

STATES OF JERSEY



DRAFT STRATEGIC PLAN 2015 – 2018 (P.27/2015): AMENDMENT

Lodged au Greffe on 19th March 2015
by Deputy S.Y. Mézec of St. Helier

STATES GREFFE

DRAFT STRATEGIC PLAN 2015 – 2018 (P.27/2015): AMENDMENT

PAGE 2 –

After the words “in the attached Appendix” insert the words –

“, except that in the chart on page 14 of the draft Plan after row 4.8 there shall be inserted an additional row as follows –

	Desired outcome	Key areas of focus 2015 – 2018
4.9	An improved municipal government structure and powers for the Parish of St. Helier.	Agree to reform the municipal government structure for St. Helier to increase democratic participation and accountability so that decisions made are more receptive to the wishes of residents and businesses

”

DEPUTY S.Y. MÉZEC OF ST. HELIER

REPORT

The purpose of this amendment is to add into the discussion of the “New Deal” for St. Helier the prospect of reforming the local authority structure to better act as a municipal government for a capital ‘city’ in the 21st Century.

The Council of Ministers’ inclusion of St. Helier as a unique strategic priority is an admission that St. Helier is a special case which can, and must, be looked at as our capital, separately to other Parishes, to ensure that it is best able to fulfil its role as our Island’s main commercial centre, as well as home to a third of the population.

In fulfilling the already stated aim of creating a “new partnership with the Parish of St. Helier”, it is vital that the Parish structure is fit to be able to take on any potential new responsibilities, or to provide the appropriate communication streams in a way that can be genuinely said to have a mandate from those who will be directly affected by potential changes and decisions which are made.

Without a sensible administrative settlement to make the proposals set out in the Strategic Plan sustainable, it runs the risk of simply leading to a brief burst of building and social dumping, leaving a ramshackle structure unable to meet the people’s needs when future Ministers’ attentions have moved on. It is fundamental, as part of the wider aims being considered for St. Helier, that setting up a democratic and efficient structure be included within the initial proposals.

Currently the structure of Roads Committee and Procureurs du Bien Public is a system which originates from hundreds of years ago and which, despite many historic attempts, has remained largely unchanged in St. Helier. I believe that now is the time, with this renewed commitment to creating a better St. Helier, to look at how our municipal government system in St. Helier can be reformed to better fulfil its purpose, something which is several hundred years overdue.

For the long-term future of St. Helier, we need to ensure that the municipal government is one which is not only administratively up to the challenge of providing services, but crucially is also receptive to the democratic wishes of the people it represents, so that important decisions are made in a way which is line with the values of the community.

It would also provide grounds for devolving more areas of responsibility (and perhaps byelaw-making powers) to the Parish to be able to take the load off various States departments and provide better efficiency. Examples of areas which could be considered are entertainment licences, retail promotion and various parking matters. These areas of administration would be better dealt with at Parish level rather than bogging down States departments.

A Brief History

There have been calls for reform of the municipal government structure of St. Helier going back hundreds of years and originating from different sections of St. Helier society. An in-depth overview can be found at **Appendix 1** (a discussion document prepared by St. Helier Roads Committee member and local historian Mr. Geraint Jennings).

As is well documented in the book “The Triumph of the Country” by John Kelleher, the history of St. Helier has often been a very different story to the rest of the Island, not just politically but demographically and commercially.

Throughout the 1800s, as methods of travel improved, St. Helier became better connected to other parts of the world for more business and trade opportunities. St. Helier developed itself as a centre of commerce quite distinct from the rural Parishes.

Inevitably, as commodities and people move, so do ideas and, as St. Helier developed itself into the capitalist economy (a relatively new concept in Jersey at the time), those business leaders of the day became concerned that an administration structure (which they relied upon for essential services and licensing) was based on a pre-capitalism system that suited the 11 rural Parishes, but was not conducive to their conducting business in what was now a fledgling and bustling town engaging in commerce around the British Empire and France.

For those business people, having a municipal government that was more receptive to their needs was seen as an important way of providing a more vigorous local government system.

In 1892, the Chamber of Commerce set up a working party to make recommendations on the matter and came to the conclusion that a “Conseil Municipal de St. Helier” (headed by the Connétable with elected Conseillers forming sub-committees) would be able to better administer the Parish and take on responsibility for more services affecting infrastructure and amenities.

The scheme was presented to the States by Deputy Clement Le Sueur, however no progress was made.

In 1900, Deputy E.B. Renouf brought forward a similar proposal (see attached at **Appendix 2**) to establish a Municipal Council for St. Helier, which was overwhelmingly approved by the Parish Assembly. The States Assembly then approved the principle of creating a Municipal Council; however, the scheme simply never materialised and fell off into a black hole.

The *Loi (1914) sur la Voirie* put the Parish Roads Committees on a statutory basis, and made an exception for St. Helier to have 5 members (as opposed to the 3 that each other Parish elects) as a compromise, but one which many consider to have reached the end of its usefulness in the context of the 21st Century, where the needs and expectations of local government are widely different from what they were 100 years ago.

Today, the St. Helier Roads Committee effectively runs as the closest thing to a ‘conseil’ that we have in Jersey. The committee meets in public, the Procureurs attend, and it deals with many issues which do not actually fall into its statutory remit. This has evolved by convention, and cannot be expected to cope in the coming decades without the legislation catching up with what is current practice and providing a stronger footing for further evolution.

At the last election for members of the Roads Committee, only 69 parishioners voted (that is a turnout of 0.26% of those eligible!). This is clearly a completely insufficient mandate for the committee to claim to be representative of the Parish. A new model must attempt to resolve this.

