

**Billet III January 2012.**

**STATES ASSEMBLY AND CONSTITUTION COMMITTEE**

**PUBLICATION OF MEMBERS' VOTES IN ELECTIONS**

The Presiding Officer

The States of Guernsey

Royal Court House

St. Peter Port

14th November 2011

Dear Sir

**EXECUTIVE SUMMARY**

**This report proposes that the Rules of Procedure of the States of Deliberation be amended to the extent that in elections for the offices of Chief Minister, Deputy Chief Minister, Minister and Chairman (alternatively for the office of Chief Minister only) the Greffier shall publish a list detailing the vote cast by each Member of the States.**

**REPORT**

1. Until the coming into force of the Loi relative au Scrutin Secret of 1899 no elections in Guernsey were held by secret ballot. In the case of the election of Jurats of the Royal Court and Her Majesty's Sheriff elections were conducted by means of an appel nominal whilst the elections of Constables, Douzeniers and other parochial officials were held either vive voix or by a show of hands. The 1899 Law made the secret ballot compulsory for elections of Jurats, the Sheriff and the then newly-created office of Deputy of the States, and optional for all the parochial elections. That position remains unchanged to this day.

2. Insofar as the selection of presidents and members of States Committees is concerned, it appears that for some time after 1899 elections were either by appel nominal or vive voix. Certainly by 1953, when a major consolidation and reform of the Rules of Procedure took place, elections for such offices were held by secret ballot.

3. Rule 20 (2) (a) of the Rules of Procedure provides that in any election by the States, where the number of candidates exceeds the number of vacancies, voting shall be carried out by secret ballot.

4. The offices which are subject to that provision are Chief Minister, Deputy Chief Minister, Ministers, Chairmen and members of Departments, Committees and some Non-Governmental Bodies.

5. Notwithstanding the conclusions reached later in this report, the Committee wishes to state its absolute and firm commitment to the preservation of the secret ballot in the election of People's Deputies. There can be no doubt that the secrecy of the ballot box is inviolable in that context.

6. However, the Committee believes that elections conducted within the States of Deliberation should be conducted in a manner which is both transparent and accountable. All recorded votes, other than those relating to elections, are held by appel nominal and are thus subject to public scrutiny. Indeed motions of no confidence and propositions to accept the resignation of a Member are also held by appel nominal. The Committee holds that the way in which States Members select the holders of key positions in the States, i.e. Chief Minister, Deputy Chief Minister, Minister and Chairman should be open and subject to the same public scrutiny as is the case when the proposition is to remove a Member from office. The importance of these elections cannot be under-estimated: they are the first key process undertaken by the newly-elected States.

7. In favour of the status quo it might be argued that a secret election ensures that Members are able to vote for the best candidate without fear or favour and that in a consensus system of government open elections may engender disharmony. The Committee, however, does not subscribe to that argument. It firmly believes that the paramount criterion has to be openness and transparency. This principle applies both in the relationship between States Members and the public and between Deputies themselves.

8. That being so, consideration has been given to how a transparent election can be achieved. Whilst the Committee was advised that no practical difficulty was envisaged with regard to each Member naming his preferred candidate aloud, it was concerned that such a process would be unparliamentary and could result in Members who voted towards the end of the appel nominal being influenced, or perceived to be influenced, by Members who had already voted.

9. The Committee has therefore concluded that voting should continue to be by secret ballot as at present. However, Members would be issued with a ballot slip pre-printed with their names. Each vote would then be counted, as at present by one of Her Majesty's Deputy Greffiers, and the result of the ballot announced to the States by the Presiding Officer. H. M. Greffier would then publish on the States website and on a notice board in the Grand Hall of the Royal Court a list showing each individual Member's vote. To achieve this,

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a minor amendment to Rule 20 (2) (a) will be required, as set out in paragraph 16.

10. The election of ordinary members of Departments and Committees is not included in the proposed system. There would be some logistical issues in so doing but the primary reason is that it is in the election of the key offices that transparency is particularly required.

11. The system proposed is broadly similar to that recently introduced in the States Assembly in Jersey in relation to the election of the Chief Minister. Whilst the Committee firmly believes that the proposed change should apply to all the key offices, it acknowledges that some Members may be of the opinion that the proposed change should only apply to the office of Chief Minister. It is for that reason that the recommendation in paragraph 16 (which will be reflected in the propositions) has been drafted to enable Members to apply the proposed scheme to the office of Chief Minister only.

