

STATES OF JERSEY



COMPOSITION AND ELECTION OF THE STATES ASSEMBLY: PROPOSED REFORM

**Lodged au Greffe on 3rd November 2006
by Senator B.E. Shenton**

STATES GREFFE

PROPOSITION

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

- (a) to agree that legislation should be introduced to provide –
 - (i) that –
 - (1) a general election, with all elected members being elected on the same day, should be held in 2008 on the date currently fixed for the senatorial elections in that year;
 - (2) the expiry of term of office of all Deputies should be brought forward to coincide with the 2008 general election;
 - (3) the expiry of the term of office of all Connétables should be brought forward or managed to coincide with the 2008 general election;
 - (4) the expiry of the term of office of the six Senators elected in 2005 should be brought forward to coincide with the 2008 general election;
 - (ii) that the number of Senators be reduced from 12 to 8 from the 2008 general election;
 - (iii) that the term of office of all elected members be changed to 4 years from the 2008 general election;
 - (iv) that, from the 2008 general election, the Chief Minister should only be appointed from members holding an island-wide mandate, namely the Senators;
 - (v) election expenses by candidates seeking election to the States should be regulated, limited to amounts fixed by the States and monitored accordingly;
- (b) to agree that, from the aforesaid general election date, the remuneration and expenses in respect of each Connétable should no longer be paid directly to the Connétable concerned but should be paid by the States to the relevant Parish to enable the Parish to determine how to distribute the sum;
- (c) to charge the Privileges and Procedures Committee to bring forward for approval the necessary legislation to give effect to the proposals.

SENATOR B.E. SHENTON

REPORT

“EVOLUTION NOT REVOLUTION” HOLDING ON TO OUR HERITAGE A PROPOSAL BY A JERSEYMAN – NOT A UK CONSULTANT

- **Give the People a voice**
- **Recognise our history, embrace our heritage**
- **Parishes take precedence over electoral areas**
- **Reduction in States Members in a measured way**
- **Action – not procrastination and postponement**

“One General election only for all Members of the States and for the 12 Parish Constables” – The Clothier Report

A **general election** is an election in which all members of the States Assembly are up for election throughout the Island on the same day.

The Island has waited far too long for electoral reform. Over the years decisions have been deferred in order that committees can meet for a few hours infrequently, have a chat, and come to no meaningful conclusion. In the past the Procrastinate and Postpone Committee could be described as a cul-de-sac where ideas are taken and quietly strangled. No doubt during the debate Members will leap to their feet and demand more reports, more investigation, more consultants, and more delay.

Twelve months ago the Island went to the polls and showed their dissatisfaction with the system by the low turnout. Some Members were elected unopposed and others were rejected at Island level but returned later with a few hundred votes. One of them was elected as a Minister and others appointed Assistant Ministers, joining the party from day one.

The recent MORI poll has compounded the feelings of the electorate that there should be a General Election of all members on a determined day. The good work started by the Privileges and Procedures Committee should be instigated as soon as possible to ensure that a General Election takes place in 2008 with all the States Members taking part.

As a Senator elected for 6 years I feel that I and my colleagues should stand down and fight for our places with other candidates. This will put democracy ahead of a guaranteed 6 year contract. I would not employ anyone on a 6 year contract so I don't see why the public should!

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- (i) **that –**
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 - (2) **the expiry of term of office of all Deputies should be brought forward to coincide with the 2008 general election;**
 - (3) **the expiry of the term of office of all Connétables should be brought forward or managed to coincide with the 2008 general election;**
 - (4) **the expiry of the term of office of the six Senators elected in 2005 should be brought forward to coincide with the 2008 general election;**

The legal advice on this when it was sought a couple of years ago was that terms of office could be shortened by appropriate legislation (subject to the proviso below) but certainly never lengthened.

The proviso was that a disgruntled member might be able to make an application through the Courts or to the Privy Council to get the legislation invalidated if the shortening was excessive. If, for example, a 6 year term was shortened to 5½ years it would probably be okay and the disgruntled member would be unsuccessful in his or her ‘appeal’. If, however, a member elected for 6 years saw a law being passed by the States to shorten that to 2 year the legal advice was that he or she **might** be successful although, as ever, in legal matters, it wasn’t possible to say yes or no one way or another. It would then be a matter of degrees. The idea to ‘halve’ senatorial mandates in 2005 so that the 2002 cohort would have had to stand again was judged to be somewhere on the borderline of legal acceptability.

If the members concerned all agreed to a shortening then there wouldn’t of course be a problem, e.g. if 12 Connétables voted to shorten the term of office so that a ‘general election’ for Connétables took place then one assumes that none of them would want to challenge it.

The forthcoming election dates of the Connétables are 3 years from their last swearing-in dates which are as follows –

Parish	Connétable	Date Sworn
St. John	Richard Edward Norwood Dupré	05.12.03
St. Peter	Thomas John du Feu	02.07.04
Grouville	Daniel Joseph Murphy	23.07.04
St. Saviour	Philip Francis Ozouf	13.08.04
St. Clement	Derek Frederick Gray	17.12.04
St. Helier	Alan Simon Crowcroft	17.12.04
Trinity	John Le Sueur Gallichan	04.11.05
St. Brelade	Michael Keith Jackson	11.11.05
St. Lawrence	Geoffrey William Fisher	03.02.06
St. Martin	Silvanus Arthur Yates	30.06.06
St. Mary	Kenneth Alan Le Brun	25.08.06
St. Ouen	Kenneth Priaulx Vibert	25.08.06

If this proposition is successful the new Constable of St. John will serve an initial term of just under 2 years. At the other end of the scale the Constable of St. Ouen will have his current term of office reduced by less than one year.

