

# STATES OF JERSEY



## RE-INSTATEMENT OF SENATORS (P.2/2025) : COMMENTS

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Presented to the States on 14th March 2025  
by the Comité des Connétables

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STATES GREFFE

## COMMENTS

### Summary

The decision on whether or not to reintroduce the office of Senator, and the overall composition of the States Assembly, is one for each member to make.

These comments address issues raised in the reports of the proposition and the various amendments (from Deputy Coles, Deputy Mezec, the Privileges and Procedures Committee (PPC), Deputy Moore and Deputy Tadier) to assist members in their deliberations.

Some of these comments have been made previously in relation to earlier propositions on the composition of the States but are repeated here for ease of reference.

There is no single correct electoral system, and it is universally recognised that this is ultimately a matter for the people of each country<sup>1</sup>.

### An Island Wide perspective and voter equity

The reports differ in their assessment of public opinion on the composition of the States Assembly. P.2/2025 suggests “a majority of the electorate wish to see the return of the Island-wide mandate” whereas Amendment 1 says the 1948-2022 electoral system (i.e. with Senators, Connétables and Deputies) “was widely unpopular”. There is no evidence to sufficiently support either view.

Both agree, however, that the role of Senator was the most equitable elected office held in Jersey’s history as every voter has the same number of votes and every candidate has the same number of electorates.

In relation to the position of Connétable, both Amendments refer to voter equity and the Venice Commission’s Code of Good Practice on Electoral Matters. Previous comments on this subject are restated in the Appendix and include:

*It is common for countries to ensure disproportionate representation for smaller component parts.*

*The Venice Commission states that constituency boundaries may also be determined on the basis of geographical criteria and the administrative or indeed historic boundary lines, which often depend on geography.*

### Composition of the States and Connétables

Any reform of the composition and election of the States must deliver a legislature fit for Jersey’s requirements having regard to best practice and to the principles of fairness and transparency in voting and to the will of the people.

But the key question is what should be the make-up of Jersey’s legislature – the body vested with power to make and repeal laws?

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<sup>1</sup> P.126/2019 Com. (section 17.4)

In relation to the role of Connétable, the Comité has previously commented<sup>2</sup> that joined-up government is best achieved by a unicameral legislature where the twelve Parishes, as sole corporations, continue to be represented by the Connétable as the elected head of the Parish. The principle of the equality of the vote is observed since the vote of every elector carries equal weight within the boundaries of the Parish.

Should the Connétable's role as a States member be optional, as proposed in the reports to both P.2/2025 Amd. and its amendment which refer to some who may hold the role but "do not desire the work of a States Member"; sentiments which originate from the "impression" gained by the Review Panel on the Machinery of Government in Jersey (2000). This was addressed in section 11 of P.126/2019 Com. and is summarised below.

*11.4 What is the relationship between local government – the Parish Assembly – and the States Assembly as the Island's government? As members of the States, the Connétables are able to speak and vote on proposals including legislation which is delivered by the parishes rather than the States.*

If the Connétables are replaced by Senators (as proposed by Amendment 1), there will be no-one to champion the parochial system, on which Jersey is built, in the Assembly. Nine parishes will cease to have any States member who solely represents the constituents of that parish (only St Brelade, St Clement and St Saviour have Deputies elected by the parish; other parishes are either split into separate constituencies (St Helier) or are part of a larger constituency).

Services in Jersey are delivered at island level, through the Government of Jersey, and parochially through the 12 Parishes, the latter being overseen by the Parish Assembly structure. All work together for the benefit of Islanders. The Connétable is the elected head of the parish and responsible for delivery of these functions and services – this is not the role of a Deputy even when elected to represent a constituency which is a whole parish. Neither the proposition nor the amendment refer to how this could be resolved, or provide insight into the impact the removal of the Connétables may have on the parish system and the many services they provide.

#### Senators as Ministers

Amendment 4 proposes seven Senators who "should form the entire Council of Ministers" and says an island-wide mandate "would hold the credibility of a greater mandate". From the outset of States reforms the Connétables have continued to play a full role as a States member including as Ministers in the Executive; restricting the Connétables and Deputies to serving only as either Assistant ministers or as members of scrutiny will limit the roles they may fill within the States Assembly should they wish also to serve their Parish or constituency, as the case may be.

A government must command the confidence of a majority of the legislature to which they are held accountable; the amendment does not mention what would happen if the Senators should lose the confidence of the Assembly and the impact on the stability of the government.

#### Separate election day for Senators

Amendment 5 proposes the election day for Senators should be held in advance of the deadline for nomination of any other class of candidate for election as a States Assembly

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<sup>2</sup> P.139/2020 Com. (section 4)

Member. Some members may recall that at one time the dates for the Connétables elections varied, the election for Senators was held in October and the Deputies' elections in November. The "Report of the Review Panel on the Machinery of Government in Jersey" dated December 2000 recommended one General election only for all Members of the States and for the 12 Parish Constables.

