

# STATES OF JERSEY



## CONNÉTABLES AND OTHER PARISH OFFICIALS: EXPLANATORY DOCUMENT AND NEW LEGISLATION (P.119/2012) – COMMENTS

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Presented to the States on 15th January 2013  
by the Council of Ministers

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STATES GREFFE

## COMMENTS

The Council of Ministers rejects part (b) of this Proposition, whilst deferring to the *Comité des Connétables* with regard to part (a).

1. Whilst the consolidation and, where necessary, codification of the law in any field might be seen as be a worthy objective, the scale and cost of such an undertaking has to be weighed against the potential benefit it is likely to confer. It is not clear from the Report to this Proposition that the nature and scale of the undertaking in this case has been fully appreciated.
2. The starting point for such an undertaking would be to re-cast provisions contained in the Code of Laws of 1771 which contains oaths and other provisions relating to the Connétable, *Procureur du Bien Public*, Centenier, Vingtenier, Constable's Officer, Roads Inspector, *etc.* and the *Visite Royale*.
3. The main enactments in French range from the Parish Assemblies Law of 1804 (last amended in 2010) to the *Loi sur la Voirie* (last amended in 2005) dealing with the roads committee and the *branchage*.
4. But it is not only these 'parochial' Laws that would form part of the project. The role of a Centenier is governed in no small part by the Criminal Procedure Law of 1864 (last amended in 2012) and related legislation (*see paragraph 7 below*). This major Law, along with others, also would require to be drafted afresh and submitted for Royal Assent. This in itself would be a major undertaking – effectively a new Criminal Procedure Law would have to be enacted. And there is of course no expedited consolidation procedure for debate in the States, and so any such draft legislation would have to be debated as 'original' legislation.
5. More minor Laws would include those such as the *Loi sur les Rassemblements tumultueux* and the *Loi sur les Publications dans les églises*.
6. It must also be borne in mind that the law governing the administration of the Parish is not restricted to the secular Parish. Parish officials include the Churchwarden ('*Surveillant*') and Almoners (*Aumôniers*), and Parish Assemblies divide into secular and ecclesiastical, each with its own legal underpinning. The Parish Assemblies Law and the *Loi sur les Rectorats*, as well as customary law, interact with the recently approved Canons for Jersey. To codify and re-write these laws would require co-ordination between local canon and secular law, and in itself would amount to a major academic undertaking (barely more than a year after the new Canons were approved by the States and have come into force).
7. An important consideration in any event is timing. This Proposition itself stems from the passing of the Connétables (Miscellaneous Provisions) (Jersey) Law 2012, which has been registered by the Royal Court but has yet to be brought into force (in tandem with the new States of Jersey Police Force Law – the 2 Laws being partly interdependent). For that to be done, amendments have yet to be passed by the States (by Regulations) to a large amount of Laws that to a greater or lesser extent touch on the subject matter of this Proposition, namely the –

- Rates (Jersey) Law 2005
- Road Traffic (Jersey) Law 1956
- (newly intitled) Honorary Police (Jersey) Law 1974
- *Loi (1864) réglant la procédure criminelle* (already mentioned above)
- Magistrate’s Court (Miscellaneous Provisions) (Jersey) Law 1949
- *Loi (1853) pour la répression des moindres délits*
- Criminal Justice (Anonymity in Sexual Offence Cases) (Jersey) Law 2002
- Police Procedures and Criminal Evidence (Jersey) Law 2003
- Criminal Justice (Compensation Orders) (Jersey) Law 1994
- Criminal Procedure (Connétables and Centeniers) (Jersey) Law 1996
- *Loi (1853) au sujet des centeniers et officiers de police*
- Customs and Excise (Jersey) Law 1999
- Extradition (Jersey) Law 2004
- *Loi (1797) sur les rassemblements tumultueux* (already mentioned above)
- *Loi (1885) touchant l’Administration des Marchés Publics*
- Harbours (Administration) (Jersey) Law 1961
- Aerodromes (Administration) (Jersey) Law 1952
- Motor Traffic (Third-Party Insurance) (Jersey) Law 1948
- Motor Vehicle Registration (Jersey) Law 1993
- Policing of Roads, Parks and Sea Beaches (Application of Fines) (Jersey) Law 1957
- Nursing and Residential Homes (Jersey) Law 1994
- Places of Refreshment (Jersey) Law 1967.

8. The draft Regulations that amend these Laws – in order to implement the Connétables (Miscellaneous Provisions) (Jersey) Law 2012 (“the 2012 Law”) – will inevitably contain Reports and Explanatory Notes in the relevant *Projet* that will give some of the very clarification that the Deputy seeks in his Proposition, in the areas of law concerned. The work required by the Deputy’s Proposition would cut across the work required to bring into force the 2012 Law. This would not only be wasteful of resources, but could lead to delay in bringing the 2012 Law into force – which in turn might hinder the bringing into force of the new States of Jersey Police Force Law.

9. In summary, therefore, the preparation of new legislation as proposed would entail not only the translation of existing legislation, but a complete rewrite in order to incorporate the rules of customary law, and this in the middle of what is in any event a transitional phase as far as the relevant legislation is concerned. This would require a significant allocation of policy officer and law drafting resources, not to mention Law Officers’ Department time and resources that would have to be superimposed upon the work needed to bring the 2012 Law into force. Before drafting could commence, the rules of customary law would have to be researched and collated. Even with that preparatory work, the drafting of the legislation itself would require, at a minimum, 50 drafting days, having regard to the scope of the project described in part (a) of the Proposition. Drafting time is currently fully allocated to projects that deliver the States strategic objectives (including the bringing into force of the 2012 Law which will provide part at least of the clarification that this Proposition seeks). If paragraph (b) of the Proposition

were adopted, time would have to be diverted away from those projects, with a consequent delay in their delivery. It would be ironic if work on the 2012 Law were hindered, given that that work would itself meet at least in part the aims of the Deputy's Proposition.

10. When the 2012 Law – with the many consequential amendments referred to above – has been brought into force (assuming the States agree to bring it into force) the Law Officers' Department will be better placed to assist with any initiative to make translations more freely available of Jersey legislation that remains in the French language. It is fair to say that translations have historically been piecemeal and uncoordinated. Some translations are a reliable guide, some less so; and some may not be fully up-to-date. The position in this respect could be improved so that translations – although they would still not supplant the actual text of the Law for official court purposes – might routinely be available for purchase at the States Greffe Bookshop. The Law Officers' Department has signalled its willingness to examine whether it would have the resources to assist in checking the translations that presently exist and in helping to bring them up to date.
11. The Council therefore believes that it would be a much better investment of effort and resources – and thus in the public interest – to allow the work to continue on bringing into force the 2012 Law, and to pursue the option of checking, collating and updating translations of *all* Jersey enactments that are in the French language – and not just those that relate to the subject matter of the present Proposition.

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**Statement under Standing Order 37A [Presentation of comment relating to a proposition]**

The Council of Ministers apologises for the late delivery of these comments. Following consideration by the Council of Ministers, further revisions to the comments were required which were unable to be finalised until late afternoon on Friday.