

# STATES OF JERSEY



## COMPOSITION AND ELECTION OF THE STATES: REVISED STRUCTURE (P.72/2009) – FOURTH AMENDMENT

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Lodged au Greffe on 4th September 2009  
by Deputy of St. Mary

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STATES GREFFE



COMPOSITION AND ELECTION OF THE STATES: REVISED STRUCTURE  
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**PAGE 2 –**

- (1) In paragraph (a), for sub-paragraphs (i) and (ii), substitute the words “37 members known as Deputies elected by references to parishes or districts within parishes and 12 members known as Senators elected on an island-wide basis, with all 49 members serving for a 4 year term”.
- (2) In paragraph (b) for the words “the proposed general election, all 49 members of the States should be elected on a single general election day and for a common term of office of 4 years” substitute the words “the proposed elections, all 37 Deputies should be elected on a single general election day every 4 years and the 12 Senators should be elected at elections in the intervening 3 years, with 4 being elected each year”.
- (3) In paragraph (d)(i) for the words “the precise boundaries and size of the proposed 6 large electoral districts” substitute the words “the precise number of Deputies to be elected in each of the parishes and parish districts, having due regard to the principle of proportionality and adjusting parish district boundaries as necessary to achieve this aim”.
- (4) In paragraph (d)(ii) for the words “arrangements to allow any of the 6 Senators elected in 2008 who wish to do so to be permitted to resign from office and stand in the 2011 elections for Connétables or Deputies with the resignation not taking effect until the swearing-in day of the successful candidates in that election, with any vacancies arising, for any reason, in the positions of those 6 Senators from that swearing-in day not then being filled” substitute the words “arrangements to move from the current electoral cycle for Senators to the proposed staggered system of electing 4 Senators every year (except in every 4th year when there are elections for Deputies)”.
- (5) In paragraph (e) for the words “general election” substitute the word “elections”.

DEPUTY OF ST. MARY

## REPORT

### INTRODUCTION

1. This amendment takes as its point of departure the second amendment to P.72/2009 by the Connétable of St. Clement.
2. I believe it offers a substantial improvement to the Connétable's amendment. It also offers the same substantial improvement to the third amendment to P.72, that of Deputy Pitman, which has only been presented as a separate amendment for technical reasons, and is in fact an amendment to that of the Connétable.
3. I believe it also offers considerable benefits over Deputy Hill's amendment, and to the original proposal of the PPC.
4. The Connétable of St. Clement's amendment seeks to have a States chamber consisting of one class of States member only, viz. the deputies for individual parishes or districts within the parishes. In addition, all parishes, under the Connétable of St. Clement's proposals, would have a minimum of 2 deputies.
5. This fourth amendment proposes "37 deputies on a parish basis plus 12 Senators on an island-wide basis" instead of the Connétable of St. Clement's proposal for "49 deputies on a parish basis".
6. To make the election of the Senators practicable, they would be elected for a term of 4 years, four at a time, in the 3 years between the years when the elections for deputies take place.

### SUMMARY OF THIS REPORT

7. **This amendment –**
  - **is the nearest to what the public have said they want;**
  - **preserves the island mandate;**
  - **preserves representation at a parish level;**
  - **scores best overall on the key criteria for electoral reform: proportionality, representation, involvement and public opinion.**
8. The MORI polls of 2006 and 2007 show clearly that the island-wide mandate and having politicians who are concerned with tackling issues on an island-wide basis are their top priority. This desire is impossible to square with keeping the Connétables in the States as proposed by PPC, or with electing only parish-based representatives as proposed by the Connétable of St. Clement or by Deputy Pitman. **This fourth amendment is the only one before the Assembly which preserves the island-wide mandate.**
9. The Report accompanying P.72 shows that the option of an Assembly with only parish-based representatives, as proposed by the Connétable of St. Clement and Deputy Pitman is extremely unpopular with the public. So too is the notion of multi-member constituencies. And yet these are the options

being offered for the approval of the States by PPC and by the existing amendments.

