreed by the States when the independent Review Body was established, whereby he could have challenged the Review Body's recommendations in R.93/2010 during the month following its presentation. The Committee did not consider it appropriate for the Review Body to be required to reconvene and reconsider its recommendations. It also noted that the work of Review Body was undertaken on an honorary basis and for that reason the proposition was considered to be unreasonable. The Committee felt that the independence of the Review Body should be defended and that States members should not have involvement in setting their own remuneration. The proposal that members should receive differential remuneration was considered to be a purely political decision, which could be addressed by the Review Body, should the States agree to repeal Article 44. The Committee **agreed** that Chairman should be requested to write to the Chairman of the States Members' Remuneration Review Body to request a preliminary indication as to whether or not it would be willing to reconvene to reconsider its recommendation, in accordance with paragraph (a) of the proposition.

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

Scrutiny reports. 465/1(156)

A11. The Committee, with reference to its Minute No. A7 of 21st September 2010 received a report in connexion with the possible introduction of a mechanism to enable scrutiny reports to be discussed on the floor of the Assembly.

The Committee recalled that it had agreed at its meeting on 21st September 2010 to consider the formal introduction of scrutiny reports within the States Assembly, following a suggestion by the Deputy of St. Mary. The Committee noted a number of options which had been based upon procedures employed in other jurisdictions. The Committee **agreed** that the report should be referred to the Chairmen's Committee and the Committee's comments sought in this respect.

The Committee Clerk was requested to take the necessary action.

Work during recess. 1240(214)

A12. The Committee received correspondence dated 28th September 2010 from the President of the Chairmen's Committee, Senator B.E. Shenton in connexion with the level of work carried out by some members of the States during recess.

The Committee agreed that members should be expected to carry out some level of work during the recess, but considered that it was a matter for members' conscience. It was noted that the current system of government could be altered if the proposition: Machinery of Government: Ministerial Boards and revised system of

scrutiny, lodged "*au Greffe*" on 26th August 2010 by Senator A. Breckon (P.120/2010 refers), was to be adopted by the States. Should this be the case, the Committee felt that the problem may not arise to the same extent in future. It was agreed that the situation should be monitored and subsequently reviewed if problems were to persist. The Committee **agreed** to request the Chairman to write to the President of the Chairmen's Committee to advise him accordingly.

The Committee Clerk was requested to take the necessary action.

Family members standing for election.
450/2/1(35)

A13. The Committee received e-mail correspondence dated 22nd September 2010 from Mr. G. Romeril, in connexion with the ability of family members to stand for election.

The Committee noted the opinion of Mr. Romeril that partners and members of the same family or household should not be permitted to stand for election as members of the States and that this should be prevented in advance of the next election. The Committee **agreed** that it was for the electorate to elect whomsoever they saw fit and that human rights issues would arise should anyone seek to prevent members of the same family or household from standing for election. The Committee **agreed** to request the Chairman to write to Mr. Romeril to advise him accordingly.

The Committee Clerk was requested to take the necessary action.

Draft Freedom of Information (Jersey) Law 201-.
P.101/2010
670/1(21).

A14. The Committee, with reference to its Minute No. A1 of 29th September 2010, received e-mail correspondence dated 1st October 2010 from the Law Officers' Department in connexion with the draft Freedom of Information (Jersey) Law 201-, lodged "*au Greffe*" by the Privileges and Procedures Committee on 19th July 2010 (P.101/2010 refers).

The Committee noted that some drafting revisions were likely to be required in respect of the draft Law. It was **agreed** that these should be carried out prior to the debate on P.101/2010, and that the debate should accordingly be deferred until November 2010.

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

Matters for information.

A15. The Committee noted the following matters for information:

- 1) correspondence sent and received following its meeting on 21st September 2010:
 - (a) from the Vice Chairman to the Deputy of St. Mary in connexion with the Deputy's comments on the report of the States Business Organisation Sub-Group (R.59/2010 refers);
 - (b) from the Vice Chairman to the Editor of the Jersey Evening Post dated 23rd September 2010, in connexion with an e-mail received by States members; and the response of the Deputy Editor dated 24th September 2010;
 - (c) from the Greffier of the States to H.M. Attorney General dated 24th September 2010 in connexion with declarations made by candidates for Senator or Deputy.
- 2) a written question to the Chairman from Deputy J.M. Maçon of St. Saviour in connexion with media protocols. The Committee **agreed** that it was not its rôle to express a view in respect of any protocol operated by a media organisation; however, the Deputy should be advised that, following discussions with the Deputy of St. Martin at the present meeting (Minute No. A1 refers), the Committee had decided to

undertake further work in respect of the proposition: Media Relations: Code of Conduct, lodged "*au Greffe*" on 15th July 2010 (P.100/2010 refers).