

STATES OF JERSEY



ELECTORAL REFORM 2020 (P.126/2019): AMENDMENT

Lodged au Greffe on 21st January 2020
by Senator I.J. Gorst

STATES GREFFE

ELECTORAL REFORM 2020 (P.126/2019): AMENDMENT

1 PAGE 2, NEW PARAGRAPH (b) –

After paragraph (a) insert the following new paragraph –

“(b) notwithstanding the objective set out in paragraph (a), to agree that the States should respect and implement the outcome of the 2014 referendum on the role of the Connétables as States Members and that, accordingly, the office of Connétable should entitle the holder to full membership of the States as an automatic right, including full voting rights;”.

2 PAGE 2, PARAGRAPH (b) –

Re-letter paragraph (b) as paragraph (c) accordingly and substitute it as follows –

“(c) to agree that it should establish an Assembly of 49 Members, elected from 9 districts, each choosing a number of representatives based on population, plus the 12 Parish Connétables, and to replace the current Schedule 1 to the States of Jersey Law 2005 as follows –

<i>Constituencies</i>	<i>Number of Deputies to be returned</i>
District 1: St. Helier South Vingtaines de Bas et de Haut de la Ville, St. Helier	4
District 2: St. Helier Central Vingtaine de Rouge Bouillon, St. Helier Vingtaine de Bas du Mont au Prêtre, St. Helier	4
District 3: St. Helier North Vingtaine du Mont Cochon, St. Helier Vingtaine du Mont à l'Abbé, St. Helier Vingtaine du Haut du Mont au Prêtre, St. Helier	4
District 4: St. Saviour Parish of St. Saviour	5
District 5: St. Clement Parish of St. Clement	4
District 6: St. Brelade Parish of St. Brelade	4

District 7: St. Mary, St. Ouen and St. Peter Parish of St. Mary Parish of St. Ouen Parish of St. Peter	4
District 8: St. John, St. Lawrence and Trinity Parish of St. John Parish of St. Lawrence Parish of Trinity	4
District 9: Grouville and St. Martin Parish of Grouville Parish of St. Martin	4”

3 PAGE 3, PARAGRAPH (c) –

Re-letter paragraph (c) as paragraph (d) accordingly and, at the end of the paragraph, after the word “Assembly;”, add the word “and”.

4 PAGE 3, PARAGRAPH (d) deleted –

Delete paragraph (d).

5 PAGE 3, PARAGRAPH (e) deleted –

Delete paragraph (e).

6 PAGE 3, PARAGRAPH (f) –

Re-letter paragraph (f) as paragraph (e) accordingly.

SENATOR I.J. GORST

Note: After this amendment, the proposition would read as follows –

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

- (a) to agree that fair representation and equality in voting weight and power across the whole population should be the basis for any reform of the composition and election of the States;
- (b) notwithstanding the objective set out in paragraph (a), to agree that the States should respect and implement the outcome of the 2014 referendum on the role of the Connétables as States Members and that, accordingly, the office of Connétable should entitle the holder to full

membership of the States as an automatic right, including full voting rights;

- (c) to agree that it should establish an Assembly of 49 Members, elected from 9 districts, each choosing a number of representatives based on population, plus the 12 Parish Connétables, and to replace the current Schedule 1 to the States of Jersey Law 2005 as follows –

<i>Constituencies</i>	<i>Number of Deputies to be returned</i>
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District 4: St. Saviour Parish of St. Saviour	5
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District 6: St. Brelade Parish of St. Brelade	4
District 7: St. Mary, St. Ouen and St. Peter Parish of St. Mary Parish of St. Ouen Parish of St. Peter	4
District 8: St. John, St. Lawrence and Trinity Parish of St. John Parish of St. Lawrence Parish of Trinity	4
District 9: Grouville and St. Martin Parish of Grouville Parish of St. Martin	4

- (d) that an independent Boundaries Commission should be established to begin work after the 2022 elections to make recommendations to ensure that the 9 districts remain compliant with the principles cited in paragraph (a), comprised of a Chair and 3 other members from outside

the Island and of 3 Jersey residents, all with relevant skills and experience, and to request the Privileges and Procedures Committee to take the necessary steps to identify, through a process overseen by the Appointments Commission, the proposed membership of the Commission for subsequent approval by the Assembly; and

- (e) to request the Privileges and Procedures Committee to bring forward for debate the necessary legislative changes to alter the composition of the Assembly and create an independent Boundaries Commission in time for the 2022 elections.

