

STATES OF JERSEY



COMPOSITION OF THE STATES ASSEMBLY: INTERIM REFORM FOR 2014 AND REFERENDUM ON FURTHER REFORM

Lodged au Greffe on 25th September 2013
by the Privileges and Procedures Committee

STATES GREFFE

PROPOSITION

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

- (a) to agree that, from October 2014 the Assembly should be comprised of 47 members, comprising 6 Senators, 12 Connétables and 29 Deputies;
- (b) to agree that the 29 Deputies should be elected in 14 constituencies comprising a whole parish or a district within a parish, with the current Schedule 1 to the States of Jersey Law 2005 setting out the Deputies' constituencies being amended as follows –

DEPUTIES' CONSTITUENCIES

<i>Constituencies</i>	<i>Number of Deputies to be returned</i>
Saint Helier – Cantons de Haut et de Bas de la Vingtaine de la Ville	4
Cantons de Bas et de Haut de la Vingtaine du Mont-au-Prêtre	4
Vingtaines du Rouge Bouillon, du Mont-à-l'Abbé et du Mont Cochon	5
Saint Saviour – Vingtaine de la Petite Longueville	2
Vingtaine de Sous l'Eglise	2
Vingtaine de Maufant, de Sous la Hougue, des Pigneaux et de la Grande Longueville	1
Saint Brelade – Vingtaine de Noirmont et du Coin	1
Vingtaines des Quennevais et de la Moye	2
Saint Clement	3
Saint Lawrence	1
Grouville	1
Saint Martin	1
Saint Peter	1
Saint Ouen	1

- (c) to agree that in an Assembly of 47 members, the maximum number of Ministers and Assistant Ministers shall be 21;
- (d) to request the Privileges and Procedures Committee to bring forward for debate legislative changes to enable the revised composition to be in place in time for the 2014 elections with the new structure of 47 members being effective from the date of the swearing-in of the new members elected in those elections;
- (e) to agree that a referendum under the Referendum (Jersey) Law 2002 should be held on the day of the 2014 elections with a single Yes/No question to ask voters whether they agree that the States Assembly should, with effect from the 2018 elections, be comprised of a single category of members elected on a parish basis in accordance with the recommendation of the Report of the Review Panel on the Machinery of Government in Jersey (the 'Clothier' Report) published in December 2000, and to request the Privileges and Procedures Committee to bring forward for approval the necessary Referendum Act to enable the referendum to take place.

PRIVILEGES AND PROCEDURES COMMITTEE

REPORT

When the States adopted paragraph (b) of the proposition of Senator B.I. Le Marquand “Referendum on States reform: outcome” (P.74/2013) on 16th July 2013, members charged the new Privileges and Procedures Committee with assessing alternatives for reform of the Assembly after the rejection of the proposals to implement ‘Option B’ of the Electoral Commission.

Over the summer recess, the Committee issued a questionnaire to gauge the views of States members on this issue, and the Chairman and members have also held informal discussions with colleagues to consider the best way forward. The Committee is extremely conscious of the need to move forward quickly if alternatives for reform are to be debated and implemented in time for the 2014 elections.

Since the new PPC was appointed and charged to look at alternatives, 4 private members have also put forward options for reform through propositions or amendments to those propositions. The debate on those propositions will give members the opportunity to consider the options put forward but, although individual members of PPC have differing views on the merits of the alternatives proposed, the Committee as a whole does not support any of the options that have been put forward, and does not consider that any have a realistic prospect of receiving the necessary support in the Assembly to be adopted. This has left PPC in the position of having to consider what the best alternative option would be that is fair, workable and, importantly, that has any realistic chance of success in the current Assembly.

PPC has concluded that it would be wrong as a matter of principle to propose major reform of the Assembly without seeking the subsequent approval of the public to that reform in a further referendum. There is, however, simply not time to hold a further referendum if reform is to be implemented for 2014 and, in addition, PPC is sure members would agree that there would be an adverse public reaction if a further referendum on reform was proposed in isolation. As a result, PPC has reluctantly agreed that, following the rejection by the States of the ‘Option B’ proposals, there is no realistic prospect of major reform being agreed and implemented for 2014. This has led PPC to consider how the current agreed structure of the Assembly for the 2014 elections can be improved and how major long-term reform for the Assembly for 2018 and beyond can be implemented.

