

STATES OF JERSEY



REFORM OF THE COMPOSITION OF THE STATES ASSEMBLY (P.7/2020): AMENDMENT

Lodged au Greffe on 28th January 2020
by Deputy M. Tadier of St. Brelade

STATES GREFFE

REFORM OF THE COMPOSITION OF THE STATES ASSEMBLY (P.7/2020):
AMENDMENT

1 PAGE 2, PARAGRAPH (c) –

Replace the number “49” with the number “46” and replace the table with the following table –

<i>“Constituencies</i>	<i>Number of Deputies to be returned</i>
District 1: St. Helier South Vingtaines de Bas et de Haut de la Ville, St. Helier	4
District 2: St. Helier Central Vingtaine de Rouge Bouillon, St. Helier Vingtaine de Bas du Mont au Prêtre, St. Helier	5
District 3: St. Helier North Vingtaine du Mont Cochon, St. Helier Vingtaine du Mont à l’Abbé, St. Helier Vingtaine du Haut du Mont au Prêtre, St. Helier	5
District 4: St. Saviour Parish of St. Saviour	5
District 5: St. Clement Parish of St. Clement	4
District 6: St. Brelade Parish of St. Brelade	4
District 7: St. Mary, St. Ouen and St. Peter Parish of St. Mary Parish of St. Ouen Parish of St. Peter	2
District 8: St. John, St. Lawrence and Trinity Parish of St. John Parish of St. Lawrence Parish of Trinity	2
District 9: Grouville and St. Martin Parish of Grouville Parish of St. Martin	3”

2 PAGE 3, NEW PARAGRAPH (e) –

After paragraph (d) insert the following new paragraph –

“(e) to agree that all of the Deputies and Connétables in each district should be entitled to speak in any of the parish assemblies meeting within their district, although Deputies (and Connétables) may only vote in a parish assembly if they are residents or ratepayers of that parish; and”,

and re-designate paragraph (e) as paragraph (f).

DEPUTY M. TADIER OF ST. BRELADE

Note: After this amendment, the proposition would read as follows –

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

- (a) to agree that fair representation and equality in voting weight and power across the whole population should be the basis for any reform of the composition and election of the States;
- (b) notwithstanding the objective set out in paragraph (a), to agree that the States should respect and implement the outcome of the 2014 referendum on the role of the Connétables as States Members and that, accordingly, the office of Connétable should entitle the holder to full membership of the States as an automatic right, including full voting rights;
- (c) to agree that it should establish an Assembly of 46 Members, elected from 9 districts, each choosing a number of representatives based on population, plus the 12 Parish Connétables, and to replace the current Schedule 1 to the States of Jersey Law 2005 as follows –

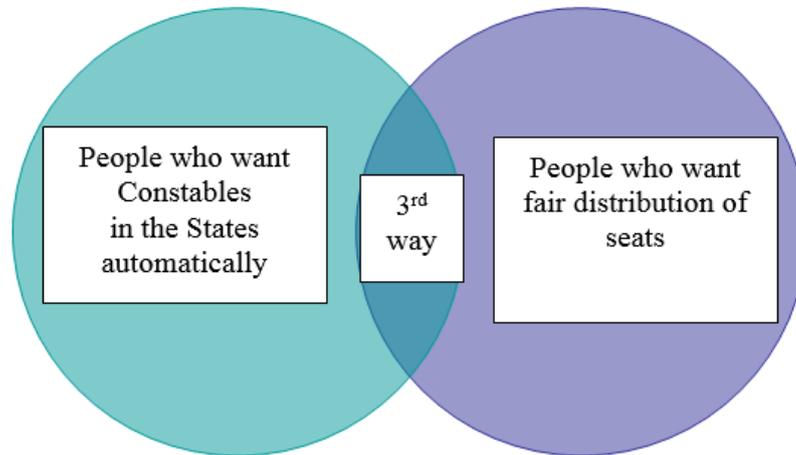
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- (d) that an independent Boundaries Commission should be established to begin work after the 2022 elections to make recommendations to ensure that the 9 districts remain compliant with the principles cited in paragraph (a), comprised of a Chair and 3 other members from outside the Island and of 3 Jersey residents, all with relevant skills and experience, and to request the Privileges and Procedures Committee to take the necessary steps to identify, through a process overseen by the Appointments Commission, the proposed membership of the Commission for subsequent approval by the Assembly; and
- (e) to agree that all of the Deputies and Connétables in each district should be entitled to speak in any of the parish assemblies meeting within their district, although Deputies (and Connétables) may only vote in a parish assembly if they are residents or ratepayers of that parish; and
- (f) to request the Privileges and Procedures Committee to bring forward for debate the necessary legislative changes to alter the composition of the Assembly and create an independent Boundaries Commission in time for the 2022 elections.

