

STATES OF JERSEY



DRAFT STATES OF JERSEY (AMENDMENT No. 7) LAW 201- (P.64/2013): AMENDMENT

Lodged au Greffe on 2nd July 2013
by Deputy T.M. Pitman of St. Helier

STATES GREFFE

DRAFT STATES OF JERSEY (AMENDMENT No. 7) LAW 201- (P.64/2013):
AMENDMENT

1 PAGE 20, ARTICLE 3 –

In paragraphs (2) and (3) for the number “30” substitute the number “34”.

2 PAGE 21, ARTICLE 5 –

For the number “18” substitute the number “20”.

3 PAGE 25, SCHEDULE 2 –

In the table –

- (a) for the constituency “District 1”, in the column specifying the number of Deputies to be returned, for the number “5” substitute the number “7”;
- (b) for the constituency “District 2”, in the column specifying the number of Deputies to be returned, for the number “5” substitute the number “7”.

DEPUTY T.M. PITMAN OF ST. HELIER

REPORT

'Equality and fairness are key elements of any truly democratic electoral system'

This report is essentially the same one that I lodged earlier this year when the Assembly was debating the format of the referendum to be put to the public. Indeed, I lodge this amendment now for precisely the same reasons.

The quotation at the top of this page is taken from page 13 of the Electoral Commission's own final report published in January 2013. I would again suggest to States Members that not a single individual within this Assembly would dream of rising to speak at an election hustings to publicly proclaim to electors that this principle did not have their full support.

Which makes it all the more incredible that whilst paying lip-service to these sentiments, the Electoral Commission subsequently sought to wriggle out from doing its utmost to adhere to such principles by means of a series of poorly thought-out excuses. Those excuses, of course, have been well aired – yet it is crucially important that those of us who genuinely do care about equality and democracy – issues that should form the bedrock of our government – keep hammering the message home.

Indeed, how could I – or any States Member claiming to represent the people of St. Helier and having been elected on the strength of their votes – not fight to the last breath to try and ensure that they are not sold short; effectively becoming second-class voters by what is currently proposed by Senator P.M. Bailhache and the Privileges and Procedures Committee?

Having been one of those Members who were behind the original call for a fully independent Electoral Commission, I should not have to highlight again that I did not wish to find myself seeking to amend proposals for reform. As is well known, it is also my view that the Constables should not remain in the Assembly. Not due to any personal reasons – simply because political efficiency and transparency makes it clear to me that one class of Member is what will serve the Island best.

Unfortunately, as many of us holding such a view foresaw, the foolish decision by this Assembly to go back on the commitment to full Commission independence in order to accommodate Senator Bailhache's desire to lead the review has led to proposals that are deeply flawed on a number of fundamental levels relating to this. As such, I make no apologies in stating here that I now make this amendment – once again at the eleventh hour – to try and protect the interests of the St. Helier constituents whose interests I have a duty to protect.

We must also remember that the proposed reduction to 42 members has no actual logic behind it. It is clearly NOT the so-called 'magic bullet' of reform that some would portray. Indeed, such a reduction instead has the potential to create significant negative knock-on effects. Not least being the impact on the check and balance of the Troy Rule. An assembly of 46 overcomes these problems.

Let me reiterate what I said in the original debate. Retaining the Constables is a valid position to argue. It cannot, however, be allowed to take precedence over advocating as fair and equally weighted a voting system as can reasonably be constructed. This amendment seeks simply to correct, as far as possible, the democratic deficit that will

be set against voters in St. Helier by retaining 12 Constables within 6 large districts. This was an error of potential significant detrimental impact which, like many others, I find difficult to imagine any plausible excuse for; particularly given both the lengthy process and significant monies spent on the referendum.

It is nevertheless not my intention to waste Members' time going over all of the many shortcomings of the Commission's proposals at length within this brief report. More than enough has already been written on a number of excellent political blogs highlighting these – even if it is disappointing that Jersey's mainstream media has offered very little by way of in-depth analysis on how the proposals truly impact negatively on equality of voting across the Island. Indeed, it should be enough I believe to simply highlight the following two:

'Eligible' voters utilised instead of 'total population' figures

As I pointed out in the spring, the Commission's decision to opt for basing its proposals on 'eligible' voter figures within the 6 districts rather than total population, gives a wholly misleading slant to the public in considering the fairness of the options put forward. Excuses that such consideration might take it 'outside' of its mandate are frankly entirely without merit. The significance of this error is best highlighted by the example of the fact that the Commission's approach conveniently knocked off some 6,632 people from the number of individuals that St. Helier Deputies and/or the single Constable would in reality have to represent.

Just 11 x representatives to 26,890 looks an awful lot better in seeking to sell the Commission's heavily imbalanced proposals than 11 x representatives to 33, 522! It is equally true that the Commission's use of 'eligible' voter figures will be out of date long before the election of 2014 even comes about. Truth be told, it is out of date now!

