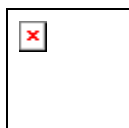


MACHINERY OF GOVERNMENT: THE COMPOSITION AND ELECTION OF THE STATES ASSEMBLY

**Lodged au Greffe on 20th November 2001
by the Policy and Resources Committee**



STATES OF JERSEY

STATES GREFFE

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PROPOSITION

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

(a) to agree in principle that -

(i)

there should be a single election day for all members of the States;

(ii) there should be a standard term of office of four years for all members of the States;

(iii) the election day for members of the States should be moved from the autumn to the spring;

(iv) a maximum level of election expenses for candidates standing for the States should be determined;

(b) to agree in principle that the office of senator should be abolished;

(c) to agree in principle that -

(i) the Connétables should cease to be members of the States by virtue of their office, but should nevertheless be entitled to stand for election as Deputy if they so wish;

(ii) there should be a single election day for the twelve Connétables, to be held no less than six weeks before the election for members of the States;

(iii) the Connétables should be elected for a standard term of four years;

(d) to agree in principle that an Electoral Commission should be appointed by the States to make recommendations for the reassignment of the 24 places formerly held by 12 Senators and the 12 Connétable that will become vacant as a result of the changes in paragraphs (b) and (c) above.

POLICY AND RESOURCES COMMITTEE

Notes: 1. The Finance and Economics Committee's comments are to follow.

2. The Human Resources Committee's comments are to follow.

REPORT

1. Introduction

- 1.1 The current debate on the Island's system of government began in 1998 when the States agreed, in principle, to the appointment of an independent body to undertake a review of the machinery of government in Jersey. This review body was appointed in March 1999 under the chairmanship of Sir Cecil Clothier KCB, QC, and its terms of reference included the examination of the composition, operation and effectiveness of the States Assembly.
- 1.2 It is not proposed to give a detailed description here of the work of the review body, but those seeking further information may refer to Sections 2 and 3 of the Policy and Resources Committee's report and proposition "Machinery of Government: Proposed Reforms" (P.122/2001), an amended version of which was approved by the States on 28th September 2001. For the purposes of the present report, it is sufficient to note that the review body worked assiduously for a period of almost two years, and during this time it carried out a wide-ranging review of the Island's machinery of government.
- 1.3 The Report of the Review Panel on the Machinery of Government (the "Clothier Report") was published in January 2001, and it generated a considerable degree of public comment and debate. One of the report's most fundamental recommendations was that the Island's committee system of government should be replaced by a ministerial system, combined with a system of scrutiny.
- 1.4 In considering the recommendations in the Clothier Report, the Policy and Resources Committee took a view on which aspects of the report should be taken forward first, and those which should be taken separately. The Committee accepted the principle that the Island's government should move to a ministerial system and a system of scrutiny, and decided that this should be given first priority. The Committee's proposals in this respect were set out in P.122/2001.
- 1.5 In the report accompanying P.122/2001, the Committee acknowledged that the Clothier Report made a number of other important recommendations, relating mainly to the organisation and composition of the States, including electoral arrangements. The Committee undertook to report back to the States on these other matters by the end of September 2001, i.e. before the proposals for a ministerial system and a system of scrutiny were to be debated in the States. A draft version of this report and proposition was accordingly circulated to States members in mid-September, and was the subject of local media coverage at that time.
- 1.6 The Committee has since given further consideration to its proposals, and is now presenting an amended version of its report and proposition. For those who received the earlier version, it will be noted that the main change is that it has been updated to take account of the States decision on 28th September 2001.
- 1.7 This report should be seen as an explanation of the Committee's position on the other recommendations that were made in the Clothier Report. In some cases it will be seen that the Committee has decided in favour of change, and where appropriate the Committee's recommendations have been included in the proposition. In other areas the Committee has agreed that it does not believe change to be necessary, and the proposition is therefore silent on these matters.
- 1.8 In drawing up its proposals for the composition and the election of the States Assembly, the Committee would like to acknowledge the considerable debt that it owes the Clothier Panel. Although in some cases the Committee has taken a different view from that of the Panel, this view has only been reached after a period of discussion and reflection on the Panel's recommendations.
- 1.9 The Committee is also pleased to acknowledge the assistance that it has received from its ad hoc Steering Group on the Machinery of Government. The Steering Group was appointed in March 2001 with the remit of "recommending a way forward on the machinery of government", and as a part of its work it has examined and commented on every single recommendation in the Clothier Report. In formulating its own proposals, the Committee has had regard to the views of the Steering Group, and a complete account of the Group's comments may be found in Appendix 4 of P.122/2001.
- 1.10 Lastly, but not least, the Committee would like to thank the public for its contribution to the debate. The Committee has taken into account the comments that were received from the public earlier this year during the consultation period, and it has also considered the comments that have been submitted to it and to the media since that time. Indeed, one of the Committee's guiding principles has been the extent to which its proposals would be acceptable to the public. In matters relating to the composition and election of the States Assembly, it is essential that such

