

# STATES OF JERSEY



## MINISTERIAL GOVERNMENT: REFERENDUM

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Lodged au Greffe on 16th September 2016  
by Deputy J.A. Martin of St. Helier

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STATES GREFFE

## **PROPOSITION**

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

- (a) to agree that a referendum under the Referendum (Jersey) Law 2002 should be held on the day of the 2018 general election with a single Yes/No question to ask voters whether they agree that the States Assembly should continue with a Ministerial form of Government;
- (b) to agree that the text of the question should be –  
“Do you think Jersey should continue with Ministerial Government?  
**YES**  **NO** ”;
- (c) to request the Privileges and Procedures Committee to bring forward for approval the necessary Referendum Act to enable the referendum to take place.

DEPUTY J.A. MARTIN OF ST. HELIER

## REPORT

In 2018 it will be nearly 13 years since the introduction of Ministerial Government (and 17 years since the decision was taken to introduce Ministerial Government), and I believe that the Public have some strong views about its effectiveness and its accountability to them.

Therefore, I believe the 2018 General Election is a very opportune time to seek the Public's view through a referendum as to whether the Public wish us to continue with this style of government.

The present move to Ministerial Government came after many reviews, mainly the *Report of the Review Panel on the Machinery of Government in Jersey* ("Clothier Review"), leading to the then Policy and Resources Committee lodging [P.122/2001](#) (*Machinery of Government: proposed reforms*) on 7th August 2001. A number of States Members lodged amendments to this proposition.

P.122/2001 was debated by the States on 28th September 2001. Looking through that Proposition and its accompanying Report, there are issues I think are worth highlighting.

In the Proposition, at paragraph (a)(v), one of the stated aims was that Scrutiny would "contribute to the development of policy," and I remember during the debate, that those promoting Ministerial Government gave assurances that "policy" in development would be a matter for all States Members.

Currently, Ministers can make Ministerial Decisions that have a significant impact on Jersey's population and no-one, neither the general Public, ministerial colleagues, nor other States Members not in the Executive would be aware this was going to happen, or indeed the reasons for a decision, until (and if) they find it published and then are quick enough to ask the right questions. We have had many Ministerial Decisions brought forward in the last few years cutting millions off the Minister's budget, with no assessment of how this will affect hardworking families in Jersey: DO THE PUBLIC WANT THIS TO CONTINUE?

My reason for saying the above is that it was not how Ministerial Government was 'sold' to get the proposals (in P.122/2001) approved by the States; it was more of 'we are all in this together'. Members should consider if this is the reality of where we are today.

One of the Amendments to P.122/2001 was lodged by the late Deputy M.E. Vibert of St. Brelade ([P.122/2001 Amd.\(2\)](#)). I attach the amendment at **Appendix 1**, but highlight these 4 points made in his report.

"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."

You could add to that: States Members, with a few exceptions (Reform Jersey), stand as independent individuals, and where the elections are contested they each produce a manifesto.

Therefore the Public who elect them should have some level of trust that the successful candidates will endeavour, within our system, to stick to these principles and do as much as possible of what they said they would.

However, this could conflict with a Ministerial (or Assistant Ministerial) position they may then hold, and also conflict with collective Ministerial diktat.

At this point, I would also like to go back to Sir Cecil Clothier, K.C.B., Q.C., who, when proposing Ministerial Government, made the statement "DO NOT CHERRY-PICK MY PROPOSALS". Clothier had 2 main proposals: the 1st was to change the whole way States Members were to be elected (Electoral Reform), and the 2nd was Ministerial Government. The States of 2001 did just what he had asked them not to do: they totally ignored the other side of Ministerial Government which was to totally change the way States Members would be elected.

I attach at **Appendix 2** an extract from P.122/2001 (Appendix 4 from that Projet), which consists of the *Chapter 11: Summary of recommendations* from the Clothier Review, along with comments of the 2001 Policy and Resources Committee's ad hoc Steering Group whose remit was "to recommend a way forward on the reform of the machinery of government"; and I ask you to note how many of the first 12 recommendations of the Clothier Review we have actually adopted. We therefore still have seats where the candidate is elected by the necessary 10 names on the nomination form. The Public then do not even get to hear or see these States Members' ideas or Manifestos. Is this democratic or accountable?

