

## MINUTES

EXTRAORDINARY MEETING of the Chief Pleas held on the 9th day of August, 2006, in the presence of J.M.Beaumont Esq.,OBE,Seigneur, Lt.Col.R.J.Guille MBE, Seneschal, A.W.J.Adams, Prevôt; T.J.Hamon, Greffier; Mrs.W.Kiernan, Treasurer, and the Constables.

Members were present as follows:

29 Tenants, 11 Deputies and the Seneschal

Apologies were received from Sieur C.Harris and Sieur C.Spence.

The President of Chief Pleas reminded Members that there was to be no communication between them and members of the public even during a recess and that there were to be no electronic recording devices used.

The President said that he had received Dep.Gurden's letter of resignation from 31<sup>st</sup> July. He said that Mr. Gurden has served this community well, having been Vingtenier and Constable in 1988/89 then as Dep.Procureur and Procureur for 4 years immediately thereafter. He has also served for two periods as a Deputy of the People, from 1993 to 1996 and from 2002 until his resignation. He has served on Tourism, Education, GP& F (latterly as President) the Internet sub-Committee and Shipping (as President) with Education, GP& F and Shipping being very busy committees over the past few years. On the community side he served with the Fire Service for a number of years and of course has been much involved with amateur dramatics. Members know that Geoff and Brenda are to leave Sark in the not to distant future and he wished them well, on behalf of the House, in their new life in England.

The President informed the House that the new President of GP&F is Dep.Dewe. He then asked **Shipping Committee** for the name of the member who has taken on the Presidency. When no name was forthcoming he told the Committee that he expected a name to be given at the Michaelmas Meeting and if this did not happen he would ask Chief Pleas to nominate a member as President.

**Public Works and Douzaine:** The President asked Dep.P.Williams to speak. He said that members were aware that the new incinerator is on the Island and had been installed in the Public Works quarry. It has been commissioned and Mr.Melling, Mr.Knight and Mr.Williams have all been given maintenance training. The next 6 to 8 weeks will be regarded as a time for evaluating the machine and the usage of staff. A more comprehensive report will be given at Michaelmas and once the 8 weeks have passed anyone interested can go and see the incinerator working if they get in touch with any of the staff. He informed the House that the incinerator and installation had come in under Budget.

1. **MINUTES:** Before the Minutes of the Extraordinary Meeting held on 5th July, 2006, were approved the President of Chief Pleas asked if there were any factual corrections.

Item 6 Report from Sieur Donnelly and Dep.Armorgie: Para 4: "Sieur Donnelly had suggested that the Seigneur should respond to the media in the media." Sieur

Donnelly said that he did not mention the media and wished his remark to be noted as “Sieur Donnelly had suggested that the Seigneur should respond.”

In the same Report Dep.Guy noted that the words “the least of Brecqhou” in para 1 should in fact be “The lease of Brecqhou”.

The Minutes as amended were approved

Proposed Dep.LeLievre    Seconded Sieur Baker.    Carried.

Arising: Minutes: Sieur Rang spoke on the Constitution item at the reconvened meeting. He said that he felt the recording of the discussion had been biased, as Dep.Cole and Dep.Guy had been recorded but Sieur Harris, who had some important things to say, had not been. He then asked that the following extract from ~Sieur Harris’s statement be recorded.

“Last night I was prepared to vote in favour of Option A and Sieur Rang was in favour of Option D. The reason we are proposing this is that we believe that a structure of this type is not only an alternative to A and D but is better.

So far as the voter is concerned it is a straightforward system except that there will be more names, depending on the number of members Chief Pleas decided it wants to have in the future.

This is a very straightforward system. It brings everyone close to something they want. It is very similar to Option A. The existence of the supplementary list will ensure that the free expression of the people is determined.”

The President of Chief Pleas accepted that the Minutes appeared to favour one side of the Constitution debate and said that as he was the person who signed off the Minutes they were his responsibility. He said that this had not been deliberately done and apologised for any concern which may have been caused.

**2. QUESTIONS NOT RELATED TO THE BUSINESS OF THE DAY:**  
There were no questions.

**3. CONSTITUTIONAL STEERING COMMITTEE:** The President of the Constitutional Steering Committee (CSC) asked the House to suspend the normal Rules of Procedure in order that Agenda item 3 (a) (b) and (c) could be a single debating item. Approved. The President of Chief Pleas reminded Members that the Projet de Loi was drafted for Option C.

