

Electoral Reform 2017.

Response to Corporate Services Scrutiny Sub-Panel from Michael Dun. 20 May 2017

1 The public has belatedly been invited to comment on proposed complex Electoral changes that will be debated and voted on by the States Assembly in a few weeks.

There is inadequate time or information available.

2 The proposals are supposed to address shortcomings in the existing system of “representation” but although States Members have been kicking such ideas around for 17 years it still remains unclear what the defects actually are or whether these or any other reforms might address them.

3 The public is invited to comment upon the proposals as published and not to deviate into other matters.

Such a constraint is unreasonable for many reasons – not least because the means of implementation of the various proposals are not yet determined and in any case the implications of impacts arising from the reforms are impossible to predict.

4 The proposers of the reforms claim that these reforms are just a step forward and that further – but undefined reform - must follow in due course.

5 Such degrees of uncertainty are not fit to be presented to the electorate to comment upon - nor for their “elected representatives” to vote on.

6 Although the reforms are presented in the name of “fairer representation” (for example), to address specific inequalities arising from numerical differences in the sizes of constituencies and their geographical distribution – the proposals will not eliminate these inequalities.

7 The “Venice Commission,” although often referred to in support of the proposals by some, is in fact optional and as a mere advisory “code” can and will be ignored as it suits.

8 Although there is one option to reduce the number of seats in the States to 44 – for reasons which are unclear – this option is tied to another proposal that removes the eight Senators. So, the complex reforms are offered as a sort of Pick n’ Mix and thus defy logical discussion.

9 The role of Senators is supposedly to be justified for retention by others on the basis of an “all Island mandate” which – like so many terms and expressions being used – is meaningless.

10 No States Member or category of Members can be “mandated” by the electorate - either at the time of election or during the term of an Assembly.

11 Ironically, the Chair of the PPC Committee was “mandated” by the States Assembly to prepare the Propositions for the current proposals and to present them to the States, but does not personally support them.

He has already confirmed to this Sub-Panel that he believes that one class of States Member only is desirable.

12 Another expression widely used but totally meaningless is the “Parish System”.

By sprinkling this around liberally - like magic dust from Pater Pan - any discussion of the role of the Constables has been eliminated from these proposals.

13 It is the status of the twelve Constables in the States that is the single most unfair and distorting aspect of Jersey's failing electoral system.

14 When such misleading terms as "Parish system" or "Jersey Way" are used it is impossible to know what these might mean since lifestyles are so variable in different parts and parishes of the Island where "local" or national origins are also significant.

Emotion usually supersedes facts when these terms are used.

15 The existing role of elected representatives and their relationships with the electorate differ substantially between small and large population parishes.

The proposals do not explain how this will be changed or improved.

16 It is the mistaken use of the perverse "representation" concept that lies at the root of the real and substantive problem.

17 These proposals are for the benefit of a very small bunch of people with political aspirations and not about "fairer representation" of the whole population at all.

The proposals are a democratic sham.

18 There is nothing proposed that is designed to facilitate access to self representation by members of the public in accordance with their own pursuit of democratic free expression of opinion.

19 The proposals are fixated upon the distribution of potential votes - not making access to participation as a candidate fairer or easier.

20 The proposals are designed by and for existing States Members.

21 Currently a registered person can vote for a Constable in one only of the twelve seats at a General Election.

This is unfair for several reasons but the proposals will not change that.

22 To be a candidate in any of eleven of the twelve parishes a candidate for Constable must be a resident of that specific Parish - except in St Helier. The proposals will not change that.

23 Residents of rural "super-constituencies" will have some claim on representation from more than one Constable (if not an actual voting entitlement) whereas residents of St. Helier will have one only, very busy, Constable to engage with, who may not be a resident of that Parish.

24 Residents of St Helier, the most populated parish in Jersey, could, in theory, be represented wholly by persons who are not resident in that Parish.

25 Under these proposals, no Deputies or Senators need reside in the same "super-constituency" as a resident voter. Seeking personal "representation" will inevitably be made more difficult.

26 As my own very recent experiences have confirmed, it can be very difficult to locate a States Member to respond to calls for assistance as a "representative."