considerations should be at the forefront of the debate.

2. The recommendations for change

2.1 The Clothier Panel made over 40 recommendations for changes to the Island's machinery of government, and these are summarised in Chapter 11 of the Panel's Report. A copy of Chapter 11 is attached as the Appendix to this report. In addition to the proposals for a ministerial system and a system of scrutiny, which were examined in P.122/2001, there are over 20 other recommendations in the Report covering a diverse range of subjects.

2.2 For ease of reference these other recommendations have been grouped according to subject, as follows -

- the Electorate and Public Elections;
- the role of the Senator;
- the role of the Connétables in the States;
- the States Assembly;
- the role of the Bailiff;
- facilities for States members, the Public, and the Media;
- the Parishes; and
- the appointment of an Ombudsman.

In each case, the Committee has commented on the recommendation(s) in the Clothier Report, and indicated whether it proposes to take any further action. The Panel's recommendations have been underlined where they appear in the text, and are followed by the Committee's comments.

2.3 The first set of recommendations, therefore, relates to the electorate and the arrangements for public elections.

3. The electorate and public elections

3.1 'A Chief Electoral Officer should be appointed' (Recommendation No. 1):

In the Clothier Report it is recommended that there should be an independent Chief Electoral Officer whose duties would include the monitoring of elections and the maintenance of a central register of voters. The Committee notes this recommendation, and proposes to examine the proposal in due course in conjunction with the officers of the Royal Court and others.

3.2

'There should be a central register of voters' (Recommendation No. 2):

The Committee notes that the Public Elections (Jersey) Law (P.132/2001), as amended, was approved by the States on 23rd October 2001. The Law has not initiated any fundamental change to the parish-based system of registration, but it has made provision for all parish registers to be centrally accessible to the public.

The Committee believes that the databases should be held electronically so that they will be easily accessible to the electorate.

3.3

'Election Expenses should be determined by the States' (Recommendation No. 3):

The Committee believes that it is highly desirable that there should be a limit on the amount of expenses that may be incurred by election candidates. Without such a limit, it could be argued that some candidates have an unfair advantage in that they are able to spend far more on their election campaigns than their opponents. It should be noted that many other jurisdictions have already chosen to place a limit on election expenses.

3.4 The Committee will shortly be bringing forward a report and proposition that will recommend to the States that the

House Committee should be replaced by the Privileges and Procedure Committee. If this proposition is approved, the Privileges and Procedure Committee will be asked to prepare a report on the subject of election expenses, with a view to bringing detailed recommendations to the States by the end of June 2002.

3.5 'Polling Stations to remain open from early morning till late evening' (Recommendation No. 4):

Under the new Public Elections (Jersey) Law the opening hours for polling stations have been extended so that they will now be open from 8.00 a.m. to 8.00 p.m. on election day. The Committee supports the new provision, and believes that these extended hours of opening will make it easier for the public to exercise their right to vote.

3.6 'One general election only for all members of the States and for the 12 Parish Constables' (Recommendation No. 5):

The Committee agrees with the view expressed in Chapter 2 of the Clothier Report that an election should be an important event in every responsible citizen's calendar, and that if elections occur too frequently they will cease to become significant occasions in a citizen's life. A single election date is much more likely to act as a focus for public comment and debate, unlike the present system in which there are 14 or more elections held every three years, i.e. the 12 elections for the connétables, as well as the separate elections for senators and deputies.

