

STATES OF JERSEY

Corporate Services Scrutiny Sub-Panel Review of Electoral Reform 2017

MONDAY, 15th MAY 2017

Panel:

Deputy J.A.N. Le Fondré of St. Lawrence (Chairman)

Senator S.C. Ferguson

Deputy K.C. Lewis of St. Saviour

Connétable M.P.S. Le Troquer of St. Martin

Witness:

Senator L.J. Farnham

[14:02]

Deputy J.A.N. Le Fondré of St. Lawrence (Chairman):

Welcome to the first hearing of the Corporate Services Scrutiny Sub-Panel on electoral reform with Senator Lyndon Farnham in front of us, and we will see how we go. Minister, I draw to your attention the notice in front. It should be Senator I draw your attention, because you are in a capacity of Senator rather than Minister today, which I am sure you are fully aware of. Members of the public, there are notices around the room which obviously we do expect members of the public and media in the public seating to remain quiet at all times while the hearing carries on. Now, as we proceed through the questions, Senator, we may stop you if we feel you have answered the question sufficiently because we need you to try to be as concise as possible, and I will do this by raising my hand. For the benefit of the tape, if I start going round, Deputy John Le Fondré, Chairman of the panel.

Deputy K.C. Lewis of St. Saviour:

Deputy Kevin Lewis, panel member.

Connétable M.P.S. Le Troquer of St. Martin:

Michel Le Troquer, Constable of St. Martin.

Senator S.C. Ferguson:

Senator Sarah Ferguson, panel member.

Senator L.J. Farnham:

Senator Lyndon Farnham.

Deputy J.A.N. Le Fondré:

Senator, the electoral changes approved by the States in February included a successful amendment that you lodged to retain Senators. Now, obviously that forms the basis of P.18 which is what we are reviewing. Could you briefly explain your amendment?

Senator L.J. Farnham:

The 2 that were effectively adopted?

Deputy J.A.N. Le Fondré:

Yes.

Senator L.J. Farnham:

I think my background in supporting for retention of the Island-wide mandate, as manifested currently in the office of Senator, is well documented and well known. So this was a continuation of years of supporting the status quo on Senators, if you like, although the status quo is somewhat diminished by the States' rather unwise decision to reduce the number of Senators from 12 to 8 without getting the permission or without the full knowledge of the electorate back in 2011. So naturally when the proposition was brought to once again try and repeat that by removing the Senators, once again without seeking the approval of the electorate, I had no hesitation in making my amendment, which was to retain what we have now, which is 8 Senators.

Deputy J.A.N. Le Fondré:

Just to refresh that, that was achieved by essentially rejigging the numbers in the proposed super-constituency areas to introduce the 8 seats for Senators?

Senator L.J. Farnham:

Yes. Well, they were 2 separate amendments and of course if you remember the debate, the debate was in stages and relied on each previous one.

Deputy J.A.N. Le Fondré:

I was not present for the debate. I was absent from the Island on business.

Senator L.J. Farnham:

So, really I think we need to ... I believe we certainly cannot remove the Island-wide mandate without the endorsement of the public. I am considering - and I have to put it that way - lodging a proposition sometime soon which will ask the States to agree that we hold a referendum at the next elections asking the question about the retention of the Island-wide mandate.

Deputy J.A.N. Le Fondré:

What research had you originally done to justify the numbers in the amendment that you proposed?

Senator L.J. Farnham:

I do not have the skill set of Professor McLean, nor do I have the resources of the independent States Members of the Privileges and Procedures Committee, but I have referred to the research that has been carried out. Also I have become, if I can be so bold as to say, quite an expert in matters myself because working with other States Members we have developed a significant interest in this subject over the years. While dealing with the numbers can be ... complicated is too strong a word, it is certainly not a science and I really used the same methodology or similar methodology that was used in the Privileges and Procedures Committee comments and by Deputy Andrew Lewis in his proposition, which were in line with the Venice Commission guidelines.

Deputy J.A.N. Le Fondré:

That quite helpfully leads me into a comment from Deputy Andrew Lewis of St. Helier, which is in his addendum that he has lodged at P.18, which is that only ... well, a large percentage of the population would be outside the Venice Commission's recommendations, which he claims would be less and better under his amended proposals that have been lodged compared to yours. Would you care to comment on that?

Senator L.J. Farnham:

Yes, I would. Could we just be specific? Are we referring to ... can you just be clear what figures has Deputy Andrew Lewis ...

Deputy J.A.N. Le Fondré:

Deputy Andrew Lewis has lodged an addendum to P.18/2017 which says "amendment and amendment 2", so obviously it is backing up his amendments to P.18.

Senator L.J. Farnham:

Which are identical to the figures in P.133, are they not?

Deputy J.A.N. Le Fondré:

I have to say the comments I have not tracked back to P.133. I have seen there is an addendum that was additional information. The numbers are the same and what he claims is that: "Only 48.7 per cent of the population would be outside of the Venice Commission's recommendations compared to 81.9 per cent at present and 51.4 per cent under the current proposals based on Senator Farnham's amendment to P.133", which is obviously the one that we are debating.

Senator L.J. Farnham:

We have different figures because my figures say that 28 per cent under my scheme would be outside the Venice Commission. I think his figures are...

