

STATES OF JERSEY



DRAFT REFERENDUM (REFORM OF STATES ASSEMBLY) (JERSEY) ACT 201- (P.5/2013): THIRD AMENDMENT

**Lodged au Greffe on 12th February 2013
by Deputy T.M. Pitman of St. Helier**

STATES GREFFE

DRAFT REFERENDUM (REFORM OF STATES ASSEMBLY) (JERSEY)
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PAGE 19, SCHEDULE –

In the Ballot Paper set out in the Schedule, for Reform option B substitute the following option –

“Reform option B.

Parish Constables will continue to be members of the States.

There will be 46 States members: 34 Deputies and 12 parish Constables.

There will be 6 large districts, each choosing 5 Deputies, apart from St. Helier Districts 1 and 2 which will each choose 7 Deputies.”.

DEPUTY T.M. PITMAN OF ST. HELIER

REPORT

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

The above statement is taken from page 13 of the Electoral Commission's own final report published in January 2013. I would suggest to 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 support. Which makes it all the more incredible that whilst paying lip-service to these sentiments, the Electoral Commission subsequently seek to wriggle out from doing its utmost to adhere to such principles by means of a series of poorly thought out excuses.

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 a 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 at the eleventh hour to try and protect the interests of the St. Helier constituents whom I firstly represent.

Retaining the Constables is a valid position to argue. It cannot, however, be allowed to take precedence over advocating as fair and equally weighted voting system as can be reasonably 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 a plausible excuse for; particularly given both the lengthy process and significant monies spent.

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

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 knocks 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. 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?

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 an option to retain the Constables is to be put forward – which I fully accept is legitimate alongside a single option advocating their removal – then it must be as fair as possible. This is something which can be better achieved than that suggested by the Commission. Putting aside the misleading spin of utilising only 'eligible' voters to massage the figures, 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 No.</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 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.

Additional benefits

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 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 be largely 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

The above offers significant improvement on the Option B currently being proposed. However, it should be stated for the record that even in the event of Members not feeling that they wish to support this proposal; like many members of the public in St. Helier, I believe that the current proposal must be opposed by whatever means necessary simply because it cannot be right to sacrifice fairness to St. Helier residents on the altar of retaining the Constables. This I pledge to do.

Financial and manpower implications

There are no financial or manpower implications arising from adopting this alternative to the currently proposed Option B.