Young people will come of age to vote. Immigrant workers unable to vote currently – even though paying tax – will achieve such status. Of course, far more important is the principle that all should be entitled to political representation regardless of age or being in the Island a full 2 years. Would any Member really turn away a request for assistance from such an individual? I certainly do not.

Retaining the Constables within the States cannot be an excuse for a worsening of a system already heavily imbalanced in favour of country parish voters

If this option to retain the Constables is to be put forward, then it simply must be as fair as possible. This is something which can be better achieved by acceptance of my amendment than that proposed by PPC. Indeed, it may also prevent the need to appeal to the Privy Council – moves which are already in progress.

Thus putting aside the misleading Electoral Commission 'spin' of utilising only 'eligible' voters to massage the figures to appear more acceptable – figures I have been shocked to find were not challenged and amended by PPC in lodging their proposition – the simple table below illustrates starkly the reality of this; and how St. Helier, whilst being split into 2 'districts', will be negatively impacted upon, having to 'share' 0.5 of a Constable each:

<i>District Number</i>	<i>Parishes/Vingtaines</i>	<i>Total Population</i>	<i>Number of Representatives</i>	<i>Public per Representative</i>
No. 1	du Mont Cochon du Mont à l'Abbé de Haut du Mont au Prêtre du Rouge Bouillon	17,543	5.5	3,189
No. 2	Bas de Haut du Mont au Prêtre, Canton Bas de la Ville, Canton de Haut de la Ville	15,942	5.5	2,898
No. 3	St. Clement Grouville St. Martin	17,850	8	2,231
No. 4	St. Saviour Trinity	16,736	7	2,391
No. 5	St. Lawrence St. John St. Mary St. Ouen	14,178	9	1,575
No. 6	St. Brelade St. Peter	15,571	7	2,224

The above imbalance can only be rectified by one method that I suggest would be both fair and politically acceptable. This is to offset the clear deficit faced by St. Helier residents due to the impact of retaining the Constables by increasing the number of Deputies allocated. Instead of 5 Deputies each (10 + 1 x Constable) the 2 St. Helier districts would elect a combined total of 14 + 1 x Constable.

This would bring the districts generally into line with the other districts. St. Helier District No. 1 having a 'population to representative' figure of 2,339; and St. Helier District No. 2 having a figure of 2,125. Of course, it is true that District No. 5 still remains imbalanced set against each of the others. However, without reducing their number of Deputies by at least 2, this anomaly probably necessitates acceptance.

Still not a perfect system it is acknowledged. But definitely much fairer than the system proposed by PPC on behalf of the Electoral Commission; where St. Helier – with a third of the Island's population – is at the bottom line to have fairness of representation sacrificed purely to accommodate retaining the Constables. Of fundamental importance I suggest, is that this system will actually allow the 2 most contentious issues voiced by opposing factions regarding reform to be overcome: enhanced 'voting weight' fairness between 'town' and 'country' and the retention of the Constables demanded by those who fear an undermining of the parish system.

How, I ask, can any States Member seriously talk about us being a ‘democracy’ without ensuring we do our utmost to create a system where all residents have as equally weighted a vote as is possible? Fairness simply MUST be central to our thinking in this process.

Additional Benefits

Yet even if enhanced fairness of voting weight was not enough reason to opt for this version of Option B, the fact is there are a number of very beneficial ‘knock-on’ affects that become apparent.

- An Assembly of 46 would, as highlighted, enable the highly important ‘Troy Rule’ principle to be retained. Something that will prove nigh impossible with a reduction to a 42 x Member States Assembly.
- This slight increase by 4 x Members to 46 would also offer potential to even allow one Member to take on the role of Speaker that will soon need to be filled with the inevitable coming necessity of achieving a full and true separation of powers, i.e. ending the dual role of the Bailiff as Head of both Judiciary and Legislature.
- Of course, though I personally believe the argument about saving money by reducing numbers to largely be a red herring, this proposal would still bring about a ‘saving’ in the region of £230,000 on the present system. A saving that would also, I suggest, not bring the risks of undermining democracy and efficiency that the reduction to 42 might.

Conclusion and Summary

The above clearly offers significant improvement on the divisive and undemocratic Option B format currently being proposed. I repeat it yet again – it reduces the number of States Members; it saves money; it protects the essential Troy Rule; it allows the possibility of ending the decades of argument about retaining the Constables by providing a system of government where they do remain, but not at the expense of the people of the Island’s capital, St. Helier. The proposition from PPC does none of this.

Consequently, I suggest that there really can be no reason to vote against the amendment – unless Members’ real agenda is one of self-interest, i.e. protecting their own positions; and a desire to manipulate power in favour of the smaller country parishes over that of St. Helier. This surely cannot be acceptable, and I thus urge all Members to vote to give the people of St. Helier the equality of vote and say in government which they have a right to expect.

Financial and manpower implications

Though this amendment obviously does not bring quite as large a reduction in costs relating to the Assembly as is suggested within the proposition; there are no financial or manpower implications seen against the present situation of 51 Members – the amendment actually leading to a reduction in costs of some £230,000.