The States Assembly adopted the Comité des Connétables proposition to hold the Connétables elections on the same day. In giving effect to this decision, the report (P.184/2007) of the Privileges and Procedures Committee proposed the election for Senators and Connétables should be held on the same day and that combining Deputies' and Connétables' elections on one day is less desirable:

*PPC believes that the 'Island wide' issues raised in a senatorial election are normally different from the issues in an election for Connétable, and it is therefore a logical combination to hold these 2 elections on one day. Article 7 (c) (see below) will prevent a person from being nominated for the senatorial and Connétables elections at the same time. There has, historically, been more movement between the position of Deputy and Connétable, and this made the alternative option of combining Deputies' and Connétables' elections on one day less desirable.*

#### Referendum and public opinion

Whilst the current two-tier system may reflect the result of the 2013 electoral reform referendum (as mentioned in the report to Amendment 2) it is not exactly the option put to the electorate. Option B, which achieved the most votes after the second round (with second choices added), proposed 42 States members with 30 Deputies (there are currently 37) and 12 Connétables.

Option B was favoured over Option A which was for Connétables to no longer be members of the States. In a subsequent referendum in 2014<sup>3</sup>, over 62% were in favour of the Connétables remaining as States members.

The reduction to 42 States members, favoured by those responding to Option A or B, was not delivered. Instead, there remain 49 members, the number in Option C which received the least support. The amendments of Deputy Moore propose a States Assembly of either 47 members (7 Senators, 12 Connétables and 28 Deputies) or 45 members (8 Senators and 37 Deputies). Making further amendments without wider consultation and public engagement again risks creating further instability in the next Assembly.

#### Electoral reform and timeline

The proposals vary with regard to the number (9 or 12) and how to re-introduce Senators (replace Deputies or Connétables, or Boundaries Commission to recommend) and in relation to the timeline (2026, 2030 or following a further debate of a Boundaries Commission report).

The removal of Senators from the States Assembly was implemented at the island's general election in June 2022 following a phased reduction from 2011, with eight Senators being elected in both 2014 and 2018 to serve a 4-year term. The law amendment removing the position of Senator was contained in P.17/2021 which was

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<sup>3</sup> The referendum asked "Should the Constables remain as members of the States as an automatic right?"

lodged “au Greffe” on 8 March 2021 and debated just over 6 weeks later on 22 April 2021 (it came into force on 22 June 2022 i.e. election day).

The States sitting on 13 May 2025 is the final session to approve amendments to legislation to ensure these are debated at least one year prior to the next election, expected to be 7 June 2026 if the proposition of the PPC (P.17/2025) is approved, so amendments to re-instate Senators will need to be lodged by 1 April 2025. Whilst this is a tight timescale, the role of Senator has existed in earlier legislation and this should help to expedite the law drafting process.

## Appendix

### The Venice Commission<sup>4</sup>

The Venice Commission's central concern is plainly that 'malapportionment' of constituencies may be used to give the wrong party or parties victory in elections (i.e. those lacking majority or plurality support). 'Malapportionment' can be a device for 'gerrymandering'. This concerns does not exist in Jersey [at present].

Jersey remains [at present] what is known as a consensus-based system, of which there are few in the world. This means that its politics largely lack political parties, whereas the Venice Commission when addressing the requirements of democracy assumes that party politics are central to elections.

In Jersey, the aim is to elect the people who will have to form a consensus. This makes the relative size of each member's electoral mandate less sensitive. For example, no one thought to compare in the Chief Ministerial election if members supporting the defeated candidate in fact represented more voters than the successful one. As no one was elected for the purpose of backing one or other candidate, it was irrelevant in the Jersey system as presently operating.

All systems and institutions should be called upon to justify themselves from time to time. The principal factors present in Jersey depend on how Parish identity is viewed – how this should be viewed is not a matter of international law. It is a matter of local identity in the jurisdictions where the issue arises.

It is common for countries to ensure disproportionate representation for smaller component parts. Countries which systematically practice degressive proportionality in one form or another are likely to be told to consider changing but properly understood, that is not to say that they are non-compliant with the Venice Commission, but rather they are judging themselves to be exceptional cases. There is no sign of an international condemnation. One such example would be Andorra – it is not a federation, however, each of its 7 parishes have 2 legislators regardless of size with a further 14 nationally elected members. Other clear examples of this principle in the lower legislative house are India, Spain, Canada, Argentina, France and Australia.

The Venice Commission states that constituency boundaries may also be determined on the basis of geographical criteria and the administrative or indeed historic boundary lines, which often depend on geography. So, whilst we might strive to comply with the Code of Good Practice in Electoral Matters guidelines' and other international covenants, we must be mindful that exceptions are permissible. The permissible departure from the norm, of not more than 10% to 15%, should be only in special circumstances such as the protection of a concentrated minority or sparsely populated administrative entity.

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<sup>4</sup> P.126/2019 Com. (section 5)