

**MACHINERY OF GOVERNMENT: METHOD OF APPOINTMENT OF CHIEF MINISTER AND COUNCIL
OF MINISTERS (P.3/2002) - COMMENTS**

**Presented to the States on 12th February 2002
by the Policy and Resources Committee**



STATES OF JERSEY

STATES GREFFE

150

2002

P.3 Com.

Price code: B

Comments

On 28th September 2002 the States approved a report and proposition, as amended, of the Policy and Resources Committee concerning reforms to the machinery of government - 'Machinery of Government: Proposed Reforms' (P.122/2001), including a proposal that -

“(ii) the States will appoint a Chief Minister of Jersey from among their number, by a process to be agreed, who will nominate a team of ministers to form the Council of Ministers, with the executive function of government vested in the Chief Minister and the Council of Ministers”.

It was therefore agreed that the selection of a team of ministers would be a matter for the Chief Minister in the first instance, who would nominate the team for approval by the States. In the report accompanying P.122/2001, the Committee expands upon the reasons why it does not believe that the Chief Minister should be restricted in his or her choice of ministers -

“The Chief Minister will be taking on a very important role in the Island’s system of government, and in accepting this major responsibility it seems only reasonable that he or she should be able to select a team of ministers that will work well together. The Committee is therefore proposing that the Chief Minister should be able to nominate his or her team of ministers for approval by the States. This means that the actual power of appointment will rest with the States, and that the Chief Minister will play a key part in the appointment process.” (para. 6.16)

In Deputy R.C. Duhamel’s report and proposition - 'Machinery of Government: Method of Appointment of Chief Minister and Council of Ministers' (P.3/2002) it is proposed that -

“(a) the Chief Minister of Jersey should be appointed by the States from among those members of the States elected on an Island-wide basis and that the Chief Minister, once appointed, should nominate for approval by the States a team of ministers to form the Council of Ministers chosen from among that same group of members, with the executive function of government vested in the Chief Minister and the Council of Ministers.” (our emphasis)

If the States were to adopt this proposal, it would mean that the Chief Minister and the team of ministers could be selected, as the States Assembly is presently constituted, only from those 12 members elected as senators. The Committee believes there are several significant drawbacks associated with this proposal, and these are summarised below.

Firstly, the Committee considers that the Chief Minister needs to be able to select a team of ministers that will work well together, a team that will have balance and effectiveness. Limiting the field of candidates to a small minority of the 53 States members would greatly restrict the choice of available candidates, as it would exclude those politicians elected on other mandates (i.e. as a deputy or connétable) from the Council of Ministers, regardless of their expertise, ability, or other experience ~~characteristics~~.

It should be noted that many deputies and connétales have occupied senior positions in the States Assembly, including presidencies of major committees, but if Deputy Duhamel’s proposition is adopted they would not be eligible for a ministerial position.

A review of election results for the office of senator will indicate that the electorate often selects candidates with widely differing interests and skills. This has been to the benefit of the Assembly, and their selection has helped to create balance and a certain degree of scrutiny. In the new arrangements, there may well be senators who would prefer not to take on a ministerial role, but would want to become actively involved, for example, as a member of one or more scrutiny committees. Under Deputy Duhamel’s proposals, this would be much more difficult to achieve, because the majority of those elected on an Island-wide mandate would be required to serve as ministers. In the Committee’s view, it does not seem appropriate that the role of senator should be restricted in this way.

The Committee believes that the decision reached by the States on 28th September 2001 will provide a more balanced and reasonable approach. Under these arrangements all States members will be eligible for ministerial office, without any restriction because they happen to be a deputy, connétable or senator. Members will be selected by the Chief Minister on the basis of their skills and their ability to work as part of a team, and the States as a whole will take the decision on whether to approve that team.

It should be reiterated here that the Council of Ministers will be accountable to the States Assembly, and this is the basis upon which the States took their decision of 28th September 2001 to approve P.122/2001. The report accompanying P.122/2001 emphasized that the States will remain the supreme decision-making body, and that any major policy proposals or new legislation would have to be referred to the States for a decision (para. 6.3). This concept is developed further in the

'Machinery of Government: Proposed Reforms - Implementation Plan', particularly in Section 6. The reforms described in the Implementation Plan are States-centred, and the Council of Ministers will, in effect, be carrying out the States' policies. In the event that the States do not agree with the general policies and performance of the Council of Ministers, then the States can decide to dismiss and replace the Council.

It is a consequence of Deputy Duhamel's proposals that the supremacy of the States would actually be weakened if the appointment of ministers were to be restricted to those with an Island-wide mandate. With only a limited number of possible candidates for the Council of Ministers, the majority of this number would be appointed as ministers shortly after election to the States. This group would be difficult to remove until the next election, as the Assembly would have little alternative but to re-appoint the majority of the former Council of Ministers.

In the report accompanying his proposition, Deputy Duhamel comments that "*the electorate will have no choice on election day of strategic direction*". In the Committee's view, this is not an accurate reflection of the proposed new arrangements, and in these new arrangements there will be a link between the views of the electorate and the strategic direction of the States. Further information on these new arrangements is given in Section 6.8 of the Implementation Plan, where it is stated-

"During elections, candidates for the States will set out their manifestos for the public to consider and the success or otherwise of each candidate will be determined, in part, on those policies espoused.

The first task of the newly elected Assembly will be the election of the Chief Minister... The candidates for Chief Minister will put forward a programme of policy objectives. It is probable that this programme will be developed in conjunction with other States members and will reflect a consensual approach to solving the issues of the day, but will draw upon the election manifestos of those elected members."

On a more general level, the Committee believes that in a representative democracy it would be misleading to claim that the electorate will have '*no choice on election day of ~~the~~ strategic direction*'. The electorate elects members of the community, based on the evidence before them, for the representatives to make decisions. These representatives must have regard to the views of the electorate, but the electorate has conferred the power to take decisions upon the States Assembly.

Deputy Duhamel also claims that "*the Policy and Resources Committee are seeking to reduce the democratic involvement of the electorate in strategic policy direction*". This is not the approach advocated by the Committee either in P.122/2001 or in the Implementation Plan, both of which advocate a more democratic process based on greater participation and consultation, including the regular and formalised use of consultation papers. It is also important to recognise that there will not be a policy vacuum-, as the existing States' Strategic Policies will form the foundation for the work of each Council of Ministers- in evolving the policy framework in line with the Island's needs.

~~The Committee has given detailed consideration to Deputy Duhamel's proposals, and for the reasons given above it believes that they will have a detrimental effect upon the proposed new arrangements. It therefore recommends that the proposition be rejected.~~

In addition, the Committee believes that at election time the candidates' election statements will be a vitally important part of the process, especially from those candidates seeking executive office. The Committee does not believe that such statements can be made a legal requirement, as the adequacy of each statement would need to be assessed at the time of nomination. The Committee believes that this task is best left to the electorate.

In conclusion, the Committee believes that it would be quite wrong for the States to limit its ability to appoint ministers other than from the entire stock of ability and experience residing with all the members of the States. Put another way, the States should retain the ability to use the talents of all members to the best possible effect.

For the reasons given above, the Committee recommends that the proposition of Deputy Duhamel be rejected.

~~IMEH/4.2.02~~