Deputy J.A.N. Le Fondré:

So you disagree with those figures?

Senator L.J. Farnham:

Yes.

Deputy J.A.N. Le Fondré:

Okay. Anybody else at this stage or shall I go to question 2?

The Connétable of St. Martin:

Just very quickly, and I know I have said it before in the Assembly, what do you think is the benefit of just having 8 Senators? You said the public want Senators, and I know that is really your amendment and has always been your amendment. Why just 8? Should you be proposing more in the amendment?

Senator L.J. Farnham:

I have been forced into this position by the decision that was ... well, I think I might be blaming the Chairman here because it might have been the Chairman's idea to introduce the single true election day. Correct me if I am wrong. So I am right. So having a single true election day meant it was rather challenging to elect 12 Senators on one day because, if you recall, the Senators were elected for 3-year terms.

The Connétable of St. Martin:

For 6-year terms.

Senator L.J. Farnham:

Six-year terms, sorry, and how that was achievable with arguably trying to choose 12 candidates from a field of perhaps 20, 30, or 40, even would have presented its own problems.

The Connétable of St. Martin:

What is the benefit of having 8 Senators? What do you think the benefit is in just having 8 Senators who have got no ... they have not got a 6-year term so why would they bother to go for Senator if they are probably certain of a seat as a Deputy? No one is certain of a seat, are they, except...

Senator L.J. Farnham:

What I am trying to say ... why 8. First of all, why 8, because that is probably the most we can elect on a single election day. We are going to move on to the point specifically now about why Senators. I presume you are saying why keep Senators.

The Connétable of St. Martin:

Basically, yes, in your view.

Senator L.J. Farnham:

In my view, we are ... well, some facts first. We are a unicameral Assembly. We have one Chamber. We do not have an upper House. We do not have devolved assemblies in different parts of the Island. We do not have town, county councils or borough councils. We are one Chamber where all the legislature of the Island and all the business of the Island is conducted, of course while recognising the good work of the parishes and the Roads Committee and some of the work that is deferred to them. So, in that instance I think it is important that we have a balance and we do that by having 3 different types of States Member. We have Deputies that represent constituencies and are elected by constituencies and the Constables that represent the parish interests and the Senators represent the whole Island, our national interests. I think not only does it work but it is essential because you need that balance. I have served as a Deputy and a Senator and I can say while some of the work is similar, some of it is also very different. For example, Deputy Lewis took over St. Saviour No. 2 and I remember some of the challenges there - they are probably still similar now - with protecting green space and housing and housing shortages. I would find myself as a Deputy ... and many other Deputies I would think would say the same thing. They will be fighting for what is right for their district but that might not be in the Island-wide interest. I can remember a particular time when we needed housing, probably about 15 years ago. There was a housing shortage. It was worse, it was quite a lot worse than we had seen for some time, and we desperately needed houses and a site had been identified in the Island plan in St. Saviour No. 2 and the St. Saviour No. 2 Deputies wanted to fight to protect the green space in their parish and did not want it.

That is just an example. While we were fighting for what we thought was beneficial for our parish, our district, I do not think it was in the Island-wide interests. I find that Constables and the Senators provide a really important balance.

The Connétable of St. Martin:

Can I just pick up on another point, please? It was a bit of a surprise that you are likely to put an amendment, you said during your first comment, for ... or not an amendment, a proposition for a referendum for Senators.

Senator L.J. Farnham:

I am considering.

The Connétable of St. Martin:

That is a surprise. So, if this all goes through in June it could all change again following a referendum question if that succeeded in the States?

Senator L.J. Farnham:

The thing we have not asked the electorate is whether they want to keep the Island-wide mandate. I think we probably all know what the answer will be but we have not had the courtesy to ask them. We have asked them about Constables and we have asked about the super-constituencies but we have not asked about whether the electorate want to keep the Island-wide mandate.

The Connétable of St. Martin:

Members declined that with Deputy Maçon in the last debate that we had.

Senator L.J. Farnham:

I cannot recall Deputy Maçon's proposition.

The Connétable of St. Martin:

It was a proposition for a referendum.

Senator L.J. Farnham:

At the next election?

The Connétable of St. Martin:

No, now.

Senator L.J. Farnham:

You see, one of the problems we had because I would have preferred what we are being asked to agree now would have the endorsement of the public. I took from the debate that Members were concerned about the turnout if we did not have a referendum at the time of an election, which is why I would ask for one at the time of the next election.

[14:15]

Deputy J.A.N. Le Fondré:

Can I just pick up, given the subject of a referendum, the 2013 referendum - or that is how it has sometimes been described - which arguably I think under option B abolished the role of Senator. What is your view of the outcome of the 2013 referendum?

Senator L.J. Farnham:

I think the 2013 referendum was lost for a number of different reasons, not least because it was too complicated insofar as it should have asked a straight forward yes or no answer. I did try to amend it for a "none of the above" option, because one was forced to vote for A, B or C and if you did not want to vote for any of those you had one choice, not to participate. So that was really my major problem with the referendum and also I am trying to remember the figures. I have not got them in front of me but I think you will find that option B came out on top but more people voted for option A and C than they did for option B. So it was, I think, well-intentioned but it was set with the result in mind, in my honest opinion, so it made it very difficult for the outcome to be anything other than what it was.

