

PRIVILEGES AND PROCEDURES COMMITTEE

(33rd Meeting)

13th December 2006PART A

All members were present, with the exception of Deputy G.C.L. Baudains, from whom apologies had been received.

Connétable D.F. Gray of St. Clement - Chairman
 Senator S. Syvret
 Senator M.E. Vibert
 Connétable K.A. Le Brun of St. Mary
 Deputy C.H. Egré
 Deputy J. Gallichan

Senator Syvret was present only for items A5-A8 and B1 and B2.
 Deputy C.H. Egré was present only for items A1-A6

In attendance -

M.N. de la Haye, Greffier of the States
 Mrs. A.H. Harris, Deputy Greffier of the States
 P. Monamy, Acting 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 15th November (Part A), 29th November (Parts A and B) and 6th December 2006 (Part A only), having been previously circulated, were taken as read and were confirmed.

Religious
 representation if
 the States
 Assembly:
 research project -
 Professor P.W.
 Edge.
 465/1(81)
Encl.

A2. The Committee considered a letter, dated 7th November 2006, from Professor P.W. Edge, of the Department of Law at Oxford Brookes University, concerning a proposed research project on religious representation in the States Assembly.

The Committee noted that the research project was being developed into the composition and functioning of the States of Jersey, with the Professor's particular interest being the role of religious representation in democratic legislative bodies. The Committee recognised that the Dean of Jersey was one of only a very small number of official religious representatives - the others being found in Andorra, Bhutan, Brunei, Iran, the United Kingdom, and the Isle of Man - with the contemporary position of the Dean being particularly interesting as he was the only one of such representatives with a deliberative, but not a voting, role.

The Committee concluded that the proposed research project, though interesting, was not a matter which it wished to pursue at the present time, as the role of unelected members was not on the Committee's current work programme. If the Committee were, in the future, to examine the role of the Bailiff it agreed that it would also wish to consider the role of H.M. Attorney General. It was recognised that, in any event, no funds were presently available to undertake such a project.

The Chairman was asked to write to Professor Edge to outline the Committee's decision.

Election
expenses:
regulation.
424/2(22)
Encl.

A3. The Committee, with reference to its Minute No. A9 of 3rd May 2006, considered a paper dated 8th November 2006 prepared by the Greffier of the States concerning the regulation of election expenses.

The Committee recalled that it had previously noted the Guernsey position and had expressed the view that a similar simple system might be suitable for Jersey. It was recognised that in the 2004 Guernsey election the electoral districts had been of similar size to each other. The Guernsey system had been in place for many years and was accepted, largely on trust, by candidates and returning officers. What the Guernsey system did not have, however, were rules about expenditure by third parties on behalf of a candidate which, it was considered, might be necessary in any system to be established in Jersey where there was no existing tradition of a limitation of election expenses.

The Committee considered that, in the absence of an Electoral Commission or similar independent body in Jersey, an initial examination of candidates' election expenses should be undertaken by the Privileges and Procedures Committee. With regard to a political party's election expenses, this could be divided between the number of candidates standing for that party. It was recognised that provision would be required to be made for the actions of third parties, whether solicited or unsolicited, in favour or against any candidate. It was agreed that legal advice should be obtained in relation to 'negative' advertising.

The Committee agreed that it favoured the imposition of an overall limit on a candidate's election expenditure, possibly a basic sum of £1,000 per candidate and an additional sum of 10 pence per registered elector which, for the 2005 elections, would have enabled Senatorial candidates to spend up to a total of £6,442.

It was considered that promotional banners and notices should not be permitted on any States property, although they might be on some publicly-owned property. The Committee agreed that any donations to candidates towards election expenses should be declared, with normal full rates to be ascribed to work done by others as part of their usual occupation. It was accepted that any items carried forward from one election to another (i.e. stock in hand or balance of funds unused) should be excluded from subsequent limits. Rather than the association of election expenses with a given election period, the Committee considered that any limit should apply to a specific election.

Although it was accepted that any system for regulating election expenses would have to be largely self-policing with candidates required to make a return to a nominated person, the Committee agreed that there should be some form of sanction for exceeding prescribed limits and decided that it favoured disqualification from office as an appropriate measure. The Committee further agreed that the return of election expenses should be made within 10 days of an election having taken place, possibly to the Jurats, through the Judicial Greffe, which department could be responsible for the overall administration of the elections.

The Committee agreed that, if a limit were to be imposed on election expenses, it would be reasonable to provide some form of assistance to candidates from public funds to enable them to circulate their manifestos to the public. Free delivery of such material (possibly limited to a prescribed maximum size) by Jersey Post was advocated, in which case it was recognised that legislation would be required.

The Committee decided that a consultation paper should be issued, following the receipt of legal advice relating to unsolicited advertising, free posting of material by Jersey Post and investigative matters associated with alleged infractions of controls on electoral expenditure.