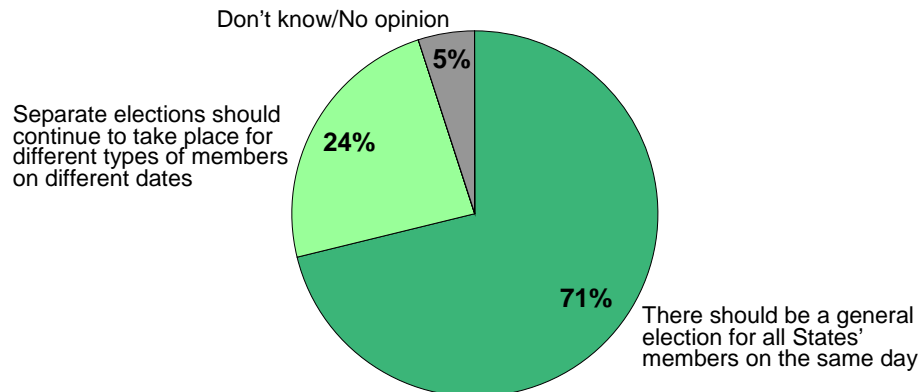
The only stumbling block would therefore appear to be if Senators Syvret, Shenton, Cohen, Le Sueur, Le Main and Perchard raised objections. I feel sure that none of them would as they all have the best interests of Jersey democracy at heart. Certainly I would embrace this concept.

It cannot be denied that the majority of Islanders want a General Election. They are fed up with the stuttering

electoral system that currently exists. The MORI poll results validate this. A majority would like to see a 'General Election' rather than the current system (71%).

Chart 21 – Attitudes towards a 'General Election'

Q *States' members are elected at various times for varying terms of office. Do you think ...*



Base: 1,295 Jersey residents aged 18+, interviewed by telephone, 20 July – 24 September 2006 Source: Ipsos MORI

Will this result in too many candidates?

Actually there will be less as this system avoids duplication. At the last election 7 unsuccessful Senatorial candidates went on to stand in the Deputies elections. This duplication will be avoided as candidates can only stand for one position. If they are unsuccessful they will not have the opportunity to stand again for a number of years.

I am not going to make the mistake of taking the results of the MORI poll of being totally accurate and representative – and the electorate's choice set in stone.

While measuring and profiting from the pulse of democracy it is clear that the opinion poll industry often reflects faulty polling methodology.

As Hanno Hardt (2004) observes, "Since public opinion deals with matters developed in the minds of others, it is incapable of producing new ideas, or even recognising them before they are presented".

The dubious methods of pollsters leave thoughtful citizens guessing about the validity of the findings in public opinion polls, past and present. Combine this overall uncertainty of method with polling analyses forwarded by controlling elite governmental and corporate institutional interests, and serious questions can be raised about the continuing threat of polls to the public sphere and participatory democracy.

These manifold surveys of opinions and attitudes purport to explain the views of the masses, and when put into the hands of the corporately controlled news media for uncritical acceptance and amplification, the information gleaned from polling is transformed into a slanted snapshot.

The American Association for Public Opinion Research, demonstrates strong examples of how public opinion polls fail to deliver a real understanding of the public.

Sufficient doubts in polling methods and accuracy have facilitated critical examinations before, by Herbert Blumer (1948), with his contention that public opinion polls suffer from "distortion that stems from the use of a sample in the form of an aggregation of disparate individuals having equal weight" (p. 548). Blumer levied his

criticism in *Public Opinion Quarterly* just months before the infamous “Dewey Defeats Truman” *Chicago Daily Tribune* front page headline of November 3, 1948, that shook George Gallup and the fledgling industry at its early methodological foundation.

Despite concerns over methodology today and in the past, the industry has thrived because corporate and government sectors have found polling results good justification for their power, under the guise of giving voice to the public.

Polling creates a myth that the public has spoken on matters of importance to itself when in reality it has not.

Substantial amounts of what constitutes public opinion in media-reported polls are a constructed illusion or an artefact of measurement created by how survey questions are designed and executed.

Michael Schudson (1995) has considered public opinion polling “one of determinism’s most reliable allies” in recent years, noting that public opinion polling is “invariably reified, made to take on a permanence and authority it does not deserve”.

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On the subject of election apathy Clothier wrote – “The input end of the Machinery of Government is the electorate and it is here that our review begins. Democracies are born in the hearts of their electorates and unless subsequently cherished will not thrive. We received much evidence to the effect that the electorate of Jersey has become apathetic, disenchanted with, and detached from its government. Electoral disinterest is a common feature of most modern democracies but seems more noticeable in Jersey than elsewhere. The belief of many of our witnesses was that electoral apathy sprang from a lack of confidence that voters could bring about any important change or indeed have any real influence on the way Jersey is governed. An alternative explanation is that the Island is so prosperous and the Machinery of Government so efficient that no one is concerned about it. None of our witnesses seriously offered this alternative. The detachment of government from governed is dangerous for democracy. The paradox is that Jersey is among those small democracies in the world with a particularly high ratio of representatives to population – one representative for every 1,520 of the people. Yet the electors do not believe that they have any real effect on what happens in the national assembly, the States of Jersey. We have little to say about the franchise itself. There are some problems for Jersey which arise from a population which includes both immigrant and transitory elements.”