3.7 The position of the connétables will be examined in Section 5, but insofar as the other members of the States are concerned the Committee is proposing the introduction of a single election day.

3.8 The Committee believes that a single election date would be a more democratic option because it will give the electorate the opportunity to make a major change to the Island's government if this were felt to be necessary. It could be argued that the present system is unsatisfactory because the electorate does not have the opportunity to make this sort of change.

3.9 The Committee also proposes that the elections should be moved from the autumn to the spring in order to take advantage of the lighter evenings and better weather conditions that generally prevail at that time of year. This should help to encourage voter turnout, and it would also be in line with the election cycle in other parts of Europe, many of which have moved to spring elections for the same reasons.

3.10 'Every candidate to produce a policy statement' (Recommendation No. 6):

The Committee agrees in principle with the recommendation in Chapter 2 of the Clothier Report that every candidate for election to the States should be required to produce a brief statement of what his or her policies and objectives would be in the next session if they were to be elected. However, the Committee does not believe that such a requirement could be enforced, and therefore it recommends that this should be an expectation rather than a requirement.

The advantage of a written policy statement is that voter has an indication of a candidate's views, and this statement can serve as a benchmark against which a candidate's performance can be gauged at the time of the next election.

4. The role of the Senator

4.1 'The Role of Senator should be abolished' (Recommendation No. 7):

The Committee has given detailed consideration to the arguments for and against retaining the office of senator. Having considered these arguments, the view on the Committee is that the office of senator should be abolished, for reasons which are set out below.

4.2 The office of senator was introduced in 1948, and it was one of several major changes to the composition of the States Assembly that took place in the immediate post-war period. Since the 1940s the Island has been well-served by its senators, and many of them have occupied the most senior positions in the Island's government, e.g. the presidencies of the major committees. However, the office of senator has changed over the years, and it is no longer the case that senators can expect to receive these senior appointments as a matter of course. Indeed, apart from the fact that a senator serves for a term of six years, compared to a three-year term for deputies, it could be said that there is now little difference between the two offices.

4.3 It might be claimed that senators have a different role to play in the States because of their Island-wide mandate, and this requires them to take a broader view of the issues affecting the Island. However, both the deputies and the connétables are also expected to consider issues from a broader perspective, as the great majority of matters that

come before the Assembly have an Island-wide impact.

- 4.4 There would appear to be concern in some quarters that the abolition of the office of senator will limit the degree of direct representation that the electorate will have in the States. In the present arrangements it could be argued that a voter is directly represented by at least 14 elected representatives, i.e. the 12 senators, plus one *connétable* and one or more deputies. However, the Committee believes that too much weight can be attached to this argument, as deputies could also reasonably be expected to provide the same degree of direct representation. It is only to be expected that a deputy will give priority to representing a member of his or her own district, but there is nothing in the deputy's oath of office which prevents him or her from representing others who might live elsewhere in the Island, and indeed this is by no means unusual in the present system.
- 4.5 Although the majority of members on the ad hoc Steering Group were in favour of retaining the office of senator, the Committee does not share this view, and it agrees with the Clothier Panel that the office of senator has run its course and should be abolished. Clearly this is a contentious matter that can only be finally decided by the States Assembly.
- 4.6 Obviously this change will need to be carefully managed, and the Committee proposes that it should take effect in 2005 (i.e. the next election but one) in order to allow sufficient time to make the necessary arrangements. It is accordingly proposed that the six senators who were elected in 1999 should serve until 2005, and that the remaining six senators who are to be elected in the autumn of 2002 should serve a term of two and a half years, expiring in the spring of 2005.

5. The role of the *Connétables* in the States

5.1 'Connétables should cease to be *ex officio* members of the States' (Recommendation No. 8):

Before addressing the question of whether *connétables* should cease to be *ex officio* members of the States, it is worth reflecting on what is meant by the office of *connétable*. The *connétable* is the elected head of a parish, and in this capacity he or she is responsible for a wide range of services, including welfare, policing, the issue of licences, waste collection, and the general running of the parish. The *connétable* also plays an important role in the parish community, and in this respect he or she may have an extensive involvement in voluntary and community organisations. The workload of a *connétable* can be considerable, and in some cases it could be regarded as being equivalent to a full-time job.