The Chairman was asked to approach the Attorney General with a view to obtaining his views on the above-mentioned points.

Embargoes on documents presented to the States.
1240/7/1(84)
Encl.

A4. The Committee, with reference to its Minute No. A5 of 18th October 2006, considered a paper dated 7th November 2006 prepared by the Greffier of the States concerning embargoes on documents presented to the States.

The Committee, having noted that in the event the issue was not raised during the Government Communications Conference held on 20th October 2006, recognised that there was a need to finalize its consideration of this matter. It was recalled that the Committee's overall conclusion had been that steps should always be taken to ensure that documents were available to States members before publication in the media.

Having recalled the circumstances in which the Comptroller and Auditor General had issued a document with an embargo different to the 'standard' embargo imposed by the Greffier of the States prior to the presentation of a document to the States, the Committee recognised that need for consultation between the 2 officers. It was further recognised that in relation to reports of the Comptroller and Auditor General, he was an independent officeholder and the manner in which his reports were required to be distributed was set out in the Public Finances (Jersey) Law 2005.

The Committee decided to invite the Comptroller and Auditor General to consider revising his current procedures such to enable his reports to be distributed to States members before they could be published in the local media. The Comptroller and Auditor General was therefore to be asked to liaise with the Greffier of the States to put in place revised distribution arrangements.

The Chairman was requested to write to the Comptroller and Auditor General accordingly.

Written questions: procedures.
1240/7/1(82)
Encl.

A5. The Committee considered a paper, dated 7th November 2006, prepared by the Greffier of the States concerning procedures in relation to written questions.

The Committee recalled that the information sought by means of written questions in the States should be that which was not otherwise available in the public domain. It was suggested that the provision of information required to formulate responses to such questions should not cause undue problems to departments as officers throughout the States were expected to be knowledgeable in their respective areas of expertise.

Having considered whether the number of written questions and/or their comment should be limited, the Committee decided to include those aspects in the terms of reference for the Sub-Committee presently reviewing the first 12 months of Ministerial Government.

Registration and regulation of political parties.
1240/7/1(85)
Encl.

A6. The Committee considered a paper, dated 7th December 2006, prepared by the Greffier of the States concerning registration and regulation of political parties.

The Committee recalled that previous consideration had been given to allowing ballot papers to list the names of political party affiliation of candidates if appropriate and that it was considered that this would not be feasible unless there was a formal system of registration and regulation of political parties in the Island.

It was agreed that any such system of registration should be kept as simple as possible, with aspects of the matter likely to need to be considered by the States Employment Board, given the recently adopted provisions whereby certain categories of States' employees were able to stand as candidates in Island

elections. It was recognised that any official political party would be required to produce a formal constitution; appoint nominated officers; and compile and maintain a membership list. In addition, candidates would need to be officially approved by the party.

The Committee agreed to give further consideration to this matter at a future meeting.

Matter for
information.

A7. The Committee noted the following matter for information -

correspondence from Mrs. G. Key-Vice, Director of Regulatory Affairs at Experian International, concerning her visit to Jersey on 15th November 2006, during which she had given a presentation to the Committee on the work of a credit reference agency; together with the Chairman's response indicating that the outcome of the Committee's discussion was that it did not support the transfer of data from the Island's 12 Electoral Registers to private companies because it considered that the need had not been demonstrated and because one of the likely effects would be that persons eligible to vote would not register because they would not wish their information to be forwarded outside of the Island.

Composition and
election of the
States:
Options for
change.
465/1(75)

A8. The Committee, with reference to its Minute No. A2 of 6th December 2006, considered the next steps to be taken following the presentation to the States on 11th December 2006 of its report "Composition and election of the States Assembly: options for change" (R.97/2006).

A majority of members agreed that a further survey of public opinion on the matter should be commissioned from MORI (based on 1,000 10-minute interviews, at an estimated cost of £20,000), preceding public presentation of the options, with the views of States members to be gauged by means of an 'In Committee' debate on the report in the States early in the New Year. The outcome of the survey would then be used to formulate a report and proposition to the States, with a formal referendum on the matter to be conducted once the outcome of the debate on the projet was known.

The Committee noted that although Senator B.E. Shenton had asked for a number of changes to the then draft version of R.97/2006, which had been incorporated in the final version, he had not yet formally indicated his agreement to defer consideration of his report and proposition (P.145/2006) - currently scheduled for 30th January 2007 - which sought the agreement of the States to the introduction of a number of electoral reforms which encompassed some of the reforms subsequently included in R.97/2006.

The Chairman was requested to approach Senator Shenton in order to ascertain his proposed course of action. It was agreed that in the event that the Senator declined to defer P.145/2006, the Committee would itself seek the agreement of the States to a deferment.