Many of those who promoted Ministerial Government stated that it would be more "efficient and accountable", and that one of the safeguards would be that any Member could propose a vote of no confidence in the Council of Ministers. As we know, in practice this does not happen (or very rarely), and today it is seen as the nuclear option.

So, I believe it is timely to seek the Public's view through a referendum, and Members of the States and members of the community would be free to canvas and seek public support either way.

The outcome could be a ringing endorsement for Ministerial Government and a considerable boost for the Council of Ministers and the system we presently operate within, or it could be something else entirely.

**Financial and manpower implications**

Holding the referendum on the same day as the general election will lead to considerable savings, as it will not be necessary to set up polling stations separately, and all the systems for postal and pre-poll voting will already be in place. There will nevertheless be some additional costs for the printing of ballot papers and the requisite media campaign, which should not exceed £10,000 in total.

P.122/2001 Amd.(2)

“MACHINERY OF GOVERNMENT: PROPOSED REFORMS (P.122/2001) –  
SECOND AMENDMENTS

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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 Statesittings, 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.”

## APPENDIX 2

### Extract from P.122/2001 – Machinery of Government – proposed reforms (Appendix 4)

#### **“POLICY AND RESOURCES COMMITTEE’S AD HOC STEERING GROUP ON THE MACHINERY OF GOVERNMENT – COMMENTS ON THE CLOTHIER REPORT’S RECOMMENDATIONS**

The Policy and Resources Committee’s ad hoc Steering Group was appointed in March 2001, and at its first meeting it was agreed that the Group’s remit should be “to recommend a way forward on the reform of the machinery of government”. As a part of its work the Steering Group examined the recommendations listed in Chapter 11 of the Clothier Report, and the Group’s comments on these recommendations are listed below. The recommendations are listed in the order in which they appear in Chapter 11 of the Clothier Report.

These comments have been taken directly from the minutes of the Group’s meetings held on 17th May, 4th July and 18th July 2001 – where a subject was discussed more than once, the date of the discussion is shown in the text.

In some cases the Group’s comments refer to the “Ministerial Clothier” (MC) option and the “Combined Committee/Ministerial” (CCM) option, and these are described in more detail in paragraphs 4.3 and 4.7 of the Committee’s report.

#### **(1) A Chief Electoral Officer should be appointed**

It was agreed that it might be necessary in the future to appoint a Chief Electoral Officer, although there was no immediate requirement. It was possible that this role could be carried out by the Secretary to the Comité des Connétables as a part of her duties.

#### **(2) There should be a Central Register of Voters**

(4th and 18th July)

Electoral registers were currently maintained by the individual parishes. It was noted that the Legislation Committee would shortly be bringing forward proposals for a draft Franchise (Jersey) Law 200-, and it would not be advocating that the parish-based registration system should change.

However, all Parish Registers would be centrally accessible and available for public inspection.

The Steering Group endorsed the position taken by the Legislation Committee on this matter, and proposed that a central database, incorporating each of the 12 parish registers, could be held at the office of the Comité des Connétables.

#### **(3) Election expenses should be determined by the States**

Agreed.

#### **(4) Polling Stations to remain open from early morning till late evening**

Agreed.

#### **(5) One general election only for all members of the States and for the 12 Parish Constables**

(4th July)

The view was expressed that it would be desirable to have just one category of States member, with all elections being held on the same day. A single general election day would then become a more important event for the Island's citizens, and would help to increase public interest.

However, it was pointed out that there were presently three different categories of States member, and that a single election date under these arrangements would have its disadvantages. For example, there were presently two separate elections for senators and deputies, and these were held triennially in October and November. If there were to be just one election day, it was quite possible that some of the sitting deputies would be unwilling to stand for election as senator, because if unsuccessful they would have missed the opportunity to stand for deputy.

The view was expressed that the present system encouraged stability because elections were staggered, and changes to the composition of the Assembly were therefore of a gradual nature.

Conversely, it was claimed that a single election date would be the more democratic option because it would give the electorate the opportunity to make a major change to the Island's government if this were felt to be necessary. It was unlikely that a single election date would have a destabilising effect, because even if there were to be a major shift in public opinion it was probable that many of the States members would be re-elected.