27 I sent one e-mail to 32 States Members and received two replies only.

A different e-mail sent to 30 Members received just four responses but in neither case did the nearly £50,000 p annum Members offer to do anything to assist.

28 Although States Members talk freely about “representing” the public, notably with their problems or views – in general they do not deliver a service.

29 More often than not, Members do not even respond to communications from the electorate. The proposals do not plan to change that.

30 Currently, Deputies undertake most “representation” because they have a specific and defined “constituency” of manageable proportions and are more likely to encounter their “public.” Senators are inevitably remote from the electorate and Constables often similarly so.

31 Some Deputies take on matters that do not arise in their own constituencies and thus attract the workload of other Members.

The proposed super-constituencies will make this lack of representation even more acute because “Super Deputies” will be more remote from their electorate.

32 Most existing Members are “conservative” by political nature and prefer not to rock the establishment boat or challenge the status quo. They are unlikely to represent individuals with different political viewpoints or with “unpopular” complaints.

The proposals are unlikely to change that.

33 The Ministerial system has made it even more generally difficult to engage with all the classes of Member since they claim conflicts of one sort or another.

The proposals do not seek to improve that.

34 The proposals promise nothing to improve the Ministerial structure and any reduction in the number of elected Members will make worse an already very deficient system.

35 The practical problems and costs of being a candidate will be made even more difficult by the proposals – especially with regard to “super constituencies.”

36 The management of general elections could prove to be especially problematic both for potential candidates and the organizing officials.

37 It is entirely the candidate’s choice whether to stand for any particular class of seat – Constable in ten of twelve Parishes excepted because of the residential qualification – the electorate having no influence on that decision.

The proposals will not change that.

38 These proposals are directed at a small percentage of the whole population only - those who vote - although the reforms if implemented will affect everybody.

39 The lack of expressed public interest in the proposals does not indicate understanding or agreement.

40 Only a small percentage of the Jersey population over the age of 16, do vote. These proposals will have no predictable impact on that.

41 Many of the resident population do not register to vote – although the law requires them so to do.

These proposals will have no predictable impact on that.

42 There is no obligation on those who are actually registered to vote so to do. These proposals will have no impact on that.

43 The Stats office says that 6,000 people arrive in or leave Jersey each year – these people are already inadequately monitored for electoral purposes and there is nothing in the proposals to address that.

44 The likely outcome of these proposals is that the preparation of voter lists and the supervision of elections will be made even more problematic and confusing.

45 The Stats office says that 20,000 people with Jersey housing qualifications do not live in the Island but it is not known how many of those are registered to vote or do so.

46 There is nothing in the proposals regarding the important absentee section of the potential electorate or whether they should be encouraged to vote or stand for election as candidates or how this might be achieved.

47 It has been widely discussed that a referendum should form a part of the process of implementation of these proposals if/when agreed by the States but no details are provided.

48 I want to record that I ran, virtually single-handed, the official “NO campaign” against Constables having an automatic seat in the States in October 2014, alongside the General Election. I took on that task reluctantly because nobody else wanted to do it since I would not allow the “YES” campaign to proceed uncontested.

49 I had about two weeks only to organize this campaign with little help, spending just a few £hundreds of my own money. I was not sponsored and candidates for election were specifically excluded from my campaign.

50 The “YES” campaign had access to unlimited and undeclared funding and support. Since eleven of the twelve Constables did not face an election they were able largely to support the “YES” campaign. The Constable of St Helier gave some support to the “NO” campaign.

51 The referendum campaigns were denied access to the all-island public meetings of the Senatorial hustings and could only speak from the floor if at all.

52 One shared Referendum public meeting took place at the Town Hall only.

53 In total 24,130 votes were cast in a very low referendum poll. 15,069 voted YES. 9,061 voted NO.

54 Any suggestion that this referendum result might be considered as the “final word” on the “Constables question” is ridiculous and distorts the discussion of these proposals.

55 It is relevant that this referendum was conducted in an unfair manner with the “YES” campaign having access to unlimited and undeclared resources.

56 This should not be taken as a model for any future referendum which must be organized with independent supervision to ensure fairness for all.

57 It must not be assumed that only YES and NO campaigns will have official recognition in any future referendum.

END