5.2 Although the *connétable* is a member of the States, he or she is not elected directly to the Assembly, but is a member by virtue of his or her office.

5.3 Having given detailed consideration to the office of *connétable*, the Committee believes that it is no longer appropriate that the *connétables* should be *ex officio* members of the States. The States of Jersey wishes to be a modern democracy, and in a modern democracy the Committee believes that every member of the legislature should be directly and specifically elected to that body. This does not mean that the *connétables* would not be eligible to become a member of the States. On the contrary, it is anticipated that many of the *connétables* would want to stand for election to the Assembly, and they would be able to do so as a deputy. Their local standing would obviously put them in a relatively strong position to secure election.

5.4 Insofar as the electorate is concerned, the Committee believes that this change would actually provide a greater degree of choice. First, there would be elections for the office of *connétable*, when candidates would be selected according to their suitability to serve as the head of a parish. Subsequently, there would be the elections for the office of deputy, when candidates would be judged according to their suitability as members of the States.

5.5 The Committee believes that this proposal will also give a greater degree of choice to a *connétable*. In effect, a *connétable* will have the freedom to decide whether to limit their public responsibilities exclusively to their parish, or whether also to take on the extra duties that are associated with being a States member. It seems likely that widening the degree of choice in this manner will lead to an increase in the number of candidates for the office of *connétable*, as it is understood that some have been deterred in the past from standing for election because of the prospect of having to take on both parish and States responsibilities.

5.6 The Committee has considered the arrangements for the election of *connétables*, and believes that it is unsatisfactory that there should be 12 different election dates for the 12 *connétables*. In practice this means that the general public does not have a clear idea of when individual elections are to be held, and elections are not given the prominence that they deserve. A single election date for all 12 *connétables* would help to heighten public interest in

this important event.

5.7 The Committee has also considered the timing of a single election for *connétables*. If the States accepts that the *connétables* should no longer remain as *ex officio* members of States, the Committee believes that it would be neither necessary nor desirable to hold their election on the same day as the election for deputies. Indeed, the Committee recommends that the elections for *connétable* should be held at least six weeks prior to the elections for deputies, as this would mean that the *connétables* would have a reasonable interval in which to decide whether to stand for office in the States.

5.8 If, on the other hand, the States decide that the *connétables* should remain as *ex officio* members, then it is recommended that their elections should be held on the same day as the other members of the States.

6. The States Assembly

6.1 'An Electoral Commission to re-assign the vacant seats amongst the Parishes' (Recommendation No. 10):

The proposed changes to the arrangements for senators and *connétables* will obviously have implications for the States Assembly, not least in terms of the need to reallocate the seats that would become available. 12 seats would become vacant as a result of the proposed change to the status of the *connétables*, and a further 12 as a result of the change in respect of the senators, meaning that a total of up to 24 seats could need to be redistributed.

6.2 The Committee proposes that an Electoral Commission should be appointed by the States to review and come forward with recommendations as to how these vacant seats should be re-assigned amongst the parishes. It also proposes that the Commission should be asked to examine the current distribution of seats, as it could be argued that there are discrepancies in the current system. These discrepancies have arisen because some of the parishes are much smaller in population than others, and yet they may have the same number of elected representatives. In the Committee's opinion, there should be a closer correlation between the number of voters and the number of representatives, provided that any redistribution does not interfere with the parish constituency boundaries. In those cases where there are two or more constituencies within a parish, the Commission may wish to examine how the internal boundaries between constituencies have been drawn.

6.3 In order to progress this matter, it is proposed that the Electoral Commission should report to the States through the Policy and Resources Committee. The Committee would be charged with drawing up terms of reference and bringing nominations to the States for appointments to the Commission. The Committee would also consider the Commission's recommendations before reporting to the States with proposals for changes to the distribution of seats that reflect the considered advice of the Electoral Commission.

6.4 'All members of the States to enjoy the same title, 'member of the States of Jersey' (MSJ)' (Recommendation No. 11):

The Committee has taken note of the comments in the Clothier Report regarding the nomenclature of States members. It does not, however, consider that it is necessary to change the existing titles. The title of 'Deputy', for example, has been in use for nearly 150 years, and the nature of the office is well understood.

