

STATES OF JERSEY



CHIEF MINISTER: ELECTION BY ISLAND-WIDE VOTE OF REGISTERED ELECTORS (P.78/2017) – COMMENTS

Presented to the States on 7th September 2017
by the Privileges and Procedures Committee

STATES GREFFE

COMMENTS

Deputy R. Labey of St. Helier's proposition [P.78/2017](#) would significantly change the Island's constitution, potentially creating a hybrid between a parliamentary and a presidential system. This would be unusual and perhaps unprecedented.

The wording of the proposition itself is ambiguous; for example, in stating that, in principle: "the Chief Minister should no longer be elected solely by members of the States but by an Island-wide vote", when, in fact, as the Deputy's report makes clear, a direct election would only occur in narrowly-defined circumstances. In fact, decades could pass without there being a direct election, depending on how many candidates were nominated for the role of Chief Minister and on voting in the Assembly.

In making such far-reaching changes, it is important to consider all of the different eventualities which may arise and how the system would deal with them, in order to avoid crises or paralysis when unexpected events occur. For example, Deputy Labey deals with the possibility of a Vote of No Confidence in a Chief Minister in the following terms –

"If the Assembly loses confidence in the post-holder, the selection/election process is repeated. In such circumstances, the proposer of a 'Vote of No Confidence' in the Chief Minister would likely win the subsequent first round of the election for Chief Minister in the Assembly, probably outright and without recourse to the public vote. In the event that 2 candidates did go through to a head-to-head run-off, the Assembly would have to respect the will of the people and try again."

One possibility, not considered by Deputy Labey, is that a popularly-elected Chief Minister who is subject to a Vote of No Confidence may stand again, gain 18 votes in the Assembly, and then win the popular vote for a second time. Would the Assembly in these circumstances "respect the will of the people and try again", or would there be a risk of deadlock because the Chief Minister did not command the support of the Assembly, which is the bedrock of a parliamentary system of government?

The other matter to consider is whether constitutional changes might have unexpected consequences. Deputy Labey identifies that a popularly-elected Chief Minister may derive considerable authority from their election. However, as currently constituted, the Chief Minister would remain a 'first amongst equals' in the Council of Ministers, with his colleagues retaining significant powers of their own as ministerial corporations sole. An incoming Chief Minister, elected on a popular landslide, is likely to want to change that situation. However, his or her successor may well be elected in the traditional manner in the Assembly – would the relationship between the Chief Minister and other Ministers need to spring back to the previous position because of a difference in the method of election?

If this proposition were adopted, and given the need for Privy Council approval for changes to primary legislation, PPC would have no more than 5 months to prepare the Law and Standing Order changes necessary to enact this change and to shepherd them through the Assembly. There would be no time for adequate consideration of the issues raised above or of similar matters, which others may identify as requiring thought. PPC has serious misgivings about making such significant constitutional changes so close to an election and without thorough consideration (including by the Public) of all the implications of what is proposed.