

**MACHINERY OF GOVERNMENT: PROPOSED REFORMS (P.122/2001) - SECOND AMENDMENTS**

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**Lodged au Greffe on 28th August 2001  
by Deputy M.E. Vibert of St. Brelade**

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**STATES OF JERSEY**

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*In paragraph (a) -*

- (1) *after the words* replaced by a *insert the words* combined Committee/ *and delete the words* as set out in the report of the Policy and Resources Committee dated 26th July 2001;
- (2) *in sub-paragraph (i) before the word committee insert the word* present;
- (3) *in sub-paragraph (ii) for the words who will nominate substitute the word* and;
- (4) *in sub-paragraph (iii) for all the words after* by a minister *substitute the words* the States will appoint up to four other members to serve on a Committee to be responsible for the policy and strategy of each Department of government, with members only being allowed to serve on one such Committee.
- (5) *For sub-paragraph (iv) substitute the following -*
  - (iv) the States will elect a Public Accounts Committee Chairman and two other Scrutiny Committee Chairmen, who are not involved in any other Departmental Committees, who together will form a Public Accounts and Procedure Committee, to be responsible to the States for all aspects of Assembly procedure including, in particular, scrutiny arrangements and an appropriate code of conduct for all members of the States; and to be charged with the scrutiny of public expenditure and supported by an Auditor General accountable directly to the States Assembly;
- (6) *In sub-paragraph (v) before the word Procedure insert the words* Public Accounts and, *and for the words* not involved in the Executive *substitute the words* who are neither Ministers or Assistant Ministers and who have no direct Committee interest in the area to be scrutinised.
- (7) *delete sub-paragraphs (vi) and (vii) and re-number subsequent sub-paragraphs accordingly.*

DEPUTY M.E. VIBERT OF ST. BRELADE

## **REPORT**

### **Introduction**

These proposed amendments to the Policy and Resources Committee's draft proposition on Jersey's machinery of government are an attempt to marry the best of the present Committee system with the objectives for a more effective, better scrutinised government identified in the Clothier Report.

This Combined Committee/Ministerial system only addresses changes to the existing Committee Structure and does not address the ancillary questions of the constitution of the States Assembly or the role of the Bailiff, etc.

These proposals address concerns that the Ministerial/Clothier system being put forward by the Policy and Resources Committee is insufficiently democratic and concentrates too much power in the hands of too few people.

They are driven by concerns that the Policy and Resources Committee's proposals could be too divisive, by splitting States members completely between those involved solely in executive government and those involved solely in scrutiny.

I believe this could well lead to the introduction of an adversarial rather than a consensus form of government and the unnecessary introduction of political parties in the Island.

This could erode what I believe is one of the major strengths of Jersey's current system of government; that every States member votes on every issue in line with what he or she believes is in the best interests of the Island and does not have to adhere to a certain party or government line.

The main difference of the Combined Committee/Ministerial system to the Policy and Resources Committee's Clothier/Ministerial recommendations is that, under these alternative proposals, all States members would still be constructively involved in government with Ministers backed up by strategy and policy Committees.

An advantage of this alternative system is that it could be introduced relatively quickly, in time for the next elections. It is proposed as a major, progressive step and would not preclude the Island moving to a full Ministerial/Clothier system in the future, if and when, an even more centralised system of government was considered desirable.

The proposed Committee/Ministerial system would work with a reduced number of States members, but for illustrative purposes assumes the membership of the States remaining as at present.

### **Background**

In proposing these amendments to the Policy and Resources Committee's proposals for reforming the Island's machinery of government, I have also worked from the fundamental premise that current arrangements need to be changed.

Where I differ from the Policy and Resources Committee is that I believe the current system of government contains a number of features worth retaining, and I have sought to encompass these in my proposals.

The Combined Committee/Ministerial system has also been arrived at after a lengthy period of consultation and reflection since the publication of the Clothier Report in January.

As a member of the Clothier Steering Group, I, like the Policy and Resources Committee, have given careful attention to the many views that have been expressed from all quarters.

