



OFFICIAL REPORT

OF THE

EXTRAORDINARY MEETING

OF CHIEF PLEAS

OF THE

ISLAND OF SARK

HANSARD

Assembly Room, Sark, Wednesday, 15th July 2020

*All published Official Reports can be found on the
official Island of Sark Chief Pleas website www.sarkgov.co.uk*

Volume 6, No. 8

Present:

Seigneur

Maj. C M Beaumont Esq.

Speaker of Chief Pleas

Lt. Col. R J Guille, MBE Esq.

Prévôt

Mr K N Adams

Deputy Greffier

Mr G J Hamon

Conseillers:

Alan Blythe
Peter La Trobe-Bateman
Christopher Nightingale
Anthony Ventress
Sandra Williams
Helen Plummer

Philip Long
John Guille
Christopher Drillot
Amanda de Carteret
Frank Makepeace

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Extraordinary Meeting of Chief Pleas

Chief Pleas met at 7 p.m.

[THE SPEAKER *in the Chair*]

PRAYER

The Deputy Greffier

ROLL CALL

The Deputy Greffier

The Deputy Greffier: There are 11 Conseillers, the Seigneur and the Speaker of Chief Pleas present.

5 **The Speaker:** Thank you.

Apologies received

The Speaker: The Lieutenant Governor is unable to attend this Meeting; and I present apologies from Conseillers Couldridge, Paul Williams and Raymond.

Death of Mr Arthur Rolfe, former Speaker of Chief Pleas – Condolences

The Speaker: The death of Mr Arthur Rolfe.

10 You will of course have all heard of the death of Arthur Rolfe, former Conseiller and Speaker, earlier this week. I will do a full eulogy to him at our next Meeting but would express the condolences of Chief Pleas to his family and friends at this time.

I have also received a letter of condolence from His Excellency the Lieutenant Governor, which I will now read out:

Dear Reg,

Kathryn and I were deeply saddened by the news yesterday that the former Speaker of Chief Pleas, Mr Arthur Rolfe, passed away last weekend. Arthur performed his duties both as Conseiller and subsequently as President/Speaker with considerable wisdom, tact and integrity and, not least, much good humour. He was a genuine champion of open and accountable democracy on the Island, for which we should all be extremely grateful.

I would very much appreciate if you would pass on our sympathies to Arthur's family,

– which I will do in due course –

Members of Chief Pleas and the people of Sark.

**Numbering of Regulations at Midsummer Meeting –
Statement by the Speaker**

15 **The Speaker:** I just wish to make a short statement on the numbering of Regulations that I conducted at the Midsummer Meeting.

Since the Midsummer Meeting I have been informed from St James' Chambers that the Sark Emergency Regulation relating to the coronavirus pandemic was also laid before the States of Guernsey *before* our Meeting and was issued a number, no. 35/2020. Therefore the Regulation that was laid before you at the Easter Meeting on 22nd April and to which I allocated number I/2020 is superseded by the Guernsey no. 35/2020. It is academic for you, but it has to happen.

That also means that the Medical Practitioners Regulation needs to be re-numbered as number I/2020; I gave it the number II, as allocated at the Midsummer Meeting.

25 This is an issue which I take up with St James' Chambers to clarify for the future, because I can see confusion reigning, if Guernsey are going to be numbering Sark regulations which we in turn have laid before us and which we normally number at that stage. So that is something I shall take up for the future.

**Procedural –
Electronic devices**

30 **The Speaker:** In accordance with the Rules of Procedure, I would remind all present that mobile phones, cameras, recording devices and other electronic equipment are switched off now, less for those allowed to Chief Pleas Members in accordance with Rule 18.

Business of the Day

**1. The Election of Conseillers 19th August 2020 –
Policy and Finance Committee Report considered –
Propositions carried**

To consider a Report with Propositions from the Policy and Finance Committee entitled 'The Election of Conseillers 19th August 2020' and to approve the Ordinance entitled 'The Reform (Election of Conseillers (By-Election) (Sark) (No. 2) Ordinance, 2020'.

Proposition 1:

That Chief Pleas rescind proposition 2 on Agenda item 14 brought before Midsummer Chief Pleas 8th July 2020.

Proposition 2:

That Chief Pleas approve the Ordinance entitled The Reform (Election of Conseillers) (By-Election) (Sark) (No. 2) Ordinance, 2020.

The Speaker: We only have a single Agenda item: to consider a Report with Propositions from the Policy and Finance Committee entitled 'The Election of Conseillers 19th August 2020' and to approve the Ordinance entitled 'The Reform (Election of Conseillers (By-Election) (Sark)

35 (No. 2) Ordinance, 2020'. I would ask Conseiller La Trobe-Bateman to introduce the Report, please.

Conseiller La Trobe-Bateman: Thank you, sir.

40 I will briefly explain why we recommended what we did last week and why we have to re-sit today and hopefully make the change. When the by-election dates were being discussed, the Speaker reminded P&F that there was a precedent set by Chief Pleas where they did not approve the Ordinance and a by-election did not take place. However, this was in 2005 before the Reform Law came into force.

45 It was also noted that the general election usually generates a higher voter participation and a higher number of candidates. There were no candidates for the last by-election, and there are currently no indications that candidates will be forthcoming for the next by-election.

50 For this by-election, two of the current vacancies would end at the general election in December and two would be eligible for another two years, until December 2022. Advice was given immediately prior to the Midsummer Meeting. However, this advice was partly verbal and non-specific and the report was presented as tabled. After the Midsummer Meeting further advice was given. This was specific and indicated that the actions of Chief Pleas, although taken for practical reasons, contravened the Reform (Sark) Law, 2008, section 23A(1) and (2) of By-elections.