10. I do however agree, and I suspect many other States members do too, with the arguments put forward by the Connétable of St. Clement for the importance of the link between the Parishes and the States. I believe that keeping locally elected Deputies would have the support of the public, but only in the context of an Assembly which also has members elected on an island-wide mandate.
11. **This fourth amendment is the only one before the assembly which preserves local representation coupled with a form of wider representation which has public support.**
12. Proportionality is also a key criterion for electoral reform. Solutions should be measured against the need to try and achieve a fair distribution of seats. The present situation is so unfair as to be unsustainable, and I think that this is generally agreed.
13. **With regard to proportionality, my amendment is considerably better than the proposals of PPC, much better than those of the Connétable of St. Clement and Deputy Pitman, and only loses out to the amendment of the Deputy of St. Martin.**
14. Representation is another key issue. It is vitally important that a member of the public has a choice of representatives to whom they can turn. This ensures that they can find a States member to take their case forward who they feel they can trust, and who they feel comfortable dealing with. At present they have their Connétable, their Deputy or Deputies and the Senators also. This is indeed an abundant choice.
15. In the Connétable of St. Clement's proposal (and in Deputy Pitman's), in a small parish or small district, this choice will shrink to just two. This is a major reduction in the quality of political representation and represents a serious loss from the existing situation. In both the proposals of Deputy of St. Martin and the amendment of the Deputy of St. Martin, there is the wider representation afforded by the multi-member constituency format. **The 12 Senators of my amendment, coupled with the parish or district Deputy or Deputies give the widest representation for members of the public.**
16. Involvement is the final key issue. There are two strands to this – first the issue of the general election, and second the issue of general involvement in politics.
17. I accept that a general election is attractive. It is also popular with the public. It would probably generate, at least initially, a surge of interest. But so too will any large-scale change to the system.
18. **My amendment combines the advantages of a single large-scale election for 37 Deputies, which allows for a complete change to the political complexion of the Assembly “at one fell swoop” with the advantages of ensuring that the electorate has the chance, every year, to vote elected politicians in and out of the States and to send a message to the politicians.**

19. It also preserves the advantages of the present system of Deputies who are elected at local level and Senators who are elected at island level. Jersey lacks a wide range of political NGO's and groups which allow people to become interested in politics. It also does not have a developed party system which performs the same function.
20. The ability therefore to get elected as a Deputy and then to "step up" to the island-wide mandate is therefore a vital and necessary part of the way our democracy works.
21. In addition I believe that the argument that the smallest districts or parishes allow members with very small mandates to become Ministers and that this is a weakness has some validity, and the existence of the island-wide mandate is a challenge to such Deputies, should they become Ministers, to stand for the wider mandate.
22. In conclusion, the situation that the Assembly finds itself in with regard to this latest attempt at electoral reform is highly unsatisfactory. PPC have rightly seen electoral reform as a priority, but their proposals do not command full support, which is most unfortunate, and we are now faced with an array of four amendments. Part of the reason for this lack of wholehearted support is that the PPC have demonstrably not thought the issues through.
23. **The States would be very unwise to accept proposals which fly in the face of public opinion and which are based on such a deeply inadequate report.**

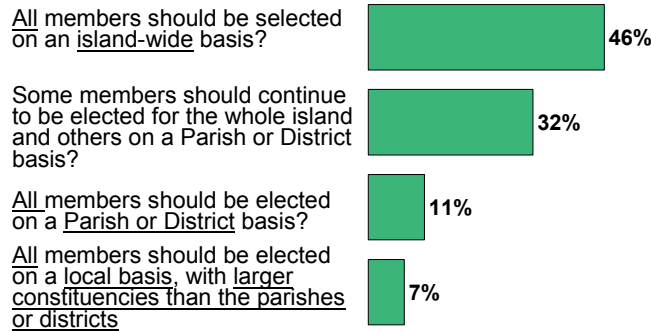
## REPORT

### **Public opinion – the island mandate**

24. This amendment takes most account of the wishes of the public, as expressed in the MORI poll of 2006.
25. First the question of the island-wide mandate. The MORI poll of 2006 investigated the views of a sample of 1295 islanders about the various elements of a reform package. The poll showed that over  $\frac{3}{4}$  of residents (78%) thought the island mandate is important and should be retained.
26. I reproduce below the chart of this finding, from page 12 of PPC's report accompanying P.72:

## Chart 20 - Constituencies

Q At present, some members are elected by the whole island, while others are elected on a Parish or District basis. Do you think that:



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

27. This 78% figure is higher than any other preference expressed in the figures given to us by PPC in the report accompanying P.72. It is, for instance, higher than the figure wanting a general election (71%) (P.72, chart, page 10) or the figure saying that 53 States members was too many (66%) (P.72, chart, page 13).
28. Public opinion is not conclusive in this whole question of electoral reform. But members should take into account that the figure wanting an island mandate is the largest single preference expressed by our public and if they reject this then they should have good reasons for doing so.

### Public opinion – representation at parish level

29. Second the question of representation at parish level. The public clearly want their elected representatives to deal with island issues as island politicians. As PPC’s Report says (paragraph 3.3.3, top of page 13):

*“The findings on the importance of the Island-wide mandate appear to be reflected in the 2006 MORI question on the rôle of members, where the most significant issue identified was that members should run the Island as a whole, with the 2nd most significant rôle being ‘representing all people in Jersey’.”*

30. This finding clearly supports the need for the island mandate or something like it. But the PPC Report continues:

*“The number of respondents who believed that the most important thing for States members to do was run the Island as a whole was over double the number who believed that a member’s most important rôle was representing people in their constituency, with only 32% of respondents choosing this latter response.”*

31. Personally, I think that “only” is an odd word to choose when referring to 1/3 of the sample, and that this “only” 32% should be listened to. I remind members of the comments of the Connétable of St. Clement in his report, when he underlines the importance of the Parishes in island life and states that

there must be a link between Parishes and the States (Report of Second Amendment, page 4, paragraph 3) and perhaps more importantly, where he points out that residents of smaller parishes stand to be “out-voted” by residents of larger parishes within the multi-member constituencies proposed by both PPC and by the Deputy of St. Martin. (Report of Second Amendment, page 4, paragraph 8).

32. I think that the public would support retaining the election of parish and district-based representatives, but only in the context of members with an island mandate being in the States too. My amendment preserves the link between the Parishes and the States in a democratic and accountable way.

#### **Public opinion – multi-member constituencies**

33. Both PPC’s original proposals in P.72 and the proposals of the Deputy of St. Martin contain multi-member constituencies. I do have sympathy with the notion of multi-member constituencies, as they alone can achieve a good degree of proportionality, but they have one fatal drawback, which is that they have never gathered support from the public.
34. In “Chart 20” derived from MORI 2006 and included in the P.72 Report and reproduced above, the notion of multi-member constituencies gets the lowest vote from the public at 7%. This low figure is repeated in the admittedly deeply flawed opinion poll of MORI 2007 where it scores fourth place in the “preferred option overall” table with a score of 11% trailing behind Options 1,3 and 5, with 31%, 24% and 17% respectively.
35. If multi-member constituencies simply do not have the support of the public while the island-wide mandate commands massive and steady support, then there would have to be compelling reasons indeed for choosing multi-member constituencies over the island-wide mandate. Why would the States seek to go to the public with a proposal which they have said they do not want?

#### **Public opinion – all members elected on a parish basis**

36. This option does not command public support either. “Chart 20” from MORI 2006 shows that this option comes a poor third to the top 2 options: all members elected on an island-wide basis, and some members elected on a whole island basis, and others on a parish or district basis (the option being put forward in this amendment). (see chart reproduced above).
37. The public sense that there is something wrong with this solution, and they are quite right. My amendment keeps the advantages of having locally elected Deputies, whilst adding the members elected on an island-wide mandate which the public wants, for all the reasons mentioned in this Report.

#### **Public opinion – conclusion**

38. Public opinion cannot be the sole decisive factor in this debate – the questions asked in opinion polls are simplified and cannot take into account all the ramifications of any proposed option. But the MORI 2006 exercise simply asked people to rank elements of possible solutions, not whole solutions, and so is the best guide we have to what the public would like to see.