In particular, the work of the Steering Group and the meetings of States members contributed greatly to the development of these proposals.

I am also indebted to Sir Cecil Clothier and his team for the work they undertook in reviewing Jersey's system of government. The fact that these proposals differ to some extent from the Clothier recommendations should be in no way interpreted as detracting from the excellent work done by the Clothier team, which has precipitated this whole necessary debate on the Island's system of government.

### **Combined Committee/Ministerial System**

The Combined Committee/Ministerial system proposes, as does the Policy and Resources Committee's Ministerial/Clothier system, a reduced number of Ministries/Departments, between seven and ten.

The Combined Committee/Ministerial system proposes that these Departments are run by a Minister backed up by a Committee involving up to four other States members. States members would only be allowed to serve on one such Committee.

These Committees would be charged with developing policy and strategy and presenting a plan for their area of responsibility to the States, via the Council of Ministers, for approval early in their term of office.

The Minister and Assistant Minister (Vice-President) of each Committee would have executive authority to direct their Department within the agreed strategic policies of the Committee approved by the States.

Under the Policy and Resources Committee's proposals, Departments would be run by a Minister with the help of just one or two other States members, who would be Assistant Ministers. The Policy and Resources Committee's Assistant Ministers would be allowed to serve in more than one Department.

I believe this would concentrate all executive power in too few States members to the detriment of democratic principles.

### **Chief Minister and Council of Ministers**

The States would elect a Chief Minister and up to nine other Ministers. The nomination of the Chief Minister and all other Ministers would be open to all States' members. The Policy and Resources Committee's proposals would only allow the Chief Minister to put forward the names of other Ministers. Under the Combined Committee/Ministerial system it would be expected that, once elected, the Chief Minister would put forward a list of nominations for the other Ministers but different names could be nominated by other States members.

The Chief Minister would preside over a Council of Ministers made up of the Ministers of the other Committees, with Assistant Ministers attending in a Minister's absence.

This Council of Ministers would comment on each Committee's strategic plan prior to its presentation to the States and would present to the States for approval an overall Island Strategic Plan.

The Council of Ministers would have executive authority to act within the strategic policies agreed by the States and to give directions to individual Ministers and their Departments.

The Council of Ministers, and not the Chief Minister on his own as proposed by the Policy and Resources Committee, would have the power, on a majority vote, to request the States to remove one of their number from office.

### **Scrutiny Committees**

As well as electing a Chief Minister and up to nine other Ministers, the States would also elect a Public Accounts Committee Chairman and two other Scrutiny Committee Chairmen. These three States members would be barred from serving on any other Committee.

All other States members, who were not Ministers or Assistant Ministers, would form a pool of Scrutiny Committee members from which the Scrutiny Committee Chairmen would form Scrutiny Committees.

No States member would be permitted to serve on a Scrutiny Committee scrutinising an area for which the Departmental Committee he or she was a member of was responsible. The three Scrutiny Committee Chairmen would collectively form the Public Accounts and Procedures Committee to examine and control expenditure and to be responsible for States Assembly procedures.

### **Accountability**

A formal system of consultation papers prior to projects being lodged would be introduced for any issue of substance. The Chief Minister and all other Ministers would answer questions at States Sitings, as Committee Presidents are currently required to do.

### **Summary**

In essence, what is being proposed by these amendments is that the Island's machinery of government should move from the present Committee arrangements to a Combined Committee/Ministerial system including a system of scrutiny.

I believe such a system will serve the Island well and best meets the criteria for good government agreed by States members, in fact, better meets those criteria than the Policy and Resources Committee's own proposals.

### **Combined Committee/Ministerial vs Clothier/Ministerial**

Where, I believe, the Combined Committee/Ministerial system scores so highly is it is more democratic than the Ministerial/Clothier system. The Ministerial/Clothier system concentrates all effective power in a small minority of elected members, whereas the Combined Committee/Ministerial system shares some of that power, at a policy and strategy level, amongst the majority of elected members.

The Combined Committee/Ministerial System also retains what I believe is one of the strongest merits of the present Committee system, that of input into primary policy formation of the views of a number of States members.