(18th July)

Senator Syvret expressed the view that a single election day for senators and deputies would be desirable. Although it had been argued that some of the sitting deputies might be unwilling to stand for election as senator in these circumstances, Senator Syvret did not agree with this view, and he considered that the more able and experienced deputies would not be discouraged from standing for senatorial office.

In contrast, the view was expressed that a single election day was not necessarily the best option because it could mean that inexperienced and unsuitable candidates might be elected as senators (i.e. on the grounds that the sitting deputies would be reluctant to stand for senatorial office). It was suggested that consideration should be given to ways of limiting the number of candidates, e.g. by increasing the number of signatures required on nomination forms, and by introducing a system of electoral deposits which could be refundable, depending on the number of votes received.

After discussion, the majority view on the Steering Group was in favour of a single election day for senators and deputies. If the elections were to be held on the same day, the Group agreed that candidates should not be eligible to stand in both senators and deputies elections.

#### **(6) Every candidate to produce a policy statement**

Agreed.

#### **(7) The rôle of Senator should be abolished**

(4th July)

The Steering Group then discussed the role of senator in the Island's government. It was pointed out that senators had an Island-wide mandate, and this meant that the public could feel that they had a greater influence over the States Assembly. Under the present arrangements, every elector could say that s/he was directly represented by at least 14 States members (i.e. 12 senators, one connétable, and one or more parish deputies), whereas if the office of senator were to be abolished this level of direct representation could be reduced to just two elected members (i.e. one connétable and one parish deputy).

In relation to the Island-wide mandate, it was pointed out that senators could represent anybody in the Island, including women and minority groups who might not feel comfortable about approaching their own parish deputy or connétable. For those seeking election to the Assembly, the office of senator offered an alternative to that of deputy, especially in those parishes where the sitting deputy was unlikely to be defeated at election time.

On the other hand, it was argued that the office of senator had changed over the years, and it was no longer the case that senators could expect to receive the most senior appointments in the States, e.g. the presidencies of the major committees. From the senator's viewpoint, it could be argued that there was relatively little difference between his or her office and that of deputy. The main difference, perhaps, was that s/he was elected for a longer term of six years, but in any event it was possible that this might change under the new arrangements as it had been suggested that there could be a standard term of office of, say, four years for every States member.

As an alternative to the present arrangements, it was suggested that a system of multi-member constituencies should be created. Each constituency could have two or three members, and would cover a single parish or possibly two or three parishes, depending upon the population level.

After discussion, it was noted that the majority of those present were in favour of retaining the office of senator. If the office of senator were retained, the Group agreed that it would be necessary to maintain the present system of two separate elections for senators and deputies.

It was also agreed that the subject should be held over for further discussion at the next meeting, especially as the two absent members of the Steering Group were senators and might therefore wish to comment on this matter.

(18th July)

The Steering Group agreed that the office of senator would not be incompatible with a ministerial system.

The view was expressed that there should not be a presumption in favour of appointing senators to ministerial positions, and that it would be for the States to decide on whom to appoint to these positions, whether they were senators, deputies or *connétables*.

The Steering Group then discussed the role of senator, and the general view was that the office should remain. This view was based primarily on the grounds of representation, i.e. because senators could be said to provide the public with a greater degree of direct representation in the States. As noted at the meeting on 4th July, under the present arrangements every elector could say that s/he was directly represented by at least 14 States members, i.e. 12 senators, one *connétable*, and one or more parish deputies.

The Group then turned to the issue of terms of office, and agreed that senators should have the same term of office as deputies. It was recalled that it had been agreed at the meeting on 4th July that a standard term of four years would be reasonable.

If senators and deputies were to have the same term of office, the question arose as to whether their elections should be held on the same day. It was pointed out that the Clothier Report had recommended that there should be a single election day for all members of the States. A single election day would then become a more important event for the Island's citizens, and would help to increase public interest.

### **(8) *Connétables* should cease to be *ex officio* members of the States**

(4th July)

The Group then considered the office of *Connétable*, and the view was expressed that the *connétables* should no longer be *ex officio* members of the States. In a modern parliamentary democracy, it could be argued that a person should not have a seat in an assembly simply by virtue of his or her office, and that he or she should be directly elected to that position. This did not mean that a *connétable* would no longer be able to be a States member, but it would mean that he or she would have to be directly elected to that position. Indeed, it was expected that many of the *connétables* would want to stand for election to the Assembly.

