

EXTRAORDINARY MEETING OF CHIEF PLEAS

Minutes of the meeting held in the Assembly Room, Sark
on 22nd February 2007 at 7.00 pm.

Present:

J.M.Beaumont OBE, Seigneur; Lt.Col. R.J. Guille MBE, Seneschal; A.W.J. Adams, Prévôt;
T.J. Hamon, Greffier; Mrs.W. Kiernan, Treasurer; and the Constables.

Members were present as follows:

25 Tenants and 10 Deputies

Apologies: Madam.Magell, Sieur C. Spence, Sieur D. Spence, Sieur D. Hurden, Sieur C. Harris,
Sir Peter Miller; Sieur D. Willis; Deputy J. Guy, Deputy P. Armorgie

Opening Remarks

Seneschal 01 On the day following the Christmas Chief Pleas meeting, a letter of resignation was received from Deputy Dewe, standing down from the General Purposes and Finance Committee (GP&F). Deputy Cole, and later Sieur Baker, Sieur S. de Carteret and Dep. P. Williams also submitted letters of resignation from GP&F standing down as from 23rd February. As this is the lead Committee of Chief Pleas, it was necessary to call an Extraordinary Meeting of Chief Pleas to seek nominations and appoint a new Committee. Rule 1 (4) was waived to meet the deadline imposed.

Seneschal 02 Late in January, information was received of an impending visit to Guernsey by senior officers from the Department for Constitutional Affairs (DCA). A request was made for a meeting in Sark and this took place on 6th February between three officers from the DCA and Members of the Constitution 2007 Committee (C07C) with the Seneschal and the Seigneur in attendance. Minutes were taken and have been approved by C07C and DCA. Subsequently, the DCA has prepared a statement, sent to the Seigneur, which will be circulated with the minutes of this meeting of Chief Pleas.

Seneschal 03 Letters of resignation have also been received from Deputy Cole leaving Pilotage Committee and from Deputy Olsen leaving Constitution 2007 Committee. Both these vacancies will be filled at Easter Chief Pleas.

Seneschal 04 A number of Deputies have reported intimidation by others from this House over their voting stance on recent issues. This is not acceptable and every Member of this House is free to vote as their conscience takes them without fear of threats or intimidation and such behaviour is unacceptable.

1. Minutes of the Christmas Meeting 17th -18th January 2007

Factual corrections were made as follows -

Sieur Donnelly 01 Middle of Page 2, Item 3, 8th speaker – after reference to “...*Michaelmas meeting of Chief Pleas (Item 8)*” – add – Using this methodology, a 25% - 75% split would mean a 200% majority.

Deputy S. Williams 02 2/3 down Page 3, Item 3, 24th speaker – on behalf of Dep. Armorgie, read the following correction – “I stated that I was not a mathematician and that I had made a mistake. I was confused by, and had misunderstood, the results of the Opinion Poll results as they were presented to Chief Pleas on 4th October 2006. I had consequently and reluctantly voted to support Option A because Chief Pleas had directed us that a percentage differential of more than 20% should be interpreted as binding on the assembly. If I knew then what I know now I would not have voted to support Option A. Indeed, I would have cast my Chief Pleas vote in favour of the 44% of the public who voted against Option A in the Opinion Poll. I am committed to the principle of universal suffrage. However, I feel strongly that Option A, as currently incorporated, does not provide sufficient security, strength or the necessary controls for a new constitution”.

Sieur Gomoll 03 Bottom of Page 4, Item 3, 50th speaker – Add before “*Suggested a break.....*” - “Has asked Mlle. Char and Mdm. Rang to withdraw their propositions and Dep. Guille to delay his Committee’s propositions until Easter Chief Pleas”.

Mlle. Char 04 Middle of Page 5, Item 3, 61st speaker – after “*acknowledging*” add the following – “.....*acknowledging* the difficult role of deputy. It’s more difficult than that of the tenant, because it is a dual role. How does a deputy weigh and balance their own personal decision based on study, research and logic, against that of the public? Especially when the topic may be very complex and detailed. As a deputy, one is willing to make a tough decision, sacrificing position and future as a deputy in order to take a stand on what you feel is right. Or do you follow what the public opinion is, when the public might not know or understand a complex topic as well or as thoroughly as you do”.

- Mdm. Rang 05 Bottom of Page 5, Item 3, 67th speaker – “*The newly introduced paper has interesting up to date information.*” add the words “Our latest legal opinion was music to my ears, as it confirmed everything that Mdm. Harriet Carré and I have been telling the House for the last 10 years in relation to the letters patent.”
- Dep. P. Williams 06 Page 18, Item 13, 4th speaker – after “...applies” add “to both the headland and caves system”..
- The minutes as amended were APPROVED, proposed by Dep. Olsen and seconded by Sieur Baker.
- Dep. Dewe 07 Had received a letter from Addleshaw Goddard, London lawyers acting on behalf of Sir David and Sir Frederick Barclay claiming that Deputy Dewe at Christmas Chief Pleas had stated that the Report on a Memorandum of Understanding between Sark and Brecqhou had been sent to HM Procureur in Guernsey ahead of the meeting. This belief stemmed from a newspaper report on 20th January, written by Philip Falle, Sark correspondence to the Guernsey Press, in which it was claimed that Deputy Dewe remarked “*HM Procureur has always said that anything to do with Brecqhou, they would like to cast their eye over it.....*”
- “*That remark led to Deputy David Melling drawing loud and sustained applause from his colleagues when he asked why HM Procureur should get to see the report before members of Chief Pleas*”.
- If this is what he had said, it was a slip of the tongue and he apologised to the House. A full statement is attached to these minutes as APPENDIX 1.
- Seneschal 08 Confirmed that a supporting statement of Deputy Dewe’s action was in the minutes. It was the right of any Committee President to confer with the Law Officers in Guernsey ahead of a Chief Pleas meeting to ensure that information passed to Chief Pleas was both accurate and according to the Laws of Sark. He had received a letter from H.M. Procureur, which was read out to the House, dealing with the misunderstanding and it is attached to these minutes as APPENDIX 2.

