

CONSTITUTION AND MEMBERSHIP OF THE STATES: REFERENDUM

**Lodged au Greffe on 8th October 2002
by Senator P.V.F. Le Claire**



STATES OF JERSEY

STATES GREFFE

150

2002

P.183

Price code: B

PROPOSITION

THE STATES are asked to decide whether they are of opinion -

- (a) to agree that any constitutional change to the role of the Bailiff as President of the States or to the position of Senators and Connétables as members of the States shall not be implemented until and unless the proposed changes have been made the subject of a referendum for all electors in the Island; and
- (b) to agree that no reduction in the number of Senators shall be implemented until and unless the proposed change has been made the subject of a referendum for all electors in the Island.

SENATOR P.V.F. LE CLAIRE

REPORT

The proposed changes to the Island's constitution as recommended by the Review of the Machinery of Government under Sir Cecil Clothier are in many respects of a constitutional nature. When the first part of these reforms was presented to the States of Jersey, it was presented in such a way as to call into question the able performance of the Island's Government, in the way that it has, does and can, deliver to its electorate, good and proper effective management of their affairs combined with the delivery of its services. The debate lasted for four days and the Policy and Resources Committee, together with their supporters, set out to underline the necessity for reform, based largely upon an overwhelming cry for change from the people of Jersey. This was heavily supported by some of our key business residents and even, quite surprisingly, strong activity by a member of the Review Panel itself. The outcome of the debate was a decision by States members to do away with the Committee system which many members felt had run its course. The result was that the States of Jersey voted to re-organise and change the infrastructure of our Machinery of Government. There has been a certain amount of criticism for the delay that has taken place in implementing Clothier in its entirety, with States members being pressurised to "Get On With It". I, however, take the view that is shared by other politicians in Guernsey and the former Bailiff of Jersey, Sir Peter Crill, that a Constitutional Review Scrutiny Committee should have been created by both Islands, to scrutinise the findings of both Harwood in Guernsey and Clothier in Jersey. It was, after all, quite remarkable that both reviews were commissioned at the same time as the Local Government Act 2000 in England, all three entirely independent of each other, coming to the same conclusions. I am again seeking a referendum of the people for any further changes, which are by their very nature culturally dismantling.

In a recent scathing attack on the report and proposition of the Special Committee on the Composition and Election of the States of Jersey a prominent and outspoken member of the Clothier Panel criticized the round island consultations, which overwhelmingly supported the desire to keep the Senators and the Connétables in the States. This was because the hundreds of people represented on aggregate only amounted to about 1% of the Island's population. What percentage of the population attended the Special Committee's meetings where on occasion a dozen or so people attended? I have tried to put across the message by involving myself in written and verbal submissions that the people want to be the ones directly involved with any change. The Clothier Panel critique of our Government suggests that the Government needs wholesale change, many people seem to think it is just those that have governed. I strongly urge those members that relied on the rationale that we are elected to govern and the other reason, that no referendum framework was in place, now change their stance and vote in favour of a referendum. Those that choose to make such a decision in my mind are delivering on the positions of trust and duty that they have been entrusted with by the electorate. Interestingly enough Senator Norman in his minority report on these issues concludes by saying his recommendations, which I find mirror Clothier are the best way forwards and sums up by saying "and, crucially-put this recommendation to the people in a referendum". Thank you Senator for having a democratic conscience.

