

STATES OF JERSEY



SENATORIAL ELECTIONS 2005

**Lodged au Greffe on 7th December 2004
by Deputy P.N. Troy of St. Brelade**

STATES GREFFE

PROPOSITION

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

- (a) to agree that draft legislation should be prepared and submitted to the States for approval to provide that –
 - (i) any Senator elected for a 6-year term in 2002 should be permitted, on a purely voluntary basis, to submit himself or herself for re-election during the 2005 election for Senators whilst remaining in office as a member of the States until the successful candidates in that election are sworn in;
 - (ii) the number of Senators to be elected during the 2005 election for Senators should be the total of the 6 ordinary vacancies and the number of Senators elected in 2002 submitting themselves for re-election;
 - (iii) any Senator elected in 2002 submitting himself or herself for re-election who was not successful in the above election would leave office when the successful candidates were sworn in with no form of compensation notwithstanding the fact that he or she was initially elected in 2002 for a term of office of 6 years;
 - (iv) unless the States should otherwise resolve to amend the term of office of Senators, the 6 candidates obtaining the largest number of votes in the 2005 election should be elected for a period of 6 years and the remaining successful candidates for a period of 3 years.
- (b) to charge the Privileges and Procedures Committee to bring forward for approval the necessary legislation as soon as practicable.

DEPUTY P.N. TROY OF ST. BRELADE

REPORT

Ministerial Government

In introducing a Ministerial System of government, the process would ideally include a provision for General Elections to be in place so as to ensure that the principal candidates for Ministerial Office would at the time of the appointment of Chief Minister and Ministers have received a full and proper mandate from the electorate at the time immediately preceding the appointment of a "Cabinet".

The Privileges and Procedures Committee had hoped to introduce a General Election in 2005, but time constraints in drafting legislation could not be met. In addition proposals for a General Election in 2008 contained in P.151/2004 from the Special Committee on the Composition & Election of the States were rejected by the Assembly in November 2004.

With the States of Jersey having rejected the principle of a General election at this time I feel it important that all with an island wide mandate have the opportunity to put themselves forward for election prior to the introduction of the Ministerial system.

Mandate from the people

The decision to implement the Ministerial system in 2005 has been approved, but we are in the unusual position that 6 Senators all of which hold key Committee Presidencies (Senator Kinnard, Senator Norman, Senator Ozouf, Senator Routier, Senator Michael Vibert, and Senator Walker) were elected to office 3 years prior to the introduction of the Ministerial system.

Do the 6 Senators have a full and proper mandate in the eyes of the electorate for nomination as either Chief Minister or as Ministers in 2005 given that they were elected in 2002? Were the elections of 2002 fought on a candidate's clear expression of interest in either the position of Chief Minister or Ministerial Office? Attached is a schedule of the issues discussed at hustings in 2002 (Appendix), which demonstrates that candidates were not questioned fully by the electorate based on their aspirations for Ministerial office or the policies that they would pursue if elected to Ministerial Office.

What is the Public perception of those elections in 2002? A report contained in our local newspaper of a Public meeting held at Communicare on Wednesday 1st December 2004 states –

“There were a number of votes taken during the meeting and among them was a unanimous vote in favour of a proposal that the six Senators not due to face the electorate until 2008 should be made to stand down and go to the polls next October before the island moves to a system of ministerial government. That subject prompted much discussion and the overwhelming feeling was that whoever is to become Chief Minister next year should have a clear mandate from the electorate to do the job”

In addition there have been a large number of callers to our local radio station expressing the same views, and I have been contacted by members of the public expressing their support for this project.

This proposition allows for the six Senators elected in October 2002 to voluntarily stand for re-election in 2005 and clearly express their candidacy for either Chief Minister or Minister and the policies that they would implement if given the mandate.

Much has changed since the election of the 6 Senators as witnessed by the happenings at the St Clement hustings in 2002 –

“Thisisjersey.com” reported that “At the end of the meeting Stan Adeler asked two short questions and requested that the candidates should give a show of hands. In unanimous votes, each election hopeful showed that they were against the introduction of VAT and for, in principle, the introduction of a PAYE system of tax.”

Have the Senators changed their minds? Is their stated preference to avoid the introduction of a sales tax/VAT/consumption tax explicable without going back to the polls? Preferably key individuals should explain their future policies and strategies for the Island in the months before the introduction of the Ministerial system, not 3 years before such an historic occasion.

In my opinion the electors in 2005 should have the opportunity to quiz key individuals with an Island-wide mandate on their aspirations for Ministerial office and proposed policies in a Ministerial system.

Practical issues

Part (a)(i) of the proposition asks that the States debate the general concept of legislation being prepared to facilitate the 6 Senators elected in 2002 to voluntarily stand for reelection during the 2005 elections for Senators and that legislation would provide that they could remain in office until successful election candidates were sworn in.

