

# STATES OF JERSEY



## CHIEF MINISTER: ELECTION BY ISLAND-WIDE VOTE OF REGISTERED ELECTORS

---

Lodged au Greffe on 24th August 2017  
by Deputy R. Labey of St. Helier

---

STATES GREFFE

## **PROPOSITION**

**THE STATES are asked to decide whether they are of opinion –**

- (a) to agree, in principle, that the Chief Minister should no longer be elected solely by members of the States but by an Island-wide vote of registered electors;
- (b) that where candidates for Chief Minister secure 18 or more votes from States Members at the States Sitting held within 7 days of the election, those candidates should be put forward for a public vote held no later than 21 days after the general election;
- (c) to charge the Privileges and Procedures Committee to bring forward for approval the necessary legislative amendments to give effect to the above proposals for implementation before the elections in May 2018.

DEPUTY R. LABEY OF ST. HELIER

## REPORT

### The Pain

The situation as it currently stands is as follows –

**Wednesday 16th May 2018:** General Election

**Monday 4th June 2018:** The States meet to elect a Chief Minister (19 days after the General Election),

**Thursday 7th June 2018:** Election of Ministers and Scrutiny Chairs (22 days after the General Election)

If successful this proposition would require the following –

**Wednesday 16th May 2018:** General Election

**Wednesday 23rd May 2018:** The date on or before which the States must meet to elect a Chief Minister (7 days maximum after the General Election) at a Sitting which will have one of two possible outcomes –

1. One candidate receives 18 or more votes and is elected Chief Minister.

OR

2. Two candidates receive 18 or more votes and go forward to a public vote.

**Wednesday 6th June 2018:** The date on or before which a public vote for Chief Minister must be held (21 days maximum after the General Election).

**Thursday 7th June 2018:** Depending on the date of the public vote, very possibly, the day upon which the States could still meet for the election of Ministers and Scrutiny Chairmen – bringing us back on schedule.

In comparison with other jurisdictions, not least the U.K., where the handover of power is achieved in under 24 hours, one is bound to question the present-day tradition in Jersey for a 19 day interregnum between the General Election and the election of a Chief Minister. Why so?

Those newly elected to office have to swear their oath before the Royal Court, but in a hearing that lasts less than an hour and about which there is ample notice; surely this could be slotted in sooner?

Of course, newly elected Members receive a very helpful training induction in the weeks that follow an election, but a first Sitting at which the only item on the agenda is the election of a single post hardly requires much tuition, and in any case the induction can still proceed in tandem with these new arrangements.

On 23rd April 2017 the first round of the French presidential election was held. The head-to-head second round which followed between M. Macron and Mme. Le Pen was held 2 weeks later on 7th May.

If France, with a population of 66 million and an area of 248,573 square miles can effectively hold 2 public votes within 2 weeks, assuredly we should be able to achieve similar timescales in Jersey.

No underestimation is intended of the initial and immediate workload required by the Greffe, PPC and others to action this change, but the advantages, the democratic leap forward, surely compels.

## **The Gain**

The argument most often used against enfranchising the General Public for the selection of a Chief Minister is the ‘be-careful-what-you-wish-for’ view that the people can’t be trusted with that decision; that poll-toppers don’t necessarily make appropriate choices for Chief Minister; that the Public are not clever enough to discern between the populist candidate and the pragmatic one.

This is specious; recent history suggests that it is both without evidenced foundation and, in any case, is built on a premise that this proposition neatly circumvents.

Take the election for the first Chief Minister – often used, I think unfairly, to bear out the ‘be-careful-what-you-wish-for’ argument.

2002: Frank Walker scrapes through and is re-elected Senator in 6th and final position.

2005: Stuart Syvret is re-elected Senator and tops the poll in first place.

2005: Frank Walker and Stuart Syvret are candidates for Chief Minister.

Before the States meet to elect the Chief Minister, BBC Radio Jersey publishes the results of an opinion poll –

- Senator Stuart Syvret got 45%, with 139 votes
- Senator Frank Walker got 55%, with 167 votes.

On 5th December 2005, the States elect Frank Walker as Jersey’s first Chief Minister. The vote is as follows –

- Senator Frank Walker – 38 votes
- Senator Stuart Syvret – 14 votes.

Just days after Senator Syvret had cruised to a poll-topping first place, the BBC Radio Jersey poll, unscientific as it is, points to a Public who still preferred, as their candidate for Chief Minister, the guy who had limped home 3 years previously.

It is one thing to vote someone into the States, quite another to vote for them as Chief Minister.

In any case, in the scenario of this proposition the contest for Chief Minister would *not* have gone to the public vote, as Senator Syvret didn’t reach the 18 vote threshold required.

The same is true of the election for Jersey's second Chief Minister –

- Senator Terry Le Sueur – 36 votes
- Senator Alan Breckon – 17 votes.

Again, under the proposed rules of this proposition, the contest for Chief Minister would not have gone to the public vote, as Senator Breckon didn't reach the 18 vote threshold required.

A threshold of 18 is high – unachieved by the second-placed candidates in our first 2 elections for Chief Minister – this proposition intentionally sets that threshold high to give Members the confidence to take this next necessary step forward for democracy, safe in the knowledge that they are not ceding all power to the Public; even to get on the ballot paper for a public vote, a Chief Minister hopeful will need the support of at least 38% of the Assembly. 38%!

Which neatly takes us to the contest for Jersey's third Chief Minister, which went like this –

- Senator Ian Gorst – 27 votes
- Senator Sir Philip Bailhache – 24 votes.

