

6. The Chairman of the Privileges and Procedures Committee - statement regarding the absence of Senator Syvret

6.1 The Connétable of St. Mary (Chairman of the Privileges and Procedures Committee):

I am making this statement to update Members on 2 separate matters relating to Senator Stuart Syvret. In recent weeks there have been some calls in the media for P.P.C. to take some action in relation to the continued absence of Senator Syvret from the Assembly. Today is the 20th States meeting that the Senator has missed. The Senator has made his reasons for remaining away from the Island clear in the media and Members of the States and members of the public will have their own views on whether or not they believe those reasons are justified. Some have suggested in the media that steps should be taken to remove Senator Syvret from the Assembly due to his continuing absence or to stop the payment of his remuneration. P.P.C. has considered this matter carefully but notes that the States have made a specific provision in relation to Members who become resident outside the Island. This is found in Article 8.2 of the States of Jersey Law 2005 which provides that a Member is automatically disqualified if he or she is resident outside Jersey for a period of at least 6 months. Under this provision, Senator Syvret will become automatically disqualified and a by-election will be ordered if he does not return to take up residence again in Jersey by 19th April 2010, as he stated last October that he had left Jersey on 19th October 2009. Notwithstanding any prerogative powers that the States Assembly may have to take action against its own Members, P.P.C. has concluded that it would be inappropriate and oppressive to take any action in relation to Senator Syvret's absence in view of the statutory provision that has been included in the States of Jersey Law 2005. That provision is quite clear in that it allows a Member to be away for up to 6 months before becoming automatically disqualified and P.P.C. believes that it would, therefore, be inappropriate for some other action to be taken before the expiry of that 6-month period. P.P.C. is aware that the 6-month rule was inserted into the States of Jersey Law 2005 in response to concern expressed about a Member who had taken up residence in France while still returning regularly to Jersey to attend States and committee meetings. It was not envisaged at the time of enactment of the law that a Member might take up residence in another jurisdiction and not fulfil his or her obligation to attend the Assembly and other meetings, and P.P.C. believes it may, therefore, be worthwhile for the provision in Article 8.2 to be revised in due course although it would be clearly inappropriate to suggest that this could somehow be done retrospectively in relation to Senator Syvret's absence. The second matter concerns formal complaints against the Senator under the Code of Conduct that are being dealt with by P.P.C. I believe it is important to explain why no action is being taken at present in response to these complaints it has received regarding the conduct of Senator Stuart Syvret. The complaints are unrelated to his absence from the Island and have all been formally notified to him, as required by Standing Orders. Members will be aware that there is, in addition, an outstanding matter relating to earlier complaints where a vote of censure, P.107/2009, was lodged by P.P.C. but withdrawn before debate when it was apparent that the matters had become *sub judice*. The committee has received advice that, if it were to deal with the complaints it has received, it could potentially prejudice ongoing legal proceedings and the position of either party, including Senator Syvret's own defence. Members will be aware that the legal action against the Senator is currently stalled until he returns to the Island and P.P.C. finds itself in the same position in relation to the complaints. As a result, P.P.C. cannot proceed until the Senator returns to Jersey and the outstanding court cases are concluded.

The Deputy Bailiff:

Standing Orders provide for questions if any Member wishes to ask a question. Deputy of St. John.

6.1.1 The Deputy of St. John:

I will put a question if I may, nothing to do with the Senator himself, but the general one as mentioned under Article 8.2. In the review that might happen in the future, would the Chairman

look at where for health reasons a person may be off-Island, i.e. with cancer or something similar for 6 months, and take that into consideration as possibly some type of exemption?

The Connétable of St. Mary:

I think that would be entirely appropriate. It could be said that 6 months is indeed a long time. P.P.C. might look at bringing to the House suggestions for tying-in absence to the number of States sittings, perhaps, when a Member was en default, and in which case, of course, if there was a medical reason or some other good grounds for being absent, then that would be recorded in the minutes and it would not fall under that category.