REPORT

“All animals are equal, but some animals are more equal than others.”
– *George Orwell, Animal Farm*



This amendment seeks to provide a *third way* between what has traditionally come down to a choice between, (1) retaining the Connétables’ *ex officio* membership of the States Assembly and giving vast over-representation to residents of the country parishes, vs (2) a fair electoral system.

This amendment shows that it does not have to be this way. It *is possible*, if States Members show the political will, to have a compromised position whereby individual parish representation is maintained, through the Connétables, whilst using 33 Deputies to balance out the distribution in a fair way.

Again, this proposition maintains the principle that the Connétables should remain in the States with full voting rights, thus satisfying Senator Gorst’s desire that, as he sees it, the results of the 2014 referendum should be honoured.

However, it does so *fairly* recognising that the *great Jersey gerrymander* can no longer continue.

Whatever model for elections we choose, it is important that it is *fair*. This change being proposed by Senator Gorst makes malapportionment *worse* than it currently is.

Commenting in 2012 of *Option B*, which is effectively what is being proposed by Senator Gorst, Dr. Alan Renwick, advisor to the Jersey Electoral Commission stated –

“The option of retaining Constables makes overall apportionment worse than at present and in multiple parishes violates the Venice Commission’s criterion. Whether that is considered justifiable is not for me to judge.”

Some members have suggested that it does not matter if we violate the Venice Commission, that it is justified. But *why would we set out to do so, when avoiding this*

is easily avoidable? It is possible to satisfy those who want to maintain the special and historic links with heads of the Parish and Central government and have fairer representation.

Clearly, there is one area of compromise, and that is around the number of votes that any one elector will have; this is not ideal; however, it is a much less serious matter than malapportionment. Indeed, it is the way in which we currently deal with variations and fluctuation in population sizes within the various districts already.

We know that St. Aubin gets to choose only one Deputy and St. Brelade No. 2 has 2 Deputies, because the population is much bigger in the latter. The residents of each district understand this and accept it on the grounds of fairness of representation.

What is not fair is to say that St. Brelade would have a total of only 5 representatives while *district 8, with a smaller population, would have 7!*

The attached **Appendix** contains the advice of Dr. Renwick, special adviser to the electoral commission on what was Option A and Option B. Though slightly different in terms of the actual figures of today's proposals, the comments are still relevant.

Financial and manpower implications

In reducing the size of the Assembly from 49 to 46 Members, this amendment would reduce expenditure on States Members' remuneration by around £140,000 per annum.

Re-issue Note

Deputy Tadier based his amendment on the figures contained within the table showing the 9 electoral boundaries which was included in the report accompanying P.126/2019. Unfortunately, the totals for the North and South constituencies in St. Helier were transposed incorrectly in that report and should be swapped so that North has a population of 12,820, whilst South has 10,920. Deputy Tadier's amendment therefore needs to be altered so that the number of Deputies to be returned should be 5 for the North and 4 for the South.

[Note for the Jersey Electoral Commission](#), Alan Renwick, University of Reading,
9 October 2012 – pages 6 and 7

2. Malapportionment

One of the principles underpinning representative democracy is the notion that each vote should carry the same weight. This implies that—other things being equal—the number of voters per representative should be the same in all parts of the polity. In practice, other things are not always equal: there may be legitimate reasons for deviating from the principle of equality. Yet the equality principle is central to democracy and needs to be taken seriously.

Malapportionment is the technical term referring to deviations from this principle: the greater are the differences between different parts of the polity in the number of voters per representative, the higher is the level of malapportionment. As indicated in my previous report, the standard measure of malapportionment, proposed by the political scientists David Samuels and Richard Snyder, is calculated as follows:

where s_i is the proportion of seats allocated to district i and v_i is the proportion of registered voters living in that district.² Translating this into English, we take the difference between the share of seats and the share of voters for each district (ignoring plus or minus signs), add all of these up, and then divide by two. My previous report showed the value of this index for a large number of democracies around the world today.