REPORT

Introduction

The Privileges and Procedures Committee (“PPC”) are to be commended for the work they have undertaken in respect of electoral reform – a subject that Members will know is fraught with irreconcilable challenges. Indeed, developing proposals that are agreeable to a majority of States Members has, thus far, proved an unreachable target.

The Committee have undertaken their work with energy, commitment and with righteous intentions. They have engaged in a thorough process and much of what is contained in the proposition is welcome and positive.

It is my view, however, that the current proposals will not be agreeable either to a majority of States Members, or to the people of Jersey. I have concluded that, without an amendment, the proposition will be lost in its entirety, which would be regrettable.

This amendment is based on a simple principle – that the people of Jersey have already provided their views and direction on the constitution of the States Assembly, and that States Members should respect those views and implement proposals accordingly.

The amendment aims to retain the positive elements of PPC’s work whilst ensuring the final proposition is something which can both be accepted by a majority of States Members and follow the will of the public as already clearly expressed.

Election Observation Mission

As Chief Minister, I supported the amendment to the [Public Elections \(Jersey\) Law 2002](#) that provided the basis for the Election Observation Mission. The findings of the Mission are important and need to be addressed wherever possible. They cannot, however, either take precedence over or result in changes that are contrary to the democratic will of the people of Jersey.

This amendment still ensures that a number of the findings of the Mission are addressed. It delivers a simpler electoral system, ensures that Deputy constituencies are of broadly equal size in terms of population and, based on PPC’s rationale, will mean that there are likely to be fewer uncontested elections than is the case at present. In addition, the amendment retains the position that, except for Parishioners in St. Saviour, every voter in Jersey has the same number of votes. These are important developments in Jersey’s electoral system.

Venice Commission

It is clear that this amendment, whilst making no changes to the equality in voting rights which is broadly achieved by the initial proposition, would mean that Jersey still doesn’t attain equality in voting power across the Island. Whatever the drawbacks of that might be, it is nevertheless the case that this is a position which has been deemed tolerable by our community, as expressed both in the 2013 referendum and the 2014 referendum. It is, therefore, a decision and position which we need to accommodate and work within.

It is important to note that, in addition to the aspects of the Venice Commission guidelines that have been referred to in the report to PPC’s proposition, the Commission also notes that (with respect to equal voting power) administrative, or possibly even historical boundaries may be taken into consideration. Jersey’s Parishes must surely be considered to fall into both such categories.

Delivering reform

Previous efforts to deliver electoral reform have hinted at the possibility of using the Deputy seats to mitigate against the inequality in voting power which is created by the Connétables. An immediate impact of this is to create a large imbalance in terms of equality in voting rights. For this, and numerous other reasons, these efforts have not previously found favour with States Members and have therefore made no progress.

As a result I have concluded that, given the lack of appetite to utilise Deputy seats in the manner proposed above, combined with the instruction of the people as to the role of the Connétables, the only remaining option is to create as fair a system as possible for the Deputy seats, with the Connétables maintaining their seats in the Assembly for as long as the public wish and are willing to accept the consequences that this has for our electoral system. I simply don't see any other option which delivers reform and respects the electorate.

This is one reason why I support the retention of part (a) of this proposition – I agree with the principle set out in the paragraph and support the reform of the Deputy seats on this basis. However, as a principle it cannot outweigh the democratic decision of the electorate, which is why I have added a new paragraph (b) asking the Assembly to respect and implement the outcome of the 2014 referendum on the role of the Connétables as States Members. I've already made reference to electoral reform involving irreconcilable challenges, and this is perhaps one such example.

An Assembly of 49 Members

One drawback of PPC's initial proposition was that, if agreed unamended, it would have created an Assembly with up to 58 Members, albeit the 12 Connétables would lose their voting influence. Jersey does not need a States Assembly with 58 Members. Arguably, the Island could be well served by an Assembly with considerably less than 49 Members. For the time being however, and in order to achieve reform to the Deputy constituencies and retain the Connétables as full Members, my amendment proposes maintaining an Assembly of 49 Members. This is achieved by the removal of 1 Deputy from each of the 9 new districts proposed by PPC.

The Connétables

The 2013 and 2014 referendums confirmed support for the Connétables remaining as members of the States as an automatic right (by virtue of their office). It was clear from those 2 referendum campaigns that the public were voting for the Connétables to remain as full States Members with all the rights and privileges that this extends. They were not voting for the Connétables to have the ability only to speak and serve on non-executive committees – to be toothless Members who are listened to politely but are an irrelevance when it comes to voting on propositions and legislation.

