

From: Ted Vibert

THE CLOTHIER REPORT

It is of fundamental importance that the Scrutiny Panel considers the findings of the Clothier panel even though the States rejected their recommendations 17 years ago.

Why should the Scrutiny panel now looking at electoral reform now consider the Clothier proposals?

First, there is a tendency for some States members, who were not in office then and probably not involved in politics, to blame Sir Cecil Clothier for the States structure we have today. One States member has consistently referred to Sir Cecil as “just another UK public servant” In fact, Sir Cecil was a distinguished High Court judge and Britain’s first Ombudsman.

He did not come up with the proposals in 2000 on his own.. He headed up one of the most distinguished panels of legal and local expertise ever assembled in Jersey to consider “the machinery of government” This panel consisted of Sir Kenneth Bloomfield KCB, Professor Michael Clarke,CBE,DL; Mr. John Henwood, MBE; Dr. John Kelleher; Mr. David Le Quesne; Mrs. Ann Perchard; Mr. Colin Powell,OBE and Sir Maurice Shock.

This panel heard 132 witnesses and received 161 written submissions and it met for approximately 200 hours. It held meetings with officials from the Isle of man and Guernsey, held a public meeting in St. Helier, advertised extensively for evidence and carried out a social survey using Mori. The panel made 44 recommendations,the major ones being:

- ❖ The role of Senator should be abolished
- Constables should cease to be in the States
- The Committee of Constable should be consulted whenever their parish is affected
- The States should consist of 42-44 members who would be elected from six large constituencies and an elected person would be known as a Member of the States of Jersey(MSJ)

Of the Senators, the panel said: ***“The very title of Senator is inappropriate suggesting ,as it does, some kind of revising or upper House, such as found in other jurisdictions. We received no convincing evidence that there was a significant difference between the nature and content of the Senator’s role and that of the Deputies. In an island about 9 miles long and about 5 miles wide and with excellent communications, we found the distinction between Senators and Deputies less than plausible and, in practice, there is little difference in the contributions to debate of either category or representative. Nor can the Senators do anything which the Deputy cannot also do”.***

AS a former Senator I can quote my personal experience when trying to explain to locals and outsiders the difference between a Senator, Constable and Deputy. It is an absolute fact that the very title naturally gives an assumption that the role is far more senior than that of a Deputy or a Constable but the reality is that no matter how big your electorate or how large your vote is a Senator has no greater influence in the States than a Deputy or Constable elected with far fewer votes or who enters the States without even facing an election.

In the last few years, the number of Senators has been reduced from 12 to 8.

THE ISLAND –WIDE MANDATE.

The argument advanced by those who wish to retain the position of Senator is that a Senator is elected by a large island-wide electorate and therefore has an “island-wide mandate” This is simply not the case. For a start, the word “mandate”, in a political sense, means ***“ the authority to carry out a policy or course of action given by the electorate to a party or candidate that wins an election.”*** A person might be elected with an island–wide vote, but the absence of party politics makes it impossible to give a candidate a “mandate” so it is possible for 8 candidates, all with different agendas, to get elected. Once elected, they have absolutely no advantage over a Deputy or Constable

DON’T CHERRY- PICK.

Despite many contrary views often expressed by some members of the public the Clothier Panel are not responsible for the unsatisfactory situation of the make-up of the current States. The panel warned that the States should not “cherry pick” their proposals . They said: ***“ Our recommendations amount to a***

comprehensive plan for the revision of the machinery of Government in Jersey. We hope that the plan will be implemented as a whole, rather than piecemeal. Employing, for the last time, the metaphor of machinery, it is no use assembling some parts only of a machine and expecting it to work.”

The States of that era totally ignored this warning, which was remarkable bearing in mind this distinguished panel used such strong language by saying that ***“it is no use assembling some parts only of a machine and expecting it to work”***

The States of 2001 refused to remove the Senators, the Deputies or the Constables and also rejected the proposal to elect 44 MSJ’s from six super constituencies but just brought in a Scrutiny system and the Council of Ministers.

As the Clothier Panel warned – picking out bits of their proposed system would be of no use. And so it has proved..

A COMPLETE RUPTURE WITH THE PAST?

Many people have argued that changing the way the States is constructed would be ***“a reconstitution of an Assembly which has evolved gradually over the past 500 years” and that current proposals for change before the States are revolutionary rather than evolutionary and would be a “complete rupture with the past”***. This, of course, is simply emotional but historically inaccurate.

It is true that the construction of the States of Jersey has evolved over 500 years. Early in Jersey’s history the government was just the warden(bailiff) He then asked prominent citizens(the Constables) to assist, then they added the Jurats, then the Rectors, then 17 Deputies. All this evolved over 400 years- until 1948 when the population had risen to 57,000, tourism was developing and agriculture was booming with record exports of potatoes, tomatoes and flowers

Back then, the States only met one morning a fortnight and Committees sat once a week.