If no further reform is agreed before next year, the States Assembly from the next elections will be comprised of 8 Senators, 12 Connétables and 29 Deputies elected in the 17 constituencies that have remained unchanged for nearly 40 years.

Senators

Following the rejection by the States of the large constituency model, PPC has considered whether or not the retention of the Island-wide mandate remains important for 2014.

The Committee is conscious that the Final Report of the Electoral Commission (see Section 5.2) showed that 58% of those making submissions to the Commission wished to maintain or even enhance the number of members elected on an Island-wide basis, whereas only 42% of respondents were content for the Island-wide mandate to be abolished.

In the absence of agreement on the ‘compromise’ of large electoral districts put forward by the Commission, PPC believes that the Island-wide mandate should be retained for 2014 until more far-reaching reform has been agreed in a referendum and implemented. Many people nevertheless remain concerned about the feasibility of electing 8 Senators on one single election day, and concerned about the legitimacy of the candidates elected in the bottom places who may have received a very low percentage of votes, particularly if the ‘first past the post’ system is maintained.

PPC shares these concerns and is therefore proposing, as has Senator Farnham in his recent amendments, that the number of Senators should be reduced to 6 from 2014. Electors have, for many years, been used to electing 6 Senators at one time and experience has shown that an election for 6 Senators on one day is workable and leads to an acceptable result. Although some, including the Electoral Commission, have questioned whether the position of Senator will remain attractive to candidates following the introduction of a single election day, PPC considers that an election for 6 places in 2014 will provide a meaningful contest, particularly as a number of the existing 10 Senators are likely to seek re-election in 2014. As explained below, PPC believes that further reform is necessary after 2014 and the retention of the senatorial position for the next elections may therefore prove to be nothing more than a transitional arrangement.

This proposed reduction in the number of Senators will also enable the current proposed membership of the Assembly for 2014, namely 49, to be further reduced to 47 members. It is clear from the debate on Option B and from the responses to the PPC questionnaire, that many members considered that the reduction to 42 members as proposed by the Electoral Commission was a step too far; although the clear wish of the public to see some reduction in the number of members will be addressed by the reduction proposed in this proposition.

Parish representation

The responses to the PPC questionnaire showed that a majority of the States members who replied favour the retention of elections based on a parish basis. 63.3% of respondents agreed that Jersey electoral districts should continue to be based on parish boundaries. One member who replied stated “[Large] Districts have been invented by people of no feeling for our history or the parish being real entities with their own identity and communities”. In addition, 75% of those who replied to the questionnaire considered that Deputies should be elected in districts of roughly equal size.

PPC agrees that direct parish representation is important and valued in Jersey, and believes it is important that this parish representation is viewed as a combination of the Connétable and the Deputy or Deputies elected for the parish. Those who have supported the retention of the right of the Connétables to remain in the States by virtue of their office have stressed that Connétables must be seen as ‘full’ members of the Assembly, and PPC considers that it would be wrong to make any distinction between the Connétable and the Deputy or Deputies when calculating the appropriate and fair level of representation for a parish in the States. Under these proposals, parish representation will therefore come in part from the presence of the Connétables and from parish Deputies.

At present there is significant unfairness in the allocation of parish representation across the Island because of irregular population growth across the 12 parishes since the current allocation of Deputies was last revised nearly 40 years ago. Using the 2011 census figures, the current allocation of population per parish representative and the deviation from the average, is as follows –

	Population 2011 Census	Current Deputies & Connétable	Residents per Parish representative	% Deviation from average
St. Mary	1,752	2	876	63.30% over-represented
St. John	2,911	2	1,456	39.02% over-represented
Trinity	3,156	2	1,578	33.89% over-represented
St. Lawrence	5,418	3	1,806	24.34% over-represented
St. Martin	3,763	2	1,882	21.18% over-represented
St. Ouen	4,097	2	2,049	14.18% over-represented
St. Saviour	13,580	6	2,263	5.18% over-represented
Grouville	4,866	2	2,433	-1.93% under-represented
St. Peter	5,003	2	2,502	-4.80% under-represented
St. Brelade	10,568	4	2,642	-10.68% under-represented
St. Helier	33,522	11	3,047	-27.67% under-represented
St. Clement	9,221	3	3,074	-28.77% under-represented
TOTALS	97,857	41		
Average			2,387	

There have been many calls in the past for the allocation of Deputies to be revised to obtain a fairer distribution across the parishes. PPC agrees that this is long overdue and therefore recommends that a re-allocation should be undertaken for the next elections.