2. Questions not related to the business of the day

- Dep. Olsen 01 Several residents have asked that I report these ideas verbally to Chief Pleas –
- a) First, will the Constitution Committee please explore introducing referendum into Sark law, either as a part of the new constitution or through a separate Projet?
 - b) Second, will the Constitution Committee please explore introducing transparency into Sark law, either as part of the new constitution or through a separate Projet?
 - c) Third, will the Constitution Committee please examine the election provisions in the proposed constitution and make sure that voter eligibility is clearly set out?
- Sieur Gomoll 02 Although the Committee had not appointed an Acting President, in the absence of the President, he will respond, –
- a) C07C are working on it for Easter Chief Pleas;
 - b) Discussion has already taken place on the feasibility of the public attending Committee meetings;
 - c) It is recognised by both Chief Pleas and the public that Section 29 of the Law (Franchise and inclusion in Register of Electors) could be open to abuse. An example of possible abuse involved the registering of agricultural land and the potential to exploit the phrase “*possessor of real property*”. This was where checks and balances may need to be applied and where C07C will want to recommend changes.

3. Report from the Brecqhou Liaison Sub-Committee

- Sieur Donnelly 01 Requested that the report be carried over to a later meeting when it could have a full covering report from the GP&F Committee with proper consideration and recommendations.
- Dep. Cole 02 GP&F Committee received this report too late as is Sieur Donnelly’s style. It had been circulated to the Committee and, apart from pointing out some factual errors, comment on its content is irrelevant as the Sub-Committee has written it.
- Seneschal 03 The GP&F Committee has now had two months to consider it and as the Committee is resigning after tonight, it might be advantageous to hear their comments now.
- Sieur Donnelly 04 Pointed out that Deputy Armorgie, a member of the Sub-Committee is away on holiday and unable to attend tonight.
- Seneschal 05 Deputy Armorgie has resigned from the Sub-Committee.
- Sieur Donnelly 06 The GP&F Committee had received a draft copy of the report in late December and asked for some minor amendments to be made. This has been done and it should have a proper introduction by the GP&F Committee. This version has changed little from the earlier draft.
- Seneschal 07 Asked if the House wanted to discuss the report tonight.
- Dep. Guille 08 Proposed that a formal proposition to defer the report should be put forward.

Proposition: *That the Report from the Brecqhou Liaison Sub-Committee be deferred to a future meeting of Chief Pleas.* CARRIED

4. To Elect a Member to the Brecqhou Liaison Sub-Committee

To replace Deputy P. Armorgie who has tendered his resignation.

- Sieur Donnelly 01 Nominated Mlle. Elizabeth Perrée, seconded by Dep. Le Lievre.
- Sieur Gomoll 02 Had been asked to consider whether his position on the Sub-Committee created a conflict of interest with his membership of the Constitution 2007 Committee. Dep. Armorgie had resigned for this reason and he felt he too should resign.
- Mlle. Char 03 Supported Sieur Gomoll but felt he was capable of serving both Committees and would be able to keep the interests separate.
- Seneschal 04 Asked for further nominations but none were forthcoming.
- Sieur Donnelly 05 Suggested the replacement of Sieur Gomoll, who has resigned from the Sub-Committee, should be left until Easter. The Seneschal agreed as the Sub-Committee would remain quorate if the existing nomination was accepted.
- Mlle. Elizabeth Perrée was ELECTED as the new Member.

5. Information Report from General Purposes and Finance Committee

Charging for Legal Services from St. James' Chambers

- Dep. Cole 01 Introduced the report which informed the House of the recent meeting at which a delegation from Chief Pleas met with H.M. Procureur in Guernsey to discuss the introduction of charges for legal services. Written confirmation had now been received from H.M. Procureur that charges would apply from 1st January 2007. Dep. Cole also informed the House that The Prison Service had submitted a bill for services provided to Sark.
- Sieur Raymond 02 He considered that H.M. Procureur had been more than fair over the charges, recognising Sark's impecunious state. The Prison Service bill covered three years but was a substantial amount.
- Sieur Baker 03 Questioned the method and timing of payments for legal charges.
- Dep. Cole 04 The account would run to the end of the year with a first payment in January 2008.
- Mlle. Perrée 05 Asked why people who had been put into prison couldn't pay the bill themselves.
- Dep. Melling 06 Two years ago, Tourism introduced the Simply Sark branding for the Island. Can we not apply the same ethos rather than continually paying out for Projets and Ordinances to be drafted, passing our legislation by resolution if it was just for ourselves and affected nobody outside the Island? He instanced the electric bicycle saga as an example – why did it need laws written in Guernsey? Is it for such legislation that we are to be paying £30k per year? Perhaps we need more local government which can write bye-laws – it works in England – how are those written? The House should consider cutting back on legal drafting and would it not be cheaper to pay as you go?
- Seneschal 07 If the Law allows us to do so, changes are often done by ordinance or regulation or order. New Laws can take this into account and be so written but you cannot do it with existing laws. It is a good point and all future drafting of law should incorporated the ability to change legislation more easily, quickly and locally.
- Sieur Curtis 08 Made the point that the £30k per annum was equivalent to the capita tax of 150 Islanders. Sark must have greater control of its own activities. He knew of a piece of legislation in one of the Committees which had been in the process of drafting for 5 years. If we reduce the need for drafting of changes to legislation, can we claw back some of the annual fee? Every time propositions are brought to this House requiring legislation, the cost of drafting should be quoted.
- Dep. Dewe 09 As long as the original law was written correctly, local issues can be done without recourse to expensive drafting. The introduction of the summer one-way traffic system was such an example.
- Mdm. Rang 10 Agreed with Dep. Cocksedge (sic) that more should be done "by Order of Chief Pleas". In 1966/7 there was trouble in The Avenue during the Easter Bank Holiday. It was brought up at a following Chief Pleas and led to the closure of public houses on Good Friday "by Order of Chief Pleas".
- Dep. Cocksedge 11 The Constables will tell you that with the lawyers of today and the threats of litigation, much of our existing legislation wouldn't stand up in Court. Once, if drivers were using tractors after hours, they would be banned. Now they would go to appeal and costly and lengthy procedures can take place.
- Seneschal 12 Instanced the previously adequate ban on 'cycling up or down the harbour hill "by Order of the Constables" now has little weight in law and needs to be embodied in legislation.
- Mr. Couldridge 13 Supported Dep. Melling. Is there not a possibility of employing a legal draftsman "in-house"?

