

STATES OF JERSEY



REFERENDA: REVISED PROCEDURES

Lodged au Greffe on 13th November 2013
by Deputy R.G. Le Hérissier of St. Saviour

STATES GREFFE

PROPOSITION

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

to request the Privileges and Procedures Committee to review the current provisions of the Referendum (Jersey) Law 2002 and to bring forward proposals, with appropriate amendments to the Law if necessary, to define more clearly the conditions that may be applied to the holding of any future referendum.

DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR

REPORT

Introduction

Irrespective of whether one was an Option A, B or C supporter in the last referendum, there is no doubt that a large number of the electorate are disillusioned with what happened. The obvious disillusion was found amongst voters who thought their wishes had been ignored.

It was never intended to be a binding referendum but, as the campaigns progressed, the belief gained traction that it was indeed binding. However, it was always understood by the States that they would have the final say and that the results would be assessed on, for example, the basis of turnout and the strength of support of one option versus another. Indeed, as if to emphasize this, the Chairman of the Electoral Commission referred, in an unfortunate phrase, to the Referendum as no more than a “glorified opinion poll.”

Proposition

This proposition calls on PPC to precisely define the terms on which a referendum will be held. It is conceivable that there would be different conditions for different referenda. If so, the Law will need to be rewritten to allow for such terms to be defined on each occasion. For example, if the referendum represents the final step in decision-making, it should be binding. That will then beg the question (as with all referenda) of what the acceptable threshold is in terms of turnout and in terms of the percentage vote for the favoured option. This also begs the further question of how questions are phrased. There were serious concerns about the structuring of the questions in the last referendum and whether they conformed with best practice in terms of clarity, and whether they were over-complex.

Alternatively, PPC may wish to set terms which apply to all referenda. This is not my favoured option as circumstances will vary. In the case of reform, it has been clearly demonstrated time after time that the States are incapable of reforming themselves and that, following due process, there has to be a binding referendum.

Financial and manpower implications

This will fall under the remit of normal PPC business. The only additional costs will lay in law drafting. Given the costs of the last referendum and the considerable damage caused to the reputation of the States, it could be argued that clarity around the terms of a referendum will both save money and possibly reverse the severe damage to the States' reputation.