PPC initially considered whether the re-allocation should be done by combining parishes to create large districts as proposed by the Electoral Commission, and as now proposed in the propositions of Senator P.C.F. Ozouf (P.93/2013), Deputy T.M. Pitman (P.94/2013) and the amendments to those propositions by Senator L.J. Farnham. PPC has concluded that large areas would effectively only be useful as a form of compromise to compensate for the loss of the Island-wide mandate and, as some senatorial representation is being retained under these proposals, PPC believes it would be more acceptable to base the re-allocation on a parish basis as the Committee is not convinced there is any genuine enthusiasm for large areas among States members or the public.

PPC considered various options for the re-allocation of Deputies' seats. The Committee initially considered whether the re-allocation should be made on the basis of having at least one Deputy per parish in addition to the Connétable, and worked out the allocation of seats on this basis for 27, 28 and 29 Deputies. The allocation under these options is shown in Appendices 1 to 3 and, as can be seen, these options all lead to very significant deviations from the average or 'target' of parish representation across the 12 parishes.

PPC does not think it is right, as a matter of principle, to put forward an allocation with such wide deviations that go well beyond the recommended 15% figure in the Venice Commission recommendations, albeit that the Commission's recommendations are not actually binding on the States of Jersey. In addition, as explained above, PPC sees the combined parish representation of the Connétable and the Deputy or Deputies as something that should be looked at together and not separated out. As a result, PPC calculated the allocation of parish representation across the 12 parishes for the 12 Connétables and for 27, 28 and 29 Deputies in the fairest way possible, and the results of these calculations are shown in Appendices 4 to 6.

Having considered the percentage deviations in the 3 options, PPC concluded that allocating 29 Deputies as shown in Appendix 6 gives the fairest possible allocation across the 12 parishes, even if it has to be accepted that working within parish boundaries inevitably means that some deviations go beyond the recommended 15% figure for some of the smaller parishes. Options that try to compensate for these large variations by adding or taking away one parish representative simply create larger deviations in the opposite way, and PPC believes that until more major reforms are agreed there is no choice but to accept some variations. PPC is nevertheless confident that members will agree that the allocation shown in Appendix 6, which is reflected in paragraph (b) of the proposition, is a considerable improvement on the current allocation of parish representation shown in the table earlier in this report.

PPC is aware that some members may express concern about the fact that 3 parishes, St. Mary, St. John and Trinity, will only be represented by a Connétable and have no Deputy. The Committee considers that the principles of fairness of representation must override any such concerns. If representation is linked to the size of population, it is inevitable that smaller parishes will have fewer representatives and if Connétables are to play a full and meaningful role as members of the States, there should be no difference for residents if they are represented by a Connétable or a Deputy in the States. PPC believes it would be quite wrong to allow smaller parishes to have more than their fair share of representation.

For 2014, PPC believes it will be easiest to allow the current electoral districts in St. Brelade, St. Saviour and St. Helier to be used for the election of Deputies. This will lead to some imbalance in the level of representation between the districts, but the imbalance is not so great as to be unacceptable in PPC's view. The detail of the breakdown into districts for the 3 parishes is shown in Appendices 7 to 9.

PPC considers that the 2014 proposals it is putting forward in this proposition will be a considerable improvement on the composition that will be in place for the next elections if no further amendments are made. The concern about electing 8 Senators at one time will be addressed by the reduction to 6, and the current unfair allocation of Deputies across the Island will be considerably improved by these proposals.