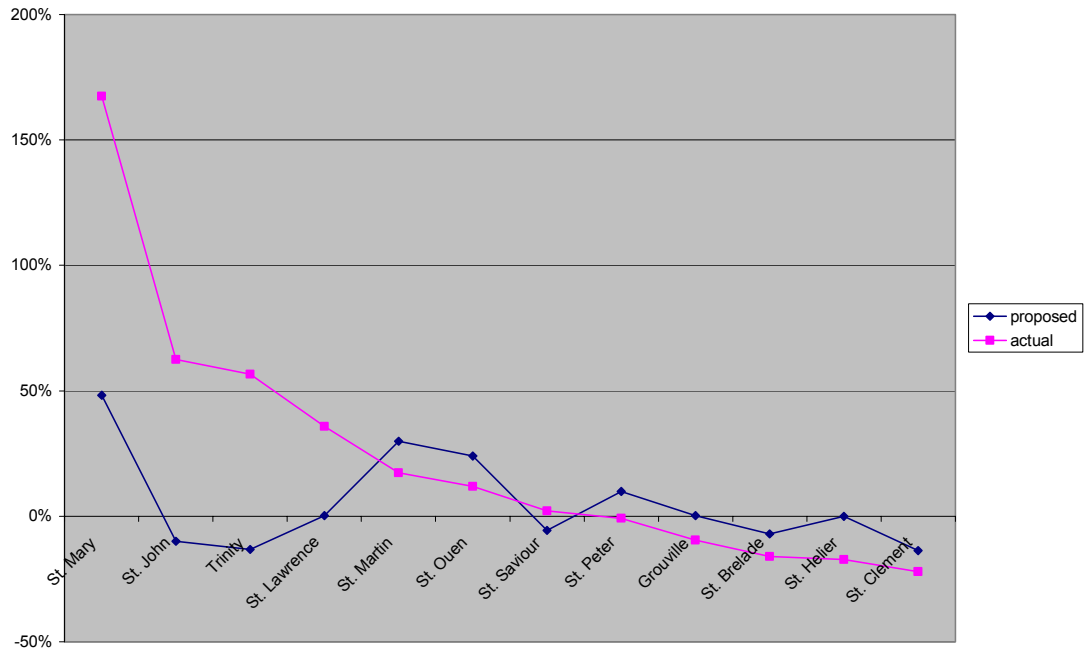


39. It is absolutely clear from MORI 2006 that all the other options set public opinion to one side. There have to be compelling reasons for doing this, and there are none.

### Proportionality

40. The chart below shows just how serious the situation at present is, and how important it is that something is done.

SHOWS OVER AND UNDER REPRESENTATION: ACTUAL VERSUS PROPOSED, BY PARISH



41. In this chart, the further away from the 0% line that a point is the more unproportional is the situation in that parish. So, for example, parishes with points way above the line are vastly over-represented, parishes with points below the line are under-represented. If all the parish points lay along the 0% line, this would represent “perfect proportionality,” whereby the population would be evenly shared out to the elected deputies.<sup>1</sup>
42. Of course if one is to take account of Jersey’s unique history then the target of “perfect proportionality,” is impossible to achieve. But it should certainly be a target to aim at, and solutions should be measured against the need to try and achieve a fair distribution of seats.

<sup>1</sup> NOTE TO CHART The “actual” line is based on the 2001 census figures as used by PPC, with the existing count of 29 deputies and 12 Constables; The “proposed” line is based on 2001 census figures as used by PPC, with the proposed count of 37 deputies, allocated to achieve the best fit. Other variations are possible – the detail of the allocation is left to PPC to bring proposals to the House. But the chart gives a clear idea of the advantage to be gained.