Deputy K.C. Lewis:

Are you saying the whole thing was flawed?

Senator L.J. Farnham:

Well, in my opinion. That is maybe too strong a word but it was certainly ... I believe that a referendum should be as straight forward as possible and as least complicated as possible and should be something that you can answer with yes or no.

Deputy J.A.N. Le Fondré:

I think I am speaking correctly that the recent changes in the Referendum (Jersey) Law, by making reference to good practice endorsed by I think it is the Venice Commission, infers support for future referendums to be yes/no. If that was the case, I assume you would be supportive of that.

Senator L.J. Farnham:

Yes, I would.

Deputy J.A.N. Le Fondré:

If that interpretation is correct.

Senator L.J. Farnham:

I cannot remember the detail but that referenda are as straight forward as possible.

Deputy J.A.N. Le Fondré:

I am about to start question 4. Any points?

Deputy K.C. Lewis

Picking up on the Constable of St. Martin's question, it has always been said that we could never lose the Senators unless we had super-constituencies. As we have P.18 in front of us with 2 amendments and all 3 parts include super-constituencies, do you think we are going down the road on this one? In fact, I think Clothier suggested that if you had super-constituencies then possibly you could lose the Constables, but do you think we are going down the road of having a hybrid now of the 2 systems?

Senator L.J. Farnham:

Possibly, but ... well, we will be. Super-constituencies with Constables and Senators is not what Clothier intended or recommended. He effectively - correct me if I am wrong - recommended a slight deviation from option A in the 2013 referendum, which was super-constituencies with one type of Member.

Deputy J.A.N. Le Fondré:

I think you will find that Clothier - I would have to go back and check - recommended keeping to parish boundaries.

Senator L.J. Farnham:

Yes, but that is what these super-constituencies do, they keep to the parish boundaries.

Deputy J.A.N. Le Fondré:

No, I think the point was that representatives were elected within parish boundaries. They were not elected by amalgamation of parishes.

Senator L.J. Farnham:

What we will end up with is something that is a bit of a hybrid of what we have now and...

Deputy K.C. Lewis

There is also the option of the status quo.

Senator L.J. Farnham:

While I tend to think there is not a lot wrong with the system we have now, we tend to blame the system. In my experience in politics it is not so much the systems that have been wrong, it has been the people that we put in them that really do not make them work. Good people will make any system work and what we have has served the Island very well. It has given us decades of prosperity since the Second World War. Having said that, of course, in the modern world and with bodies such as the Venice Commission, one of whose jobs is to produce guidelines, and I underline the word "guidelines", for best practice, for good practice, highlight certain what they might call deficiencies. But of course one thing we have not made a lot of in the debate is that we must be mindful of historic boundaries and logistics in small jurisdictions. We are quite unique from that point of view. So, while we should be guided by the Venice Commission, I think we could quite easily present a strong case for not adopting them all in their entirety, simply for the reasons I have just mentioned.

Deputy J.A.N. Le Fondré:

I will just finish off on referendum. We want to pursue the super-constituency a little. You have previously alluded to the amendment in the January debate on P.133 calling for a referendum on the proposed changes. Is there any particular reason why you did not try and do the same for P.18?

Senator L.J. Farnham:

I am just trying to understand the question. I withdrew my amendment under advice on the day of the debate of P.133 and brought it as a separate proposition and so I could not have amended P.18 anyway because I think it would have been too close to the previous decision. We have a debate, we make a decision. I am not one for bringing it back time and time again until I get my way. I would rather accept the word of the Assembly and move on.

Deputy J.A.N. Le Fondré:

That is fine. Do you think the public is aware of and understand the changes being debated on 6th June, all of them?

Senator L.J. Farnham:

Some will be very aware, some will be fairly aware, some will have an idea and some will have no idea, because most people who have a bit of an idea or no idea tend to be those people who are not interested in being engaged with politics.

Deputy J.A.N. Le Fondré:

I will go to the question 6. Are we happy?

The Connétable of St. Martin:

Just on that, you talk about the public being confused. Do you think States Members were confused in that debate in February when it came to voting?

Senator L.J. Farnham:

I do not think they were. It is an odd political tactic, is it not, to sort of say: "Looking back, I was a bit confused"? I do not think people are.

The Connétable of St. Martin:

I publicly said I got it wrong, not that I was confused I think. I said the words: "I have reflected back."

Senator L.J. Farnham:

Reflective maybe of the decision but I do not think there were that many people who were confused. I withdrew part of the amendment for a referendum and I brought that back fairly quickly as promised, so we did have the debate on the referendum ultimately. Some Members did say: "I will vote for this. I will vote for P.133 because then we have got the backstop of a referendum" and that ultimately failed. So I think those Members that wanted the backstop of the referendum are now having second thoughts, but I personally do not think there was that much confusion. I think States Members are quite switched on when it comes to our electoral system.

The Connétable of St. Martin:

Probably the most experienced Member of the States, who is the Chair of the P.P.C. (Privileges and Procedures Committee), making the comment: "The penny has dropped" about the Members' decision.

Senator L.J. Farnham:

It was a very astute comment.