PPC accepts that some may be disappointed that more fundamental reform is not being proposed, but following the rejection by the States of the legislation to implement Option B, the Committee believes that members must be realistic about what is actually achievable in the coming months. 'Tweaking' Option B, as has been proposed by Senator Ozouf and Deputy T.M. Pitman may improve the representation of St. Helier, but PPC's calculations have shown that, in doing so, the representation of other urban and semi-urban parishes is simply worsened and now that the 'pure' Option B has been rejected, PPC does not believe that variations of it are acceptable.

Paragraph (e) – Referendum on the ‘Clothier’ proposals

PPC wishes to make it clear that it sees these proposals for reform for 2014 as nothing more than an interim solution on the road to more far-reaching reform, and the Committee views paragraph (e) of this proposition as an integral part of the Committee’s overall reform package.

Although the recommendations of the Report on the Review of the Machinery of Government in Jersey (the ‘Clothier’ report) were published over 10 years ago, the public has never been given the opportunity to decide whether or not one of the core recommendations, namely that there should be a single class of States member elected on a parish basis, should be implemented. The relevant chapter of the Clothier report, Chapter 3, is included at Appendix 10 for information.

Ever since the publication of the Clothier report, there have been continual calls for the public to be able to consider this recommendation and PPC believes that the issue should be decided once and for all by holding a referendum on the same day as the 2014 single election day for Senators, Connétables and Deputies. PPC considers that the referendum should take place on the basis of a single Yes/No question to allow voters to make a simple choice on this one issue and to avoid the difficulties that some saw with the more complex choices and the alternative voting system used in the April 2013 referendum.

PPC recognises that there may be some logistical problems in holding the referendum on the general election day, but considers that any such problems are far from being insurmountable even if, for example, the referendum votes could not be counted on election night. The advantage of holding the referendum on the general election day will be that there should be a good turnout and the issue of reform will hopefully become an important issue during the overall election campaign.

Some members may believe that the public would reject the Clothier recommendations, but PPC’s stance on this issue is that no-one can give an informed view on what the public actually thinks until after the referendum. The Committee therefore believes that the sensible way forward is to ask the public for their view to enable the new States constituted in 2014 to have a clear steer on future reform options. If the Clothier proposals are supported in the referendum, it will be incumbent on the new Assembly to implement them; if they are not it will be clear to the Assembly that a single category of member option is not acceptable and other options will need to be considered. PPC believes that after nearly 13 years, it is time for this matter to be finally decided one way or another.

If paragraph (e) is adopted, PPC will be required to bring forward for approval by the States a draft Referendum Act that will cover the precise wording of the proposed referendum question and that question will, for example, need to cover the proposed number of members to be elected.

Financial and manpower implications

Successive PPCs have always made it clear that a reduction in the membership of the States should be made because it is the right thing to do, and not as a way of making a financial saving. The Committee is nevertheless obliged by Standing Orders to indicate the financial implications of any proposition, and would therefore point out that if the membership of the Assembly is reduced in 2014 from the currently proposed level of 49 to 47, there would be a saving of some £92,000 per annum at current levels of remuneration.

The costs of the referendum will be considerably less if it is combined with other elections when polling stations and the other infrastructure will already be in place. There will nevertheless be some additional cost for matters such as the printing of ballot papers and the necessary public information campaign. It is estimated that some £30,000 would be required for this purpose.

APPENDIX 1

27 Deputies redistributed across the 12 parishes, taking account of the representation provided by the Connétable but allowing at least one Deputy per parish in addition to the Connétable.

Target per representative = 2,509 (97,857 divided by 39)						
	Population 2011 Census	Connétable	Deputies	Total representatives	Residents per representative	Deviation from target
St. Mary	1,752	1	1	2	876	65.09
St. John	2,911	1	1	2	1,456	41.99
Trinity	3,156	1	1	2	1,578	37.11
St. Martin	3,763	1	1	2	1,882	25.01
St. Ouen	4,097	1	1	2	2,049	18.35
Grouville	4,866	1	1	2	2,433	3.03
St. Peter	5,003	1	1	2	2,502	0.30
St. Lawrence	5,418	1	1	2	2,709	-7.97
St. Clement	9,221	1	2	3	3,074	-22.51
St. Brelade	10,568	1	2	3	3,522	-40.40
St. Saviour	13,580	1	4	5	2,716	-8.25
St. Helier	33,522	1	11	12	2,794	-11.34
TOTALS	97,857	12	27	39		
Target					2,509	

APPENDIX 2

28 Deputies redistributed across the 12 parishes, taking account of the representation provided by the Connétable but allowing at least one Deputy per parish in addition to the Connétable.