(ii) that the number of Senators be reduced from 12 to 8 from the 2008 general election;

The position of Senator was introduced after the Second World War and the position does not have the long history of either Constables or Deputies. However Island-wide representation is vital to a democracy that seeks to give everyone a voice.

But why reduce the Senators and not get rid of the Constables?

A long history of Constables in the States – Why the Constables still have a place in the Assembly in 2006 and

beyond.

The genesis of the States of Jersey is usually put at 1524. Until the 19th century it was composed of the 12 Jurats 12 Rectors and 12 *Connétables*, presided over by the Bailiff.

The developing relationship between Jersey and England during these formative centuries is encapsulated by an Order in Council of 15th June 1618 which resolved differences between the Governor, Sir John Peyton, and the Bailiff, Jean Herault. Both men were, it seems, of uncompromising temperament. Both asserted the primacy of their respective offices in the governance of Jersey. It was in raw terms a struggle for power between the Crown (in the sense of the English government) on the one hand and the Royal Court and the States, presided over by the Bailiff, on the other. The Privy Council ordered –

‘PRECEDENCE OF BAILIFF AND GOVERNOR

It is ordered first that the Bailiff shall, in the Cohue and seat of justice and likewise in the Assembly of the States, take the seat of precedence as formerly, and that in all other places and Assemblies, the Governor take place and have precedence which is due unto him as Governor, without further question.’

In effect, the Privy Council by this order had reaffirmed the right of the Island to self-determination, in terms both of the administration of justice and of domestic affairs. The Governor, who was (and is) Commander in Chief of Her Majesty’s Forces in the Island, retained responsibility for the defence of the Island and for communications between Jersey and the outside world.

Returning to the historical chronology, by a law of 1856 the membership of the States was increased by 14 deputies, 3 for St Helier and one for each of the other parishes. In 1948, in the aftermath of enemy occupation between 1940 and 1945, the States were reformed and became a fully democratic legislative assembly composed of representatives elected by the Island’s inhabitants.

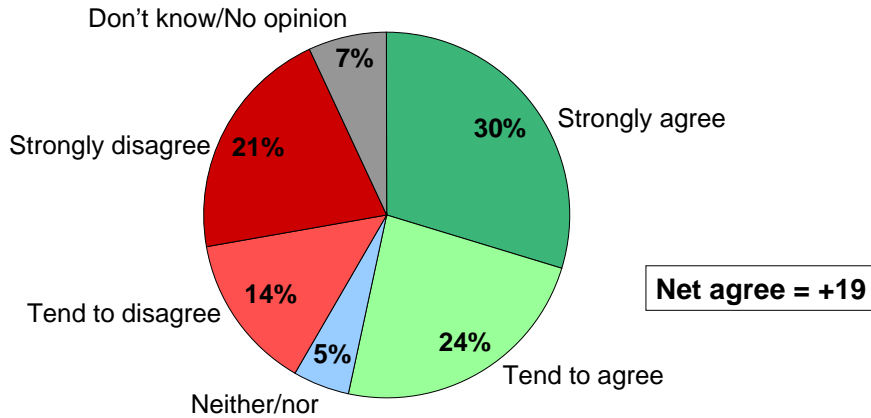
Following the Liberation of the Island from enemy occupation in 1945, and the report of a distinguished Privy Council Committee, under the chairmanship of the then Home Secretary, the States enacted legislation in 1948 which brought about significant constitutional change. The Rectors and the Jurats ceased to be members of the States, and were replaced by 12 Senators and an increased number of deputies. The process of separation of judicial from legislative power which had begun in 1771 was effectively completed. The Jurats remained members of the Royal Court but no longer exercised legislative functions. The Bailiff remained President of both the Royal Court and the States. In the latter capacity however he takes no part in political debate and has no right to vote, his casting vote having been abolished in the States of Jersey Law 2005.

The constitution of the States and its procedures are set out in the States of Jersey Law 2005, and in the Standing Orders made there under.

The feedback that I receive, whilst mixed, is that the Constables should remain as they are, head of both the Parish and the honorary system. However, there are concerns in respect of their role and this will be covered later in this paper under paragraph (b).

Chart 23 – Parish constables

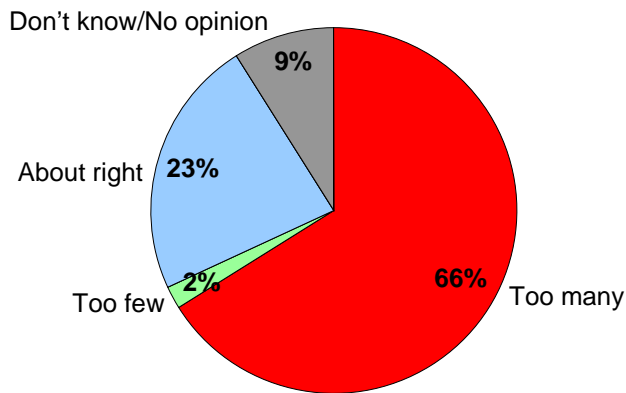
Q To what extent do you agree or disagree that Parish Constables should remain as members of the States?