A potential model

This amendment does not seek to prescribe a specific model to be adopted, but merely insists that the conversation takes place on potentially adopting a new model that will be constructed after consultation with all stakeholders and will take on a form which is agreed will best serve the needs of St. Helier.

It seems to be to be entirely logical that this possibility is at least featured on the agenda for discussion and consideration.

Should it be decided, after discussion, that there is no appetite for reform and that the current structure is suitable to play its part in the “New Deal”, then no such action will need to be taken, and this amendment does not compel the States to adopt a reformed model which is not actually desired.

Previous suggestions by the Chamber of Commerce and Deputy Renouf of a “Conseil Municipal de St. Helier” type of system seem to me to be eminently sensible, and if done properly would provide for a more democratic structure with the flexibility to better provide services to the people of St. Helier.

It is clear from the model provided by Douglas, in the Isle of Man, that a Council system has its advantages and should be considered. More information can be viewed here – <http://www.douglas.gov.im/>

However, this is all merely suggestion, and the composition and powers would be completely open to debate; and whatever system could be adopted must not simply be a rip-off of something which may work well in another jurisdiction but does not take account of the Jersey context and history of tradition of honorary service, etc.

The reform of the municipal government structure in St. Helier would in no way undermine the system of governance which continues to work well in the other Parishes, and cannot be said to be the start of a slippery slope to abolishing the current system which many hold dear, and which has served us well so far.

Example can be taken by the Isle of Man, where their equivalent of Parishes have a governance structure based in legislation as we do, yet they also have a “Borough” status as defined in law, which, as it happens, has only been adopted by the capital, Douglas, to provide a more relevant structure for a capital with significant commercial activity and population.

This proposition is also not intended to be a green light to diminish the position or responsibility of the Connétable of St. Helier, who should continue to act as the Father/Mother of the Parish, directly elected by the Public to serve in that role.

It must also be said that this proposal in no way intends to undermine the ultimate powers of the Parish Assembly as a democratic forum for the final say to be held in the hands of ordinary voters. It would take a very brave and foolish Islander to propose abolishing what has been a cornerstone of Parish governance for so long and

which has no real need for drawing back. A potential scheme based on a council system would almost certainly be drawn up in such a way where those powers are retained, as is the case in similar systems in places like Switzerland and states in New England, USA.

My thanks go to Mr. Geraint Jennings of the St. Helier Roads Committee, for his help and advice in formulating this vision for St. Helier.

Financial and manpower implications

There are no financial or manpower implications for the States arising from this amendment.

Looking forward

How might the administration of Saint Helier be adapted to face the challenges of the coming century?

- Executive summary
- Historical overview
- Changing to face challenges
- Preserving the democratic acquis
- Options for the way forward

Executive summary

It is argued that the special needs of Saint Helier require amendments to the structures of parish administration to enable flexibility, transparency and accountability. It is further argued that the democratic acquis of electors and ratepayers in the Parish Assembly be maintained. As has been argued for over two hundred years, Saint Helier would benefit from a formally constituted and defined council structure elected for the purpose. Various models and options are examined. No ideal scheme is put forward as a definitive proposal in this discussion document.

Historical overview

In 1787 the States passed a law to provide for all ratepayers of a parish to elect a committee to administer parochial affairs.

(non-literal translation) Given that the law does not lay down the necessary qualifications to vote in parish assemblies, and that various court cases and disputes have arisen therefrom to the great annoyance of the inhabitants of this country, henceforth let all those exercising the duties of Jurat, Rector, Connétable, Centenier, Vingtenier, Constable's Officer, Procureur du Bien Public, Surveillant, Sidesman, Roads Inspector, all those paying rates whether they exercise the abovementioned duties or not and all those who come into rateable property by succession, will or marriage, have the right to vote in parish assemblies (...) and each parish assembly will select a *comité de paroisse* composed of the Rector, Connétable, Centeniers, Procureurs du Bien Public, Surveillants and as many other principals of the parish as each respective assembly may judge expedient - such committee to remain for three years until the next election.

The Lieutenant-Bailiff (the Bailiffship being then a hereditary sinecure) attempted to veto the legislation, and the matter ended up with the Privy Council. The Privy Council, having evidently been lobbied by vested interests, ruled that the law should be struck down on the grounds that the breadth of suffrage infringed on the prerogatives of those who considered themselves Principals:

"At the Court of St James's the 8th of August 1787...(.) For by that Act the Ancient and immemorial Constitution of the Parochial Assemblies which has always been composed of the Principal Inhabitants, the Constables and other Officers of the Parishes overturned and the Assembly thrown open to all the Inhabitants that pay rates or Contribute to the Publick taxes and at the same time that it admits into the Assembly such a Multitude of Voters and makes them competent to determine all matters that may legally come before a Parochial Assembly, Yet they are ordered as soon as possible to elect a Committee for the purpose of facilitating and expediting such Business as requires a particular discussion, and this Committee is to Continue for three Years.

"It is evident from this Provision that the Committee will in Effect be nominated by those persons, who have the Art and talents of Managing the Assembly and that the Committee so appointed will draw to themselves all the Business of Consequence if in their Opinion it requires a particular Discussion so that at last the Parochial Assembly will in Effect become contracted to as smaller number than it consists of a present with this difference that whereas at present none but the principal Inhabitants as such have a Right to vote in the Assembly the new Committee may be so composed if the populace think fit, that the meanest of the Inhabitants may become Members and those of Property excluded, But the principal Objection to the law in question is that it alters the Constitution in two respects.