Currently, any Senator resigning from office would immediately stand down from all positions held and a date for a by-election set. My proposition requests that members agree to the principle of an amendment to legislation to facilitate sitting Senators to voluntarily participate in the 2005 elections without standing down from office.

The current situation is that Senators and Deputies can be elected for a shorter term than is currently set down in the States of Jersey Law but to have achieved that in the 2002 elections the Privileges and Procedures Committee of the day would have had to take a proposition to the States in 2001 requesting that the term of office be reduced to have coincided with the introduction of the Ministerial system. Such action was not achieved, and my proposition gives sitting Senators the opportunity to stand for election immediately prior to the introduction of the Ministerial system.

Part (a)(ii) clarifies that the number of Senators in the 2005 elections would be the total of the 6 ordinary vacancies and the number of those elected in 2002 that voluntarily decide to stand for re-election. Consequently, if 4 of the 6 Senators elected in 2002 stood for re-election there would be a total of 10 seats available in the Senatorial elections of October 2005.

Part (a)(iii) provides that any Senator voluntarily standing for reelection who was not successful in the said elections would leave office when the successful candidates were sworn in. There would be no compensation paid for loss of office.

I did consider whether some form of compensation should be paid, as the Senator's who draw earnings could reasonably expect to draw the annual sum paid until the term of their office expires in 2008. I considered a payment of 6 months of prior years drawings as a possibility if unsuccessful in the election, and also as to whether a sum should be allowed from Public funds to compensate for two amounts of election expenses (2002 and 2005), but decided that it would be best for the Senator's concerned to amend this project if they so wished.

Part (a)(iv) provides for the fact that the States may at some point prior to 2005 provide that all Senators are elected on the same day. Whilst it was discussed in the recent debate on the composition of the States, I have left it as an issue to be fully resolved by the Privileges and Procedures Committee. Certainly if the States had agreed to a General election in 2008 the terms of office of all members would have to have expired at the same time. That did not happen, but it does remain that the fact that Senatorial positions are elected on a 6-year mandate clearly has implications when considered against the arrangements for election of Chief Minister and Ministers on a differing time basis.

Of the seats available in the 2005 elections the 6 candidates with the highest vote count will have terms of office expiring in 2011(6 years) and the remaining successful candidates would have terms expiring in 2008 (3 years). This would preserve the cycle of 50% of Senators elected every 3 years, but as previously stated this is subject to future discussion regarding terms of office and future election procedures.

Part (b) requests the Privileges and Procedures Committee to implement the proposals by bringing amended legislation to the States.

Exclusion of Connétables from this projet

I took the decision not to include Connétables within this proposition, as all Connétables are elected to their Parish (and obtain an ex-officio right to sit in this assembly) under the Code of Laws confirmed by order of His Majesty in Council of 28th March 1771 read together with a subsequent Order in Council of August 1784. The code of 1771 reads –

“Ils (Connétables) ne continueront en la charge, non plus que les Centeniers et Vingteniers, plus de trois ans a moins qu’ils n’y soient élus de nouveau, et qu’ils consentent de l’exercer.”

which translates to –

“They (Connétables) will not continue in office, not longer than Centeniers and Vingteniers, not longer than 3 years unless they are reelected, and they consent to exercise it.”

Whilst it would be possible to give Connétables the same opportunity to stand for re-election there remains some doubt as to whether any of the Connétables would wish to be Chief Minister or Minister and I have chosen to specifically restrict the debate to the Senators. If members expressed an opinion that elections could be managed by some other authority than the Connétables in 2005, and that it would be desirable for a process akin to a General election (Note: recently defeated Privileges and Procedures Committee proposals) then any member is open to amend this proposition.

Conclusion

In my opinion prior to implementing the Ministerial system which will commence with States Members electing from their number a Chief Minister who will form a cabinet of Ministers in December 2005, the electorate should on the “eve” of a major structural change have the opportunity to vote on an informed basis for those who would wish to formulate future policy direction, based on expressions of office that key individuals wish to occupy and the policies to which they subscribe.

Financial and manpower implications

As an election is scheduled for Senators in October 2005 there are minimal implications beyond printing additional ballot papers. The usual procedures for the election process would apply.