43. In almost every parish the solution proposed here<sup>2</sup> is markedly more proportional than what exists now. At present only 4 parishes are underrepresented, and this may seem to be “not too bad” until you consider that these are the biggest parishes (except St. Saviour) so it is the biggest populations that are losing out.
44. By keeping 12 States members on an island mandate, and by not insisting that the smallest parishes “need” two representatives each, the solution which I am proposing is inevitably more proportional than that of the Second and Third Amendments (those of the Connétable of St. Clement and Deputy Pitman). And in fact, the Connétable of St. Clement, and Deputy Pitman both admit that this is a shortcoming of their solution.
45. The Connétable of St. Clement says for example:
 

*“The second amendment may not suit those who favour mathematical exactitude, but ensures that each Parish maintains at least the same number of directly elected States members as at present.”*
46. The reason they both insist that the smallest parishes retain their 2 members is because they recognise that diverse representation is important. But their solution comes nowhere near what is required – see the section on representation below.
47. So they end up with a solution which is so unfair as to carry within it the seeds of its own destruction.
48. Privileges and Procedures Committee’s multi-member constituencies would be more proportional than the solution of my amendment, but their inclusion of the completely unproportional Connétables, representing at one end of the scale 1500 odd souls, and at the other 28,000, makes their proposal fail in this regard.
49. Only the first amendment, that of Deputy Hill, scores higher than the solution proposed here.

### **Representation**

50. By representation I mean the number of members of the States to whom someone can turn if they have an issue which they want taken up – those members in whose election that person has taken part.
51. This issue is completely ignored by PPC in their report.
52. I deal with this issue in my Summary above, and I reproduce those comments here for ease of reference.
53. It is vitally important that a member of the public has a choice of representatives to whom they can turn. This ensures that they can find a States member to take their case forward who they feel they can trust, and who they feel comfortable dealing with. At present they have their Connétable, their Deputy or Deputies and the Senators also.
54. In the Connétable of St. Clement’s proposal (and in Deputy Pitman’s), in a small parish, this choice will shrink to just two. This is a major reduction in

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<sup>2</sup> In the provisional version which I have worked out.

the quality of political representation and represents a serious loss from the existing situation. In both the proposals of Deputy of St. Martin and the amendment of the Deputy of St. Martin, there is the wider representation afforded by the multi-member constituency format. **The 12 Senators of my amendment, coupled with the parish or district Deputy or Deputies give the widest representation for members of the public.**

### **Involvement**

55. Privileges and Procedures Committee make a lot of low voter turnout in their report, but nowhere do they actually try to find out the reasons for this low turnout. They also talk about public dissatisfaction with the States and the lack of involvement which this brings. But again there is no discussion of why this might be so and what should be done about it.
56. It is true that any change in the system will bring about a temporary surge of interest. But we need to find out the real reasons for the worrying lowering of turnout, and the worrying level of dissatisfaction with the States and then try to take effective action to fix the problems.
57. In the absence of evidence, I maintain that what amounts to a general election every 4 years for 37 deputies, and a rolling election for 4 Senators in each of the other 3 years allows the electorate both a chance to effect major changes “at one fell swoop” every 4 years each year and a chance to affect the composition of the States and to send political messages to the Assembly.
58. Privileges and Procedures Committee themselves refer to this issue as follows (Para. 3.3.5):  
  
*“For both the Executive and the scrutiny function, a 4 year cycle would also enable a sufficient time for policies to be developed and reviewed, whilst still allowing the electorate to influence the political process through the ballot box at reasonably frequent intervals.”*
59. I think that the opportunity to “influence the political process through the ballot box”, every year is a more “reasonably frequent interval” than every 4 years.
60. I deal with the other aspect of involvement, namely the options for members of the public to get interested and then involved in the public and political life of the island in my Summary above, and I reproduce those comments here for ease of reference.
61. My amendment also preserves the advantages of the present system of Deputies who are elected at local level and Senators who are elected at island level. Jersey lacks a wide range of political NGO’s and groups which allow people to become interested in politics. It also does not have a developed party system which performs the same function.
62. The ability therefore to get elected as a Deputy and then to “step up” to the island-wide mandate is therefore a vital and necessary part of the way our democracy works.

