

AG/SC/035

PRIVILEGES AND PROCEDURES COMMITTEE

(21st Meeting)

16th January 2014**PART A**

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

Deputy J.M. Maçon, Chairman

Senator S.C. Ferguson (not present for Item Nos. A1 to A8 inclusive and Item No. B1)

Senator B.I. Le Marquand (not present for Item Nos. B2, B3 and B4)

Connétable L. Norman of St. Clement

Deputy J.A. Martin

Deputy M. Tadier

In attendance -

A.H. Harris, Deputy Greffier of the States

A. Goodyear, Committee Clerk

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

Minutes.

A1. The Minutes of the meetings of 24th September (Part A only), 13th November (Part A only), 14th November (Part A only), 15th November (Part A and Part B), 9th December (Part A and Part B), 12th December (Part A only), 18th December (Part A only) and 30th December 2013 (Part A only), having been previously circulated, were taken as read and were confirmed.

Public  
Elections:  
Single  
Transferable  
Voting System  
(STV) and an  
Alternative  
Voting System  
(AV)  
(P.171/2013).  
424/2(86)

A2. The Committee, with reference to its Minute No. A13 of 9th December 2013, recalled that it had not yet presented a comment to the States in respect of the proposition of Deputy M. Tadier entitled: 'Public Elections: Single Transferable Voting System (STV) and an Alternative Voting System (AV)' (P.171/2013 refers).

The Committee recalled that it had previously agreed to consider the content of any comment it wished to make in respect of Deputy Tadier's proposition following the outcome of the various reform debates which had been lodged "*au Greffe*" (P.93/2013, P.94/2013, P.98/2013, P.116/2013 P.117/2013 and associated amendments refer). However, Deputy Tadier's proposition was due to be debated on 21st January 2014 and debate on the proposition of Senator Ozouf entitled 'Composition and Election of the States – reform proposal 1' had been deferred until the same date (P.93/2013 refers). The Committee noted that Deputy Tadier's proposition proposed the replacement of the current plurality voting system with two separate voting systems, namely the Single Transferable Vote system (STV) for multi-member constituencies and the Alternative Vote system (AV) for single-member constituencies. The impact of the proposed changes would vary, depending upon the structure of the States Assembly at the time of implementation. The Committee was invited to consider whether it wished to present a comment to the States in respect of the Deputy's proposition and noted

that a draft comment had been prepared for its consideration.

It was noted that the majority of the Committee did not favour the introduction of the STV system for multi-member constituencies. While the Committee was more supportive of the possible introduction of the AV system, it did not believe that it should be introduced while members of the States Assembly continued to be elected in both multi-member and single-member constituencies. This would require two different voting systems to remain in place, one for multi-member constituencies (whether that be 'first past the post' or STV), and one for single-member constituencies.

The Committee, having agreed certain amendments to the draft comment, requested that it be revised and circulated to members for approval and presentation to the States in early course. The Committee Clerk was requested to take the necessary action.

Referenda:  
revised  
procedures  
(P.153/2013).  
1417/1(4)

A3. The Committee, with reference to its Minute No. A14 of 9th December 2013, received the proposition of Deputy R.G. Le Hérissier entitled: 'Referenda: revised procedures' and a draft comment which had been prepared for the Committee's consideration.

The Committee noted that the proposition requested the States to agree that the Committee review the current provisions of the Referendum (Jersey) Law 2002 and bring forward proposals to define more clearly the conditions that may be applied to the holding of any future referendum. The Deputy proposed that terms should be defined in respect of the holding of a referendum, which may vary depending on the type of referendum and whether it represented the final step in a decision-making process.