Base: 1,295 Jersey residents aged 18+, interviewed by telephone, 20 July – 24 September 2006 Source: Ipsos MORI

Chart 18: Number of members

Q There are 53 States' members. Do you think this is:



Base: 1,295 Jersey residents aged 18+, interviewed by telephone, 20 July – 24 September 2006 Source: Ipsos MORI

Does reducing the term of office of a Senator devalue the position of Senator?

I stood for Senator as it gave me an Island-wide mandate – not for a 6 year term of office. Those holding an Island-wide mandate should have a different perspective on issues than those primarily elected to represent at Parish level.

There is no logical reason as to why there should be 12 Senators– a number strangely linked to the number of Parishes.

In business there is nothing worse than a Board that is too large. Similarly a General Election with too many candidates reduces the electors' choice. As voters get further down their list the quality of the candidate, in their eyes, diminishes.

The House will need to recognise that those with an Island-wide mandate carry a stronger mandate and that this is reflected in paragraph (a)(iv) of this proposition.

The reduction of members in this manner will;

- Streamline the Electoral process;
- Ensure representation within the Council of Ministers outside the Senatorial benches;
- Save approximately £160,000 per annum.

The Clothier Report came to the following conclusion –

“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. 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.”

This proposition does not “throw the baby out with the bathwater”. It recognises and embraces our links with the past and seeks to move forward in a controlled and measured manner. The status of Senators is achieved through the Island-wide mandate and can be enhanced if the candidates, selected or elected, are of high calibre (no comment!). By limiting the election of Chief Minister to someone who holds an Island-wide mandate (one of 8), this alleviates some of the criticisms levelled by Clothier.

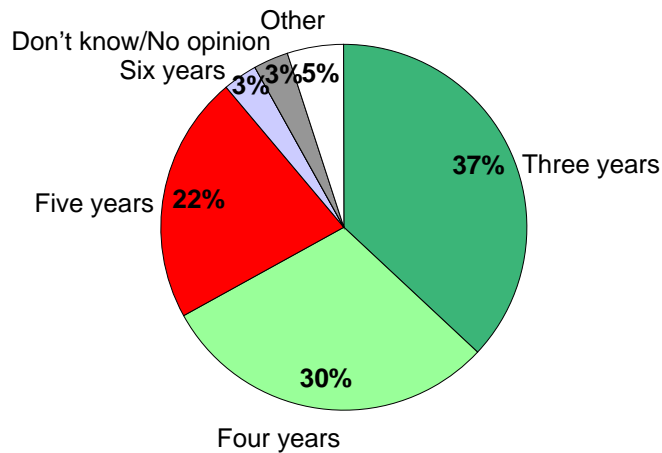
My own opinion of Clothier is that it was somewhat unrepresentative of the feelings of the true people of Jersey and was inadvertently manipulated to represent the opinions of a select, but vocal, few. The list of persons that made representations to the panel that appears at the end of the report resembles the Membership List of an exclusive Gentleman's Club rather than a cross-section of Islanders.

(iii) that the term of office of all elected members be changed to 4 years from the 2008 general election;

I was surprised that the MORI poll came up with the following result –

Chart 22 – Length of office

Q How long do you think the term of office of States members should be?



Base: 1,295 Jersey residents aged 18+, interviewed by telephone, 20 July – 24 September 2006 Source: Ipsos MORI

“Opinion about how long the term of office for members should be is generally in favour of 3 years (37%). Fewer think that a term should be 4 (30%) or 5 years (22%) and hardly any consider that six years would be suitable (3%).”

However it must be remembered that the current term of office is 3 years and this is therefore embedded in the sub-conscious of the respondents to the MORI poll. Indeed some respondents may have considered that the choice was between 3 and 6 years as these are the familiar voting terms. The question was–

How long do you think the term of office of States members should be?

READ OUT, SINGLE CODE

	%
Three years?	37
Four years?	30
Five years?	22
Six years?	3
Other	5
Don't know/No opinion	3

How many respondents said ‘Yes’ to Three Years (as opposed to Six) before the questioner moved on to the next question?

How many respondents gave thought to their answer, and gave a knee-jerk rather than reflective answer.

Without doubt it is certain that, given the structure of the poll, not one respondent was given the opportunity to give a measured and considered response to any of the questions.

Furthermore, those completely disillusioned with, or ignorant of, the election process would probably refuse to take part in the MORI survey. I, for one, have never agreed to answer a poll and never will due to the fact that I believe that they offer very little value and distort the truth.

A 4 year term gives certainty, which works well with the General Election concept which gives the electorate the opportunity for change. If adopted, this part of the proposition would result in General Elections in 2008, 2012,

2016, etc.