In 1948 the States of Jersey consisted of 12 Jurats, 12 Rectors, 12 Constables and 17 Deputies. In that year a Committee of the Privy Council proposed a massive reform of the States which removed the Jurats and Rectors replacing them with 12 Senators, 12 Constables and 29 Deputies. This was a revolutionary change so

any suggestion that Jersey's government make-up has the subject of gradual change is simply mis-information.

Since 1948 there have been some other changes. Members were unpaid until the mid 1960's, some districts in the urban parishes have been given extra members and the number of Senators has been cut from 12 to 8.

Now, 72 years later, the island has a population over 100,000, tourism is still an important industry and finance is a massive global industry yet the island's seat of Government has hardly changed in that time.

Now is the time for changes to be made by removing the Senators and having deputies elected by large constituencies..

SUPER-CONSTITUENCIES

It should be clear to anyone that extending the size of constituencies will have a beneficial impact on the electoral process. It will end the unhealthy situation where country deputies are routinely returned to the States without facing an election when no other candidate within the Parish or outside is prepared to stand against a sitting member. It will also balance out the Deputy representation for St. Helier and correct a whole series of imbalances in the differing sizes of island electorates

Several arguments are advanced against super constituencies. The first is that the Parish will lose its Deputy and as a result the parish will lose its influence in the States and will have no one to argue the Parish case on matters that directly affect their Parish. It has been also alleged that the removal of the parish deputy will be the beginning of the end of the island's parish system. .

The argument that the loss of the Parish Deputy would mean that the parishioners would have no one to argue their case overlooks the fact that each Parish has a Constable in the States who should be perfectly capable of looking after Parish interests. In addition, under the proposed super constituencies, parishioners will be able to call on up to five or six deputies to take up any matter as well as 8 Senators. It is worth adding here that the States hardly ever considers a matter of importance to just one parish, except occasionally a matter dealing with St. Helier. Recent examples are the new

Sewage Treatment Plant, the Bellozanne covenant and the siting of the new Hospital.

Those who argue that moving to super constituencies would be the beginning of the end of the parish system are unable to give any explanation as to how or why this would or could happen. The facts are that the Parish Hall still remains the administrative centre for the parish. The Constable remains the “father of the parish” who can only spend parishioners money with the consent of the Parish Assembly and who has a seat in the States.. The “procureurs du bien publique” remain the auditors of parish expenditure; the chef de police stays as head of the honorary police and the Parish Hall remains the venue for the operation of the Honorary police system, including the location of formal Centenier’s Inquiries; the roads committee remains responsible for minor roads; the Constable remains responsible for issuing gun, driving and dog licences as well as being responsible for organising garbage collection and disposal

No evidence has been presented to illustrate how all of this administrative structure would disappear if the island moved to super constituencies .

Parish matters will continue to be dealt with by the Parish Assembly and this will continue to be so. Moving to super constituencies will not affect the parish system in the slightest

WE WILL LOSE OUR PARISH DEPUTY

The argument that moving to super constituencies would mean that voters would lose their Parish deputy is also a fallacy.

The suggestion that in a tiny place like Jersey, where parish boundaries merge within yards of each other, and where we have excellent communications and political representatives are all contactable by e’ mail, home telephone, mobile and we can call on a politician at his home, makes it complete nonsense to argue that if a Deputy lives outside the parish that elected him, he cannot successfully represent them because he won’t know what is going on in the parish.

From my experience as a Deputy and a Senator, most of the constituency work has to do with planning, social security, health or immigration- all of which involves meetings with State departments in St. Helier

Proof that the suggestion is without foundation is all around us both now and in the past. Former Deputy Roy Le Herrissier, who was a Deputy in number 3 St. Saviours, lived in St. Peter; Senator Andrew Green, when he was Deputy in St. Helier 3/4 lived In St. Ouen.

In today's States, Deputy Doublet represents St. Saviour number 2 but lives in St. Helier; Deputy Judy Martin lives in St. Clement and represents St. Helier number 1 as does Deputy Russell Labey, who lives in St. Ouen and Deputy Scott Wickenden who lives in St. Martin . Deputy Andrew Lewis of St. Helier no 3/4 lives in St. John and Deputy Richard Rondel, also of St. Helier 3/4 lives in Trinity.

I am not aware that anyone has ever complained that any of these politicians failed to adequately represent their electorates because they didn't live in their electorate.

SAME SIZE ELECTORATES

The 2012 Electoral Commission chaired by Senator Sir Philip Bailhache laid down a number of important principles regarding Jersey's electoral system which they took from various jurisdictions and Commissions from around the world.

These were:

- All electors should have the same number of votes
- Constituencies should be, as far as possible, of equal size
- A candidate should generally require a significant number of votes in order to be elected to the Assembly.

These are standards recognised by most democratic countries in the world and by removing Senators from the mix and going to large constituencies the Jersey electoral system will start to become more democratic.

It is obvious that those politicians opposing the changes are doing so with a large degree of self interest, fearing, as they do, having to appeal to a larger electorate and having to face tougher competition

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