*Connétable* Amy said that he did not agree with the emphasis that had been placed in the Clothier Report on the position of the *connétables* as *ex officio* members of the States. In practice, there was no distinction in the public mind between those representatives who were directly elected to the Assembly and those who were there by virtue of their office, and the public voted for a *connétable* on the understanding that he or she would have a seat in the States Assembly.

Several members indicated that they supported the view that the *connétables* should cease to be *ex officio* members of the States, although support was also expressed for the view that they should remain.

The Group then discussed the timing of elections for the office of *connétable*. If the States were to decide that the *connétables* should no longer be *ex officio* members of the States, then in the Group's opinion it would not be necessary to hold their elections on the same day as the senators and/or deputies. This was because the parish responsibilities of the *connétables* were different in nature from the responsibilities that they would have if they were to be elected separately to the States as a deputy or senator, and there was therefore no need for the elections to be held at the same time as the deputies/senators.

Whatever the eventual decision of the States on the office of *connétable*, it was felt that it was unsatisfactory that there should be 12 different election dates for the 12 *connétables*, and that it would be better to have the elections for the *connétables* all on the same day.

(18th July)

The Steering Group received an oral report from the Chairman in relation to a meeting of the *Comité des Connétables* that he had attended on 10th July 2001. At this meeting the *connétables* had made it clear that they did not agree with the emphasis that had been placed on their position as *ex officio* members of the States, and they had stated that the public generally voted for a *connétable* on the understanding that he or she would have a seat in the Assembly.

Senator Syvret said that he believed that the *connétables* should cease to be *ex officio* members of the States, and that the law should be amended so that they would be elected directly to the States Assembly, with all the *connétables*' elections taking place on the same day. At present there were 12 different election days for the Island's *connétables*, and this meant that their elections had a very low public profile. A single election day for the *connétables* would help to increase public interest, and would also help to promote the important role that was played by the *connétables*. If the *connétables* were to be directly elected to the States, it would be necessary to amend the law so that they would be answerable to the Assembly, and not to the Royal Court as at present.

Deputy Syvret said that he was also of the view that the *connétables* should remain in the States, and he warned that if they should lose their seats in the Assembly there would inevitably be a public loss of respect for the office of *connétable* and, by implication, for the honorary system.

Senator Quérée commented that the parish responsibilities of the *connétables* were separate from those which they held as members of the States. In his opinion, the candidates for election to the office of *connétable* should be given the choice as to whether they should have exclusively parish responsibilities, or whether they should also take on the extra duties associated with being a States member. In this connection it was noted that a *connétable*'s workload could be very considerable, and it was quite possible that some candidates for the office of *connétable* would not want to have to take on the additional workload of being a member of the States. On the other hand, candidates would also be free to stand for direct election to the States Assembly, either as a deputy or as a senator.

If this latter arrangement were adopted, the elections for *connétables* could be held a few weeks prior to the elections for senators and deputies. This would leave the newly-

elected *connétables* in a position to decide whether they wanted to stand for election to one of the two latter positions.

The Steering Group agreed that all of the elections to the office of *connétable* should be held on the same day, rather than on 12 different occasions as at present.

The Steering Group then returned to the question of whether the *connétables* should remain as *ex officio* members of the States. The majority view was that this arrangement should not continue, and that there should be two separate elections, i.e. one for the office of *connétable*, and a subsequent one for the senators and deputies. As already indicated, this would mean that the *connétables* would no longer have a seat in the Assembly by virtue of their office, but would be free to stand for election to the Assembly as either a senator or deputy.

The minority view on the Steering Group was that there should be a single election for the office of *connétable*, and that the *connétable* should act both as the head of the parish and as a States member.

**(9) Comité des Connétables to be consulted whenever their Parish is particularly affected**

It was noted that the Policy and Resources Committee was proposing the establishment of a Liaison Group between the executive and the parishes, and that this should help to facilitate consultation.

