

STATES OF JERSEY



COMPOSITION OF THE STATES: REDUCTION IN NUMBER OF SENATORS – REFERENDUM (P.198/2010) – COMMENTS

Presented to the States on 12th January 2011
by the Privileges and Procedures Committee

STATES GREFFE

COMMENTS

The Privileges and Procedures Committee strongly opposes this proposition and is very disappointed that the whole issue of the reform agreed last October has been re-opened by Senator Cohen. On 13th October 2010 the States voted by 31 to 17 to reduce the number of Senators over time from 12 to 8. At the time of the October 2010 debate, which would have been the appropriate time to raise the issue of a referendum, there was no amendment suggesting that one was needed. PPC has now, as charged by the States, brought forward the Draft States of Jersey (Miscellaneous Provisions) Law 201- (P.176/2010) to give effect to the States decision in time for the 2011 elections that will be held on 19th October this year.

Members must be aware that if Senator Cohen's proposition is adopted, all other aspects of reform agreed last October will be deferred for at least 3 years. If the States decide that a referendum should be held, it will be necessary for a formal draft Referendum Act to be prepared by the Law Draftsman and lodged for debate. Before this can be done, there will need to be discussions with the Comité des Connétables to assess how the referendum should be organised as, unlike in 2008, the referendum would not be held alongside other public elections and it is therefore unreasonable to expect the Jurats to act as returning officers. If the Referendum Act could be drafted and debated by early March, it is unlikely that the referendum could be held before the Easter holidays and even if the referendum were held in April, there would simply not then be time for the relevant legislation to be lodged, debated and sanctioned by the Privy Council (which holds its last meeting before the summer in mid-July) before the elections are ordered. Even if there had been time to rush legislation through, it is clearly not acceptable for any respectable democracy to be taking decisions about the number of elected members only 3 or 4 months before the elections. Potential candidates are no doubt already making preparations and deciding which office to stand for, and the States must provide certainty on the election structure as soon as possible.

PPC has received very clear advice that if the States adopt Senator Cohen's proposition, it will not be possible for the Chairman of PPC to propose the Draft States of Jersey (Miscellaneous Provisions) Law 201-. That draft Law proposes a reduced number of Senators and can clearly not be proposed if the States have just agreed that there should be no reduction in the number of Senators before a referendum is held. As a result, the elections of 2011 will have to proceed on the current basis, namely that 6 Senators will be elected for 6 years and Connétables and Deputies for 3 years, as the whole package of reform put forward in P.176/2010 will not be able to be debated. This will delay any complete reform package until at least 2017 and PPC considers that this is totally unacceptable. PPC considers that it simply brings the States into disrepute to reopen and revisit decisions already taken by the Assembly, and having agreed in October 2010 that certain reforms should be implemented from this autumn, PPC believes it is important to maintain that decision.

In addition to the fact that it would simply frustrate the agreed reforms, PPC believes there are 2 other important reasons why Senator Cohen's proposition should be rejected.

Although Senator Cohen does not specify in his report when the referendum should be held, he has made it clear in media reports that he would like it to happen as soon as possible. The clear intention is therefore that the referendum should be held this spring before the 2011 elections. If this were to happen, and the public were to support a

reduction in the number of Senators, there would be no time, as explained above, to implement this decision for 2011 and the reduction could not therefore take effect for over 3 years. PPC considers that this would cause great concern amongst the electorate who, having been asked for their opinion in an Island-wide referendum, would then see the 2011 elections taking place with no reduction in the number of Senators. PPC considers that this would be a totally unacceptable way to treat the electorate.

If the referendum were held this spring this would also, as explained above, be before the other reforms agreed in principle last October had been given legal effect. In these circumstances it could be difficult for electors to answer the question posed. Some electors may be unwilling to see any reduction in the number of Senators as long as half of the Senators continue to be elected every 3 years for a 6 year term, but some of those same electors may accept that it is unworkable to elect 12 Senators on a single day and would therefore want to vote in favour of a reduction if a common term of office for all Senators was introduced. It is therefore, in PPC's view, totally unacceptable to hold the referendum on the number of Senators before amendments to legislation to fix the term of office and method of election of Senators have been agreed.

PPC's own view is that it does not believe that the reduction in the number of Senators from 12 to 8 as agreed last October, and which is now being given legal effect in P.176/2010, justifies a referendum, and the Committee urges members to support P.176/2010 and reject the proposition of Senator Cohen so that the full reform package can be implemented for this year's elections. PPC does nevertheless respect the views of those who did not support the reduction in the number of Senators in October 2010 and the views of any members who may since have changed their mind on this issue. The Committee would, however, urge these members not to support the call for a referendum as the Committee is convinced, as set out above, that a referendum this spring would simply delay all other reform, as well as potentially frustrating and confusing the electorate.

Although PPC hopes that all members will support P.176/2010 in its unamended form, the option to keep 6 Senators for the 2011 election is now being put forward in an amendment to P.176/2010 lodged by Senator Ferguson. PPC would therefore invite members who are uneasy about making the reduction in numbers to reject Senator Cohen's proposition and support that amendment. This would enable the other desirable reforms in P.176/2010, such as the move to a common 4 year term of office and spring elections, to be implemented for 2011 as planned, and it would then be open to the new States, after 2011, to reconsider the matter of the number of Senators and, if deemed appropriate, to hold a referendum at that stage. If a referendum were held in, say, early 2012, it would be possible for the outcome to be implemented in good time for the following elections and the new method of election of Senators for a common 4 year term would have been put in place in legislation. Although PPC itself does not support this way forward, the Committee urges any members who do not wish to see a reduction in the number of Senators to follow this course of action and not support Senator Cohen.