6.5 The Committee recommends that the title of 'Deputy' should be given to those members of the States who would occupy the seats to be made vacant by the proposed changes to the composition of the Assembly. These new members of the States would be elected in the same way as the existing deputies, i.e. by individual parish or district constituencies.

6.6 'There should be an assembly of between 42 and 44 members' (Recommendation No. 12):

The Committee considers that for the time being it would be reasonable to proceed on the basis that the present number of 53 States members should remain unaltered. It should be noted that the Committee's proposals for a ministerial system of government, as described in P.122/2001 and approved by the States on 28th September 2001, do not require any change to the actual number of States members.

6.7 However, the Committee also considers that it would be desirable to reduce the number of States members in the longer term. The Committee believes that this will be possible, and that such a move would be in line with public opinion. However, any proposal to reduce the number of members would need to take into account the impact on the workload of States members, and whether the increase in workload would generally be accepted as reasonable. The number of States members is a matter that the Electoral Commission would be asked to examine in due course.

6.8 'The interval between elections should be not less than four years, nor more than five' (Paragraph 2.7 of the Clothier Report):

Although the issue of terms of office is not specifically addressed in the Clothier Report, there is an oblique reference to the subject in Chapter 2 of the Report, in which it is recommended that the interval between elections should be not less than four years.

6.9 The Committee has considered carefully the terms of office that should apply to elected members of the States, and is of the opinion that a standard term of four years would be reasonable. The present term of six years for senators is rather long, especially when compared with the position in other jurisdictions. The three-year term for deputies, in comparison, is too short, especially when one takes into account the time required for new members to familiarise themselves with the States organisation.

6.10 The Committee accordingly proposes that the relevant legislation should be enacted so as to provide for a standard term of office of four years for all elected members of the States.

7. The role of the Bailiff

7.1 'The Bailiff should cease to act as President of the States or to take any political part in the Island's government and the States should elect their own Speaker' (Recommendation No. 37):

The Committee has already touched on the role of the Bailiff in its report and proposition P.122/2001, i.e. in the context of its proposals for a ministerial system and a system of scrutiny. In that connection the Committee has referred to the responsibility for external relations that would be held by the Chief Minister, and it has stated that the Bailiff will continue to be the official channel of communication so that he can exercise his role as the defender of the Island's constitution (paragraph 6.14 of P.122/2001).

7.2 The Bailiff does, of course, have other important duties in the Island's government, not least of which is his responsibility as the President of the States. This aspect of the Bailiff's role is considered at length in Chapter 8 in the Clothier Report, and one of the main reasons given in the report for changing the present arrangements is the principle that 'no-one should hold or exercise political power or influence unless elected by the people to do so' (paragraph 8.4). The Committee agrees with this principle. Indeed, it is because of this same principle that the Committee is recommending that the *connétables* should no longer be *ex officio* members of the States. However, the Committee does not accept that the position of Speaker or President is a political one. The duty of a speaker in an assembly is to offer guidance and to preside over meetings of elected representatives. If a speaker were to show any evidence of political bias, his or her authority would soon be called into question.

7.3 The Committee considers that the Bailiff is well-qualified to act as the President of the Assembly, given his expertise in legal and constitutional matters, and it believes that he should continue to serve as the President of the States.

7.4 In reviewing the role of the Bailiff as President of the States, the Committee has considered the issue of whether he or the Deputy Bailiff should continue to have the right to exercise a casting vote, as described in Article 21 of the States of Jersey Law 1966. In practice the Bailiff's vote is always exercised in favour of the status quo, but it could be argued that this in itself is a political issue, especially if the question being voted upon is of a contentious nature. The Committee believes that it would be more in keeping with the Bailiff's non-political status that he should no longer have the right to exercise a casting vote. This would of course also apply to the Deputy Bailiff.

7.5 The Committee has also considered the Bailiff's power of dissent, as described in Article 22 of the States of Jersey Law 1966. According to this Article the Bailiff 'has power to enter his dissent to any resolution of the States susceptible of implementation if he is of the opinion that the States are not competent to pass the resolution'. This power of dissent has not been exercised in living memory, and the Committee does not believe that it is necessary for it to be retained. In matters relating to the competency of the States to pass resolutions, the Assembly may rely upon the Attorney General for expert advice.