PRINCIPLES OF GOOD GOVERNANCE

12. The Committee is of the view that good governance demands that the internal election process should be robust, well-informed and transparent and that the proposal contained in this report will further that objective.

CONSULTATION / RESOURCES / NEED FOR LEGISLATION

13. The Deputy Presiding Officer and H. M. Greffier have been consulted pursuant to Rule 14 (6) of the Rules relating to the Constitution and Operation of States Departments and Committees. The Law Officers have not identified any reason in law why the proposal set out in this Report cannot be implemented.

14. The approval of the recommendation would have no implications for the manpower resources of the States nor does it require any legislation.

**STATEMENT OF DISSENT**

**15. Deputy T. M. Le Pelley opposes the proposal contained in this Report and favours maintaining the present system. He may, therefore, speak and vote against these proposals in the States of Deliberation.**

**RECOMMENDATION**

16. The States Assembly and Constitution Committee recommends the States to agree that the Rules of Procedure of the States of Deliberation be amended with immediate effect as follows:

1. in Rule 20 (2) (a), before the semi-colon, add the words:

“, save that in elections for the offices of Chief Minister, Deputy Chief Minister, Minister and Chairman the Greffier shall publish as soon as possible thereafter a list detailing the vote cast by each Member of the States”;

2. in Rule 20 (2) (a), before the semi-colon, add the words:

“, save that in elections for the office of Chief Minister the Greffier shall publish as soon as possible thereafter a list detailing the vote cast by each Member of the States”.

N.B. recommendation 2 will fall if recommendation 1 is carried.

Yours faithfully,

I. F. RIHOY

Chairman

States Assembly and Constitution Committee

Members of the Committee are

Deputy I. F. Rihoy (Chairman)

Deputy M. M. Lowe (Vice-Chairman)

Deputy T. M. Le Pelley

Deputy S. L. Langlois

Deputy M. J. Fallaize

The States are asked to decide:-

XVII.- Whether, after consideration of the Report dated 14th November, 2011, of the, States Assembly And Constitution Committee, they are of the opinion:-

1. That Rule 20 (2) (a) of the Rules of Procedure of the States of Deliberation shall be amended with immediate effect as follows:

before the semi-colon, add the words:

“, save that in elections for the offices of Chief Minister, Deputy Chief Minister, Minister and Chairman the Greffier shall publish as soon as possible thereafter a list detailing the vote cast by each Member of the States”.

2. That Rule 20 (2) (a) of the Rules of Procedure of the States of Deliberation shall be amended with immediate effect as follows:

before the semi-colon, add the words:

“, save that in elections for the office of Chief Minister the Greffier shall publish as soon as possible thereafter a list detailing the vote cast by each

Member of the States".  
(NB Proposition 2 will fall if Proposition 1 is carried.)

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## **STATES ASSEMBLY AND CONSTITUTION COMMITTEE**

### **STATEMENTS**

The Presiding Officer  
The States of Guernsey  
Royal Court House  
St. Peter Port  
14th November 2011

Dear Sir

### **EXECUTIVE SUMMARY**

This report proposes that Rule 8 of the Rules of Procedure of the States of Deliberation be amended to the extent that all statements (other than those which relate to a matter of a personal nature) shall be followed by a period not exceeding 15 minutes for questions to be asked within the context of the statement made.

### **REPORT**

1. Rule 8 of the Rules of Procedure is in the following terms:

"Any Member who has obtained permission from the Presiding Officer to make a statement on any matter which, in the opinion of the Presiding Officer, should be made, may make that statement  
(i) at the time prescribed in Rule 9, or  
(ii) at such other time as the Presiding Officer may direct."

2. There is no provision in the Rules for questioning the person making the statement immediately after the statement has been made. The Rule also makes no distinction between a statement relating to the business of a States Department or Committee and a personal statement made by an individual Member of the States.

3. The States Assembly and Constitution Committee is of the view that statements relating to States business should be open to challenge and scrutiny and that this can be achieved by allowing a period of questions immediately following the making of a Statement. It considers, however, that personal statements should not be subject to questioning.

4. In the House of Commons there is no specific Standing Order which either

allows or prohibits questions after a statement. However, Erskine May<sup>1</sup>, in 1 Erskine May: Parliamentary Practice, 22nd edition, pp. 307 and 313

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the context of Ministerial Statements, states: “As no question is before the House, debate on such statements is irregular, but questions arising from the statement are normally raised and replies given by the Minister. It is not the normal practice for questions on more than one statement to be taken at the same time.”. With regard to Personal Statements, Erskine May goes on to state: “Because the practice of the House is not to permit such statements to be subject to intervention or debate, the precise contents of the proposed statement are submitted in advance to the Speaker to ensure that they are appropriate.”.