The Connétable of St. Martin:

Very astute.

Deputy J.A.N. Le Fondré:

Returning to super-constituencies in a bit more detail, how do you think the proposed super-constituency model will impact on the functioning of the parish system?

Senator L.J. Farnham:

It is hard to say. I would hope that it would not have that much of an impact. The parish system, we are talking electorally. These boundaries are not going to change the workings, the day-to-day workings of the parish system unless, of course, the 3 Constables get together. Say for example, District 6 under the current proposal, which is the one of St. Peter and St. Brelade, the Constables might get together and say: "Hang on a second, we have got 3 ... we are all in the same electoral district." This is not administrative. These are electoral districts, remember, and I think some people thought of it being the parishes are all going to get together and have one super parish hall develop. We are not talking about changing parish boundaries, changing parish administration. We are talking about how we elect people. I do not know, it is quite possible that in any of the districts you could have the majority of the Deputies living in one of the parishes or you could have none of the Deputies living in it. I do not know how it is going to work out but that is no different, if you look at St. Saviour ... when I served as Deputy in St. Saviour No. 2 I lived in St. Saviour No. 3 district.

Deputy J.A.N. Le Fondré:

But you were still relatively adjacent to the area you represented.

Senator L.J. Farnham:

You could say the same for all the parish boundaries and what gives me some comfort is that the super-constituencies are based around the parish boundaries.

Deputy J.A.N. Le Fondré:

Can I just pursue it slightly? In your own amendment to P.133, it is amendment 4, you said under "Constables": "The parishes must retain a voice in the States Assembly especially if electoral districts are redrawn. Failure to maintain parish representation in the States would undoubtedly lead to a loss of stimulus within the parishes and disconnect the parishes from any influence and participation in the government of the Island." Therefore, is there not an inference from those words that super-constituencies represent a risk to the voice of the parishes? You might suggest that is reinforcing the role of the Constable.

Senator L.J. Farnham:

The front line of influence from the parishes not being represented in the States is the point, which is why I am so strongly in favour of retaining the Constables.

Deputy J.A.N. Le Fondré:

Just to clarify, when you were doing your parish bit in St. Saviour, presumably you were doing it not only as the Deputy representative of the parish but in conjunction with the Constable as well. Therefore, is there not a risk...

Senator L.J. Farnham:

Both at the time. You have to remember who the Constable was. We had a very good working relationship. It was quite an interesting arrangement because we had 3 constituencies in St. Saviour and we still do. How many Deputies, Kevin? Is it 5 or 6?

Deputy K.C. Lewis

Five.

Senator L.J. Farnham:

Generally we all worked very well together and sometimes the constituency issues were aligned with the parish and sometimes they were not. I think St. Helier has the same...

Deputy J.A.N. Le Fondré:

When they are aligned under the present system compared to where you have a new system, is there not a risk that there will be an erosion of the parish interests within the Assembly?

Senator L.J. Farnham:

I am not sure, is the answer to that. We will find out. I do not know. I doubt it. I would hope not because hopefully the elected representatives will be mindful that they are representing their parishes, their districts.

Deputy J.A.N. Le Fondré:

You mean their super-constituency?

Senator L.J. Farnham:

Super-constituency, yes. They are representing 3 parishes, are they not, in that setup?

Deputy J.A.N. Le Fondré:

If, for example ... let us move away from St. Saviour, if we have St. Ouen and St. Peter and St. Brelade, if all the representatives are in the, I will say, more urban area of St. Brelade, will they fully understand a particular issue that is going to represent the parishioners ... that is going to be impacting upon the parishioners of St. Ouen? If they do not represent their views, they could still be fully elected and re-electable from St. Brelade because St. Brelade is a lot bigger.

Senator L.J. Farnham:

That is not an awful lot different to what we have now because St. Ouen has one Deputy.

Deputy J.A.N. Le Fondré:

St. Ouen would still have a Deputy.

Senator L.J. Farnham:

We are being slightly speculative. I would be surprised if all people elected lived in one of the particular parishes. I would be surprised if that happened because if you look at the numbers I think they are quite evenly split throughout the proposed super-constituencies. Going back to the first question you asked, I think that is why it is really important to have your Constables and your Senators in the States because they help balance the Assembly when there are potential constituency challenges.

Deputy J.A.N. Le Fondré:

Just quickly, because I am acutely aware of time and we do have a few more questions to go. On the role of Senators, that has in the past - I think in the Assembly in the P.18 debate - been described as they form a sort of super-constituency themselves, that Senators represented the super-constituency of the Island. Given that P.18 could, therefore, be argued as duplicating super-constituencies, is there going to be an impact on Senators from this proposal? In other words, to put it in that kind of context, if you have super-constituencies is there a risk that could devalue the role of Senator?

Senator L.J. Farnham:

I have no doubt that there will be another attempt to remove the Senators in the next term of office, which is why I think it is important we consider asking the question at the next election in 2018. It is hard to say. I would hope not. I think in a multi-Member Assembly you need some balance.

[14:30]

Deputy J.A.N. Le Fondré:

If Deputy Andrew Lewis of St. Helier's second amendment, I think it is, goes through, a referendum would be fairly pointless because Senators would have been removed in time for the election.

