

STATES OF JERSEY



DRAFT STATES OF JERSEY (AMENDMENT No. 5) LAW 200- (P.183/2007): COMMENTS

**Presented to the States on 14th January 2008
by the Council of Ministers**

STATES GREFFE

COMMENTS

The Council of Ministers has never before commented on reform of the constitution of the States, but this proposed change is so significant that it feels it is necessary to do so.

The States has failed to deal coherently with the recommendations of the Clothier Report and has instead taken different elements of the constitution and tried to deal with them separately. This Proposition shows the implications of trying to deal with such fundamental changes in an uncoordinated and piecemeal fashion.

Whilst the attempt to consolidate the election cycle appears a pragmatic solution to a constitutional anomaly, the Council of Ministers believes that there is still a strong need to take a more overarching view and reach a decision that is altogether more considered, more durable and more focused on genuine proactive reform.

The issue here is one of unintended consequences. The Privileges and Procedures Committee (PPC) has proposed an admirably pragmatic solution to an unintended side-effect of piecemeal and disjointed constitutional change. The Committee should be applauded for its attempts to make these disjointed changes workable, but the Council of Ministers considers that this Proposition would only lead to further and potentially very damaging changes to the structure and balance of Jersey's elected representatives.

The Proposition before the States fundamentally changes the nature and composition of the States without a full and thorough analysis of the implications. This analysis should be undertaken before fundamental changes are made to the structure of the Island's government and the democratic rights of Islanders to elect the members of their government.

The Proposition removes any differences between Senators and Deputies, and therefore it is unclear what would be attractive about the role of Senator. It could be argued that election candidates should stand according to the best interests of the constituents they wish to represent. However, in a practical sense, it is difficult to understand why future political candidates would choose to take on the additional time and cost of standing for Senator, when a Deputorial election would carry precisely the same length of term.

By reducing the number of Senators for sensible, pragmatic reasons when they are all elected at the same time, the balance of the States has been fundamentally changed. Deputies would be in a convincing majority over the other classes of States member. What are the implications of this? If this is right, should it not be accompanied by an Electoral Commission to undertake a thorough review of constituencies?

If there is a justification for different classes of States Member it is because they reflect different but legitimate interests – Senators, an Island-wide mandate; Constables, the Parish and Honorary mandate; Deputies, local constituencies and interests. If these are all legitimate interests, then it would be unwise to change the balance without fully considering the interaction of those interests. 12 Senators, 12 Constables and 29 Deputies is very different to 8 Senators, 12 Constables and 29 Deputies.

The Council of Ministers understands the PPC's inclination to establish a workable electoral cycle after the change of terms for Connétables and Deputies, but believes that the implications of these changes have not been fully thought through. Fundamental constitutional changes need to be properly and coherently considered and the public voice must be heard. All changes should be put on hold and a public, open and transparent Committee of Inquiry should be established to bring forward proposals early in the new States.

The Council of Ministers therefore recommends that the Privileges and Procedures Committee should establish a clear enquiry process by establishing a Committee of Inquiry during 2008, with clear terms of reference, which should report back to the States in early 2009 setting out specific recommendations for constitutional changes for approval by the new States.