The Steering Group endorsed the principle of supporting the parish system, and of consulting with the parishes. The Group also recommended that the Comité des Connétables should be given formal status in acknowledgement of the important work which it carried out.

**(10) An electoral commission to re-assign the vacant seats amongst the Parishes**

Not applicable.

**(11) All members of the States to enjoy the same title, “Member of the States of Jersey” (MSJ)**

It was agreed that under the present arrangements it was not necessary to make any changes to the present titles of senator, deputy and *connétable*.

Should the review of the machinery of government result in changes to any of these offices, such as the abolition of the role of senator, then it was recommended that the title(s) should change to deputy.

Reference was made to the French system whereby a representative could hold more than one title, e.g. in the local context as a “Maire”, and on a national level as a “Député” in the Assemblée Nationale. This was suggested as an option for the *connétables* who, if elected directly to the House, would represent the public in two different functions and could have the title of deputy in the States.

**(12) There should be an assembly of between 42 and 44 members**

It was agreed that the total number of members in the States would depend upon the eventual outcome of the debate on the machinery of government.

In connection with the Policy and Resources Committee's draft report and proposition, the consensus of opinion was that it was not strictly necessary for the Committee to specify that there should be a majority of at least five States members who would not be involved in the executive. The point of principle was that those who were not involved in the executive should be in the majority, and it was not therefore necessary to specify a given number. It was added that this majority should apply to the States as constituted, and that it need not be a prerequisite for every meeting of the States Assembly.

The Steering Group agreed that the actual number of States members would need to be reviewed in due course, once a decision had been taken on the machinery of government. The general view was that there should be a reduction in the overall number of members, if possible and over a period of time, and this would appear to be in line with public thinking. If there were to be a reduction in numbers, the Policy and Resources Committee would still want to ensure that the executive were in the minority.

**(13) There must be a majority of members of the States not in executive office to provide scrutiny of those who are, by means of three or four scrutiny committees**

It was recognised that this was an area of disagreement, and that individual members of the Steering Group might have different views on whether there should be a majority of States members not in executive office to provide scrutiny.

Deputy Vibert expressed concern that this recommendation could be divisive, i.e. because it would exclude the majority of States members from executive power. Under the CCM option, the majority of States members would have a role in both the executive and the scrutiny functions.

**(14) Seven departments should be substituted for the 24 Committees**

It was agreed that the optimum number of departments would be between seven and ten. The Group felt that seven was probably too few, and that ten was likely to be the more desirable option.

**(15) Each department to have one minister and two members**

Insofar as the CCM option was concerned, Deputy Vibert expressed the view that each Department could have one minister and up to four other members.

**(16) Ministers from each Department to form the Council of Ministers**

Agreed.

**(17) There should be a Chairman of the Council who would be the Chief Minister of the Island**

Agreed.

**(18) The Council of Ministers should have power to give directions to the Departments**

MC Option: This power of direction would be within agreed policy. A general statement of policy, prepared by the Council, would have previously been approved by the States.

**(19) Chief Minister to have the power to dismiss ministers**

It was agreed that only the States should have the power to dismiss ministers, at the request of the Chief Minister and/or the Council of Ministers.

**(20) The States to have the right to approve the appointment of ministers and substitute ministers nominated by the Chief Minister**

It was agreed that the Chief Minister should have the right to nominate ministers for approval by the States. However, it was felt by some that other States members should also have the right to nominate ministers, in the same way that they were presently allowed to nominate Committee Presidents.

It was suggested that nominations ought to be the subject of a period of notice.

**(21) External relations to be in the province of the Chief Minister**

Agreed.

**(22) The title “President” to be abandoned and replaced by “Minister”**

Agreed.

**(23) The Council of Ministers to be subject to careful scrutiny by the balance of members of the States**

MC Option: Agreed.

CCM Option: This was agreed, and it was also noted that under the CCM option each committee/department would be subject to scrutiny by the balance of members.

**(24) Proper facilities for communications and research should be provided for members**

Agreed.

**(25) The proceedings of the States to be taken down and printed**

The Steering Group agreed that it was highly desirable that there should be a readily accessible record of the States proceedings, coupled with a transcription service provided by the States Greffe. It was suggested that consideration should be given to other types of recording, such as digital recording.