Table 4 shows the level of malapportionment under the Commission's two alternative interim proposals and under the current system. Three bases for calculation are employed: total population; eligible electorate; and registered electorate. It is apparent that the option of six seven-member districts substantially reduces malapportionment compared with the current system. If total population or eligible electorate is used as the basis of calculation, it pushes malapportionment to levels similar to those found in proportional systems such as Germany and Ireland. If registered electorate is used, the figure is similar to that in the UK at the last election. By contrast, the option of retaining the Constables alongside five-member districts for the Deputies actually increases malapportionment compared to the status quo. This is due to the removal of the Senators, whose presence currently dilutes the malapportionment in other parts of the system.

Table 4. Malapportionment under the draft proposals and under the current rules

Basis of Calculation	42 Deputies	30 Deputies + 12 Constables	Current System
Total population	3.29	11.12	9.34
Eligible electorate	2.79	11.37	10.53
Registered electorate	4.44	8.27	8.21

Note: The malapportionment index is used as in my previous report, but I have here expressed the numbers as percentages. Source: Calculated using data supplied by the Electoral Commission.

² David Samuels and Richard Snyder, "The Value of a Vote: Malapportionment in Comparative Perspective", *British Journal of Political Science* 31, no. 4 (October 2001), pp. 651–71, at p. 655.

Table 5 supplements this analysis by providing data relating to an alternative indicator of malapportionment used by the Venice Commission. The Venice Commission—officially, the European Commission for Democracy through Law—is an arm of the Council of Europe and has established guidelines for a wide range of aspects of electoral law. It recommends that, “except in really exceptional circumstances”, the population per seat should deviate from the national average by no more than 15 per cent in any district.³ The option of having 42 Deputies largely satisfies that criterion: all of the population deviations from the average are within 15 per cent except that district 3 is 19 per cent above the average when registered electorate data are used. But the option of retaining Constables produces deviations far in excess of 15 per cent whichever criterion is used. The largest deviations are little different from those under the current system.

Table 5. Deviations from average population per seat

District	Parish	Total population		Eligible electorate		Registered electorate	
		Dep only	Dep+Con	Dep only	Dep+Con	Dep only	Dep+Con
1	St Helier 1	+7.60	+36.36	+8.04	+37.01	-12.71	+26.94
2	St Helier 2	-2.22	+25.00	-0.17	+27.52	-12.70	-0.24
3	St Clement	+9.49	+10.50	+8.42	+9.14	+19.37	+18.35
	Grouville		-11.59		-11.96		-3.69
	St Martin		-21.34		-21.90		-12.98
4	St Saviour	+2.65	+15.30	+0.30	+12.81	+1.06	+12.27
	Trinity		-30.26		-32.93		-30.43
5	St Lawrence	-13.04	-20.08	-14.10	-20.81	-3.24	-12.51
	St John		-38.33		-39.07		-32.28
	St Mary		-53.50		-54.73		-48.88
	St Ouen		-28.05		-29.00		-19.51
6	St Brelade	-4.49	+3.28	-2.49	+5.55	+8.22	+16.19
	St Peter		-17.59		-16.17		-8.05

Source: Calculated using data supplied by the Electoral Commission.

It is for the Commission to draw conclusions from these data as to the desirability of the alternative schemes. The Deputies-only option clearly improves apportionment markedly and leaves it comparable to that found in many other democracies. Of the three bases for calculation shown above, that using eligible electorate is, at least in theory, the best (though I understand the available data are not in all respects wholly accurate). It is on this basis that overall malapportionment is lowest. Using this basis of calculation, the deviation from the average number of voters per seat does come perilously close to the 15 per cent threshold in district 5. Given, however, that this district is geographically the largest and most rural, its slight overrepresentation may be thought entirely defensible.

The option of retaining Constables makes overall apportionment worse than at present and in multiple parishes violates the Venice Commission’s criterion. Whether that is considered justifiable is not for me to judge.

³ European Commission for Democracy through Law, *Code of Good Practice in Electoral Matters* (Opinion no. 190/2002, Strasbourg, 30 October 2002), p. 17.