Clothier wrote – “We **recommend** that the electoral system of Jersey be revised so as to provide that the voters may vote on one day in a General Election for all Members of the States and for their Parish Connétable. This would be an important day in every responsible citizen’s calendar and not, as now, just another election. **The interval between elections should be not less than four years, nor more than five. This permits a body of opinion amongst government and those governed to take effect, while allowing time enough to consider the consequences.**”

If the 4 year term is agreed as set out in paragraph (a)(iii) the term of office for the Chief Minister, Ministers and all scrutiny panels and other Committees appointed after the election will also automatically be extended to 4 years. The Chief Minister and his or her Council will have four years in order to carry out the work detailed at the start of their term of office.

(iv) **that, from the 2008 general election, the Chief Minister should only be appointed from members holding an island-wide mandate, namely the Senators;**

The following is an extract from Clothier –

“The Chief Minister would choose his or her team of Ministers which he would present to the States for approval. Should that approval not be forthcoming the Chief Minister would submit a revised team of Ministers. These would choose the member or members they wished to assist them, subject to the approval of the Chief Minister. The latter should have the power to dismiss Ministers, but the substitute Ministers should be subject to States approval. We **recommend** that the Council of Ministers should be invested with sufficient powers to be able to give directions to the individual Departments if that became necessary. We would expect so compact an executive structure to have neither time nor inclination to become involved in the details of administration. The responsibility for external relations should be the province of the Chief Minister and his or her Department.”

There is no doubt that the position of Chief Minister is an extremely important role. As such every member of the Island must feel that they have had a voice in his or her selection. This can only be achieved if the Member has an Island-wide electoral mandate. It would be undemocratic for an Islander not to have a say in the underlying candidates for Chief Minister. I’m not proposing that the electorate chose the Chief Minister, I’m simply proposing that everyone must have the opportunity to vote for the candidates.

By reducing the number of Senatorial members to 8 the quality within the Senatorial benches will rise. The Chief Minister must possess characteristics that will endear him or her to the majority of Islanders. The electorate have to be able to trust their politicians, and you have to earn that trust.

(v) **election expenses by candidates seeking election to the States should be regulated, limited to amounts fixed by the States and monitored accordingly;**

The concept that a independent candidate or party member should be able to buy themselves a political seat must be eliminated. The U.S. electoral process, for example, is dominated by money to a far greater extent than other major democracies. Money is needed to buy advertising time and the services of pollsters and consultants who increasingly shape the electoral battle. With few restrictions on political contributions, rich individuals and companies have been able to wield enormous power – usually to the benefit of incumbents. The 2002 mid-term elections were no exception. Indeed candidates spent a record \$1 billion– including over \$300 million in television advertising alone – to get elected.

The influence of money is corrosive on politics. It makes the voters cynical about the motives of their politicians and less likely to vote. And it makes the politicians more beholden to the “special interests” – the lobby groups that have contributed heavily to their campaigns – than is healthy for the policy process.

This has made people fed up with the political process. There is no reason why a monetary limit cannot be set

with all invoices sent to the Greffier of the States and published after the election, but before the swearing-in. Any breach would be deemed to be unlawful and the candidate could have the election result over-turned. The parameters of expenditure would have to be very comprehensive and the process would have to ensure that actions of well-meaning friends do not have a fatal effect on election chances. There would need to be a degree of both flexibility and common sense.

Much work has already been done on this subject, and if this part of the proposition is successful the Privileges and Procedures Committee shall be charged with bringing the relevant proposition to the States in a timely manner. If they would like assistance in researching this issue I shall be happy to offer my services.

- (b) to agree that, from the aforesaid General Election date, the remuneration and expenses in respect of each Connétable should no longer be paid directly to the Connétable concerned but should be paid by the States to the relevant Parish to enable the Parish to determine how to distribute the sum;**

As Clothier wrote –

“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.

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.

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.

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.

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.

The Connétable is also regarded as “The Father of the Parish”. In this capacity he is called upon to make himself available to all his parishioners for advice on almost any problem they may have, business, domestic or other. Those Connétables who are diligent in the discharge of all these duties may be extremely busy and may have to devote much of their time to Parish business. It is a form of local government and as such useful and practical. We would not wish to recommend any fundamental change in the way this system works. On the contrary, we believe that the opportunity of a revised Machinery of Government should be taken to expand its remit with a view to reducing the workload of the States. There

is a tendency in the States to spend too much time on matters of only local importance, at the expense of more demanding considerations affecting Jersey as a whole. It should be open to the States to commit to the Parishes some, or part of some, of the public services. We would also like to see the Connétables taking steps to coordinate amongst themselves the various services over which they preside.”

As seen in Clothier, the responsibilities of the Constable are primarily towards the Parish rather than the Island Wide electorate. The oath of office confirms this view –

“OATH OF THE CONNÉTABLES

You swear and promise before God that you will well and faithfully discharge the duties and office of Connétable of the Parish of XXXXXX; you will keep and uphold the Queen’s Peace, opposing and arresting all those who attempt or commit any manner of crime, délit or contravention whom you will bring to judgment so that they may be punished according to their misdeeds, abiding in this respect by the directions of Her Majesty’s Attorney General; you will protect and uphold, to the best of your ability, the rights appertaining to the said Parish, and as touching the public welfare thereof, you will be guided by the advice and counsel of the Principals and Officers of the said Parish which Officers you will convene, or cause to be convened through your Centeniers, regularly to attend as necessary to the affairs of the Parish; you will execute the lawful orders of the Lieutenant Governor, of the Bailiff, of his Deputy and the Judges and Jurats of the Royal Court, attending the States when required to do so; and all this and your bounden duty you promise upon your conscience to perform.”.