Accordingly, the new paragraph (b) inserted by this amendment also asks the Assembly to re-confirm that the Connétables should remain as full members of the States with the right to vote in the Assembly, and it is proposed that paragraph (d) of the initial proposition is deleted.

There are some wider concerns resulting from the initial proposition with respect to the role of the Connétables. Paragraph (d) proposes that the Connétables be entitled to membership of the States in a non-voting capacity and be able to participate in debates and non-executive committee work. PPC's report then suggests that the Connétables could decide to limit their public responsibilities exclusively to their Parish or to take on the extra duties that are associated with being a States Member (except the duty to vote on propositions and legislation). In my view, the effect of this proposal is not only to bring an end to the definition of the role of Connétable as is understood and agreed by Islanders, but also to create several new potential definitions of the role, such that the understanding of the position of Connétable within our community would likely be reduced even further. I see this as damaging for the Parish system and Island life.

The initial proposition provides for the Connétable to have a role in the States Assembly, and potentially an active role up to the point of the ‘appel’ being called for. It also allows for a Connétable to stand for Deputy if they wish to extend their Assembly role (to which they would already be entitled) to include the right to vote. This argument is usually presented in order to reassure the public that they can still have their Connétable in the Assembly (in a voting capacity) if they wish. PPC are equally clear, however, that the Connétable and Deputy roles would be held separately. Under these proposals, it is surely highly unlikely that one person will put themselves forward for 2 separate roles each with the capacity for its own heavy workload (given that each role can involve both parish/district and States work in its own right). In reality therefore, the likelihood of the public regularly being provided with the opportunity to elect their Connétable as a Deputy, even if that would be their wish, must be seen as narrow.

An independent Boundaries Commission

I welcome this aspect of the Proposition. The establishment of a Boundaries Commission is an important step forward and will ensure that the constituencies for the Deputy seats remain as fair and balanced as possible in response to future population changes. The role to be played by a Boundaries Commission is a further reason why this amendment maintains the principle set out in paragraph (a).

I also believe that future debates regarding the role of the Connétables will benefit from the independent and impartial input from a Boundaries Commission.

A referendum

I do not believe that a third referendum in 8 years on the subject of electoral reform is required. The public have already provided their views and the Assembly needs to act accordingly. A referendum will be a waste of time and money.

The outcome of the referendum in 2013 provided a mandate for the creation of larger constituencies (based on Parish boundaries) for the election of Deputies. It also supported the retention of the Connétables as full States Members, a decision that was re-confirmed in 2014.

It is therefore clear that any reform can and should involve larger parish-based constituencies for Deputies and must include the retention of the Connétables as full States Members as an automatic right. This position is not achieved by the initial proposition but is met through this amendment.

In their report, PPC comment that “*Whilst we cannot make a referendum binding, if Members are going to vote for one to be held, they MUST commit to respect the outcome and implement the changes if they are called for by the electorate. Afterall, it is the electorate who we serve.*” I agree.

It is not my view that the debate on the role of the Connétables was settled once and for all in 2013 or 2014. However, I don’t believe it to be unreasonable to take the view that those 2 referendums, and especially the 2014 referendum, settled the issue for more than just 6 years. The Assembly cannot keep effectively asking the electorate the same question just because some Members don’t like the answer they get back. For that reason, I propose that part (e) of the initial PPC proposition is also removed.

Conclusion

The report to PPC’s proposition makes reference to responses provided in questionnaires and focus groups. This is undoubtedly interesting and helpful data. However, it cannot override the data given to States Members on 2 previous occasions through a means by which each member of the electorate was able to participate and respond – the 2013 and 2014 referendums.

The initial proposition does not take account of the previously expressed will of the public, and indeed proposes that we ask the public to answer the same questions again in another referendum, which is why this amendment is necessary. The amendment retains many of the positive results of PPC's work, and enhances the chances of delivering some reform, in line with public consent, rather than none.

This amendment confronts the irreconcilable challenges that are a reality of delivering electoral reform in Jersey at the present time. It will still require compromises across the Assembly, and I accept that for some Members, those compromises will be too great.

The Assembly knows the parameters that are acceptable to the people of Jersey. The choice facing Members is either to deliver reform within those parameters now as provided for through this amendment, or to once again ignore what we've been told and achieve nothing.

Financial and manpower implications

If adopted, this amendment would retain an Assembly of 49 States Members, which would have no impact on existing resources. It retains the proposal to establish a Boundaries Commission, the estimated cost of which is detailed in PPC's proposition. It would remove the anticipated costs of holding a referendum.