"First that it opens the Assembly to all the Inhabitants at large even to the meanest of the people if they pay ever So little to the Publick rates, whereas it is now as it always has been confined to the principal Inhabitants in the nature of a Select Vestry changing in this respect the fundamental Constitution of the Island. Secondly That by this Innovation the Right of determining who ought to be admitted under the Description of Principal Inhabitants, which at present resides in the Royal Court is transferred from them to the people at large which would be inconvenient, and though possibly it might be expedient to describe more particularly the qualifications of those who are called principal Inhabitants, which at present is rather loose and leaves too large a discretion to the Royal Court, Yet this Committee are of the Opinion that it would be very unfit to deprive that Court of its Judicial power which they have always exercised in these cases and as it appears to this Committee without Complaint, The Committee do therefore humbly Advise Your Majesty to declare this Act or Instrument to be Null and Void."

To the 21st century mind, the idea of the Privy Council complaining about the possibility of a small committee drawing to themselves all business of consequence might suggest unconscious irony. However the States abandoned the idea of a standing committee of ratepayers, and took the hint of the Privy Council regarding the legal definition of a Principal. The 1804 law on parish assemblies defined the membership of the assembly as being of the Connétable, Rector, officers and principals paying at least 20 quarters.

It seems however that, having won the battle to restrict the franchise, the Principals were not averse to committees for the carrying out of business, and Parish Assemblies throughout the 19th century elected ad hoc committees from among their number. It appears that there was no legal objection to the assembly delegating authority in this way, despite the language of the 1787 Order-in-Council.

In Saint Helier, the administration of the parish rolled on - with occasional clashes between the interests of the minority of Principals and those of the majority of the rapidly-growing urban population. A particular point of contention was sanitation - the suspicion being that the well-off were uninterested in raising finance for the alleviation of unsanitary and disease-ridden conditions for the poor. Parish Assemblies were also plagued by regular bouts of iniquity.

In 1859-1860 the Royal Commissioners commented that, despite complaints of partisanship and personal prejudice about the Parish Assembly system, they would be "reluctant to recommend (...) the substitution of any more centralized system for that which at present prevails."

In 1883 a projet was lodged in the States (by Philippe Baudains) to add 12 elected members to the Parish Assembly to represent the majority of ratepayers who were not Principals (the qualifying amount having now been raised to 120 quarters). This projet died a lingering death.

In 1892 the Chamber of Commerce, seeking more representative administration for Saint Helier and what they hoped would be a more vigorous local government, set up a working party which brought

its recommendations to a public meeting. Debate in the newspapers was lively. The outlines of the Chamber of Commerce proposal were as follows:

That a corporation be created for the parish and that a council be elected, to be called "Conseil Municipal de St. Hélier"

The council was to be composed of the Connétable, 6 Centeniers ex-officio and 21 conseillers elected by vingtaine.

The conseillers were to be elected for three year terms by ratepayers, a third coming up for re-election annually. Persons would be eligible for election if a British subject aged at least 25, resident in the parish and paying rates for at least 50 quarters or contributing for a rental of at least £30. No employee or contractor of the council was to be eligible for election.

The council would be empowered to:

Regulate meetings and their procedure;

administer the following: drains and sanitation; improvements and cleaning of streets, roads and parks; street lighting and water; licensing and regulation of omnibuses, carriages and other public vehicles;

make and enforce regulations for public safety;

delegate certain powers and duties to sub-committees, the Connétable being ex-officio president of each committee which would also elect its own vice-president: Sanitary committee, Roads committee, Police and lighting committee, Finance committee, Baths and washhouses committee, Public property and parks committee;

Appoint officers and employees as necessary and fix their remuneration;

buy, lease or otherwise acquire immovable property for the use of the municipality and in pursuit of the objects of sub-committees;

raise loans subject to the approval of the States for the accomplishment of such objects;

levy a municipal rate.

The council would take over the functions of the Roads Committee and the administrative and representative functions of the Vingteniers whose rôles would be abolished. All acts would be done under the corporation seal, and the Procureurs du Bien Public would therefore also be abolished.

The Chamber of Commerce scheme, it was stated, had been based on the law on local government in England.

At the special meeting held in the Town Hall, an amendment to remove the Centeniers ex-officio was put forward and carried unanimously. Since the number of members had been thus reduced, an amendment was debated to increase the number of conseillers to 30; the amendment was withdrawn. The age limit was debated but not altered. The property qualification was debated but not amended; however a qualifying period of 2 years residence in the parish was added.

Despite the interest aroused by the scheme and it being presented to the States by Deputy Clement Le Sueur, no progress was made.

By 1899 the injustice of lack of representation was clearly felt. Figures were produced to show that there were 393 Principals who contributed in total just over 42% of the parish rate. These 393 Principals constituted 9.95% of ratepayers - and therefore the 90% of ratepayers who contributed 57% of the rate had no representative voice in the Parish Assembly.

In 1900 Deputy E.B. Renouf put forward a projet to replace the Parish Assembly of Saint Helier with a Municipal Council. The Connétable had put the question to Principals, who had agreed to the principle but voted to put it before a wider meeting of electors. The Deputy explained his proposals at an assembly of constituents in the Town Hall chaired by the Connétable, Philippe Baudains. The

Connétable introduced the matter by saying that there was too much responsibility and too many powers for one man, and that he would be very glad to be relieved of some of them; but that he would like to retain the Procureurs du Bien Public, the Surveillants and the Dean as part of the new body. Deputy Renouf explained that an elected representative body would enable all those willing and able to contribute to the parish, and that he had aimed at simplicity. The meeting overwhelmingly commended the projet, with only one vote against.