7.6 In view of the above, the Committee proposes that the Bailiff's powers to exercise a casting vote and to enter his dissent should be removed. However, the casting vote cannot be done away with until an alternative procedure for dealing with equal votes has been devised by the Privileges and Procedure Committee and agreed by the States.

7.7 In reviewing the role of the Bailiff, the Committee has also considered other duties which are distinct from those

relating to his presidency of the States. In particular, the Committee has noted that the Bailiff has some ancillary duties which could be regarded as being of a political nature. For example, the Bailiff is the Chairman of the Emergencies Council, the Panel on Public Entertainment, the Licensing Bench, and also the Joint Chairman of the Commission Amicale. The Committee believes that the opportunity should be taken to review these ancillary duties, with a view to bringing these under political control. One of these responsibilities, the Chairmanship of the Emergencies Council, is to be proposed in the Committee's Implementation Plan as a responsibility of the Chief Minister, and the Bailiff is in agreement with this particular proposal. The Committee proposes to consider the other responsibilities noted above further in full consultation with the Bailiff, and will report back to the States in due course.

7.8 'The office of Bailiff should continue to be the highest in the Island on all occasions when the order of precedence is observed' (Recommendation No. 39):

The office of Bailiff is the most ancient and respected in the Island's history. The Bailiff is both the President of the States and the head of the Island's judiciary, and the Committee believes that it is therefore entirely appropriate that the office of Bailiff should continue to be the highest in the Island on all occasions when the order of precedence is observed.

8. Facilities for States members, the Public and the Media

8.1 'Proper Facilities for communications and research should be provided for members' (Recommendation No. 24):

The subject of facilities for States members has already been considered at some length in the context of the Committee's proposals for a ministerial system and a system of scrutiny (P.122/2001, paragraphs 7.19-7.21). The Committee supports the view that improvements should be made to the facilities that are presently available to States members, and it agrees that members should be provided with appropriate resources in order to carry out their work effectively.

8.2 'The proceedings of the States to be taken down and printed' (Recommendation No. 25):

During the debate on P.122/2001 the States adopted an amendment from Deputy A.S. Crowcroft and agreed that it should introduce 'a Hansard-type transcript of States proceedings'. This matter has since been investigated by the Committee, and proposals for a recording and transcription service will feature in the Implementation Plan that the Committee has undertaken to present to the States by the end of November 2001.

8.3 'The States should ensure that the fullest facilities are given to the writing and broadcasting media' (Recommendation No. 44):

The Committee supports the recommendation that good facilities should be given to the media, as this should help to keep the Island's citizens better informed about the States. It accordingly proposes that action should be taken to investigate ways in which facilities for the media could be improved. This is an issue which will need to be taken up by the Privileges and Procedures Committee.

9. The Parishes

9.1 'There should be a more formal structure for the Parish Assembly' (Recommendation No. 35):

The Committee agrees that there should be a more formal structure for the Parish Assembly. This would help to remove any uncertainty about the composition and membership of each Assembly, and would therefore assist in the process of decision-making.

9.2 It is noted that the Legislation Committee has appointed a Working Party on Parish Assemblies and Related Matters, and the Committee looks forward to hearing the results of the Legislation Committee's deliberations in due course.

9.3 'Special attention should be given to the Parish of St. Helier' (Recommendation No. 36):

The Committee also agrees that special attention should be given to the Parish of St. Helier. There are significant differences between St. Helier and other parishes, not least in terms of budget, and it would be worth giving attention to the question of whether the administration of the parish should be arranged any differently.

9.4 For both of the above recommendations, however, the Committee acknowledges that these are matters for the

parishes themselves, not for the States Assembly. The Committee hopes, nonetheless, that the Comité des Connétables and the individual parishes will take note of its comments and will consider whether any action is necessary. The issues will no doubt also arise as part of the review of the relationship between the parishes and the other areas of public administration that the States agreed on 28th September should be put in hand.

10. The appointment of an Ombudsman

10.1 'An Ombudsman should be appointed to hear and determine complaints of maladministration by Departments' (Recommendation No. 40):

The Committee notes this recommendation in the Clothier Report, and believes that this is a subject which needs further careful consideration in consultation with the relevant authorities.