Target (average) per representative = 2,446 (97,857 divided by 40)						
	Population 2011 Census	Connétable	Deputies	Total representatives	Residents per representative	Deviation from target
St. Mary	1,752	1	1	2	876	64.19
St. John	2,911	1	1	2	1,456	40.49
Trinity	3,156	1	1	2	1,578	35.49
St. Martin	3,763	1	1	2	1,882	23.08
St. Ouen	4,097	1	1	2	2,049	16.25
Grouville	4,866	1	1	2	2,433	0.53
St. Peter	5,003	1	1	2	2,502	-2.27
St. Lawrence	5,418	1	1	2	2,709	-10.75
St. Clement	9,221	1	2	3	3,074	-25.66
St. Brelade	10,568	1	3	4	2,642	-8.01
St. Saviour	13,580	1	4	5	2,716	-11.04
St. Helier	33,522	1	11	12	2,794	-14.21
TOTALS	97,857	12	28	40		
Target					2,446	

APPENDIX 3

29 Deputies redistributed across the 12 parishes, taking account of the representation provided by the Connétable but allowing at least one Deputy per parish in addition to the Connétable

Target (average) per representative = 2,387 (97,857 divided by 41)						
	Population 2011 Census	Connétable	Deputies	Total representatives	Residents per representative	Deviation from target
St. Mary	1,752	1	1	2	876	63.30
St. John	2,911	1	1	2	1,456	39.02
Trinity	3,156	1	1	2	1,578	33.89
St. Martin	3,763	1	1	2	1,882	21.18
St. Ouen	4,097	1	1	2	2,049	14.18
Grouville	4,866	1	1	2	2,433	-1.93
St. Peter	5,003	1	1	2	2,502	-4.80
St. Lawrence	5,418	1	1	2	2,709	-13.49
St. Clement	9,221	1	2	3	3,074	-28.77
St. Brelade	10,568	1	3	4	2,642	-10.68
St. Saviour	13,580	1	4	5	2,716	-13.78
St. Helier	33,522	1	12	13	2,579	-8.03
TOTALS	97,857	12	29	41		
Target					2,387	

APPENDIX 4

27 Deputies redistributed across the 12 parishes, taking account of the representation provided by the Connétable.

Target per representative = 2,509 (97,857 divided by 39)						
	Population 2011 Census	Connétable	Deputies	Total representatives	Residents per representative	Deviation from target
St. Mary	1,752	1	0	1	1,752	30.17
St. John	2,911	1	0	1	2,911	-16.02
Trinity	3,156	1	0	1	3,156	-25.79
St. Martin	3,763	1	0	1	3,763	-49.98
St. Ouen	4,097	1	0	1	4,097	-63.29
Grouville	4,866	1	1	2	2,433	3.03
St. Peter	5,003	1	1	2	2,502	0.30
St. Lawrence	5,418	1	1	2	2,709	-7.97
St. Clement	9,221	1	3	4	2,305	8.12
St. Brelade	10,568	1	3	4	2,642	-5.30
St. Saviour	13,580	1	5	6	2,263	9.79
St. Helier	33,522	1	13	14	2,394	4.57
TOTALS	97,857	12	27	39		
Target					2,509	

APPENDIX 5

28 Deputies redistributed across the 12 parishes, taking account of the representation provided by the Connétable.

Target (average) per representative = 2,446 (97,857 divided by 40)						
	Population 2011 Census	Connétable	Deputies	Total representatives	Residents per representative	Deviation from target
St. Mary	1,752	1	0	1	1,752	28.37
St. John	2,911	1	0	1	2,911	-19.01
Trinity	3,156	1	0	1	3,156	-29.03
St. Martin	3,763	1	0	1	3,763	-53.84
St. Ouen	4,097	1	1	2	2,049	16.25
Grouville	4,866	1	1	2	2,433	0.53
St. Peter	5,003	1	1	2	2,502	-2.27
St. Lawrence	5,418	1	1	2	2,709	-10.75
St. Clement	9,221	1	3	4	2,305	5.75
St. Brelade	10,568	1	3	4	2,642	-8.01
St. Saviour	13,580	1	5	6	2,263	7.47
St. Helier	33,522	1	13	14	2,394	2.11
TOTALS	97,857	12	28	40		
Target					2,446	