(a): A Report from the CSC enclosing the Law Officers advice on the Rang/Harris Option.: Dep.Guille said that at the last Meeting Sieur Rang had agreed that the CSC he should pass the new Option to the Law Officers for their opinion. He had done this and this was the opinion which had been circulated to Members in the usual way. He said it was quite clear and he had nothing to add. He said that it had never been decided formally that Option A should be on the ballot paper and he wished to bring forward, on behalf of the Committee, the following proposition

**Proposition:** “That Chief Pleas approve that Option A is added to the ballot paper against any one other Option chosen by Chief Pleas.” Approved.

Dep.Melling asked for Dep.Guille to make it absolutely clear that his Committee are confident that the number to stand under Option A is sufficient.

Dep.Guille said that it first came to Chief Pleas in January 2006 in the CSC report. This was following the withdrawal of Option B. The Committee had met with members of the DCA and the Committee brought forward that it was the opinion of the Committee that Option A whereby all members would be elected by universal suffrage, all members would be known as Deputies of the People and there would be no reserved seats for anyone, was the Option to go for. In the same report the issue of community commitment was also raised. It is quite clear in some senses that the option is not the big hurdle. The big hurdle is whether anybody is prepared to stand under whichever option is put forward. He could not say if, under Option A, a certain number could be guaranteed. The Committee looked at the number of Committees and the number of people working on them and came to the conclusion that 28 was the achievable number. The workload is increasing and a lesser number would become a serious problem. No matter which option is chosen this is the big question and will become a community problem. The community must serve this Government. The numbers can be reduced but this will not bring the workload down. If there are not enough members from this community two things will happen. One is that administrative staff will need to be increased and secondly they will need to be paid and that will have to go onto the tax. He said the Government serves this Island for nothing but if that is to continue other people must be prepared to stand. To Dep.Melling, he could not guarantee 28 but the point does have to be made that it is a community problem and the community must take that on board for the forthcoming elections.

Dep.Guy said that the description of Option A has to be on the Opinion Poll papers because the DCA had said that no option other than Option A could go forward. This is the reason for the Opinion Poll.

(b): Sieur Rang introduced the Report on the Rang/Harris Option, saying that “We need a system that works for Sark. That is the most important thing. For the first time in recent months, the Law Officers are telling us in writing that we now have a choice. Put in simple terms – if Sark wants it, Sark can have it. In some ways I think the words ‘only Option A’ has side-tracked the last few meetings in perhaps trying to give the UK government a system that they want us to have, a system that would be bomb proof for Sark in terms of HR compliance, instead of us looking for a system that would actually work for Sark. This is not about what we want personally, nor is it about Option A or Option D supporters “winning” or “losing” because I would hope that we are all above that. It is about getting the best system for Sark.

We have come a long way since we voted for Option B, almost unanimously. What would have happened if this system had been on the table when B was rejected? And that is where we should be today.

I think there is something for everybody in what we are proposing. The important thing is that it is about bringing all sides together and ending up with a system of government that encourages more people to stand – hopefully out of pride and sense of duty. If that happens then I think we can continue our long tradition of honorary service and avoid paid politicians or paid civil servants or both. Either way, the only winners are Sark and the pockets of the Sark tax payers. I believe this proposal can

unite the people of Sark and we can return to the sort of place Sark once was – a place that is content and happy within itself.

I will now finish with Sieur Harris' final comment from his speech and I quote 'To members of this House who will resist this because they are attached to Options A or D – politics is the art of compromise. We never get all that we want. What is important is that we get something workable and which gives consensus. I believe this brings both continuity and change and would ask you to support it.'

I would go one step further – “the *right* amount of change”

Sieur Rang then asked Dep.Melling to second the Propositions.

Dep.Melling said that he was happy to do so. He thought it was a great pity that our system has to change but the time has come. He was not of the opinion that that we should change to Option A but this new Option is a small step forward instead of a massive leap. This Option will help the people support Sark's government. He thought it would encourage more people to stand and he urged the House to support it. He entirely agreed with the sentiments of Dep.Guille concerning the population of Sark having to do their share and they must therefore come forward and stand for office.