Senator L.J. Farnham:

Yes. That is one of the reasons I am thinking about, just contemplating, the timing of lodging an amendment.

The Connétable of St. Martin:

Do you not think it is very likely that there will be another referendum for Constables? There is not a solution to this, is there? No one is ever going to be happy with the whole thing. The Islanders

will not be happy with the 3 that we have got at the moment. If we want to change, somebody is going to be disappointed or...

Senator L.J. Farnham:

Let us be honest about this. I think there is certainly ... and this is where I call, and I have called for it in the past, for Members to put the interests of the Island before their own interests, and there is a lot of self-interest at play here, in my opinion, especially from political factions who consider they will get more politically likeminded people elected under a different electoral system.

The Connétable of St. Martin:

Maybe in some districts.

Senator L.J. Farnham:

Absolutely.

Deputy J.A.N. Le Fondré:

Would you like to elaborate on that by any chance?

Senator L.J. Farnham:

I would think that it is fairly clear, Jersey is and always has been fairly conservative in its electoral choices and I can see that there is a possibility that by enlarging the districts and mixing some of the parishes it might cause that traditional position to shift slightly from the right to the left. Now, that is just an opinion based on my time in politics, but it would not surprise me if those more centre left-leaning Members saw that as one of the potential benefits for their support of a super-constituency. That is partly behind my reasoning for just amending the layout of the super-constituencies slightly to what was originally proposed.

Deputy J.A.N. Le Fondré:

Thank you. Can I keep going? Question 7. Briefly again on super-constituencies, do you have a view or would you explain in your view whether it is preferable to base the super-constituency boundaries or the makeup on population compared to registered or eligible voters? That can be a brief answer.

Senator L.J. Farnham:

The figures are based on...

Deputy J.A.N. Le Fondré:

While you are gathering your thoughts there, just...

Senator L.J. Farnham:

All the workings have always been done in population.

Deputy J.A.N. Le Fondré:

The Venice Commission, just while you are gathering your thoughts, also allows it to be calculated on total population, registered voters, eligible voters. It can also be done on voter turnout. Voter turnout has traditionally been lower in one parish, there is an argument apparently...

Senator L.J. Farnham:

I think we should probably stick to population because that is going to be the most consistent figure running through when you look at the variations. That is for continuity.

Deputy J.A.N. Le Fondré:

Thank you. I just wanted to get a view.

Senator L.J. Farnham:

I would not like people to start re-examining all of those opportunities purely to try and find something that suits them.

The Connétable of St. Martin:

Just on those boundaries, is it fair that one parish should not be shared with any other parishes? What do you think of this?

Senator L.J. Farnham:

I am not sure I understand the question.

The Connétable of St. Martin:

Well, 11 parishes will be joined either in 2s or 3s or maybe 4 but one parish does not share with anyone else, St. Helier. Is that fair? It is a little bit further from what you were saying with yours. Population-wise but should not St. Helier be split as well with a district or another parish or part of a parish?

Senator L.J. Farnham:

I see what you mean.

The Connétable of St. Martin:

At the moment, St. Helier would have their representatives just for the one parish. All the other parishes will have representatives representing more than one parish.

Senator L.J. Farnham:

I do not think that will be so much of an issue since St. Helier, which is quite diverse in its landscape ... parts of St. Helier, parts of 3 and 4 are based in the countryside. You have got quite a broad mix of town and country in St. Helier.

The Connétable of St. Martin:

But with a very low turnout at elections.

Senator L.J. Farnham:

Yes. That is, I think, more in the town centre and that is not uncommon with any towns and cities in other places, but also under my proposals the electors of St. Helier are far more fairly represented in terms of their voter equity.

Deputy J.A.N. Le Fondré:

We will get to that in a second. Quickly, what impact do you think a reduction in the number of States Members would have on the functioning of the States Assembly? By that I mean in the wider context of all the various roles that States Members fulfil.

Senator L.J. Farnham:

We are talking about a reduction in one, are we not, under the...

Deputy J.A.N. Le Fondré:

Well, it does depend on which amendment one looks at.

Senator L.J. Farnham:

Okay. Shall we talk about the main proposition, P.18, which calls for a reduction from 48? We have gone from 53 to 49 to 48, so that is a reduction. That does not sound much. It is over 10 per cent and that is not bad going in 2 terms with the record we have. But I do not see a huge additional benefit for reducing the numbers much further than that. We are well represented. The people of Jersey are very well represented and in actual fact under the propositions of P.P.C. as per my amendment I think the average is ... the mean will be about a politician for approximately every 2,000-and-a-bit people. I think it is tremendous representation. I do not see too many idle hands in the States Assembly because by the time you take a ministerial government and all the various committees and the scrutiny function, obviously some Members work a lot harder than others but there is plenty of work to do for a 48-Member Assembly.