“SERMENT DES CONNÉTABLES

Vous jurez et promettez, par la foi et serment que vous devez à Dieu, que bien et fidèlement vous exercerez la charge et l’office de connétable en la Paroisse de XXXXXX; vous garderez et ferez garder la paix de Sa Majesté, vous opposant à, et saisissant de fait, tous ceux qui tentent ou commettent toute façon de crime, de délit ou de contravention lesquels vous présenterez en Justice pour être punis selon leurs méfaits, vous conformant en ceci aux instructions de Monsieur le Procureur Général de la Reine; vous conserverez et procurerez, autant qu’il vous sera possible, les droits qui appartiennent à ladite Paroisse, vous réglant en ce qui concerne le bien public d’icelle par l’avis et le bon conseil des Principaux et des autres Officiers de ladite Paroisse lesquels Officiers vous assemblerez, ou ferez assembler par le moyen de vos Centeniers, régulièrement pour aviser aux choses dont il serait besoin concernant ladite Paroisse; vous exécuterez les mandements de Monsieur le Lieutenant Gouverneur, de Monsieur le Bailli, de Monsieur son Député et des Juges et Jurés-Justiciers de la Cour Royale en ce qui sera de leur charge respectivement, assistant aux Etats lorsque vous en serez requis; et de tout ce, promettez faire votre loyal devoir, sur votre conscience.”.

It can be seen that there is absolutely no mention that the Constable should act in the best interests of the Island (although I’m sure they do). That is why it is paramount that a politician with a parochial mandate does not hold the office of Chief Minister. It could further be argued that Ministerial positions should also be out of reach.

The Constable is regarded as “The Father of the Parish” and the head of the honorary system within the Parish. The maintenance of this honorary system is vital if we are to hold on to our heritage and character. In this capacity I feel that the Constable should be paid by the Parish an amount determined by the Parishioners. The standard salary and expenses should continue but hereafter paid to the Parish rather than the individual. The Parish can then determine the amount to be paid to their Constable.

This move brings the process right back to the Parishes. If the Constable agrees to a reduced salary, or forego his salary all-together, the Parish coffers will benefit. This move should strengthen the honorary system and remove some disquiet from hard-working honorary members.

- (c) **to charge the Privileges and Procedures Committee to bring forward for approval the necessary legislation to give effect to the proposals.**

There is no reason why the process cannot be changed in time for a 2008 election – all it needs is for someone to

roll up his or her sleeves and get on with it. If I am able to assist, and the Privileges and Procedures Committee want my assistance in this matter, I gladly offer my services as a co-ordinator reporting to them.

The terms of reference of PPC as set out in Standing Order 128, approved by the States in 2005, give clear responsibility for these issues to that Committee. The Committee, if charged to do so by the States, will be duty bound to bring the legislation forward as soon as practicable. It would, effectively, be a matter of political confidence in the Committee if it failed to deliver in a timely manner. The policy decision-making stage will be past if this proposition is adopted and I am informed that the legislation to make the changes suggested are not, in relation to the electoral and composition issues, unduly complex. The election expenses issue is slightly more complicated but could still be done in the time available before 2008.

Possible criticisms of this proposition

Too many candidates

Actually there will be less as this system avoids duplication. At the last election 7 unsuccessful Senatorial candidates went on to stand in the Deputies elections. This duplication will be avoided as candidates can only stand for one position. If they are unsuccessful they will not have the opportunity to stand again for a number of years.

Devalues the position of Senator

I stood for Senator as it gave me an Island wide mandate – not for a 6 year term of office. Those holding an Island wide mandate should have a different perspective on issues than those primarily elected to represent at Parish level.

Not enough time to put in place for 2008

This is a fallacy. Law drafting time can be found to get procedures in place by 2008. Where there is the political will a way can be found.

We need more time/we need to spend more taxpayers' money

How much more time? How much more taxpayers' money? How radical do you want the changes to be?

We need a referendum

Why? Is this so that the States Members and Civil servants can engineer the correct result? Don't the members of PPC speak to anyone?

Definition of a referendum –

- A vote on a single issue expressed as a 'Yes' or 'No' vote.
- *It is 'a way of exercising direct democracy within a system of representative democracy.'*
- A referendum is often used to decide in constitutional or moral issues (e.g. Membership of the EU or stem cell research in Switzerland.)
- Referenda can either be 'advisory' or 'binding'.
- Referendum questions cannot be biased in their wording

Significant referenda held in the U.K.

<i>Date</i>	<i>Where?</i>	<i>Questions</i>	<i>Result</i>
1973, March	N. Ireland	Should N.I. stay in the U.K.?	Yes 98.9%
1975, June	UK	Should U.K. stay in the E.E.C.?	Yes 67.2%
1979, March	Scotland	Should there be a Scottish Parliament?	Yes 51.6%
1979, March	Wales	Should there be a Welsh Parliament?	No 79.7%

1997, Sept.	Scotland	Should there be a Scottish Parliament?	Yes 74.3%
		With varying tax powers?	Yes 63.5%
1997, Sept.	Wales	Should there be a Welsh Parliament?	Yes 50.3%
1998, May	London	A London Mayor and London Assembly?	Yes 72%
1998, May	N. Ireland	Approval for the Good Friday Agreement?	Yes 71.1%
2004, Nov	North-East	A Regional Assembly for the North-East?	No 78%

Detail on referenda:

1973, Northern Ireland

- Despite large majority in favour of staying within the U.K. the referendum was boycotted by nationalist supporters, particularly Sinn Fein.
- Government hoped it would solve the debate of N.I. but it did little to appease those who were protesting against U.K. rule.