APPENDIX 6

29 Deputies redistributed across the 12 parishes, taking account of the representation provided by the Connétable.

Target (average) per representative = 2,387 (97,857 divided by 41)						
	Population 2011 Census	Connétable	Deputies	Total representatives	Residents per representative	Deviation from target
St. Mary	1,752	1	0	1	1,752	26.60
St. John	2,911	1	0	1	2,911	-21.95
Trinity	3,156	1	0	1	3,156	-32.22
St. Martin	3,763	1	1	2	1,882	21.18
St. Ouen	4,097	1	1	2	2,049	14.18
Grouville	4,866	1	1	2	2,433	-1.93
St. Peter	5,003	1	1	2	2,502	-4.80
St. Lawrence	5,418	1	1	2	2,709	-13.49
St. Clement	9,221	1	3	4	2,305	3.42
St. Brelade	10,568	1	3	4	2,642	-10.68
St. Saviour	13,580	1	5	6	2,263	5.18
St. Helier	33,522	1	13	14	2,394	-0.31
TOTALS	97,857	12	29	41		
Target					2,387	

APPENDIX 7**St. Brelade – breakdown of representation into existing 2 districts.**

Vingtaines	Population	Total	Deputies	Population per Deputy	Deviation from target
Noirmont	2,402				
Du Coin	981	3,383	1	3,383	4.03
Quennevais	5,150				
La Moye	2,042	7,192	2	3,596	-2.01
Target (average)				3,525	

APPENDIX 8**St. Saviour – breakdown of representation into existing 3 districts.**

Vingtaines	Population	Total	Deputies	Population per Deputy	Deviation from target
Petite Longueville	5,090	5,090	2	2,545	6.30
Sous L'Eglise	4,860	4,860	2	2,430	10.53
Maufant	1,115				
Sous la Hougue	381				
Pigneaux	1,656				
Grande Longueville	477	3,629	1	3,629	-33.62
Target (average)				2,716	

APPENDIX 9**St. Helier – breakdown of representation into existing 3 districts.**

Vingtaines	Population	Total	Deputies	Population per Deputy	Deviation from target
Bas de la Ville	1,099				
Haut de la Ville	8,911	10,010	4	2,503	2.85
Bas du Mont au Prêtre	5,932				
Haut du Mont au Prêtre	2,837	8,769	4	2,192	14.90
Rouge Bouillon	6,111				
Mont à l'Abbé	6,563				
Mont Cochon	2,032	14,706	5	2,941	-14.18
Target (average)				2,576	

Chapter 3

The States Assembly

- 3.1** Pursuing the analogy of the machine, the States Assembly is or should be the power unit which drives the Island's government and is therefore its most important component. Over and above its primary functions as a national assembly it will have other functions which are internationally recognised. These include:-
- * Making laws;
 - * The determination in debate of major internal and external policies;
 - * The consideration in debate of the management of those essential services which every government must provide;
 - * The public airing of apparent serious failings in the provision of essential services, such as health and education;
 - * The determination of an annual budget and the estimates of expenditure.
- 3.2** A recurring theme in the evidence presented to us was that there were many failings in the present performance of the States and especially the lack of effective use of the time available, partly as a result of:-
- * A tendency for some Members to speak on almost every topic, while others seemed hardly ever to speak or put questions;
 - * A tendency to enjoy debating trivial problems which should be resolved elsewhere, rather than underlying policy issues;
 - * The making of long and discursive speeches, often repeating what had been said by earlier speakers;
 - * An inability to adhere to recent previous decisions and an urge to debate them yet again.
- 3.3** We have attended a debate and seen some of the States' agenda. These confirm the criticism that many a representative feels impelled to raise his or her voice on every topic even if all the words that could sensibly be said about it have already been uttered more than once. It is notoriously easier to speak about a relatively trivial and short-term problem, than to contribute a reasoned and well researched speech on some strategic policy to be pursued in the future. A repeated theme in the evidence we received was that there were far too many of the former kind of speech in the States and too few of the latter. We accept that evidence, borne out as it is by our reading and observation.