Deputy J.A.N. Le Fondré:

Can I just pause on that slightly? It is a comment made by Juliette Gallichan as Constable of St. Mary and it is a quote from *Hansard* and I think she was a member of the previous Electoral Commission as well. She said: "In 2013 the second report of the Electoral Commission showed that there were 5 Members of the Assembly who were not actively engaged in any part in any defined role in the running of the Assembly. They were not sitting on scrutiny, for example. They did not have a ministerial or assistant ministerial position. That led people to believe that there was spare capacity in the system." She then continued: "That is not the case today." It skips on a bit: "I venture to say that there is very little slack in the system. The Planning Committee works with 7 members and we can sometimes be down to 4 members because of the demands of other members of our committee being on either scrutiny in an urgent hearing or in a ministerial role. So we are working absolutely at the limit of what is reasonable." Do you think that is stronger than what you are saying or do you think it is kind of a consistency?

Senator L.J. Farnham:

I think we are in great danger of agreeing with the Constable of St. Mary on that issue. At the time those 5 Members probably chose not to do something, which means that other Members would have to soak up that work and there is an imbalance. Some Members, as we all know, work a lot harder than other Members, but if everybody was to be a bit more fair minded there could be a more even distribution of the work and it would be more inclusive.

The Connétable of St. Martin:

I do not know if I actually agree with you there. I think even the 5 Members on that occasion might not have been on panels or committees, but the amount of work that they do to represent people ... we do not know that. But I remember some of those Members and admired them for the work that they did although they were not on a scrutiny panel.

Senator L.J. Farnham:

Of course, yes. I can agree with you. I was not being disrespectful to those Members because all of us have a great deal of constituency work that we are all involved in and a lot of that is below the public radar and we just get on with it. There are probably 3 or 4 Members who really focus on constituency work and do very well at it. So that probably adds strength to the argument that the Constable of St. Mary and I were talking about. I see if we go much lower than 48 ... and I have changed my opinion. I was thinking if you had asked me 5 or 6 years ago I was a bit more we could perhaps go down to the low 40s but experiencing what I have since I was re-elected in 2011 I would think that 46, 48 is about the right sort of number now.

Deputy J.A.N. Le Fondré:

We are just looking for a brief comment. Sir Philip Bailhache is reported in the Hansard on 2nd February as saying, this is in respect of your amendment: "To combine large districts with an Island-wide vote would be an absurdity." This is what has obviously been placed in front of States Members. Would you care to comment?

Senator L.J. Farnham:

I disagree.

Deputy J.A.N. Le Fondré:

Okay. This comes back to the point about the number of votes available. Sir Philip is also quoted as saying: "What would be the justification for giving electors in St. Helier the right to elect 6 representatives [I should add that is per district] while we give electors in every other part of the Island the right to elect only 4 representatives?" Why do you think that is appropriate, Senator?

Senator L.J. Farnham:

We are looking at the Venice Commission guidelines on voter equity and we are trying to equalise voter representation.

Deputy J.A.N. Le Fondré:

In your opinion it is, therefore, right that St. Helier should get it will be 4 extra ... people voting in St. Helier will have 2 extra votes per district compared to people in the rest of the Island?

Senator L.J. Farnham:

For example, if you look at the numbers, the voter equity will be far greater for the people who are electing 4 because they have a number of one representative for every 1,700 population where St. Helier, even though they elect 2 more, will have one representative for 2,600.

Deputy J.A.N. Le Fondré:

Just out of curiosity, there are 2 views expressing what I am about to say so I will ... which is that if we use St. Saviour and St. Martin as an example, because I am using that and I do not think it would be appropriate to use other places, they presently jointly between them have, in terms of the Deputies, 6 Deputies and then obviously 2 Constables. They will go down to 4 Deputies. How would you like to explain that to the electors of St. Saviour and St. Martin that one way of looking at it is that they will be losing 2 representatives? In fact, on that argument St. Saviour would almost certainly be losing...

Senator L.J. Farnham:

If you look at voter influence or voter representation, the electors of St. Saviour and St. Martin will be able to elect 14 Members, the same as the electors of District 4. Every elector will be able to vote for between 14 and 16 Members to the Assembly. I think that is very good voter influence. I think that is the correct terminology relating to the numbers. The parishioners of St. Saviour and St. Martin will have one Member for every 2,900 votes. In District 6 it is one Member for every 2,800 votes. In St. Helier it is one Member for every 2,600 votes. In District 4 it is one Member for every 2,400 votes. In the country parishes, which make up I think it is District 5, which is north central, it is one for every 1,700 votes, and that still means only 28 per cent are outside of the Venice Commission guidelines on voter equity. Given the historic boundaries and the logistics and the size and shape of the Island, I think we are going to be ... unless you do away with Constables and do away with Senators and have a single constituency, 6 super-constituencies with one type of Member, you are going to find it ... it is not going to be easy to get a closer ... you are talking about a couple of hundred. It is not thousands out; it is a couple of hundred out.

Deputy J.A.N. Le Fondré:

It is small numbers.

Deputy K.C. Lewis

It could be bigger numbers but in St. Saviour, for instance, in recent times, probably after those figures were compiled, the Old Dairy site has gone live, which is quite a big estate, and likewise behind St. Saviour parish hall now we do not have an estate built. We have an entire village has been built in Langtry Gardens.

Senator L.J. Farnham:

In my day we managed to keep that free.

Deputy K.C. Lewis

There is a considerable amount of residents that have just moved in there.

[14:45]

Deputy J.A.N. Le Fondré:

That was no doubt after you became Senator.