6.1.2 The Deputy of St. Martin:

I know it is a difficult situation P.P.C. finds itself in but it does say here in the second paragraph: “The Senator has made his reasons for remaining away from the Island clear in the media and to Members of the States ...” Can I ask what actual steps have P.P.C. taken to find a way or discuss the matter with Senator Syvret to see, in fact, if there is probably some merit in his grievance so maybe a way forward could be found because, quite clearly, his absence in the Island does the Island no service at all. At the same time, he may well feel there is justification. So the question is really what steps, if any, has P.P.C. taken and, if they have not taken any, would they consider taking some to act, maybe, as some intermediary?

The Connétable of St. Mary:

What I can say is that P.P.C. did contact Senator Syvret to ask him if he would like to formally give his own reasons rather than rely on media speculation, but Senator Syvret has taken his own decision to leave Jersey. If he is concerned in any way, it is up to him to pursue the normal channels that are available to every citizen of this Island and it is certainly not for P.P.C. to do that on his behalf.

6.1.3 Deputy G.P. Southern:

In the light of a potential for a by-election this year as a result of Senator Syvret’s continued absence, what measures has P.P.C. put in place to ensure that electoral registers are up to date and that people who wish to postal vote can do so?

The Deputy Bailiff:

That has the most tenuous connection with the statement which the Chairman has just made, if I may say so, but, Chairman, are you able to answer that?

The Connétable of St. Mary:

Very briefly, as I did mention I think the word “by-election” in my statement. As the Deputy well knows, the electoral registers are maintained by the Constables, although of course, P.P.C. does have charge under Regulation for maintaining the Public Elections Law. However, I would say that a by-election, of course, can happen at any time for any unforeseen reason or resignation or, sadly, a death, and the electoral register, as it is maintained at the moment, is up to date inasmuch as any members of the public, any electors who were on the register at the last election will still be on because you have to not comply for years with any registration procedures before your name is removed. Of course, there is a responsibility for people to register, and you can register to go on to the electoral register at any time at all, so anybody who is concerned has an ability to go on to the register.

6.1.4 The Deputy of St. Mary:

From the question of the Deputy of St. Martin, the Chairman of P.P.C. basically said that Senator Syvret was on his own, he has the same rights as any member of the public, but he is not an ordinary member of the public, he is a Member of this Assembly. My question is does the Chairman think that P.P.C. has a role in protecting the rights of Members and, in this case,

perhaps helping to resolve this question by doing as the Deputy of St. Martin suggested and asking why he thinks that he cannot return and then perhaps doing something about it?

The Connétable of St. Mary:

P.P.C. has a role to defend the privileges of the States. My understanding is that the Senator has decided not to return to the Island for legal reasons. Legal reasons, I would argue, do not necessarily fall within parliamentary privilege. As I said, any member of the public of Jersey who has an issue has a remedy through the legal system.

6.1.5 The Deputy of St. Mary:

Does the Chairman not agree that having your house searched and your files taken does not fall within the privileges of this Assembly?

The Connétable of St. Mary:

If I might answer that question by simply referring the Deputy of St. Mary to an extremely comprehensive report produced by P.P.C. last year on the extent of parliamentary privilege which I think does not necessarily extend to all the areas that some Members would believe that it does. I believe he should look in there, which has much more information than I can recall off the top of my head.

[12:45]

The Deputy Bailiff:

If I may say so, Deputy, it is quite clear that parliamentary privilege does not prevent the operation of the criminal law. The Connétable of St. Brelade.

6.1.6 The Connétable of St. Brelade:

Notwithstanding Senator Syvret's particular situation, could the Chairman indicate when Article 8.2 will be revised?

The Connétable of St. Mary:

This is a matter that will be placed before the Committee for consideration. There are various ongoing changes to Standing Orders in the States of Jersey Law which are under review by the Committee and this is one that we will endeavour to bring forward in the near future.

The Connétable of St. Brelade:

Sorry, could the Chairman just define "near future"?

The Connétable of St. Mary:

Some time after today and before I retire from office.

The Deputy Bailiff:

If there are no further questions, we have reached 12.45 p.m.