55 Under the Human Rights (Bailiwick of Guernsey) Law, 2000, the failure to hold a by-election as required by law could constitute a breach of the right to free elections. Policy and Finance wish to ask Chief Pleas to revoke the decisions taken at Midsummer and approve a by-election on 18th August 2020.

60 The Committee would also like to apologise for bringing a Proposition to Chief Pleas which could potentially be unlawful, hence the reason for a swift calling of this Extraordinary Chief Pleas to rectify this mistake.

Policy and Finance will be seeking advice on how to amend the Reform Law to give the ability to defer a by-election, should the occasion reoccur in similar circumstances so close to a general election.

Thank you.

65

The Speaker: Do I have any questions or debate from the floor, please?
Conseiller Ventress.

70 **Conseiller Ventress:** I have to vote against Proposition 1, for two reasons: financial and common sense.

75 This by-election, which should have been called for earlier, became – as did Guernsey's general election – impossible to hold, due to the dreaded lurgy. Hopefully, this has now passed us by. We made the right decision at the last Meeting to defer filling these vacancies until November's general election. This was, in my and others' opinion, the right thing to do. Why? Because should there be anybody wishing to stand and be elected, they would only have from 21st August until the sitting of Chief Pleas on 30th September to digest and assimilate the agenda, propositions and background of the items being brought forward, plus any research they may need to conduct. This is usually a heavy sitting with complex items.

80 The other reason, and some would say the more important, is the cost of holding the by-election, especially with a severe fiscal impact on the budget by the said lurgy. We have a duty to the taxpayer to save money where possible, and this is one of them. We are told from Guernsey that we *must* have a by-election – *that is the law*. Laws are made by lawyers and common sense has no place in it. Surely Chief Pleas ought to be able to apply common sense to its decisions.

85 Thank you.

The Speaker: Conseiller Blythe.

Conseiller Blythe: Thank you, sir.

90 I did have some things written down but listening first to Conseiller La Trobe-Bateman and then to Conseiller Ventress, I would like to back up what Conseiller Ventress has said and I do totally agree with him.

95 On the other hand, the explanation of these events leading up to this Extraordinary Chief Pleas from Conseiller La Trobe-Bateman has cleared up a few of my questions, so thank you very much.

The Speaker: Anybody else? Conseiller Plummer.

100 **Conseiller Plummer:** What if this Proposition falls? Where will we be standing then legally? Can anybody help me, please?

The Speaker: Conseiller La Trobe-Bateman.

Conseiller La Trobe-Bateman: Thank you. I will try and answer.

105 Conseiller Ventress: I think just because of a cost implication should not be the deciding factor whether we have good governance and a proper democracy. I think a by-election is a big tick for good democracy. So I think that we have to do it and it is not impossible to hold a by-election because of COVID, as we are proving that with the dates. I know it is going to be an inconvenience for everybody. But again, if it is good governance, I think we have to do it. Okay?

110 And sorry, can you remind me of your question, Conseiller Plummer?

Conseiller Plummer: I was just asking, if this Proposition fails, where would we be legally?

115 **Conseiller La Trobe-Bateman:** I think we would probably be in a place we do not want to be! And I do not really want to find out, so I would urge you to vote for it, please. Thank you.

120 **The Speaker:** One of the mechanisms available to the public, if Chief Pleas were not to hold a by-election, which was a decision at the last Meeting, is that an elector who decided that he wished to stand and was being prevented from standing could launch a judicial review into the decision of Chief Pleas, and that judicial review would probably say that Chief Pleas had acted unlawfully and therefore, we would be told by a court to hold a by-election.

125 So I think the issue would be if an elector brought a judicial review because Chief Pleas had contravened the Reform Law.

125 Anybody else? No? In that case we will go to the vote on Proposition 1, that Chief Pleas rescind Proposition 2 on Agenda Item 14 brought before the Midsummer Chief Pleas, 8th July 2020. Those in favour? Those against? I declare that **carried**.

130 Proposition 2: that Chief Pleas approve the Ordinance entitled The Reform (Election of Conseillers) (By-Election) (Sark) (No. 2) Ordinance, 2020. Those in favour? Those against? **Carried**.

This ordinance is allocated the number V/2020.

Procedural

The Speaker: Before I close the meeting with the Grace, I just want to quickly go through the timetable, which is a revised timetable which you have had with your papers. The one change on

135 it is that there will be a notice in the Sark Gazette Officielle and in the St Peter's Church notice
box of the forthcoming election. The notice gives the dates and times when final nominations
are to be received.

Nomination forms will be available for collection from the Speaker's Office prior to
nominations opening and nominations open on Monday afternoon at one o'clock. Therefore
there is not a lot of time for people to come in in advance.

140 However, there is a two-week period of time for people to consider standing for election and
coming and collecting a nomination form and having it completed. The nominations close on
Friday, 31st July and my Office will be open between 10 a.m. and 12 noon, for anybody coming
in at the last minute – and most people come in at the last minute when it comes to elections –
and at 12 noon the nominations will close.

145 The by-election is on Wednesday, 19th August, but of course if by Friday, 31st July there have
been no nominations, then there will not be an election. If less than four people put their names
forward, there will once again not be a by-election because there are four vacancies. So it needs
five people to stand in order for there to be a contested election.

150 So those are the factors that the public need to consider when coming to a decision as to
whether or not they are going to stand for election in this by-election.

I have probably ruined the sweepstake!

Greffier, the Grace, please.

PRAYER

The Deputy Greffier

Chief Pleas closed at 7.18 p.m.