Instead of a Minister having to formulate policies with the aid of just one, or at the most two, other States members as under the Clothier/Ministerial system, under the Combined Committee/Ministerial option, Ministers would have the support and input of up to four other States members to develop policy and strategy.

The Policy and Resources Committee, in the report accompanying its proposition (P.122/2001) does give examples of what it regards as 'problems' with the Combined Committee/Ministerial system, both of which show a lack of understanding of the proposed system.

The Committee says in its report -

*"5.4 One of these problems relates to the manner in which executive authority is exercised. In the CCM option the minister will be the head of a ministry/committee of not more than four other States members, and it is understood that the ministries as a whole would be charged with taking executive decisions and developing policy and legislation, much as committees do under the present system. Under these arrangements there is the potential for disruption to the decision-making process.*

*5.5 For example, as part of the normal activity of government a minister will be a party to the policy decisions taken by the Council of Ministers and some of these decisions will naturally relate to his or her own area of responsibility. However, the minister will be placed in a very difficult position if his or her Committee does not agree with these decisions. A situation could also arise in which a head of department will receive conflicting directions from more than one source, e.g. from his or her committee and from the head of the civil service."*

This simply would not arise under a Combined Committee/Ministerial System because, as has been previously outlined, Ministers would have full authority to take executive decisions within agreed policies. Under the Combined Committee/Ministerial system, individual Ministry/Department policies and an overall Island policy is presented to the States for approval, and the Chief Minister, Council of Ministers, Ministers and Committees all work within those approved policies.

Under the Committee's proposed Ministerial/Clothier system it is unclear whether the Chief Minister, the Council of Ministers and individual Ministers have to work within agreed States policies.

Another criticism by the Policy and Resources Committee of the Combined Committee/Ministerial system in their report is -

*"5.6 Another potential drawback with the CCM option relates to the activity of scrutiny. In this system nearly all States members would continue to serve as ministers or as committee members, and would thus be involved in the executive. This would mean that the ability to exercise scrutiny independently of the executive function would be compromised."*

As has been made clear, Committee members would only be involved with the 'executive function' in so far as they would help to formulate their Departments' policy and strategy. Committee members also would not be allowed to scrutinise areas directly involving their Departments.

To say the '*the ability to exercise scrutiny independently of the executive function would be compromised*' is to denigrate the current system of Committees of Inquiry which involves States members involved in the 'executive' exercising scrutiny on areas of government and to suggest States members could not be sufficiently objective to carry out such scrutiny impartially.

### **Conclusion**

My proposed amendments to the Policy and Resources Committee's proposition seek to achieve the introduction of a Combined Committee/Ministerial System in place of a Clothier/Ministerial System. For ease of reference I now include how section 10.2 of Committee's report would read if all my amendments were successful.

- (1) the current Committee system of government will be abolished;
- (2) the States will appoint a Chief Minister of Jersey from among its number;
- (3) a team of Ministers will be nominated for approval by the States to form the membership of the Council of Ministers. The executive function of government is delegated to the Chief Minister and the Council of Ministers;
- (4) not more than ten Departments of government will be established, each headed by a member of the Council of Ministers;
- (5) the States will appoint up to four States members, who are neither Ministers nor Scrutiny Committee Chairmen, to serve on a Committee to be responsible for the policy and strategy of each Department of government. members may only serve on one such Committee;
- (6) The Council of Ministers may recommend to the States that a Minister should be dismissed;
- (7) the States may resolve that it has no confidence in the Chief Ministers or any other Minister, but any such proposition must have the declared support of a specified number of States members;
- (8) Codes of Conduct will be developed for the Ministers and the Chief Minister;
- (9) the States will elect a Public Accounts Committee Chairman and two other Scrutiny Committee Chairmen to form a Public Accounts and Procedures Committee, to be responsible to the States Assembly for all aspects of Assembly procedure including, in particular, scrutiny arrangements and an appropriate code of conduct for States members;
- (10) upon the recommendation of the Public Accounts and Procedures Committee the States will establish a small number of Scrutiny Committees comprised of members who have no direct interest in the executive area to be scrutinised;
- (11) the Public Accounts Committee and Procedures will be charged with scrutinising public expenditure and supported by a new post of Auditor General, accountable directly to the States Assembly;
- (12) all Committees of the States Assembly, as well as individuals, will be appropriately resourced and supported;
- (13) the Council of Ministers will be supported by a Chief Executive who will be head of the civil service, which will be unified at senior level; and heads of Departments will form a management board under the leadership of the Chief Executive;
- (14) the States will establish an independent Appointments Commission, comprising persons who are not members of the States, with responsibility for ensuring that senior civil service appointments are properly made, and which as its first task will recommend to the States a person for appointment as Chief Executive;
- (15) the Council of Ministers will establish a Liaison Group to consider service delivery and resource allocation issues as between the Executive and the parishes, and to keep under review the relationship in the proposed new governmental arrangements between the centre and the parishes.