- Sieur Raymond 14 Alderney has such a person in David Jeremiah but it comes at a cost. At £30k per annum Sark is being charged the rate equivalent to half a draftsman. Unless a retired draftsman comes to live on Sark, Chief Pleas would be hard pressed to find a better deal than the one proposed, remembering the need for both expertise in Channel Island law and the ability to deal with a variety of issues; currently there is access to a whole raft of draftsmen and not just one individual. He reminded the House of the increasing risk of litigation and the propensity for individuals to challenge Committee rulings. As to the Prison bill issue, it was not just for Sark residents. Those who employ seasonal workers should take greater care in selecting and overseeing the staff employed. It was a seasonal worker, arrested for possession of drugs that created £16k of the bill.
- Sieur Rang 15 Asked if forms were still filled out for seasonal workers.
- Constable 16 Confirmed that this was the case but it was a voluntary requirement.
- Seneschal 17 Generally there is a good response and most employers co-operate.
- Dep. Melling 18 Asked why Sark cannot “pay as we go” on the charges.
- Sieur Raymond 19 The directive was from St. James’ Chambers and the figure of £30k would represent at least half a draftsman and a junior one at that. “Pay as you go” would be very specific and is likely to raise the cost considerably.
- Mlle. Perrée 20 Supported the “pay as you go” idea – surely it would be cheaper?
- Dep. Melling 21 If we can cut back on drafting legislation, will we still have to pay £30k per annum?
- Sieur Raymond 22 It can be reviewed on an annual basis. There is more drafting going through at the moment requiring a number of drafting specialists. It is likely to be Guernsey who will want to review to see if we are paying enough. Finance Sub-Committee will ensure we get value for money.
- Mdm. Snelling 23 Could it not be a set contract rather than discussing it every year?
- Sieur Raymond 24 It has always been free but we are now buying in the specialists in Channel Island Law.
- Seneschal 25 These charges are not stemming from H.M. Procureur but from the Guernsey Treasury.
- Dep. Cole 26 Supported Sieur Raymond – it is a good deal – all the advice given to Committees remains free.
- Dep. Dewe 27 During a period of staff shortages, St. James’ Chambers put out some work to a UK firm and when it came back it was so badly drafted, showing ignorance of Channel Island law, that it had to be scrapped and started again.
- Seneschal 28 Requested the GP&F Committee to return with a report and recommendation at Easter Chief Pleas.

6. Report from General Purposes & Finance Committee

Mandates for a new Finance Committee and a revised General Purposes and Advisory Committee

- Dep. Cole 01 Suggested that Propositions 1 to 4 should be considered together and leave Proposition 5, which related to a different subject matter until the end. Propositions 2 and 3 were an either/or option. If the House decided on creating a Finance and Commerce Committee, Proposition 3 would be withdrawn; the opposite option also applied.
- Sieur Guille 02 Asked what commerce would be dealt with by the Committee.
- Sieur Raymond 03 Nobody is currently dealing with the commercial life of Sark in Committee. It sits well with finance. There is no commercial rationale, it is not intended to open factories, but it should include issues such as better employment and other ways where improved commercial activity could improve the well-being of residents and the financial status of the Island.
- Seneschal 04 Explained the difference between the two mandates was only the one line - “to advise Chief Pleas on commercial matters”. The remaining elements of the mandates are as now, just allocated to the appropriate Committee.

Proposition 1 - That Chief Pleas adopts the proposed Mandate for the General Purposes and Advisory Committee (GP&A) was CARRIED.

Proposition 2 – That Chief Pleas adopts the proposed Mandate for the Finance and Commerce Committee (F&CC) was CARRIED.

Proposition 3 - was WITHDRAWN as no longer being relevant following the acceptance of F&CC.

- Sieur Raymond 05 Asked that the constitution of the Finance & Commerce Committee be changed to reduce the number of sitting Chief Pleas’ Members from five to four (plus the Treasurer) and for two non-Chief Pleas members to be added. This format has worked well on the Sub-Committee.
- Dep. Dewe 06 Concerned about equality of votes, thought it should be an uneven number – hence three or five.
- Seneschal 07 Checked Rule 4 – voting rights on Committees are only held by sitting members of Chief Pleas.

Dep. Olsen₀₈ Committee Presidents can only give a casting vote.

Dep. Dewe₀₉ Suggested the Rules of Procedure can be changed.

Seneschal₁₀ Checked and Presidents only had a casting vote.

Sieur Rang₁₁ The mandate for GP&A Committee remained at five or six.

Dep. Cole₁₂ If the vote was tied then the status quo remained.
The House voted on the change to the constitution of Finance and Commerce – CARRIED.

Proposition 4 – That the GP&F Committee request the Law Officers of the Crown to prepare the necessary legislation to put these Propositions into effect was CARRIED.

Seneschal₁₃ Reminded the House that the need for drafting of legislation was to ensure that the implications of the name change and realignment of Committee responsibilities was reflected across all legislation.

Dep. Melling₁₄ Shouldn't this be the sort of thing that could be undertaken locally without having to go to Guernsey?

Seneschal₁₅ It has to be checked through all existing laws.

Dep. Cole₁₆ Introducing Proposition 5, he reminded the House that much of the Island Insurance was already organised through the Douzaine and it was felt sensible to put all other insurance under the same responsibility. There might be economies of scale to consider. It is not mentioned in any mandates but this just requests the agreement of the House.