It was noted that the House Committee would be discussing this matter at its next meeting.

**(26) There should be a Treasury Department responsible for producing the annual budget and for personnel**

The view was expressed that financial and budgetary control were not necessarily to be linked with human resource management, and that it might be more appropriate for the human resource function to report to the Chief Minister. On the other hand, it was suggested that all of the resource functions (i.e. finance, human resources, and property) should report to the same minister.

The Group expressed support for the principle of integrated resource management, and agreed that the issue of responsibility for the human resource function should be looked at more closely when consideration was given to the reorganisation of Departments.

**(27) A small number of scrutiny committees to be formed from among non-executive members of the States and elected by the States as a whole**

See comments under recommendation (13).

**(28) The Chairman of the Scrutiny Committees with one other member of the States to form a Public Accounts Committee to examine and control expenditure**

CCM Option: It was noted that under the CCM option the Public Accounts Committee would be formed of the three Scrutiny Committee Presidents.

**(29) There should be created the post of “Auditor General” to assist the Public Accounts Committee**

The Steering Group supported the proposal for an Auditor General, but felt that this post should have a wider role than simply assisting the Public Accounts Committee.

**(30) The first task of a new States of Jersey must be to elect its Speaker and then a Chief Minister**

Not applicable.

**(31) Provision should be made for written answers to members’ questions and for adjournment debates**

The Steering Group agreed that the right of members to ask questions and to bring propositions to the States would have to be catered for under the proposed new arrangements. The Procedure Committee, as the committee responsible to the States for all aspects of Assembly procedure, would have to look into this matter at an early opportunity.

**(32) The Chief Minister and Council of Ministers should have a Chief Secretary who would be Head of the Civil Service**

Agreed.

**(33) There should be an Appointments Commission for senior appointments in the Civil Service**

Agreed. It was noted that this proposal had been included in the Policy and Resources Committee's proposition.

**(34) There must be an appellate mechanism for the challenge of quasi-judicial administrative decisions and a mechanism for dealing with planning problems of an exceptional kind**

Agreed. Senator Quérée commented that the Planning and Environment Committee was proposing the establishment of an independent Appeals Commission for planning appeals, and this could be a useful example for others to follow.

**(35) There should be a more formal structure for the Parish Assembly**

Agreed.

**(36) Special attention should be given to the Parish of St. Helier**

Agreed.

**(37) The Bailiff should cease to act as president of the States or to take any political part in the Island's government and the States should elect their own speaker**

(4th July)

The Steering Group agreed that the Bailiff should remain as the President/ Speaker of the Assembly, but that the opportunity should be taken to review those of his ancillary duties which could be regarded as being of a political nature. For example, the Bailiff was the Chairman of the Panel on Public Entertainment, and he was also Joint Chairman of the Commission Amicale.

(18th July)

The Group recalled that it had discussed the role of the Bailiff at its meeting on 4th July, and confirmed that it was of the view that the Bailiff should remain as President of the Assembly. The Group also reiterated that the opportunity should be taken to review those of his duties which could be regarded as being of a political nature, e.g. as Chairman of the Panel on Public Entertainment.

**(38) The Chief Minister should be the direct link to the Home Office in London**

The majority view on the Group was that this would be the most appropriate arrangement, and that the Bailiff and Lieutenant Governor should be kept informed.

**(39) The office of Bailiff should continue to be the highest in the Island on all occasions when the order of precedence is observed**

Agreed.

**(40) An Ombudsman should be appointed to hear and determine complaints of maladministration by Departments**

Agreed.

**(41) There should be regular use of consultative or discussion papers**

Agreed.

**(42) The proceedings of scrutiny committees should normally be in public**

Agreed.

**(43) There should be regular opportunities for members to question the Chief Minister**

Agreed.

It was also agreed that States members should have regular opportunities to question ministers, as well as the Chief Minister. It was expected that members' questions would focus on the more general issues of policy and strategy, although there could also be questions on more detailed matters, subject to proper notice being given.

**(44) The States should ensure that the fullest facilities are given to the writing and broadcasting media**

Agreed.

The Group discussed the terms of office that should apply to elected members of the States, and the general view was that a standard term of four years would appear to be reasonable.”