### **The elections for Senator**

63. An election for 12 Senators at once is totally impractical, but the island-wide mandate is a vitally important part of any reform which will command the approval of the public. So I propose that they would be elected 4 at a time, in the 3 years intervening between the elections for the deputies.
64. This would lead to manageable elections for Senator. I will not spell out the details here but I can assure members there are reasons why this would be so.
65. In my proposition I leave the details of the transitional arrangements for PPC to work out and bring to the States as is only right and proper. But just to forestall one possible criticism at the outset. In 2011 the terms of office of the 6 Senators elected in 2005 expire. If this amendment were adopted, then the House would be short of members in that year because the first batch of 4 Senators would only come into the States in the following year 2012.
66. I would suggest to PPC that this shortfall be overcome by including in the transitional arrangements a one-off situation whereby the first batch of Senators are elected in 2011, for a term of 5 years.
67. Using this method, the situation would stabilise by 2014 with a States Assembly of 49 members consisting of 37 Deputies and 12 Senators.

### **Note to the amendment**

68. This amendment was originally drafted as an amendment to the second amendment to P.72 by the Connétable of St. Clement.
69. This amendment brings one basic change: to move from the Connétable of St. Clement's proposal for "49 deputies on a parish basis" to "37 deputies on a parish basis plus 12 senators on an island-wide basis". The Senators would be elected for a term of 4 years, four at a time, in the 3 years between the years when the elections for deputies take place.
70. To give effect to the main amendment there were several consequential amendments, some of which had to be to the original proposition P.72. Therefore this amendment, which was originally conceived as an amendment to the second amendment to P.72, is now being presented as an amendment in its own right.
71. The change from "amendment to an amendment" to "amendment to a proposition" meant that it became impossible to achieve the 2 week deadline, operating as I was from holiday with unexpected difficulties with internet access, emailing, etc.
72. I would hope that in the interests of giving this question of electoral reform the proper consideration it deserves, members will allow this amendment to be discussed along with the other amendments.

### **Financial and manpower implications**

There are no manpower implications. The financial implications are identical to those set out in P.72/2009, namely that if this proposal is adopted there will be an overall reduction in the membership of the Assembly of 4 members which would lead to an annual saving of some £177,000 if the basis for members' remuneration remained the same as at present.

**PROPOSITION AS AMENDED BY THESE AMENDMENTS**

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

- (a) to agree that the current composition of the elected membership of the States should be amended and that from 2011, subject to the transitional arrangements set out in paragraph (d) below, the elected membership of the States should be 37 members known as Deputies elected by references to parishes or districts within parishes and 12 members known as Senators elected on an island-wide basis, with all 49 members serving for a 4 year term;
- (b) to agree that from 2011, subject to the transitional arrangements set out in paragraph (d) below and any further transitional arrangements to be agreed in due course relating to the date of the proposed elections, all 37 Deputies should be elected on a single general election day every 4 years and the 12 Senators should be elected at elections in the intervening 3 years, with 4 being elected each year;
- (c) to agree that the reform proposals set out in paragraphs (a) and (b) above should be submitted to the electorate in a referendum to be held as soon as practicable and that they should not be pursued unless supported by a majority of those voting in the referendum;
- (d) to charge the Privileges and Procedures Committee, if the principle of reform is supported in the referendum, to bring forward for approval by the States –
  - (i) detailed proposals regarding the precise number of Deputies to be elected in each of the parishes and parish districts, having due regard to the principle of proportionality and adjusting parish district boundaries as necessary to achieve this aim; and
  - (ii) legislation to give effect to the changes, with appropriate transitional arrangements including, in particular, arrangements to move from the current electoral cycle for Senators to the proposed staggered system of electing 4 Senators every year (except in every 4th year when there are elections for Deputies);
- (e) to charge the Privileges and Procedures Committee to consult as appropriate with all relevant stakeholders and bring forward for approval by the States a recommendation on the most appropriate period of the year for the proposed elections;
- (f) to charge the Privileges and Procedures Committee to continue research on the merits of alternative methods of voting to replace the current ‘first past the post’ system and to report to the States with recommendations.