Sieur Baker₁₇ Said that Dep. Dewe, who had dealt with insurance issues as President of GP&F was willing, as a member of the Douzaine, to take responsibility for insurance issues.

Proposition 5 – That responsibility for the Island's insurance be taken over by the Douzaine and recorded on their Mandate was CARRIED.

7. To Elect new Members to the General Purposes & Finance Committee Report

To replace Sieur. Baker, Sieur S. de Carteret, Dep. Cole, Dep. Dewe, and Dep. P. Williams

Seneschal₀₁ In asking for nominations, it was explained that warning of the resignations had been given, allowing enough time for this Extraordinary Meeting to be arranged.
Members of the GP&F Committee were invited to speak but declined.

Dep. Melling₀₂ It would be courteous if an explanation was given to Chief Pleas.

Dep. Cole₀₃ It has become clear over recent meetings that the GP&F Committee had lost the confidence of Chief Pleas. With the resignation of the President in January, the workload is heavy and none of the Committee Members were prepared to take on the Presidency. As a member of a Committee, one has the right to resign at any stage.

Seneschal₀₄ There have been accusations that the resignations were engineered to create a crisis and to instigate a meeting of Chief Pleas. He had written to the House immediately upon speaking with the Committee Members and, without success, attempting to dissuade them from resigning. There were suspicions of collusion between several members, the Seneschal and the Seigneur and even a written accusation was received.

Sieur Baker₀₅ There was no collusion. Resignations followed Christmas Chief Pleas, prompted by the lack of support for the Committee's work; this culminated in the failure of the Financial Services legislation being refused after the Committee had worked hard to achieve concessions to give a form of Sark veto. This had been incorporated by Guernsey after representations from the Committee.

Dep. Dewe₀₆ Took responsibility for the domino effect but he had clearly not had the support of Chief Pleas and the wide mandate of the GP&F Committee meant that the work required was becoming too much.

Dep. P. Williams₀₇ Had been on the Committee for 6 years and had wanted to resign for a long time and saw this as an opportunity. He had only joined GP&F when the previous GP&A had changed. He remained on seven other Committees.

Sieur Donnelly₀₈ Stated that he had written a letter to the Seneschal but had not made any accusation of collusion by the Seneschal; it related to inclusion of constitutional matters in the agenda with short notice.

Sieur Rang₀₉ Felt the Committee were setting a bad example by resigning, just because they didn't receive support.
Nominated Deputy Melling, Sieur Raymond, Sieur Gomoll, Deputy Olsen and himself, Sieur Rang.
The Nominations were seconded by Deputy Le Lievre.

Mlle. Char₁₀ Nominated Sieur Donnelly.

Sieur Donnelly₁₁ Was not prepared to stand.

- Seneschal 12 Called for any other nominations and when none were forthcoming the nominations by Sieur Rang were CARRIED.
- Dep. Cole 13 Once a President has been elected by the Committee, a meeting should take place for the transfer of papers and in particular the ten hot items of the moment which need dealing with urgently.
- Seneschal 14 Asked that the Committee meet as soon as possible and he would wish to join the meeting to discuss procedures and practical issues.
- Sieur Raymond 15 Suggested that two additional non-Chief Pleas members should join the Committee to give advice and spread the workload. Dr. Stephen Henry has owned a house on Sark since 1973 and has been present on Sark for at least a month every year until 2004 when he came to live here permanently. He was a GP in Wiltshire for 35 years, he was also an elected Councillor and one time Mayor of Trowbridge. He was Chairman of the National Association of Primary Care and a Ministerial Adviser on Primary Care to the last government.
Mr. Andrew Bache was H.M. Ambassador both in Rumania and Copenhagen, has had a long career in the diplomatic service and has been resident on Sark for seven years.
Dr. Stephen Henry and Mr. Andrew Bache were proposed as non-Chief Pleas members to join GP&A.
The nominations were seconded by Deputy Cocksedge and CARRIED.
- Sieur Raymond 16 Considered that thanks should be recorded to the outgoing GP&F Committee.
- Seneschal 17 Supported the motion and there was a general show of approval from the House.
- Sieur Raymond 18 Reminded the House that the Finance & Commerce Committee had been constituted and mandated but did not formally have members elected by the House. He proposed that the remaining members of the Finance Sub-Committee should be nominated - Sieur Raymond, Deputy Le Lievre, Deputy Sandra Williams, together with co-opted members Mr. A. Magell and Capt. J. Brannam – and this was CARRIED.
Another Chief Pleas member was required to meet the accepted constitution. Madam Hester was proposed by Sieur Raymond and seconded by Sieur Lawrence de Carteret – CARRIED.
- Dep. Cole 19 Asked if the Finance Sub-Committee had been formally disbanded.
- Seneschal 20 This was done at Christmas Chief Pleas.

8. Shipping Committee

Proposals to amend the mandate of the Shipping Committee

- Sieur Donnelly 01 The Shipping Committee had not met but the current mandate needed amendment and the accompanying report, written by former Deputy Gurden, covered the issues.
- Seneschal 02 Had been promised a late report but this hadn't surfaced.
- Sieur Donnelly 03 Suggested deferring the issue until Easter Chief Pleas.
- Dep. Dewe 04 Asked who was on the Shipping Committee.
- Sieur Donnelly 05 He was President and assisted by Sieur Guille, Sieur S. de Carteret and Dep. Le Lievre. Sieur S. de Carteret was the GP&F nomination and, now that he had resigned from that Committee, was no longer eligible to stand.
- Seneschal 06 Noted that the new GP&A Committee would have to nominate a member to serve on the Shipping Committee but in the meantime there were three members and the Committee remained quorate.
Suggested that a new report with a revised mandate and nominations for two vacancies, one to replace Sieur Simon de Carteret, must be brought to the Easter Chief Pleas.