Great store has been placed in the arguments of those advocating the change called for in our most recent review in the undeniable results of the 'Mori' poll. The poll was conducted as an integral part of the consultation exercise. It was necessary to implement changes in keeping with the international agreements which we have signed up to in Jersey, which under Agenda 21 requires us to consult with the people to effect workable change. In the Mori poll, which was not circulated to the public, clear evidence was given of the Island's population wanting to see the continuance of the office of Senator, for example, 78 per cent of the people want to see the Island-wide mandate continue, of those 46 per cent want to see all politicians voted in on an Island-wide basis. When I presented this view to the Special Committee the President wondered where it was I had come by this assertion at the time I said that it was just a view that many people had put to me forgetting at that time the Mori poll. Thirty-two per cent said the present arrangements should continue. Only 19 per cent said the elected representatives should be elected on a local basis. There are many ways to achieve an Island-wide vote, including the single transferable vote, but the Policy and Resources Committee is saying this would be too difficult to arrange - 53 members voted in on an all Island-wide basis. I would say, given their track record, they probably would find that or anything else difficult. It may be said that I am just trying to preserve my own position and the public will come to their own conclusions. I will, however, under Policy and Resources, keep my office for three more years or maybe more; the people however are all in great danger of losing 6 votes each in the next few weeks. The constitution belongs to the electorate. None of the current politicians have stood on the election platform and been voted into government to remove the people's ability to vote for their States Assembly to contain less people that they have an opportunity to influence. I would like to remind members that this is a decision for the public; what other purpose can you imagine to be more fitting for a modern democracy than by using our new referendum mechanism, a law which the States has supported, as a necessary part of our democracy?

Financial and manpower implications

The financial and manpower implications are, in principle, not of huge significance and now that a framework exists it should be relatively easy for the Finance and Economics Committee to project. For members' convenience I attach the previous comments of the Finance and Economics Committee (Appendix A) and also the Policy and Resources Committee (Appendix B).

CONSTITUTION AND MEMBERSHIP OF THE STATES: REFERENDUM (P.147/2001)

**Comments of the Finance and Economics Committee
Presented to the States on 29th January 2002**

The Finance and Economics Committee does not consider that it is appropriate to compare the cost of a referendum with that of a Senatorial election. In the absence of a mechanism for holding referenda, the cost cannot be quantified.

However, on the basis of the limited information contained in the Senator's report and proposition, the proposal would appear not to have a significant financial impact on the General Revenues of the States.

CONSTITUTION AND MEMBERSHIP OF THE STATES: REFERENDUM (P.147/2001)

**Comments of the Policy and Resources Committee
Presented to the States on 26th February 2002**

Senator Le Claire has proposed that any constitutional change to the role of the Bailiff, or to the position of senators and connétables as members of the States, should not be implemented until and unless the proposed changes have been made the subject of a referendum. In this connection it should be noted that the legislation to enable the holding of a referendum is not yet in place. The States agreed in March 2001 that the Legislation Committee should bring forward legislation to establish an appropriate legal framework for the holding of referenda, and the drafting of this legislation has been added to the Legislation Programme for 2002. The Legislation Committee will clearly need time in which to prepare this legislation and submit it to the States for approval, and it may well be another year or more before the new Law comes into effect. This means that it will not be possible to hold a referendum for some considerable time, and this could have the effect of significantly delaying reforms to the machinery of government.

The issues to which Senator Le Claire has referred in his proposition are complex, and the Committee does not believe that they can be reduced to a straightforward question requiring a “yes/no” answer. This is not a single issue, such as the question of whether or not Britain should join the Common Market, and it would therefore be necessary to pose a series of questions. Many of the issues relating to the composition and election of the States Assembly are inter-linked, and the questions might therefore result in answers that were incompatible.

The Committee agrees that it is essential that the public should be fully consulted in any debate relating to the composition and election of the States Assembly. Following the recent withdrawal of its proposals relating to the senators and connétables (P.179/2001), the Committee has lodged a report and proposition recommending the establishment of a Special Committee, comprised of five States members, in order to consider the composition and election of the States Assembly (P.26/2002). If approved, the Special Committee will be asked to carry out its work through a process of public hearings and consultation, and this will give the public a proper opportunity in which to make their views known. In the Committee’s opinion, an open and measured consultation process of this nature will enable the Special Committee to obtain a fuller and more rounded picture of the public’s views than would be possible through a referendum.

The Committee opposes the proposition for the reasons given above, and it therefore recommends that it be rejected.