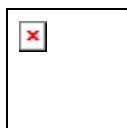


CONSTITUTION AND MEMBERSHIP OF THE STATES: REFERENDUM

**Lodged au Greffe on 9th October 2001
by Senator P.V.F. Le Claire**



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PROPOSITION

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

to agree that any constitutional change to the role of the Bailiff as President of the States or to the position of Senators and Connétables as members of the States shall not be implemented until and unless the proposed changes have been made the subject of a referendum for all electors in the Island.

SENATOR P.V.F. LE CLAIRE

REPORT

The proposed changes to the Island's constitution as recommended by the Review of the Machinery of Government under Sir Cecil Clothier are in many respects of a constitutional nature. When the first part of these reforms was presented to the States of Jersey, it was presented in such a way as to call into question the able performance of the Island's Government, in the way that it has, does and can, deliver to its electorate, good and proper effective management of their affairs combined with the delivery of its services. The debate lasted for four days and the Policy and Resources Committee, together with their supporters, set out to underline the necessity for reform, based largely upon an overwhelming cry for change from the people of Jersey. This was heavily supported by some of our key business residents and even, quite surprisingly, strong activity by a member of the Review Panel itself. The outcome of the debate was a decision by States members to do away with the Committee system which many members felt had run its course. There was even support for the proposition because many members feared the pressure from the media, who would claim that they were unwilling to deliver democratic change if they did not vote in favour. The result was that the States of Jersey voted to re-organise and change the infrastructure of our Machinery of Government. The President of the Policy and Resources Committee, Senator Pierre Horsfall, in summing up the debate indicated that prior to any implementation plan coming before the States of Jersey the other consultative proposals should be debated by the States. This was in his view something that needed to be done within the time frame set out by his Committee's proposition of approximately eight weeks. I, together with some other members, was alarmed, to say the least. I pressed Senator Horsfall for clarification that this indeed was his intention, and to the best of my understanding and interpretation of his answer, he so confirmed, although prior to the vote he was being, in my view, deliberately evasive in providing a clear answer. There has been a certain amount of criticism for the delay that has taken place in implementing Clothier in its entirety, with States members being pressurised to "Get On With It". I, however, take the view that is shared by other politicians in Guernsey and the former Bailiff of Jersey, Sir Peter Crill, that a Constitutional Review Scrutiny Committee should have been created by both Islands, to scrutinise the findings of both Harwood in Guernsey and Clothier in Jersey.

It was, after all, quite remarkable that both reviews were commissioned at the same time as the Local Government Act 2000 in England, all three entirely independent of each other, coming to the same conclusions. It has been stated that each system is unique: I find this quite laughable and I further my own mirth with trying to imagine what a mess we would have been in if the reviews of the Channel Islands had delivered two entirely different sets of arrangements for both of our Islands. It has been and continues to be, in mine and others' opinions, nothing other than a hostile takeover. I have therefore decided to throw down the gauntlet at the feet of those who would take over, and I am therefore seeking a referendum of the people for any further changes, which are by their very nature culturally dismantling and to many, for what little of it that there is in Jersey, the ultimate death of democracy. The future without party politics looking even more bleak to the vast majority of the disillusioned electorate.

The supporters of Policy and Resources have claimed that the vast majority of the electorate are calling for change. I must congratulate them on being so in touch with the public. The electorate and indeed those who feel there is no point participating in the electoral process, are sick and tired of the leading and senior politicians collectively, and in my view deliberately, avoiding tackling any of the major policy issues that are of concern to us all. There has been a deliberate attempt to delay all debate on population in respect of my work permit proposition, and the election promises of our senior politicians to tackle the eradication of poverty has been recently proven to be just that, nothing other than election promises. The recent survey conducted for the Health and Social Services Committee, which carries one of the highest credibility factors in any and all surveys ever undertaken reveals that there are between 1000 and 1,350 people living in "EXTREME ABJECT POVERTY" in Jersey. In my view it is nothing other than disgraceful! I look forward to the appointment of a Minister for Poverty, for which I would gladly stand, but with the knowledge that I would probably receive the resources to match the title I see little point in even being sarcastic about their failure. The outsourcing framework has not yet been delivered, and indeed even written requests as to its progress by the former President of the Human Resources Committee, Deputy David Crespel, to the Policy and Resources Committee President, Senator Pierre Horsfall, remained unanswered for over a year.

Great store has been placed in the arguments of those advocating the change called for in our most recent review in the undeniable results of "The Mori Poll". The poll was conducted as an integral part of the consultation exercise. It was necessary to implement changes in keeping with the international agreements which we have signed up to in Jersey, which under Agenda 21 requires us to consult with the people to effect workable change. In the Mori Poll, which was not circulated to the public, clear evidence was given of the Island's population wanting to see the continuance of the office of Senator, for example, 78 per cent of the people want to see the Island-wide mandate continue, of those 46 per cent want to see all politicians voted in on an Island-wide basis. 32 per cent said the present arrangements should continue. Only 19 per cent said the elected representatives should be elected on a local basis, yet this is the one the Policy and Resources Committee is supporting. The steering committee on the Review is also being ignored, as they wish to see the office of Senator continue. There are many ways to achieve an Island-wide vote, including the single transferable vote, but Policy and Resources are saying this would be too difficult to arrange - 53 members voted in on an all Island-wide basis. I would say, given their track record, they probably would find that or anything else difficult. It may be said that I am just trying to preserve my own

position and the public will come to their own conclusions. I will, however, under Policy and Resources, keep my office for three more years or maybe more; the people however are all in great danger of losing 12 votes each in the next few weeks. The constitution belongs to the electorate. None of the current politicians have stood on the platform to remove the people's ability to vote for their States Assembly to contain less people that they have an opportunity to influence. I remind members that these issues are relevant to Her Most Excellent Majesty in Council, as pointed out by Mr. Robert Brown. "The Constitution of Jersey" (page 43) by Abraham Jones Le Cras including "The nature and authority of The Queen in Council" printed by Thomas Thorne, Jersey 1857, records that "LODGING A CAVEAT AGAINST THE CONFORMATION OF AN ACT" ".....Any inhabitant who shall deem an act passed by the States, dangerous to public liberty, or an invasion of the rights and privileges of himself and fellow-citizens, or shall in any manner consider himself aggrieved thereby, is at liberty to lodge his caveat at the Council office, and to petition Her Majesty, not to grant Her royal assent thereto until he has been heard./Le Cras's Laws of Jersey". I urge all members to recognise that this is a decision for the public; what other purpose can you imagine to be more fitting for a referendum than a motion which the States has supported as a necessary part of our democracy? I think it would be a very short-lived political career for any member to decide that the electorate should not decide these issues.

Financial and manpower implications

The financial and manpower implications are, in principle, the same as for a Senatorial election, or perhaps more.