9. Report from Deputy P. Cole and Deputy A. Guille

Decisions taken at Christmas Chief Pleas on "The Reform (Sark) Law 2007"

- Dep. Cole 01 With the agreement of the President, Dep. Guille and I have revised our proposals to go as far as we can to accommodate both our wish for the Option A Projet to go forward as soon as possible and the Constitution 2007 Committee's (C07C) wish to bring in further changes.
The revised propositions were circulated to the House.
- Dep. Cole 02 Last week someone told me that they thought I was taking all this a bit personally; they were right. I do take it personally when I see that I am being cheated and I'm not alone. A great many people felt cheated when in January this House set aside the will of the people by suspending the Option A Projet. Many people believe that this House has no intention of approving the Option A Projet and that the C07C was formed to create a continuous series of delays and to obscure the one significant issue –
Not once but twice and by a comfortable majority, the people have said that they want a fully elected assembly with no seats reserved for Tenants – Option A.

Dep. Cole 03 Dep. Guille and I approached the C07C to see if we could find a compromise; we would agree to support a short delay in forwarding the Projet if they would agree to confirm that it would definitely go forward at Easter or soon after.

They declined our suggestion and produced instead a yellow leaflet – far from committing themselves to the Option A Projet, they go no further than agreeing that that is what the public wants; not too difficult since a glance at the results of the two Opinion Polls clearly shows what the public wants.

Then the C07C tries to mislead the public – “the current draft of the Projet needs updating and this takes time”. This is untrue, as Dep. Guille will tell you, the Projet is ready to go – all it awaits is this House to say so.

The “entrenched laws” are a delaying tactic – they know well that Chief Pleas cannot bind its successors – we cannot prevent a future House making any law it needs. They also know that we do not need to form a Committee to safeguard the rights of the minorities – that is exactly what our human rights law already does.

They tell us they want to introduce referendum legislation. They can count on my support. They tell us they want checks & balances – they can count on my support. What they don’t tell us is why the Option A Projet has to be held back for work on these to begin – they have no relevance to the composition of Chief Pleas. To regain any degree of public confidence, we must rescind the January decision and confirm the Projet as a matter of urgency.

By setting aside the stated will of the people and suspending the Option A Projet, this House has come dangerously close to showing itself unfit to govern. Our proposals give us the chance to begin tonight to put things right.

Dep. Guille 04 Always goes for compromise if possible. There is no ill-feeling because he is no longer involved. At the public meeting, he had been concerned in case few people turned up but the attitude of the large number of those who attended was – you asked us what we wanted but you don’t do as we asked. The tenants as individuals are not what the people object to, it is just the system.

He would have been disappointed if he had been told he couldn’t place a report on the agenda for this meeting but there had been no collusion in so doing. It had been a good public meeting and just because we have differences of opinion, we don’t stop talking to each other.

The reasons for these revisions to the propositions is the need to put Chief Pleas back into public favour by showing it is listening to the will of the people – even if checks and balances, with which he personally agreed, need to be added to the mix.

Proposition 1 is there to simply rescind the suspended decision.

Proposition 2 asks Chief Pleas to commit to Option A by confirming this will be in the Projet without amendment as was the wish of the community in the Poll but does not give approval to the Projet.

Proposition 3 allows the new Committee to report back on the checks and balances issue at Easter.

Proposition 4 gets Chief Pleas to decide on checks and balances in May with final approval of the Projet in July.

In all the above what we are trying to achieve is that the public get the commitment they expect from Chief Pleas regarding the Opinion Poll. Then Chief Pleas has sometime to put in place the checks and balances they so wish. The reason we have suggested July is that before any Ordinances can be drafted the Projet has to be sent off for Royal Assent and returned for registration here which can take time. By this time the next Privy Council meeting is not until October because they have a summer break, this will mean that by the time the law is registered here we will be in December. Then in January Chief Pleas will need to be asked to approve the Ordinances which are required to bring the law into force to allow elections to happen.

Had the Projet been approved this January I had already been told that there was a chance that we would not make our timescale of December 2007 which clearly has gone anyway. The difficulty Chief Pleas has is that we have a General Election to be held in December 2008 for 12 Deputies and if Chief Pleas continues to move at the present pace of going forward then even making this will be questionable. The end result is that after all this time we may have to have an election in December 2008 for 12 Deputies and then once the legislation is in place another election shortly afterwards which would seem totally ridiculous to me and morally questionable.

Sieur Gomoll 05 Asked when these propositions were submitted.

Seneschal 06 Yesterday and I met with Deps. Cole & Guille this morning.

Sieur Gomoll 07 Would be happy to suspend the Rules of Procedure.

Seneschal 08 Members have always had the opportunity to bring propositions and alter them but it is wrong to make significant alteration verbally. Here they have been properly prepared and presented.

Sieur Gomoll 09 Again suggested suspending the Rules of Procedure and was supported by Mlle. Bull.

Seneschal 10 He asked for a show of hands and the House AGREED not to suspend.
The new propositions as circulated then stand.

Sieur Gomoll 11 Acknowledged the useful meeting between officers of the Department of Constitutional Affairs (DCA) and C07C at which the Seigneur and the Seneschal were in attendance. There were open and frank questions and answers and the notes taken have been circulated to both DCA and C07C. The DCA have now provided a statement direct to the Seigneur and the C07C have received a copy through the Seneschal this morning. Option A is accepted as is the need for checks and balances. The next meeting of C07C will discuss the minutes and the statement.

Seneschal 12 The DCA statement will be circulated to all members of Chief Pleas.
Dep. S. Williams 13 It would be unfair to circulate it until C07C had the opportunity to discuss it at a Committee.

Seneschal 14 The statement was sent to the Seigneur who wishes it to be appended to the minutes and in the public forum.

Mlle. Char 15 Thought that the meeting had been between the DCA and C07C with the Seigneur and the Seneschal in attendance. C07C had not had the opportunity to discuss the statement.

Seigneur 16 The statement was sent to him and not to the C07C. It is imperative that it is in the public arena and available for all members of Chief Pleas to see it.