3.4 An effective democracy requires not just an executive but the balance of a strong assembly which holds the executive to account and scrutinises its actions as well as contributing to the formation of policy. The evidence we received suggests that the States have not adequately performed either their executive or their critical functions. A number of those who presented evidence to us suggested that the establishment of a central Executive would in effect remove other Members of the States from the political leadership of the Island. We strongly reject this suggestion and would wish to make clear unequivocally that in the structure which we propose there would be an important role for Members who are not part of the Executive. The scrutiny role of Members who are not in the Executive is vital to a balanced machinery of government. It is not necessarily adversarial or destructive and should not be allowed to become so. Further, those who happen to be in the executive side of government will inevitably find it better to seek the assistance and make use of those Members who are not in the Executive than to be at loggerheads with them, if only because, as will be seen later, the executive side will be in the minority.

3.5 Leaving aside the very important role of States Members in representing their constituents and being advocates for their localities, we are emphasising the central, non-executive role of the Assembly as one of scrutiny. In this we embrace a number of different activities which are set out below; we then go on to describe the framework within which they will be carried out. Scrutiny embraces examination of:-

- * The performance of government in discharging its responsibilities and the delivery of services;
- * Expenditure and use of public resources to provide value for money;
- * The budget and other future financial plans;
- * Decisions made by the Executive;
- * Policy issues and ideas, including consideration of draft legislation.

3.6 In considering how the States should fulfil the important function of scrutiny, it is necessary to review the present composition of the States and to consider whether that composition is best suited to the purpose. At present there are three types of States member:- 12 Senators, the 12 Connétables of the Parishes and 29 Deputies. Each Category is elected at a different time and in the case of the Senators for a different term of office. Six out of the 12 Senators are elected every three years for a term of six years. Deputies are elected every three years. Connétables, are elected at irregular intervals for a term of three years. We consider each category separately.²

² We consider the role of the Bailiff in Chapter 8

3.7 The Senators

- 3.7.1** The Senators are a relatively modern introduction into the States. They were created in 1948 when the 12 Jurats, who were and are lay judges, were removed from the legislature on the recommendation of a Committee of the Privy Council. The same Committee recommended the institution of the category of Senator to replace the Jurats. The logic of the recommendation is not very clear. The justification for the introduction of Senators into the States seems to have been that these representatives were to be elected by all the voters of the Island, as had been the Jurats, while the Deputies are elected by the voters only of the relevant district or Parish. This arrangement gives rise to the so-called "Island-wide mandate", as distinct from the Parish mandate. For many years the Senators tended to be senior Members of the States and the Presidents of the major Committees. This is no longer the case. The very title of Senator is inappropriate, suggesting as it does some kind of revising or upper house, such as is found in many other jurisdictions.
- 3.7.2** We received no convincing evidence that there was a significant difference between the nature and content of the Senators' role and that of the Deputies. In an island about 9 miles long and about 5 miles wide, with excellent communications, we found the distinction between Senators and Deputies less than plausible and in practice there is little difference in the contributions to debate of either category of representative. Nor can the Senators do anything which the Deputies cannot also do. They have no special privileges. Moreover, with one General Election and the same tenure of office for all Members of the States, the distinction will become even less sustainable. In an assembly intended to govern the whole island, every topic of debate should be of island-wide interest, not merely parochial, and should be the concern of every Member. But it is sensible that each representative should have a constituency of voters whose opinions may more easily be sampled and judged over a small area than a large one. And, of course, a constituency gives easy access to a representative for every citizen with something to say.
- 3.7.3** We **recommend** the abolition of the category of Senator and the substitution of 12 additional members of the States.