### The Revised Proposition

For ease of reference I include how the Proposition would read if all my amendments were accepted.

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

- (a) to agree that the Island's present Committee system of government should be replaced by a Combined Committee/Ministerial system, combined with a system of scrutiny ( ) and that this objective should be achieved in the following manner -
- (i) the present Committee system of government will be abolished;
  - (ii) the States will appoint a Chief Minister of Jersey from among their number and 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;
  - (iii) not more than 10 Departments of government will be established, each headed by a Minister; the States will appoint up to four other members to serve on a Committee to be responsible for the policy and strategy of each Department of government, with members only being allowed to serve on one such Committee;
  - (iv) the States will elect a Public Accounts Committee chairman and two other Scrutiny Committee Chairmen, who are not involved in any other Departmental Committees, who together will form a Public Accounts and Procedure Committee, to be responsible to the States for all aspects of Assembly procedure including, in particular, scrutiny arrangements and an appropriate code of conduct for all members of the States; and to be charged with the scrutiny of public expenditure and supported by an Auditor General accountable directly to the States Assembly"
  - (v) the States, upon the recommendation of the Public Accounts and Procedure Committee, will establish a small number of Scrutiny Committees, comprised of members of the States who are neither Ministers or Assistant Ministers and who have no direct Departmental Committee interest in the area to be scrutinised, the function of such Committees, in support of the paramount role of the States Assembly in such matters, being to examine the performance of government, to scrutinise legislation and to contribute to the development of policy;
- ( )
- (vi) the Council of Ministers will be supported by a Chief Executive who will be the head of the civil service, which will be unified at senior level with heads of Departments sitting on a Corporate Management Board chaired by the Chief Executive;
  - (vii) the States will establish an independent Appointments Commission, made up of non-States members, with responsibility for ensuring that the most senior civil service appointments are properly made and free from undue political influence, and which as its first task will recommend to the States a person for appointment as Chief Executive
  - (viii) the Council of Ministers will set up and lead a Liaison Group between the executive and the parishes to keep under review the relationship in the proposed new governmental arrangements between the centre and the parishes.
- (b) to request the Policy and Resources Committee to present to the States, before the end of November 2001, an implementation plan showing how these changes should be brought into effect.

**Combined Committee/Ministerial: States Electoral Procedures**

For information, I include how I envisage the Chief Ministers, Ministers and Scrutiny Committee Chairmen would be elected in the States -

A new States Assembly at its first meeting would elect a Chief Minister.

At its second meeting, a week later, the States would elect up to nine other Ministers and a Public Accounts Committee Chairman and two other Scrutiny Committee Chairmen. The three Scrutiny Committee Chairmen to form the Public Accounts and Procedure Committee.

At its third meeting, a week later, the States would elect up to four members to serve on each Departmental Committee (members would only be allowed to serve on one Departmental Committee).

Departmental Committees would meet and elect a member as Assistant Minister.

All States members who were not Ministers or Assistant Ministers would form a pool of Scrutiny Committee members from which the Procedure Committee would form Scrutiny Committees as and when required.