Dep. S. Williams 17 Quite happy for it to go out to the public but C07C should have the opportunity to discuss it first.
Seigneur 18

Sieur Donnelly 19 It is not for discussion it is a statement.
Protested that the C07C should be allowed to see it first so that they could have an appreciation of the content and agree its implications on their work. By all accounts the DCA had been very helpful when visiting Sark previously and made their position very clear.

Seneschal 20 It has been accepted and there is an open invitation that should the C07C want more meetings with the DCA either here in Sark or in London, they can be accommodated.

Sieur Gomoll 21 There is a diversity of views within the C07C and it is imperative that discussion takes place to provide a collective reaction from the Committee. There is no objection to it going out at the same time as the minutes next week after the Committee have met.
There is no name or signature on the statement and there should be before it is circulated.

Seneschal 22 Would organise a signed and attributable version by tomorrow.

Mlle. Char 23 Guernsey's relationship with the DCA, the Crown officers and the UK was only one view. An alternative move for greater independence for Guernsey is currently being propounded by a group of individuals in Guernsey. There may be a need for greater autonomy and independence for Sark.

Seneschal 24 The Islands were offered independence in the 1970s when the UK joined the European Community but was rejected and the link to the Crown through the UK Government was retained.

Dep. Guille 25 If he had been on C07C he would agree with Dep. Sandra Williams. If the C07C is meeting early next week, it is unlikely that the minutes would go out first.

Sieur Guille 26 Without the DCA statement, which is new information, how can decisions be made tonight?

Seneschal 27 These issues are fluid and it is impossible to have all the information available at any one time.

Sieur Rang 28 No rash decisions should be made tonight.
C07C should stick to it's mandate, proposed by Dep. Guille and seconded by Dep. Melling

Mlle. Char 29 Asked to read a statement by Sieur Duncan Spence who was unable to attend.

Seneschal 30 The statement cannot be read.

Mlle. Char 31 Could she speak from it?

Seneschal 32 The letter from Sieur Duncan Spence was also sent to him and he had replied to it.

Dep. P. Williams 33 Supported the propositions from Deps. Cole & Guille, has read all the leaflets that have been circulated and listened to all the views but it is time we moved on. There were too many opinions from inside and outside the Island. Any fears by the public would be covered by the four propositions. There could be more checks and balances applied to the present Chief Pleas. The prime object here was to regain public confidence.

Sieur Gomoll 34 Remained concerned about the circumstance requiring the Extraordinary Meeting. These propositions try to bind what goes forward and when. The need for any election in December 2008 to go forward based on Option A is recognised but C07C must weigh up all these considerations and chart its own course to meet critical deadlines.

Seneschal 35 Proposition 2 is saying that aspects of Option A cannot be altered.

Sieur Gomoll 36 The original Option A did not specify 28 members of the new Chief Pleas. Is this the optimum number? Could it be the minimum number? Could there be a Review Committee with four long serving and senior members of Chief Pleas elected by universal suffrage?

Dep. Guille 37 Had put forward the draft mandate for C07C because nobody else at Christmas Chief Pleas did and it was in a gesture to assist the new Committee. Likewise the propositions are an attempt to focus C07C on a programme of progress. He just wanted to commit to Option A containing checks and balances – everyone appears to want the same thing but how do we get there? He was anxious to see a recognition by and a commitment from Chief Pleas for Option A.

- Dep. Cole 38 The intention is to lead the House forward but without binding the future House with decisions now. It is possible to amend Option A and subvert it. The number of members was decided a long time ago after long debate and careful consideration; there was sound reasoning for limiting the size of the House to 28 members. He would agree with changing Section 29 (Franchise and inclusion in Register of Electors) of the Projet.
- Seneschal 39 Timetabling for C07C is important. If approval for the Projet to go forward had been given at Christmas Chief Pleas, there would have been insufficient time for the election to take place in December 2007; probably April 2008 would have been the earliest. If you want elections in December 2008, July 2007 is the last opportunity for it to go forward to meet the Privy Council deadline for consideration in October 2007. Miss that and December 2008 will find the 12 existing deputies concluding their term of office with no replacement. He asked that C07C speak with the Law Officers on drafting time and take advice on the amount of and timing for drafting subordinate legislation.
- Sieur Gomoll 40 Accepted the need to work back from December 2008. He would want to put forward two changes to the Reform Law now. The first is a need to clarify Section 29 (Franchise and inclusion in Register of Electors) Clause (5), where definitions concerning a possessor of real property as specified in the Cadastre, could be open to misinterpretation and abuse. Second is the Mortgaging of Property which, if current proposals are successful, could have implications on sections within the Projet. It could be done now or at Easter Chief Pleas. If the Privy Council is breaking for a Summer recess with no meeting until October that could take our deliberations beyond July.
- Seneschal 41 A decision to go forward by Chief Pleas at Michaelmas may be too late to achieve December 2008.
Dep. Olsen 42 At his surgeries, residents have told him they would be happy to support the decision to suspend.
- Sieur Donnelly 43 Dep. Cole at the last meeting accepted the mandate for C07C and was content for it to be changed at Easter after meetings of the C07C had determined whether the mandate was sufficient for its needs. That was good but he now has concerns – in the meantime C07C is racing away with its deliberations. The public are concerned at the simplicity of the Poll, the fact that only two basic options were offered and the result was not decisive. Let C07C do their work and take in the views of the public as they are mandated to do. C07C should develop the Poll results and bring forward an amended Projet with overall public support.
- Seneschal 44 Everyone is clearly supporting Option A and that commitment has come from C07C too. Do C07C speak as a Committee or are the issues being raised by Sieur Gomoll his personal views?
- Sieur Gomoll 45 Has no intention of delaying the Projet going forward. He has not changed his own opinion for a year, has already mentioned the need for amended laws at last years meeting between Chief Pleas and the DCA and has consistently supported Option A. The intention is to bring forward two amendments to the Reform Law either now or at Easter.
- Mr. Couldridge 46 Sitting and speaking tonight on behalf of Sieur P. Perrée – there are significant numbers who don't want Option A and it was railroaded through. In the words of a real Sark person who had spoken to him – "leave Sark as it is".
- Sieur Donnelly 47 As long as we are moving carefully ahead, we are moving. C07C should be allowed to continue to have meetings and call a halt at Easter when their deliberations can be reviewed and assessed. Now is not the time to make decisions when key members of the House are away.
- Seneschal 48 There are eight away at this meeting; there were eight away at the last. The make-up of the House is similar.
- Mdm. Rang 49 Since the Poll, the other 44% who voted for the alternative to Option A have been forgotten. She had sympathy with C07C who are not being allowed to do their job. There should be another referendum before the Projet goes forward.
- Sieur Curtis 50 Option A is a quick fix approach and it is lunacy to rush forward with such haste.
- Dep. Cole 51 The C07C was formed to delay the process. Now we are hearing about adding clauses on mortgages, calls for another referendum – will we ever reach a conclusion?
- Mlle. Char 52 C07C has met with the DCA and it has formal meetings and many informal consultation meetings but so much of the time devoted so far has not been about what the Committee was mandated to do but about the politics of defending its position in the face of the challenges being made in Chief Pleas. After such a lengthy debate in January, to turn back again would gain nothing. C07C does understand the results of the Poll and other opinion but to rush and push C07C into making hurried decisions is wrong.
- Dep. Olsen 53 Would support the rescinding of the suspension but pleased that propositions will be brought back by Easter.
- Sieur Rang 54 Dep. Cole felt cheated and the people feel cheated but how many voted for Option A because of the "threats" from the DCA. Suggested that Deps. Cole & Guille be asked to withdraw their propositions and let C07C come back at Easter.