11. Timing and implementation

11.1 Although the Committee is proposing that the office of senator be abolished, the Committee accepts that it will not be possible to make the necessary legislative changes to introduce this change before the senatorial elections scheduled for October 2002. Article 5 of the States of Jersey Law 1966 provides that Senators are elected for a period of six years, and if no action is taken to amend this provision, six candidates would be elected in the next senatorial elections with a mandate until 2008. The Committee believes that it would be undesirable to wait until 2008 to give effect to the decision to abolish the office of senator and, if the proposal is accepted, the Committee will be bringing forward for approval early in 2002 a minor amendment to the States of Jersey Law 1966, as amended, to provide that the six Senators elected in October 2002 (and the Deputies elected in November 2002) serve for a period of only 2½ years. In this way, the term of office of those elected in the next elections would expire in the spring of 2005, allowing the first 'general election' for all members of the States to take place at that time. The Committee has received legal advice that, except in the case of an emergency, it is not possible for the States to extend the term of office of persons who have already been elected for a certain period and it is not therefore possible to propose that the first general election be deferred until the spring of 2006 as the term of office of the six Senators elected in 1999 will finish in the autumn of 2005.

11.2 If the States adopt the Committee's proposal that the 12 Connétables should cease to be members of the States by virtue of their office it is proposed that this change, together with the abolition of the office of senator, should take effect from the spring 2005 election, by which time the necessary reassignment of the 24 seats that will need to be re-allocated (12 Senators and 12 Connétables) could be in place. This first 'general election' would therefore be for deputies only, although any Senator or Connétable who wished to remain in the States could, of course, seek election as a Deputy in any one of the 53 seats. If the States adopt the Committee's proposals to introduce a four-year term of office, this would also take effect from 2005 leading to a second 'general election' in spring 2009.

11.3 As the transitional arrangements to enable all 12 Connétables to be elected on the same day will be complex, the Committee intends to hold discussions with the Comité des Connétables, and others involved in the electoral process, to plan the transition if these proposals are adopted. At present the three-year term of office of each Connétable expires at a different time and it will be necessary to put in place appropriate transitional arrangements for each parish to move towards a single election date for all Connétables. If this proposition is adopted a 'general election' for all 12 Connétables will be held at least six weeks before the election for members of the States, but the Committee is not yet in a position to indicate whether it will be possible to put in place the necessary legislation in time for a 'general election' for all 12 Connétables by the spring of 2005.

11.4 The Committee's proposed transitional arrangements for electoral arrangements are summarised below for convenience -

October 2002	6 Senators elected for a period of approximately 2½ years
November 2002	29 Deputies elected for a period of approximately 2½ years
December 2002	New States constituted
spring 2005	<i>Possible election for all 12 Connétables on one day - elected for a period of 4 years</i>

	<p><i>(subject to necessary transitional arrangements and legislative changes being in place)</i></p> <p>General election for all Deputies - elected for a period of 4 years <i>(at least 6 weeks after Connétables election above)</i></p>
spring 2009 and every 4 years thereafter	<p>Election for all 12 Connétables on one day (elected for a period of 4 years)</p> <p>General election for all Deputies at least 6 weeks after Connétables election (elected for a period of 4 years)</p>

12. Financial and manpower implications

The financial and manpower implications of establishing the Electoral Commission have yet to be determined and there are no financial or manpower implications arising from the other changes.

13. Conclusion

- 13.1 The Committee believes that the decision of the States on 28th September 2001 to move to a ministerial system was of the greatest significance, and it will result in a fundamental change to the Island's system of government. The Committee's proposals in respect of the composition and election of the States Assembly, although being submitted separately for consideration by the States, are not in any way inconsistent with the decision taken on 28th September.
- 13.2 The proposals which are set out in this report and proposition should not be regarded as being of secondary importance. On the contrary, the Committee's proposals in respect of the senators and connétables, in particular, would bring about the most important change to the composition of the States for over 50 years. These proposals, together with the various other recommendations, will in the Committee's view result in a States Assembly which is more representative, more transparent, and more accountable to the public.