Senator L.J. Farnham:

When I was taking a break.

Deputy J.A.N. Le Fondré:

I will just move to the last question on our list and just wrap up. In the human rights note accompanying P.18 it states that: "It might be argued that the effects of these changes [the ones proposed which were based on your amendment; let us not deal with the other amendments] limits the free expression of the opinion of the people in the choice of the legislature because it results in an uneven distribution of seats between electors and to inequality in the representation enjoyed by electors in rural parishes and districts, in particular in comparison with those in St. Helier." Would you like to comment on that, make any views?

Senator L.J. Farnham:

How does that differ? I am struggling to reconcile the 2.

Deputy J.A.N. Le Fondré:

I do emphasise the first words which was: "It might be argued ..."

Senator L.J. Farnham:

Clearly that is quite a point of view, is it not? I would think this is probably not in line with the ... sorry, where did it appear?

Deputy J.A.N. Le Fondré:

That is the statement in the human rights notes.

Senator L.J. Farnham:

On the proposition of the P.P.C.?

Deputy J.A.N. Le Fondré:

Yes. We just wanted to get your view on it, if you picked up on that phrase or not.

Senator L.J. Farnham:

If the number of population outside of the Venice Commission guidelines now is about 80 per cent and under Deputy Lewis's it is 48 per cent and under mine it is 28 per cent, I would have difficulty in reconciling to that statement.

Deputy J.A.N. Le Fondré:

That is okay. The point is that it is an extract from the statement. They do continue to argue against. It is an element that we just wanted to ask you about to see if you had picked up on it. The actual statement does continue: "In the overall opinion of the Law Officers, it is human rights compliant", but that is where we were just asking if you had picked up on it. The interesting thing is that they do refer to the inequality in the number of representations between the parishes that are not St. Helier,

or the super-constituencies that are not St. Helier, and the 2 super-constituencies representing St. Helier.

Senator L.J. Farnham:

You could make up 100 new arguments on any electoral system. This is not perfect but it as close as perfect we can get given we have 3 types of States Member.

The Connétable of St. Martin:

Would you have brought the amendment had Deputy Andrew Lewis not brought his proposition?
Would you have brought a separate...

Senator L.J. Farnham:

A super-constituency...

The Connétable of St. Martin:

Yes.

Senator L.J. Farnham:

Probably not.

The Connétable of St. Martin:

This is in response to what has been brought by Deputy Andrew Lewis?

Senator L.J. Farnham:

I think the mood of the Island is for some sort of electoral reform. I think the mood of the Assembly is to find a way forward. All I tried to do ... because I freely admit I am a bit of a traditionalist when it comes to our electoral system and, as I said before, the current electoral system I think there is more fault with the people than the system itself. What I am trying to say is that I probably would not have brought a standalone proposition to create this super-constituency but, of course, as soon as Deputy Andrew Lewis started to work on his proposition I felt a bit of a change in mood in the Assembly and I felt that if we did not do something we could be going down a route without proper consideration.

The Connétable of St. Martin:

Do you think that Members are doing ... that change of mood in the Assembly is a result of maybe a public perception, if you like, and that the public do not know what this means? Are you satisfied that the public of the Island, the electorate, know what is...

Senator L.J. Farnham:

I refer to my previous answer. I think there would be a percentage of the public who are engaged in politics and are very interested in it who will know exactly what this means. There would be a percentage that is not interested.

The Connétable of St. Martin:

A percentage that will not know?

Senator L.J. Farnham:

Maybe a percentage that are not interested will not know and probably would not want to know.

The Connétable of St. Martin:

Voters I know do want to know but they have not had the consultation, and this has come so quickly, I think. This has just come out very quickly. We know P.P.C. were unable to put something together because they just could not get Members to ... but individual Members like yourself - no criticism - have put something together but the public on the Island do not know what it is.

Senator L.J. Farnham:

If you look at the chronology in the comments of P.133, how long have we been dealing with ... how long have we been trying to change this? How long have we been trying to agree this? How long have we been trying to engage with the public? My predecessor at Home Affairs said the enemy of...

Deputy K.C. Lewis:

Are you saying that any change is better than no change?

Senator L.J. Farnham:

No, I am not saying that at all.

Deputy K.C. Lewis

Just picking up briefly regarding Deputies versus Senators, in that sense, that we have half of the Council of Ministers are in effect Deputies. Do you think in this day and age the role of Senator is still valid and do you think that these propositions will start to damage the parish system?

Senator L.J. Farnham:

I think the role of Senator is still valid because in an Assembly where you have 3 different types of Member and the current electoral system you have, you need the balance of the Island-wide

mandate. You need the balance of the Constables to make sure that constituency interests can be held in check and vice versa.

Deputy K.C. Lewis

We may not have an Island-wide system without the Senators but we will have a multi-constituency of east, central and west, if you like.

Senator L.J. Farnham:

Well, in my opinion, if the Senators go then the Constables will go shortly after and we will be left with a single ... with a variation of what you suggested there.

Deputy J.A.N. Le Fondré:

You have just been reading what I scribbled down for the next question, which is some commentators have called this a first step to reform. I believe the paraphrasing you referred to was the Constables are safe for now. Does that terminology tend to indicate that with these changes this is not "that is it"; this is a further step in reform in some people's minds towards achieving a single class of States Members?