APPENDIX

Hustings 2002	
Grouville	
Q1	Candidates were asked whether they believed that a zero rate of corporate tax should be introduced.
Q2	What they thought about the distribution of the tourism investment fund and in particular the fact that hoteliers were unable to apply for money for refurbishment and investment purposes. The questioner also wanted to know what they planned to do about the decline of tourism and bed losses.
Q3	Should water use be monitored?
Q4	how the subsidies for the new bus company , Connex, which is about to take over the Island service, could be justified, and what assurances could be given that taxpayers were getting value for money.
Q5	Transparency in the finance industry - the candidates were asked what they felt about more transparency, particularly in light of the Enron scandal.
Q6	Why are you standing for Senator , not Deputy?
St. John	
Q1	Any hope of mains drains Islandwide?
Q2	The candidates were asked by a former Clothier panel member to say yes or no to whether they were in favour of radical political reform .
Q3	Who is going to take care of the countryside in the future if the Island does not have the farmers to do it?
Q4	Do the candidates believe that the finance industry is to the benefit or the detriment of the Island.
Q5	Candidates were asked what they thought about pedestrian access to the waterfront .
Q6	Should there be more incentives to help mothers stay at home?
St. Clement	
Q1	Candidates were asked whether they agreed that the siting of category A housing in the parish had a significant impact upon the welfare burden ; whether candidates agreed that the current system of welfare funding through parish rates was fundamentally flawed and undemocratic; whether they were aware that 50 per cent of the St Clement rate burden was due to welfare and he wanted to know what they had done or would do in the future to correct the situation.
Q2	raised the question of taxing cyclists and whether insurance and a licence should also be compulsory, as well as control of bicycles in pedestrianised areas.
Q3	How can you support farming if you didn't vote for new policy?
Q4	A finance industry worker asked the candidates whether sufficient focus was being put on saving costs in States departments in the light of Planning and Environment imposing the user pays principle and Health and Social Services' repeated warnings of cuts to services.
Q5	A show of hands was called for on the introduction of VAT and the introduction of a PAYE system of tax.
St. Mary	
Q1	what would you do if negotiations with the UK and the EU became

	difficult over the savings tax directive and the code of conduct?
Q2	How fair is Jersey's childcare system ?
Q3	Should we cut the civil service ?
Q4	What of the damage and nuisance caused to the parish by the waste site at Crabbé .
Q5	candidates were questioned about the Regulation of Undertakings Law with reference to 'public enemy No 1' – inflation. He asked whether they felt that the job restriction laws caused inflation, and whether they were actually working in controlling population as had been intended.
St. Brelade	
Q1	Do candidates have any experience of running a business with a turn-over of £100,000-plus, what they would do about raging inflation , and what he described as the poor state of the General Hospital .
Q2	in the current economic climate, would you support the outsourcing of non-core States services to the private sector?
Q3	the candidates were asked if they considered themselves delegates or representatives and also asked for their views on referenda .
Q4	What is the ideal age for a Senator ?
Trinity	
Q1	For or against green lanes and parish rates equality ?
Q2	How about a referendum on States reform plans ?
Q3	Would you vote for euthanasia ?
Q4	how would you preserve the Island's ' right to self-determine ', specifically in respect of the finance industry , in light of the growing threats from the UK and Europe. Also asked whether the candidates supported the wish of Kofi Annan to see overseas aid increased to just over 0.7 per cent of gross domestic product,
Q5	Will you stick to spending limits ?
St. Martin	
Q1	Agriculture : Where does its future lie?
Q2	Have you given further thought to legalisation of euthanasia ?
Q3	Should new boats be taxed ?
Q4	views on the composition of the States Senators, Deputies, MSJs, how they saw themselves in the new ministerial chamber and whether they would want a ministerial or backbencher's role .
St. Saviour	
Q1	asked the candidates for their views on the current state of the States Pension scheme and whether they were in favour of moving towards a different scheme.
Q2	With no housing qualifications , should I leave the Island?
Q3	What would you do to raise revenue?
Q4	Will collective responsibility prevent you from fulfilling your manifesto?
St. Peter	
Q1	States Members: Would you maintain your vote on the population policy?
Q2	How would you be proactive in boosting Island industries ?
Q3	Casinos : For or against?

Q4	asked the candidates whether they favoured raising the ceiling on Social Security contributions .
St. Lawrence	
Q1	Do you support keeping fiscal independence ?
Q2	Would you vote for a rescindment of Clothier ?
Q3	views on the fact that there were still a large number of properties unconnected to main drains . Those who were not connected had, in addition, the expense of tanker services
Q4	Trade union official Mick Kavanagh asked candidates if they would support the abolition of rules preventing civil servants from being allowed to openly support candidates in future elections .
Q5	questioned candidates about the deficit in the States public services sector pension fund , asking whether they thought this kind of information should be made public
Q6	Should we continue to pour money into the Airport ?
St. Ouen	
Q1	Would you stop unions holding the Island to ransom through strike action?
Q2	What would you do to control spending ?
Q3	University grants : Was Education's five-year decision discriminatory against people on 3 year contracts?
Q4	Would you help protect Plémont ?
St. Helier	
Q1	asked how the candidates would vote on a proposition to control welfare through a central system, whether the States should pay rates for their properties and whether they would support standardisation in banding rates on a square footage basis.
Q2	How would you limit car use ? Would you cycle, walk or use the bus to get around?
Q3	asked whether the candidates would support an Islandwide referendum on governmental reform, a question she said required 'a straight yes or no'.
Q4	Finance Industry OECD - What would you do about the international challenges facing the Island?
Q5	How would you reduce crime ?
Q6	How could we encourage more airlines here?