Deputy Renouf's projet (lodged au Greffe 20 March 1900) ran generally as follows:

1: A Conseil Municipal (Municipal Council) to be established for the parish of Saint Helier, to manage the civil, administrative and financial affairs of the said parish, and to be composed of the Connétable and 24 members. The President of the council to be the Connétable of the said parish and, in his absence, a member elected ad hoc by the council.

2: Eligibility for membership: a subject of Her Majesty, aged 25, free of Curator or Attorney, resident in the said parish, on the liste électorale for at least 50 quarters. Members to be elected for 3 year terms (in the first 3 year term, a third of the members, chosen by lot, to stand down at the end of the first year, and a second third to stand down at the end of the second year - a third thereafter to be replaced up for re-election annually)

3: Members elected as follows:

Canton de Haut de la Vingtaine de la Ville - 6 members

Canton de Bas de la Vingtaine de la Ville - 4 members

Vingtaine de Bas du Mont au Prêtre - 4 members

Vingtaine de Haut du Mont au Prêtre - 2 members

Vingtaine du Rouge Bouillon - 4 members

Vingtaine du Mont à l'Abbé - 2 members

Vingtaine du Mont Cochon - 2 members

4: Members to be elected (by secret ballot if there are more candidates than places) at electoral assemblies of the various Vingtaines summoned by the Connétable.

5: In case of death of a member, that member's position to be filled until the end of the mandate.

6: The council will: take over the functions of the (civil) Parish Assembly and of the Roads Committee; establish its procedure; appoint salaried officers and fix their salaries.

7: The council will appoint sub-committees for objects laid down, and may appoint further sub-committees as it may deem expedient. Each committee to be chaired by a member elected for that purpose from among the members.

8: Appointed day

9: The words "Conseil Municipal" to be substituted in [list of laws] for the words "Assemblée de Paroisse"; "Comité des Chemins"; "Comité de Taxation"; "Connétable de St. Hélier"; "Chef de Police" as the case may be.

10: Repeal of superseded laws

On 17 January 1901 the States debated the projet. Deputy Renouf dealt with the objections of the Privy Council in 1787: although the Privy Council had then considered it unacceptable to allow the meanest of people into local government, the situation had now changed in the United Kingdom where parliament had legislated for broadly-based democratic local government. The Parish Assembly was unrepresentative and poorly attended; it was unwieldy and failed to provide support for the Connétable, on whose shoulders alone too much responsibility fell. This projet was not intended to affect the administration of country parishes, who should continue as they were if that suited them. Deputy Renouf proposed that the preamble be adopted, accepting the principle of a Conseil Municipal, and that the body of the projet be referred to a special committee. A special committee was elected, the principle of the preamble was adopted, and having generally approved the creation of a municipal council the State sent the whole scheme off into a black hole.

In 1904, newspapers noted that no progress had been made on the question of the administration of Saint Helier. Deputies continued to ride their hobby-horses on the subject of parish administration up until the First World War, but a lot of heat had been taken out of the question through various gradual reforms: amendments to the rates law and Taverners law were passed; statutory welfare boards were legislated for; the Loi sur la Voirie of 1914 placed the Roads Committees on a statutory footing, and recognised the special position of Saint Helier by providing a preponderance of elected members. During the debate on the Loi sur la Voirie, the question of the inclusion ex-officio of the Rectors in the membership of the Roads Committee was raised. The amendment removing the Rectors was opposed inter alia by the Connétable of Saint Helier who said that the advice of the Rector was always welcome (at that time, naturally, the Rectors were natives, States Members, and almost certainly the most highly academically qualified members of municipal government).

What was gained in terms of representativeness with these reforms was balanced by what can be argued to be a loss of coherence and clarity among the various committees. It came to be the convention in Saint Helier that, rather than the ad hoc committees elected by the Parish Assembly, the Connétable would consult the Roads Committee on various non-statutory matters.

The post-Liberation reforms of the States left the Rectors in place in the civil administration of the parishes. With the Dean the only member of the Second Estate left in the States, this led to the anomaly in Saint Helier that its Roads Committee is the only one to include two States Members ex-officio.

More recent developments in Saint Helier have seen the Procureurs du Bien Public invited to attend Roads Committee meetings (with no statutory basis and no vote) and the opening of the meetings to the public and media (along the lines of best practice in local government).

The Parish Assembly has also evolved. In 1975 membership of the Assembly was extended to all electors, and in 2003 the multiple vote was removed. In 1984, Deputies were given the right to attend (but not vote) in Parish Assemblies, in the case that they were not personally electors. The power to elect the Procureurs du Bien Public was removed from the Assembly as the post was made subject to public election. Since 1975 the membership of the Parish Assembly has increased as the franchise has been extended - we are now a long way from 1787 since, as the Privy Council put it condescendingly: *"it opens the Assembly to all the Inhabitants at large even to the meanest of the people"*. The question for the future is how this eventual triumph of democracy can be reconciled with an efficient and less ramshackle administration to face the next hundred years.

Changing to face challenges

As even the imperious and commanding Philippe Baudains remarked in 1900, the post of Connétable in Saint Helier is an extraordinary concentration of responsibilities and powers and it would be helpful if some of these responsibilities and powers could be shared.

Who can stand in?