1975, U.K. on the E.E.C.

- Perhaps a biased campaign because the pro European group had collected up to ten times more money in donations than the anti-European campaigns and so they had more funds to spend on the campaign.
- Press backed the pro-European campaign.

1979, Devolution for Scotland and Wales

- Despite a Yes vote in favour of devolution for Scotland no legislation was drawn up, because there was such a low turnout and therefore the vote was repealed.
- In Wales there was little support for devolution so the issue was dropped for the time being.

1997, Devolution for Scotland and Wales

- Further referenda were held on this issue after Blair had stated in his Labour manifesto that this would be a key topic during his leadership.
- Scottish people voted on two questions giving them the opportunity to decide whether they wanted significantly greater power, by deciding tax levels.
- This time devolution was accepted after the referenda, despite only a slim majority for the 'Yes' vote in Wales.

2004, North-East Regional Assembly

- There was little interest in this referendum with the turnout only reaching 48%, perhaps because they people of the North-East felt that an Assembly would give them very little power anyway
- The vote was emphatically against the proposals, and due to this being a test case for other referenda on regional assemblies it appears that the policy drawn up by John Prescott, will now be thrown out.

Proposed referenda in the future

- There is likely to be a referendum held before the U.K. commit to entry into the European Currency. This however will not take place until the completion of Gordon Brown's five economic tests, which will show whether the country will benefit from the change. Currently there is little support for a change in currency because the U.K. economy is so strong at the moment with the pound.
- Also there could be another referendum held on Europe, but this would be over the new E.U. Constitution. However currently there are referenda being held on the issue in other countries, particularly France where there is said to be a 'No' outcome and therefore it would be unlikely that the U.K. would hold one after this vote of no confidence.

Arguments against referenda

- Result may not be decisive and there are alternate means of finding out public opinion, such as discussions with politicians.
- It is government decision to hold a referendum, so the public has to be given the chance to air their views as opposed to demonstrating their feelings when they want to.
- Wording of referendum question is very important and so if the government draws up question it could be biased towards their preference. There could be an imbalance of funding provided for both sides of the argument.
- Most issues are too complicated to be condensed into a simple ‘Yes’ ‘No’ vote. This is one of them.
- Referenda undermine the collective responsibility of the States Assembly.

A referendum does not always decide what action the Government will take – they may go against the public’s decision.

This is, quite simply, not a suitable subject to decide by referendum. The only reason many members ask for a referendum is that they have no faith in the States Assembly to make the decision themselves. The term ‘turkeys voting for Christmas’ is often recited.

This proposition is an opportunity to make a decision – not to defer and pass responsibility on. The proposition will give the people a General Election, it reduces the number of States Members, it ensures that everyone will have had an opportunity to vote for the candidate of Chief Minister, it strengthens the Constables ties with the Parish, it prevents candidates ‘buying’ electoral power, it stops rejected candidates entering the back door, and, perhaps most surprisingly in this day and age, it actually saves taxpayers’ money.

There is a massive risk in holding a referendum. If nothing is done as the proposed alternatives are all unpalatable in their entirety – remember it has to be ‘yes’ or ‘no’/voters cannot opt for parts – then the majority of voters will simply give up.

Why pay Constables funds to the Parish?

The Constables are head of the honorary system and serve their Parish. It is therefore up to Parishioners to determine their worth. The Parish will not be out of pocket as they will receive a payment equivalent to the pay of other Members. It brings his/her employment back to the Parish, where it belongs.

Who will oversee the elections?

It will be the same as the existing procedures for the election of Constable.

Too many people to vote for will be confusing?

Definitely not. The exact logistics would have to be decided, but under one scenario, which I use as an example, the electorate will receive 3 slips of paper, colour-coded and clearly marked, for example –

White – Constable (one seat)
 Blue – Deputy (X seats)
 Red – Senator (8 seats).

The slip would clearly state the maximum number of votes.

Given that other countries hold elections with over 100 candidates, and others use proportional representation, this is a highly simplistic electoral process.

The proposition does little to address the imbalance in representation for Deputies under the current numbers.

The current electoral system has a weakness in that there is an imbalance in representation for Deputies and

Constables. The usual example quoted is the St. Lawrence versus Grouville situation. Both parishes had an identical population in the 2001 census (4,702) but one has 2 Deputies, and the other only one! (see below).

