

**PROJET DE LOI (200-) (AMENDEMENT No. 8) RÉGLANT LA PROCÉDURE CRIMINELLE (P.89/2000):  
AMENDEMENT (P.111/2000) - REPORT**

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**Presented to the States on 1st August 2000  
by the Legislation Committee**

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**STATES OF JERSEY**

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**REPORT**

The amendment proposed by Deputy Gerard Baudains seeks to preserve the existing requirement in the *Loi (1864) réglant la procédure criminelle* that a person be a British subject (*'sujet Britannique'*) to be deemed competent to serve on a jury.

The Committee, in its report accompanying the *projet de loi*, stated that it saw no reason to retain such a requirement. The Committee has taken into account the following considerations.

1. A jury is a tribunal of fact. There is no reason to think that a determination of fact can be reached more objectively or intelligently by a person who holds a British passport than it can by a person who does not.
2. Any difficulty relating to language is already overcome by the ability to remove a juror who may have insufficient command of the language in which the proceedings are to be conducted.
3. Serving on a jury is not a right, but a duty. A person who is a resident of the Island, but not a *sujet Britannique*, is expected to pay taxes in the same way as any other resident. It is difficult to understand why the civic duty to serve on a jury should be distinguished from the civic duty to pay taxes. It is difficult also to understand why jury service should be distinguished from the right to vote in public elections. In the United Kingdom, the duty to serve on a jury or the right to vote is not confined to Citizens of that country.

4. The rights with which one is concerned in a jury trial are the rights, not of the jurors, but of the accused. Under Article 6 of the European Convention on Human Rights, the accused has the right to a trial by an independent and impartial tribunal. Legislation which restricts the membership of a tribunal to members of a particular nationality is arguably inconsistent with the long-established principle that the right to trial by jury is the right to be tried by one's peers. The population of Jersey does not consist exclusively of persons of British nationality. Under the existing *Loi* of 1864, if a British person is the accused, he is to be tried exclusively by British people. If the accused is not British, he can still only be tried by people of British nationality.

### **Conclusion**

The Committee reiterates that it can see no purpose served by an archaic provision restricting membership of a jury to persons who rank as a *sujet Britannique*. The fact that this provision has not been reformed for many years does not justify its existence. The paramount consideration is the administration of justice in a manner which is transparently impartial. The Committee believes that its proposed amendment is consistent with that goal.