In the past, before the policing functions were more strictly defined, Vingteniers and Centeniers carried out administrative functions, now generally carried out by paid staff. It was also the case that the Chef de Police deputed for the Connétable. As the situation stands now, it is not clear who, if anyone, can depute for the Connétable in his various functions. The Roads Committee is paralyzed if the Connétable is detained in the States as his presence is required for the quorum

(although a forthcoming amendment to the law is expected to deal with that point in particular). If the Connétable is out of the Island, or were to be incapacitated for any reason, it is not clear how any urgent decisions might be made, if necessary. And were any Connétable to fall under a bus, who would take over the reins pending the election and swearing-in of a new incumbent?

Who can succeed?

Any mature democratic system requires a certain level of predictability about the mechanisms of government, whether local or national. In local government in other countries, one can see that there is a likelihood that in the case of the removal, for whatever reason, of a mayor or council leader, then that person's deputy or deputies, or one of the leaders of the opposition or opposing factions, may be predicted to take over. Or, following an election, whoever has won the election, or can put forward the necessary coalition for support.

Since there is no obvious route for advancement within our system, and no pathway to "learning the ropes" in a deputed or delegated rôle, we fail to attract people of talent and potential leaders into the municipality

How far can statutory responsibilities be stretched?

The Loi sur la Voirie was a compromise back in the early years of the 20th century. Almost a century on, the limits of how far this compromise can be stretched to meet the needs and expectations of the 21st century have surely been reached. Although successive Connétables have found it useful to consult the Roads Committee on various sensitive topics beyond their remit, and to bring the Procureurs du Bien Public into the discussions, - all for the benefit of parishioners - the effect of opening meetings to the public and of publishing agendas has made it clear to what extent the Roads Committee has become a de facto municipal council, considering matters that are beyond the remit of the committee and, arguably, the mandate of the elected members.

Article 20A of the Loi as amended is open-ended: "Chaque Comité des Chemins, ainsi que le Ministre responsable pour Transport and Technical Services, recevra et examinera les demandes et représentations qui pourront lui être faites, touchant les matières de son ressort, et il appellera devant lui les personnes intéressées, pour son information." But is it reasonable to expect this situation to be acceptable for many more decades?

It can be argued that those matters that are not, by statute, given to the Roads Committee or reserved to the Connétable alone, are properly the preserve of the Parish Assembly. However, the demands of a modern economy and the management of a sophisticated urban capital might suggest that a Parish Assembly that is far from the "Select Vestry" that it still was at the time of the passing of the Loi sur la Voirie cannot reasonably serve as a forum for detailed consideration of drafts and projects.

We have witnessed tensions in the functioning of the Roads Committee under the régime of open meetings whereby the committee is inquorate for statutory business, but quorate for non-statutory business - a situation as bewildering for the public as for members of the committee.

Another tension is in the interpretation of the mandate. Many of the questions which arise nowadays are to do with economic development and leisure, especially with reference to open space and highways, parks and choses publiques. To what extent can members elected to be responsible for maintaining the highways reconcile the oath of office with taking into account wider concerns?

In contrast to the expanding rôle of the Roads Committee, the 20th century saw the position of

Roads Inspector almost entirely hollowed out of function. Efforts have been made to reinvigorate these historic posts, but perhaps the time has come to say that there is little point in continuing to elect people formally to carry out functions that no longer exist. Any impartial observer would wonder why every three years the Parish Assembly is called upon to elect one set of people to do a lot of things not envisaged by the law and another set who cannot do most of the things envisaged by the same law.

"How many councillors do you have?"

A question sometimes asked by visiting dignitaries and others is "How many councillors do you have?" This is not an easy question to answer. Possible responses range between 1 (the Connétable) and several thousand (the Parish Assembly). One would be hard pressed to explain, even to someone with an understanding of how the Jersey system works, how many people are actually elected to run the parish.

This touches on a problem of civic engagement. In municipalities elsewhere, even if you do not know who your councillors are, as a citizen it is fairly clear that to deal with local issues it is to your councillors that you should turn. In Saint Helier, who do you turn to if not the Connétable? In many cases, it seems to be to the Deputies - which may be frustrating and unnecessarily burdensome for them if they do not have an appropriate forum to which to direct constituents' concerns. A temptation in the past has been for the Deputies to be constituted as an alternative administrative committee - but surely the way forward is to clearly demarcate States responsibilities and Parish responsibilities so as to enable efficient co-operation, rather than turf wars. It is also argued that the States already spends too much time dealing with the minutiae of local administration, when the thrust of the development of national politics in Jersey is towards the international.

Who is elected to run the parish? Deputies? Roads Committee? Chef de Police? Procureurs du Bien Public? Roads Inspectors? *Et l'dgiabl'ye à quat'* (Old Uncle Tom Cobbleigh and all)?

Preserving the democratic acquis

Since 1975, the Parish Assembly has become a true and broadly-based organ of direct democracy, similar to the system of *Landsgemeinde* or *assemblée communale* which exists in some cantons of Switzerland, and to the system of *town meetings* that have existed in municipalities in some US states in New England since the time of self-governing settlements of Puritan communities.

We are therefore faced with a different situation from that which the reform proposals of the late 19th century and early 20th century attempted to address. Rather than attempting to replace an unrepresentative assembly with an elected and representative council, the problem is how to set up a transparent and accessible elected structure that does not threaten the democratic acquis of the Parish Assembly. It would be difficult to justify any proposal that stripped the voters of Saint Helier of direct democracy, but which left the assemblies of other parishes intact - although some cantons and communes in Switzerland have abolished their *Landsgemeinde* systems as electorates have grown to unmanageable proportions.