Senator L.J. Farnham:

I think there would be States Members that see this as the first step in a long-term ambition.

Deputy J.A.N. Le Fondré:

Do you think if that happened there would be a loss ... do you think it would be a benefit in terms of how the Island operates or do you think it would be a loss to the culture of the Island?

Senator L.J. Farnham:

Right now I think it would damage the culture of the Island, right now, but of course things move on, society moves on, views change. It is not for us to say how our children and grandchildren will feel. It is right that we have a system that can be changed by the people's representatives in line with the feelings of society. But going on a step further, if we lose Senators then Constables and go to a one type of States Member, I also think that it will be inevitable that we have to have a second Chamber, as the case of the Isle of Man, to act as a cross-check for the behaviour of the Assembly.

Deputy J.A.N. Le Fondré:

I have a final question. Does anybody else?

Deputy K.C. Lewis

Just a brief one. You say you brought this, Senator, in response to Deputy Andrew Lewis of St. Helier's proposition. Would you in fact favour the status quo?

Senator L.J. Farnham:

That is a hard one to answer because I am a bit of a traditionalist and from my experience it generally works well, but you have to now ask is it right that some Members are being elected with just a couple of hundred votes in very small constituencies and in another part of the Island a mile up the road somebody is getting 2,000 votes and not being elected. I think those sort of questions are what people are concerned with.

The Connétable of St. Martin:

But, Senator, look at me, second term and I have not faced an election.

Senator L.J. Farnham:

That is because no one stood against you.

The Connétable of St. Martin:

No, but that would be the argument, would it not? I cannot help it if no one stands against me: "Welcome in, Constable", but that is what could happen, could it not?

Senator L.J. Farnham:

You were still elected and I am trying to remember, the odd Deputy gets elected unopposed. Deputy Breckon and I were both elected unopposed during our second terms. We must have been doing such a good job or something, I do not know. I jest, of course, but it sometimes happens. Now, we were still elected but was it right we did not face an election? One of the benefits of this type of electoral system will mean there will be every Deputy will have fought, had to have fought and won an election to have the privilege of sitting in our Assembly.

Deputy J.A.N. Le Fondré:

Just picking up on that and then I will go to my final question. Using precisely that argument would mean the eventual removal of Constables because potentially you will still get Constables not facing elections under the system that is being proposed and if that is ... I am not saying I support it or not. I am raising it as a query.

Senator L.J. Farnham:

It might be considered that way. I do not see it that way because of the fact that we are in ... I keep repeating myself. We have 3 different types of States Member and I think as long as there are Senators, Constables ... there is a place for Constables. If you lose Senators, I cannot see a

Constable working with that against arguably a very democratic super-constituency setup where you could have had hard fought, contested elections in every single parish and half the Constables going in without a contest. But could this change the landscape? Could this make competition for the Constables? Could it make the Constables' seats more competitive? We do not know. These are questions we are not going to find out until we introduce the system.

Deputy J.A.N. Le Fondré:

Just to pick up on a final comment...

Senator L.J. Farnham:

It is all about who do I fancy my chances against, a Constable, or do I go in the district or do I stand...

The Connétable of St. Martin:

For a Constable you have to live in your district, do you not?

Senator L.J. Farnham:

Live in the parish.

The Connétable of St. Martin:

Live in the parish I meant to say.

Deputy J.A.N. Le Fondré:

One final observation, again just for a comment, back in 2007 the then P.P.C. did a MORI poll on a variety of options which included...

Senator L.J. Farnham:

Was it 2007?

Deputy J.A.N. Le Fondré:

2007, 10 years ago, P.P.C. did a MORI poll which covered various options on the table at the point and just for the record, one of them was involving super-constituencies, one of the options. However, I think one of the most popular - I cannot remember if it was the most popular or not - options was similar classes of States Members, a small reduction in States Members and a single election day, which arguably we have now achieved. So, would you say...

Senator L.J. Farnham:

We sacrificed 4 Senators for that.

Deputy J.A.N. Le Fondré:

I am saying in terms of the outcome of the MORI poll, that was one of the more popular options. Would you like to comment? Okay. Just for the record, by the way...

Senator L.J. Farnham:

I think actually we put the cart before the horse. If we could go back in time I think we should have agreed the makeup of the Assembly before agreeing to a single true election day.

Deputy J.A.N. Le Fondré:

When you say the makeup, in terms of the roles and the functions that everybody in the Assembly performs or the makeup in the Senators, Deputies and Constables?

Senator L.J. Farnham:

I am talking about the electoral...

Deputy J.A.N. Le Fondré:

Just for the record my...

Senator L.J. Farnham:

That would have been a more sensible way to do it.

Deputy J.A.N. Le Fondré:

... My successful proposition was any elections in any one year was to be on the same day and that got amended at P.P.C. level.

Senator L.J. Farnham:

I stand corrected.

Deputy J.A.N. Le Fondré:

Thank you very much. I presume nobody else has got any questions. We are slightly over time but we thought we would let you say your piece. Thank you very much for your time and that concludes the hearing.

Senator L.J. Farnham:

Thank you all very much.

[14:57]