THE CLOTHIER REPORT - CHAPTER 11

Summary of Recommendations

	<i>Paragraph</i>
<u>Chapter 2: The Electorate</u>	
1. A Chief Electoral Officer should be appointed	2.4
2. There should be a Central Register of Voters	2.4
3. Election expenses should be determined by the States	2.4
4. Polling Stations to remain open from early morning till late evening	2.5
5. One General election only for all members of the States and for the 12 Parish Constables	2.7
6. Every candidate to produce a policy statement	2.8
<u>Chapter 3: The States Assembly today</u>	
7. The role of Senator should be abolished	3.7.3
8. Connétables should cease to be ex officio members of the States	3.8.6
9. Comité des Connétables to be consulted whenever their Parish is particularly affected	3.8.7
10. An Electoral Commission to re-assign the vacant seats amongst the Parishes	3.9.1
11. All members of the States to enjoy the same title, "member of the States of Jersey" (MSJ)	3.9.2
12. There should be an assembly of between 42 and 44 members	3.9.3
<u>Chapter 4: The Committee structure</u>	
13. There must be a majority of members of the States not in executive office to provide scrutiny of those who are, by means of 3 or 4 Scrutiny Committees	4.14 & 4.15
<u>Chapter 5: An improved structure</u>	
14. Seven departments should be substituted for the 24 Committees	5.1
15. Each Department to have one Minister and two members	5.2

16.	Ministers from each Department to form the Council of Ministers	5.2 & 5.4
17.	There should be a Chairman of the Council who would be the Chief Minister of the Island	5.2
18.	The Council of Ministers should have power to give directions to the Departments	5.2
19.	Chief Minister to have the power to dismiss Ministers	5.2
20.	The States to have the right to approve the appointment of Ministers and substitute Ministers nominated by the Chief Minister	5.2
21.	External Relations to be in the province of the Chief Minister	5.2
22.	The title "President" to be abandoned and replaced by "Minister"	5.3
23.	The Council of Ministers to be subject to careful scrutiny by the balance of members of the States	5.4
24.	Proper facilities for communications and research should be provided for members	5.8
25.	The proceedings of the States to be taken down and printed	5.9
26.	There should be a Treasury Department responsible for producing the annual budget and for personnel	5.10 & 5.11
27.	A small number of Scrutiny Committees to be formed from among non-executive members of the States and elected by the States as a whole	5.13
28.	The Chairmen of the Scrutiny Committees with one other member of the States to form a Public Accounts Committee to examine and control expenditure	5.13
29.	There should be created the post of "Auditor General" to assist the Public Accounts Committee	5.13
30.	The first task of a new States of Jersey must be to elect its Speaker and then a Chief Minister	5.16
31.	Provision should be made for Written Answers to members' Questions and for Adjournment Debates	5.17

Chapter 6: The business of administration

32.	The Chief Minister and Council of Ministers should have a Chief Secretary who would be Head of the Civil Service	6.4
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- 33. There should be an Appointments Commission for senior appointments in the Civil Service 6.5
- 34. There must be an appellate mechanism for the challenge of quasi-judicial administrative decisions and a mechanism for dealing with planning problems of an exceptional kind 6.7

Chapter 7: The Parishes

- 35. There should be a more formal structure for the Parish Assembly 7.5
- 36. Special attention should be given to the Parish of St. Helier 7.6

Chapter 8: The Bailiff

- 37. The Bailiff should cease to act as president of the States or to take any political part in the Island's government and the States should elect their own Speaker 8.13
- 38. The Chief Minister should be the direct link to the Home Office in London 8.14
- 39. The office of Bailiff should continue to be the highest in the Island on all occasions when the order of precedence is observed 8.15

Chapter 9: An Ombudsman for Jersey?

- 40. An Ombudsman should be appointed to hear and determine complaints of maladministration by Departments 9.4

Chapter 10: Towards a more open democracy

- 41. There should be regular use of consultative or discussion papers 10.4
- 42. The proceedings of Scrutiny Committees should normally be in public 10.7
- 43. There should be regular opportunities for members to question the Chief Minister 10.8
- 44. The States should ensure that the fullest facilities are given to the writing and broadcasting media. 10.9