The Parish Assembly retains the right to delegate functions to smaller bodies, so the question is therefore how to constitute a body that can carry out functions delegated from the Parish Assembly and devolved from the Connétable - and how its relationship with the Parish Assembly should be framed. It is also important to decide how to enable the Connétable to delegate such functions as may be necessary and desirable in a flexible way to allow the municipality to adapt to changing circumstances.

He who pays the piper calls the tune

One of the most frequent of criticisms levelled at earlier proposals to replace the Parish Assembly with a conseil municipal was that taking the setting of the rate out of the hands of ratepayers would inevitably lead to the ramping up of expenditure and higher rates.

Retaining the duty of the Rates Assembly to approve the annual budget and set the rate would seem eminently sensible. Proposals to spend money from reserves on projects not foreseen by the annual estimates could continue to be set before the Parish Assembly as necessary.

Even more democracy

Any legislation to establish an elected and representative municipal body could also provide for Parish referendums to be called. Who should be empowered to call such referendums? Should referendums be used to settle differences between the Parish Assembly and the council? Should referendums be called as a matter of course to alter the powers and duties of the council?

It is likely that in the decades to come electronic voting will become a practical and secure means of participatory democracy. It is possible to foresee that more frequent recourse to referendum will be made.

As the law stands, a very small number of people can call a Parish Assembly to discuss any matter. The problem of the threat of repeated and vexatious requêtes by a determined minority has arisen in the past. How democratic is this? And should it be dealt with in the first instance by providing that such requêtes should be dealt with in the first instance on the agenda of the municipal body?

Options for the way forward

Having argued the need for an elected and representative municipal structure, this discussion document will now present a number of models and options for how such a structure might be constituted. For convenience, and for the sake of further cumbersome references to conseil municipal, municipal council, parish council, municipal body, councillors and suchlike, the familiar terms *Douzaine* and *Douzeniers* will be used (without presuming that 12 is necessarily a good number, or Guernsey an ideal model).

Let us examine some models:

Guernsey

Saint Peter Port has its douzaine - the relationship with the Parish Meeting is perhaps most pertinent to our situation, although the position of the constables is very different. This information is from the parish website (<http://www.stppcons.com>):

Douzeniers are elected for a maximum 4 year term. The Douzaine comprises 20 members who retire on a rota basis. Elections are held on the first Wednesday of November annually. Candidates must be a British subject, not subject to any legal disability, having had his/her residence in Guernsey for one year immediately prior to the date of nomination, and being ordinarily resident at the time of his/her nomination in the parish in which he/she is nominated for office.

Dean of the Douzaine – the Dean (Doyen) is usually the longest serving member. A Dean is the

Returning Officer for the election of Constables and Overseers of the Poor. He/she is therefore Chairperson when Electors meet for this purpose. In his/her absence, a chairperson shall be appointed by and from among those Electors and Ratepayers present.

Parish meetings – are convened by the Rector and Churchwardens for ecclesiastical business and by the Constables and Douzaine for secular business.

Two main meetings are held each year – the spring meeting (March, April or May) and one at the end of the year in November. Other meetings are convened as the need arises.

The Rector or his delegate presides for the ecclesiastical business. The Dean of the Douzaine or his delegate presides for the secular business.

Decisions can only be reached or voted on if an item has appeared in the Publication setting out the agenda. There can be no 'any other business', other than allowing an Elector or Ratepayer to voice an opinion or request which will subsequently be considered by the Douzaine and brought back to a future Parish Meeting after proper publication of the proposition.

Spring Meeting

Budget requirements for the year's expenses to be raised by means of Occupier's Rate.
Budget requirements for the collection and disposal of household refuse.
Approval of the Tresor Account, Constables and other various accounts.

November Meeting

Business for the Electors & Ratepayers:

Appointment of Auditors for various accounts.
Election of a People's Warden (when applicable).
To fix the hour at which Parish Meetings shall be held during the next year.

Business for the Electors only:

Elections of Constables, Douzeniers, Procureur of the Poor are usually held at the November meeting.

Isle of Man

Douglas is the capital of the Isle of Man and is administered by a Borough Council (some information from council website <http://www.douglas.gov.im/> and "General information for members and officers of local authorities" http://www.gov.im/lib/docs/dlge/legislation/LA_Handbook.pdf)

Douglas Borough Council is the largest local authority in the Isle of Man and the only one with Borough status. The Council provides services for the 27,000 residents in the Island's capital and, including the Mayor, is comprised of eighteen elected councillors - three in each of the six wards in the Borough - elected for 4 year terms. The mayor is elected annually by the councillors, usually (but not necessarily) from their own number.

Douglas Council meets monthly in public at the Town Hall in Ridgeway Street and there are five

committees of the Council that meet in private, as well as special committees meeting for specific or time-limited purposes.

Elective local government in the Isle of Man can be traced back to the Town Act 1852, under which boards of commissioners, each under the chairmanship of a High Bailiff, were constituted for the four towns "for paving, cleansing, lighting, and watching the streets.... And for making and keeping in repair public sewers therein, and otherwise improving" the towns. The 1852 Act was repealed as to Douglas in 1860, Ramsey in 1864 and Peel and Castletown in 1883 by Acts which set up boards of Town Commissioners in the form we know today.

Douglas was incorporated as a municipal borough by Act of Tynwald in 1896, the Town Commissioners being replaced by a Council consisting of the mayor, aldermen and councillors (the office of alderman was abolished in 1989).