The President of Chief Pleas asked if any of the other Members who had signed the Report had anything more to say. Dep.Cocksedge said that the story so far was that there was only one Option and we have now found there that there are more. We have always worked together, Deputies and Tenants and we have our own free vote. He said he had been called a “Zedite” with regard to the Luddites who tried to resist change but far from being opposed to the change he would like it to be done with the support of the people. He said he would therefore support the Rang/Harris Option and it is for the people of this island to return the Opinion Poll so that both sides can move forward.

Dep.Armorgie, who had also signed, said that he was very much in support of the Rang/Harris Option. He said that above all it is simple, simple to understand and he thought it is a solution within the Island, not something being imposed on us from outside.

Dep.Dewe asked Sieur Rang where the advice he quoted appeared in Adv.McMahon's letter as he could not find it. In his first paragraph he writes “A is compliant and the new proposal carries a risk of challenge.” He did not take that as endorsing that it is an option the House should follow. Sieur Rang said that he quoted from the summary “...therefore I can confirm that both *Option D and Option Z carry an element of risk* that they will be challenged as not being Convention-compliant and of that argument succeeding. My assessment of the risk involved is that *either Option, particularly if supported by a popular mandate through the proposed plebiscite, should be regarded by others as being within the margin of appreciation* available to the Sark (and, on its behalf, the United Kingdom) and justifiable and so Convention-compliant.” Should we have a bomb-proof system that doesn't work or one that carries a risk but does?

He then introduced the three Propositions: (Dep.Cole said that the words “Rang/Harris Compromise” which appeared in the Propositions should be changed to Option. Agreed.)

**Proposition 1:** “That Chief Pleas note the supplementary opinion of Nigel Pleming QC before it.” Carried.

**Proposition 2:** “That Chief Pleas note the Rang/Harris Option which is to establish a reformed Chief Pleas comprising 12 elected Deputies, 8 elected Tenants and 8 elected members who are the immediate runners-up whether they are Deputies or Tenants.” Carried.

**Proposition 3:** That the Rang/Harris Opinion be included as an Option in the Poll of Opinion to be carried out by Chief Pleas of all Islanders who are eligible and capable to vote when asking them to nominate their preferred choice for a reformed Chief Pleas.” Carried.

**(c): OPINION POLL REPORT** presented by Sir Peter Miller and Dep.Guille: Sir Peter Miller said that the Report was self-explanatory. He said that on the numbers criteria they had considered a minimum threshold of 60% with 20% of the votes cast in favour of one Option i.e. assume an electorate of 470 and assume also a 65% turnout. 305 votes will be cast and the first criteria is clearly met. To meet the second criteria it will be necessary for the votes for the more popular option to be in excess of 150, which means the margin of 20% will be achieved. We want a reasonable turnout and the Electoral Reform Service say they may be able to get a 75%. What does the phrase “take account of the result” say? It means we have not the power, through an Enabling Project, to have a binding referendum but if both criteria were met I think it would be insufferable for Chief Pleas to take a different view. The difficulty comes if there is only a small margin. In his opinion, Chief Pleas is the only body to make a judgment and if the margin was too small then the Options would come back to Chief Pleas and the House would decide. He said they had debated what should be done about the public meeting and they felt it should be as informal as possible with the supporters of each option making a statement and they should be allowed to have their advisors around them but this is a matter for the Chairman of the public meeting, who will be the Deputy Seneschal.

In reply to a question from Sieur d.Spence, the President of Chief Pleas said that Chief Pleas had agreed that the Register for the Opinion Poll will be based on the electoral roll + tenants and joint owners who had been on the Island one year prior to the Option Poll taking place and has been compiled to the criteria on the notice in the Island Notice Boxes. He noted that some people who had lived on the Island for many years but were not British citizens were unable to vote. However, the list was compiled according to the wishes of Chief Pleas.

Dep.Guy said that the reason for having the Opinion Poll was to take forward a constitutional model for Chief Pleas. It was suggested that if we take forward anything which might have a risk then we would be in a stronger position if it had a substantial public support. That was the idea of an Opinion Poll. Obviously we are looking at a majority but if we don’t get 20% for any option other than A, then A goes forward.