This one *would* have gone to the public vote, a prospect about which Senator Bailhache had this to say when this subject last came to the Assembly on 13th May 2014:

Senator P.M. Bailhache:

*"... I obtained slightly more votes than the current Chief Minister, and if that had been replicated in a public vote the public would have elected me as Chief Minister, but I would have been in an impossible position. I did not command the confidence of the Assembly. I did not command a majority in this Assembly..."*

This is to ignore the authority that endorsement by the Public invests in the successful candidate, both popularly and in the eyes of the Assembly.

Is the Senator really imagining that on his return to the Assembly, victorious in the public vote, all 27 States Members who had originally voted for his rival would refuse to accept posts in his government? That all 27 would oppose and obstruct legislation brought forward by his government in spite of the public wish expressed so clearly in the mandate he would have received by winning the head-to-head run-off?

In reality, it is easy to surmise that any number of States Members originally voting for Senator Gorst would have been equally as happy to serve in or support a Senator Bailhache-led Council of Ministers. Just as the rank and file of any party might unite behind a victorious leadership candidate, regardless of whether they were originally his or her man or woman, or how acrimonious the contest.

And then there is this issue, *"... if the Chief Minister is elected by the public only the public can remove him."* (Or her.) Not so here. The Public is invited to make the choice between those deemed suitable for candidature as Chief Minister by the Assembly. If the Assembly loses confidence in the post-holder, the selection/election process is repeated. In such circumstances, the proposer of a 'Vote of No Confidence' in the Chief Minister would likely win the subsequent first round of the election for Chief Minister in the Assembly, probably outright and without recourse to the public vote. In the event

that 2 candidates did go through to a head-to-head run-off, the Assembly would have to respect the will of the people and try again.

If we might just take a reality check here, just how often have Votes of No Confidence been successful in relation to Chief Ministers, Ministers or before them, Committee Presidents? One in recent memory, and that was in somewhat exceptional circumstances.

On the subject of the obstacles frequently put in place against extending suffrage to the whole electorate, there exists the suggestion that after the exhaustive rigours of a General Election campaign the Public will be too fatigued by it all; so shaken, so wan with care as to fail to turn out again for a head-to-head run-off for Chief Minister.

My guess is that the politically cognisant will respond to the opportunity of casting a vote for the next Chief Minister with relish; those wanting to turn out shouldn't be denied that opportunity on a second guess by sitting politicians that not all will share their enthusiasm.

At a time when voter turnout is a matter of concern, we should be receptive to ideas which may engage and meaningfully enfranchise the eligible voter; it's difficult to see how such a move could make matters worse.

The fatigue of the political candidates should also be a consideration. Four weeks of endless canvassing door-to-door for Deputy hopefuls or the all-out hustings trawl around the parish halls and elsewhere for Senatorial candidates are exhausting enough to dim the enthusiasm of even the most ardent campaigners perhaps?

We meet this particular challenge by designing a new kind of campaign. Let's not forget it's likely to be a campaign of between 10–14 days only. A campaign for the digital age, we can broadcast/stream ourselves live from the States Chamber now, which could easily host a candidates' one-on-one debate in the evening. The electorate will already have a grasp of the candidates' election manifestos; this new campaign will be to define and drill down into what separates them regarding their visions and policies on leadership and direction. So no print-runs, no personal expense, no posters or banners. That's all General Election stuff. This time it's inventive use of free social media (candidates' own choice) and a couple of pre-organised live hustings, in-house streamed hustings, and opportunities for all media.

We have to recognise that for many States Members the Island-wide mandate is a prerequisite for candidature for the highest political office. This reduces the pool of candidates for Chief Minister to just 8.

What is proposed here opens up the possibility for Deputies and Connétables to gain an Island-wide mandate for Chief Minister by contesting the head-to-head run-off, thereby increasing the pool of legitimate availability to 49.

Returning briefly to the issue of Candidate 1 making unrealistic, irresponsible, populist promises to secure victory over honest Candidate 2, who 'tells-it-like-it-is' and confronts the harsh realities.

Here's the thing ...

Candidate 1 is unlikely to have gained the 18 votes needed by the Assembly to face the Public.

Candidate 1 is more likely to be tested and found out on the folly of his platform in a one-on-one contest where there is nowhere to hide, unlike, say, a Senatorial hustings where candidates speak on average for a total of 9 minutes per evening without challenge or debate.

Candidate 1 is not fighting for his seat, he's already safely elected, freeing him up to confront the uncomfortable truths and not causing him to make unrealistic, irresponsible, populist promises in the first place!

This is one of those issues that is not going to suddenly evaporate, so what do we do? How do we continue justifying keeping the Public out of the choice for their political leader – and in a system where we don't, as yet, have party politics? Do we continue to say to the electorate –

‘We don't trust you.’

‘We trust you sometimes, you made the right choice in electing me, but I'll take it from here.’

‘If we were to follow the overwhelming majority of the civilised democracies of the world and offer you a say in who becomes your political leader this would be dangerously presidential. What's wrong with that, you say? Well ... um ... you see, someone might be elected as Chief Minister with a popular mandate for policies we don't agree with. Understood?’

The more one examines this issue, the more terrifyingly it unravels. There is simply no way on this Earth that our current Senatorial elections can pass for adequate leadership elections, and that is the closest thing we have.

There exists a palpable clamour to resolve the disconnect between politicians and the Public of this Island; the chasm in our democratic system, the apathy of an electorate who feel their vote cannot affect change, is impossible to ignore. The 18 vote threshold to trigger the public vote represents a small step for politicians, but a giant leap for democracy in Jersey.

### **Financial and manpower implications**

The cost of holding a Senatorial election is usually approximately £30,000, which is most likely what an election for Chief Minister would cost.