England

Information from UK Department for Communities and Local Government
<http://www.communities.gov.uk>

Local Authorities now work under new political management arrangements as introduced by the *Local Government Act 2000*.

All English local authorities are running new constitutions that are efficient, transparent and accountable. Three options are available:

1. a council leader with a cabinet
2. a directly elected mayor with a cabinet
3. 'alternative arrangements' of a streamlined committee system (open only to local authorities whose population was estimated by the Registrar General to be below 85,000 on 30 June 1999)

France

The interesting point in the French system for a model for an eventual Douzaine is how the maire's adjoints are appointed.

A commune of the French Republic possesses a maire and a conseil municipal who jointly manage the commune from the mairie, with exactly the same powers no matter the size of the commune (with the exception of Paris, Lyon and Marseille).

Communes over 3,500 inhabitants elect their conseil municipal on a two-round proportional list system. The winning list gets half the seats, with the other half of the seats shared proportionally between the other lists who pass the 5% threshold. The conseil municipal elects the maire by majority vote, and decides how many adjoints should be appointed (up to a maximum of 30% of the conseil). The adjoints are, since 2008, elected on a list system by the conseil municipal. As executive officer of the conseil municipal, the maire can subdelegate his delegated functions to adjoints.

States of Jersey

A model for the Douzaine, closer to home is the Council of Ministers in operation since 2005.

One could imagine a system whereby the Connétable nominated his candidates from among members of the Parish Assembly (which would enable, given the breadth of available candidates, the Connétable to approach the widest pool of talents within the parish). Other candidates could be nominated by the Parish Assembly, and the Douzaine would be elected to fulfill their executive functions according to the votes of the Parish Assembly.

Alternatively, and more straightforwardly, the Parish Assembly could elect Douzeniers. The Connétable could then, like a Minister, delegate such functions as he desired to Douzeniers, as Ministers can with Assistant Ministers.

The constitution of the Douzaine

How many members should form the Douzaine? Assuming that the Douzaine will obviate the election of Roads Committee and Roads Inspectors, that gives us almost 20 elected posts to be replaced.

Philippe Baudains' 1883 projet posited 12 elected members - apparently for no other reason than 12 was a good number.

The Chamber of Commerce 1892 scheme initially proposed 28 members (including the Connétable), later amended to 22.

The projet of which the basic principle was accepted by the States in 1901 proposed a composition of the Connétable and 24 members.

Saint Peter Port has a douzaine of 20 members, and Douglas has 18 councillors.

Currently meetings of the Roads Committee are composed of 9 (7 members and 2 non-voting Procureurs du Bien Public in attendance).

In considering the composition of the Douzaine, it should be borne in mind that a greater number of honorary Douzeniers would be required than remunerated councillors in other jurisdictions.

Should there be ex-officio members of the Douzaine? One could imagine a Douzaine comprising the Connétable, 2 Procureurs du Bien Public ex-officio, the Rector ex-officio, and an appropriate number of elected Douzeniers. Or assuming that the Douzaine took over the functions of the Procureurs du Bien Public (as proposed in 1892) and that the Douzaine is secularised, the composition would be straightforwardly the Connétable and a number of elected Douzeniers.

Should *cumul des mandats* be permitted? Should States Members, Centeniers and other holders of elected office be ineligible to stand for election to the Douzaine?

A final question regarding the election of the Douzaine: should members in fact be elected by the Parish Assembly, or should they be subject to a public election as is the current situation with the Connétable and Procureurs du Bien Public?

Powers and responsibilities

Can we foresee a situation in years to come when the parish will be entrusted with powers to pass bye-laws? It would seem that there will come a time when it is considered no longer tenable for central government to continue to require control over such mundane matters as parking spaces. The need for flexibility and responsiveness to the needs of parishioners would suggest that the Douzaine be enabled, by primary legislation, to pass secondary legislation as local government can in other countries.

In any case, we will need to examine what powers the parish will need in order to respond effectively to a changing society in the decades to come, as Saint Helier continues to develop as the capital of an Island with an increasing international profile.

Conclusion

The time for change has surely come. Parishioners deserve at least some indication of how municipal administration might evolve before the Loi sur la Voirie celebrates its centenary.

*Geraint Jennings
for the Roads Committee
December 2009*

(translation)

Projet de Loi relating to the establishment for the parish of St. Helier of a Municipal Council

presented by Deputy EB Renouf of St. Helier
Lodged au Greffe 20th March 1900

Considering that the interests of the parish of St. Helier demand that the municipal affairs of the said parish be managed by an elective and representative Assembly:

The States have adopted the following Law, subject to the sanction of Her Most Excellent Majesty in Council:

Article 1: A Municipal Council shall be established for the parish of St. Helier to manage the civil, administrative and financial affairs of the said parish and shall be composed of the Connétable and of twenty-four members.

The President of the Council shall be the Connétable of the said parish and, in his absence, a member elected ad hoc by the Council.

Article 2: Any subject of Her Majesty aged twenty-five years, having neither Curator nor Attorney without whom he may not act in his hereditary or mobiliary affairs, resident in the said parish and whose name is inscribed on the electoral roll of the said parish for at least fifty quarters of rate, shall be eligible as Member.

Members shall be appointed for a term of three years and, at the end of their term of office, shall be eligible for re-election.

During the first three-year period under the régime of the present Law, one third of the Members selected by lot, shall stand down at the end of the first year, and a third of those Members to be first elected at the end of the second year, and shall be replaced.