The Committee agreed that, should the States decide to adopt the proposition of Deputy R.G. Le Hérissier, it would be content to review the current provisions of the Referendum (Jersey) Law 2002 and bring forward proposals accordingly. It was noted, however, that if the Committee's review found that amendments to the Law were necessary, law drafting time would need to be requested and, once drafted, the amendments would need to be lodged "*au Greffe*" for debate by the States. If adopted, the amendments would then require the sanction of the Privy Council. It was therefore unlikely that any such amendments to the Referendum (Jersey) Law 2002 would be in place in advance of the referendum on the composition and election of the States Assembly that was due to be held on election day in October 2014 (the adoption by the States of paragraph (e) of P.116/2013 and paragraph (e) of P.117/2013 refer).

The Committee, having agreed certain amendments to the draft comment, requested that it be revised and circulated to members for approval and presentation to the States in early course. The Committee Clerk was requested to take the necessary action.

Composition  
and Election of  
the States  
Assembly –  
reform  
proposals:  
referendum.  
465/1(195)

A4. The Committee, with reference to its Minute No. A5 of 9th December 2013, gave further consideration to the reform of the States Assembly and, in particular, the preparation of a Referendum Act following the adoption by the States on 15th November 2013 of paragraph (e) of the Committee's proposition entitled, 'Composition of the States Assembly: Interim reform for 2014 and referendum for further reform' (P.116/2013 refers) and paragraph (e) of the proposition of Deputy A.K.F. Green of St. Helier entitled, 'Composition and election of the States Assembly: reform – proposal 4' (P.117/2013 refers).

The Committee had prepared a draft referendum question which had been forwarded to the Statistics Unit for review. A revised question had been drafted as follows:

*The 'States Assembly' (Jersey's government) is currently made up of three types of politicians: 8 Senators (elected by voters of the whole island), 29 Deputies (elected by voters of relevant districts and parishes), 12 Connétables (elected by voters of an entire parish).*

*A new system has been proposed. The 'States Assembly' could be made up a single type of politician. The new type of politician would be elected by voters of parishes, and the number of politicians representing a parish would be in proportion to the population of that parish. Connétables would continue to be elected to run each parish. They would not automatically have a seat in the 'States Assembly' but could stand for election to the 'States Assembly' as well.*

*Do you think this new system should be introduced for Jersey?  
YES / NO*

It was noted that the Statistics Unit had, however, raised concerns regarding the multi-faceted nature of the question. It was noted that, should an individual answer 'no' it would not be possible to establish which elements of the proposal they wished to reject and, if the outcome of the referendum was a 'yes' vote, areas of the proposal remained unspecified, including, for example, the number of politicians. It was noted, however, that if the number of politicians was specified in the question, this would serve to further complicate the question. The Statistics Unit had therefore concluded that it was only able to recommend a different approach such as the preparation of a suite of questions to be asked in the Jersey Annual Social Survey or similar in order to fully explore the public acceptability of each of the range of concepts.

The Committee, having considered the matter, was of the view that it should continue in its efforts to draft a referendum question, having been charged to do so by the States. The Committee discussed whether the question should contain the entire package of proposals being put forward, to include the number of members, the proposed constituencies and the distribution of seats. The Committee agreed certain amendments to the draft question and requested that a further draft be prepared using the question: "Should the States Assembly be made up of one type of member elected in parish based constituencies? Yes/No". It was agreed that the drafts, having been circulated to the Committee, should then be referred to the UK Electoral Commission to request consideration of their wording and intelligibility. The Committee Clerk was requested to take the necessary action.

Public  
Elections:  
amendments to  
legislation and  
administration:  
pre-poll voting  
in schools.  
424/2(88)

A5. The Committee, with reference to its Minute No. A11 of 9th December 2013, recalled that it had agreed to consider the possibility of establishing pre-poll voting facilities in school premises for the next elections in October 2014.

It was noted that the Deputy Judicial Greffier and the Minister for Education, Sport and Culture, Deputy P. Ryan, had been invited to attend the present meeting, but had sent their apologies.