Dep. S. Williams 55 There is no conspiracy to delay. Totally in favour of universal suffrage but cannot go with Option A which, as it stands, is too loose. She is looking out for those 44% who voted for the other alternative in the Poll. The majority of people who had approached her were understanding of the need to consider the additional information now available; everyone has an opinion and has a right to express it without being intimidated by those with an opposing view. C07C will continue its work as mandated and come back with proposals that best represent the interests of residents.

Sieur Baker 56 Concern about the time factor. There mustn't be another election of just 12 Deputies in December 2008. Last time it was because of the petition to the DCA which allowed dispensation for the same form of election to take place.

Dep. Cole 57 There is support for these propositions. The only dissenters are those were against Option A. Therefore he is not willing to withdraw the propositions.

Sieur Gomoll 58 Proposition 1 does nothing. Propositions 2, 3 & 4 try to bind the C07C and restrict the mandate of the Committee, limit any changes and try to influence future meetings of Chief Pleas to do certain things at certain times. We need to carefully think about what the propositions are trying to do and whether there is a better wording to include two proposals for change from C07C and the Finance Committee.

Seneschal 59 Under the Rules of Procedure, it is not possible to add or change propositions to reports without the author's consent.

Sieur Gomoll 60 The need is to find wording on changes about Section 29 and whether Deps. Cole & Guille would allow amended propositions to be included.

A SHORT BREAK WAS AGREED TO ALLOW SIEUR GOMOLL AND DEPS. COLE & GUILLE TO CONFER

(the meeting restarted at 10.40pm)

Dep. Cole 61 Whilst accepting the two amendments in principle, there is a need for further discussion and it should be brought back for consideration at Easter Chief Pleas.

Seneschal 62 Took the existing propositions to a named vote.

Proposition 1 – That Chief Pleas rescinds the decision taken at the Christmas Chief Pleas Meeting held on 17th January 2007 “that Chief Pleas suspends its decision taken on the 4th October 2006 in relation to the composition of Chief Pleas”.

On a named vote this was LOST with 14 pour, 19 contre and 2 no votes.

Proposition 2 – That Chief Pleas approve that Option A (for the avoidance of doubt Option A is that all 28 seats are open and all members are elected by universal suffrage) is put forward in the Projet de Loi entitled “The Reform (Sark) Law 2007” and that no amendments to alter the formation of Option A endorsed by the Opinion Poll are to be permitted.

On a named vote this was LOST with 13 pour, 21 contre and 1 no vote.

Proposition 3 - That Chief Pleas directs the Constitution 2007 Committee to report back to Easter Chief Pleas 2007 with suitable provision for “checks and balances” to be considered for amendments to the Projet for debate. This proposition was WITHDRAWN.

Proposition 4 - That the Committee bring forward to an Extraordinary Chief Pleas Meeting to be held in May 2007, propositions for the provision of “checks and balances” to be included in the Projet de Loi entitled “The Reform (Sark) Law 2007” and if approved that the Committee bring to Chief Pleas at an Extraordinary Meeting to be held in July 2007, the Projet de Loi entitled “The Reform (Sark) Law 2007” for final approval with or without the provisions for “checks and balances”. This proposition was WITHDRAWN.

10. Proposition from Sieur J. Donnelly and Madam C. Hester

Awareness of Joint Opinion on “The Reform (Sark) Law 2007”

Sieur Donnelly 01 Introduced the Joint Opinion and read the proposition, asking C07C to take the opinion into account during its deliberation and to keep the public informed. The public meeting was useful and gave answers to any questions raised by the public. The Deputies meeting restricted debate.

Mdm. Hester 02 Without this opinion, a lot of things would not have come to light. Only one vote could change the whole situation.

Dep. Guille 03 Had two points to raise. This may be independent advice but this government had its own legal advice and shouldn't our advisors look at this advice and advise Chief Pleas if it was advisable to accept it? Could Chief Pleas have a copy of the instruction given to the independent advisors, briefing them on what the advice was for and what it was required to show.

Sieur Donnelly 04 The brief started with questions about the Opinion Poll. Expert opinion on the Opinion Poll suggested the mathematics were flawed and there was a need to take that forward for legal opinion. There was a need to hand it over to an instructing solicitor and then it all became rather complicated – Mlle. Char could explain.