3.8 The Connétables in The States

- 3.8.1** In contrast to the rank of senator, the office of Connétable is indeed an ancient one. The title, as familiar in English as in French, essentially connotes the maintenance of good order. So it is not surprising that the Jersey "Connétable" often begins his public service as a policeman. The Connétable was until very recent times the highest office of the Honorary Police in any Parish. The cursus honorum begins by being appointed a Constable's Officer, progressing thence to the offices of Vingtenier, Centenier, Chef de Police, and ultimately Connétable. The inclusion of the Connétable of the Parish in the earliest versions of the Island's Parliament is easily understandable.
- 3.8.2** A few of our witnesses maintained that the Connétables were in the States because their parishioners elected them in the knowledge that this would automatically confer upon them a seat in the States. The concomitant belief was that the Connétables were there to represent the particular interests of their Parishes on any topic coming before the States.
- 3.8.3** Our firm conclusion is that these comfortable beliefs are not borne out by the evidence. In the first place, the election to the office of Connétable is rarely contested. During the period of our review four new Connétables have been elected and a fifth re-elected, all of them unopposed. A respected individual who has held a post in the Parish administration, perhaps in the Honorary Police, emerges and it is not well-regarded in the Parish to oppose his (less frequently her) election.
- 3.8.4** We were impressed by the evidence of many of the Connétables to the effect that they placed their work in the Parishes at the head of their priorities and we were left with the impression that some of them felt somewhat uncomfortable with their position in the States. Indeed, an analysis showed that in general the Connétables asked fewer questions, introduced fewer propositions and spoke on fewer occasions than the Deputies for their respective Parishes.
- 3.8.5** In view of the new structure which we propose for the States the Connétables would, if they were to remain, have a heavier workload in the States than they do at present and might well have difficulty in discharging both offices satisfactorily. Many witnesses told us how busy the Connétables are in their Parishes and how excellent and useful was their work there. We believe that this role could be developed and its dignity enhanced. If it were, and if the position no longer carried with it the requirement to be part of the States Assembly, we believe that more candidates for the post of Connétable could well come forward.

3.8.6 Because they have no role in the States distinguishable from that of the Deputies, we **recommend** that the Connétables should cease to be ex officio members of the States. Of course, those Connétables who have the time and inclination could stand for election to the States, there being no conflict in the dual roles. They would then be truly elected by their parishioners to represent them in the States.

3.8.7 We recommend, however, that those Connétables who are not elected to the States should nevertheless have appropriate access to the States on matters particularly affecting their Parishes. There exists already a Comité des Connétables, which should have a more formal consultative role with the States.

3.9 The Deputies

3.9.1 The 29 Deputies are distributed by reference to the Parishes, some of which are divided into districts. Since some of the Parishes are much smaller in population than others the result is a disproportionate representation of some Parishes. We **recommend** that an Electoral Commission should re-assign the vacant seats of the Senators amongst the Parishes, seeking to even out these discrepancies. While we believe that this reorganisation is an essential requirement of our proposed revision of the Island's assembly, we are anxious to urge that it should on no account be allowed to delay the implementation of the major changes we recommend, as it so easily could be.

3.9.2 The title of "Deputy" seems to us inappropriate and confusing to the outside world with which Jersey must now deal. These members do not deputise for anyone. We **recommend** that a better and more readily understood title would be "Member of the States of Jersey", conveniently abbreviated to "MSJ".

3.9.3 For reasons set out in Chapter 5, we **recommend** an Assembly of between 42 and 44 Members. In fact, an analysis (see Appendix E) shows a possible distribution of seats by Parish, based on a 42-Member House and the 1999 Electoral Register. A 44-Member House could readily be achieved by adding two seats where indicated. This analysis produces a much more even distribution of seats per elector than is achieved by the present system. It also allows for the function of scrutiny which we recommend in Chapter 5.

3.9.4 We recognise that this is a rejection of the argument which was put to us for "Island-wide" elections. Such elections would, however, be characterised by unmanageable hustings and ballots confusing to the electorate and a weakening of the all-important link between members and their constituencies. In our view, a General Election based on the Parishes will have all the island-wide benefits which are so desirable without any of the disadvantages of the alternatives.

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