The Committee, with reference to Minute No. B1 of the present meeting, recalled that it had commenced work on draft amendments to the Public Elections Law following the adoption by the States of the Committee's proposition: 'Public

Elections: amendments to legislation and administration' (P.110/2013 refers). Paragraph A(i) of the aforementioned proposition provided that "pre-poll voting should be offered on a Saturday before election day in a town location and two separate out-of-town locations on at least two Saturdays". It had also agreed that the opening hours for out-of-town polling stations on a Saturday should be from 10 a.m. to 6 p.m. The Committee gave further consideration to the proposed opening hours and agreed to revise its recommendation to the Judicial Greffier, and to propose that pre-poll voting stations should be open from 10 a.m. to 4 p.m. on a Saturday (Minute No. B1 of the present meeting refers).

The Committee agreed that it would wish to recommend the use of Le Rocquier School as a location for out-of-town polling on a Saturday in the lead-up to the October 2014 elections. The Deputy Greffier of the States was requested to advise the Deputy Judicial Greffier of the Committee's request. The Chairman was requested to write to the Minister for Education, Sport and Culture, to inform him of the Committee's decision.

Machinery of  
Government  
Review:  
Steering  
Group.  
465/1(182)

A6. The Committee, with reference to its Minute No. A7 of 9th December 2014, received an oral update regarding the ongoing work of the Machinery of Government Steering Group.

It was noted that law drafting had commenced in respect of amendments to the States of Jersey Law 2005 following consideration of the recommendations of the Machinery of Government Sub-Committee and that the Steering Group would, in early course, be seeking to finalise law drafting instructions in respect of amendments to the Standing Orders of the States of Jersey.

Disqualifica-  
tion for office  
under Article 8  
of the States of  
Jersey Law  
2005.  
450/1(20)

A7. The Committee received e-mail correspondence dated 5th January 2014 from Deputy R.G. Le Hérissier in connexion with the provisions of the States of Jersey Law 2005 regarding disqualification for office as a result of having been declared "en désastre".

The Committee recalled that, on 3rd January 2013, Acts of Court had been issued stating that the property of States Deputies S. Pitman and T.M. Pitman had been declared "en désastre" and, in accordance with the provisions of Article 8(1)(f) of the States of Jersey Law 2005, the two Deputies had been disqualified with immediate effect from membership of the States Assembly. Deputy R.G. Le Hérissier had asked the Chairman whether the Committee had a view on whether the Island's bankruptcy laws were "more draconian" than elsewhere, especially with regard to their impact upon politicians. In considering the matter, the Committee had regard for Articles 8(1)(f), 8(3) and 8(4) of the States of Jersey Law 2005.

The Committee noted that, in the United Kingdom, under the Enterprise Act 2002, a sitting Member of Parliament would become disqualified with his seat declared vacant if he became a person in respect of whom a bankruptcy restrictions order had effect.

It was noted that the period of time for which an individual was deemed to bankrupt under the States of Jersey Law 2005 did not align with that established under the Bankruptcy (Désastre) (Jersey) Law 1990. Article 8(3)(b) of the States of Jersey Law provided that the disqualification attaching to a person by reason of his or her having become bankrupt would cease on the expiry of five years from the day that the proceedings had been concluded; while Article 40(1) of the Bankruptcy Law provided that the Viscount would apply to the court for an order

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discharging the debtor at the expiration of four years from the date of the declaration.

The Committee, having considered the matter, requested the Chairman to write to H.M. Attorney General to request that a comparison be undertaken of the position in Jersey in relation to that in the UK. The Committee Clerk was requested to take the necessary action.

States  
members'  
facilities:  
lighting.  
1240/9/1(137)

A8. The Committee considered a request from Senator S.C. Ferguson that Property Holdings be requested to review the current lighting provision in the States Building. The Committee agreed that Property Holdings should be invited to consider the use of L.E.D. (Light Emitting Diode) lighting throughout the States Building. The Committee Clerk was requested to take the necessary action.