5. With regard to the States Assembly in Jersey, the Standing Orders distinguish between “Personal Statements” and “Statements on matters of Official Responsibility”. Leave must be sought to make a personal statement. With regard to other statements, if notice is given leave is not required. Questions cannot be put following the making of a personal statement but, in respect of statements on matters of official responsibility, a period of 10 minutes is allowed for questions to be placed regarding the contents of the statement made.

6. The provision is similar in the Isle of Man regarding personal statements. With regard to other statements, there is no time limit prescribed in respect of the period for questions which may be asked following the making of the statement.

7. The Committee concurs with the practice in the three aforementioned parliaments that Members should not be permitted to ask questions following a personal statement. With regard to other statements relating to States business, it is of the opinion that questions should be permitted but that the period for such questions be limited to 15 minutes for each statement. When a supplementary question is being answered pursuant to Rule 5 (4), the Member answering may decline to do so if he considers any answer given might be inaccurate or misleading. This proviso should also apply in the case of questions asked following a statement. To achieve this, an amendment to Rule 8 will be required, as set out in paragraph 11.

#### **PRINCIPLES OF GOOD GOVERNANCE**

8. The Committee is of the view that good governance demands that any matter debated or reported upon in the States of Deliberation should be open to challenge and scrutiny, and that the proposals contained in this report will further that objective.

#### **CONSULTATION / RESOURCES / NEED FOR LEGISLATION**

9. The Deputy Presiding Officer and H. M. Greffier have been consulted pursuant to Rule 14(6) of the Rules relating to the Constitution and Operation of States Departments and Committees. The Law Officers have

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not identified any reason in law why the proposal set out in this Report cannot be implemented.

10. The approval of the recommendation would have no implications for the manpower resources of the States nor does it require any legislation.

**RECOMMENDATION**

11. The States Assembly and Constitution Committee recommends the States to agree that the Rules of Procedure of the States of Deliberation be amended with immediate effect as follows:

delete Rule 8, and substitute therefor:

“8. (a) Any Member who has obtained permission from the Presiding Officer to make a statement on a matter of a personal nature which, in the opinion of the Presiding Officer, should be made, may make that statement

(i) at the time prescribed in Rule 9, or

(ii) at such other time as the Presiding Officer may direct.

(b) Any Member who has obtained permission from the Presiding Officer to make a statement on behalf of a Department or Committee or otherwise relating to States business which, in the opinion of the Presiding Officer, should be made, may make that statement

(i) at the time prescribed in Rule 9, or

(ii) at such other time as the Presiding Officer may direct.

After the Member has made the statement, the Presiding Officer shall allow a period not exceeding 15 minutes for questions to be asked within the context of the statement provided that the Member to whom questions are addressed may decline to answer a question if, in his opinion, any answer given by him might be inaccurate or misleading.”.

Yours faithfully,

I. F. RIHOY

Chairman

States Assembly and Constitution Committee

Members of the Committee are

Deputy I. F. Rihoy (Chairman)

Deputy M. M. Lowe (Vice-Chairman)

Deputy T. M. Le Pelley

Deputy S. L. Langlois  
Deputy M. J. Fallaize

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**The States are asked to decide:-**

XVIII.- Whether, after consideration of the Report dated 14th November, 2011, of the States Assembly And Constitution Committee, they are of the opinion:-

1. That the Rules of Procedure of the States of Deliberation shall be amended with immediate effect as follows:

delete Rule 8, and substitute therefor:

“8. (a) Any Member who has obtained permission from the Presiding Officer to make a statement on a matter of a personal nature which, in the opinion of the Presiding Officer, should be made, may make that statement

(i) at the time prescribed in Rule 9, or

(ii) at such other time as the Presiding Officer may direct.

(b) Any Member who has obtained permission from the Presiding Officer to make a statement on behalf of a Department or Committee or otherwise relating to States business which, in the opinion of the Presiding Officer, should be made, may make that statement

(i) at the time prescribed in Rule 9, or

(ii) at such other time as the Presiding Officer may direct.

After the Member has made the statement, the Presiding Officer shall allow a period not exceeding 15 minutes for questions to be asked within the context of the statement provided that the Member to whom questions are addressed may decline to answer a question if, in his opinion, any answer given by him might be inaccurate or misleading.”.