Article 3: The Canton de Haut de la Vingtaine de la Ville shall be represented by 6 members

The Canton de Bas of the same Vingtaine shall be represented by 4 members

The Vingtaine de Bas du Mont au Prêtre shall be represented by 4 members

The Vingtaine de Haut du Mont au Prêtre shall be represented by 2 members

The Vingtaine du Rouge Bouillon shall be represented by 4 members

The Vingtaine du Mont à l'Abbé shall be represented by 2 members

The Vingtaine du Mont Cochon shall be represented by 2 members

Article 4: The Members shall be chosen by the Electors of the various Vingtaines, called together to this effect by the Connétable, as were before the adoption of the present Law, the members of assemblies of principals and officers of the parish.

The candidates shall be duly proposed and seconded; and in the case that there shall be more candidates than places to fill, the session shall proceed to an election by means of secret ballot. Each voter shall inscribe on a list the names of the candidates of his choice and cast this list into a ballot box. The president of the assembly shall then proceed, with one or more electors present in attendance, to count the ballot and he shall announce the result.

Article 5: If a member dies before the end of his term of office, he shall be replaced without delay, but the replacement shall remain in office only until the expiry of the term that his predecessor would have fulfilled.

Article 6: The said Council:

1: Shall carry out in all respects the functions that are now incumbent upon

(a) the (civil) Assembly of Principals and Officers of the said parish;

(b) the Roads Committee;

2: Shall set out its own rules of procedure; and

3: Shall appoint the salaried officers of the said parish and shall fix their salaries.

Article 7: The said Council shall appoint to act under its direction:

1: A Committee for Roads and Public Works composed of six members of the said Council, the same shall

(a) carry out the functions hitherto carried out by the Roads Committee; and

(b) undertake and oversee all the public works of the said parish.

2: A Finance Committee composed of six members of the said Council, the same shall have administration of revenues of the said parish, and shall apply the payment of all sums of money owed by the said parish. The accounts of the Committee shall be audited and a report published annually.

3: A Public Assistance Committee, composed of six members of the said Council, the same shall carry out the functions hitherto incumbent on the Assembly of Principals and Officers with regard to the maintenance and care of outside paupers on the charge of the said parish.

The said Council may, at any time, appoint Committees and delegate such powers as it shall deem necessary to render the administration of the affairs of the said parish more effective.

Each Committee shall be presided a member elected to that effect by the other members.

Article 8: The present Law shall come into force on the 1st May following its promulgation.

Article 9: The words "Conseil Municipal" shall be, insofar as they affect the said parish of St. Helier, substituted for the words "Assemblée de Paroisse"; "Comité des Chemins"; "Comité de Taxation" and "Connétable de St. Hélier" or "Chef de Police" (as the case may be) in the following Laws and Regulations, namely:

1: Règlement sur l'entretien des pompes et nettoyage des rues, confirmed by Order of His Majesty in Council dated 4 July 1794;

2: Règlement sur l'Enregistrement des Naissances, Mariages et Décès, passed by the States in the year 1841, 1 November and confirmed by Order of Her Majesty in Council dated 27 April 1842;

3: Règlement sur le Numérotage des maisons, etc., passed by the States in the year 1843, 18 July, and confirmed by Order of Her Majesty in Council dated 2 October 1843;

4: Règlement relatif à la construction d'Egouts en la ville de St. Hélier, passed by the States in the year 1846, 30 July, and confirmed by Order of Her Majesty in Council dated 27 August 1846;

5: Règlement sur les Egouts, passed by the States in the year 1850, 22 March and confirmed by Order of Her Majesty in Council dated 15 July 1850

6: Loi établissant et constituant la Société à Responsabilité Limitée, dite "Jersey Waterworks Company Limited," passed by the States in the year 1865, 15 August and confirmed by Order of Her Majesty in Council dated 3 November 1865

7: Règlement sur l'Elargissement des Chemins Publics, passed by the States in the year 1869, 3 February and confirmed by Order of Her Majesty in Council dated 14 April 1869

8: Loi sur les Taverniers, passed by the States in the year 1883, 8 February and confirmed by Order of Her Majesty in Council dated 23 August 1883

9: Loi sur l'Expropriation pour cause d'Utilité Publique, passed by the States in the year 1893, 6 March and confirmed by Order of Her Majesty in Council dated 9 June 1893

10: Loi sur la Coupe et la Pêche des Vraics le long des Côtes de l'Ile, passed by the States in the year 1894, 29 March and confirmed by Order of Her Majesty in Council dated 27 June 1894

11: Règlement étendant les dispositions de la Loi sur les Egouts (1846) à certaines parties des paroisses de St. Hélier, de St. Sauveur et de St. Clément, passed by the States 14 February 1895

12: Loi sur la Taxation du Rât et la Liste Electorale, passed by the States in the year 1897, 22 February and confirmed by Order of Her Majesty in Council dated 18 May 1897

Article 10: All Laws and customs contrary to the present Law shall be and remain abrogated; and especially insofar as they concern the said parish of St. Helier:

1: Le Règlement sur les Assemblées Paroissiales, passed by the States in the year 1804, 31 March, and confirmed by Order of His Majesty in Council dated 31 Juillet 1804;

2: L'Acte des Etats au sujet des Assemblées Paroissiales (Ordre de Procédure), passed by the States in the year 1814, le 17 Décembre, and confirmed by Order of His Majesty in Council dated 17 March 1815; and

3: The clauses of the Règlement sur les Chemins et la Voirie, passed by the States in the year 1874, 13 March, and confirmed by Order of Her Majesty in Council dated 7 July 1874, insofar as they affect the nomination and constitution of the Roads Committee.