	Population 2001 Census	Current Deputies	Residents per Deputy
Grouville	4,702	1	4,702
St. Peter	4,293	1	4,293
St. Clement	8,196	2	4,098
St. Ouen	3,803	1	3,803
St. Martin	3,628	1	3,628
St. Brelade	10,134	3	3,378
St. Helier	28,310	10	2,831
Trinity	2,718	1	2,718
St. John	2,618	1	2,618
St. Saviour	12,491	5	2,498
St. Lawrence	4,702	2	2,351
St. Mary	1,591	1	1,591
TOTALS	87,186	29	
Average			3,006

	Population 2001 Census	Current Deputies & Connétable	Residents per Parish representatives
St. Clement	8,196	3	2,732
St. Helier	28,310	11	2,574
St. Brelade	10,134	4	2,534
Grouville	4,702	2	2,351
St. Peter	4,293	2	2,147
St. Saviour	12,491	6	2,082
St. Ouen	3,803	2	1,902
St. Martin	3,628	2	1,814
St. Lawrence	4,702	3	1,567
Trinity	2,718	2	1,359
St. John	2,618	2	1,309
St. Mary	1,591	2	796
TOTALS	87,186	41	
Average			2,126

Before we do anything drastic for accountancy-minded neatness, let us first examine how we got into the current position. The following article was written by Anna Heuston for the Jersey Evening Post as part of the Pride in Jersey series, marking the Island's 1204-2004 celebrations. It is reprinted with the permission of the author and serves as a reminder of both our heritage and our responsibilities as politicians. We are simply the caretakers of this Island for future generations.

Jersey's 12 parishes date back almost a millennium and are a defining characteristic of the Island.



“While in England the original parochial system has dissolved into regional organisation and in France it has been lost by the reforms of Napoleon, here it has remained a particular of Island life.

The parish system is thought to have evolved during the five hundred years before the Normans arrived in 933 AD.

The original parishes would have grown around the parish church and natural features such as streams would have marked their boundaries. The five central parishes of St. John, St. Lawrence, St. Mary, St. Peter and St. Savio are thought to date from around 475 AD and all have biblical dedications. Although by the time the Normans arrived there were 12 parishes.

These 12 – Grouville, St. Brelade, St. Clement, St. Helier, St. John, St. Lawrence, St. Martin, St. Mary, St. C. St. Peter, St. Saviour and Trinity- have not altered their boundaries since. It is thought that the parishes may have evolved as a result of a system of payment to the church enforced in 779 AD.

Under the tithe system, derived from the Old Testament, it was made compulsory for every tenth sheaf of corn grown by an estate to be given to the church. It then became necessary to set out which estates paid which churches and these divisions may have given rise to the establishment of the original parish boundaries.

These boundaries are now laid down in ordnance survey maps of the Island, but during the 17th century there is evidence that they were kept in check by solemn processions that beat out the dividing line at least once a year.

When the Duke of Normandy incorporated the Channel Islands into the Duchy in 933 he introduced a feudal system into the Island which could also have had an influence over the parish system.

Under this arrangement the Island was divided into fiefs under the ownership of Seigneurs. Each fief was a grant of land on which dues in kind and labour had to be paid by the tenants.

These fiefs did not necessarily observe the parish boundaries although it is likely that the parish assemblies and their elected officials exercised some influence over the powers of their new overlords. A system of parish rule then developed, consisting of both ecclesiastical and civil rule.

Under the parish system each parish has an elected Constable or Connétable. The first known reference to a Constable in the Island dates back to 1462 and the person who takes on this role is often referred to as the father of the parish. He is the parish representative in the States and head of the honorary police in his parish.

He and his elected Centeniers and Vingteniers form the honorary police and would originally have been responsible for up to 100 houses. Those houses would have fallen into divisions within the parish boundaries still called vingtaines. There is now a parish hierarchy leading from Constable’s Officer to Constable, and officers of the parish also include procureurs de bien public, or public trustees, and church wardens. All are elected by the parish assembly and are unpaid apart from the rector who is appointed by the Crown.”

As can be seen the Parish system has evolved over many hundred years and is something that should be cherished. It is not a part of our history that should be tampered with out of electoral convenience.

The problem here is that the smallest Parish by population would dictate the size of representation if we are looking for perfect distribution whilst retaining the Parish system and the principle of representation by both a Constable and at least one Deputy. If we were to equate representation on the St Mary model there would be 109 politicians in the Chamber! It must also be remembered that population is a fluid moving target. For example, the

development of Goose Green in St Lawrence may increase the population of that Parish by over 7%.

The adoption of electoral constituencies would, in my opinion, be an unnecessary nail in the heritage coffin. The Parish system is Jersey and must be protected at all costs. Nothing must be done that puts it in even the remotest danger and the current unbalance is acceptable.

This proposition will –

- **Give the people a General Election and the ability to ‘change’**
- **Reduce the number of States Members**
- **Ensure that everyone will have had an opportunity to vote for the candidates for Chief Minister**
- **Strengthen the Constable’s ties with the Parish**
- **Prevent candidates ‘buying’ electoral power**
- **Stop rejected candidates entering the back door**
- **Save taxpayers’ money**
- **Hold on to our Heritage**
- **Nurture the Parish system**
- **Bring politics back to the people.**

Financial and manpower implications

There are both manpower and financial implications inherent within this proposition. Fortunately the financial implications are positive, as a reduction in States Members by 4 Senators will save in excess of £1,600,000 over 10 years. The manpower implications relate to law drafting time and the burden placed on the Privileges and Procedures Committee. In respect of the former I am advised that the legislative changes that will be required are not too onerous; in respect of the latter I offer my services to help co-ordination of the process.