Sieur Rang again quoted Adv.McMahon “Therefore I can confirm that both Option D and Option Z carry an element of risk of challenge and of that argument succeeding. My assessment of the risk involved is that either Option, particularly if supported by a popular mandate through the proposed plebiscite, should be regarded by others as being with the margin of appreciation and justifiable and Convention-compliant.” Dep.Guy said Adv.McMahon’s letter could be read by either side as supporting them.

Dep.Guille said that having worked with this drafting for 6 years as President of the CSC he would be honoured to serve under whatever system was brought in.

Proposed Sir Peter Miller, seconded Dep.Guille

(1) “That Chief Pleas approve the parameters of the Opinion Poll to be a 60% return of papers including telephone votes and a 20% majority in favour of the option which the electorate wish to be adopted by Chief Pleas.” Carried

(2) “That Chief Pleas agrees to take account of the result of the Opinion Poll when it comes to vote upon the Option which is to be incorporated into Sark Law.” Carried

(3) “That Chief Pleas agrees to hold a Public Meeting to explain the two Options to be held on Tuesday, 15<sup>th</sup> August at 7.00 pm in the Island Hall, to be Chaired by the Deputy Seneschal.” Carried.

Dep.Cole congratulated all the speakers, not only at this meeting but at previous ones as well. He said that the standard of debate was remarkably high. He said that Members could be quietly pleased with themselves at the way this debate has been conducted and the fact that it had been an argument of issues, not personalities. He did not believe any other community could have done a better job of making clear a difficult decision.

**4. ORDINANCE:** To approve the Ordinance entitled “The Deputies of the People (By-Election) Ordinance, 2006.” This is to enable a by-election to replace Mr.Gurden as a Deputy of the People. Carried.

**5. GENERAL PURPOSES & FINANCE COMMITTEE:** The Uniform Scale of Fines (Sark) Law, 1989. To prepare legislation to amend The Uniform Scale of Fines (Sark) Law, 1989. This Report was self-explanatory and was needed to increase the level of Fines to be on a par with Guernsey, such Ordinance to be approved at the Michaelmas Meeting of Chief Pleas.

Proposition

(1) “That Chief Pleas enact legislation to increase the maxima prescribed in the Uniform Scale of Fines (Sark) Law, 1989, to those set out in this Report.” Carried

(2) “To direct the preparation of such legislation as may be necessary to give effect to the above decision.” Carried.

**6. EDUCATION COMMITTEE:** Dep.Cole, President of the Education Committee, endorsed the words of the President of Chief Pleas in thanking Mr.Gurden for all the hard work and conscientiousness he had shown as a Committee Member. Dep.Cole proposed that Mdm.Magell should replace him on the Committee. There being no other candidates, she was so elected.

Mdm.Hester expressed some concern that there were now three supply teachers on the Committee.

**7. TOURISM COMMITTEE:** The President of Tourism Committee, Sieur Guille, thanked Mr.Gurden for his work for the Committee over the years and said that the Committee were sorry to see him go. Sieur Guille proposed Mdm.Magell to replace Mr.Gurden and said that she had experience working with the National Trust and other such organizations.

Sieur Baker, seconded by Dep.Cole, then proposed from the floor that Mlle Perrée should also stand as a candidate. At the ensuing show of hands, Mlle. Perrée received 18 votes and Mdm.Magell 12 and Mlle Perrée was duly elected.

**8: GENERAL PURPOSES & FINANCE COMMITTEE:** To lay before the House Statutory Instrument No.27 of 2006 entitled “The Human Rights (Amendment) Order, 2006”, made by the GP&F Committee on 22<sup>nd</sup> June, 2006. The President of GP&F said that this dates back to Chief Pleas final acceptance of the Human Rights protocol on the abolition of the death penalty in times of war. There being no move to annul the Order remains extant.

**Next Meeting** of Chief Pleas will be the Michaelmas Meeting on Wednesday, 6<sup>th</sup> October at 10 am. The agenda closes on 8<sup>th</sup> September.

The President of Chief Pleas said that this was the last meeting at which Mrs.Gurden, Committee Secretary, would be taking the Minutes. In thanking her for her 18 years of service, he invited Members of the House and those members of the public in attendance to the Island Hall for refreshments and a presentation to Mrs.Gurden.

August, 2006

Greffier

Seneschal