- Sieur Donnelly 05 Kevin Hart, who had the necessary legal background (had worked with Mary Collins for ten years on the Projet) was best suited to undertake the work.
- Mlle. Char 06 Questioned the dual role of the Seneschal in this matter as President of Chief Pleas and of the Court which could demand the instruction be supplied.
- Seneschal 07 No one can demand the instruction but, if the proposition is approved, it becomes an opinion of this House.
- Dep. Cole 08 There was a lot within the Joint Opinion that is wrong – it was misleading to say that this is new information. Without the instruction it was akin to having half a conversation. There is a need to check with our own legal advisors. Fully supported Dep. Guille and the Seigneur in their views.
- Sieur Donnelly 09 When we ask the DCA or the Law Officers for their legal opinion, they must be biased to their political masters. (To emphasise the point he held up the letter from the Lord Chancellor which had been debated at Easter 2006). They continually ram down our throats what we must and mustn't do. The Law Officers are Guernsey and UK orientated. Chief Pleas needs to be given an independent and unbiased view and we will pass this Joint Opinion to C07C.
- Seneschal 10 Chief Pleas must ask for the Law Officers advice because we cannot go anywhere else.
- Mlle. Char 11 The instructions were not presented for the earlier independent legal opinion provided by Sir Peter Miller and Mdm. Rang.
- Seneschal 12 Chief Pleas did not call for it and it was never given. Now Chief Pleas Members are calling for the instructions to this Joint Opinion but they had never requested it before now.
- Dep. Cole 13 Was there no instruction for the Joint Opinion or can we not see them?
- Sieur Donnelly 14 Get out the cheque book and you can see them. Would Sir Peter Miller copy us his instructions?
- Mdm. Rang 15 How can anyone fly in the face of such an eminent person as Leolin Price who has been reforming the House of Lords and legislatures around the world?
- Sieur Gomoll 16 C07C has not seen the instruction. Would Sieur Donnelly be prepared to let C07C have them? If they can, they will be openly discussed. The Law Officers send the Projet and other laws to the Crown but we never see their instructions or recommendations. He does not share Sieur Donnelly's concern and does not believe that the advice is biased but it could be more transparent. There should equally be transparency about any communication between the DCA and the Seigneur.
- Dep. Olsen 17 Supported the need to see the instruction as he was having difficulty in taking the Joint Opinion at face value. The instruction would elaborate on the answers they have given.
- Mlle. Char 18 Accepts the need for transparency. The Joint Opinion is very clear and if anyone has a problem come and ask.
- Dep. Cole 19 Can you tell us what the instructions are?
- Mlle. Perrée 20 Surely Leolin Price wouldn't give us bad information or opinion as he has a reputation to uphold.
- Dep. Guille 21 Are we seriously considering giving this Joint Opinion to our Committee, which is part of this government, without taking advice from our own advisors?
- Sieur Donnelly 22 Supports the need for transparency – who instructed who needs to be fished out. Could we have the DCA advice telling us what we had to do?
- Sieur Gomoll 23 Agreed with Dep. Guille – if the Joint Opinion is passed to C07C, the Committee must obtain its own advice on its validity. There would be a cost of C07C seeking advice from someone else other than the Law Officers. If asked to get advice as a Government – who pays?
- Mdm. Rang 24 Found it disgusting that the independent advice, paid for by individuals then shared with the Chief Pleas and the public, should be devalued in this way.
- Sieur Baker 25 Finds the whole thing confrontational, setting off one piece of advice against another.

Proposition – *That Chief Pleas request the Constitutional Committee 2007 keep the public aware of the issues which they are addressing in respect of "The Reform (Sark) Law 2007" and take into account the attached Joint Opinion of Leolin Price CBE, QC and Evan Price.*

On a named vote the proposition was CARRIED with 19 pour, 13 contre and 3 no votes.

EASTER MEETING – Wednesday 11th April 2007 at 10.00am

Agenda closes on Friday 16th March 2007.

Papers distribution to Members by Wednesday 21st March 2007.

The Meeting ended at 11.27pm.

Brian Garrard (Sark Committee Secretary) 23-28 February 2007

28th February 2007

Greffier

Seneschal

STATEMENT FROM DEPUTY DEWE

Yesterday I received a faxed letter from London lawyers Addleshaw Goddard acting for Sir David and Sir Frederick Barclay, which I will now read and also the Guernsey Press article by Philip Falle.

These were read out at the meeting

You will note that the minutes on Page 12 of the two day January sitting, state –

“Dep. Dewe Has a copy of the report – it was received ten minutes before the deadline for Chief Pleas’ reports. It needs to be circulated to GP&F Committee members for initial consideration and comment before being released or taken forward. Sieur Donnelly has now presented the report to GP&F at a meeting last week and given permission for the Committee to consult more widely once some minor edits and refinements are made to it by the Sub-Committee. It will be sent to H.M. Procureur, in Guernsey, for comments as well as to others who may wish to comment.”

The same minutes record that 20 members including the Seneschal spoke and a five-minutes break was held before Deputy Melling asked “Why H.M. Procureur would see the report before Chief Pleas?”

I believe that Deputy Melling was referring to the fact that H.M. Procureur would have sight of the Sub-Committee’s report before Chief Pleas members had it circulated to them for debate at the next meeting. Deputy Melling has confirmed this is true.

My contention is that Philip Falle was under the impression that the report had already been sent, when in fact it was only my intention to send the revised version when received from Sieur Donnelly and certainly the minutes confirm this. When H.M. Procureur telephoned me on the Saturday after Chief Pleas, to say that he had read the article in the Guernsey Press, stating that I had sent the report and they could not find it. My reply was that the reason they had no record of it was because I was awaiting the revised version.

I have never deliberately misled Chief Pleas, but if this assembly has the notion, that I said that I had already sent the report to H.M. Procureur, then it was a slip of the tongue and unintentional. If that is so, I apologise unreservedly to Chief Pleas.

Deputy Richard Dewe

LETTER FROM H.M. PROCUREUR

Attached